

BREAKING THE HEGEMONY OF THE PRISON :
AN ANALYSIS OF THE EMERGENCE AND
DEVELOPMENT OF THE DETENTION CENTRE SYSTEM

by

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Ph.D. Thesis

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SUMMARY :

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S U M M A R Y

The purpose of this study is to develop a theoretically viable and empirically detailed analysis of the emergence of the Detention Centre in the young offender sector of the English penal system. In doing so, it is intended to eradicate the hiatus created by either an absence of research, or by research which has been unable or unconcerned for epistemological reasons to address the Detention Centre's problematic emergence in English penal history - both in its 'pre-legislative' stage, and in its period of development, from a minority to a majority form of disposal, and through to its threatened demise in the mid-1970's.

The central methodological concern of this study is to situate the analysis within the parameters of what has been termed the breaking of the hegemony of the prison for young offenders, and informed by a contingent and complementary analysis of the history of socio-political, economic and cultural developments throughout the period, from the late nineteenth century to the mid-1970's. Concomitant upon this has been an analysis of the manner in which the British state has struggled to maintain the balance between consent and coercion in the interests of a ruling class hegemony.

The study falls into three main sections: the first section deals with the gradual emergence of the hegemony of the prison in the late eighteenth and the nineteenth centuries, situating within this the creation of a specifically young offender sector. The second section addresses itself to the history of the maintenance and development of this sector, and, within this, the struggle of the 'short-term movement' in the young offender disposal system. The final section offers an analysis of the emergence of the Detention Centre in its post-legislative stage, examining the history of its first two, contrasting, decades, and leading to the apparent demise by the mid-1970's.

Finally, it is necessary to take cognisance of the importance of the recourse to an analysis at the concrete level of a large amount of empirical data available, much of it for the first time, through the auspices of the Public Records Office. These documents have played no small a part in the analysis with which the middle section of this study is concerned.

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ONE:

INTRODUCTION: ACCOUNTS, EXPLANATIONS and METHODOLOGIES

CHAPTER ONE

INTRODUCTION: ACCOUNTS, EXPLANATIONS AND METHODOLOGIES

"The demand for punitive detention, of one kind or another, for young offenders, has featured in our changing penal system for most of this century." ¹

"The treatment of young offenders since the middle of the last century has been based on the principle of keeping them out of prison and exposing them to more educational and remedial measures." ²

The establishment of Detention Centres was provided for by the 1948 Criminal Justice Act (s.18), following recommendations by the Advisory Council for the Treatment of Offenders. The Act provided for young offenders between the ages of 14 and 21 years to be allocated to a Detention Centre as one of the 3 forms of custodial sentence available for young offenders, the others being Borstal training (for 16 to 21 year olds in the 1948 Act, reduced to a minimum age of 15 years in the 1961 Criminal Justice Act) and supervision (17 years and over). Before being sentenced to a Detention Centre the offender must have been found guilty of an offence for which an adult could be imprisoned. The Act also specified that Detention Centres should not be used for boys or girls who had already served a period of imprisonment or Borstal training.

The minimum period at the time of the Act was normally 3 months and the maximum 6 months. The period of remission was originally 1/6 of the sentence for both Junior and Senior Detention Centres. This has since been increased to 1/3; and more recently to 1/4 for Junior Centres. The 1961 Criminal Justice Act provided for

statutory supervision on licence for a year (coming into effect from January 1964). Recall is possible, but in practice is rare, and the supervision is often discharged early. Detention Centres are run by the Prison Department, and there are at present 13 Senior Detention Centres and 7 Junior Detention Centres in operation, in various parts of England and Wales.³ The only 'open' Detention Centre is a Senior one, at North Sea Camp, in Lincolnshire. Detention Centres are now for boys only. The one Detention Centre for girls, Moor Court, was closed in 1969, on the advice of the Advisory Council on the Penal System.

Since the opening of the first Detention Centre in 1952, interest, debate and prognostication has surrounded their development, largely because of the extent to which the Detention Centre system, above all other young offender disposal systems, has been seen to reflect, in uneasy juxtaposition, what are seen as the twin, and sometimes contradictory, aims of the young offender system: that of deterrence via punishment and retribution, and reform/rehabilitation via education and training.

Stemming from an interest in these seemingly disparate aims, penologists, social scientists, government researchers, and various reform groups have sought answers to a whole range of questions. The categories of question, and the extent to which they have been successful in answering such, have been informed by both purpose and research epistemologies. The issues raised have included, inter alia, the following :

- (1) why and how did Detention Centres emerge, and as an apparently anomalous disposal system for young offenders, in terms of late 1940's penal policy and trends?

- (2) why was the regime designated as one of a 'short, sharp shock'; was this intentional, and has it altered, become more 'liberal', in the post-1952 period?
- (3) who was it intended to sent to Detention Centres and to what extent has the inmate population remained similar over the years?
- (4) why was a formally designated 'experiment' for a 'minority' or 'fringe' group of offenders allowed or encouraged to develop into what has become the standard short-term custodial disposal for the under 21's?
- (5) to what extend are Detention Centres effective, if the prevention of recidivism is the goal? and
- (6) why did it seem apparent in the early 1970's that Detention Centres would disappear altogether, despite massive expansion in the 1960's?

Collectively, the above questions - with the exception of the last one which has been largely ignored or not addressed by recent research - have provided the basis for most of the research and other bodies working within the juvenile justice and young adult offender arena generally, and on Detention Centres specifically. In addition, there is a wider catalogue of question and enquiry, determined largely by the specifically partisan factors of a variety of groups, informed by professional or employer ideology, or political interest. Finally,

the exigencies of penal reform movements, the sway of academic fashions in research, and the strait-jacket of economic necessity and pragmatism have also contributed, in varying degrees, to the scope and depth of interest shown in Detention Centre history.

Types of writing on Detention Centres to date :

The research literature to date on Detention Centres has been rather sparse, which in one respect is perhaps a little surprising for a disposal system which continues to arouse interest and concern in many quarters. The research available has tended to fall into one of four broad categories, each representing a different methodological approach and focus of interest:

- (1) Administrative and Descriptive Records of the inauguration and development of Detention Centres, in which change in the penal system is viewed largely in an unproblematic, commonsensical way. Much of this literature attempts to do little more than draw an overall map of penal developments in terms of a 'normal history' approach, imputing change to pressure from groups and individuals, according to the balance between conjunctural optimism and pessimism, reformism or authoritarianism. Individual great men and great events play, in some immediate sense, the dominant role in the tide of penal history. Such literature has taken for granted assumptions about law, order, social equilibrium, deviancy and the nature of the state. This category would include the work of Hall-Williams, and Choppen, as well as Prison Commission and Prison Department Reports.⁴

- (2) Empirical Accounts of Detention Centres, and representative, largely though not entirely of the positivist criminology of the 1950's and 1960's; this category encompasses those studies based on the collection and analysis of statistical and questionnaire data. Into this category falls the historically significant work of Dr. Max Grünhut in the 1950's, and the work published by the Home Office Research Unit and Prison Psychological Service. Most, though not all of this category of research was initiated specifically because Detention Centres were perceived of as an experiment to be evaluated: the work of Ericson, a social-interactionist account which attempts to integrate deterministic voluntary forces in "a continuous dialectic", also falls into this category.⁵
- (3) Radical Reviews of Detention Centres, a much smaller number of recent origin, and informed by a 'radical' or polemic position, ranging from accounts of Detention Centres by Stan Cohen and Neil Pharaoh in "Anarchy" and "New Society" respectively, to more recently published critiques, emanating from an appeal to the 'justice model', by Laurie Taylor, Thorpe, et al, as well as representatives of the 'decarceration' school of thought.⁶
- (4) Social History, and Policy Review Accounts of Detention Centres, often as one part of longer, and wider-ranging reviews of social and penal histories. This would include the work of Rose, and Fox, and more recently Land and Crow.⁷

Together then, the span of literature has been largely concerned with (predominantly unproblematically conceived) histories of the penal system, or with one aspect of it, or with empirical (often positivist)

studies of individual institutions and inmate attitudes, attempting to analyse individual propensity to criminal behaviour, adaptation to institutional life, and post-institutional responses.

The most detailed empirical studies within Detention Centres (as opposed to follow-up studies) were conducted in the mid-1960's and the mid-1970's, by Dunlop and McCabe, and by Richard Ericson respectively.⁵

Dunlop and McCabe's was an empirical study of a Detention Centres for boys which at times suffers from a tendency for objective data to be overlaid by middle-class researcher-bias and attitudes. This results in a tendency to conceptualise non-conformist target-group class and social attitudes as pathologically deviant, as well as being indicative of low general intelligence. Nearly all the inmates studied were working class young men, whilst the formulation of categories of normal behaviour and responses, and organisation of family life were predominantly middle class. In this sense, the researchers' social values seemed to differ very little from those of the officers in the two Detention Centres, whose attitudes thus formed a significant section of attitudinal-categories used by the researchers, e.g. :-

".... the officers regard the typical D.C. inmate as immature, badly brought up, ill-mannered, uncertain, stupid, self-pitying, resentful, often loud-mouthed, sometimes bumptious and tiresome, but not very tough or aggressive, not a 'thug' and not well-established in criminal ways or outlook." 8

That this may well be the case is hardly the point! Certainly this is a problem encountered by most researchers of middle class backgrounds and values studying working class target groups, but in the case at point the tendency does seem disturbingly prevalent.

Apart from shortcomings within the parameters of its own

methodology, the account by Dunlop and McCabe casts little light on the questions outlined here, above, which had been raised continually since the passage of the 1948 Criminal Justice Act, largely of course because the nature and purpose of their study prevented the raising and examination of such questions.

Richard Ericson's study of 45 Senior Detention Centre boys at Whatton is an interesting attempt to obtain retrospective accounts of law enforcement experiences, the boys' own views of their present situation (both in the institutional setting and after), and accounts of how they felt about future prospects - what Ericson refers to as "the complete remedial cycle".

His methodology owes much to the work of Schur, Goffman and Matza, and is particularly indebted to Denzin's concept of "triangulation", by which the researcher takes account of events which occurred before, during and after his presence. The methodology included structured interviews, questionnaires, official document analysis, news stories, and letters received and sent by inmates. In discussing the sort of criticisms that the labelling perspective is open to, Ericson comments:

"Critics of the labelling perspective often point out that a sense of structural forces is missing from labelling analysis. This criticism is well taken to the extent that labelling writers have overemphasised the voluntaristic capacities of man in order to re-dress the imbalance created by the deterministic bias of structuralists. The fieldwork reported here seeks integration, in that deterministic and voluntaristic forces are conceived in a continuous dialectic." (p.4)

The main conclusions of Ericson's study suggest that the central thesis of the labelling analysts, that there is a sense in which efforts at criminal control may compound rather than correct criminality, is, at least in the case of institutionalised young offenders, quite spurious. There is, Ericson suggests, little relation between inmate socialisation

and actions and activities on discharge, mainly because inmate secondary socialisation is undertaken to 'get by' INSIDE the institution rather than as a means of 'getting on' OUTSIDE it. There is thus no evidence, according to Ericson, that the Detention Centre experience actually prepares young offenders for a career in crime :-

"D.Cs and other institutions will merely create time away from normal existence where the games people play do not relate to the unchanged reality the person is faced with on his return." (pp.211-12)

In conclusion, Ericson suggests that the realisation by the offender, in the post-release period, of the gulf between the desirable and the possible is not only of significant importance, but that it must, ultimately, bring the researcher back to the "study of power" such as that which captured the imaginations of the "new criminologists" of the late 1960's and early 1970's - Taylor, Walton and Young in particular.⁹ These are "the kids at the bottom of the politico-economic structure", a structure in which they create "cracks" in order to find and establish meaning.

The methodological eclecticism of Ericson's approach, by which he marries together a quantitative and qualitative approach, binding them together in what he designates one comprehensive solution, permits an "understanding of the connection among social facts". As a validation of both approaches he asserts that:

"...qualitative data prevent the social researcher from drowning, having leapt into a river which he calculated to average three feet in depth. Similarly, quantitative data, prevent the participant observationist researcher from drowning, having leapt into a river whose depth he did not know at all." (p.14)

Hence, his use of questionnaires, for example,¹⁰ was intended to provide another context to "elicit pertinent information, rather than as a means of acquiring quantitative data." (p.24). Whilst some advantage

to this kind of eclecticism can be seen in the resulting detailed portraits of the target group, it would be dubious to form any firm conclusions from such a methodology. The extent to which Ericson conflates two separate epistemologies is not clear in his account.

Further to this, his target group population failed to amount to the numbers he initially felt sufficient to warrant the scientific validity of any conclusions to be reached, and was, at 45, well below the pilot prediction of 65 - 70.¹¹

For the purpose of this thesis, and separate from any critique of his methodologies, Ericson's two basic findings:

- (i) that there is little evidence for the basic labelling thesis on the one hand;
- (ii) that new forms of criminality do not necessarily result from a sense of injustice brought about by social stigma, are of some interest, since they would have, if accepted and acted upon in official circles, obvious and far-reaching policy implications regarding the institutionalisation of young offenders generally, and the nature and regimes of the Detention Centre system specifically.

What Ericson does not do of course - and does not attempt to do, as it is outside his brief - is to try to account for the emergence of the Detention Centre system, or uncover the reasons for its continuing use by various national Governments, despite a history originally designated as 'experimental', and later apparently threatened with cessation after 1969.

Nevertheless, Ericson's is a thorough and sociologically sophisticated study providing useful insights into the attitudes and personal perspectives of Senior Detention Centre inmates.¹²

There are two other lengthy and rather different accounts of the Detention Centre system, those from which the opening quotations of this Introduction are taken which deserve some further examination at this initial stage.

The first quotation is from a review of the Detention Centre system by Iain Crow, a N.A.C.R.O. research officer. Crow's work is not intended to be a detailed analysis of the emergence and history of Detention Centres, but rather a 'survey' of the scene, an intention which he makes clear in his introduction:

"Since the government has now indicated its intention of taking action along these lines ..." (viz: stricter regimes for a 'short, sharp shock'.) "...this would seem to be a good time to look at what is already known about DCs, their regimes, and the way in which they have changed since they were first introduced in 1948."

This review therefore sets out to look at the following issues :-

- (i) the development, purpose and availability of "punitive detention";
- (ii) the effectiveness of the Detention Centre experiment in terms of reconviction rates and other criteria of effectiveness;
- (iii) Detention Centre regimes, whether they have changed since their introduction, if so, how;
- (iv) the question of suitability; what kind of offenders should receive this type of sentence and its effect on them;
- (v) the relevance of the analogy between Detention Centre regimes and the so-called military 'glass-house', and the question of whether military forms of detention offer any lessons for the present problem of civilian crime amongst young people.

Since NACRO, (an organisation partly funded by the Home Office but with some degree of autonomy also) is directly concerned with the developmant of penal policies on the one hand, and the care of offenders and the prevention of crime on the other, any conclusions reached are likely to be of a prescriptive nature, directed specifically towards the likely effects that Tory plans to introduce harsher regimes would have on the reduction of crime amongst young offenders. Ultimately, the NACRO review returns to its overriding concern, the degree of need for and the extent of incarceration in England and Wales:

"But the danger is that the debate about tough regimes might detract attention from the most important issue in juvenile penal policy at present: the high level of institutionalisation among juveniles in the U.K."¹

In his conclusion, Crow moves away from an examination of the Detention Centre system specifically to refer to its alternatives - intermediate treatment, community service for young offenders, restitution schemes, and Attendance Centres, saying that whils^t none of them provide easy solutions to the problem of youth crime, they 'do illustrate that it is in the community that the real experiments lie'.

For NACRO there are no simple solutions to crimes committed by young people, and "influencing the overall level of crime is probably beyond any single type of disposal", and "... it is better to look to new approaches of dealing with juvenile crime than to return to the punitive methods which have been tried and found wanting". Thus, ultimately, NACRO's interest is in an examination of a far wider field than that of one institution, and its examination of Detention Centres is partly for the purpose of making prescriptions about young offender disposal systems in general, and punitive ones specifically, although it has been

particularly interested in the development of Detention Centres in the period post-July 1979 as a key part of recent Tory penal policy. In this sense, NACRO's work generally has an undoubtedly political strain. NACRO's views on the new, harsher regimes in Detention Centres, are outlined in Iain Crow's follow-up to his August, 1979 Report, published in April of 1980.⁷ After examining the likely effectiveness of the new experimental regimes at Send and New Hall, and comparing them with the likely effects of alternative methods of dealing with young offenders, he concludes that:

"Such schemes (i.e. alternatives to the new regimes) are limited in number at present, but, given that the new tough regime is considered to be experimental they indicate that there are the possibilities for other types of experiment to take place, so that should the short, sharp shock fail there are other options to turn to."⁷

In some contrast to this, Hilary Land's review, from which the other opening quotation is taken, is concerned with an explanation of Detention Centres as an example of an experiment in social policy which "could not fail".² Her lengthy article is part of a collection, the overall aim of which is:

"... to help students of social administration understand why and how social policies are introduced or modified." (p.3)

Land's particular interest, as a social administrator, is based on what she sees as the history of attempts:

"... to reconcile a punitive and deterrent system with one that professes to be both educative and reformative."²

Ultimately, she sees such attempts as "inherently contradictory". Her work purports to document the "different forces" which have influenced the development of Detention Centres, seeking to explain their origins, their slow development initially, and their rapid expansion in the early 1960's. She sees the introduction of Detention Centres as:

"... the price paid for the abolition of corporal punishment, at a time when there was much concern about crime rates among the young",

and their expansion as the 'civilised alternative', with its re-introduction at a time when "the criminal activities of the young were again causing alarm" when "the prison system as a whole was under great pressure".²

Unlike those contributors to the research field in this area who rely entirely on an empiricist tradition she touches upon interesting and valid areas for analysis, suggesting that Detention Centre development, regimes and aims have been influenced by changes in crime rate, and social, economic and political climate. What she does not go on to do however is fulfil the promise of her brief by examining these forces and changes in anything other than on a fairly simplistic analytical level. Her analysis is, largely speaking, one-dimensional since it tends to concentrate on the role played by individuals in the Home Office and the civil service (and some other Government personnel). She offers no analysis of the economic and political nature of the State in the different periods of Detention Centre development, or of youth movements, and makes no reference to the powerful ideologies of the social work and probation services, or Prison Department ideologies on youth, youth crime, and crime prevention which have developed particularly in the post-World War 2 period. The arms of the state apparatus are implicitly conceived of as discrete and autonomous organisations. The totality of the state in operation is treated simplistically as a series of dramaturgical interludes in which civil servants and reform-oriented individuals are embattled in discrete scenes for the achievement of vague ideological preferences. More importantly, she does not attempt an analysis of the causal links

in the development of what she sees as the contradiction between deterrence and rehabilitation in the Detention Centre system, or the penal system as a whole. Neither does she offer even any tentative reasons for the fact that this "experiment which could not fail" seemed, in many ways, to be in the throes of complete cessation in the early 1970's. In this sense, and in common with other work in this field, her analysis is limited in its scope, although useful in the nature of some of the points and debates it raises.

In conclusion therefore, the research to date, limited in its volume, is also limited in its scope: Firstly, the, largely empirical research (owing much to the positivist criminology of the 1950's and 1960's) has tended to focus on two main issues: effectiveness and the character and attitudes of offenders sent to Detention Centres, and, as a review of the research, in 1969, has noted, with the emphasis mainly on the latter.¹³ (Ericson's study largely escapes such criticism.) Secondly, most of the empirical research has concentrated on studies of comparatively small samples from individual institutions, for limited periods.

Thus, because of the very nature of the previous research, there has been no comprehensive study of Detention Centres which has attempted to examine in any meaningful or rigorous way, the complexity of socio-political factors which have played a part in the formation and emergence of a short-term type of institution for young offenders. Around the economic and political pragmatism which continues in some degree to inform its development, and the role played by conjunctural-specific ideologies in its continuing history there has been a deafening silence.

This is what this study attempts to do. In the raising and

examination of such factors it must of necessity take cognisance of the following issues:

- (1) the changing nature of the state in Great Britain during the period from, roughly, the end of the nineteenth century, through to the present;
- (2) in relation to this, an explication of the nature of the changes which have taken place in the manner in which the state has struggled to maintain the balance between consent and coercion in the interest of ruling class hegemony. This is particularly apposite in the period post-World War 2, when Detention Centres were opened and developed. Such analysis is here concerned specifically with the rise of an advanced capitalist order in Britain, and the development through the interventionist state /beginnings of the /late of post-war welfarism to the law and order state of the 1970's; leading to, and in conjuncture with:
- (3) an examination of the changing nature and balance of control mechanisms, of both an ideological and repressive nature in the post-war conjuncture, in the penal and welfare systems, across Party policies and Governmental allegiances; and:
- (4) the emergence and significance of various professional and research ideologies, and especially of the rise of psychological and treatment-oriented ideologies in social, penal and welfare practices and professions.

It is in the third section of this research, which deals with the post-World War 2 period, that such an analysis is crucial in the configuration and tide of events within and without the penal system. It is hoped that in attempting to explicate the dominant political and ideological

forces at play in specific conjunctures the apparent contradictions of policy and practice which have been seen, traditionally, to surround the Detention Centre system, will be rendered somewhat more visible, both in their internal relations and in the light of their relationship to and with other aims of the state machine.

The State :

Gramsci speaks of the capitalist state as "the instrument for conforming civil society to the economic structure", and, as

Mouffe¹⁴ notes :-

"... the entire complex of practical and theoretical activities with which the ruling class not only justifies and maintains its domination but manages to win the active consensus of those over whom it rules."¹⁵

That is, the state plays a critical role in shaping social and political life in such a way as to favour the continued expansion of production and the reproduction of capitalist social relations. The manner and scale on which the state performs this role under capitalism is historically specific and distinct from any other type of social formation known. Further, the conditions for capitalist production and the reproduction of its social relation must be articulated through all levels of the social formation - economically, politically, and ideologically.

In the process of this articulation, and in order to maintain a dominant power position, those who rule :

"... besides having to constitute their power in the form of the state, have to give their will ... a universal expression as the will of the state, as Law."¹⁶

Gramsci was thus concerned to specify the complex relations among a plurality of social forces involved in the exercise of state power in

a specific conjuncture. The key to his approach is to be found in his emphasis on the organic relationship between government apparatus and civil society. In this context he identifies two modes of class domination, force, and hegemony.

Force involves the use of a coercive apparatus to bring the mass of people into conformity and compliance with the demands of a specific mode of production. It can be employed by private groups as well as state bodies, and its effectiveness is seen to depend on economic and ideological factors as well as purely military considerations. In contrast, hegemony involves the mobilisation of "active consent" of dominated groups by the ruling class through their exercise of intellectual, moral and political leadership. It involves taking systematic account of popular interests and demands, shifting position, and making compromises on secondary issues:

"... to maintain the support and alliances in an inherently unstable and fragile system of political relations, and organise this support for the attainment of national goals which serve the fundamental long-term interests of the dominant class."¹⁷

It also involves intellectual and moral leadership through the constitution and reproduction of a collective will, a "national popular" outlook, which is adequate to the needs of social and economic reproduction.

Just as a moment of force is instituted in systematically coercive apparatuses, so hegemony is crystallized and mediated through "a complex system of ideological apparatuses to be found throughout the social formation",¹⁸ firstly, through groups which constitute the sphere of 'civil society' or 'private bodies', and secondly, through the activities of intellectuals whose role it is "to elaborate

ideologies, educate the people, organise and unify social forces, and secure the hegemony of the dominant group." ¹⁵

It follows, therefore, that the penal system is more than just the dominant arm of the state's repressive apparatus: on the one hand it functions within the state apparatus as the ultimate control mechanism, resorting in the last instance to control via imprisonment; whilst on the other it may be seen to have a complex relationship with and through the various professional social-welfare and medical control ideologies which dominate or characterise the conjuncture, operating through the various disposal systems of its own internal, and related, structures.

In addition to the work on penal institutions and related forms of social control ¹⁹ there is a growing body of studies within this tradition, and informed by this theoretical overview. It is concerned with the development of a 'strong state' and the reorganisation of the legal system. Stuart Hall (late of the Centre for Contemporary Cultural Studies, at Birmingham University) and his colleagues may be located in this mould, along with the more recent work of the late Nicos Poulantzas. ²⁰ It is possible to denote in the work of Hall et al in particular, a sui generis Gramscian tradition, in which the principal focus is the constitution of hegemony in different conjunctures, and the contradictions apposite to them. Their analysis of post-war Britain is one which is based on the elucidation of a social-democratic interlude under a fragile Labour government, during which various economic, political and ideological crises were intensified; and a major new phase in the reorganisation of bourgeois hegemony beginning, with the election in May 1979, of an "authoritarian-populist" government of the Right.

Although this study does not, in any significant way, address itself to an analysis of what Jessop terms:

"... a radical alignment of social forces across a broad front, in order to effect an irreversible rupture with the post-war social-democratic consensus",¹⁷

it does take cognisance, and especially in the third section of the thesis, /beginnings of the of the drift towards a 'law and order' society in which 'juridico-political ideologies and pseudo-democratic populist ventriloquism' are employed to erode civil liberties and the rule of law.

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Implicit in the studies cited, and in this analysis, is the assumption that the implementation of legal discourses and practices are overdetermined by other political and ideological discourses and practices. Law is therefore located within a complexity of strategies available to the state in its attempt to consolidate post-war capitalism. Specifically, this thesis must take cognisance of the various and divergent strategies, ideologies and constraints of specific conjunctures, which complement the various swings, contradictions and complications within the development of the modern penal system. Both the actions of individuals, and individual groups must therefore be situated in such an analysis.

To this end, I have counted the relevant literature of the conjunctures under discussion and especially that in the second and third sections of the study, as ideological representations of conjunctural trends and movements. This literature includes :-

- (i) Parliamentary Debates and Reports;
- (ii) other Government documents; e.g.: Green Papers and White Papers;
- (iii) Government legislation;
- (iv) Party Manifestos, and Party Conference statements;

- (v) Home Office documents, including ACTO, ACPS and HORU Reports;
- (vi) Private correspondence, communications and working papers from various sources, made available through the Public Records Office, in Kew;

In the light of the previous work on Detention Centres, the sixth category is particularly apposite. The letters, memos, working papers, brief comments and other sundry documents from and between members of the Home Office permanently responsible for administration and policy-formulation within the prison services and the penal system, have offered a particularly rich insight into the ideologies and exigencies of everyday practice which informed the decision-making process on various issues (particularly in the 1940's) surrounding the eventual formulation of a short-term form of custody for young offenders. Correspondence was between Home Office personnel and other Home Office personnel, as well as with and between Government ministers, other civil servants, Prison Commissioners, ACTO members, and interested bodies such as the Howard League, as well as, on occasion, between Home Office personnel and members of the general public.

As ideological and informational representations of official and personal (unofficial) trends in 1940's penal thinking and practice, a careful piecing-together of such documents in the context of the inter- and post-war conjunctures, offers rich and valuable insights which have hitherto been unavailable. This has been partly because of the "Thirty Year Rule" and partly because previous research has not adopted the type of research methodology which would regard such material as particularly meaningful.

For this reason, as the most recent internal documentation

available from the Home Office, they are important. But, further, they serve to throw light on a particularly significant period in Detention Centre history: on the conjuncture in which they

arose, according to other research "like Athene, fully clothed" in inexplicable, contradictory, and anomalous manner.²² For these reasons, their significance as ideological material, the specific period they represent, and the historical research gap they fill, I have dealt with them in a separate section of this thesis, along with an explanation of that other incorrectly-designated "hiatus" in English penal history, the intra-war period.

The first section of the thesis deals with the period preceding the outbreak of World War 2. For reasons which I hope will become clear in the reading and in the exposition of the methodology of this research act, the period preceding the start of the Detention Centre 'experiment' offers important pointers to its formulation, as well as aiding the situation of this one institution within a rapidly-growing and developing penal system. The roots of the English penal system go back long before the point at which this research commences, but I feel it necessary to examine in some detail the position in the late nineteenth century, around the work of the Gladstone Committee, from which era emerged the creation of the modern young offender penal system, and in particular the Probation system, the Juvenile Courts, and the Borstal training institutions.

To this end, I have relied extensively in this section on Foucault's thesis concerning the transition from the corporal to the carceral in the penal system, which, he argues, was largely complete by the end of the nineteenth century. Although Foucault's thesis²³ is oriented towards French penal history his analysis is equally valid in

an explanation of such trends in the history of the English penal system. This section of my thesis therefore develops the theme that by the opening of the new century, the adult English penal system was entirely dominated by what I have termed "the hegemony of the prison", and suggests that at the same time dominant welfare and social ideologies and the needs of industrial capitalism necessitated the breaking down of this hegemony within the young offender sector. It is on the basis of such an analysis that the "rationale" of the emergence and development of the Borstal, probation and juvenile court system, with which Detention Centre history is most intimately related, are rendered visible.

The three sections therefore lead on, one to the other, as well as having distinct (but complementary) purposes, and, together, constitute the results of neither an empiricist nor a general positivist methodology, but rather one in which the complexity of relations and forces which articulate the nature of the modern capitalist state, in its attempt to maintain hegemonic domination via consent and coercion, are rendered visible and meaningful through concrete analysis.

Ultimately, it is the purpose of this study to show that the opening statement of this Introduction, from Crow and Land, are not contradictions in essence, but complementary facets of a complex history of one form of disposal for young offenders.

FOOTNOTES:

1. From: The Detention Centre Experiment: a Review, by Iain Crow. N.A.C.R.O., August, 1979.
2. From: "Detention Centres: the Experiment Which Could Not Fail", by Hilary Land. In Change, Choice and Conflict in Social Policy, by P. Hall, H. Land, R. Parker and A. Webb. London: Heinemann. 1975.
3. Latest figures available:
Facilities for young male offenders also exist at Grendon Psychiatric Prison.
4. This first category includes:-
 - (i) The English Penal System in Transition, by J.E. Hall-Williams. 1970.
 - (ii) "The Origins of the Philosophy of Detention Centres", by Valerie Choppen. British Journal of Criminology, (BJC) 10, 158.
 - (iii) Prison Commissioners, and then the Prison Department, Annual Reports. Home Office.
5. This second category includes:-
 - (i) "Juvenile Delinquents Under Punitive Detention", by Max Grünhut, 5, British Journal of Delinquency, (BJD), 3, 1955.
 - (ii) "After Effects of Punitive Detention", by Max Grünhut, 10, BJD, 3, 1960.
 - (iii) Young Men in Detention Centres, by A. Dunlop and S. McCabe. 1965.
 - (iv) "Boys in Detention Centres", by C. Banks. In Stephanos: Studies in Psychology in Honour of Sir Cyril Burt, ed. C. Banks and P. Broadhurst, U.L.F. 165.
 - (v) "Borstal, Prison and Detention Centre", by C. Banks. In Changing Concepts of Crime and Its Treatment, ed. by Hugh Clare. 1966.
 - (vi) The Assessment of Suitability for Detention Centre Treatment and Outcome of Training, by R. Cockett, C.P. Report 8, January 1967.
 - (vii) Factors Associated with Success and Failure in Senior Detention Centres, by P.H. Shapland. Psychologists Monograph No.19; Office of Chief Psychologist, Prison Department, Home Office. March, 1969.
 - (viii) "Research Into Detention Centres", by Elizabeth Field, B.J.C., 9, 62. 1969.
 - (ix) Studies of Female Offenders, by Nancy Goodman and Jean Price. Report No.11 of the Home Office Studies in the Causes of Delinquency and the Treatment of Offenders c.1969.

- (x) The Crimes of Detention Centre Boys, by R. Cockett. C.P. Report, Series 1, no.3. Office of the Chief Psychologist, Prison Department, Home Office. July 1972.
 - (xi) Girl Offenders Aged 17-20 years, by Jean Davies and Nancy Goodman. Home Office Research Studies, No.14, Home Office, 1972.
 - (xii) Young Offenders and their Social Work, by Richard V. Ericson, Saxon House Studies, 1975.
 - (xiii) "Constructing in a Detention Centre", by Margaret Norris. In New Perspectives in Personal Construct Theory, ed. D. Bannister. London: Academic Press, 1977.
 - (xiv) "Offenders in Residential Communities - Measuring and Understanding Change", by Margaret Norris. Howard Journal, 1979.
6. This third category includes:-
- (i) "The Long Blunt Shock", by Neal Pharoah, New Society, September 26, 1963.
 - (ii) "Detention Centres", by Stan Cohen, Anarchy, 1971.
 - (iii) "In Whose Best Interests", by Taylor, Lacey and Bracken. Cobden Trust/MIND, 1979.
 - (iv) Out of Care, by Thorpe, Smith, Green and Paley. George Allen and Unwin, 1980.
7. This fourth category includes:-
- (i) "The English Prison and Borstal Systems", Section 5: Young Offenders, by Lionel W. Fox, 1952.
 - (ii) The Struggle for Penal Reform, chapters 13, 15, 16 and 17. Gordon Rose, 1961.
 - (iii) "Detention Centres: the Experiment which could not fail", by Hilary Land. In Change, Choice and Conflict in Social Policy, by H. Land, P. Hall, R. Parker and A. Webb, London: Heinemann, 1975.
 - (iv) The Detention Centre Experiment: A Review, by Iain Crow. NACRO, August, 1979.
 - (v) Detention Centres - Recent Development, by Iain Crow. NACRO, April, 1980.
 - (vi) Various miscellaneous reports from the Society of Friends, NACRO, New Approaches to Juvenile Crime, etc.
8. Dunlop and McCabe, op.cit., p.63.
9. See: The New Criminology, by I. Taylor, P. Walton and J. Young, Routledge and Kegan Paul, 1973.
10. Which were based on role repertory, sentence completion and attitude statements.

11. This was caused by firstly, an administrative alteration at Whatton, by which part of the D.C. was transformed into a Junior D.C., for the 14-16 age group; and secondly, by the necessary exclusion of 33 inmates, because they had experienced previous institutional experience, or they were serving only 2 months. Criteria for inclusion in the target group population covered only those inmates who:
 - (i) were serving four months (ie: a 6-month sentence, minus 1/3 remission);
 - (ii) had no previous institutional experience;
 - (iii) were willing to co-operate.
12. Parts of Ericson's analysis also closely resemble that "third level" of analysis which Phil Cohen has suggested should be undertaken by sociologists wishing to articulate the various levels of meanings in sub-cultural analysis, viz: "... the phenomenological analysis of the way the subculture is actually lived out by those who are the bearers and supporters of the subculture".
See: WPCS 2: "Subcultural Conflict and Working Class Community; by Phil Cohen, p.24.
13. Elizabeth Field, op.cit., p.63.
14. Gramsci and Marxist Theory, ed. Chantal Mouffe, R.K.P. 1979, p.6.
15. Selections from the Prison Notebooks, by Antonio Gramsci. London: Lawrence and Wishart, 1971.
16. German Ideology, by K. Marx and F. Engels.
17. "On Recent Marxist Theories of Law, the State, and Juridico-Political Ideology", by Bob Jessop. In International Journal of the Sociology of Law, 1980, 8, 339-368.
18. Comment: the concept of state ideological apparatuses, both as theoretical constructs and in terms of an analysis of the modern state are dealt with in some detail by:

Louis Althusser: "Ideology and Ideological State Apparatuses". In Lenin and Philosophy, L. Althusser, N.L.C. 1971; and

Nicos Poulantzas, in State, Power, Socialism. NLB, 1978. Especially chapters 2, and Part Four, although the two writers have developed different theoretical perspectives.
19. Often owing much to the work of Foucault; see especially, Discipline and Punish, by Michel Foucault. Peregrine Books 1979.
20. I Refer specifically to:

Policing the Crisis, by S. Hall, C. Critcher, T. Jefferson, J. Clarke and B. Roberts. Macmillan, 1978; and

Nicos Poulantzas, op.cit., 1978.

21. See:

- (i) "Popular-Democratic vs. Authoritarian Populism", by S. Hall. In Marxism and Democracy, ed. A. Hunt, pp.157-85, Lawrence and Wishart, 1980; and
- (ii) "Drifting Into a Law and Order Society", by S. Hall. Cobden Trust, 1980.

22. Valerie Choppen, op.cit.

23. Michel Foucault, op.cit.

24. Although working in a somewhat different tradition, it may be apposite to note here Rothman's study on the birth of the asylum, which in many senses cut across both penal and social-welfare vista's in nineteenth century history;

The Birth of the Asylum, by David Rothman.

TWO:

NINETEENTH CENTURY DISCIPLINE: the FORMATION and
EROSION of PRISON HEGEMONY in VICTORIAN ENGLAND

CHAPTER TWO

NINETEENTH CENTURY DISCIPLINE: THE FORMATION AND EROSION OF
PRISON HEGEMONY IN
VICTORIAN ENGLAND

Introduction:

This chapter is initially concerned with the explication of two central issues in 19th century penal history: Firstly, the emergence of the prison as the focal point of the modern penal system, based on the transition from the corporal to the carceral in penal rationality; and, secondly, the situation of this development within the wider context of the transition from mercantilism to modern industrialism, and the attendant necessity for a disciplined labour force.

The purpose of such an explication is to use such a theoretical and empirical framework as a means within which to ground an explanation of the creation of the category of youth in official welfare ideologies, and to show how this informed and defined early attempts to create a sector specifically for young offenders, as well as outlining the attempts to hold young offenders beyond the influence of the (adult) prison system.

Finally, the chapter aims to draw the above strands together to demonstrate that such developments provided the historical antecedents of the philosophical, ideological and political rationale which informed the later attempt to create, in the Detention Centre, a highly disciplined, and short-term form of institution specifically for the young offender.

A. FROM PUNISHMENT TO REFORM

The disappearance of torture and public spectacle as the dominant means of dealing with various forms of criminal behaviour occurred gradually during the 18th and early 19th centuries, in English penal history, and had, largely speaking, been completed by the latter half of the 19th century.

At the same time, and in close correlation with this, the prison began to emerge as the dominant form of punishment, in place of death, transportation and various methods of torture and humiliation (stocks, the tread wheel, water-dipping etc.), not just in England but all over Europe, in France and Germany and in the United States.

Throughout Britain in the 17th and 18th centuries, the control of deviants of all kinds was still essentially in the hands of the local community and, or, the family. By the mid-18th century the two main means of institutionalization (as far as this was resorted to: physical punishment and degradation spectacles were more commonly utilised) had become the Bridewells and the local gaols, originally embodying 2 quite distinct ideologies. The local gaols had 2 primary objectives; safe custody, and the exaction of money and, since sentences were not intended to be served in them, were not concerned with deterrence or reform. The Bridewells, in contrast, had developed the ideologies of reform (on a very simple scale) and of deterrence, providing work for the unemployed poor, able-bodied vagrants, harlots and idle apprentices. Operating under the direct control of the justices, committal to them became quite common for all sorts of minor offences during the 17th century.

During the 18th century, the 2 types of institutions became almost completely assimilated, and were commonly under the same roof and the same keeper. Gaol fever lightened the burden of numbers by killing 1/4 of the population each year.

From 1774-91 a series of statutes became law, intended essentially to secure a minimal level of cleanliness, sanitation etc. - the "cleanliness statutes". The provision of work for prisoners, separation of the sexes, supervision of gaols by justices, and separate cellular confinement were all intended to secure this end. In practice however, the reforms achieved little in immediate terms, partly because the machinery to enforce State directives did not exist and also because they proved too expensive to expedite financially.

Generally speaking, this early development of the English penal system is made up of 2 main threads: the history of local penal provisions (the local gaols or the Bridewells), and the history of national provision (at this early stage, transportation to the United States, and hanging). The movement for the development of an effective, efficient and humane local prison system which began in the 18th century was based on two separate, but complementary, concerns:

- 1) an awareness of the need for a more ordered, hard-working, God-fearing society, to promote ruling class hegemony in a rapidly industrialising society; and
- 2) a sense of benevolence, or compassion and the desire to improve the appalling conditions of the contemporary system.

These 2 concerns, control and compassion, were to dominate English penal history in uneasy equilibrium for the next 150 years, and can be exemplified most clearly in the research and reform carried out by John Howard.

Until the 1780's, when Howard's concept of the prisoner as an individual capable of change and improvement began to have a wider following, discussion had centred largely on the use and abuse of the death penalty.

In 1776 however, transportation to the United States ceased (following the War of American Independence), and the year after this saw the publication of the first edition of John Howard's "The State of the Prisons".¹ Howard, centrally concerned with the condition of the prisoner, wanted to see them "healthier, better fed and more humanely housed in cleaner and more effectively ventilated gaols".² Although concerned with an appeal to humanitarianism, his writings and work nevertheless always strongly emphasised that improved prison conditions were not simply an end in themselves. A prisoner well treated was a prisoner made amenable to change:

"Great care should be taken to prevent infection, to keep prisons clean and well-aired; and invariably to adhere to strict values of sobriety and diligence, in order to correct the faults of prisoners, and make them for the future useful in society." ³

Although Howard was concerned to eradicate dirt, disease, and improve prisoners' nourishment, he was equally concerned about the contamination effects brought about by the indiscriminate herding together of the corrupt with the corruptible, with no form of segregational enclosure. Indeed, the drastic reduction in gaol fever between 1777 and 1782 was due in large part to his own efforts, and may be counted as no small achievement.

Many of Howard's proposals, certainly those directed toward the improvement of hygiene, were not particularly controversial. What was controversial was his suggestion to launch the idea of the cellular prison, not simply for administrative convenience, but to provide an

opportunity for reformation of the individual. This concept of reformation, of which that of rehabilitation is a secularized descendent, was but :-

".... the logical corollary of perceiving crime in forms at once environmental and pathological: Criminals were made not born, and ... they could equally well be un-made." 4

Of the various Acts associated with Howard, the most significant was the 1779 Penitentiary Act,⁵ designed, inter alia, to build a national penitentiary to replace transportation. The principles and spirit of the Act were essentially Howardian, but the erection of a penitentiary was not completed until a much later date, in 1821, at Millbank, followed by another, at Pentonville, in 1842.

Local reforms continued slowly through the good works of Sir George Onisephorous Paul in Gloucestershire⁶ and via a series of local Acts which allowed some six counties to obtain money for rebuilding and reorganising their prisons (based on the 1779 Act).

As far as the local prisons went, it was not until Peel's Act of 1823 that various prison standards were set down in the legislation, and the 1835 Act that the Inspectors of Prisons were established and the "need for expert centralized inspection and control ... equally manifest".⁶ But Howard's principles are strongly in evidence throughout this period, both in terms of the history of the local prisons outlined above, and, eventually, with the creation of the first penitentiary at Millbank in 1821, an establishment described in 1811 to be:

"... a system of imprisonment not confined to the safe custody of the person, but extending to the reformation and improvement of the mind, and operating by seclusion, employment and religious instruction." 7

By the time the penitentiary had been constructed there had been a substantial reduction in the numbers of executions, and a national Directorate of Convict Prisons had been established on a centralized basis. The 1850's and 1860's witnessed a winding down of transportation to Australia, and the 1870's the complete nationalisation of the various parts of the prison system which made up local and national provision.

But both the history of local and national provision, outlined above, owe much in spirit to Howardian philosophy. In propounding the reformability of offenders, he articulated a major tenet of the emerging industrial society: the malleability of men. Furthermore, this early history of the English penal system rested on and reflects 2 major factors :-

- a) the transition from the corporal to the carceral, as a reflection of the movement away from torture and public spectacle to what Foucault has termed a schooling of the soul in the body,⁸ and, concomitant upon this :-
- b) the increasing recourse to imprisonment as the dominant means of punishing the individual.

Thus, the gradual disappearance of public executions and the sort of public degradation ceremonies common in England and Western Europe marked not only the decline of the spectacle but a slackening of the 'hold' or focus on the body. Branding was abolished in England in 1834, by which time the full punishment reserved for traitors was no longer meted out: hanging, drawing and quartering. Only flogging remained (as in Russia and Prussia), but gradually, such practices were resorted to less and less:

"One no longer touched the body, or at least as little as possible, and then only to reach something other than the body itself." ⁹

Thus, as Foucault has suggested, punishment gradually moved away from the site of "the pain of the body itself", to an "economy of suspended rights". The important facet of this development of the modern prison system, away from torture and spectacle, was the creation of a concern with the "soul" of the offender, and of a penal system with "higher aims" than formerly had been the case. Where once the executioner had been the prime and often the sole "anatomist of pain", with the general public as both arbiter and pupil of the event, a "whole army of technicians" took over his role. By the middle of the twentieth century this 'army' had grown to include many professional experts: wardens, doctors, chaplains, psychiatrists, psychologists, educationalists, probation officers and social workers. Indeed, in those legal systems which still have recourse to the death penalty, the majority have worked to eliminate both the element of spectacle and the presence of pain. Generally speaking, the death penalty is no longer accompanied by an act of torture. Foucault has pointed out that, with the reduction of the procedures of hanging, drawing and quartering to "strict capital punishment" - the abolition of "ceremony" - we have witnessed the evolution of "a whole new morality",¹⁰ which in turn reflected the emergence of new and different power relations, resulting in the abolition of the public declaration of monarchical power.

The modern penal system, the seeds of which were germinated in the early and middle nineteenth century, has thus become oriented towards a disciplining of the body through the schooling of the soul, and this, as Foucault has suggested, is reflected in the move from the corporal, with its attendant concern with sheer punishment and display of royal power, to a concern with the carceral. Such a disciplining of the soul may thus be directed towards the reformation of the individual offender.

In the nineteenth century the prison site itself was designed to bring about this "reform" and this may be evidenced in a shift away from spectacle and in the establishment of the adult prison system.

Thus, the whole penal system has come to take on extra-juridical elements and personnel:

"Today, criminal justice functions and justifies itself only by (this) perpetual reference to something other than itself, by this ceasing reinscription in non-juridical systems. Its fate is to be redefined by knowledge."¹¹

Thus, punishment may be regarded as part of a complex social function, and a political tactic. In terms of nineteenth century socio-political history, the emergence of the prison as the dominant form of punishment, and the attendant stress on the carceral in order to reform the soul may be seen as a historically-specific technique of power through what Foucault has called :-

".... the metamorphosis of punitive methods on the basis of a political technology of the body in which might be read a common history of power relations and object relations." ¹²

So, in analysing the "concrete systems of punishment"¹³ it is necessary to relate them and the tasks they perform to what may be identified as "a whole series of positive and useful" effects which it is "their task to support". Foucault has suggested that the political investment of the body is bound up with its economic use; in other words, it is largely as a force of production that the body is invested with relations of power and domination. Further, its constitution as labour power is possible only if it is caught up in a system of subjection, when the body becomes a force only if it is both "a productive body" and a "subjected body". From this point we are thus able to talk of the reproduction of (capitalist) social relations among the labouring

classes and the conjunctural ideologies of these relations of production. Thus, penal imprisonment, from approximately the beginning of the 19th century, covered both the deprivation of liberty, and the technological transformation of individuals in a specific mode of production. It is to a, necessarily rudimentary, analysis of the state in 19th century England that I now turn.

B. POLITICAL OVERVIEW

i) The state in Victorian England:-

By the 1850's, Britain was benefiting from the advantages of an early industrial revolution in economic and industrial spheres alike. Her virtual monopoly of world industrial production had been built on a relatively stable political base at home, and her trade routes and export markets had been made secure by her vast colonial empire and her post-1815 naval dominance.

Such a supremacy had been supported by the production relations of a "free" economy of small-scale, owner-managed, competitive private firms in an environment freed of mercantilist trade restrictions, and which provided a wealth of exploitable resources, and particularly of coal, iron-ore and labour power.

In political terms, the hegemony of bourgeois rule was well-established, and bourgeois interests (free trade, the expansion of industrial production etc.) had become synonymous with the "national interest", though in fact formal power still rested with the members of the class of landowners who continued to provide the personnel of state office.¹⁴

The state in the mid-Victorian period is usually characterised

as one having a "nightwatchman" and largely non-interventionist role, although:

"To begin to list the activities the State had adopted by 1870 indicates the paradox: the State maintained paupers, limited the employment of women and children, regulated emigration via the Passenger Acts, controlled pollution via the Alkali Acts, financed and supervised schools, reformatories, prisons and police forces, enforced nuisance removal, vaccination and the civil registry of births, marriages and deaths." 15

Yet in spite of this, Britain remained relatively free of state intervention in this period, with such state action as was taken conceived of as regulatory rather than as interventionist or welfare oriented. The aim was to free the market to operate for the greater good of all - "Laissez-faire" was thus the dominant market philosophy and complementary to the conditions of British capitalism at that time, with the imperialist stranglehold on world markets which has come to be viewed as the central focal point of the British economy and the Victorian state of that era.

ii) The Ideology of Economic Liberalism: An everyday social philosophy:

During this period the bourgeoisie secured a dominant position over the working class of Victorian England, consolidating its control during the period 1850 to 1880. The dominant ideology of this period was structured around 3 main arms of support, classical economics, utilitarian philosophy and evangelism (in both overtly religious as well as secular forms), and these elements were drawn together and given cohesion by the all-encompassing notion of individualism, which permeated all aspects of life from economics and philosophy, to morality and philanthropy.

In terms of everyday social philosophy, the values of work, thrift, respectability and above all, self help,¹⁶ formed the basis of

the new common-sense, and the tenets of vulgarised political economy became the cultural laws by means of which individuals ordered their lives, across bourgeoisie, landed gentry and the top fractions of the working class. When the social crisis of the 1880's hit Victorian England with such resounding effect, it was, significantly, rooted in the suffering and poverty of the 'lower orders', the bottom strata of the working class, and that most hard hit by the bourgeois individualism of nineteenth century England. For these people (and Booth estimated that in London they numbered as many as 1/3 of the population), facing appalling housing conditions, bad sanitation, seasonal and structural unemployment and often malnutrition, the notion of the individual in control of his or her own destiny was a cruel joke, and 'temperance' and 'respectability' symbols of an alien culture, the 'other nation'. As Mayhew pointed out:

"Where the means of subsistence occasionally rises to 15s per week, and occasionally sinks to nothing, it's absurd to look for prudence, economy or moderation. Regularity of habits is incompatible with irregularity of income ... it is a moral impossibility that the class of labourers who are only occasionally employed should be either generally industrious or temperate." 17

The weakness and inconsistency of bourgeois hegemony during this period was thus delineated by this cleavage between the "two nations". The inevitable corollary of this exclusion of this fraction of the working class from economic and political life (through their failure to provide active participation and consent to the shoring up of bourgeois hegemony) was a policy of repression, especially in periods when economic prosperity failed to guarantee passivity. It also provided the basis on which was built Victorian notions of social reform, religious and secular evangelism, and ultimately, in the transition to monopoly capitalism, the first strands of an interventionist state, operating in welfare, penal and educational systems.

iii) Victorian Social Reform, and the Problem of the Poor:

In line with the dominant philosophy of individualism, early Victorian legislation for social reform made no drastic break with previous legislation, and essentially reflected the concept of poverty as a specific state of existence, attributable to an individual's personal failure to secure the basic comforts from life.¹⁸ The Poor Law Act of 1834 had introduced no new principles although it considerably strengthened the provision of those which had preceded it. It re-affirmed the two deterrence principles of previous legislation - the workhouse test, and the doctrine of less eligibility. What is distinctive about the Act is that for the first time central government intervened to direct and closely supervise the work of local authorities through the Poor Law Board and its inspectorate. The Act is significant in that it is an illustration of the success of legitimation of ruling class values, translated on the ideological level into national values. The Act was preceded by a long ideological campaign, seeking to popularize the notion that individualism and wealth were associated with morality, whilst dependence and poverty were synonymous with immorality. In this sense it is representative of the conjunctural ideology of the 'demoralization' of the working classes, and informs the evangelical spirit of the religious and social workers of reforms for this section of the population.

At the same time, the growing concern for the conditions under which children and young women especially were forced to work in the factories (exemplified by the agitations of the Short Time movement, who accused the Whigs of denouncing black slavery while they practised white child slavery in their own factories), and the desire for the provision of education for the young, are indicative of a very early

concern with a form of social welfare. By 1844, the minimum age for employment was 8 years, with the achievement of a further reduction in working hours for children to 6½ or 7 per day. Night work for women was forbidden and various loopholes in the 1833 Act were plugged. Three years later, the Ten Hours Act, covering young persons up to 18 years, and all women, was at last passed.

Social reform was slow and ad hoc during this period, and after the mid-1850's, a period of "localism" developed, splitting the age into two distinct periods: (1) 1833-1854: which may be characterized as the formative period of ad hoc construction of the Victorian administrative state, and (2) c1870-1911: a period in which the imperfections, confusions and weakness of the administrative state forced Parliament to pass consolidatory measures.

The various Factory Acts,¹⁹ the Education Acts, and then later the Old Age Pensions Act of 1908, and the National Insurance Act of 1911, all mark the very early strands of what was to be an interventionist state par excellence, initiated partly by an industrial revolution which impelled Parliament to intervene and protect the victims of technological advance, but informed centrally by the hegemonisation of the labouring classes, and the attempt to ensure under early monopoly capitalism the social reproduction of the growing labour force of the new markets. Further, the ideological and political struggles of the working class during this period, contributed to the acquisition of gains in the social reform field. The right to vote, and the enfranchisement of working class males was finally achieved in the period 1867-85, and from then on:

"... governments could not afford to ignore all demands for social reform blatantly or indefinitely." 20

Following this, the marches, protests and riots of workers in London during the last quarter of the century were signs that the working class were determined to achieve further reforms, and particularly those of a social-welfare nature:

"The rise of the welfare state led to shorter hours; better schools and more substantial asylums and prisons; technological changes led to advances in mining ventilation, railway engineering, drainage and water supply, leading to a reduction in the number of accidents and diseases." 21

(iv) Victorian Concepts of Criminality and the Role of the Penal System:

(a) Penal Welfare and Social Welfare:

Essentially, however, Victorian England at this time was more concerned to contain and to moralise the lower orders than to provide social reform or welfare. This endeavour to moralise the lower orders took place on 2 distinct levels. The first level, as discussed above, had taken place at the site of official state institutional provisions, through legislation such as the Poor Law Amendment Act of 1834 and the Prison Act of 1835, and based essentially on the principles of less-eligibility. The second level was based on a series of private initiatives, covering educational institutions, reformatories, temperance societies and various philanthropic bodies, sited in the threatening shadow provided by the prisons and the workhouse.

The doctrine of less-eligibility was a logical derivation of the ideology of individualism and the dominant laws of political economy, by which individual poverty was perceived to rest upon individual moral failing, leaving the state with no special responsibility in the amelioration of such conditions.

The principle of less-eligibility, whereby the nature of

institutional existence, in terms of diet, discipline and general humanity were never allowed to surpass those of the lower minimum standard of outside free labour, satisfied these conditions, as well as minimising the burden on the local rate payer. Alongside the workhouse, and as a crucial part of the same system of discipline, the prison played a vital role in the struggle to moralise the new proletariat, the work-force of the new industrialising nation: a moralised labour class, imbued with the elementary rules of property and thrift, docility and stability:

"The prison created a class of delinquents, a 'criminal class', which served to defuse the political threat posed by 'popular illegalities' by focussing upon a particular kind of illegality." 22

Thus, on one level, the prison served as the repressive terminal point of a network of apparatuses (both public and private) designed to carry bourgeois law and morality to every layer of the social structure, and to moralise the masses into an acceptance of the new ideologies of free market capitalism. At the same time, and complementary to this, the very nature of imprisonment itself was oriented to this emergent schooling of the soul, which, incidentally, was to take on a new and more repressive form by the late nineteenth century. We are thus speaking of, firstly, the role and position of the modern prison within a specific mode of production; and, secondly, of the conjunctural penal-ideological methodology, a penal pedagogy, in which this was to be achieved: the inculcation for a specifically Victorian social-economic morality (via the treadmill and other similar forms of unproductive labour), an integral part of the maintenance of a modern, capitalist regime in which the institution - in this case the Prison - looms large in terms of the maintenance of a structured hegemony of the ruling class. Hence, the prison becomes the ultimate (though not

the sole) means of the inculcation, control and 'production' of nineteenth century bourgeois ideology, for both the labouring classes and the 'dangerous' classes, with a large section of the latter seen to necessarily emanate from the interstices of the former.

The doctrine of less-eligibility played its part not only in purely social forms (the workhouse, and general provision for the able-bodied poor), but to some degree in the very nature of imprisonment. Both ~~the~~ social institutions of the state which provided some minimal relief for the poor, and the more specifically repressive-control sector, the nineteenth century prison, were affected by reforming ideologies..... not solely for simple humanitarian aims, but also, and more significantly, as a means of increasing the effectiveness of both arms of these control institutions of the Victorian state. Hence, both served to control and moralise the labouring and dangerous classes, and both came increasingly to rely on the recourse to the more modern, humanitarian and quasi-medical ideologies of modern industrial capitalism with which we are so familiar today.

The new state thus relied increasingly on new forms of ideological control. The modern prison which emerged slowly throughout the nineteenth century provided the site for such forms of control. Hence, the schooling of the soul whilst the body was incarcerated came to dominate the control system.

It is important to be aware, however, that the strands outlined above were embryonic in development at this stage.

Thus, and despite the almost total disappearance of physical punishment and torture during this period, the new forms of penal control

emerged only gradually. The treadmill, and the crankwheel were brought in under Du Cane's harsh regime, whilst he headed the Prison Commissioners, from 1877 to 1895. The doctrine of just-retribution was still very much in evidence during his period of office:-

"... (if) by punishing those who have an incurable tendency to crime, we can deter fresh recruits from joining the ranks of the criminal class, the whole object of punishment is effected." (Du Cane, 1875)

His notion of crime as a freely chosen enterprise was a parallel one to the contemporary notion that poverty was also a freely-chosen activity. The individuals who seemed to advocate either philosophies were thus to be controlled by the doctrine of less-eligibility. In prison, it took the form of solitary confinement, silent regimes, shock (No.1) diet, and unproductive labour.

(b) The Development of the Degeneration Theory:

The official ideologies which purported to explain working class poverty and crime in Victorian England, based, as outlined above, on individual choice and moral weakness, provided a view of the labouring classes as in need of a 'moral rearmament' which would in turn provide the desire to work.

The social theorists of the 1860's and 1870's assumed that since labour was painful the (casual) poor would always turn from labour to mendicancy if the opportunity arose, or from there to criminality if that latter act proved more expedient. Such a theory purported to explain pauperism not poverty, with the former viewed as an act of free will. Any aetiological basis to which such a theory might purport to adhere was necessarily limited, since it was unable to accommodate either a moral or a criminological theory about the respectable poor of Victorian England, whose members were growing in relation to the expansion

of industrial society.²³ The desire for work was seen therefore to be the main prerequisite for the acquisition of work. That there might be a dislocation between the two 'states' in economic terms was not presumed problematic.

The housing crisis of the 1880's, and the emergence of various forms of 'collectivism' as a challenge to traditional ideologies based on individualism, brought about a dramatic reinterpretation of the traditional distinction between deserving and undeserving poor. The direction of official attention was slowly, but increasingly, beginning to move towards a concern with chronic poverty, and away from pauperism.

Poverty was still associated with drink, early marriage, improvidence, irreligion and idleness, but, by the late 1880's, these factors came to be viewed increasingly as symptoms rather than causes. At the root condition of poverty lay the pressures of city existence, and from this emerged a theory of urban degeneration, by which the terrible living conditions which characterised city life for the new industrial working classes was seen to 'create' generations who, born and nurtured there, emerged as physical and moral degenerates. Thus, the theory of degeneration switched the focus of enquiry from the moral inadequacies of the individual to the deleterious influences of the urban environment. Chronic poverty was now an endemic condition of large masses of the population rather than a product of exceptional misfortune or improvidence on the part of the individual. The new theories relied greatly on those social and quasi-religious ideologies which assumed that a superior citizenship could be attained via a schooling of the soul.

C. THE CREATION OF CHILDHOOD AND THE ERECTION OF THE CATEGORY OF YOUTH

At the beginning of the 19th century, few legal distinctions were drawn between the offence, mode of trial, or punishment, of children and adults,²⁴ although a limited concession was made for the capabilities of infants. Centuries of judicial precedent had built up the principle of *doli capax* most clearly enunciated by Blackstone in 1796;

"the capacity of doing ill, or contracting guilt, is not so much measured by years or days, as by the strength of the delinquent's understanding and judgement."²⁵

Up to the age of seven it was presumed that children were incapable of criminal intent and could not be held personally responsible for violations of the law. Between the ages of 7 and 14 they were presumed innocent unless the prosecution proved their abilities to "discern between good and evil". Thereafter, they were fully responsible. Young offenders were therefore liable for all the main forms of punishment, capital conviction, transportation and imprisonment. Today, it is automatically assumed that children will be treated differently, both qualitatively and quantitatively, from adults (although the *doli capax* test is almost unchanged) and this is reflected in both the modern penal system as well as broader social and welfare systems.

A major facilitating factor which influenced and informed the transition to the treatment of young offenders as a separate category, parallel to the transition from corporal to carceral in broader penal terms, was the gradual emergence of a concept of childhood in broad social terms. In English medieval society, children were not considered as a category separate from adults. The first significant signs of a separate categorisation may be seen in special modes of dress for children

which evolved in the late seventeenth century in the post-Restoration period. By the beginning of the eighteenth century there were visible signs of what Aries has termed "coddling" attitudes towards children.²⁶ "Coddling" made its appearance initially in the family circle, and involved the nurturing and spread of new concerns about hygiene and physical health generally as well as the development of a concept of the child as the subject of tenderness. This was paralleled in a social-welfare and quasi-medical movement towards a realization of the innocence and weakness of childhood. From this conceptualization it was assumed that adults had a duty to safeguard the former and strengthen the latter.²⁷

"Childhood" however was still not seen to last much later than infancy; and it was not until the advent of industrial capitalism, and in the latter half of the nineteenth century especially, with the change in the relationship between the family, the state, and schooling, that the concept of childhood developed apace; it was with the new mode of production that the family ceased to be an institution which transmitted name and estate. It now assumed a moral and spiritual function, moulding bodies and souls as well, and, as such reflected its new role in the reproduction of capitalist social values. The child was thus a product essentially of an industrial revolution in which the family was no longer the immediate industrial unit, but rather the purveyor of moral and spiritual wisdoms, and, increasingly, the teacher of social attitudes in a system in which a reasonably docile working class was important in the hegemonic maintenance of a profit-making industrial society.

It is thus not difficult to comprehend the fit between this new role for the family and the new form of state under industrial

capitalism, nor the importance in broad educational and socio-welfare terms of controlling the "new" labouring classes, whether its members constituted the "dangerous classes" of young offenders that Mary Carpenter was so concerned about, the 'perishing classes' of incipient criminals living a life of vagrancy and theft but not yet subject to the law (and excluded from basic schooling), or were seen to be members of a mighty new labour force who needed to be moulded and controlled.²⁸

At the same time as Mary Carpenter and Matthew Davenport were busy with their crusading work in London; at the same time as the concept of "childhood" was establishing a firm prominence in social welfare and general control ideologies and practices; the parallel and complementary ideology of urban degeneration, with its quasi-sanitary medical analogies was emerging, to emphasise the evils of bad housing, city life, urban sprawl, and the degenerating influence of 'weak' and 'immoral' parents.

Thus, the category of youth emerged during this period in social, welfare and penal forms, as a response to and a product of both the historical factors referred to above, and a specifically capitalist mode of production for the necessary reproduction of its social relations of control.

Children were physically and mentally quite different beings from adults; less developed in both respects. By being placed in a position of "dependence" within a properly organised family system they might be "gradually restored to the true position of childhood" - the key to reformation.²⁹

D. THE HEGEMONY OF THE PRISON AND THE CASE OF YOUTH

(1) Victorian Evangelism and Youth: Keeping Children Out:

Institutionalisation, the ultimate mechanism of Victorian social control for children in need of basic welfare provision was still only a minor consideration of the state in the middle Victorian period. But, as indicated above, their role as part of a growing labour force was slowly informing a growing body of opinion that their welfare was not only of greater importance than had hitherto been conceived of, but also that they should be considered as a category separate or distinct from adults. A nation-wide accumulation of research evidence supported the notion that children were both the nation's future and, in the degraded urban classes, the nation's problem. "Can these be children?" was the inevitable question raised by the Reverend Micaiah Hill in his prize-winning essay of 1853, observing the amusements, the singing and dancing salons, and the extraordinary licentiousness shown by children at such gatherings! Their unchildlike behaviour was the result of the pernicious environment in which they lived, and particularly of "parents destitute of all sense of parental responsibility", who permitted "licence of an extent ruinous to childhood."³⁰

Early attempts at institutional welfare provision for children (which included Marine Schools, Philanthropic Society Schools, and Ragged Schools) had not been, strictly speaking, state interventions, although some were recognised and actively encouraged by the state. They were not symbols of the extension of the state into those areas of control formerly dominated by the family.

Social reformers themselves were uncertain where and by what criteria the line between child and adult should be officialy drawn.

In addition, they disagreed about the degree of guilt exhibited by children and the purpose of punishment itself. The most seemingly obvious index of responsibility, age, was also the most disputed, and the 1852-53 Select Committee heard conflicting evidence on the delinquent's capacity to distinguish between right and wrong and the age at which this capacity was reached.³¹

This sharp division of opinion was partly responsible for the ensuing legislative compromise. Mary Carpenter's proposals for Reformatory Schools for convicted offenders and Industrial Schools for the incipient criminal and neglected child were accepted. The former were recognised in 1854, the latter in 1857, and similar measures were passed in Scotland and Ireland. Under the 1854 Act, a system similar to that which was to govern educational organisation at a later date was established, based on a partnership of state and voluntary bodies. Judges and magistrates were empowered to sentence children under 16 on indictable or non-indictable offences to Reformatory Schools for a period of 2-5 years. Reformatory treatment was to be preceded by a prison sentence of at least 14 days, later reduced to ten. Schools were to be managed by voluntary associations subject to state inspection and certification. Maintenance costs were met by the state and also by a parental contribution of up to 5 shillings per week. In 1857, local authorities were also given powers to finance the schools.

Under the 1857 Act, magistrates were empowered to sentence children aged between 7 and 14 to an Industrial School for any period up to their fifteenth birthday. The sentence was not preceded by imprisonment as the Act dealt only with children charged with vagrancy. Voluntary management was again combined with state aid.

The legislation epitomises the attitudes to delinquency prevalent at the time, but, and more importantly for our purposes, reflects the fundamental changes in firstly, the state's attitude to youth as a vital sector of the new industrial society. For the first time in a legislative enactment Parliament recognised juvenile delinquency as a distinct social phenomenon, and accepted responsibility not only for young offenders, but also for children who, though not in conflict with the law, required "care and protection". Thus, children coming before the courts were no longer regarded as "little adults" but as beings in their own right, entitled to special care because they lacked full responsibility for their actions.

Furthermore, the differences between Industrial and Reformatory Schools reflects the separate but complementary arms of Victorian welfare and control ideologies. One intervention was essentially preventive in its design, one was a net in which to catch the delinquent who had failed to respond to the exhortations of family and state: They were thus both concerned with moral chastisement under incarceration; Foucault's 'schooling of the soul'. Both were attempts to control youth outside the bounds of the prison, and as such were significant inroads into that nineteenth century prison hegemony which was increasingly coming to dominate official state control methodologies. The ties between the old and the new and the inherent contradiction of the new form of chastisement can nowhere be seen more clearly in the provision that a young person must have completed a short period in gaol before qualifying for entry to Reformatory School.

The Child-Saving Movement:

Mary Carpenter and Matthew Davenport Hill were only two of those ardent social reformers who had travelled Europe and the U.S.A. and who together constituted a growing movement aimed at securing and 'saving' the nation's children. The child-saving movement in England, composed largely of middle class (often female) social do-gooders, was imbued with the spirit of altruistic humanitarianism and adhered to an ideology which owed much to the imagery of the medical profession, the tenets of social Darwinism, and the moral teachings of the New Testament. The broad aim of the child-saving movement, to "remove" young offenders from their 'natural' social environment (i.e.: urban and degenerate working class slums) and place them securely for a time in a rarified (i.e.: rural, middle class) environment, owed much to the assumption that all children are basically malleable, and can learn from or adjust to the "purity" of country life, both morally and physically. That there must inevitably be a massive dysjuncture in the period of adjusting to one after an enforced period in another was a matter which tended to be overlooked. The evangelistic core of the movement's theology tended to assume that the young people then became disciples of the 'new life' they had experienced, carrying its morals and structures back to the urban degenerate structures from whence they originated. Country life in all its pastorate purity could not fail to forcibly indicate to even the most intransigent mind the importance of the Christian ethic and its attendant life-style. This would then be translated into and come to overlay urban experiences. The proponents of the child-saving movement were therefore strongly evangelical in spirit and usually overtly Christian in faith. Dominated by seemingly tireless reformers they both

reflected the need for a quiescent work force on the one hand, and the urgency for a modernisation of welfare and penal policies on the other. Neither the Home Department nor the Prison Commissioners were beyond the bounds of its influence. On both accounts they reflected dominant, middle class, Christian morals and establishment ideologies.

In the short-term, its members sought to improve and control the fate of working class youth, In the longer term, it served to highlight, extend and encourage the formulation of a new and separate welfare category that is dominant in official policies to this day - youth; a category which conceived of its members as "plastic" in their gestalt, and which must play an essential role in the structures of modern society. The culmination of such categorisation was, eventually, the division of the under 21 age-group into children, young persons and young adults.

(ii) The Struggle for Probation:

The story of the 'child-savers' is only one fragment of the chapter in the history of the movement for "the complete removal of children from prison",³² and the gradual erosion of prison hegemony for the under 21 age-group. Whilst the hegemony of prison as the ultimate reflection of the move from the corporal to the carceral gradually came to dominate provision for adult offenders in the nineteenth century it increasingly suffered from erosion for the young offender sector.

This movement, referred to above, was gradual, and took at least two directions; namely, the development of special institutions for young offenders where "training and reformation" could be substituted for punishment in prison, and the development of non-institutional but

controlled means of treatment in the form of probation. Although this study is largely concerned with the first of these two directions, the second has come to be closely related to it, and as such is of no little significance.

The history of the emergence of a system of probation in the pre-legal sense, was both ad hoc and disparate. Any attempt to parallel such a history with the attempts to prevent crime via the improvement of social conditions and the development of social services must come largely in its "post-legal" history, for it was only with the spate of welfare-oriented legislation at the beginning of the twentieth century and the entrenchment of interventionism that the social rehabilitation of the individual offender emerged as a major objective of penal policy.

Similar, but nevertheless essentially different, practices had existed in England in the eighteenth and nineteenth centuries, including benefit of clergy, judicial reprieve, the release of an offender on his/her own recognizance, provisional release on bail, and the provisional "filing" of a case.³³ In the nineteenth century provisional release on bail came to be applied with an increased realization of its rehabilitative potential, and accompanied by increasingly effective safeguards and aids in the form of "personal supervision of and assistance to, the offender".³⁴

The Summary Jurisdiction Act of 1879³⁵ is commonly associated with having been the first probation statute in England, although in fact it does not deal with probation in the modern sense at all, stating that where an offence was too trifling to inflict punishment, or needed only nominal punishment, the court could discharge the offender conditionally subject to his giving security (with or without sureties) to appear for

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sentence when called upon, or to be of good behaviour (s.16). This did not, however, introduce anything essentially beyond what was already in existence in common practice. Its importance lies in the fact that it represented a legislative recognition of existing practice, and facilitated the appointment of more Police Court Missionaries to the Police Courts of London and other large towns, originally "to help those unfortunate men and women who found their way there through intemperance and other causes".³⁶

This "germ of legal supervision" was followed by a concerted campaign on the part of the Howard Association (now the Howard League for Penal Reform) to promote the introduction of probation proper into the statute book.

The Massachusetts statute of 1878 served as the basis for proposals drawn up by the Howard Association: In 1881 the Committee of Association published a paper on "Juvenile Offenders", which contained very favourable references to the 1878 statute, together with concrete proposals for England. The paper was subsequently printed as a parliamentary paper, and exerted a good deal of influence on the introduction of probation's related legislation in England, and in some of the British colonies.³⁷ That such plans, specifically oriented towards juvenile offenders, could be so well received, serves to indicate that like the successful introduction of Reformatory and Industrial Schools, "it was easier to convert public opinion to generous experiments for young offenders than for adults".³⁸; and that the contemporary socio-political climate was open to a more serious consideration of child and youth welfare than previously.

A Bill for the establishment of supervisory bail failed to reach the statute book in 1881, and in 1886 a Bill to permit the conditional

release of first offenders passed through the Commons but was rejected by the Lords. Provisions for the supervision of the conduct of released offenders (organised on Massachusetts lines) were embodied in a new Bill on first offenders which was introduced into Parliament in 1857, but were deleted before the Bill became law as the Probation of 1st Offenders Act, in 1887.³⁹ Although the Act introduced the term "probation" into English statute law, it therefore failed to deal with one of the essential elements of probation in the modern sense, namely: supervision; although whereas the Act of 1879 had merely referred to the trifling nature of the offence, the Act of 1887 laid down that regard was to be had to the youth, character and antecedents of the offender, to the trivial nature of the offence, and to any extenuating circumstances under which the offence was committed. As early as 1820, it is recorded that some Warwickshire magistrates recommended that in suitable cases they passed sentence of imprisonment for one day upon a youthful offender, on condition that he returned to the care of his parent or master "to be by him more carefully watched and supervised in the future".⁴⁰ To this extent, it is evident that statutory provision, although largely conservative in its nature, was slowly coming to reflect growing contemporary concern with (especially honest) poverty and "degeneration". Yet the failure of the statutes of 1879 and 1887 to provide legal sanctions to enforce the probationary supervision exercised by the police court missionaries and the agents of other voluntary organisations, considerably handicapping the work of such agencies, was indicative of the slow transition, already set in motion, from Victorian individualism to twentieth century interventionism. In short, the state and its welfare control system was not ready for a fully-fledged probation system such as that which was to emerge in the twentieth century. Twenty years later it was.

The system that was actually created, outlined in the next chapter, was paralleled and complemented by the creation of the English Borstal system, and constitutes another 'chapter' in the history of the movement to achieve "the complete removal of children from prison", and is part of the continued erosion of prison hegemony for one section of the population.

In the meantime, the missionaries of the most important voluntary society, the Church of England Temperance Society, increased in number from 8 in 1880, to 36 in 1890, to 70 in 1894, and 143 (including 19 women) in 1907, although there is little evidence to suggest that the supervision of young people took up little more than a fraction of their time. The increase in their numbers is therefore more indicative of the growth of the probation movement generally during this period.³⁸

(iii) The Gladstone Report:

But by the end of the nineteenth century, the problem of crime was diminishing in political importance. The onslaught of bourgeois morality had guaranteed a certain degree of respect for the institution of private property, owing its success largely to the combined effect of such disciplinary apparatus as the police, the prison, the education system and the shop floor. The 1890's statistics had indicated a decline in the crime rate,⁴¹ and the threat posed by the expanding degenerate masses were no longer seen in terms of individual violations of property, but rather in terms of collective political revolution. In this situation, the harshness of working class existence seemed to aggravate rather than to neutralise discontent. The prison had, as indicated in Foucault's study (see 8), served to form a distinct criminal

class, and, further, children barely 16 years of age, fine defaulters, first offenders, even the mentally ill were all dealt with in the same way as 'hardened' criminals, "suffering the same pains of imprisonment, the same problems of reintegration with honest employment, the same lack of aid on discharge".⁴² Thus, the penal system came to be seen, particularly during the period in which Du Cane was Head of the Prison Commissioners, as far too harsh, its range too wide and indiscriminate, and its effects the very opposite of reformative.⁴³

In a political conjuncture in which the ruling class was struggling to secure the consent of the working class (lost in a period characterised by economic decline, socialist agitation, the organisation of the unskilled, and fears of the nation's physical degeneration in the face of imperialist war), it became vital to temper the harsh effects of the late Victorian penal system, dominated by the treadmill and the doctrine of less-eligibility, and to enforce the legitimacy of its categories and definitions:

"In this context, and in the light of the growing social-welfare concerns of the State and the new humanist and 'collectivist' ideologies which endeavoured to reinstate the outcast poor into full citizenship, the singularly harsh, repressive, less-eligible practices of the penal system were anachronistic and unacceptable."⁴²

Ruggles-Brise stated:

"... it seemed almost a mockery to talk of social progress when, in the background, was the silent, ceaseless tramp of this multitude of men, women and children, finding no rest but behind prison walls and only issuing then to re-enter again." ⁴⁴

Indeed, in administrative terms, and in the determination of penal policy, the Du Cane regime of the post-1877 period (Du Cane was the first Chief of the Prison Commissioners, from 1875) had been characterised by the attempt to secure strict economy of operation, sound administration, and rigid unification. It was not surprising

therefore that when the Royal Commission published its Report in 1879, it was moved to comment on penal practice as follows :-

"... it not only fails to reform offenders, but in the case of less-hardened criminals, and especially first offenders, produces a deteriorating effect from the indiscriminate association of all classes of convicts in the public works."⁴⁵

It was with these concerns in mind that the Gladstone Committee was set up in 1894, in response to a serious wave of public protest over the conditions in the prisons specifically, and the penal system generally. Gladstone's proposals - particularly those concerning alternatives to imprisonment and reformatory institutions - were to have the effect of restructuring the prison population by removing from it the young, fine defaulters, the mentally ill, and many first offenders. This in turn helped to, firstly, reaffirm the legitimacy of the State's definition and treatment of criminality, and, secondly, to accelerate the erosion of prison hegemony in the young offender arena. It is for this reason that it is viewed here as of some importance in the emergence of separate categories and facilities for the young, even though it must be emphasised that reforming though it was in its sweep, it did not break with the classical doctrines of deterrence and just retribution overnight. Rather, some of its basic tenets and its provisions were later to inform the positivistic criminology which swept through Europe and the States. The central principles of prison treatment were indeed officially challenged for the first time: "but in terms of their efficacy rather than their underlying philosophy."⁴²

a) The Brief and Tenor of the Committee:

The brief of the Gladstone Committee is exemplified clearly in the comment from Sir Godfrey Lushington, the then Under Secretary of State for the Home Department :-

"I regard as unfavourable to reformation the status of a prisoner through-out his whole career; the brushing of self-respect, the starving of all moral instinct he may possess, the absence of opportunity to do or receive a kindness; the continued association with none but criminals ... the forced labour, and the denial of all liberty."

I believe the true mode of reforming a man or restoring him to society is exactly in the opposite direction of these ... it is quite impractical in prison. In fact, the unfavourable features I have mentioned are inseparable from prison life." 46

His comments reflect the main brief of the Committee, which was to examine and report on those categories concerned with the type of offences being committed, the nature of the crime rate in numerical terms, the methods of dealing with offenders, and the administrative and practical organisation of the penal system. Their task was to evaluate the contemporary position in the light of their findings.

The Report opens with reference to the apparent decline in crimes of violence against the person, and the noticeable increase in offences against morality, going on to situate the problem in overt socio-political terms :-

"In proportion to the spread of education, the increase of wealth, and the extension of social advances, the retention of a compact mass of habitual criminals in our midst is a growing strain on our civilisation ...", and concluding :-
"Recidivism is the most important of all prison questions." 47

The need for resocialisation of the degenerate labouring poor via deterrence would end recidivism it was thought. It was the means of achieving this which reflected the appearance of the "humanitarian" factor in the Report's recommendations. Christian compassion via the evangelical spirit (the sort with which the child-savers were imbued) would therefore supply the methods and the personnel for a more up to date, compassionate, but highly effective penal system which would serve the industrial population of Great Britain. Herein, above all other

things, we can see the growth of Foucault's "systematic control over the individual members of society", and the beginnings of a gradual change from pure punishment which chastised the body, to reform, which touched the soul.

b) The Gladstone Report and Youthful Offenders:

In its reference to youth, the Committee reflected, in no uncertain terms, the late Victorian concept of youth as 'plastic' and vulnerable, a comment with which the twentieth century social worker has become intimately familiar :-

"Children ... have a degree of plasticity which might be made use of in the right direction." 48

advising that :

"Children ... should be subject to special treatment, and in every way be kept absolutely apart from other prisoners. We think ordinary prison regulations and discipline should not apply to juveniles. The principle of instructions to Governors should be that each child be treated according to its own peculiarities of temperament; that the fact of imprisonment should be in the main deterrence, and that treatment should be altogether of a reformatory nature." 49

The emergence of a special ideology concerning youth and juveniles is strongly evident here; and the Report goes on to suggest :-

"... the tendency towards the abandonment of criminal practices may be strengthened by the development of the reforming side of prison life we strongly recommend the use of short sentences in the case of young offenders ... the importance of saving them from a life of crime ... to reclaim them." 50,

and is premised on the belief that the aims of "child saving" could be achieved in a relatively short period of enforced detention.

In support of this thesis the Committee recommended, firstly: that the maximum age of admission to Reformatories should be raised from 16 to 18, and of detention to 21; and that the minimum age of a 'juvenile' be raised from 16 to 17 years, thus extending the age limits of

"reclamation". Such a recommendation ensured a division of treatment around 17 or 18 years of age, both with regard to where a young offender could be institutionalised, and also, in broader terms, with regard to the age-band which the young offender sector could deal with.

Following on from this, the Committee recommended the experimental establishment of a penal reformatory for the over 17's under government management. This was complicated by the fact that it included a recommendation that offenders under 23 could be dealt with by a system of licences (for 1-3 years) which could be freely exercised. This could include transfer from Reformatory to penal reformatory, for a period not exceeding the unexpired portion of the term being served. Any prisoners already in prison and under the age of 23 should be transferred to the new experimental penal reformatory. In this way it was envisaged as a half-way house between prison and reformatory.

The central philosophy of the experimental reformatory would be hard work and moral influence, if possible in a country setting - in keeping with the contemporary theory that working class urban settings positively aided moral and social degeneration, and that fresh air, hard work, and a clean body and soul would help overcome this effect, in a way that the ordinary prison could not :-

"Under the present system, numbers of them come out of prison in a condition as bad or worse than when they came in. They go out with a prison taint on them."

The general tenor of Gladstone is reflected in its other recommendations, even though they are not specifically directed at the young offender sector:

- 1) a call for greater numbers of separate cellular confinement;
- 2) the No.1 (Punishment) Diet only to be inflicted where no substitute punishment could be found;

- 3) the power for earning remission of sentence should be extended to local prisons;
- 4) unproductive labour should be abolished wherever possible, and the productivity of prison industries to be increased by as many as possible, and the teachers needed to achieve this to be supplied;
- 5) prisoners should have larger supplies of books;
- 6) a small local prison might be selected for experimentation as an intermediate prison between discharge and release;
- 7) medical staff should have given special attention to psychiatry and psychology in their training.

The latter suggestion was of considerable importance ideologically in terms of the development of psycho-medical approaches to the treatment of the depraved and the deprived in our modern social-welfare and penal systems. And, although the Gladstone Report was not in itself positivist, it does herald that important trend in English criminological tradition that was to develop during the next 30 years.

c) The Administration of Gladstone:

The administration of their recommendations was a major concern to the Committee. By the Prison Act of 1877, all local prisons had been transferred from local authorities in counties and boroughs to central Government, or placed under the authority of the Board of Committees, acting subject to the authority of the Secretary of State. The intention of the Act had been to create an improved and uniform system through a strong and centralized administration, and at the same time preserve some degree of local autonomy and influence in the co-operation of visiting justices via the institution of visiting committees, to whom were assigned extensive responsibilities and powers. The intention of the Act in this respect, proved a failure and Gladstone outlines 3 reasons for this :

- 1) The local authorities lost all financial control and were thus left no direct interest in prison economy;
- 2) the abolition of the visiting justices by the Act appeared to be a primary factor, since it created an impression of the superfluity of local interestees;
- 3) the strong action of the new Prison Department, directed towards the abolition of a system of uniformity, and carrying with it rigid discipline and perfect orderliness, was calculated to overbear and repress what remained of the old authority in the localities.

In raising the disadvantages of centralization, Gladstone's Committee outlined the relationship between such a development and that of the fate of the prisoner in a system where recidivism too often seemed the end result. The prisoner had, the Committee concurred, been treated too much as a worthless and hopeless element of the community, and the moral as well as the legal responsibility of the prison authorities had been held to cease when he passed outside the prison gates:-

"The moral condition in which large numbers of prisoners leave the prison, and the serious number of recommitals have led us to think that there is ample cause for a searching enquiry into the main features of prison life." 51

It was this very concern, the increasing rate of recidivism, despite new inroads and attitudes into welfare and penal policy, that Michel Foucault sites at the centre of control problems. (although his concern is very much on an epiphenomenal level). Foucault has suggested that the emergence of the prison in the nineteenth century as the dominant means of dealing with offenders, and with the attendant shift in penal policy from corporal to carceral, was necessarily doomed to failure.

This "greatest failure of penal justice",⁵² is, he suggests, based on the following:

- 1) the failure of the prison system to diminish the crime rate;
- 2) the causal link between detention and recidivism;
- 3) because prison cannot fail to produce delinquents;
- 4) the role of prison life in encouraging and organising a milieu of delinquency;
- 5) the conditions to which inmates are exposed post sentence necessarily condemn them to recidivism;
- 6) the production of delinquents is affected by throwing the inmate's family into destitution.

Both points (3) and (5) are grossly overstated views of the effects of imprisonment on the inmate population as empirical evidence /and indicates are based largely on Foucault's view that the prison itself created a criminal rather than a dangerous class, failing in its own manifest objective, which is to reform those inside it.

In one sense, therefore, the Gladstone Committee's work appears to contradict Foucault's analysis, holding a place, traditionally, as it does, in English penal history, as the greatest reform-oriented advance in the English penal system, prior to the great 1948 Criminal Justice Act, and as a significant turning point in penal policy, with its overt concern for the improvement and rehabilitation of the offender. Further, the general tenor was concerned to take the young offender beyond the bounds of the adult system and into a specifically youth-oriented arena. Hence the creation of the Borstal system, the extension of the age-group of the Reformatory school, and the raising of the age of a juvenile to 17 years.

Foucault suggests that any form of institutionalisation was doomed to create a recidivist and criminal class. How then can Gladstone's obvious concern to avoid and diminish such effects be other than in contradiction to Foucault's thesis! The answer lies in the contemporary concern with and for youth, and the central issues around which this chapter is developed. Herein has been an attempt to explicate, inter alia, the emergence of the prison as the focal point of the modern penal system, as a result of the transition from the corporal to the carceral in penal rationality. The chapter has also attempted to outline and explain the contemporary necessity, born of the industrial capitalist mode of production, to control this sector of the workforce. Foucault's notion of the eradication of a criminal recidivist class by defusing the dangerous classes is only applicable to the adult sector, the nature and characteristics of which are distinct and separate from the young offender sector. The next chapter of this thesis will show, inter alia, how these developments, concretised in the burgeoning forth of young offender provision in the twentieth century, continued to indicate a growing split between the nature and histories of the adult and young offender sectors.

It is in this light that the speedy implementation of Gladstone's observations and recommendations should be viewed.

The diagram below indicates the efficiency and promptness with which many of the Committee's recommendations were implemented :-

TABLE 1:

Statement:

Of the Steps Which Have Been Taken up to 27th Feb.,
1896, to carry out Recommendations in the Report of the

Dept. Committee on Prisons

(c.7996. 1896)

(Recommendations numbered as in para.126 of Gladstone)

RECOMMENDATION	ACTION TAKEN
1) Speedier transfer No association	Adopted Instructions issued December '95.
3) Prisoners' Aid Society - Detailed report called for.	Under progress.
6) and 4) Unproductive labour to be abolished.	Active steps taken to utilise crank etc. for production purposes, or total substitution. New machinery for grinding corn. All available land for agriculture to be used.
5) Prisoners to have larger supply of books.	Committee to report on generally, including books.
9) 9 months separate confinement those in convict prisons.	No accommodation in convict prisons, so penal servitude prisoners being concentrated in 5 local prisons, instead of 11. Period now limited to 3 months.
10) Discretion to distinguish between 1st offenders and habitual criminals caught for 1st time.	"Star Class" system (i.e. separation of 1st offenders from other criminals and previously limited to penal servitude prisoners)been extended to local prisons in the metropolis.
13) Weak-minded prisoners should be under medical supervision.	Been ordered, and is being carried out.
14) No.1 Stirabout Diet to be re-considered.	Considered: No change called for.
15. Small cells in Portland and Dartmoor should be abolished.	Work in progress.
20. Prison matrons not to wear uniform.	Been authorised.
23) The Prison Commissioners should meet frequently, as a Board, and responsibility for special branches of work should be placed on individual P.Cs.	Now done. This carried out as far as is convenient.
Other matters in hand.	

In addition to this, the PCs published their observations on Gladstone's recommendations, in 1896. Although they were somewhat uncertain vis a vis the granting of 'privileges' for prisoners (e.g.: talking to be allowed for prisoners serving long sentences) the basic tenor of their remarks was sympathetic.⁵³ They agreed to the raising of the age of a juvenile to 17, and could see:

"... no difficulty in setting aside a portion of a prison in each district, for the special use and treatment of juveniles, care being taken that they are not separated by too long a distance from their family and friends." ⁵³

By January of 1898, the PCs were able to note that the following action had been taken regarding Gladstone's recommendations:-

TABLE 2:

Statement by the Prison Commissioners of the Action which has been taken up to January 1898 to Carry Out the Recommendations in the Rept. of the

D.C. on Prisons. 1895.

c.8790. 1898

Summarised thus:-

- 1) Now a larger margin of separate cellular accommodations;
- 2) Speedier methods of transfer have been adopted;
- 3) Larger discretion in visiting rules now in use;
- 4) A report done by Ruggles-Brise on the Prisoners' Aid Society;
- 5) Weekly report sheets to H.O. on punishments etc. given to prisoners now carried out;
- 6) Power to earn remission of sentence now extended to local prisons;
- 7) Oakum picking wholly discontinued amongst women prisoners and diminishing amongst men prisoners. Industries of a more useful character being gradually substituted. Hopes to provide more 'shops';
- 8) Means taken to lessen overcrowding in chapels;
- 9) Sunday exercise has been re-established;
- 10) Attempts being made to bring educational schemes in prisons more into line with those in public elementary schools. No uniforms for teachers.

As far as juveniles were concerned, complete separation from adults appeared to have been implemented, as well as the following:-

TABLE 3:

Statement by the Prison Commissioners of the Action Which Has Been Taken Up to Jan. 1898, to Carry Out the Recommendations in the Rept.

of the D.C. on Prisons 1895

c.8790. 1898

Juveniles:

Summarised thus:-

- 1) given complete separation from adults;
- 2) no longer to sleep on a plank bed;
- 3) now allowed special library books etc.;
- 4) now employed in work shops;
- 5) now instructed in a trade;
- 6) daily exercise given;
- 7) now allowed extra visits etc.

Effective arrangements had also been made for the disposal of juveniles on discharge, including escorts home and help in obtaining employment. In order to avoid sending unconvicted juveniles to prison at all, the Prison Commissioners agreed to consider and accept :-

"... any well-considered measure, having for its objective the care of remanded juveniles by a philanthropic society, thus avoiding committal to prison." 54

That such unofficial provision could be both considered and allowed indicates both the conjunctural pressure under which the State penal machinery laboured, as well as the growing effect of early welfarist

ideologies about youth, criminality and recidivism. The fragility and ad hoc nature still of the penal administrative machine was also partly responsible for the Prison Commissioners' deliberations on the matter of a penal reformatory: They felt it needed:

"... much more looking into", conceiving of it as

"... a very radical move, probably out of line with public opinion." 54

It also reflects the essential conservatism of the Prison Commissioners at this time.

E. CONCLUSION

In examining the nature of Victorian ruling class hegemony and the embryonic growth of the twentieth century interventionism, this chapter has attempted to situate and explain both broad social-welfare developments in this period, as well as, more specifically, the pattern of developments in the structure of the English penal system.

Both the rapid growth of an industrial working class and the attendant massive explosion in the social problems of the honest poor facilitated a situation where poverty could no longer be conceived of as a self-inflicted state by the idle or the dishonest.

The gradual centralization and rationalization of the state's administrative machinery generally, and the penal machine in particular may be explained partly as a response to this situation; whilst the rise of the "child-saving" ethic and other evangelist-oriented ideologies of both official movements and private individuals reflects the concomitant concern with ideologies about the centrality of youth and its place in modern society as well as the complementary ideologies of a pseudo-scientific or quasi-medical nature which were later to be

amongst the central explanatory ideologies of twentieth century criminology.

I have attempted also to stress and outline the unevenness of such developments in the transition from nineteenth century nightwatchman state to the interventionist state of twentieth century England. This unevenness, and the conjunctural contradictions which were a part of it are no more clear than in the example offered by the Gladstone Committee's work, which, inter alia, illustrated:-

- (i) the inherent 'conservatism' of Victorian social ideologies, untouched as yet by a modern positivist tradition, whilst at the same time indicative of, and instrumental in, the formation of the modern English penal system; indicated by:-
 - (ii) the growing emphasis on youth as a social category;
 - (iii) the increasing attempts to remove the young offender from the strictures of the adult penal system; accompanied by:-
 - (iv) a fragile but implicit "division", via these ideologies and rationalised by organisational and economic considerations, into a nascent pre- and post-17 grouping of young offenders. Such a division owed much to the fear of taint, stigma and recidivism, and was supported and complemented by the 'saving' ideologies of evangelistic trends in social work and amongst middle-class do-gooders.

Thus, in overall terms, this chapter has attempted to ground an explanation of the beginnings of the modern English penal system on the basis of the existence of the relationship between the emergence of modern industrial

capitalism in the nineteenth century, and the attendant movement in the control system from the corporal to the carceral. The emergence of the category of youth, both in terms of the historical antecedents explored by Aries, and its specific importance as a focal point of Victorian capitalist welfare and industrial control ideologies is firmly based on and in such a relationship.

I have tried to indicate that, for the purposes of this particular study, 4 factors are of particular importance in this period of English history:-

- 1) the creation of a category of youth in the penal system, the attendant cause for concern generated therein, and:
- 2) the separation around 17 years of age which was slowly emerging as an important division in terms of young offender policy and forms of treatment;
- 3) the development alongside this, and in complementary fashion, of the movement to keep young people out of prison: the breaking of prison hegemony; and:
- 4) the political and economic need for a passive and disciplined workforce, and especially a disciplined working-class youth.

The presence and dominance of these 4 factors may be traced through the next period, to 1939 and the outbreak of World War Two, and inform in part the essential philosophy of the eventual need for a recourse to a short, sharp form of institutional punishment for the young offender: the Detention Centre.

But other conjuncturally-specific historical developments not, as yet, referred to need to be taken account of in the chapters ahead before a clear picture of the factors which ultimately led to the creation of the Detention Centre system in 1948 can emerge. This chapter has sought to explicate the emergence and the subsequent erosion of prison hegemony in the latter half of the nineteenth century. The next chapters will attempt to trace those post-Gladstone developments which eventually culminated in the ultimate ascension of the 4 factors outlined above in the form of the 1948 Criminal Justice Act.

FOOTNOTES:

1. See:
John Howard: "The State of the Prisons". (1777), and:
D.L. Howard: "John Howard, Prison Reformer." (1958).
2. Malcolm Ramsay: "John Howard and the Discovery of the Prison".
Howard Journal. 1977.
3. J. Howard, op.cit, p.72.
4. Ramsay, op.cit., p.7.
5. The Penitentiary Act 1779. 19 Geo. III. c74.
6. Described as "the most successful of Howard's followers" in:
Sidney and Beatrice Webb: "English Prisons Under Local Government".
(1963), p.56. Pub. Frank Cass and Co. Ltd. See also:
J.R.S. Whiting, "Prison Reform in Gloucestershire". 1975.
7. First Report from the Committee on the Laws Relating to
Penitentiary Houses. H.C. No.199, May 31st 1811, p.4.
8. In:
Michel Foucault: "Discipline and Punish: the Birth of the Prison".
(1979). Penguin.
9. Ibid., p.11.
10. Ibid., p.12.
11. Ibid., p.22.
12. Ibid., p.24.
13. A task undertaken for example in:
G. Rusche and O. Kirchheimer: "Punishment and Social Structures". 1939.
14. See:
Robert Gray: "Bourgeois Hegemony in Victorian Britain".
in: "Class, Hegemony and Party". ed. Jon Bloomfield. C.U.L. Papers
Lawrence and Wishart. 1977.
15. Derek Fraser: "The Evolution of the British Welfare State", p.29.
16. The central philosophy expounded in Samuel Smiles' work.
17. Henry Mayhew: "London Labour and the London Poor." Vol.3 (1861), p.309.
18. See:
Victor George: "Social Security and Society". Ch.1.
19. For a detailed analysis of this see:
Karl Marx: "The Working Day", in: "Capital", Vol.1, Ch.10.

20. Victor George: op. cit., Ch.1.
21. D. Roberts: "Victorian Origins of the British Welfare State".
22. Michel Foucault: op. cit., p.270.
23. See:
Gareth Steadman-Jones: "Outcast London".
24. For a more detailed analysis of these themes see:
Margaret May: "Innocence and Experience: the Evolution of the Concept of Juvenile Delinquency in the Mid Nineteenth Century". Journal of Victorian Studies. 1973.
25. W. Blackstone: "Commentaries on the Laws of England". London: John Murray (1857). ed. IV., 29.
26. Philippe Aries: "Centuries of Childhood". Jonathan Cape. 1962.
27. Although it should be noted here that initially this attitude was confined to a small minority of lawyers, priests and moralists.
28. See:
Mary Carpenter: "Juvenile Delinquents - their Condition and Treatment". London: Cash. 1853. pp.292-8.
and:
I. Pinchbeck and M. Hewitt: "Children in English Society". Vol.2. Especially Ch. XVI: "Vagrancy and Delinquency in an Urban Setting". RKP. 1973.
29. See:
Mary Carpenter: "Reformatory Schools for the Perishing and Delinquent Classes, and for Juvenile Offenders". London: Gilpin. 1851.
30. Micaiah Hill and C.F. Cornwallis: "Two Prize Essays on Juvenile Delinquency". London: Smith; Elder. 1 53. pp.58-60.
31. The Select Committee on Criminal and Destitute Juveniles. P.P. 1852. VII., 191, 7; P.P. 1953, XXIII, 255.
32. It ought perhaps to be noted that the English child-saving movement differs qualitatively from the American experience, whose economic and social structure was at a different stage of development. Nevertheless, Anthony Platt's: "The Child Savers" provides a useful background analysis to the movement as a whole.
33. Report of the Departmental Committee on the Treatment of Young Offenders. Cmd. 2831. H.O. 1927. p.7.
34. For further details of such practices see:
"Probation and Related Measures": United Nations: Dept. of Social Affairs. New York. 1955. Ch.2.
35. "An Act to amend the law relating to summary jurisdiction of magistrates". 42-43 Vict., Ch.49.
The Act applied to England only.

36. L. Le Mesurier: "A Handbook of Probation; and Social Work of the Courts". N.A.P.O. 1935. p.22.
37. See:
N.S. Timasheff: "One Hundred Years of Probation". Vol.1. pp.26-27.
and:
D. Bochell: "Probation and After-Care: its Development in England and Wales". Scottish Academic Press. 1976. p. 31.
38. See:
Report of the Departmental Committee on the Social Services in Courts of Summary Jurisdiction. U.K. Home Dept. Cmd. 5122. 1936. Paras. 49-51.
39. "An Act to permit the conditional release of first offenders in certain cases." (50-51) Vict. c.25.
See also: L. Le Mesurier, op.cit., p.23-24.
40. See 1927 Report. Cmd 2831. op.cit.
41. Redgrave's study in the Journal of the Statistical Society of London, had revealed a massive 600% rise in crime between 1805 and 1842. Previous convictions of the under-twenties increased from 6,803 in 1835 to 11,348 in 1844, with an estimated imprisonment of 12,000 juveniles annually.
42. From:
D. W. Garland: "The Social Context of Penal Reform."
Unpublished M.A. Thesis on Criminology. Sheffield University. 1978.
43. This last point is one stressed by Foucault (op. cit.) as one of the reasons for the perceived failure of the prison by the beginning of the twentieth century, particularly for first offenders and trivial offenders.
44. E. Ruggles-Brise: "The English Prison System".
45. The Report of the Royal Commission on Penal Servitude. 1879.
46. The Report From the Departmental Committee on Prisons. (The Gladstone Report.) c7702. 1895. Para.25.
47. Ibid., para.18.
48. Ibid., para. 84.
49. Ibid., para. 82.
50. Ibid., para. 84.
51. Ibid., para. 23.
52. Michel Foucault, op.cit., p.258.

53. See:
Observations by the Prison Commissioners on the Recommendations
of the Departmental Committee on Prisons: Appointed by the
Secretary of State in June, 1894. c.7995. 1896.
54. See:
Statement by the Prison Commissioners of the Action which has
been taken, up to January, 1898, to carry out the Recommendations
in the Report of the Departmental Committee on Prisons. c.8790.
1898.

THREE :

PENAL BREAKOUT: the DEVELOPMENT of the
SHORT-TERM MOVEMENT

CHAPTER THREE

Penal Breakout : the Development of the Short-Term Movement

A. Introduction

It has been stressed in the previous chapter that although the consolidation in the 19th century of an industrial mode of production necessitated a disciplined work force, and although a concomitant development in the penal arena was the shift from the corporal to the carceral, and whilst one effect of this was to be the emergence of new, segmented but complementary provision for young offenders, yet, the creation of a specifically short-term form of institutionalisation for a certain type of offender, with separate provision for two specified age-groups was not to emerge either as a concept or in practice until a much later date.

The movement of history is slow and uneven, and although the opening decade of the 20th century, with its spate of young offender provision - Borstal, probation and juvenile court machinery, may well, it may be argued, have spawned the Detention Centre, in fact it did not. Yet, these penal explanations of the detention centre system discussed in Chapter One of this study seem unable to explain in any satisfactory manner the appearance in the 1948 Criminal Justice Act of the detention centre. Even with hindsight, they have not been able to explicate the legislation for the detention centre in other than rather unsatisfactory terms the whim of a Prison Commissioner, the misunderstandings of M.Ps in the political debate around the 1948 Criminal Justice Act, the attempt to capitalise on the philosophy of World War 2 prison camps, etc., etc.

This chapter, therefore, attempts, through an examination of the period from c.1900 to 1939, and based on the theoretical structure of the previous chapter, to extricate those threads of political, economic and ideological history that in their totality contributed to, informed and eventually gave birth to that specifically short-term form of institution for young offenders, the Detention Centre. In doing so, analysis will therefore continue to be grounded on an explanation of those factors with which the previous chapter was concerned:

- (i) the firm establishment of a category of youth, especially in the penal system;
- (ii) the continued and increased separation around 17 years of age for the purposes of policy formation and treatment procedures;
- (iii) the continuing efforts to keep young people out of prison: the breaking of prison hegemony; and
- (iv) the political and economic necessity for a disciplined work-force, and especially a disciplined working-class youth.

In particular, this chapter will lay emphasis on an analysis in the 1900-1939 period on the second and third factors and their concrete appearance in policy developments - in other words, continued efforts to keep young people out of a formal prison environment, and the continued reference point informing a "break" or "division" around 17 years of age.

From this it is hoped that the analysis will indicate how and why the particular history of these two concerns contributed to the formation of the movement to create a short-term penal institution for young offenders, culminating in a large-scale official and popular debate about the practicalities and desirabilities of a separate and distinct form of provision for the 14-21 age group. And how, by the outbreak of World War 2 in 1939, despite the advice of 'normal' penological histories, the stage for the detention centre was well set.

Part of the material referred to in this chapter, and particularly that in the concluding sections on the short-term debate and the Cabinet Home Affairs Committee in the late 1930's has only recently become available, through the Public Record Office's 30-year rule. Its significance is considerable, and evidence it reveals provides vital and important support for the broad thesis of this chapter.

B. The Politics of the British State : Britain Between the Wars

The attempt to implement Gladstone's recommendations in the period immediately following the publication of its findings have been outlined in the previous chapter, but it was not until the opening of the new century that its recommendations concerning the treatment of young offenders received legislative consideration. The most significant developments, embodied in the Probation of Offenders Act, 1907; the Prevention of Crime Act, 1908; and the Children Act, 1908, were three innovations :-

- (i) the establishment of the Borstal system;
- (ii) the consolidation of the probation system; and
- (iii) the creation of the Juvenile Court system.

It is perhaps apposite however to note at this point that the period roughly from this tripartite statutory implementation of penal reforms up until the formation of a National Government in 1931 was one rife with problems for the British state generally, problems which had no little effect on welfare policies generally and penal policies specifically. Nor were the problems financial ones only, affecting plant and personnel expansion, but of a complex ideological nature also, and appearing in a manner which the penal machinery could by no means ignore. It is to a necessarily brief examination of this period in socio-political and economic terms that I now turn.

By the year 1914, Great Britain had become the Imperialist State par excellence, with a colonial population of 400 million and overseas investments totalling almost half that of the rest of the world. She had a volume of capital export that had already exceeded home investments, and which at times neared 10% of total national income.

But during World War I, conditions developed which promoted rapid monopolization, an increase in inflation, and major changes in relation to the internal position of British capitalism. The post-war years thus emerged as a period marked by inflations then deflation, monopolization followed by its partial breakdown, and then the spectacular boom of 1912-20, which culminated in a rocketing of prices up to three times their 1914 level by April of 1920.

By December 1922, unemployment stood at 1½ million (i.e. 12.2%). The Government, as a reaction to all this was already attempting to correct the trend via a further extension of the arm of the interventionist state, the main social-ideological weapon of monopoly capitalism. The first, and most immediate, move had been the 1920 Unemployment Insurance Act, haphazard in its essence, and with provisions that were never fully enforced. But perhaps the most significant attempt to provide a solution to the problem was in the appointment of the Geddes Committee (in 1921), to be remembered with notoriety as "the Geddes Axe". The Committee recommended immediate savings of £75 million, largely in the state sectors of the armed services, education, health, and in war pensions. Geddes proposed even to abolish the Ministry of Labour and the Employment Exchange at a time of acute unemployment - a recommendation which left even the Government aghast! Many problems arose concomitant upon the Geddes recommendations, and highlighted particularly in the policy areas of social welfare, education, housing, industry and pensions, as well as in problems connected with British Imperialist policy abroad - in Egypt, India and Ireland, and culminating in terms of a major threat to ruling class

hegemony in the General Strike of 1926. In fact, it was not until January of 1930 that the Government set up an Economic Advisory Council,¹ although it achieved very little of significance, and merely preceded the setting up of a National Government in August 1931 with McDonald as Prime Minister in a final desperate attempt to solve Britain's financial crisis.

The Gaddes recommendations and the overthrow of working class resistance by naked coercion in 1926, were only two examples of the attempt to achieve economic and political stability. Other attempts were focussed at the level of the ideological, via the operation of welfare - the central ideology of a struggling interventionist state.

The Politics of the Penal System

Within the penal system these contradictions were reflected in contemporary terms in the re-emergence of the unemployment and crime thesis; and, by the mid-1930's, towards more treatment and rehabilitative-oriented methodologies of dealing with offenders, and especially young offenders. The aetiological simplicity and the potentially dramatic appeal of the unemployment and crime thesis ensured its seizure by the media (especially the press) during a period characterised by severe economic restraint, disturbing social trends, and the struggle for reform in the penal system. In 1925 for e.g. in the daily debates a Colonel Day asked the President of the Board of Education whether he was aware that :-

"The Report of the Commissioners of Prisons states that Governors' Reports draw attention to the conviction of youths who, unable to find regular employment after leaving school, have had their characters sapped by passing several years in a state of idleness."

Eventually, the Prison Commissioners were constrained to issue a major statement on the topic in the mid-1920's. The result was a pamphlet by Evelyn Ruggles-Brise (written in his capacity as President of the

International Prison Commissioners) entitled The Movement of Crime in England and Wales since the London Congress of 1872. The pamphlet had three aims :-

- (i) to compare the numbers and characteristics of offenders of recent years;
- (ii) to analyse the effect of war-time social conditions and legislation; and
- (iii) to plot the changes which had resulted in the wake of a great war. ²

During the period 1918-19, the D.A.P. had fallen by over 60% compared with the period 1913-14. This was generally held to be the result of the call-up to the Armed Services, and of the endless opportunities for employment for those who, in ordinary times, would not normally be considered to have the appropriate qualifications. Furthermore, Ruggles-Brise suggested that during the war:

"... an intense spiritual patriotism had pervaded all classes, leading men and women to abstain from evil." ²

He did point out however, that this was not the only contributory factor in the drop in the DAP: In 1914, the Criminal Justice Administration Act provided for new facilities for the payment of fines, leading to a decrease in committals to prison for default in this area, a development which should necessarily be placed alongside the increased use of probation and non-custodial methods of dealing with offenders.

Ruggles-Brise was encouraged in the pursuit of what was largely speaking a 'moral degeneracy' thesis by the legislation of 1914 and 1915, which suspended the sale and consumption of intoxicating liquors in licensed premises and clubs. ³ Both pieces of legislation were seen to contribute to the decrease in charges of drunkenness, leading Ruggles-Brise to conclude that :

"... when employment is easy and plentiful, and when there are serious restrictions on spending wages on intoxicating liquor, there is the probability that crime will be low in the community." ²

The consumption of alcohol was thus perceived of as a third factor in the discrete but seemingly feasible relationship between employment and DAPs, and thus provided a quasi-moral overlay to Ruggles-Brise's general analysis.

As further evidence, he offered a comparison of prison statistics between two years, one of plentiful employment combined with restrictions on liquor (1918-19), and one in which there was acute trade depression and no liquor restrictions (1908-9):-

	1918-19	1908-9
Board of Trade % Unemployment	0.05	7.8
D.A.P. (local prisons)	5,500	16,000
Total receptns. on convictions:	26,050	184,901

<u>Including:</u>		
Charges of drunkenness	1,670	62,822
Charges of begging/sleeping out	1,066	27,387
Charges of larceny	8,380	24,060
Total debtors received	1,830	18,996
Nos. committed on default of fine	5,264	95,686

4

The great fall in DAP made possible the (temporary) closure of a considerable number of penal institutions, representing about one quarter of the total cellular accommodation. This included Dartmoor Prison, which was then utilised as a "work centre" for conscientious objectors, and, significantly, the Borstal at Feltham.

However, by the early 1920's, unemployment had risen again, and to alarming figures. The PCs were thus faced with the problem of trying to explain this development in the light of a statistically insignificant increase in prison figures for the same period. Ruggles-Brise attempted to explain the problem by referring to the Criminal Justice Administration Act

of 1914 again, the restriction on drinking hours, and also the introduction of unemployment benefits. His position (and that of the body he represented, the Prison Commissioners) was partially supported and encouraged by the Editor of the Judicial Statistics :

"Since the War, crime apparently has assumed new forms. There has been a great increase in crimes of dishonesty, accompanied by violence. Fraud and Commercial dishonesty are also increasing." ⁵

it was considered possible that this was one result of the continued debasing effects of war on conduct and character, although the statistical analysis does not cite unemployment specifically as a contributory factor.

One of the committees which did attempt to substantiate the theory was the International Labour Committee, set up in February 1922, to enquire into production in general terms. However, when their proposals and findings were published there was immediate reaction against them. The Ministry of Labour, the Board of Trade, the Ministry of Health and the Home Office, among others, criticised the whole report for using "well-worn material", and in particular the report's conclusions that :

"The return of impoverished countries to healthy economic conditions by reconstruction of their plant, would ensure their gradual return to the world market in the capacity of both buyer and seller, and would thus restore equilibrium."

The same bodies also rejected the section on crime, pointing out that it was dangerous to assume that the two phenomena (unemployment and crime) were in a relation of cause and effect.

No serious documentation was then prepared on factors affecting the trends in crime figures, other than that of unemployment, until as late as March 1933. This was the Report of the Enquiry by the Public Accounts Committee, which pointed out that, notwithstanding the increase in unemployment from c.1,055,000 in January 1921, to c.2,725,000 in

December 1930, the DAP of prisons had varied little:

D.A.P. 1921 : 11,000

D.A.P. 1931 : 11,676

At this point the Report attempted to extend its analysis further by pointing out that these figures suggested that "factors other than employment and industrial depression are at work".

The Report noted that prison figures are liable to be more seriously affected by the degree to which the courts make use of alternatives to imprisonment, than to the number of persons found guilty of offences. Further, that the increased use by Courts of such alternatives (and especially probation and Borstal) had been one of the main causes of the reduction in the prison population compared with the pre-war years. In this context, the Report cites the 1914 Criminal Justice Administration Act, and the allowance of time to pay fines. The final word came from the PCs in the submission of their evidence to the Committee, when in the same year they refuted the theory on crime and unemployment outright. Their memo was short and to the point;

"Variations in the prison population (DAP) should correspond to variations in the numbers unemployed. This is not so." ,

and concludes that factors other than employment were at work.

Thus, by the early 1930's, the popularity of the theory had once again run its course, and suffered a demise. Its appeal is outlined in detail here because it reflected both the specificity of the contemporary political and economic situation, whilst at the same time being indicative of the contemporary stress in the direction of the ideology of individualization, via social-welfare methodologies. The reasons for ultimate failure were :-

- (1) its obvious lack of 'scientific' appeal to a state apparatus increasingly concerned with the legitimation of theory and social scientific research;
- (2) the lessening of its political and economic appeal, as the crisis of the 1920's passed into the less dramatic slump of the middle 1930's;
- (3) the growing appeal of the psychological model in para-medical concerns and especially in the approach to the treatment of the young-offender and non-offender. This ensured a tendency to focus on the psychological causes of delinquency with its more scientific appeal. ⁶
- (4) the increasing appeal, at official levels, of welfare ideologies generally, creating a greater emphasis on welfare-type solutions to socio-political problems such as social security, educational provision, etc.

The whole contemporary debate on the unemployment and crime thesis is thus important for two reasons: firstly, on a broad level, because it tends to reflect the nature of the period under discussion in political, social and economic forms, as well as indicate the complex relationship between wider trends in the early part of the 20th century state and those taking place in the ultimate control arm of the state, the penal system; and, secondly, in specifically penal terms the rise and then the rejection of the unemployment and crime thesis, is indicative of the struggle at the ideological level in the penal system for the establishment and maintenance of a more scientific, rehabilitative, oriented approach to provision for the offender as individual.

Lastly, its demise by the mid-1930's is no mean witness to the contemporary popularity and success of the tripartite provision of new penal measures, Borstal, probation, and its machinery the Juvenile Court system.

C. Penal Breakout and New Inroads into Prison Hegemony

Introduction

The latter part of this chapter will be directed towards an analysis and account of the emergence by the late 1930's of a very strong movement for short-term institutional provision for young offenders. The previous sections of this chapter and the two which precede it, have sought to provide an analytical backdrop to this concern, mapping out the growth of the hegemony of the prison in England for adults, and the parallel contemporary concern with youth generally, and young offenders more specifically. It has also indicated the importance of late nineteenth century social and penal legislation, especially that emanating from the work of the Gladstone Committee.

This next section, seen as a mid-way section, is concerned with an analysis of the decline in the hegemony of the prison for young people, looking at the emergence of three important factors which contributed to this decline - the probation, Borstal and Juvenile Court system. It also examines, briefly, the growth of psychology as an informing ideology in the youth sector (social welfare and penal), and, in a very small way at this stage in their history, as an influence on probation, Borstal and juvenile court system ideologies.

In this sense, therefore, this middle section of the chapter is intended to provide a theoretical and empirical link between that which has gone before, and the concern of the last part of this chapter - the emergence by the 1930's of a short-term movement. For these reasons, it is necessary to examine each development separately, but in conjunction with each other.

(i) The Borstal System

During the period from their creation as an experiment in 1901, to the outbreak of war in 1939, Borstal, as an institution, was at the centre of attention in the Home Office, Prison Commission, and government circles. Established following the recommendations of the Gladstone Committee that the age-group 16-21 was worthy of special attention, its fundamental principles of hard work and little play remained untouched in essence until Alexander Paterson was appointed Chief Commissioner of the Prison Commissioners in 1922.

As Roger Hood has pointed out,⁷ Borstal was :-

"... at the height of its reputation during the 1930s ... by 1939, the system was seen as a complete success, and the Prison Commissioners confidently looked forward to the time when they could close many of the prisons."

One of the most important and significant characteristics of this new inroad into prison hegemony concerned the type of offender for who it was primarily designed. In 1907, the Home Office stressed that :-

"The system (of Borstals) is not designed primarily for the case of first offenders, or novices in crime, but for young recidivists, guilty for the most part of acts of larceny, and rough and undisciplined lads of the lounging and hooligan types, who are apparently drifting towards a career in crime."⁸

Borstals were thus not intended for the first offender, but for those young men the Gladstone Committee wished to see removed from the adult prison system. The problems of "novices in crime" and first offenders was not in the Home Office's brief. Rather, their brief was dominated by concern over concepts such as recidivism, drift, and the notion of (criminal) career, and oriented towards the goal of separating young offenders from the adult penal system.

The legislation⁹ provided that persons aged 16-21, who had been convicted of indictable offences punishable with imprisonment, could be sent

by the courts for Borstal training for a period of not less than one year and not more than three years, to be followed by six months under supervision. There was also power to release a youth after six months, a girl after three months. Later, the 1914 Act¹⁰ increased the minimum period of detention from one to two years, and the maximum length of recall from six months to one year, stressing that Borstal should not be used as a medium-length term of imprisonment. In practice, many judges were loathe to give the full-term (three years), possibly because this was greatly above the normal tariff for adult imprisonment, and possibly because they were not concerned, at so early a stage in the history of Borstal, that reformation justified such a long sentence. Nevertheless, the Prison Commissioners continued to insist that one year was of very little use.

Initially, the course of Borstal history was influenced predominantly by Evelyn Ruggles-Brise, who was chairman of the Prison Commissioners until 1921, and hence the creation of Borstal regulations during this period bears witness to his comparatively austere, and moralistic ideas about the nature and the treatment of this type of young offender. A fresh impetus towards reform in the prison system generally came with the appointment of Sir Alexander Paterson to the Prison Commissioners (he was never Chairman). Paterson came in from outside the prison service, indeed from outside the Home Office, but he had long been interested in youth problems. He immediately set to work to implement his own basic philosophy, which was that prison was a place where a man was sent as a punishment and not for punishment, and that the emphasis should be on training the prisoner to make him more fit to live a law-abiding life upon release.¹¹

Various changes, many under Paterson's influence were to be made in the next 25 years in order to:

"breathe life into the honoured formulae of Gladstone's Report, and revitalise our prison and Borstal system." 12

Roger Hood comments of Paterson:

"He persuaded others to believe with him that the "British Lad" had good in him, and had simply been thwarted by a bad environment .. and that the good side of his nature could be brought out. Paterson aimed to dissociate Borstals completely from their prison roots and to make them entirely educative." 13

The changing philosophy of the Borstal through this period and in particular during the late 1920's, and 1930's, under Paterson's influence in particular, reflects wider ideological and political changes within the penal system and beyond; and, more importantly for the purposes of this study, serves to illustrate and emphasise the continuing break-down of the hegemony of prison in the young offender arena, via the advance of simple treatment and rehabilitative-oriented ideologies. Paterson's reference to the home environment as a central issue in criminal aetiology, his idealistic notion of "the British Lad", and the psychological overtones of his concept of the individual, all couched in non-scientific terms, reflect those growing ideologies which informed the tendency to individualization and psychologization as a means to achieve the resocialization of the young offender. At this time the dominant overlaying ideology of "youth" generally, was encapsulated in the British public school image of the young lad and his master, playing the game, coping with a "sticky wicket", for King and Country, etc. It was, therefore, this ethos, under a Patersonian influence, which dominated the ideology of the Borstal regime, and which eventually, at a later date, gave way to more overtly psychologised ones, concomitant with the growth of psychology as a respectable branch of social science.

This period of development in the history of the Borstal system, to the outbreak of World War 2, reflected psychological overtones only in its aetiology of crime, and not to any significant extent in its treatment methods, or in the day to day organisation of regime. But, in one sense, the Patersonian influence on Borstal regimes reflected similar and parallel moves away from these overtly religious overtones in other parts of the penal system, which were considered in the preceding chapter of this study. Just as the British public school image came to form the basis for the Borstal system's ideology in this period, a similar move away from overtly religious principles was taking place in the probation system, which was to provide and encourage the growth of this service in the period up to and beyond World War 2.

But before turning to an evaluation of the history of the probation system in this period, it is perhaps apposite to specify the significance of the growth and nature of the Borstal system in this period, in terms of this study. Most importantly, it points to :

- (1) the continued splintering of the young offender system away from the adult penal system - a development I have previously termed the breaking of prison hegemony;
- (2) the implicit strengthening of admission at about 17 years in terms of treatment provisions generally for young offenders;
- (3) the withering away of the severe and rigid principles enunciated by Du Cane and then Ruggles-Brise, and their replacement by the 'brave new world' philosophies of Alexander Paterson;
- (4) the gradual emergence of a more individualistic, humanitarian, 'caring' approach to young offender treatment, which was eventually to lead into psychological-type methodologies;
- (5) the dominance of the concern to institutionalise, via the Borstal system, those young offenders seen to be relatively sophisticated in crime, and potentially (or

actually) recidivist, which in turn excluded from its brief those first offenders and petty offenders not seen to be in need of lengthy training and for whom the system offered no real institutional alternative, other than a Home Office school.¹⁴

Historically, and for the purpose of this study, the emergence of the Borstal system may be seen as the first part of the second stage in the break out from the adult penal system, for young offenders. The Industrial and Reformatory Schools had so far provided institutional containment for the deprived and the depraved, whereas Borstal now extended the provision in category terms (young offenders in need of training) and raised the potential age limit to 21 at the same time. Furthermore, its age provision ensured the concentration on the age of 16 as an official reference-dividing point (cf. Industrial and Reformatory schools), and strengthened the growing commitment to keeping young adults as well as children and young persons out of the adult penal system.

The second and complementary part of this second stage is the growth and consolidation of the probation service in England.

(ii) The Probation System, and the Juvenile Court System

From about 1898, the movement for a probation system merged with the movement which had developed for special children's courts, although on many occasions this tended to detract from a realisation on the part of the magistracy and others that probation was also available for adult offenders! Evelyn Ruggles-Brise, following his observations of the American system, had pointed out in 1898 that a major problem facing the British movement for probation was that The Probation of First Offenders Act (1887) had made no effective provision for supervision, or for making enquiries before a trial into the offender's character and antecedents,¹⁵ a view echoed by many around

him. It was becoming increasingly obvious that the proper application of the 1887 Act necessitated preliminary enquiries into the character of the offender and the particular circumstances surrounding the alleged offence, yet "the machinery for making these was entirely missing".¹⁶

By the time that Tennant's Summary Jurisdiction (Children) Bill came before the House in 1905, the Home Office had received a flood of letters calling for legislation to establish juvenile courts staffed by probation officers, and in particular from Ruggles-Brise, representing the Prison Commissioners, as well as from the Committee on Wage-Earning Children. Tennant proposed the setting up of separate courts for young offenders, and more power to release young offenders for a period of supervision under "such an authority ... as the court may direct", adding to his Bill a memo to the effect that this authority could be "an officer of the court, the court missionary, or some society willing to undertake the work". Even after its reappearance in 1906 following sessional time problems, Tennant's Bill failed to get a second reading, official comment dubbing it "shapeless and wanting in precision".

The moment for a government Bill on the subject seemed ripe, and the opportune moment came when the Liberals came to power in December 1905, and Herbert Gladstone (son of William Gladstone) and Herbert Samuel became Home Secretary and Under-Secretary respectively. Gladstone had been Chairman of the Departmental Committee on Prisons and wanted to continue the implementation of its recommendations, giving Samuel "a free hand to work on similar lines". The Home Office outlined their proposals for a Bill; Samuel liked them,¹⁷ and at a meeting which followed all agreed that some arrangements could be made for the appointment of Probation Officers, and that the system should be used for adults also "in certain cases". By early 1907, it was already obvious

that the future history of the probation service would be dominated by internal and external struggles over who should be appointed as probation officers, their pay, and their conditions of service.

Yet the Bill itself attracted very little attention, causing no real stir, and passed easily through the various stages in both Houses, receiving Royal Assent in August, 1907.¹⁸

Probation

Whilst it was certainly not the case that the early probation movement had been officially oriented to either adults or young offenders exclusively, yet it certainly appears that at regular intervals in the struggle for its establishment and professionalization, leading agitators, including Gladstone, and the Howard Association, tended to place considerable emphasis on the young offender.

The Howard Association's interest in young offenders had directly informed their decision to study and then offer to the Home Secretary their account of the system of probation in Massachusetts.¹⁹ Here a special "State Agency" had been set up to be responsible for the care of juvenile offenders, and to investigate cases of the under 17's who had been charged with an offence, before they came to court. One method of dealing with them was probation.

The Howard Association went so far as to suggest to the Home Secretary that he might enlist the services of one or two policemen, or "better still" one or more voluntary helpers, who would watch over the cases of any criminal or neglected children requiring "authoritative influence" :

"The chief purpose would be, in the first place, to give parents or relatives of the said children such oversight or guidance as might enable them to discharge their responsibilities aright, and to avoid the necessity for further compulsion. But persuasion failing, fines and other compulsory influences would have to be used."²⁰

Lack of government interest in the Association's recommendations may partly be explained by the setting up of the Royal Commission on Industrial and Reformatory Schools, with the attendant focus on its work; plus the fact that for a time anyway, crime was seen to be on the decrease.

Furthermore, the merger of the struggle for a probation system with the movement for children's courts, may possibly have detracted from the realisation that probation was also applicable to adults, and "for many years after its introduction the use of probation for adults tended to be affected by its association in the judicial mind with child offenders".²¹

It appeared at this stage in the proceedings, that neither administrators at the Home Office, nor the legislators of the day had very much idea about what arrangements were required for the successful operation of the system, in the years immediately following its inception. Certainly the stage was set for a protracted struggle over the identity of the probation officer, with leading parts in the scenario being played by the Police Court Missionaries, the police force, and various voluntary organisations, all of whom had played a role in the previous informal operation of the embryonic probation system. The role played by Church personnel, during the period immediately following the passage of the Act, and the quasi-religious philosophy of the contemporary social work community ensured that probation was characterised by the religious and evangelical tinge which had been strongly evidenced in the previous period. A further significant and complicating factor was the extent to which the system was reliant upon the goodwill and co-operation of the magistracy for the scope of its implementation, and the success of its application. However, as ["]Bochel has pointed out :

" ... against a background of concern about the level of crime, dissatisfaction with existing penal measures, and a shift in penal policy towards dealing with crime through the "rehabilitation" of offenders, the persistence of pressure groups and individuals and of the Prison Commissioners had stimulated interest and discussion, and built up a fund of information within the Home Office." 22

Ruggles-Brise et al were committed in a broader sense too to finding an alternative to imprisonment for older offenders :

" ... probation ... is a State scheme for furnishing an alternative to commitment to prison ... and that vast multitude of offenders who commit trivial and unimportant offences." 23

The distinction may be drawn here between the type of person who might receive a Borstal sentence and the sort who would receive a form of probation. Whilst Ruggles-Brise did not see probation as a device for "rescuing" children of a tender age, he was prepared to concede that young offenders should be excluded from the system.

Yet, speaking in May 1908, Gladstone commented on the Liberal success with the introduction of the juvenile court system (via the 1908 Children Act) and the probation system (via The Probation of Offenders Act, 1907) that these were all "part of a definite scheme for dealing with young offenders".²⁴ Certainly, whilst older offenders over 21, were to benefit from the probation system, there is no doubt that the two other developments, Borstal and juvenile courts, were aimed specifically at the young offender.

In 1909, the Departmental Committee on the Probation of Offenders Act was set up; in December 1912, the National Association of Probation Officers (NAPO) was formed, and in 1914, a Criminal Justice Bill was introduced to amend the law on probation, and particularly with reference to the conditions of serving a term of probation.

During World War I an increase in juvenile delinquency served to focus both government and public concern on the need to provide services

for children aimed at prevention, and to improve the methods of dealing with young delinquents. This led to the setting up of Juvenile Organisations Committees and to a conference in 1917, organised by the Prison Reform League,²⁵ on juvenile delinquency. It is interesting that the conference passed a resolution stressing the community's responsibility towards children and parents, and calling for more provision to be made for recreating activities for children and young persons. Following the conference a pamphlet was published entitled A National Minimum for Youth, which called for the formation of a Probation Commission, to be :

"... supplemented where necessary by medical, neurological and psychological expert opinion",²⁶

and indicated yet again the psychological inroads being made into some areas of social policy by this juncture. It is interesting to note that just as Alexander Paterson became concerned with installing the ex-public school teacher - housemaster type into Borstals, so the Prison Reform League wished to attract men and women from the Universities into the probation service, offering them a career structure to replace the present payment of fees, which, because they were so ad hoc and insubstantial, encouraged people to take on too large a case-load. From this time on, the Police Court Missionaries began to lose positions in the local courts.

Nevertheless, a situation where courts in general (and especially provincial courts) had available the services of a probation officer, and the chance to be involved in probation work, was very slow to develop. By the end of 1923, only a minority of the 800 serving probation officers were employed full-time on work in the courts. Some advance was made following the issue of the Probation Rules by the Home Office in 1926, which insisted that :

- (1) fixed salaries be paid to all part-time workers;
- (2) the systematic recording of the details of individual cases should be compulsory;
- (3) the officially-defined duties of the new Probation Commission be adhered to;
- (4) an authorised probation officer to be allocated to Quarter Sessions.

The 1927 Report on Young Offenders,²⁷ (to which I shall return later) made further inroads into the professionalization of the probation service. The Report found that since about 1915 there had been an increasing tendency to associate probation with institutionalised treatment. Some magistrates were using probation plus a condition of residence (in some cases) where the Committee felt that committal to a Reformatory School would have been more adequate. This tendency sometimes occurred as a means of avoiding the recording of a conviction, which was necessary if a young offender was sent to a Home Office school, and sometimes when a magistrate personally believed that Home Office schools were "still using the primitive methods of earlier years".²⁸ The Committee therefore recommended that convictions were no longer recorded in juvenile courts, and that the probation system should not "be associated with institutional training in the strict sense".

The Committee were concerned with neglected as well as delinquent children, hitherto treated separately both in legislation and in practice, and commenting that :

"... in many cases, the tendency to commit offences is only an outcome of the conditions of neglect, and there is little room for discrimination either in the character of the young person concerned or in the appropriate method of treatment." ²⁷

The principle, and its obvious concern with child-welfare generally, was reflected in the recommendation that the kind of supervision provided by

the probation officers could usefully be extended to the neglected child.

Gradually, over the years following their creation therefore, the juvenile courts became the facilitating arena in which the extension of the tenets with which juvenile reformers were concerned were played out, and especially for the continued development of young offender ideologies - individualization, psychologization, and rehabilitation.

The juvenile court was empowered to deal with those offenders found guilty of the charge before them in one of the following ways :-

- (1) to discumiss the charges; or
- (2) to discharge the offender on his entering into a recognizance; or
- (3) to discharge the offender and place him on probation; or
- (4) to commit the offender to the care of a relative or other fit person; or
- (5) to send the offender to an Industrial or Reformatory School; or
- (6) to order him to be whipped; or
- (7) to order the parent or guardian to pay a fine, damage, or costs; or
- (8) to order the parent or guardian to give security for his good behaviour; or
- (9) to order the offender to pay a fine, damages, or costs; or
- (10) to commit the offender to custody in a place of detention; or
- (11) where the offender is a young person (i.e. aged 14 and under 16) to sentence him to imprisonment; or
- (12) by dealing with the case in any other manner in which it may be legally dealt with - provided none of the above are deemed suitable.²⁹

From the introduction of Borstal and probation, the number of young persons who potentially faced imprisonment began to decline rapidly. In 1907, 572 young persons under 16 were sent to prison, whereas by 1925 (and despite the rise in juvenile delinquency) the number had dropped to 8. In 1910, 364 young offenders had been ordered into detention (for a period not exceeding one month),³⁰ whereas by 1927 this had declined to 20 per annum.

The juvenile court system thus represented :

- (i) a structure for dealing with young offenders separate from adults;³¹
- (ii) an ideological arena in which young offender individualization and psychologization was to mature;
- (iii) the gateway to the extended institutional machinery for dealing with young offenders in the post-period, whether it be discharge, probation, Borstal training, or Home Office school etc.

By the end of World War I the increase in juveniles before the courts had become alarming :-

<u>Year</u>	<u>Nos. of juvenile offenders</u>	
1913	37,520	
1914	36,929	
1915	43,981	
1916	47,342	
1917	51,323	
1918	49,915	32

As well as indicating an actual statistical increase in offences the figures almost certainly reflect the effect of the new machinery for young offenders, and in particular the expansion of options open to the juvenile court. The 1927 Committee placed the emphasis squarely on "treatment", and the improved juvenile court arrangements which followed

the Committee's Report (under the Children and Young Persons Act 1933) provided a setting highly conducive to the application of probation, the development of the social work aspects of the probation officer, and the extension of the use of institutional training.

By the late 1920's, there was an increased interest anyway in a theory and practice of probation and in the application of psychological and case-work techniques. Cyril Burt's work, The Young Delinquent, published in 1925, had aroused interest in psychological aspects of crime, and in the relevance of psychological knowledge to social work. Further afield, developments in social casework techniques in America were being reported by returning visitors, and were imported by the end of the decade by early psychological social workers.

The development of psychology as an important tool in the methods increasingly being utilised in the treatment of the young offender is particularly apposite during this period, even though it played a more dominant role in the probation service than in the Borstal system, where organisation and regime were barely touched by psychological principles. Its utilisation and effects within the penal system is paralleled by its development as an academic discipline and a para-medical practice in broader terms.

(iii) The Emergence of Psychology : academic discipline, ideology, and practice

The roots of the emergence of psychology as a special discipline in its own right are historically complex, but several factors in the period which this study has so far covered contributed directly or indirectly to its growth.

The most obvious are the great technological-scientific advances of the middle and late nineteenth century and the breakthrough in chemical and metallurgical scientific research. At the same time, the period post-1870, with the demand for universal education (from the primary to the tertiary stage) ensured the increased availability of research facilities in higher education. The advance in educational provision during this period was qualitative as well as quantitative. The economics of greater access with the plant and other financial problems this posed, coupled with changes in educational philosophy necessitated by such developments, paved the way for the 20th century educational tool par excellence, the I.Q. test. By the mid-1920's, Binet's I.Q. tests, and then Simon's, had achieved universal acceptance, established, irrevocably it was thought, by the "scientific" proof emanating from the work of researchers like Cyril Burt.³³ By the end of 1914, the Home Office and the Foreign Office were increasingly using I.Q. and related tests as part of their placement methodologies, and especially in matters concerning the war effort.

In more overtly medical terms, the Armed Services also utilised psycho-therapy for shell-shock and neurasthenia. By the 1920's, the I.Q. test had been adopted by large business enterprises in the capitalist economy, as a means of choosing suitable employees. The notion of fitting the right person to the right job became increasingly important as

20th century monopoly capitalism entered into a more diffuse and sophisticated period of expansion.

The ways in which psychology affected the preoccupation with socialisation and re-socialisation is structured broadly in the socio-political framework of the period and is therefore related to the various developments in penal philosophy and practice, and to the internal development of psychology specifically. In this sense, psychology as a curative social force must be viewed both as an input into the general socio-political matrix of the contemporary mode of production, and, in turn, as an influencing factor in the penal arena.

The period post 1900 may thus be identified as one of upsurges and growth for psychology, and one during which the discipline fractured into 3 distinct but interrelated strands of study: academic psychology, psycho-analysis, and psycho-therapy. The reasons for this are complex in nature, but basically they may be identified as related to and the result of the following:

- (1) the increase in social-welfare provision and ideologies necessitating the broadening of para-medical provision on in-patient and out-patient lines;
- (2) the broadening of techno-scientific horizons, particularly in terms of research in the medical arena;
- (3) concomitant upon this, the increased professionalisation of the medical, penal, and associated social-welfare professions, including the development of Freudian and similar theories of personality and neuroses;
- (4) peculiar to this period, the complex reformulation of the characterisation of the sick, the disturbed, the deviant and the inexplicable in human personality (i.e. psycho-medical) terms; and, ultimately,
- (5) the differential outlet of psychological theories and methodologies into the various sectors of the State's welfare machinery.

The resulting tri-partite fractures into academic psychology, psycho-analysis and psycho-therapy, stemmed from the same source, but emerged along distinctly autonomous lines. The academic tradition, and informing position in Cyril Burt's work, became the basis for work and research in big business, educational decision-making, personality suitability projects, and laboratory experimentation. Eventually, it formed the basis for the beginnings of Home Office research studies in the late 1930's. It is from this tradition that the vast amount of work on intelligence, educability, personality traits and general mental performance stems; work which was to have a profound effect in particular on the education sector.

The psycho-analytical strand provided the suitable groundwork on which the newly formed probation service could base its informing ideology, and is particularly responsible for its recourse to case-work techniques, stemming in the wider sense from the ideology of individualization. This methodological tool was especially useful in the highly sensitive area of personal contact between Probation Officer and offender, and as such appealed to this sector in particular. Its methods required no specific medical training, but served to enhance the professionalisation of Probation Service personnel, in their work both during and after juvenile court procedures. It was also the means of negotiation with other social work agencies who were organised around the ideology of individualization of problem.

General use of pre-trial reports (and more recently of Social Enquiry Reports (S.E.R.s)) for juveniles and young offenders (as well as for adults) has emanated largely from the work of the probation service, as has the recourse, by courts, to social work expertise. Such techniques also inform concepts of after-care, based on individual biographical

development, in both criminal and non-criminal hearings.

The third fracture was into psychotherapy, and became a tool in the treatment of resocialisation of offenders and non-offenders in out-patient and in-patient situations.³⁴ The use of psycho-therapy affected the penal system historically in 3 ways: initially the use of such a tool was largely confined to para-medical institutions and concerns, like the Tavistock and Maudsley Clinics. The effects of such techniques were not felt specifically in the area of Home Office institutions until a much later period - indeed to no great degree until the 1960's. Approved Schools (formerly Reformatory and Industrial Schools), Borstals etc., were almost totally unaffected by such approaches, largely because of resistance from their personnel whose dominant approach and organising methodologies were informed rather by the public-school image discussed earlier. Group therapy, an offshoot of the psycho-therapeutic approach was not in evidence to any degree until post-World War 2. Where it was in evidence it tended to affect personnel attitudes to young offenders and their waywardness, by which the criminal offence came to be seen less as an overtly deliberate and therefore punishable offence, but rather as a symptom of some maladjustment in the socialisation process. Thirdly, the requirements of the 1939 Report⁶ led to the building of the special psychiatric prison for adults at Grendon.

Although the responsibility for providing the information for a S.E.R. now falls upon the social services and probation service, at this early conjuncture it fell to the lot of private donors. The first independent psychological clinic was set up in 1927, in the East End of London, by the Jewish Health Organisation. After 1946, a number were established by Regional Hospital Boards,³⁵ each of these forming a psychological unit within a particular hospital.³⁶ A memo by the Howard League on the 1927 Report urged that full school records should be supplied

for the perusal of the court, and welcomed the proposal for the establishment of 3 Observation Centres for the examination of young offenders as "one of the most valuable recommendations made".

With the increasing discreditation of Lombrosian-based theories, the factors officially associated with criminal propensity (as well as other, socially-based 'adjustment' problems) shifted, albeit very gradually, from the physical to the psychological. The transformation in social-welfare theories generally, and in penal philosophy and practice specifically were affected by these developments, and ultimately realised in the central ideology of an official commitment to welfare. It was through this very concern with the welfare of the individual that the Detention Centre of the 1960's was to come under threat.

D. The Struggle for Short-Term Detention

(i) The Molony Report and the Rejection of the Short-Term Detention Idea

The Molony Committee's Report, presented to the Home Department in March, 1927, was directed to an enquiry into:

"... the treatment of young offenders and young people who, owing to bad associations or surroundings, require protection and training; and to report what changes, if any, are desirable in the present law or its administration." 27

Furthermore, they take note in their second opening paragraph of:

"the very nature of the young offender, whose character is still plastic and the more readily moulded by wise and sympathetic treatment." 27

In terms of the themes with which this thesis has so far been concerned, the more notable recommendation from Molony was its rejection of any form of short-term institutionalisation for young offenders, despite the apparent paradox that the Committee, representing the official position on young offenders and imprisonment, was at pains to ensure that young offenders, wherever possible, were kept out of prisons. Why

then, we may ask, was Molony's Committee so set against the formation of an institution which, on the surface at least, would appear to continue the breakup of the hegemony of the prison, by keeping young offenders out? And, perhaps more importantly, why, by 1939, had official opinion been completely reversed and the short-term concept become well established?

It is to an examination of these two key questions that this section of the chapter must now address itself.

The Committee's position on the various forms of disposal it was briefed to examine was closely related to its views on the deleterious effect that imprisonment could have on young offenders, and paramount in all this was its views on the plasticity of youth, a subject touched upon in the previous chapters of this thesis:

"The chief reason why the ordinary prison is unsuitable for these lads and girls is because they are plastic and impressionable. They are at a stage when development is incomplete and is proceeding rapidly on the emotional side."
(p.80)

One of Molony's prime concerns was the contamination effect that prison life could have on young offenders. In assuming such a position, the Committee closely reflected contemporary views on imprisonment, noting that despite the good work of officers, prison was not and could not be an effective method of reformation for the 17-21 year old, owing to the conditions in which it operated:

"Imprisonment would still be ineffective even if there were no adults in the prison. There is neither time nor space within the limits of prison walls and short sentences for the training of active adolescents."
(p.82)

In considering the desirable expansion of the training element within the young offender arena, the Committee spent a considerable part of their energies examining the role and desirability of :

- (1) Home Office Schools;
- (2) Borstal;

and

- (3) various plans put forward by interested parties on the development of a new form of short-term detention for young offenders.

The decline of Home Office schools will be dealt with in much greater detail at a later stage in this chapter, but it is necessary here to consider the reasons put forward by the Committee for their decline. Essentially, Molony's Committee offered two reasons for decline; firstly, the increase in other forms of disposal, especially probation, which was considered superior since it did not take children away from their homes; and, secondly: "the inevitable increase in the cost of the schools, since the war".

At the time a child could be sent to an industrial school for such period as the court thought proper, but not beyond the age of 16. The period of committal to a reformatory school was for not less than 3 years and not more than 5, nor beyond the age of 19. The average period of detention had decreased considerably in recent years, and as part of their brief, Molony was asked to consider desirable minimum and maximum periods of detention in such establishments. In doing so, it completely rejected the idea that Home Office schools and other institutions introduce shorter periods of training varying from 3-6 months on the following grounds:

- (1) that training and short-term detention are incompatible in essence: "... a few months is usually valueless for the purpose of training". (p.76).
- (2) that short-term detention could well be utilised in cases where there was a need to break up "bad companionships", but that this would most likely be utilised for school-age children, and it was highly undesirable to take such young

people away from their day-school environment. Furthermore, the Committee noted that little experience to date was available on the 14-17 year old group, and that short and long term detention should never be mixed in one school. In short, the idea was undesirable in ideological principle and unsubstantiated in experience;

- (3) Magistrates would have unfair pressure brought upon them to choose short term schools in every case and there would be a direct incentive to local authorities to recommend a short-term school in the interests of economy.

The results of all this Molony noted would be:

" ... detrimental to the public interest, which is to secure the best possible training for the individual concerned."
(p.77)

The idea of short-term Borstals was also rejected by the Committee on the grounds that:

"To call them short-term Borstals would be a misnomer, because the limiting of detention to six months would make training in the Borstal sense impossible, and the objections are similar to those we mentioned in connection with the proposed creation of short-term Reformatory Schools."
(p.45)

With the rejection of the notion of a short-term institution, based either on an existing or new scheme, the Committee supported the idea that instead of such an expansion, greater use should be made of the probation service, that it should be used more frequently for young offenders in need of institutional training, and that in conjunction with committal to Borstal for those who did need a training programme, it should provide the right kind of treatment for many, probably all, of the approximately 1,700 young offenders sent annually to prison on direct committal without the option of a fine. A large proportion of Molony's recommendations and comments, when taken together, illuminate the growing concern and reference to the division at 17, and its basis, and the determination to keep young people out of the adult prison system, as well as reflecting the growing contemporary concern to "fuse"

welfare and penal categories for the young offender sector! They

were :-

- (a) strong objections to the imprisonment of young offenders in the 17-21 year old age group ;
- (b) the definition of a young person should be someone who is 14 and under 17 (not 16, as was the case at the time of publication of the Report.)

The Report recommended this on a similar basis to its rationale for raising the age at which the juvenile courts could deal with young offenders. (i.e. from 16 to 17 years) on the grounds that most young persons were "still immature at 17", but tended to commit "more serious offences" by the time they were 18;

- (c) the welfare of the child or young person should be the primary objective of the court;
- (d) the importance of the juvenile court had not yet been fully realised as the best tribunal for dealing with all offences by young people which could not be met by a warning. Furthermore, it should have the jurisdiction to deal with all offences (except homicide) by offenders under 17;
- (e) cases in juvenile courts should be held on premises separate from other courts, and should be as private and informal as possible (made law under the 1933 CYPA);
- (f) courts which dealt with adults should be enabled, after the offence had been proved, to refer a person under 17 to a juvenile court for treatment;
- (g) there was a need for the greater use of hostels (i.e. places where young offenders could live under supervision, but still go out to work);
- (h) the need for a conviction in a court of assize or Quarter Session before an offender was placed on probation should disappear;
- (i) there should be much closer co-operation between the juvenile courts and the local education authorities; and probation officers should visit homes;
- (j) the fullest use of bail;

Furthermore, the Committee came to the conclusion that :

- (k) more Borstals were needed; and
- (l) Home Office Schools and Borstals should retain a system of after-care; ⁴⁶
- (m) the age of admission to Borstal should be raised from 16 to 17, to correspond with the upper age limit for the Juvenile Courts, and Approved School admittance; and that the recommended length of sentence should be 3 years⁴⁸ in all cases.⁴⁷

The previous chapters have developed the notion of the break up of the hegemony of the prison, particularly in the young offender field, and the earlier sections of this chapter have outlined the manifestations of this break up in terms of the creation of a new system for young offenders via the legislation of the early 1900's, and particularly in relation to Borstal, prison and juvenile court. A new form of short-term non-prison institutionalisation for young offenders would not seem too incompatible with such notions, yet Molony's Committee rejected it completely. Essentially, the short-term notion, at this stage in the proceedings, seemed to conform much too closely with a prison type of hegemony and particularly because its design appeared to fall short of the essentially reform-oriented (training) concepts of the still infant Borstal and probation systems. Borstal, reformatory and probation aimed at keeping young offenders out of prison, whereas Molony foresaw a short-term form of detention as a "weak prison", with its accompanying drawbacks. In this sense, Molony reflects contemporary ideological opinion on the matter of short-term detention, and may thus be regarded as a contemporary empirical and ideological reflection of the break up of the hegemony of the prison, and the attendant focus in the youth sector on not only keeping young people out of prison but the directing of professional energies to the reform of their essentially plastic natures via training. In this sense, Molony's philosophy is very much a

contemporary one, and not at odds with contemporary movements, as may at first be imagined.

By 1939, the views on short-term detention had swung in the opposite direction, and the notion was well established. To explicate this change it is necessary to look at various developments in the period post-Molony and up to the outbreak of war in 1939.

(ii) Penal Breakthrough: the Emergence of Short-Term Detention for Young Offenders

The previous section of this chapter has attempted to outline the reasons and rationale for the temporary rejection of short-term institutionalisation for young offenders in the light of its apparent contradiction in the contemporary history of the young offender sector. In doing so it has tried to elucidate the general trends which contributed to its rejection, culminating specifically in formal rejection through Molony. But, by 1939, the position had changed dramatically.

The 1927 Report, official, public, and categorical, did not represent a final and irreversible blow to the short-term movement, merely a "hiatus" in its growth - severe though this hiatus was - for both Molony protagonists and those strongly in favour of the short-term idea were united in the belief that errant youth, because of the very plasticity of its psychology, could and should be reformed via a training type of methodology. The "gap" between the two parties was characterised largely by the concern that short-term training could (or would) be, in practice, another form of imprisonment. If a case could be presented to dispel such fears, the ideological ^{/dissonance} between the two opponents could be eradicated. Furthermore, the pro-Molony supporters found it difficult to accept that a successful training programme could be achieved in a short period of institutionalisation.

By the late 1930's the gap had been narrowed considerably, aided by a growing recourse to welfare and psychological ideologies and practices. By 1939 a growing and influential body of people were ready to accept the notion that training (desirable in itself as a reform tool) was possible in a short-term type of institution, not one that had to be by definition, as was previously felt, a prison environment, and that such training could be achieved in a comparatively short period.

It is to the contemporary forces which contributed to this change in opinion and ideology that the rest of this section addresses itself, and within the framework already laid down in this and previous chapters:-

(a) The Decline in Home Office Schools: the Paradox

One matter with which the Molony Report had been concerned was an examination of the failures and viability of Home Office Schools - Reformatory and Industrial Schools. The Departmental Committee was at pains to stress the "marked success" of the schools despite the difficult work they had to cope with, and to point to a "marked reduction in the numbers of children and young persons being sent to the schools since 1913" (p.70). The present analysis, however, is overtly concerned with the decline in the usage of Home Office schools in relation to the struggle for a short-term training institution, and attempts to place it in such a setting rather than present it, as Molony tends to, in a rather more discrete, encapsulated manner - despite the Committee's attempt to relate the decline, very briefly, to the growth of probation.

Between 1913 and 1927, the decrease was nearly 60%, in a period in which the reconviction figures, paradoxically, indicated a marked increase in success rate. The figures for one year, 1926-27, reveal this lack of uptake of places :-

Home Office Schools: Usage. 1926-1927

Type of School	No. on books	Vacant places
Reformatory	2102	874
Industrial	4424	1891
Day Industrial	284	296
TOTALS:	6810	3061

37

Indeed, in 1913, there had been 18,916 young persons in Home Office Schools (at December 31st), whereas in 1926 there were only 6,871, a drop of almost two thirds. And, as Molony noted, between 1921 and 1926, about 40 schools were actually closed.

There are several possible reasons for this decline in usage:

- (1) the increased use of probation via section 60 of the 1908 Children Act, enabled the courts to make an order (under the 1907 Probation of Offenders Act) placing under the supervision of a probation officer a juvenile who was being committed to the care of a relative or other fit person. This treatment of offenders (and non-offenders) ensured that many cases were directed away from a sentence to Industrial or Reformatory School;
- (2) the increased use of probation in this period led some magistrates to adopt a policy of imposing on offenders a period of compulsory residence in a hostel, in conjunction with residence in a voluntary home for a period of up to 3 years. This directory affected placement with Home Office schools, and also, incidentally, exacerbated the problem of increased maintenance costs;
- (3) furthermore, as the juvenile court system became more firmly established, magistrates became more reluctant to use a system where it was necessary to make a formal charge or record a conviction,

a necessary stop before sending a young person to a Home Office school. Probation, and some form of compulsory residence, or probation plus a fit person order avoided the need for this.

(Eventually, in 1927, the Departmental Committee suggested that there was no need for a court to record a conviction in such circumstances.)

- (4) By the late 1920's, the growing numbers of Child Guidance Clinics were enabling parents and guardians to utilise a new source for dealing with the problems of their children. It may not be considered surprising therefore that there was a concomitant reduction (at least in official figures) in child neglect during this period, and hence in the number of children officially classified as waifs and strays who would normally be sent to Industrial School.
- (5) the alarming rise in unemployment figures in the 1920's and the 1930's made some magistrates reluctant to remove children from their homes if they were approaching or upon wage earning age. If vitally necessary, some magistrates even preferred to use voluntary homes.
- (6) In the period following World War 1 there was a gradual but significant improvement in housing conditions and provision. In the summer of 1919, the first post-war Housing and Town Planning Act was passed,³⁸ which introduced two important innovations. It both required local authorities to make good their deficiencies of housing, and provided the necessary assistance. It also introduced the combination of Treasury and local rate financing of working class housing, which, except for a brief spell under Chamberlain's influence in 1923-4, was to be the basis of a social policy

in housing for the foreseeable future; although because of the worsening economic situation, it was not until the 1930's that the combination of a large building industry, lower costs and government-sponsored cheap money produced a great boom in small, owner-occupied houses of more than 100,000 annually from 1931, and double that number from 1934.³⁹ This factor was no doubt particularly influential in the decline in numbers sent to Industrial Schools (rather than Reformatories), since it eased the control difficulties facing many parents in, previously, only poor housing conditions.

- (7) Finally, financial considerations in a period of severe economic restraint ensured a decrease in the allocation of maintenance costs to Reformatory and Industrial Schools, particularly as local authorities played a leading role in this.

The Molony Report considered this factor to be one of considerable importance in the fortunes of the Home Office school system.

In more general terms, the Molony Report supported the view that there had been a "great change of outlook" in the schools since the last official enquiry into Home Office schools, in 1911-13,⁴⁰ and that :

"... the needs of the boy and girl are no longer subordinate to those of the institution,"⁴¹

reflecting the continued and growing concern with the welfare of the depraved and the deprived, as well as a commitment to

"... (a) scheme of education and training such as to fit them for useful careers when they leave school."⁴²

The Report specifically comments that it wishes to make no condemnation of the schools but rather commits itself to the new found notions and ideologies vis a vis delinquents and deprived youth :-

"Although the schools are probably better than at any time in their previous history, no regret is felt if the adoption of different methods had reduced the number of those requiring special training away from their homes." ⁴⁴

Furthermore, as part of this consideration of the role of the Home Office school, the Committee came to the conclusion that the distinction between Reformatory and Industrial schools was "now an unsound one", based on its assumption that there should be, for policy and treatment purposes, very little distinction between neglected and delinquent children. Molony thus points out that Industrial schools were for the neglected child, the truant, those beyond control, the refractory, and the delinquent under 12 or 14. Reformatory schools, traditionally, could receive only convicted young people who had to be over 12 and under 16 at conviction, but could be convicted for any offence which might come under the Industrial Schools categories cited above.

The Committee also noted that the Industrial and Reformatory schools themselves "have long abandoned (these) titles", and that the "main difference tends to lie in the age of the boy or girl receiving treatment"⁴⁴ In advising the abandonment of separate titles, the Committee thus recommended that all such establishments be referred to in future as "schools approved by the Secretary of State",⁴⁵ and that age range for acceptance be 10 and not higher than 17 years, and that the schools should :

"... provide for all classes of neglected and delinquent children, who the courts think need training in a school." ⁴⁴

The concern with welfare, the emphasis on treatment and training rather than punishment, and the concern for both offender and non-offender youth are very strong currents in the Report, and together inform

a more modern, and 20th Century form of control complementary to the modern industrial state and directed towards the creation of a relatively quiescent and emotionally stable (i.e. non-offending) youth. Together, these newer patterns combined to further the breakdown of the prison's previous hegemony over youthful offenders. The methods devised increasingly moved towards a more complex chain of provision, institutional as well as non-institutional, and a tendency to divide this provision into a pre and post-17 provision.

b) The 1933 Children and Young Persons Act

Much of Molony's recommendations became law under (the 1932 and then) the 1933 CYPA, which addressed itself to the under-18 age group,⁴⁹ and it is because of its status as the legislative reflection of the Departmental Committee's recommendations, and as an indicator of the important reform-oriented optimism of the 1930's that this Act is important.

The Act specified that children and young persons must be separated from adults in police stations, courts, etc., whilst awaiting or after attending any criminal court and that a girl must be under the care of a woman officer; that bail or a remand home for the unruly, must be available for the under 17's before a trial; and that a parent or guardian must be in attendance throughout the appearance of a child or young person in court.

Echoing Molony, the Act further specified that the welfare of the child must be the prime consideration in court proceedings, and that a Juvenile Court must sit in a place separate from other courts. The age of criminal responsibility was raised to 8 years, and the categories of offence for which a child or young person could be sent to prison (or penal servitude) entirely removed.⁵⁰ Juvenile Courts were no longer to use

the words 'conviction' or 'sentence' on children or young persons, and the powers to send children to an Approved School were extended and refined and could now also include :

- (1) a person under 18 who was in a Borstal;
- (2) a child or young person who had been convicted of murder if there was not deemed to be any other means of dealing with the problem;
- (3) a young person who has been ordered to be imprisoned and has since been pardoned on condition that s/he agrees to undergo training in a school.

Thus, by the mid-1930's, there was, across a wide range, an established and still growing concern in penal and official orders around the twin themes of :

- (1) keeping young people out of prison, and, in conjunction with this:
- (2) ensuring that court and other official proceedings considered the welfare of the child or young person above all else.

The legal extension of the age for young persons to come before a Juvenile Court, and of the definition of a young person to 17 years, was paralleled by an ideological extension of welfare and rehabilitation categories to 17 also, and thus a reformulation of youthful maturity, and, therefore, of (criminal) response. All of these factors, as well as the emergence of psychology, the development of the probation and after-care service, and the increased use of medium-term training in Home Office Schools and Borstals contributed to the formulation of a scenario of penal policy for young offenders in which a diversity, or a chain, of provision became available. It is with an examination of the gradual acceptance of a short-term idea in the period following Molony that the rest of this chapter must be concerned. Essentially, the period after 1927 saw more and more "strands" emerging pointing to a new form of short-term detention. It is to these "strands" that this analysis must

now address itself.

Officers in the Children's Branch of the Home Office had played a central role in the discussions around the 1927 Report, and the 1933 Act, and especially Dr. Harris, Chief Inspector of the Children's Branch. In a memo to the Home Office, he considers the concept of short term detention to be "possibly the crux of the whole problem of treatment of young offenders under 21", commenting :-

"There are those who are in favour of a period of short detention for those who cannot be supervised in the open, but who do not really need Reformatory training in the strict sense. Such a method may be advocated on the ground that it gives the young offender a necessary 'shock' or takes him away from bad associations, and after a short period of active work finds him a suitable job. It is a question which concerns especially young persons aged 16-21." 51

It is possible that the Children's Branch had seized upon a notion of "short, sharp shock" because of the Molony Committee's very rejection of a form of short-term institutionalisation, on the grounds that they too would be opposed prima facie to the idea that short-term institutionalisation and effective training could be combined. The resultant stance may appear paradoxical, but, given the way institutions such as the Children's Branch of the Home Office work, highly likely in concrete terms.

There was however, strong feeling from Dr. Harris's department that the practice of such a policy would be complicated by both parental pressure and economic factors, simply because, in the economic depression of the 1930's, the courts would often feel pressured to give the majority of young offenders a sentence of relatively short-term detention. In turn, this would prejudice "the valuable work of the Reformatory Schools". It was not an area of debate with which the Children's Department felt very comfortable, since the idea of short-term Borstals had already been rejected, as well as any likelihood of allowing young offenders to be sent to prison. Furthermore, the growth of treatment and welfare ideologies

pointed in the direction of more probation, more psychological investigation of criminal causality and its treatment, and the likelihood of a further extension of existing training and rehabilitation schemes for young offenders. Nevertheless, the "short, sharp shock" notion was now in evidence in official circles. Furthermore, it was to be manifest in other contexts during the 1930's, notably in (i) the Remand Home syndrome, (ii) in the debates and discussion around the 1938 Criminal Justice Bill, and (iii) in the Cadogan Report on corporal punishment and its alternatives. It is to a systematic examination of these that I now turn.

(c) The Remand Home Syndrome

Since as far back as the 1908 Act, some magistrates had begun increasingly to fill the 'gaps' created by the absence of short term institutional provision by utilising s.106 of the legislation, which allowed them to send young offenders between the ages of 14 and 16 to a 'special centre', in lieu of imprisonment, which it of course expressly forbade except in very exceptional circumstances. The 1933 Children and Young Persons Act re-enacted this provision, stating specifically that the court may:

"Where a child or young person is found guilty of an offence punishable in the case of an adult with penal servitude or imprisonment if it considers that none of the other methods is suitable order that he be committed to custody in a remand home ... not exceeding the term for which he might, but for section 17 of the Act, be ordered to be imprisoned or committed to prison, nor in any case exceeding one month." 52

The power given to courts to send children and young persons to a place of detention was made use of in 364 cases in 1910, and in 147 cases in 1913. But in the course of the ensuing years, notably from 1919 onwards, the number of offenders so detained began markedly to decline. This was due largely to the fact that the places of detention then provided by the police

authorities were unsatisfactory - since detention was provided exclusively in local police stations. Molony, reporting in 1927, had stated that s.106 of the 1908 Act served little purpose and recommended that "detention in a place of detention should as far as possible be abandoned."⁵³, advocating instead an increased use both of probation and Borstal; but its main objection was almost certainly based on its determination that the welfare of the child be the dominant concern of the court. In this case, the regime of a police station could not be seen to promote such a concern.

Despite Molony's recommendation, the provisions of s.106 were included in s.54 of the 1933 Act. The main change which the new Act introduced, and which is significant to our case, is that provision was no longer to be in police stations, but in local authority remand homes, with the obligation for provision transferred from the police authorities to the county and county borough courts. It is therefore perhaps not surprising that from that year, and in the midst of the continuing debate on the desirability of a short term form of institution, that the number of committals to detention increased from nil in 1933 to 179 at the outbreak of World War II :-

TABLE A

APPENDIX NO. 2

Number of Offenders Committed to
Custody in a Place of Detention or a
Remand Home by the Juvenile Courts
of England and Wales
(indictable offences only)

Year	A	B	Total	Year	A	B	Total	Year	A	B	Total
1910	143	221	364	1927	7	13	20	1939	134	45	179
1911	25	78	103	1928	5	2	7	1940	309	123	432
1912	47	117	164	1929	1	3	4	1941	219	102	321
1913	25	122	147	1930	1	5	6	1942	226	95	321
1919	38	45	83	1931	3	4	7	1943	224	82	306
1920	20	29	49	1932	3	2	5	1944	339	129	468
1921	13	23	36	1933	1	1	-	1945	340	148	488
1922	3	26	29	1934	17	9	26	1946	328	155	483
1923	17	29	46	1935	10	14	24	1947	377	152	529
1924	20	16	36	1936	20	18	38	1948	451	216	667
1925	10	13	23	1937	45	28	73	1949	501	222	723
1926	4	13	17	1938	69	46	115	1950	589	277	866

Notes: 1. . No data are available for the years 1914-18.

2. From 1926 onwards, except for 1939-41, figures denote the number of committals for indictable offences only.

3. A = Children, i.e., aged 7-13 from 1910 to 1933.
aged 8-14 from 1934 onwards.

B = Young Persons, aged 14-15 from 1910 to 1933.
aged 14-16 from 1934 onwards.

In 1935, 11 courts ordered detention in 24 cases; in 1938, 29 courts ordered it in 115 cases. In 1948, the year in which the Criminal Justice Act introduced Detention Centres, 667 children and young persons had been sentenced to detention in a remand home. The wording of s.54 implied a clear concept of the purpose of this form of detention, yet in practice s.54 was invoked for varying reasons:

"... In some areas the punitive element is dominant and detention is even called 'detention as punishment'. In others, more stress is laid on the reforming purpose of the treatment." 55

Much of the research discussed in this section comes from McClintock's study (see 58). Although this is based on evidence relating largely to the period 1945-48, practice before the war was very similar and thus the apparent anachronism of utilising this evidence is felt to be justifiable.

In McClintock's research, many local authorities interviewed felt that a month's duration was too long a stay, in that training was a function of Approved Schools, not of remand homes. (We were to hear similar arguments about Detention Centres at a much later date.) In contrast, other authorities wished to extend the period of detention from one month to three, to "allow for the good influence of the home to take roots."⁵⁶

In some cases, detention was imposed on boys who had appeared in court on several previous occasions but had never been actually punished, with "the guidance of an experienced warden and his staff" a factor in the court's decision.

In other cases, detention was very often imposed on delinquents who had committed a further offence shortly after having been put on probation. In the larger cities (Birmingham, Liverpool, Manchester) the study conducted by McClintock⁵⁵ showed that more than 40% of the boys committed

to remand homes had appeared in court on at least 2 previous occasions. Very frequently, detention was only made use of after other forms of treatment, such as a fine or probation, had failed, although in London detention was much more often used for first offenders than for recidivists: only about 5% of the younger boys and 25% of the older who were sent to detention had more than one previous offence on their records:

TABLE B

PROPORTION OF FIRST OFFENDERS AND OTHERS

AREA	FIRST OFFENDERS		THOSE WITH PREVIOUS OFFENCES	
	No.	%	No.	%
Birmingham	53	19.3	222	80.7
London	77	42.3	105	57.7
Liverpool	72	19.0	306	81.0
Manchester	12	9.7	112	90.2
TOTAL:	214	22.3	745	77.7

(57)

Thus, general considerations and policies seemed to vary from district to district. McClintock, in his study, comes to the conclusion therefore, that the general considerations most often adduced in favour of ordering detention were :

"That detention is useful when a further offence is committed while the offender is still on probation; when one offence follows quickly upon another; when the offender appeared to be flouting the authority of the court. It is also often useful as a means of avoiding commitment to an Approved School (not in London); but it is useful when the offender has more than two offences on his record, (London only)." 58

The forms of treatment to which delinquents in McClintock's study had been subject prior to being sentenced to detention were almost exclusively:

- (1) Probation: nearly always for one year;
- (2) Dismissal or Binding Over: without supervision under the Probation of Offenders Act, 1907;
- (3) Fine.

Most offenders in remand homes with one previous offence had in the first instance been put on probation. Of those aged 12-16 who had previous offences on their records nearly one half offended again within 6 months.

McClintock concluded his study by noting that the failure of s.54 provision lay not in the remand homes themselves, but in the fact that they did not:

"... appear to be suitable places for detention for this group of offenders." 59

The significance of the s.54 provision to this study, and its increased usage after the transfer from the police to the local authorities is two-fold:

- (1) its increased usage at a time, in the middle thirties, when the Home Office and the social work professions were increasingly concerned with the welfare of the child as a primary aim in committal procedures, is indicative of the continuing attempt to not only break the hegemony of prison for the young offender sector, but to provide a wider range of provision for children and young persons up to the age of 16. Police stations were not deemed suitable places to carry out such aims;
- (2) Its introduction in the 1908 Act, and the massive restatement of such provision after the 1933 Act is indicative of the trend

towards the growth of the perceived need for a short-term form of institution for those children and young persons who could not be dealt with via Home Office schools, etc.

In both cases, its use complemented the provisions of the Approved School and probation systems, and accentuated the division around 16 years.

(d) The Criminal Justice Bill : Task Centres and Correction Centres

With the publication of the first draft of the new Criminal Justice Bill (in 1938), the need for more concrete proposals on the possibility of additional young offender institutions became paramount. During the period 1936-38 there was preliminary discussion on the nature of a new type of institution in the form of Task Centres. These were intended to be day centres, where young adults could learn the habit of a regular work routine, by undertaking various simple manual tasks. The idea and the title were incorporated into the draft proposal of the Bill, and submitted to various interested parties, especially local police forces, who, it was intended, would man and operate the Centres. The result was a flood of memos to the Home Office from various police forces, the immediate effect of which led to the centres being re-named Correction Centres, following objection to the original title from the Lancashire Police, who agreed in principle with the idea, whilst objecting to the name, on the grounds that it might be associated with the old work house notion of "task", e.g.: chopping wood. Their memo advised that they would like to see more beneficial work than wood-chopping performed by young offenders, and that the regime should consist of:

"... more physical, educational and craft-work training, in an effort to assist the young into respectable employment." 60

Various police forces also envisaged transport difficulties, and suggested that Correction Centres should conjoin in principle with the scheme laid down in the draft Bill for Howard Houses, for the 16-21 year old age group:-

"... on the conviction of an offender for which the court has power to impose a sentence of imprisonment the court (if a Howard House is available) may pass, instead of any other sentence, a sentence that the offender should be under residential control the young offender should be required to reside in a Howard House for a period of 6 months from the date of the sentence, and be under supervision for a further 6 months." 61

Again, the Howard House form of provision tends to reflect the notion that short-term training in some form or other as yet undefined was not to be hurriedly dismissed. And another implication is clear: the desire to avoid a sentence likened to imprisonment and to introduce a training and welfare element into the provision.

There were also objections to the task centre scheme on contamination grounds, with the suggestion from one quarter that they would provide a centre for young criminals:

"... where they would meet under not unfavourable conditions, get to know each other, and plan more crime. On the whole, it is likely that such schools would do more harm than good." 62

It is interesting to note however that only the day after receiving this memo the Home Office issued a statement on the Criminal Justice Bill, part of which outlined a plan for Task Centres or Correction Centres as they were now called. The call for a short-term institution was reiterated in the opening section on young offenders, viz:

"There are many young offenders whose offences are not of such a character as to necessitate sentence of imprisonment ... but ... some method is required to 'pull them up', and teach them that the law must be respected." 63

It was advised that the programme should entail attendance 2 or 3 hours in the evening on 3 or 4 nights of the week, or 5 or 6 hours on Saturday

afternoons on 3 or 4 Saturdays. The memo also recommended that Howard Houses cater for those who needed to be removed from home or bad associations, for a period of 6 months.

In general, the Correction Centre scheme was seen at the time as a means of filling a 'gap' in the existing chain of provision, and was essentially to be available for the bored, the undirected, and the easily led; in contrast with the Howard House scheme which was intended for the young offender rather more experienced in crime, and thus, potentially, more troublesome. Nevertheless, from the point of view of this study, both provisions would fill a gap, and in theory, provide a degree of training.

The main objection from the police was the Bill's suggestion that Police Stations be used for the correction centre scheme. This was seen as potentially damaging to police-public relations, as well as creating problems of contamination and stigma. From a different angle, the Home Office and the Treasury welcomed the scheme on the grounds of its comparative cheapness (no overnight accommodation or meals would need to be provided), and its rehabilitative potential. The police position also almost certainly lacked a real commitment to contemporary notions of treatment and rehabilitation.

Long-term considerations were also of importance to the Home Office, in the projected likelihood that eventually imprisonment would be completely abolished for young offenders:

"... if imprisonment be abolished for young offenders under 21, it could only happen if satisfactory alternatives were provided. The failure of some such schools as those in the Bill for Howard Houses and Correction Centres would mean that the Home Secretary would almost certainly be pressed to provide short-term detention establishments, which would in effect be boys' prisons." 64

(my emphasis)

In the Treasury's opinion, therefore, it was in the interest of long-term planning to make Correction Centres work successfully, along with the Howard House scheme.⁶⁵ Any failure in this quarter would be deemed unacceptable ideologically, and fly in the face of contemporary concern with prison reform generally and young offenders specifically.

In order to facilitate this scheme, it would be necessary in the long-term to establish Correction Centres in various parts of the country. The finance needed was quite considerable, and this is most certainly one reason why the idea of using police stations was mooted.

In order to settle the various disputes, a Cabinet Meeting was called in February, 1938, to discuss the Criminal Justice Act in general terms, but with specific reference to Correction Centres. The Cabinet decided that the new proposals seemed likely to be more costly than the original ones, and that it might be expected that a large number of Correction Centres would have to be established and perhaps rather elaborate equipment provided. The Home Secretary also presented the case for Police objections, and proposed that only 1 or 2 Correction Centres be established. Possibly the most pertinent remark came from the Lord Advocate, who felt it should be declared whether Correction Centres were to be places of punishment or training.⁶⁶ In response to his question, the Home Secretary emphasised that there would be "a training element in the scheme".

The Home Secretary's comments were not the first he had made on the subject. Early in 1937, he had prepared a Special (ie: Secret) Memo for presentation to the Cabinet Home Affairs Committee outlining his position very specifically, and expressing the hope that the Bill would result in better use being made of the Probation Act, and of the Borstal system, but commenting that:-

"... there will remain certain young offenders for whose treatment neither of these methods is suitable. The view is held by some magistrates that special establishments be set up to which young offenders could be sent on sentences of 3 or 6 months. To this proposal there are grave objections, and in the view of the Home Office and of those experienced in the administration of prisons and Borstals, it is essential to resist a proposal which means in effect a system of Boys' Prisons. If the use of imprisonment for young offenders is to be curtailed, it is necessary to provide some alternative methods of dealing with those who cannot appropriately be dealt with by probation or sentence to Borstal training." 67

He then goes on to cite possible alternatives - Correction Centres, Howard Houses, and Observation Centres. The latter were to be the equivalent of Remand Homes for the 17-21 age group.

The remainder of the Home Secretary's memo, an Appendix, is a document of vital importance, not merely because it has never been referred to in previous research, but because it highlights and outlines the contradictions and problems in 1930's penal policy, between traditional, Victorian ideologies of hard work and punishment, and the newer, contemporary ideologies of training and rehabilitation.

The significance of Hoare's speech cited here is that he both sees the need for "additional short-term measures" and yet still resists the introduction of an institutional form for such, because they will too much resemble "a system of boys' prisons". There is here (in the first point) a development or departure from Molony's position, yet (in the second point) continuing echoes from Molony. Hoare's position thus highlights and outlines the contradictions and problems in 1930's penal policy discussed in this chapter. Hoare's position is more fully developed in the remainder of his memo, and it is for this reason that the document warrants careful consideration.

(iii) At the Crossroads : the Cabinet Home Affairs Committee, and the Cadogan Report

The Appendix is significantly titled "The Objections to Boys' Prisons or Special Establishments to which Young Offenders can be sent on Short Sentences",⁶⁸ and consists of four basic areas of objection:

- "(1) at present only a small percentage of young offenders are sentenced to imprisonment (of those guilty of indictable offences, the proportion is c7%). If there were special short-term establishments, Justices, who recognise the objections to imprisonment, would commit to such establishments large numbers of offenders with whom we can deal at the present by other institutional methods.⁶⁹ This would cause serious damage both to the Probation and Borstal systems;
- (2) such an institution would be very like prison. It would reproduce many of the evils of the prison system. Also, there would need to be regional sentencing of offenders, and this would inevitably lead to contamination through social contacts;
- (3) in a sentence of a few months it would be impracticable to develop any such schools of programmed training as are in operation in Borstals. The deterrent and punitive effect of a Borstal sentence lies in its length. It is not therefore necessary to introduce specific or designedly punitive elements into schools of training. In a short-term establishment where there would be a mixed and floating population of youngsters of different types, much stricter restraints (i.e. increased trustworthiness) would be necessary; and
- (4) it is possible to get licence from a Borstal if one behaves well. This is a good incentive, and a boy can be re-called. This would

not operate the same way in a short-term institution when a boy cannot be recalled." 68

Many doubts, attitudes and assumptions lie behind these objections, and collectively they seem to reflect, albeit in contracted form, the nature of the historical development of penal reforms and policies in the post-Gladstone period.

One factor to be taken into consideration was the inability of the interested parties to reach an agreement on the absolute practical necessity for an additional short-term institution. In one sense, the reform-oriented ideologies of the contemporary penal system and the extension of state welfare politics created a policy which would seek to avoid the creation of yet another institution, another "young offenders' prison". Yet in another sense, this increased concern for youth demanded an extension, albeit along rehabilitative lines, of the provision available for the under 21's ... another link in the chain ... for the reasons suggested through this chapter. The problem was further exacerbated by the pragmatism and autonomy of the magistracy, operating with sentencing policies characterised by a very delicate balance between recourse to simple punishment and incarceration, and to more reform-oriented rehabilitation policies. The tendency to over-reliance on probation in particular was a basic concern of the magistracy during this period, whilst at the same time the Prison Commissioners and others worried about magistrates' tendencies to send too many too lightly to institutions seen as overtly penal.

Connected with this were contemporary contamination and stigma ideologies, especially from social work groups and the probation service who essentially wished to avoid placing young people in environments which could potentially encourage recidivist tendencies.

Cadogan and the 'Second Shift'

At the same time as the Cabinet Home Affairs Committee was meeting, the Cadogan Committee was preparing its report on corporal punishment.⁷⁰ Its recommendations were not expected to be controversial, and it was assumed in most quarters that corporal punishment would be retained. When it became apparent that the opposite was more likely, the Secretary of State suggested to the Committee, in a memo, that its final recommendations be included in "a general penal reform bill", and not separately (because of their likely very controversial character).

Two things are thus significant about its recommendations, one: the recommendation to abolish corporal punishment in the majority of circumstances, which may be taken to reflect that tide in penal affairs which was gradually moving in the direction of rehabilitative optimism - hence the suggested inclusion in the 1938 Criminal Justice Bill; and, two: Cadogan's plans for a new kind of detention based on punitive lines. On one level this second recommendation would seem to contradict contemporary trends in penal policy. But in reality it expresses the contradiction in competing ideologies referred to in previous sections, as well as providing an outlet for those hard-liners who would be concerned at the, unexpected, abolition of corporal punishment in most cases.

It is significant to the matter under discussion, the emergence of the short-term concept, that the section on young offenders⁷¹ opens with a reflection of other earlier recommendations (Molony, the 1933 Children and Young Persons Act) that the needs of the individual offender must be the first consideration and that a "purely deterrent" penalty should only be applied if it is considered to be "the most appropriate treatment for the offender himself". Deterrence was to be subordinated to

this concept. The Report recommended:

- (i) the abolition of corporal punishment as a sentence on adults; and
- (ii) the abolition of birching by Juvenile Courts; and suggested that:
- (iii) corporal punishment should be retained only for use by prison officers, under conditions of extreme provocation (e.g.: mutiny by prisoners, gross personal violence to an officer, etc.).

The Report commented to the effect that it had heard a great deal of evidence which suggested that:

"... under their existing powers, the Juvenile Courts find difficulty in dealing satisfactorily with some of those minor cases where the offence is due in the main to nothing more than a misguided sense of adventure." 70

The tenor of Cadogan, in its initial stages, reflects a discrete shift or widening out in penal ideology from the concern of previous years to avoid imprisonment, to a policy of ensuring that any form of punishment (including institutionalisation) should not be simply deterrent. In this sense it reflects an empirical as well as an ideological tendency - i.e.: to actually concretise the progressive contemporary moves to provide for training and rehabilitation rather than punishment. Further, it may also be seen as a means of satisfying the embarrassing contradictions referred to above between the two arms of penal ideology - between the so-called reformers and hard liners. Thus, its appearance marks a second major step in juvenile reform. The first developed as a major attempt to keep young offenders out of prison. This second step may be seen as an attempt to create a non-prison setting within the bounds of a penal institution for the young offender, and may be seen as the next logical move onwards from Hoare's position, discussed earlier, above.

Cadogan and the Home Office were still left however with the problem of what to do with those young offenders who needed some form of

institutional training other than Borstal, and who might not be sent to prison.

The Report goes on to suggest that there were cases which did not call for any "prolonged period of supervision or training" but rather for:

"...some form of short and sharp punishment which will pull him up and give him the lesson which he needs." 72

In considering the desirability of a new form of disposal for young offenders the Committee surveyed the means already at the disposal of the courts and their suitability for cases "due solely to a misdirection of the spirit of adventure". The Approved School sentence was too long (unless home conditions were unsatisfactory), and held the risk of contamination through "bad associations". Probation was too long and failed to remove the young offender from a (potentially) bad home environment. Furthermore it could not provide "some form of short and sharp punishment which will pull him up and give him the lesson he needs". The fine was rejected as unsuitable for this type of offender, since "the punishment falls on the parents" and "is an inappropriate method of dealing with young children who are still at school". The Remand Home option (under section 54 of the 1933 Children and Young Persons Act) was also rejected by Cadogan on the grounds that "the average Remand Home is not designed for punitive detention".

The Committee then considered the possibility of establishing short-term Approved Schools. Following the 1933 Act, an Approved School order was normally for 3 years, with the possibility of release on licence after 12 months. The flexibility of the system had "enabled experimentation in providing short term detention in a few schools" (2 for boys and 2 for girls). The Secretary of State had empowered the

managers of these 4 schools to license after less than 12 months and courts were informed that children and young persons should not be sent to these particular schools unless they required "not long-term training, but merely a short period of discipline lasting normally from 6 to 9 months". The experiment was however limited to boys and girls over school age. Cadogan's Committee reached the conclusion on this matter thus:

"... (there seems) no reason in law why it should not also be used as a method of providing a short period of punitive detention for a younger type of child for those offenders who do not require a longer period of training." (para.31)
(my emphasis)

In conclusion Cadogan comments that further consideration be given to the matter of short term punitive detention "... especially if, as we recommend, corporal punishment is abolished". (para.31). These special places would be:

" ... where offenders could be kept under punitive conditions for short periods not exceeding one month. Discipline should be strict, and inmates would be required to do a great deal of hard work." (para.31)

Already, within the same Report, it appears that another apparent contradiction has arisen, that concerning the nature of the "treatment or training" programme in such institutions. The first shift, discussed earlier, above, the attempt to create a non-prison setting within the bounds of a young offenders' penal institution, suggests a positive and progressive move in a direction which would be characterised by a Paterson-type of approach. Such a regime ought therefore to be one long enough to successfully complete its objectives - reform of the individual - and characterised by Patersonian philosophy. These final recommendations of Cadogan, potentially in breach of those objectives, suggest a very short-term of institutionalisation under a largely punitive regime.

The shift, or apparent contradiction may be partly accounted for by the new and growing notion of a "short, sharp shock" approach to punishment. None of the existing disposal systems could (or were intended to), provide this. Short-term detention could. Furthermore, short-term detention was unlikely to offer anything other than a shock with a punitive element because of the very shortness of the sentence. Furthermore again, as Cadogan clearly points out (see quote earlier) a short, sharp shock form of punishment would be "useful" in the light of the Committee's recommendation to abolish corporal punishment - which applied largely to the under-16's only anyway.

The other element of contemporary penal history clearly reflected through Cadogan's proposals is the continued tendency for a "division" around 16/17 to appear in the disposals available for the young offender. Borstal, probation, Howard Houses and Correction Centres could provide for the over 16/17 year olds. Remand Homes and Approved Schools could provide for the under 16/17 year olds. If Cadogan's notion of short-term punitive detention ever materialised it would almost certainly provide for the 12/13 to 16/17 year old group, since they were the group largely open to corporal punishment anyway. The division around 16/17 was becoming clearer; so was the notion of particular types of offender, many in need of lengthy training outside the home (in Borstal or Approved School), supervision whilst still at home (probation), protection/training under supervision in the open but not in the home (Howard Houses), and correction including minimal deprivation of liberty (in Correction Centres). For this chain of provision was added a new type of punishment via a short, sharp shock.

The onset of World War II delayed what would no doubt have been a protracted ideological struggle in Home Office and Parliament concerning the alternative appeals of these two themes. When the matter of provision

for young offenders came up before Parliament again, after the War, the situation had shifted considerably once again, and the contemporary concern of the Cadogan Committee, to advance penal reform on the one hand and to pacify the more traditional elements within the system, had assumed further dimensions.

B. CONCLUSION

The establishment and increased use of Industrial and Reformatory schools, and then of the Borstal, probation and juvenile court systems, with their attendant focus on youth, provided in one sense, a second or further educational tier, of the attempt to achieve and maintain "discipline" as conceived in Foucault's terms.

The first tier of education for discipline was constituted by the newly inaugurated universal provision from the Board of Education via parliamentary legislation. The second tier of education for discipline, building upon the Industrial Reformatory Schools system was provided by the Home Department, through later parliamentary legislation, in the form of Borstal, probation and juvenile court. Both tiers involved the inculcation of certain ideologies sited at the institutional level, and were supported by rapidly growing conjunctural notions about the perceived malleability of youth. In this sense they represented the attempt to form, on the second level, if the first failed, a conjuncturally specific discipline, which in Foucaultian terms also operates

"... in such non-penal institutions as the school, the hospital, the factory, and the military academy." 73

The effectiveness of educational powers determined by its almost total universality, is in contrast with the numerically limited effectiveness of other sites - the hospital, the military academy, etc. The factory (or the

place of work) occupies an intermediate role, standing between the school and the various institutions of juvenile and adult penal institutions. It is this perspective too which underlines the significance of the Gladstone Committee's efforts, outlined in the previous chapter, with its concern for the production of a "better man".

The growing use of psychology as a scientific methodology by the late 1930's was to have a tremendous impact on both tiers, albeit at a later date. Its significance here lies in the fact that its slow gestation may be evidenced in the rapid technologisation of Victorian England, and its participation through "**SCIENTIFIC CRIMINOLOGY**" by the outbreak of World War 2. Its profound and far-reaching colonisation of the social sciences was to be at a much later date, and greatly in evidence in the effect it had on institutions such as the very one under consideration here, the Detention Centre, in the 1960's.

Thus, broadly speaking, the developments outlined in this chapter fall into two main categories. Firstly, those which provided the general basis (in the spheres of ideology, politics and economy) for the continued four-element theme I have outlined in this and previous chapters: the creation of a category of youth in the penal system, the separation around 16/17 years into separate but complementary forms of provision, the breaking of the hegemony of the prison for young offenders, and the continued need in political and economic terms for a disciplined work force, and especially a disciplined working-class youth. Secondly, following Molony and the 1933 Children and Young Persons Act, the specific developments in the mid, and late 1930's, via Cadogan and the Cabinet Home Affairs Committee, which played a central role in the re-birth of the movement for the provision of short-term institutionalisation for young offenders.

The first category of themes informed the continuation of the movement towards rehabilitation, welfare and reform ideologies in the juvenile arena; the second is significant as an expression of the concrete attempts to expand the concern to provide an optimum form of provision for the young offender field whilst at the same time modifying more traditional elements within the system.

The continued growth of interventionist state policies (particularly in the fields of welfare and control) further promoted the primacy of the category of youth, so that the inauguration of the tripartite system of provision for young offenders at the beginning of the century ensured that the hegemony of prison was constantly under threat, and continued to be eroded by these policies.

By 1939, the young offender penal system could boast a wide range of provision, for those who needed substantial and lengthy training (in Borstal), for those who needed supervision in the open (on probation), and for those of more tender years who needed institutional training and a general education (in Approved Schools).

It now looked as if there might well emerge some further sort of provision, other than Howard Houses, for the younger offender, relatively inexperienced in crime, but with disturbing recidivist tendencies. Indeed, by the outbreak of the War, it seemed that the latter type of young person was possibly the only category of offender for whom the penal system made no real provision despite the influence of Patersonian-type ideologies which insisted all British young men could be persuaded to become upright and useful citizens.

But the problems of short-term provision were clear even to Cadogan's Committee, who might well have been tempted to mollify the hard liners at the total expense of rehabilitative optimism. Several disturbing questions arose to which answers were not comfortably obvious:

- (1) would any short-term institution be too like the adult prison?; and
- (2) would a short-term of stay in such a place merely provide punishment and little else - flying in the face of conjunctural trends?;
- (3) how could any form of training take place in a short-term situation? ; and, finally:
- (4) could such provision be any different from short-term Borstal, an idea already firmly rejected as ideologically and economically unsound?

It is possible to speculate that had the Cadogan recommendations, along with various aspects of the 1938 Bill become law, the result might well have been a recommendation that the existing scope of provision, with greater use and extension of the Howard House scheme, try to cope with this first offender in need of a "short, sharp punishment which will pull him up and give him the lesson which he needs".⁷¹ But a certain tide of affairs, the details of which it has been the purpose of this chapter to outline, were already working against such a likelihood:

- (1) the gradual recognition that this type of offender required a special sort of treatment;
- (2) the emergence of an official reference to a division at about 16/17 years in terms of categorising the nature of provision which ought to be available;
- (3) the growing strength of welfare and rehabilitation ideologies, including psychological approaches to crime, which asserted the primacy of individual treatment and provision for a wide range of cases.

Furthermore, the penal arena generally was tinged with the economic difficulties that beset the various governments of the period, exigencies

which influenced its leading practitioners in the Treasury, the Home Office, and the Police Commissioners the Du Cane's, the Ruggles-Brises and, above all, the Patersons of the era.

Normal penological histories which seek to explain the history of the period tend to present an unproblematic but disparate patchwork of structurally unrelated events and disconnected legislations as the dominant, conjunctural pattern. This chapter, in conjunction with the previous one, has attempted to provide instead a coherent analysis, supported by empirical evidence (some not previously available) as a means of outlining the scenario which preceded the more immediate history of the Detention Centre system in the post-war period. It is this scenario which must provide the basis for a full explanation of the events surrounding the 1948 Act and the formal creation of the Detention Centre system. But before moving on to that period it is necessary to examine the period between the outbreak of war in 1939, and the publication of the first draft of the 1947 Bill, and to consider the ways in which the themes outlined in this and the previous chapters continued to be expressed in the ideological, political and economic spheres of the 20th Century interventionist state in England.

FOOTNOTES

1. The members of this included Balfour, Tawney, Keynes and Bevin.
2. Source: P.R.O. Home Office 42.
3. i.e.: The Intoxicating Liquor (Temporary Restriction) Act of 1914; and The Defence of the Realm (Liquor Control) Regulations of 1915.
4. Source: Police Commissioners. Statistical Tables.
5. Source: Judicial Statistics 1923.
6. Of particular influence was the publication in 1939 of The Report on the Psychological Treatment of Crime, by W. Norwood East and W.H. de B. Hubert. HMSO. (source: P.R.O.), which was the culmination of discussion and debate on the topic in the late 1920's and the 1930's.
7. Roger Hood: "Borstal Reassessed". Heinemann: London 1965.
8. P.R.O.: Home Office Circular 6.2. 1907.
9. The Prevention of Crime Act, 1908, (amended later by the 1914 Act).
10. The Criminal Justice Administration Act, 1914.
11. See: "Paterson on Prisons", ed. S.K. Rock, 1951, a collection of Paterson's papers.
12. See: "The English Prisons Borstal Systems", Lionel Fox, 1952. p.67.
13. Hood's analysis of the development of the Borstal system in England is a very competent and interesting one, although he may be criticised for his tendency to perceive of its history in terms of negotiations for power between individuals, with Paterson as the central actor in the drama.
14. In 1927, for example, as Molony was reporting, about 75% of all males aged 16-21 receiving prison sentences, received sentences of under 3 months.
15. See: E. Ruggles-Brise : "Some Observations on the Treatment of Crime in America". 1898. Copy in P.R.O.
16. See: Rosa M. Barrett: "The Treatment of Juvenile Offenders", which received the Howard Medal Prize Essay award, in 1900. Copy in P.R.O.
17. Source: P.R.O. Home Office 123, 946/69.
18. The Probation of Offenders Act, 1907.

19. Outlined in the Annual Report of the Howard Association. 1881.
20. See: Howard Association : "Juvenile Offenders", 1881, p.4.
21. See: Dorothy Bochel : "Probation and After-Care: its Development in England and Wales". Scottish Academic Press, 1976, p.10.
22. See: D. Bochel. op.cit. p.31.
23. Source: P.R.O. Home Office 40, 503/7.
24. Source: Hansards 27.5.08.
25. Later renamed The Howard League for Penal Reform.
26. Cited in D. Bochel, op.cit., p.68.
27. The Report of the Departmental Committee on the Treatment of Young Offenders (Molony). 1927. Cmd.2831.
28. Source: D. Bochel, op.cit., p.106.
29. Children Act, 1908, para.167.
30. Via the Children Act of 1908, s.106, used as one means of avoiding imprisonment for young people, and which will be dealt with in greater detail at a later point in this chapter.
31. The Children Act, 1908, orders that:
" ... a court of summary jurisdiction, when hearing charges against young persons and children shall sit in a different room or building from the ordinary court sittings, or on different days or times ... and a court of summary jurisdiction so sitting ... shall be referred to as a juvenile court." (Para.111.)
32. Source: Home Office Figures, 1923.
33. Now seen to be based primarily on a radical, racist and class biased view of human intellectual potential.
34. Including its use in various forms in present day Borstal regimes - group therapy.
35. Under the 1946 National Health Service Act.
36. The expansion and increased use of Child Guidance Clinics was informed by the same ideology which led to the establishment of the Institute for the Study and Treatment of Delinquency in 1930, an evolution which gave great credance to the contemporary concerns with and approaches to juvenile delinquency, along psychological lines.
37. Source: Home Office Tables, 24.10.27. Copy in P.R.O.
38. The Housing and Town Planning Act, 1919 (The Addison Act).

39. See also: the Wheatley Housing Act, 1924; the Housing Act of 1930.
40. The Report of the Department Committee on Reformatories and Industrial Schools. Cd.6838. 1911-13.
41. Cmd.2831, op.cit., p.44.
42. Cmd.2831, op.cit., p.70.
43. Ibid., p.71.
44. Ibid., p.72.
45. Molony's suggestion to this end became law under the 1933 Children and Young Persons Act.
46. Detailed in:
 - (i) Home Office Memo on After-Care, July, 1922. (Source: P.R.O.), and
 - (ii) The Report of the D.C. on the Training, Appointment and Payment of Probation Officers, which outlined the proposals for the formation of a Central Association to control, amongst other matters, all forms of after-care. 1922. Cmd.1601.
47. In 1926: 1,164 boys went to Borstal, and 67 girls.
48. The age of admission was in fact left as it was, and the provisions of the 1908 Act were not changed substantially until the 1948 Criminal Justice Act, which laid down that courts no longer need specify whether they were ordering a maximum period of detention of 2 or 3 years, and that the minimum period should be 9 months.
49. Children and Young Persons Act. 239 ed. 5: 1933: An Act to consolidate Enactments relating to Persons Under 18 years.
50. Unless he was considered so unruly that he could not be detained in a remand home.
51. Memo from Dr. Harris, to the Home Office 24.10.27.
Source: P.R.O.
52. s.54 of the 1933 Children and Young Persons Act.
53. Cmd.2831, op.cit., p.124.
54. From: "Detention in Remand Homes", E.S.C.S. Vol.VII, ed. by L. Radzinowicz and J.W.C. Turner, 1952.
55. Specifically: Ibid, "The McClintock Study", by Cambridge Department of Criminal Science on the Use of s.54 of the Children and Young Persons Act, 1933. 1952.

56. Ibid., p.33.
57. Ibid., p.11.
58. McClintock's study was of 959 offenders committed to remand homes in Birmingham, London, Liverpool and Manchester during the years 1945-48. These four areas together accounted for c.50% of all cases in which s.54 was used. The inquiry related to male offenders only.
59. McClintock, op.cit., p.67.
60. Memo to Home Office from the Lancashire Police, 19.1.38.
Source: P.R.O.
61. Criminal Justice Bill Draft. Section 25(1) and(2). 1937.
Source: P.R.O.)
62. Memo to the Home Office from the Birmingham Police, 18.1.38
(Source: P.R.O.)
63. Memo from the Home Office on the Criminal Justice Bill, 20.1.38.
64. Memo to Secretary of State, Sir Alexander Maxwell, from F.N. Newson, at the Treasury, on Correction Centres, 8.2.38.
(Source: P.R.O.)
65. A Howard House scheme had already been established on experimental lines, at Maidstone Prison, from 1924-28. Its official objectives were:
 - (i) the separation of younger from older men;
 - (ii) special individualisation of treatment; and
 - (iii) a concern with reformatory influence, including a defined training scheme.

The scheme involved 40 young people, and included all offenders under 24 years of age, and any in the 24-30 age group, considered suitable to form "a Special Training Class".
(Source: "Young Convicts at Maidstone: The 'Howard House' schemes". 1924-28. P.C.F. 285. P.R.O.)
66. A query very similar to ones made in both Houses in 1948 on the subject of Detention Centres, during the 2nd Reading of the 1948 Criminal Justice Bill.
67. Memo from the Home Secretary (Secret) to the Cabinet Home Affairs Committee. 22.12.37. (Source: P.R.O.)
68. Appendix II, of Memo by Home Secretary to C.H.A.C. (see above). 22.12.37. (Source: P.R.O.)
69. This, and the contemporary concern to fully utilise the provision for probation and Borstal, helps to explain the clause in the 1948 Criminal Justice Act by which a boy should not be sent to Detention Centre until all other methods have been considered.

70. The Report of the Departmental Committee on Corporal Punishment (Cadogan) February 1938. Home Office Cmd. 5684.
71. Ibid.: Part II : Corporal Punishment of Young Offenders by Courts of Summary Jurisdiction.
72. Section 54 of the 1933 Children and Young Persons Act already provided for punitive detention in a Remand Home for a period not exceeding one month, but in practice this provision was rarely resorted to.
73. See: B. Smart: "On Discipline and Social Regulation: a Review of Foucault's Genealogical Analysis".
In: "The Power to Punish : a contemporary penalty and social analysis", ed. D. Garland and P. Young.
London: Heinemann Educational. 1983.

Other references:

- (i) C.L. Mowat: "Britain Between the Wars".
- (ii) Labour Party Programme: "Labour and the New Social Order".
- (iii) R.H. Tawney: "The Abolition of Economic Controls. 1918-21".
Economic History Review. XIII, 1943, 15.

FOUR:

PROPOSALS for the FUTURE

CHAPTER FOUR

PROPOSALS FOR THE FUTURE

A. The Politics of World War II : 1939-1945

Analysis of the political, economic and social configurations of the period following the outbreak of war in 1939, and up to and including its immediate aftermath, is particularly complex both in the scope and depth of its historical specificity. There is a significant lack of literature purporting to analyse the socio-political situation on the domestic front. This is in contradiction to the large number of works directing their analysis to the war in politico-military terms. Much work still remains to be done on the problematic politics of the passage from the 1930's to the 1950's, the development of the labour movement in this period, and an adequate history of the working class during the war, as part of the analysis of the final stages of the shift into British monopoly capitalism par excellence.¹ Moreover, it is necessary to confront the hiatus assumed by penal textbooks for the inter-war period and to examine the work of the penal system, which did indeed continue unabated from 1939 to 1945!

The period as a whole is especially significant as that immediately preceding the so-called political "consensus" of the 1950's, one in which may be seen the final construction of a genuinely hegemonic order, characterised in ideological terms as the period of "affluence".

The question which must be asked of this period is, how far is it possible to trace its inception to the period of total war, or indeed, to view the war as its main generator? And could these changes be accurately formulated as a ruling class response to popular challenges - a forced or anticipatory shift in the mode of hegemonic domination? Did the war win a fuller citizenship - this passage "out of a social cultural apartheid into bourgeois society",² at the same time the means of political control?

One means of pursuing these questions is to attempt to identify both "challenge" and "response" the line of analysis followed in part by the Birmingham History and Culture Group. (See (2)). The former may be identified with the shape and appearance of "war radicalism", a deep-rooted but inchoate "popular opposition to the dominant class fractions"² of the inter-war period, and to their dominant, characteristically Tory, policies. Miliband has described this social mood or movement thus :-

"All this is not to suggest that the popular radicalism of war-time G.B. was, for the most part, a formed socialist ideology - let alone a revolutionary one. But, in its mixture of bitter memories and positive hopes, in its antagonism to a mean past, in its recoil from Conservative rule, in its impatience of a traditional class structure, in its hostility to the claims of property and privilege, in its determination not to be robbed of the fruits of victory, in its expectations of social justice, it was a radicalism eager for major, even fundamental changes, in G.B. society after the war."³

It would be incorrect to attempt to identify one specific entity called "war radicalism", one united, specific, oppositional challenge. Rather the war period was characterised by developments and shifts in an uneven configuration of essentially separate pressures for change, some whose origins lay in the crisis of the late 1920's, and 1930's, some of which may be traced further back to earlier

traditions of British radical thought (especially to both "radical" and "imperial" liberalism); and some springing specifically from the wartime situation. The war period itself, consolidating and extending the determination for social reform, produced new elements of dissatisfaction - industrial militancy, political discussion among the troops, the effects of "total war" on strained civilian morale, and pressures for a revolutionary peace from radical pacifism.

What conjoined such seemingly disparate elements was the nature of the war itself. More so than any other that preceded it, it was indeed a "total" war, involving challenge, social, economic, technological and political, to the efficient organisation of Britain.⁴

One important result was the greatly increased use of the State in economy and society. This was not new. The State had intervened during World War I on an unprecedented scale. But now, coming after changes in industrial structure between the wars, State intervention was of a new order. Moreover, the State had to organise both the economy and the mobilisation of the population as a whole. The first task required the direct involvement of the unions in meeting production targets; the second necessitated education of troops and civilians alike into "citizenship", one of the key words of wartime propaganda. The result of having to deal with such organisations was a crisis of confidence in the leading members of the Cabinet. Such a crisis may arise, wrote Antonio Gramsci, when:

"... the ruling class has failed in some big political undertaking for which it has asked, or imposed by force, the consent of the broad masses."⁵

This early crisis of the period, delivered by the situation of "total war", and weighing heavily on the shoulders of those politicians who had presided over "the dismal and ruthless anarchy of inter-war

capitalism"² necessitated, for the ruling class, either a change in its men and programmes in order to re-establish control "with greater speed than can occur in subordinate classes",⁵ or a uniting, and seeking unity behind, a single leader. Later, while the totemic and charismatic figure of Churchill was retained, new policies were introduced as a way of shaping and controlling change.

It is significant that political shifts at home during this period (and especially from 1941, through the crisis of 1942) culminated, in the 1945 General Election, in the establishment of the Labour Party (no longer constrained by the formal Coalition) as the major radical Parliamentary force and becoming, to use Miliband's phrase, the "electoral beneficiary" of war time popular radicalism.

However, before examining this election, it is necessary to turn to the war period and examine (albeit in a limited and schematic manner) the path and mode of social reform and political ground that emerged. Probably the most significant, in terms of its far-reaching consequences (and certainly the most publicised at the time) were the suggestions and recommendations embodied in the Report of the Committee on Social Insurance and Allied Services, commonly known as the Beveridge Report.

3. The Beveridge Report⁶

The Beveridge Committee was set up in June, 1941, to inquire into the wide range of anomalies that had arisen as a result of the haphazard and piecemeal growth of the social security system over the previous 50 years, and:

"... to undertake, with special reference to the inter-relationship of the schemes, a survey of the existing nature of social insurance and allied services, including workmen's compensation, and to make recommendations."

The anomalies of the existing system, in which seven government departments were directly and indirectly concerned with administering cash benefits for different kinds of needs, gave rise to an over-lapping duplication of services, whilst at the same time failing to make provision for many people in need, particularly children, and certain sections of the aged.⁸

The Beveridge Report itself stated that:

"Want is only one of the five giants on the road to reconstruction and in some ways the easiest to attack. The others are Disease, Ignorance, Squalor and Idleness." (p.6)

It therefore recommended that concurrent establishment of a National Health Service, improvement in housing and education, and a pledge to maintain full employment. In itself, the Report rationalised all previous efforts at relief, unifying benefits, contributions and administration. The Report's innovation was its universality by which all would pay and all benefit, as of right. Determined to abolish the hated Means Test, Beveridge saw universality as the obvious way forward. Harris, in his biography of Beveridge,⁹ speculates on five important factors which contributed to the popular reception of the Report :-

- (1) the need to foster morale in the armed forces and to keep the support of organised labour;
- (2) the tremendous disturbance of the civilian population during the bombing of 1940 underlined the defects of the existing services; and areas of neglect which had lain concealed in peace time were glaringly exposed by the impact of war;
- (3) the sense of social solidarity induced by the war and the consequent muffling of ideological conflict;

- (4) the tremendous expansion, brought about by the war, in state control of economic management.

(Many reformers, including Beveridge himself, were not slow to argue that these experiments could be seen as creating precedents for peace time social administration.);

and

- (5) the effect of the economic climate produced by war in redefining the nature of social distress. The concern of social reformers tended to shift away from the unemployed (the focus of attention at the outbreak of war) to the problems of low-wage earners, to those on fixed rates of benefit, and those with large families.

Unfortunately, Harris does not go on to draw together the separate threads he outlines, above, into an analysis which lays bare the general directional development of the interventionist state in this period. Herein lies the weakness of his account.

Treated warily by the Cabinet, who seem to have wanted the minimum possible implementation of its recommendations, the Report led to the inauguration of a series of other reports and measures. The 1944 White Paper on "Employment Policy", appearing the same year as Beveridge's own "Full Employment in a Free Society", committed all three coalition parties to high employment after the war. The Butler Education Act of 1944 enforced the adoption of the 1926 Hadow Report., and the 1938 Spens Report's suggestions, establishing a unified system of primary, secondary modern and grammar schools. Labour's National Health White Paper carried through the proposals for a general medical service made by the B.M.A. in 1930, and by the Cathcart Commission on Scottish Health in 1936.

Across the board, measures were introduced which, although to some extent springing from the pressures of the war years, more importantly

rationalised tendencies and suggestions from the pre-war period. Thus, in the closing years of the war, a powerful alliance was able to bring together in a tight ideological fit both the changes necessary to transform an ailing capitalist system, and the necessary public consent to that system. As Calder writes:

"From the Consensus which was now emerging, sprang the ideology which was to govern the practice of both parties in office after the war. Capitalism, with its system of powerful private interests must be preserved: but the State would take a positive role in promoting its efficiency, which would include measures of nationalisation. In effect, the Consensus included the whole centre of British political life: Cripps and Eden, Herbert Morrison and R.A. Butler, the Liberal Action Group and the Tory reformers, William Beveridge and William Temple, and many influential members of the Fabian Society." 10

Hence, and despite contemporary presentation to the contrary, the Report was a major exercise in consensus politics, suggesting "only a mild redistribution of income between classes", (Addison) and heralding the way to the consensus politics par excellence of the 1950's.

The thread of consensus running through the Report both highlights and explicates his attempt to rescue capitalism from its contemporary crisis. Apparent "contradictions" also emerge between the Report's declared brief and its real concrete recommendations, and implications. It is significant that these anomalies and 'contradictions' remained largely unexposed, and did not in any real sense validate the broad framework or invoke any serious individual or public reaction against it in terms of a rejectionist critique.¹¹

A brief examination of some of these contradictions would serve to illustrate the point. Beveridge, at the outset of the Report, lays down 3 guiding principles:-

"(1) that any proposals for the future should not be restricted by the consideration of sectional interests established in the obtaining of that

experiment: i.e. revolutions not "patchings";

- (2) "the organisation of social security should be treated as one part only of a comprehensive policy of social progress";

But the crux of the matter lies in the third principle, that:-

- (3) "social security must be achieved by co-operation between the State and the individual." 6

Successful implementation therefore rests, a priori, on the total commitment by individuals to adaptation and sacrifice. Individual co-operation is at the heart of the potential success of such a re-organisation of the State welfare machinery,¹² and hence the vital importance of the promotion of its underlying ideology in order to achieve and maintain such support.

The decline in the birth rate is also noted and the Report outlines the necessity to give first place in social expenditure to child-care and the safe-guarding of maternity - to avoid "a rapid and continuing decline in the population" which would no doubt be further exacerbated by the effects of war, it was thought. The ideology of the supremacy of reproduction and motherhood, destined to reach its "heyday" in the mid 1950's, is evident in the broad State planning outlined in the Report, although other factors, such as the rise in the psychologisation of the reproduction cycle,¹³ the expected increase in population after the war (the 'post-war bulge'), and the various medical advances which made child-bearing safer also contributed to this development.

As a consolidation and rationalisation of this in terms of planning, young people who "have not yet the habit of continual work", the Report recommended, should receive a shorter period of benefit. In other words, the enforced abstention from work should be made an occasion for "further training". Hence the need to establish a national minimum wage

"above which prosperity can grow, with want abolished". At the same time, the Report recognised the economic difficulties of the war period :

"The present war may be more destructive of British trade overseas than the previous one. It will change the economic development in which the British people must live and work, and may call for radical and in some ways painful readjustments. There is bound to be acute difficulties of transition." (p.167)

In wider terms, then, an ideological analysis of the Report reveals it to be part of the attempt in hard organisational terms to combat and control the "painful readjustment" necessary for the survival and entrenchment of British capitalism. It is significant that, despite the introductory rhetoric, this goal was achieved not by:

"... distribution between the different agents in production", (as in the past, between land, capital, management and labour), "Rather better distribution of purchasing power is required among the wage-earners themselves, as between times of earning and not earning, and times of heavy responsibility and of light or none.";

and :-

"The plan for social security is put forward as part of a general programme of social policy. It is first and foremost a method of redistributing (my emphasis) income so as to put the first and foremost urgent needs first, so as to make the best possible use of whatever resources are available."

The cost of not implementing the plan (i.e., of not rescuing and strengthening the system via further intervention, and containing demands from the labour movement) was seen in direct economic and economically-related terms :-

"Benefits, allowances, or pensions below the proposals may merely mean that the cost of unemployment or sickness or childhood is being borne not directly in cash, but indirectly in privation and lowered human efficiency." (my emphasis). (p.170)

The urgency of this survival plan is revealed in the speculation on the state of the nation in the post-war period :-

- "(1) the purpose of victory is to live in a better world than the old world;
- (2) each individual citizen is more likely to concentrate upon his war effort if he feels his Government to be ready in time with plans for that better world; and
- (3) if these plans are to be ready in time they must be made now." (p.171)

Hence, again, the plea for "a sense of national unity overriding the interests of any class or section".

The purpose of Beveridge and his colleagues was therefore the achievement of the following aims :-

- (1) to strengthen and then maintain the economic and political equilibrium of the war period with a view to British success in these terms;
- (2) to plan for the post-war retrenchment of monopoly capitalism in political terms; and
- (3) to ensure ideological adherence to ruling class hegemony, by the working class.

The successful reception of the Beveridge Report it should be stressed however, is both an indication of the achievement of these aims as well as, in the past, of the result of genuinely progressive pressures for social reform both from individuals (Rowntree et al) and from the labour movement generally. (The T.U.C. approved the Report in principle.¹⁴)

The post-Beveridge period leading into the 1950's is more understandable when viewed in the light of such developments, and the sweep to victory of the Labour Party in the 1945 General Election made to appear less paradoxical or unexpected than might at first consideration be expected.

C. The 1945 General Election

In attempting to outline the significance of the 1945 Labour victory, certain features stand out clearly. Explanation of the victory, the first unambiguous endorsement of Labour in its history, is, in large measure, related to the factors outlined above. It was in particular a manifestation of the war-time (and 1930's) discontent. The politics of the war period, ideologically and organisationally bolstered by the Beveridge Report, the 1944 Education Act etc., had a necessary concomitant: that in the making of the post-war world there should be a government both willing and apparently committed to the maintenance and extension of the advances which had been negotiated during the war, whilst at the same time prepared to participate in the consolidation of post-war capitalism. Social democracy and the Labour Party were the ideal coupling. In the first instance, the Party's programme could build on what had been made necessary by the demands of total war. Shifts in ruling class politics and planning brought about the realisation by radicals of various interest groups that lessons could be drawn from such measures that could be used as the basis for arguing for a new type of society. Consent in reality could be constructed on the basis of the meeting point of that ruling class shift and the radical ideology. That meeting point was almost precisely what the Labour Party offered as its definition of socialism: some measures of nationalisation, greater welfare facilities, and a rhetoric which centred upon the notion that the British people were essentially practically minded and against dogmatism, and yet at the same time demanded a greater share in the running of the country. Their election Manifesto of April, 1945: "Let Us Face the Future", pledged the nationalisation of the Bank of England, fuel and power, inland transport and iron and steel.¹⁵ Against these measures the Conservatives put up

only a token opposition, having already participated in the passing of the Family Allowances Act, under the Coalition Government, in early 1945.¹⁶

This is not the place however, to attempt a full analysis of the Labour Government of 1945-51, or of the Labour Party in general. The important point is that the Labour victory of 1945 may be explained by the fact that the Party was able both to manage the gains that had been made during the war, and at the same time facilitate a passage to the reconstruction of consent within capitalism. The result, inevitably, was ideological consent by the people to a further entrenchment of the interventionist state and on a safer, sounder, more effective basis.

The preceding sections of this chapter, which have covered some analysis of the politics of World War 2, the massive developments initiated by state reforms exemplified in Beveridge, and the accession to power of a new kind of Labour government in 1945, is intended to provide an overview of the political configuration of the period, and to establish the parameters within which developments in the penal system must be viewed. Any analysis of the events and movements which took place in the penal system must necessarily be dependant upon such a wider analysis, as well as presenting an examination of penal-specific events. It is to this area that the remainder of the chapter is now directed.

D. The Penal System Under War-Time Conditions : An Overview

Before the outbreak of war in 1939, the Home Office had already decided that in the event of such a world war, an attempt would be made to discharge, as soon as possible, all prisoners with less than 3 months

to serve before the completion of sentence; and all Borstal inmates who had served not less than 6 months. In the event, the necessity for executing this policy ensured the interruption of the Prison Commissioners' work on the development of a prison system along the lines laid down by the 1938 Criminal Justice Bill. From September 1st, 1939, an attempt was made to clear (totally or partially), certain selected establishments, with some degree of redistribution. The following table shows the numbers discharged in the various establishments on, or shortly after, this date :

Nature of Discharges : c Sept. 1, 1939			
Institution	Male	Female	Total
Local Prisons	3,482	318	3,800
Convict Prisons	127	8	135
Preventive Det. Prs.	8	-	8
Borstal	1,563	118	1,681
TOTALS :	5,180	444	5,624

Some Borstal establishments, away from major population areas (and especially the main cities and centres of industry) were used to re-house adult prisoners. For example, Feltham Borstal received a number of young prisoners who had been moved first to Wandsworth from the Scrubs, and then to Feltham. During the war period Feltham thus served a 3-fold purpose :-

- (1) as a Borstal;
- (2) as a 'Boys' Prison' for London; and
- (3) as a Collection Centre for boys committed to Borstal, pending allocation to a training institution.

The Borstal at Rochester was closed in the October and re-opened as a prison. Hence, in the prison population as a whole, there was an artificial

reduction from about 11,400 to about 5,750 prisoners.

The following July, by a Defence Regulation, Rule 69 of the Prison Rules was amended to increase remission from 1/6 to 1/3 in those sentences exceeding 1 month; and from 1/4 to 1/3 in the case of those prisoners in penal servitude.

By the time the war was in its second year, the following major difficulties had presented themselves to the Commissioners :-

- (a) bomb damage to some prison buildings (effecting danger to inhabitants as well as a security risk). A small number of prison staff lost their lives in this manner;
- (b) a drop in staffing levels, due mainly to retirement. Normally replaced fairly quickly, in war-time conditions such replacements were frozen until the end of the war;
- (c) difficulties in organisation, as well as the maintenance of security levels, brought about by the enforced transfer of prisoners to safer zones, and often to different kinds of penal institutions.

(i) Population Trends :-

The figures available for the period 1939-45 indicate that, whereas in 1938, the figures for total receptions (44,928) produced a D.A.P. of 10,388, the receptions in 1944 (numbering 38,530) produced a D.A.P. of 11,438.

It may be surmised, moreover, that this increase in D.A.P.'s would have been even more marked if remission had not been increased at the same time. The increase may be explained therefore by an increase in the length of sentences, rather than in the number of sentences. In fact, during the war period, the percentage of men received with sentences of more than 3 months increased from 19% in 1939 to 32% in 1943.^{±7}

The tendency to hand out longer sentences was especially marked in 1941 and 1942, and affected particularly the two largest groups of inmates, those serving "not more than 6 months" and those serving "over 6 months and not more than 12 months". Sentences of imprisonment longer than these showed much smaller rises. Several significant developments regarding the young offender sector during this period are apposite.

(i) there was a general increase in the numbers of young offenders in the age group 16-20 (inclusive) found guilty of indictable offences, even allowing for a downward fluctuation during the war period, viz:

No. of Persons 16-21 Found Guilty of Indictable Offences

Year	Male	Female	TOTAL
1936	11,907	1,424	13,331
1937	12,988	1,602	14,590
1938	14,147	1,641	15,788
1939	13,655	1,780	15,435
1940	16,031	2,499	18,530
1941	19,707	3,634	23,341
1942	18,949	3,428	22,377
1943	16,601	3,401	20,002
1944	17,165	3,273	20,438

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It is also important to see this acceleration in relation to the trends for crimes committed by the over-21 age group. Although indictable offences rose steadily throughout the 1940's, the rise was not as great as in the under-21 age group for this same period. This tendency continued well into the 1950's.

(ii) there was also a general increase in the number of young offenders found guilty of indictable offences who had not previously been found guilty. Of these many pleaded guilty to numerous previous offences, and it is interesting to note that it was considered that it "would have been

more appropriate to send them to Borstal than to prison."²¹

(iii) despite war time policy, there was a disturbing rise in the number of young offenders sent to Borstal, including a good proportion in the 21-23 age group, viz:

Committals to Borstal

	1938	1939	1940	1941	1942	1943	1944	1945
Female	71	91	116	218	198	240	274	276
Male	1,276	1,327	1,173	1,521	1,475	1,324	1,386	2,166
TOTALS	1,347	1,418	1,289	1,739	1,673	1,564	1,660	2,442.

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The decrease in 1940 is at least partly accounted for by the closure of some penal institutions. The rise thereafter includes numbers in the 21-23 age group (78 in 1940, 132 in 1944). The figures must be read in juxtaposition to discharges from Borstal for the same period:

Figures for Discharge from Borstals

	1941	1942	1943	1944	1945
Male	1,014	1,381	1,414	1,236	1,279
Female	129	166	257	212	357
Totals	1,143	1,547	1,671	1,548	1,636

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A combination of these two tables produces the following statistics:

Committals and Discharges from Borstals

	1941	1942	1943	1944	1945
All Committals	1,739	1,673	1,564	1,660	2,442
All Discharges	1,143	1,547	1,671	1,548	1,636

The figures indicate both the war time policy on discharge from Borstals as well as the steady increase in the proportion of committals to discharges immediately after the war was ended.

(ii) Experiments

Despite the difficulties created by the war, and the exacerbation by the trends outlined above, certain developments did take place which are worthy of mention.

Firstly, although the Borstal system suffered a certain breakdown of its 30 year old tradition, due to the removal of "trustworthy" inmates in 1939-40,²⁷ yet the exercise enforced upon the system in turn led to a number of experiments with "trustworthiness", as well as the introduction (in 1942) of conversation during exercise time.²⁸ Despite many difficulties the figures for reconviction after discharge during the early part of the war remained encouragingly low. Out of every 10 young men released, 6 or 7 had, after a further two years, settled down in the community, and had been in no further trouble.²⁹

Secondly, the psychological unit at Wormwood Scrubs was re-opened in February 1943, with the appointment of Dr. Jean Durrant following in April 1944. The Prison Commissioners hoped to extend psychological assessment to the Borstal system in the not too distant future, and stressed that Borstal regimes should attempt to "get down" to each individual. A routine should be designed which, the Prison Commissioners were to point out at a later stage, would enable "the development of progressive trust and a growing sense of personal responsibility".³⁰

The developing trend in the prison system on the primacy of the individual reflects and is illustrative of the general socio-political tendencies of the period, and as such is parallel in ideological terms to the tenor of Beveridge, and the developments which followed the Report - the 1944 Education Act, the commitment to full employment, etc., etc.²⁵

It is to the development of this ideological thread in the history of post-war penal developments that I now turn.

E. The End of the War : Problems and Advances

The ideology of the conjuncture, (exemplified par excellence by the contradictions of the Beveridge Report,) had no little effect on the penal system. Beveridge and his colleagues had argued not only for a national minimum wage, but for shorter benefits to be given to young people who had not been able to acquire, or had rejected any inculcation of, the habit of regular work. This was reflected in an increasing appeal to the protestant work ethic and the ideology of individualism. Beveridge (and the associated campaigns) was as much concerned with the best use of men and programmes as was the Prison Department. The "better world" that the Beveridge ideology advocated depended entirely on the most efficient use of available resources and the optimum of training programmes for the post war generation. The Labour victory in 1945, and its subsequent adherence to the politics of social democracy, can thus be seen as a major factor in the programmes for a new and better Britain.

During this period, the Prison Department conducted a re-appraisal of its internal machinery, along the lines laid down by the temporarily abandoned 1938 Bill. In 1944 the Home Secretary decided to appoint an Advisory Committee to look into the whole area of the treatment of offenders. Although archival material does not make clear the specific reasons and rationale for the setting up of such a committee, it can be inferred from materials now available²⁶ that the creation of the Advisory Council for the Treatment of Offenders (ACTO) was largely the result of (A) an increase in the number of people (adults and young offenders) found

guilty of indictable offences, and (B) a particular and growing concern with the young offender. Initially, a "feeder" committee was set up, to advise and aid in the establishment of ACTO, the Home Office Official Committee on the Treatment of Offenders. Called specifically to "prepare material for the work of the proposed Advisory Council"²⁴ it met once a month from July, 1944, and immediately re-titled itself the Administration of Justice Standing Committee.²⁴ It is interesting to note that at its second meeting (14 August, 1944) Mr. Harris (then Head of the Children's Department) commented :

"The causes of the war-time increase (in juvenile delinquency) are pretty well known - broken homes, parents in employment, and the general disturbance of normal life." 18

Minutes and memos concerning further meetings reveal both an ongoing commitment to dealing with the increasing number of young offenders, and the recourse to an individualist, social-psychological view of the causes of delinquency: Lionel Fox and Alexander Paterson were both on the Committee. Initially, the Advisory Committee for the Treatment of Offenders (ACTO) concentrated its attention on the adult prison population, but when the Commissioners published their "Five Year Plan" in 1945, acknowledging the continuing problem of young prisoners and Borstals, attention was once again directed to the young offender. This sector was considered problematic by ACTO and the Prison Commissioners for 2 reasons :-

(i) because they hoped the former category (i.e. offenders under 14) would not be under their auspices for much longer,³¹

(ii) because the development of Borstals had tended to be "along improvised lines, rather than on long-term plans."³²

In June that year the first edition of "Prisons and Borstals" was published, a document which was continually updated for many years after the War.

It outlined (among other things) the problem of the shortage of women prison officers and pointed out that the population of women inmates generally, and of Borstal prisoners particularly, had increased considerably from the normal pre-war level, (from 1347 in 1938, to 1660 in 1944). The result was the setting up of a Joint Sub-Committee to examine post-war staffing policy, and in April of the following year a new code "Discipline for Prison Officers" was produced.

By the end of 1945, due to a rapid re-oiling of penal machinery, accommodation requests had been met. It had also been estimated that accommodation would be required in 1946 for approximately 1,000 additional youths, plus a second Reception and Allocation Centre. Such numbers would require 5 or 6 additional institutions, for 150-200 young people.³³ By the end of 1946 these requirements had been met.³⁴

The Prison Commissioners now hoped that the main provisions of the 1938 Criminal Justice Bill could, after considerable delay, be implemented. Their concerns were, in particular, with the following:

- (1) the abolition of penal servitude, hard labour, and the triple division of adult offenders;
- (2) the prohibition of sending any person under 21 to prison - along with the provision of alternative methods of treatment;
- (3) the provision for Persistent Offenders of certain forms of detention in substitution for the existing sentence of Preventive Detention.³⁵

This would seem to indicate that the Prison Commissioners were thus still firmly of the opinion that the under 21's should not go to prison. They were certainly of the opinion that it was not possible to give training to prisoners with a sentence less than a certain length.

The Home Office, as well as ACTO, it has been noted, were particularly concerned with young people as part of their overall reform strategy. In a similar vein, in another sector of the state apparatus, leading figures in the social services were bent on implementation of the general social reformist policies exemplified in Beveridge. The Curtis Report on the Care of Children³⁶, whose recommendations became law in the 1948 Children Act, illustrates the point at hand in 3 ways :-

- (1) in its specific and concrete concern for children in need of care (including those who had broken the law);
- (2) as a reflection of the ideology of the period, exemplified initially in Beveridge and taken up post 1945 in many areas;
- (3) in its concern with centralisation (c.f. the rationalisation of state machinery advocated in Beveridge).

The Curtis Committee, the first thorough inquiry into the case of deprived children, recommended a large extension of public care, and stressed the need for concentrating responsibility for it in one central department, with immediate responsibility to be undertaken by the local authority, working through a specialised committee.

In the penal arena, in the social services, in education, in industry, in every arena, the same ideology is dominant. In terms of penal reform, no one body exemplified this ideological trend and its contradictions more so than the Howard League for Penal Reform, and particularly in "Lawless Youth", significantly subtitled - "... a challenge to the New Europe".³⁷ Here, in one Report, representing one body (,but many interests,) can be seen the whole gamut of problems and contradictions arising from the ideologies of control and concern, of punishment and treatment, and of the desire for humanitarianism versus that for the ruthless extermination of deviancy.

"Lawless Youth" reflects the same appeals and recourse to the foundation of post-war capitalism, as Beveridge and all the other associated legislation. The appeal from the Howard League is, without doubt, to the concept of community and the ideology of individualism. The two are not contradictory but complementary in their reflection of the specific ideological configurations discussed above. But "Lawless Youth" also represented a contradiction, in the specific ways in which it grounds and advances the case for young offenders: it should be noted however that "Lawless Youth" was not a report with recommendations as such, but rather a literary representation of the dominant social-penal ideologies of the period.

The Report opens by noting a shift "in at least the last half century" between the "three most frequently alleged justifications of (the) infliction of punishment, from retribution and/or deterrence to what might be termed educative punishment", which it sees as aimed at "changing the anti-social attitude of the offender".³⁸ It notes that the attempt to individualise treatment has necessitated the construction of "some machinery of enquiry" into the child's circumstances and mental and physical conditions. So far, the Report is merely outlining the historical development of the treatment of young offenders. But it then goes on to develop the concept of community, and the relationship this bears to control ideologies :-

"The community can therefore set itself the task of reclaiming a potential enemy at an age when success is most likely. Thus, an enlightened self-interest reinforces humanitarian precepts."³⁹

It is here that the contradiction between progressive ideology and control ideology can be seen most clearly. The Howard League appeals to the community as the means of establishing and organising treatment methods for dealing with young offenders, with humanitarianism as the

raison d'etre and individualism as the vehicle of intervention. Thus, the folly of youth may be resolved via treatment from the parent community, with the plasticity of youth to ensure its success. The offence of youth is seen as a symptom of deeper ills, whereby the enemy of society has, at the same time, become its victim.⁴⁰ Like Beveridge ideology the concept of the "under privileged" runs strongly through the Report. Like Beveridge the appeal to a well-organised, paternalistic, social structure is also evidenced. In Beveridge, and other contemporary dominant ideologies, individualism and reclamation via treatment and community control, represent the basis of a well-organised bureaucracy, capable of establishing hegemony via consensus. Herein lie the roots of the ideologies of the 1950's and 1960's, and the popular concept of "you've never had it so good." :-

"Without strong, well-organised social welfare organisations, (the community) has no satisfactory methods of dealing with young delinquents." 39

The quote is from "Lawless Youth", but it could well have been from Beveridge, the 1945 Labour Party Manifesto, the 1944 Education Act, or the 1948 Children Act, etc.

Thus, the significance of penal reform, and the plans for penal reform in these years represent not only the efforts of humane and progressive thinkers like Paterson, Fry, Mannheim et al - themselves representative of the "radicalism" which Miliband outlines (see (3)), but also the socio-political configurations of the post-war period and the re-organisation and establishment of a peculiarly British form of capitalism, affected in concrete terms by the continuing rise in prison figures on the one hand, and the recourse by the state to social democracy on the other.

F. Conclusion

It has been pointed out in this study that normal penological histories have tended to characterise the period between 1939 and 1945 as one in which little happened. In contradistinction, this chapter has attempted to outline the continuing trends within the penal system towards the perceived need for a short-term form of institution for the young offender unsophisticated in criminal ways. In this sense it complements the previous chapter, which dealt in detail with the role played by Molony, the 1933 Children and Young Persons Act, the Cabinet Home Affairs Committee and Cadogan, and the contemporary 1930's concern with the pro's and con's of short-term detention, exemplified in the plans for Attendance Centres, Howard Houses and a new form of short-term detention for the 14-17 and 17-21 group. This chapter has attempted to follow these themes through by outlining and examining early 1940's development, and rationale, for the continuation of such trends, made more urgent by the perceived deleterious effects of a world war, the rise in interventionist state ideologies, and the steady increase in the crime rate, particularly for young offenders.

The important factors to take cognisance of are the continued appeal to a Foucaultian notion of the schooling of the soul, alongside continued and determined efforts to keep young people out of prison (reflecting the themes of an appeal to the importance of Youth and the breaking of the hegemony of the prison), all situated in a division around the age of the 16/17. Because of this and the preceding point, above, the two chapters should be read as two sectors of a contingent whole. The next chapter must look at what actually happened when parliament turned its attention once more to prison reform generally and the young offender arena specifically. This chapter has therefore tried to follow the pattern of the appeal to a short-term type of institution and indicate that its birth was, increasingly, likely to be a logical and contemporary certainty rather than a historical and anomalous accident.

FOOTNOTES : Chapter 4

1. Notable exceptions to this lacunae are :-
P. Addison: "The Road to 1945 : British Politics and World War 2" (1970)
A. Calder: "The People's War : Britain 1939-45" (1969 and 70)
E. Wilson: "Women and the Welfare State" (Red Rag, 1974)
and to a lesser extent :
R. Miliband: "Parliamentary Socialism". (2nd Ed. 1964).
2. A fuller analysis of this period, in cultural terms, is outlined in "Out of the People". W.P.C.S. 10.
3. See: Ralph Miliband: "Parliamentary Socialism". 1964 and Ch.2 of Ian Taylor's: "Law and Order : Arguments for Socialism". 1981.
4. A detailed analysis of the concept of "total war" is dealt with in: -
A. Marwick: "Britain in the Century of Total War".
5. See: Antonio Gramsci: "The Modern Prince". 1957, p.175.
6. "Social Insurance and Allied Services". Report by Sir William Beveridge. Cmd.6404. November 1942.
7. Ibid: "Terms of Reference".
8. In 1940, for e.g., 28.8% of children in L.C.C. schools were still living below the Ministry of Health's prevailing definition of a "poverty line".
See: Beveridge Papers. VIII. 28. "The extent and Causes of Poverty Among Families in London Containing Elementary and Secondary School Children", by E. Bransby; and "Food, Health and Income". by J.B. Orr (1937). (Source: P.R.O.)
9. Jose Harris: "William Beveridge: a Biography".
10. See: A. Calder, 1971 (op.cit.)
11. This is not to say that there was no criticism of the Report. Beveridge's appeal for advice to Keynes in the final stages was directly the result of his inability to resolve some areas of problem himself. Lack of significant criticism is also partly explained by the very real gains that were made by the labour movement, crystallised in Beveridge, and particularly in the case of the creation of the N.H.S. In this sense the Report exemplifies a real contradiction.
12. This entailed the following :-
 - (a) the creation of a National Health Service;
 - (b) family allowances;
 - (c) full employment as a short and a long-term aim;

- (d) a comprehensive system of social insurance designed to cover the whole community, administered by a new Ministry of Social Security;
based on the following fundamental principles :
- (i) a flat rate of subsistence benefit;
 - (ii) a flat rate of contribution;
 - (iii) unification of administrative responsibility;
 - (iv) adequacy of benefit;
 - (v) comprehensiveness;
 - (vi) classification,
- with the aim to make 'want' "under any circumstances" unnecessary. (p.9).
13. See for example the rise to prominence of child psychologists, such as Bowlby et al.
14. See Memoranda from Organisations. Appendix G., Paper 3 : T.U.C. (Source: P.R.O.).
15. Nationalised as follows: Bank of England, May 1946; Mines, January 1947; Electricity, April 1948; Gas, May 1948; Rail, May 1948.
16. By which the Means Test was abolished, and an allowance of 5/- per family per week allowed, for the second and each subsequent child under school leaving age.
17. Source: Cmd.7010.
18. Ref. HO 45, Memo, 20675. A.J.S.C. Mins. of Sec. Mtg. 14 August, 1944. (Source: P.R.O.).
19. Compiled from H.O. statistics. For analysis of figures for juveniles for major cities see: Edward Smithies "Crime in Wartime ; a Social History of Crime in World War II", p.171. 1982, George, Allen and Unwin.
20. Source: Prison Commissioners Report, 1959.
21. Source: Prison Commissioners Report, 1944-45. Cmd.7146.
22. Source: Home Office statistics.
23. Source: Home Office statistics.
24. Ref. H.O.45, Memo, 20675 1944, P.R.O.
25. See in earlier discussion.
26. From archival sources at the P.R.O.
27. About 2/3 of Borstal inmates were discharged at the outbreak of war. Most of these were "seniors", i.e. those considered to be the most trustworthy. This destroyed, in one fell swoop, the carefully built-up tradition of the 1930's, whereby young inmates witnessed the exemplary behaviour of their older inmates and were, hopefully, morally influenced by it.

28. In Sherwood Borstal, and Hollesley Bay Colony. One was involved in bringing the community to the boys, and the other in sending boys out, on trust, to work in the local community.
29. See Report of the Prison Commissioners, 1939-41. Cmd.682.
30. Report of the Prison Commissioners, 1945. Cmd.7146.
31. See the Curtis Report and 1948 Children Act, whereby young prisoners under 14 and young offenders in Approved Schools became the responsibility of a Children's Department.
32. See Cmd.7146, Ch.1. (July 1947).
33. See Cmd.7146, Ch.6 (July 1947).
34. Part of Dartmoor Prison was utilised as a Borstal institution.
35. The position of the Prison Commissioners is clearly documented in Cmd.7146.
36. The Report of the Care of Children Committee (Curtis), 1946. Cmd.6922
37. "Lawless Youth - a challenge to the New Europe". International Committee of the Howard League 1942-5, by M. Fry, M. Grunhut, H. Mannheim, W. Grabinska, and C.D. Rackham. (Pub.1947.) (Source: PRO.)
38. Ibid., p.14.
39. Ibid., p.17.
40. For a similar kind of analysis see David Rothman's "The Discovery of the Asylum".

FIVE:

TO MAKE the PUNISHMENT FIT the CRIMINAL.....?

CHAPTER FIVE

TO MAKE THE PUNISHMENT FIT THE CRIMINAL ... ??

A. Introduction:

Most standard penology textbooks present the details of the 1948 Criminal Justice Act, in relation to the 12-21 age-group, in terms of a strange and inexplicable range of provisions. The previous two chapters of this study have concerned themselves largely with the development of provision for young offenders generally and situated within this, and more specifically, with the opposition to and then the gradual emergence of a short-term concept in the young offender sector. It was within the 1940's that the short-term movement was to see its culminating success, despite some continuing opposition to it, and an apparent degree of confusion around the legislation of the 1948 Criminal Justice Act.

Hall Williams, in his standard textbook on the English penal system says, in a section on Detention Centres entitled 'The History of the Idea' :-

"The Criminal Justice Bill of 1938, on which the Act of 1948 was modelled, had not contained any such proposals," (i.e. for Detention Centres). "It had envisaged a system of residential hostels, to be known as Howard Houses, coupled with Attendance Centres for non-residential training. But by 1948 the approach was somewhat different, and the Government's Bill proposed the setting up of the Detention Centres. There appears to have been little discussion of the idea at the time of legislation, but, since 1952, ... there has been a good deal of discussion, much of it critical, of the regime provided by the Detention Centre." 1

The inclusion of Detention Centres in the 1948 Act, is, as indicated at the beginning of this research, usually treated as a deterrent and punitive piece of legislation, something of an anomaly to the other provisions for

young offenders in the Act. It is also usually coupled with some reference to Attendance Centres, based on the apparent confusion in both Houses of Parliament which accompanied these two separate and distinct forms of dealing with young offenders. At the same time, as a further complication, most text books query the last-minute entry of the Attendance Centre provision, indicating it to be one without a history between 1938 and 1947. Hence, to use Valerie Chappen's words, not only did Detention Centres "spring ... like Athene, fully grown" (i.e. in terms of its anomaly with the apparently increasing recourse to rehabilitative optimism, and the accompanying lack of detail on it) but so also did Attendance Centres - (i.e. here in 1938, here again in 1947, and totally absent in between times!) The problem is presented as insuperable, and hence left unsolved in the texts.

The aim of this chapter, in conjunction with the previous two, is 3-fold:-

- (1) a continuation of the analysis which suggests that the idea of a deterrent-oriented provision within rehabilitative (training) parameters was not anomalous, and perhaps not even contradictory;
- (2) to show that the seeds of the institution which came to be known as a "Detention Centre" continued to grow through the whole of this period (i.e. from about 1930 to the end of World War II), contrary to standard text book opinion;

and, in relation to this,

- (3) to show that detailed plans for, and creation of, the Detention Centre system was a civil servant oriented initiative, and with a well-documented socio-political history - in contrast to the standard picture usually drawn of silence at Whitehall and confusion in Parliament.

To complement preceding chapters, this part of the thesis will address itself to the considerable contemporary empirical and documentary evidence now available. Its aim therefore is to concretise and thereby explicate further, previous sections of the thesis.

The role played by the Prison Commissioners, but particularly by top Home Office civil servant personnel, who had probably the finest, as well as the most pragmatic grasp, of both the history of and the need for provision for young offenders, has not been considered a significant factor in the problematics presented by traditional and historically-simplistic texts.

The previous chapter has outlined the political events of the war period, and the legislation for a welfare state, as well as the effects such developments had on the penal system. It has also pointed to the dominant concerns of the prison service during this period, viz.:-

- (1) to cope with and overcome the exigencies of war and the effects of such on prison service personnel, buildings, finances and general morale, as well as the prisoners themselves;
- (2) to cope with and overcome the partial de-institutionalisation which was forced on the service after 1939, and particularly vis-a-vis young offenders, as well as the problems attendant upon the necessity of moving prisoners from one institution to another in major urban areas;
- (3) to cope with and control the evidence presented by the Home Office statistics that numbers of offenders were rising throughout all sectors, but particularly for the young;
- (4) to keep the way open for the possible re-introduction of the 1938 Bill and its reform-oriented provisions, in the hope that these could be reintroduced in some form after the war was over.

Concerns (1), (2), and (3) may be deemed to be largely problems of control. Problem (4) was a longer-standing concern, with wider and much farther reaching implications. It was one which was of necessity related to the swings and changes of ideology, politics and social developments of the period.

B. The Re-opening of the Bill

The pressure to re-open the debate on the 1938 Criminal Justice Bill abated only during the initial period of war. By early 1943 various letters and memo's were in circulation pressing for a re-opening of the Bill. In response to this feeling, early in 1944, the Home Secretary (Herbert Morrison) wrote to the Prime Minister, Winston Churchill, urging in the strongest possible terms that parliament turn its attention to this very matter as soon as possible. The Prime Minister was not enthusiastic and replied :

"We have had enough (i.e.: prison) reform in the last 30 years or so ... I should have thought it was ill-timed to feature this."²

He did not venture to explain why it was so "ill-timed", although as a Tory hardliner, and because he was concerned largely with war matters, the response was perhaps not unexpected! However, Morrison was not willing to let the matter rest there. His reply to the Prime Minister was terse, and to the point:

"The question at stake is not so much prison reform ... as the provision of up-to-date and more enlightened methods of dealing with the problem of treating the offender, and in particular the juvenile offender This is a realistic attempt to tackle the economic problem of saving the community from losses and suffering caused by the anti-social activities of criminals.... " 3

Morrison concludes his memo by pointing out that the initiation of such matters does not rest with the Prime Minister, or indeed a Home Secretary, alone, ending :

"Finally ... I really can see no way of postponing it."³

The Prime Minister was persuaded but disgruntled, and sent a very curt reply to Morrison:

"Very well. You had better get on with it."⁴

Once official sanction had been given, work could begin in a more positive vein. There was a deal of preparation involved in the form of numerous meetings of Committees and Sub-Committees, as well as private discussions, several drafts of various sections of the Bill, changes of opinion on certain issues, arguments over fine detail, etc., etc., and, not the least, a change of Government from Churchill's Coalition to Attlee's Labour administration in 1945. The Labour Party was more committed to penal reform in general, but its concern with the creation of the welfare state and various nationalisations, etc., meant that such matters could not be given the time they required.

Thus, because of such priorities, and certainly by early 1946, it began to look as if the Bill would not even reach the next session of Parliament. At this point Chuter Ede (the new Home Secretary) received a letter, in the form of a resolution, from the Parliamentary Reform Group, urging the government in the strongest terms possible to introduce the Criminal Justice Bill at an early date in the coming session. The resolution was signed by a sizeable number of M.P's, representing all political parties in the Commons.⁵

A secret Memo from the Home Secretary to Samuel Hoare (not Lord Templewood, but an Under-Secretary of State at the Home Office) that July, included an extract from the Minutes of a Meeting of the Legislative Committee held the same month. It noted that "attempts to postpone the Criminal Justice Bill because of other pressing bills (on the general economy) had been refused by the Committee". The Home

Secretary had apparently told the Committee that he must "press for its inclusion in the 1946-47 session", indicating that a great deal of work had been done, and that the Bill would be ready for the new session. The Cabinet had already approved its inclusion, and the Home Secretary indicated that "... the Government would be exposed to criticism if they concentrated entirely on economic measures and did not include amongst the legislation in the 1946-47 Programme, some social and humanitarian measures".⁶ The final sentence is an important indication of the official perception and recognition of the Bill, and after further pressure from the Home Secretary, the Committee agreed that the Bill should be included in the next session.⁷

The delays continued (as did the work behind the scenes), some for bureaucratic reasons, some because of fundamental disagreements over detail, but largely because of the pressure referred to earlier over Labour's plans for nationalisation, the NHS, etc.

New items were introduced, whilst others were debated, reformed, altered, or re-structured, ensuring a great deal of work for all concerned with the legislative process. It is to the history of this delay that I now turn.

C. New Committees, Old Ideas:

The detailed history which follows has, to a large extent, only recently become available through the archives of the Public Record Office, and falls into two categories :- (i) material which fills in the skeleton of what is already known, and (ii) new and hitherto unpublished materials concerning policy decisions, the setting up of committees, secret memos, etc., which serve to cast light on the 'dark' areas of penal history in this period, and, specifically, those areas on which "traditional" penological accounts have failed to cast light,

the "lacunae" referred to in standard accounts.

In the summer of 1944, the Home Office called a meeting designated the Home Office Official Committee on the Treatment of Offenders. Its purpose was to prepare material for the work of the proposed Advisory Council on the Treatment of Offenders (ACTO). The result of this meeting, referred to in the previous chapter, was the establishment of the Administration of Justice Standing Committee (AJSC), which met, altogether, nine times in the next 2 years, and served to stimulate a great deal of provocative thought, as well as reaching decisions on matters directly related to the Criminal Justice Bill. In particular, it turned its attention to provisions for young offenders. The Chairman of the Committee was Sir Alexander Maxwell (Permanent Under-Secretary of State at the Home Office), and other members included Sir Frank Newsam, Sir Lionel Fox, and Alexander Paterson.⁸

It is significant that one of the first things the Standing Committee did was to set up a Sub-Committee to look into the whole business of Attendance Centres, provision for which had appeared originally in the 1938 Bill, and which had largely been the responsibility of Samuel Hoare & now Lord Templewood.⁹

Templewood, as Samuel Hoare, had been strongly against the principle of a short-term (Borstal) type of institution in 1939, condemning the idea as nothing more than a "boys' prison", and he had not changed his mind about this. Speaking at Cambridge University before World War 2 he had suggested that the policy of an enlightened prison administration should be to govern by 3 main principles, viz.:

- "(1) to make every effort to reduce to a minimum the number of prisoners who are sent to prison;
- (2) to endeavour to secure that prisoners who have been sent to one term of imprisonment shall not turn into habitual criminals; and

- (3) to keep a proper balance in prison administration between the reform and the punitive elements

These are the principles which in recent years have guided the Prison Commissioners and they will continue to do so." 10

The contradiction in prison ideology between punishment and treatment is highly visible here. Templewood was convinced that treatment was not possible during a short period of imprisonment, and that contamination was a dangerous problem if young offenders of varying degrees of recidivism as well as first offenders should be mixed together under one roof. For the more sophisticated in crime therefore, he strongly advocated the use of the contemporary Borstal system, at the height of its success at this point in the history of the penal system, deprecating the advisability of sending boys to a short-term Borstal for 3-6 months:

"You ought not to have a boy in Borstal who is not there for training",

and

"Short term Borstals are nasty small boys' prisons." 11

The linch-pin of the argument was that treatment and training is hardly possible in so short a sentence (i.e. 3-6 months) and thus the short-term institution would provide little short of a glorified gaol sentence.

The Sub-Committee had been reminded by the AJSC that :

"... one of the main objectives of the Criminal Justice Bill was to find alternatives¹² to imprisonment for young offenders in the hope that it would be possible, in due course, to prohibit imprisonment under 21." 13

and that :

"Attendance Centres were designed with this in view."

One of the many problems with regard to Attendance Centres which faced the Sub-Committee was that of accommodation and plant. It was thought to be "out of the question to consider new buildings", and the general opinion held that if Attendance Centres came into being they would have to be in police stations. 14

There was a suggestion in the Committee that Remand Homes could be used for the purpose, but that this was not considered feasible since provision for them was "still inadequate". The first hour of attendance, should the experiment come to fruition, was to be spent in recreation and physical training; the second hour doing simple handiwork, and the third in "education on broad lines", the order to be supervised by a Probation Officer, in conjunction with a probation order.

They concluded, however, that for both financial and administrative reasons it would be impracticable to provide a network of such Centres throughout Great Britain.

Hardly had they made these pronouncements than a meeting of Principal Probation Officers was convened to discuss the matter.¹⁵ Twenty six principal Probation Officers were present and they voiced their direct opposition to the scheme, for both junior or senior centres. Their main reason was :-

" ... a method of treatment based on compulsion could not succeed, and would do more harm than good by producing a resentful attitude in the offender." 15

They compared the idea of Attendance Centres directly with the Borstal system "where the period is longer and therefore more likely to combat resentment via methods used in the longer time available".

The Principal Probation Officers then offered the following alternative methods as suitable considerations for the Home Office :-

- (1) detention for 1 month for the under 17's, but not in association with ordinary remand cases;
- (2) an urgent need for many more and better hostels, where young offenders could be sent as a condition of probation from which they could go out to daily work;

"Very few of the existing hostels are really satisfactory. What they mainly need is a more highly qualified staff";

and

- (3) greater use should be made of short-term Approved Schools; and a similar short-term system of training could be provided to young men aged 17-21.

Their third suggestion is in the same spirit as Templewood's, indicating yet again that growing feeling, (and beyond the Home Office) that a short-term institution was considered necessary.

The concluding Report of the Administration of Justice Standing Committee (AJSC) Sub-Committee on Compulsory Attendance Centres was forced to admit that :

"... even if the serious practical difficulties could be overcome, the proposals in the 1938 Criminal Justice Bill for establishing compulsory Attendance Centres needs to be carefully reviewed before any decision is taken to reintroduce it in a future Bill." 9

Finally, the Sub-Committee suggested that the matter pass through the hands of the AJSC itself (its parent body) to be dealt with by ACTO. Then, at their penultimate meeting the AJSC were also forced to conclude that the difficulties in the proposals for Attendance Centres were "insuperable".¹⁶ For the under-17's, they said, the proposals could be seen as a substitute for detention in a Remand Home, whilst for the older young offenders, imprisonment would still be, in practice, the ultimate sanction, unless the courts of summary jurisdiction were given the power to order short-term training in Borstals "or similar places". Fox commented on the Meeting :-

"If there is a case for some form of short-term training school for the age-group over 17, such a system should not be connected with the Borstal system by name or otherwise." 16

Fox does not give specific reasons for this point of view, but it would almost certainly have been a combination of his concern to avoid the idea of a short-term prison, and his wish to keep Borstals in their pre-war state (i.e. to protect the apparently successful Borstal system).

The Chief Inspector of the Children's Department thought that committal of 3 months, with power to discharge earlier "would have advantages", but short-term training was only useful where boys had "reasonably good homes" to return to.

The meeting finally agreed that the question of compulsory Attendance Centres could not be satisfactorily examined apart from other alternatives, and that a memo to this effect was needed, to go to ACTO. The memo, it was decided, should also cover girls and boys, punitive detention, detention on remand, and detention for observation.

The previous paragraphs, above, have attempted to show the clear links between the history of the Attendance Centre and the short-term concept, links which have not always been apparent to subsequent researchers (Hall-Williams, Land et al.)

The opinion had already been voiced in official quarters that the abolition of imprisonment for the under 21's would not be supported by "many sections" of society, including the Magistracy. Mr. Harris (of the Children's Branch), doubted that public opinion "was ready for this drastic change". As an alternative, he suggested that it might be better to persuade magistrates to use imprisonment less and less by providing other methods of dealing with young offenders, commenting:

"As the probation service develops, with the use of more hostels and lodgings, it is quite likely that less and less young men will be sent to prison." ¹⁷

To a certain extent he was echoing the earlier sentiment of the Home Secretary, in 1944 (Herbert Morrison), speaking at the first meeting of ACTO :

"The first principle of prison reform is to keep as many people as possible out of prison",

and

"The undesirability of imprisonment as a method of dealing with young offenders is widely recognised. Nevertheless, many of them have committed offences of a serious kind for which

some deterrent method of treatment is a requisite for the protection of the public, and for the disciplines of the offender." 18

It is clear from this that Morrison was concerned to ensure that a close 'partner' to the abolition of imprisonment for the young offender should be the availability of an individually deterrent sentence which would (and should) involve some discipline of the offender - resonances of which were to appear in the later history of Detention Centres.

Early in April, 1946, the Home Office discussed the matter again. By this time both the idea of a short-term type of institution, and a sentence of about 3-6 months seemed reasonably acceptable in many quarters; and from this point the debate tended to centre around the nature and purpose of the regime, and whether an existing institution could be used, or whether it would be better to create an entirely new one. The concept of what sort of young offender should be sent to such an institution was also becoming clearer in official minds:

" a useful means of dealing with boys who did not need Approved School training but for whom a short, sharp lesson was desirable." 19

This stance, it should be stressed, was in no way at odds ideologically with the spirit of the new Bill, and could claim to relate both to the contemporary desire to keep young people out of prison, as well as to the problem of dealing with the increase in juvenile crime. Such an institution again reflected Morrison's notion of a form of not a "youth prison" but rather a way of deterring ~~in~~ a short, sharp shock, with an element of training - albeit inchoate in nature at this stage. Hence, a short, sharp lesson would, it was hoped, ensure the cessation of a potentially long career in crime, thus helping young offenders avoid imprisonment.

It could also provide for an increasing recourse to the training ethic, as well as satisfying the hard-line elements, by convincing them that no group (no matter how marginal) would wescape the arm of the law.

Thus, in their April meeting, Alexander Maxwell, Lionel Fox et al, considering the alternatives to imprisonment for the under 21's once again, were pleased to hear of the success of the two short-term Approved Schools. The problem was that a boy could not be sent to such a place without a court making an Approved School order under which he could be detained for 3 years. Perhaps then, detention in a Remand Home (provided for under the 1933 Children and Young Persons Act for up to 1 month) would be a viable alternative, although the Head of one of these centres felt 3 months would be "better still". The meeting therefore considered that there was a good case for the provision of State Remand Homes in the larger centres of population.

To date (i.e. April, 1946) the proposed alternatives for the under 17's may be listed as follows :-

Proposed Alternatives for the Under 17's :-

- (1) Probation.
- (2) Probation, with condition of residence in a Home or Hostel.
- (3) Detention in a Remand Home.
(There was in fact pressure to extend s.54 of the 1933 Children and Young Persons Act to allow a Court to order detention for not more than 3 months. Provision for State Remand Homes was also suggested, as well as provision for greater expenditure on after-care.)
- (4) Committal to an Approved School
(Shorter sentences were under consideration, although it was agreed that the 3 years maximum should still stand. Further, Maxwell et al felt that the Home Secretary should be required to classify Approved Schools in order to provide some considered suitable for short-term training.)
- (5) Borstal training
(A similar classification to Approved Schools was envisaged here.)

The proposed alternatives to imprisonment for the over-17's at this point were :-

Proposed Alternatives for the Over-17's :-

- (1) Probation.
- (2) Probation plus conditional residence in a Home or Hostel.
(This would be widened to include provision for "neglectful mothers" to receive training, with their children.)
- (3) State Remand Homes.
(With a maximum sentence of 3 months.)
- (4) Detention in a police cell for not more than 3 nights, at intervals.
- (5) Borstal training.

It was felt that the upper age limit for detention in State Remand Homes should at first be 18, and that "power should be given to raise this age separately from the minimum age for imprisonment".²⁰ The meeting appreciated the complexity of these and other provisions for offenders which lay before them for consideration, and thereafter divided themselves into 2 smaller Working Parties: Lionel Fox and Samuel Hoare were to deal with preventive detention for persistent offenders, Borstals, and prison managements; whilst Harris and Newsam were to deal with probation, and adolescent offenders (excluding Borstal).

It is from this particular point that the Home Office discussions began to evolve in such a way that the embryonic Detention Centre (still not named as such) emerges clearly and unmistakably, both in /and conceptual terms in its finer details. The existence, and fine detail, of this discussion, available through the records released by the Public Relations Office, are particularly interesting and useful, not merely because of what they reveal, but because most standard text-book accounts assert that there was little or no discussion, either beforehand, or during the period of legislation itself; e.g. :-

"There appears to have been little discussion of the idea at the time of legislation.. "
(Hall-Williams, p.330)

Discussing the revised Criminal Justice Bill in April of 1946, Alexander Maxwell commented to the Home Secretary that their decision on Attendance Centres was now final :

"(We have) ... come to the conclusion that we ought to drop provision of compulsory Attendance Centres, either :

- (a) provided by the State for 17-21s, or
- (b) provided by local authorities for 12-17s

because the Probation Officers think it is more likely to do harm than good. There will be no possibility of establishing at such centres the tradition of discipline and good order which can be built up in an institution or a club General opinion is that such centres may become centres of contamination rather than schools of discipline." 21

Sir Alexander then reminded the Home Secretary of ACTO's position on short-term institutions for young offenders :-

"All ACTO are agreed that some sort of short-term system of training under detention is required both for offenders under 17, and offenders 17-21. They say that recent experience has shown clearly that in both these age-groups there are many boys who do not require long-term training either in Approved Schools or Borstals, but who do require a short period of strict, disciplinary training." 21 (my emphasis)

In the same memo, the Permanent Under-Secretary of State points out that as far as the 1938 Criminal Justice Bill's intended Howard Houses were concerned, these ought to operate in conjunction with Probation Orders, since :

"It is doubtful whether young offenders can be controlled in in hostels from which they go out to work." 21

Maxwell then goes on to outline ACTO's precise proposals re: short-term training, and this is the first detailed and specific reference to the institution which was eventually named the Detention Centre :

"The ACTO recommend that courts be given power to sentence offenders under 21 to a period of 3 months' disciplinary detention, and they think this period of detention should be passed under conditions different from those which obtain in a Remand Home or in such a Remand Centre as was proposed under the 1938 Bill. The provisions of suitable institutions for this purpose and the maintenance of systems of discipline which will prevent such institutions degenerating into "prisons"

will be a difficult task, but it seems right to make provision in the new Bill for experiments on these lines to be tried." 21

Thus, it would appear that by April 1946 the demise of the Attendance Centre ~~idea~~ was, as indicated earlier above, intimately connected with the rise of the Detention Centre idea. As the doors shut on one, they opened on another in such a way, as has been indicated above, that their separate histories are not therefore, exclusive.

The ultimate 'creation' of both served to concretise the concept of a short-term means of dealing with young offenders, albeit along different lines, since Attendance Centres do not institutionalise as such. The apparently insuperable problems surrounding Attendance Centres led Home Office personnel (and particularly Maxwell, Fox and Harris) to attempt a reconstruction of the idea. With the aid of ACTO, the emergent solution had become, by April 1946, something closely akin to the Detention Centre.

Maxwell and his colleagues were aware of the danger that Magistrates might send youngsters to these short-term institutions for 3 months who ought really to go to an Approved School, or a Borstal, but hoped that courts "would learn to draw a proper distinction between those who require long-term training, and those for whom a short period of training will be sufficient." 21

The reference to and concern with a training type of element as a fundamental characteristic of such an institution has, by this time, become fairly well established.

Within one week of the Home Secretary's agreement in principle on these matters, Mr. Harris's Working Party had prepared a draft memo on the subject to present to ACTO for their May 21st meeting:-

"... with a view to provision for this new form of treatment being included in the Criminal Justice Bill." 22

A Home Office note on the document prepared is little more than a precis of the original, with, significantly, an additional closing heading entitled :

"(F) Bringing the System of Detention Centres into Operation", in which it is noted that restrictions on new buildings suggest that it may be "several years before the provision of such institutions will be practicable."²³ The original document presented to ACTO, and divided into 5 sub-sections is one of major importance, and hence requires some detailed appraisal.

D. "Deterrent Short-Term Detention of Offenders aged from 14-21."²⁴

The 5 major sections of the document deal with the following matters:

A : Qualification for Sentence

B : Nature of the Regime in a Detention Centre

C : Length of Sentence and Release

D : Institutions

and EE:: After-Care

The first section, "Qualification for Sentence" defines the type of young person for whom the sentence is intended :

"... young people on whom probation or fine makes no impression, but who, in the opinion of the Court, do not yet require a long period of training such as would be provided by an Approved School or a Borstal institution ... "

The principal purpose is to give such a person "a jolt which may in itself be sufficient to prevent further misbehaviour". The main aim of this would be to show that "they cannot ignore the law with impunity". It is obvious here that, despite comments to the contrary in standard accounts, there was a fairly careful consideration of who was to be sent to a short-term institution and on what grounds.

The Home Office (and ACTO) were also concerned to ensure that there would be little likelihood of magistrates sending young people to such centres who did not really fulfil these conditions, and that it would not

be used as a substitute for Approved School or Borstal training. They felt that there was a "serious risk" that magistrates would tend to use Detention rather than commit to a Quarter Sessions for Borstal - particularly if Courts of Summary Jurisdiction were not given the power to commit directly to Borstal. Part of this problem was the difficulty in defining to any precise degree the type of offender who was to be sent to one of these Detention Centres. The stipulation, at the opening of the paper that he should be a young person who did not require a long period of training made no specific reference to his individual (criminal) history. In the event, their specification read as follows :-

"... to provide that where an offender of the appropriate age groups: (a) has been convicted of an offence for which the Court has power to impose a sentence of imprisonment with or without having failed to pay fine;²⁵

(b) the offender has not previously been sentenced to imprisonment or Borstal detention (or detention in a juvenile Detention Centre); and:

(c) the Court is satisfied that the offender does not require training in an Approved School or Borstal institution, the Court may impose a sentence of months' detention in a Juvenile Detention Centre."²⁴

The original also debarred any boy who had previously been committed to an Approved School, but Maxwell crossed this out personally on the original document, thus widening the range of young offender who could be sent to a Detention Centre - an ironic act, since Grunhut's later research showed very low success rates for boys going to Detention Centre after a period in an Approved School.

The second section of the document, which deals with the regime of the new centres, places emphasis on the deterrent aspect of the sentence "as a primary factor". That it is not for the young person who needs prolonged training is strongly emphasised, in terms of the time available and the "conception" of the sentence. Hence deterrence is the result of deprivation of liberty rather than of any specific methods

employed during the sentence; although it is also stressed that the "brisk and disciplined life with a minimum of physical amenity" is intended to contribute to the boy's awareness of this deprivation.

The contradiction inherent in this penal philosophy emerges clearly in the very next paragraph :-

"But the effect of this will tend to be negative unless, within the limits of what is possible in such a community, some effort is made to find out what is wrong with the boy and set it right." 26

The social-psychological overtones of this explicitly training element; "find out what is wrong" are, on the fact of it, fundamentally at odds with the concept of deterrence, until it is remembered that two of the main reasons why such a group of offenders were not to be sent to a Borstal, are, by implication :-

- (1) because they do not require a prolonged training; and
- (2) because there would be a risk of "contamination" from more sophisticated and experienced offenders.

These 2 factors are of central importance in the creation of such a regime. But, theoretically, they do not in themselves exclude the possibility of at least a prima facie attempt at reformation. What they do ensure, however, is that deterrence (because of the time limit) must assume an important role. In this sense, and at this economic-political conjuncture, the recommendation is contradictory only on the surface, when viewed in abstract philosophical terms. In terms of the concrete reality of the ideological, it is wholly explicable. Furthermore, it ties in with and reflects back upon my central thesis, expounded earlier in this study; i.e. both the concern with the notion of discipline in the Foucaultian sense, and the more contemporary concern with discipline exemplified in Morrison's attitude at the ACTO meetings in the mid-1940's :

"... offences ... for which some deterrent method of treatment is a requisite for the discipline of the offender," (see 18)

The third, long, section deals with the length of sentence, and release, matters which relate directly to the 2 preceding sections. In legislative terms, Home Office personnel and ACTO saw the Detention Centre system explicitly as a development of the existing power of detention for 1 month in a Remand Home under s.54 of the 1933 Children and Young Persons Act. The Advisory Council had in mind an extension to "not less than 1 month not more than 3 months", and the question facing the Home Office was "whether there might not be advantage in going further, even as far as 6 months".²⁷ Concern had been voiced that a 6-month sentence might suggest (to magistrates and public alike?) that "training" was to play a central role - and this was not what was intended. Maxwell et al held that a range of sentence was usually only necessary to "cover offences of varying gravity and offenders of varying character". Ex hypothesi, it was considered that "these are all thoughtless young people (who are) not yet of such bad character that training is necessary", (my emphasis), a point of considerable importance in the rationale for Detention Centres, and certainly designed to exclude those for whom Borstal, etc. was intended.

They required, in simple terms, "a short, sharp jerk" Hence they concluded :

"... the underlying principle of the sentence does not necessarily call for this wider range." ²⁸

Any break in full-time education for those of school-age was also a matter of concern, and this worry in itself lent weight to the notion of deterrence via a very short sentence. Indeed, even for those young people at work the effect of the "jerk" was considered to be in direct proportion to the length of sentence :-

"... the longer he has to get used to the conditions in the Centre, the less impressive will the 'jerk' eventually become in its immediate effect on his mind." 29

The Home Office were opposed to Detention Centres using the sort of discretionary release which operated in Approved Schools and Borstal, but nevertheless favouring a remission of not more than 1/4 "as an incentive to effort and good behaviour", but applicable only to sentences of over 1 month. Finally, they pronounced in favour of a uniform sentence of 3 months, on the basis that this would allow both for stability of population, as well as for the regime "to be better arranged" - presumably for organisational convenience.

The penultimate section of the paper deals with the thorny problem of institutions, and staffing. It is significant that until this point in the paper there is no mention of any division into the 14-17 and 17-21 age groups³⁰ that Detention Centres now deal with. The basis for such a division were not arbitrary however, and the beginnings of a rationale for it can be clearly seen in this section of the paper.

The section opens with the following statement :-

"The question of the institution in which these sentences shall be served has to be considered in relation to the provision which it is proposed to make in the Criminal Justice Bill for State Remand Homes, or Centres." 31

Exactly why this should be so is not explained, but it is possible that the reasons were 2-fold. Firstly, to take account of, and allow for some liaison, regarding the types of offenders and attendant regimes in either provision; and secondly, to take account of economic matters, and particularly in relation to capital output, staffing and plant availability.

The paper then outlines the provision for State Remand Centres, which were for the age-group 14-17 (including persons sent for observation "with a view to a report on mental condition, as well as

those considered unruly or depraved), and also, separately, for the age group 17-21 (i.e. all persons who would prior to the 1947 Bill, be sent to prison on remand or committed for trial).

The report expected the new Bill to raise the prohibition of imprisonment from 17 to 18 (which would correspond with the age of military service as well as "the age up to which part-time education would be compulsory under the Education Act"). This would ensure that young offenders on remand up to 18 years of age would be sent to State Remand Centres emphasising again the division into the 2 groups which needed to be held in security other than prison around 14-17 or 18 years of age, and then 18-21.

The problem thus facing the Home Office was whether or not the young offenders who were to receive "short, sharp jerks" should experience them under the same roof as the remand cases. It was decided, after considerable discussion, that it would be possible for Detention Centre inmates in the lower age-group to share premises with Remand Centre inmates, for the following reasons :-

- (1) Remand Centre inmates would include many cases of the same type "as those for whom the proposed sentence of detention would be appropriate";
- (2) the experience of handling the one class would be of assistance in handling the other;
- (3) from the point of view of staffing, it would be an advantage to have these 2 classes in the same institution, "even though they would not be under the same regime".

These factors they felt would apply equally to young people sent to Remand Centres on a certificate of unruliness or depravity as to those sentenced for "observation of mental condition". Thus, they conclude :

"From the administrative point of view, therefore, there is everything to be said for making the State Remand Centre the place of detention for this age group." 32

It was envisaged that a separate block of the Remand Centre could be provided for detention cases, with the requisite staff, although use could be made of the facilities for treatment (e.g. education by the remand side), "and both remand and detention sides would benefit from being in proximity within the same building".

With the 18-21 group, the matter was more complex, for:

"These are young men of military age, and ex hypothesi, difficult and unresponsive." 33

Even at this early stage in planning, it was considered probable that this form of sentence, for this age group, would be extensively used, and that it would thus, by sheer numbers "distort the normal functioning of a Remand Centre", already sufficiently complicated by the number of classes it would have to deal with, and adding to it "what must be virtually a prison block for a considerable number of difficult young men". 33

But there were further drawbacks. Staff recruited and trained primarily to deal with children and adolescents in the open conditions of a Remand Centre would not necessarily be the best people to handle the young men in "what must be the more secure and rigorous conditions of Detention".

The report felt bound to recommend, therefore, that the Criminal Justice Bill contemplate the setting up of separate establishments for this age group "which might be called Juvenile Detention Centres". 34 The complications of the relationship between Remand Centre cases of both age groups, and Detention Centre cases across the whole age range, led them to explore, at this point, the pro's and con's of various means of dealing with both.

In sum, the possible solutions to such problems seemed to range over the following :-

- (i) sharing of premises between Remand Centres and Detention Centres for the age group 14-18 only; and separate institutions for 18-21 Detention Centre cases;
- (ii) the placing of 18-21 year olds on remand or committed awaiting trial in a separate part of the Detention Centre for this age group;
- (iii) the placing of 18-21 year olds on remand or committed awaiting trial in a Remand Centre with 14-17 year olds;
- (iv) two separate types of Remand Centres, one for 14-17 year olds, and one for 18-21s.

Finally, the paper concludes that the Bill should give powers to the Secretary of State and

- (1) set up State Remand Centres;
- (2) set up Juvenile Detention Centres;
- (3) set aside part of a State Remand Centre to be a Juvenile Detention Centre.

Both (1) and (2), although no detail is offered, would seem to cover the whole age-range and possibilities in both cases, whilst (3) indicates a pragmatic solution to the economic, plant, and staffing problems raised earlier in the paper.

It should be noted that even a careful and detailed reading of this paper does not reveal any fine details on the 2 institutions. It is not clear, at any point, whether the term "Juvenile Detention Centres" covers the whole of the 14-21 age group, or part of it. Neither is it clear which age group of the Detention Centre population might share premises, etc. with a State Remand Centre, and it is not clear if either

institutions should separate out into 2 age-groups each.

Such absence of necessary detail may have been the result of a lack of answers on the part of the writers of the paper, or an unwillingness to be more specific at this stage, particularly about economic matters! It may also have been a deliberate ploy to pass the responsibility to ACTO, or parliament, although the former is much more likely! In addition to this, it is abundantly clear that Home Office personnel had come to enjoy a considerable degree of autonomy in the penal decision-making process. The very complexity and profusion of committees, sub-committees and ad hoc bodies which operated at the Home Office influenced or otherwise by outside pressure groups as well as by personal predilection, ensured a relative autonomy for not only the Permanent Secretary of State, Sir Alexander Maxwell, but for other personnel involved as well!

Finally, the authors of the paper turned their attention to the matter of after-care. It was considered "quite inappropriate" in the case of a Detention Centre sentence for any system of release on licence to obtain, since the actual sentence of detention was intended to be primarily deterrent.--Any other approach would have contradicted the very rationale of the Detention Centre - the provision of a short, sharp shock. At the same time, "arrangements for after-care" were considered desirable, although it was appreciated that it would be impracticable to make release conditional upon the offender observing such arrangements, since, in the event of his failing to do so, "the only sanction would be a further period of detention, or imprisonment". Both these alternatives were considered inappropriate since the sentence of detention was intended to be imposed once only, and if it failed to have effect the offender "must be left to be dealt with by other methods of treatment".³⁵ Arrangements for after-care therefore, could

only be on the basis of "voluntary co-operation" by the offender after his release, with the responsible authorities. The report considered the Probation Officers to be the most appropriate person to undertake such responsibilities, and that he would do such work in close contact with the Detention Centre authorities. Again, this attitude is derived from the recourse to a treatment based primarily on deterrence and brevity of sentence - in direct contrast with the Borstal system, and its different aims and methods of treatment. By implication, therefore, the minimal "training element" in the Detention Centre was not thought to need the support of after-care.

All in all the paper presented ACTO with a considerable amount to examine and pronounce upon. But in the light of the previous debates at the Home Office, and the closeness of the relationship between ACTO and the office of the Permanent Secretary of State Maxwell, it is unlikely that either the broad concepts or the finer detail would come as a surprise to it.³⁶

For ACTO there would be two problems :-

- (i) to justify to a wider audience the complex conceptual elements of the short-term institution;
- (ii) to allow for the actual implementation of the provision, bearing in mind contemporary economic exigencies.

Indeed, in a memo from the Home Office which summarises the paper to ACTO, the economic problems are raised, in :-

"With the present restrictions on new buildings, we suggest it may be several years before the provision of such institutions will be practicable." 37

The position of the Home Office and ACTO was further strengthened when in July of the same year, the Magistrates' Association sent a document to the Home Office on the Criminal Justice Bill, stating quite

categorically that they were strongly opposed to the plans for Attendance Centres. The idea had, in fact, already been deleted from the Criminal Justice Bill, but their opposition served to encourage the new plans put forward by the Home Office and ACTO.³⁸

E. Modifications of the Proposals in the Criminal Justice Bill of 1988:

By February of 1947, the original proposals of the 1938 Bill had been considerably modified, and added to. A comparison between the two would read as follows :-

PRINCIPAL MODIFICATIONS OF THE PROPOSALS IN C.J.B. of 1938

PROPOSALS OF 1938	NEW PROPOSALS
Initial financial assistance towards establishing new PROBATION HOMES and HOSTELS to be given by local authorities, subject to grant.	Initial financial assistance towards establishing PROBATION HOMES and HOSTELS to be given by the Exchequer, the expenditure being met in part by subsequent contributions by L.A.'s.
In addition to state REMAND CENTRES, STATE REMAND HOMES to be provided for purpose of observing persons under 17 on whose mental condition a medical report is required.	Power to approve PROBATION HOMES and HOSTELS, and to make rules for their regulation and management.
Compulsory ATTENDANCE CENTRES for offenders 17-21, and juvenile compulsory Attendance Centres for 12-17	Such observation to be carried out in L.A. REMAND HOMES, or where facilities for observation are not available, in STATE REMAND CENTRES.
HOWARD HOUSES for offenders 16-21	Practical problems i.e.: maintenance of order and discipline
Punishment of offenders under 17, by detention at a POLICE STATION overnight, on not more than 3 occasions.	<u>Reasons:</u> <u>ALL</u> <u>DROPPED</u> <u>Reasons:-</u> Considered better use/ extend/improve facilities for residential treatment, providing Probation Homes and Hostels.
	<u>Reasons:-</u> Police reluctance.

Provisio of DETENTION CENTRES to which offenders 14-21 may be committed by Courts of Summary Jurisdiction for detention for 3, or exceptioally, up to 6 months.

Imprisonment not be imposed on offenders 16 or 17, unless offender is certified to be too unruly or too depraved to be detained in a REMAND HOME.

Prohibition of imposition of imprisonment by Courts of Summary Jurisdiction on offenders under 17, and under 15 by Courts of Assize and Queens Sessions. (If could send, only when already sent Approved School or 6 months Detention Centre and this proved inadequate.)

Imprisonment not to be imposed by Court of Summary Justice on offenders under 18, if Court can order the offender to be detained in a Detention Centre.

Reduction to 21 of upper limit of age for committal to BORSTAL detention.

CORRECTIVE TRAINING 2-4 years, for persons 21-30.

CORRECTIVE TRAINING 2-4 years, for persons over 21.

PREVENTIVE DETENTION 2-4 years, or in certain cases 4-10 years, for persons over 30.

PREVENTIVE DETENTION 5-10 years, for persons over 30.

The introduction of the Detention Centre system seemed by late 1946, early 1947, only a matter of passage through parliament and legislation in the Criminal Justice Act. Discussion still continued however on the pro's and con's of the system, and a considerable amount of correspondence passed between interested parties on the fine details of how the system would operate. A letter from Mr. Harris (of the Children's Department) to Alexander Maxwell provides a typical example of this. Harris was worried about questions of policy on the proposed provisions to restrict the imprisonment of young offenders, and particularly about the use of Detention Orders. In June of 1947, before the 2nd Reading he wrote to Maxwell, setting out various hypothetical cases of boys under sentence, in order to explore the possible outcomes re: sentencing where a Detention Centre was not available in the locality. Among the questions he

raised were the following - in a situation where no Detention Centre was available :-

"What is to happen if a person 14-17 is fined and refuses to pay?

Should he be sent to a Remand Home for 1 month?

What if he is too unruly for this?

Nothing can be done!

Should he be sent to an Approved School?

This would be difficult - especially if he has not committed an offence for which an adult could be sent to prison

Should we fine the parent instead?

Awkward! "

39

Harris comes to the conclusion that the case illustrates the advantages which would have been available if Attendance Centres had been kept in the Bill! But he finds the situation equally problematic where a Detention Centre is available, viz:

"In this case the court should cease to have the power to commit to a Remand Home for a month. If the offender is 14-17 and has been once to a Detention Centre and then goes to court again, is fined, and then refuses to pay the fine ... there is nothing that can be done!

We cannot send him to a Detention Centre for a second time!

We cannot send him to a Remand Home !

We cannot send him to prison! "

39

But, he also points out, if the offender is 17 or 18, and has been to a Detention Centre, then the court could send him to prison. In this case, Harris felt, it would be better for the young offender to serve a second spell in a Detention Centre. Nevertheless, Harris foresaw 2 objections to a second Detention Centre sentence :

(1) repeated use of a Detention Centre as an alternative to imprisonment - bearing in mind the intention behind its creation;

and (2) the disadvantage of having, in a Detention Centre, a person whose stay (if the fine is small) is likely to be less than

the 3 months for which detention in a Detention Centre was intended, and which could be even less if the offender is released on part-payment of the fine.

Harris's pessimism was based largely on an understanding of the way courts would be likely to operate, as well as on an acute understanding of the predilections of individual magistrates! He reaches no conclusions in his letter, but asks Maxwell if "we should therefore allow the courts to sentence twice to Detention Centres to cover such events?" Sir Alexander Maxwell recognised the complexity of the problems raised, but refused, predictably, to allow them to dampen his enthusiasm on the Detention Centre idea. The pro's and con's had already been raised and debated in detail, and he did not feel any of them to be insuperable.

Nevertheless, in his reply to Harris, only a few days later, he did agree that with reference to the clause on Detention Centres (re: Clause 18) the Criminal Justice Bill should make provision for imposing a second term at a Detention Centre to cover default of fine for unruly offenders, if the offender was under 18, and the court was satisfied that there was no other means of dealing with him. The same principle should apply to defaulters over the age of 18 "if, on his first detention, he was less than 15 years old". 40

Maxwell's response was therefore pragmatic and designed no doubt to calm any fears emanating from the Children's Department. In the event, in October, 1947, another objection from the Children's Department reached the Home Office. The objection was to the alteration to Clause 18 (2) (b) in the 6th Point onwards of the Criminal Justice Bill, which allowed for children in the age-group 14-16 to be sent to a Detention Centre more than once:-

"We meant that this should only be so if it was for default of payment of fines, and NOT for any other reason. We therefore strongly object to this alteration." (their emphasis) 41

Harris continued to encounter problems, and they were not all financial by any means. In June, of 1948, he was approached by the London Juvenile Court Chairman with a request for discussion on Detention Centre sentences for the 14-17 age group. The interview between himself and two representatives of the Chairmen is noted on his file. The Chairmen insisted that (contrary to opinion elsewhere) the recourse to 1 month in a Remand Home, provided for by the 1933 Children and Young Persons Act, was "frequently used". Their opinion was that 3 months in a Detention Centre was far too long for the 14-17 year olds, and they did not feel justified in using it; partly because it interrupted school life, and partly because they doubted that the strict disciplinary measures to be employed in the Detention Centre "can be maintained at a full stretch for as long as 3 months".⁴² Harris explained to the representatives that the 3 months was in order to avoid a rapidly shifting population, but agreed finally that Clause 18 should be amended to allow a young person in the age-group 14-17 to be sent to a Detention Centre "for not less than 1 month and not more than 3 months".

The Juvenile Courts Chairmen had already sent a deputation to the Home Office the previous December (1947),

- (1) urging that for Detention Centre inmates under 14, it should be feasible for them to go to school in the day-time, and return to the Detention Centre at night; and
- (2) that considerably less than 3 months would be effective in most cases, "where children are concerned."

The first matter was totally rejected by the Home Office, on the grounds that this form of institution was already catered for by Local Authority Remand Homes. They were, however, "sympathetic" to the second point, which is probably why it was passed at a later date.

F. Support for Detention Centres:

Also in the December of 1947, the Council of the Magistrates' Association went so far with their support as to recommend that the provision of Detention Centres be extended to cover young offenders under the age of 14 years, although in separate buildings from older Detention Centre inmates, declaring that :

"The Council believes that there are many under 14 who need a short, sharp sentence, and power to order 1 month's detention in a Remand Home is largely ineffective, as the delinquent is mixing with those on remand, those awaiting vacancies in Approved Schools and those in need of care and protection or beyond control." 43

The Council also recommended that a Detention Centre sentence be followed by a period of supervision not exceeding 12 months, with the sanction of either a fine or another month's detention, thus contradicting the position previously suggested by both Maxwell and Harris. For them, after-care must be essentially voluntary. Their attitude to the regime was not exactly the same either, for they "urged" that education and training be provided in the institutions, and recognising the importance of the quality of staff appointed. The letter is acknowledged, but we do not know if any discussion took place thereafter, between the Magistrates' Association and Home Office personnel. The latter were, as indicated earlier, above, more concerned by this time with financial matters. With the Bill through its Second Reading, the old problem of economic provision for the development of the scope of the prison service was in the limelight again. It is interesting to note at this stage that there is now no further mention of the original Home Office proposal that Detention Centres share their premises (or partly share their premises) with remand prisoners. Although partly based on economic rationale, i.e.: to save money, the Home Office speaks hereafter of only a separate plant provision for Detention Centres. The economic problems would be

difficult, particularly of the division into the two age-groups now maintained, but it appears that the problems of "sharing" with Remand Homes and Remand Centres were, by this time, considered insuperable.

It was estimated that the building programme alone would occupy 1250 men for 5 years, although it was agreed that this could be reduced if prison labour was used. Harris, in his estimates of man-power requirements for Remand Centres and Detention Centres, felt that :-

"It is not likely that any will be built in the first financial year, or indeed it is not very likely they can be built until well on in the period of 5 years thereafter." 44

Harris estimated, on the basis of 1945 figures, that whilst the daily average population (D.A.P.) of Remand Centres was likely to be about 500 :-

"For Detention Centres, this is difficult to estimate, as this will depend on the extent to which courts make use of the new power. But it is estimated that the daily average population will be about 1,000." 44

This gave a combined daily average population of 1,500, and for this Harris estimated the prison service would need a staff of about 500. It is this and other similar economic shopping lists that indicate the probability of the gap (which did in fact lie ahead) between the legislation of Detention Centres in 1948, and their actual inauguration in 1952, as well as the slow rate of growth in the first few years.

G. The Templewood Amendment:

Little reference has been made in this chapter so far to the history of the debate in the two Houses of Parliament. The discussion on Detention Centres in parliament was somewhat limited, in comparison with the extensive business that went on at the Home Office, and in associations like the Howard League, and advisory committees like ACTO. When the debates in Hansard are examined, a further point is noticeable, and that is that although the debate in the Lords was more lively, and to a certain

degree more informed, neither Lords nor Commons were particularly au fait with the details of the provision for young offenders generally, or the provision for Detention Centres specifically.

The leader of the debates in the House of Lords seems to have been Lord Templewood (formerly Sir Samuel Hoare), who had been responsible for a large part of the 1938 Criminal Justice Bill, and in particular for the provision of Attendance Centres. Their disappearance in the new Bill, following discussion at various levels (see earlier in this chapter) had disturbed him greatly. In principle in support of a short-term type of provision, he found them preferable to Detention Centres for 2 reasons :-

- (1) because they did not have the 'taint' of prison on them - as he assumed a residential institution would;
- (2) because they did not take offenders of school-age away from their studies; and
- (3) because they would (theoretically) have been cheaper to run - although this would have been largely dependent on where Attendance Centres were situated (police stations, or new building for example).

By the end of May, 1948, it was clear in the Lords that members were still confused as to what Detention Centres were, who was to be sent to them and why, and how they were to be run. Comments like the following were all too common:

"I do not know what the aims of Detention Centres are, or what is the discipline or training." 45

and:-

"I think those whose duty it is to pass sentences have the right to know what corrective treatment consists of, and what will be the discipline or other training which will take place in the Detention Centres." 46

In response to such pleas for detail, the Lord Chancellor had attempted to classify the situation :-

"... I think it very desirable that we should have a system in a Detention Centre whereby we can bring home to a wrong-doer, by means of a short but sharp punishment that he had very much better not work against society but try to become a useful member of it. That is the line on which we shall try to work these centres." ⁴⁷

This statement in itself went very little way towards satisfying the Lords on the detail of Detention Centre provision. It was the rhetoric they had heard on several occasions and held little useful information! On the increasing tide of annoyance, Templewood made his move:-

On June 2nd, 1948, in the Committee Stage of the Criminal Justice Bill, Templewood stood before the Lords and formally proposed the deletion of Clause 18 (detention in a Detention Centre) and substituted the following clause :

"... provision of compulsory Attendance Centres and juvenile compulsory Attendance Centres."

The Lords, including the Lord Chancellor, must have listened with patience and interest, for Templewood still commanded a great deal of respect from his colleagues, based on the hard work he had put into the 1938 Bill, as Samuel Hoare. Opening his remarks, Templewood noted that in drafting the 1938 Bill, he and his colleagues had come to 2 conclusions, after considering a variety of alternatives, viz: that we needed, in the sphere of short-term discipline or training:

- "(1) some new form of a quick, sharp punishment that would not mean a break or a serious break, in a young offender's life;
- (2) residential hostels to which a young offender could be sent, say for 6 months, and at which he would have to live under supervision but ... be able to continue his work outside."

For the first, Templewood ⁴⁸ said, Attendance Centres had been proposed, "for, say, loss of a half-holiday". For the second, a residential hostel had been proposed. He reminded the House that both of these proposals had disappeared, leaving Detention Centres in their place. The substitute was inadequate and undesirable, he said :-

"I regard the proposal with very grave apprehension ... My anxiety is shared by the Magistrates' Association ... and they take also the view that there is a grave risk of these Detention Centres becoming nothing more than little short-term prisons for the young. They do not draw a distinction between 14s to 17s, and 17s to 21s. As I read the proposals ... all young offenders from 14-21 are to be concentrated . They are to be taken away from their ordinary work. We have been told nothing about what kind of treatment is to be given, and what methods of training are to be used for variable times of their detention - up to 6 months Whilst at one end we have restricted imprisonment for youth, at the other end we will be re-creating it with these new institutions." 48
(my emphasis)

He then moved his amendment, commenting :-

"... I regard the present plan of Detention Centres to deal with a variety of totally different cases as a very dangerous one." 48

The response was cautious. For reasons the Home Office were later to outline, Lord Goddard was luke-warm about the amendment. A hard-liner, he already objected to the lengthy of sentence in a Detention Centre :-

"If you are going to send boys to these Detention Centres, you should give the courts the power to send them for at least 12 months, or something of that sort," 49

on the grounds that there were already far too many people before the courts with a string of "30 or 40 convictions", and who have had "repeated short sentences passed upon them". 49 Thus, Goddard was not likely to be enthusiastic about an Attendance Centre provision, with a sentence in hours rather than months, and organised on a non-institutional basis. Besides, he doubted the practical likelihood of getting such a system off the ground :-

"If we accept that (i.e.: Attendance Centres) we shall have Remand Homes, Remand Centres, Detention Centres, Attendance Centres - besides prisons. I have the greatest doubt whether we shall ever get these things going in anything like a reasonable time." 50

The Lord Chancellor, on instructions from the Home Office, then stated his opposition to the amendment, offering 2 reasons :-

- (1) there was no chance (he said) of finding premises for Attendance Centres; Detention Centres, he said, were an experiment; i.e.: something which is not a prison, not run like a prison, but "does contain an element of short-term rigorous training"; and:
- (2) there was a major problem with Attendance Centres concerning the training of suitable people to work in them. The police were "too hard-pressed" to fill such a role. (He had no doubt also seen Harris's figures on Manpower Requirements, mentioned earlier in this chapter.)

Finally, to right matters, he informed the House that Detention Centres would be split into 2 age-groups, and adding :-

" it will be a long time before we can build Detention Centres, but where we do build a Detention Centre, I am afraid it will be used all hours of the day and night. The prospect of building a compulsory Attendance Centre which will go for Saturday afternoons, is obviously utterly impractical at the present time." 51

Templewood could only comment that the present proposals confused two separate issues, the stoppage of half-holidays and the concept of a training institution, asserting that "these are 2 distinct proposals".

Eventually, however, the amendment was withdrawn, and Clause 18 was agreed to by the Lords.

The matter did not rest there however. Templewood was still dissatisfied, and his dissatisfaction was aided by the fact that the debate on the definition of the Detention Centre continued apace.

Clause 44 of the new Bill provided that the Secretary of State "may provide Remand Centres, Detention Centres, and Borstal institutions for the detention of persons required to be detained therein under this or any other Act". Taking advantage of this, Lord Schuster moved to omit the phrase "Detention Centres", in order to give Lord Chorley "an opportunity, which I am sure he will welcome, of telling us what is the

meaning of the words 'Detention Centre'." ⁵² Chorley's reply was no more informative than the Lord Chancellor's had been on a previous occasion:

"The object of the Detention Centre is to provide a short, sharp term of punishment for a lad, in order to bring him right up against the fact that he has committed a crime against the community it will no longer be open for courts to impose a sentence of imprisonment for a lad under the age of 17, and therefore it is necessary to provide some alternative form of punishment. It is thought that special imprisonment, but in a building divorced from the sordid and unpleasant atmosphere of the ordinary prison, will be the best method of dealing with the lad 14 to 17, who, in the view of the court, is not an appropriate person to be sent to an Approved School." ⁵²

And, for the over-17's :-

"The primary object of this sentence is not ... reformatory." ⁵²

So, the questions and doubts continued to pour in :-

- "So far I have had no explanation which gives me a picture of what they are going to be like." (Templewood)
- "How are we going to deal with the two classes of young lad and older offenders?" (Templewood)
- "How are we going to deal with offenders who have quite a short sentence, and offenders who are to have a sentence up to 6 months?"
- "What plans have we for building Detention Centres? When will the first be ready, and where, and how many?" (Llewellyn)
- "I thought the object of the government's proposals were reformatory, but these are for punishment !! What about remission?" (Goddard)
- "I ask the government to withdraw Detention Centres until we have some policy which can be placed before the courts, and until the courts can be informed as to what is meant by TREATMENT in a Detention Centre!" (Goddard) ⁵³

and:

- "I know what a prison is, and I know what a Borstal is, but nobody reading this can ever know what a Detention Centre is!" (Simon) ⁵⁴

This is all that Schuster was able to glean, and in final exasperation, he withdrew his amendment, commenting wryly :-

"... this appears to be a device which is intended to perpetuate the short sentence which cannot reform and is merely intended to punish."

Templewood did not let the matter drop. On the 23rd of the same month, less than 3 weeks later, his namesake, Samuel Hoare received a letter from the Office of Parliamentary Counsel, dealing specifically with Templewood's amendment to provide for compulsory Attendance Centres (s5) Parliamentary Counsel advised that the clause on Attendance Centres be inserted back into the Criminal Justice Bill after Clause 18 (Detention Centres), with the following provisos:

- (i) that sentence to an Attendance Centre be for young people not less than 12, but under 21,
or for failure to comply with the requirements of a probation order;
- (ii) that the sentence should not exceed 12 hours in aggregate;
- (iii) that a young person could only be sent to an Attendance Centre if he had not previously been sentenced to imprisonment, Borstal, Detention Centre, or Approved School.

Although these recommendations were based on Clause 31 of the 1938 Criminal Justice Bill, they also included 2 main changes, viz:

- (1) in accordance with instructions from the Home Office (i.e.: Hoare) there was to be no distinction between State compulsory Attendance Centres, and compulsory Attendance Centres provided by the local authority. This was to partly assuage attendant financial problems;
- (2) Clause 31 of the 1938 Criminal Justice Bill had authorised a maximum number of 60 hours. This was considered too many (it also increased financial and plant problems), and hence the figure of 12 hours was introduced.

Both changes were made to bring the provision for Attendance Centres "into more correspondence with Clause 18 of the new Criminal Justice Bill". The rationale for both these changes also ensured a potentially lighter economic

burden, in terms of financial outlay and personnel. The new clause however should not provide (cf. Templewood's suggestion) that a person could not be sent to an Attendance Centre if he had previously been to prison or Borstal. The reason for this is not stipulated, but it is most likely to have been that the reduction to 12 hours maximum for Attendance Centres meant that they could not be viewed credibly as an alternative to prison or Borstal.

The Lord Chancellor's response to the Parliamentary Counsel was favourable. He understood, he said, why "the Attendance Centre thing" had been dropped earlier, but still thought it might be "a good idea".

Harris's response to the advice from Parliamentary Counsel was that it be allowed to go through the Lords, and, if they accepted it, to accept it on behalf of the Government:-

"... while pointing out that there can be no guarantee that it will ever be possible to work these provisions."

Sir Alexander Maxwell agreed with the whole matter, and particularly Harris's comment on implementation :-

"... make it clear that the Home Office feels grave doubt as to whether it will be possible to devise a workable scheme and that the most that could be done, when conditions permit, would be to make an experiment." 56

Nevertheless, Hoare confided in a colleague that it was equally possible that Templewood's amendment would be rejected by the Lords, and especially by Lords Goddard and Schuster, representing the hardliners and the reformers respectively :-

"... who think that there are far too many Clauses already in the Criminal Justice Bill relating to provision of institutions, which there is no immediate prospect of bringing into existence." 57

Templewood's pressure had succeeded. The amendment was actually accepted by the Lords, with no serious dissention, and the House turned its attention

back to the matter of Detention Centres again. The concern over young offenders in Detention Centres of compulsory school-age had not abated. Speaking to the Third Reading, in July 1948, the Lord Chancellor voiced the fears of many people :

"The London Juvenile Courts Magistrates have been to the Home Secretary and have pointed out to him that in regard to young offenders, children of compulsory school age, children of 14 or 15, 3 months may be too long because it means a considerable break in the child's school life ... it would (therefore) be desirable to confer on the courts the right to send them to these centres for as short a time as 1 month." 58

He therefore put the following amendment to the House, to be inserted after Clause 18, and to read thus :-

"(c) if the offender is of compulsory school age, and the court is of the opinion that a term of detention of 3 months ... would be excessive, the term for which he is ordered to be detained ... may be any term of not less than 1 month and not more than 3 months or the maximum term .." 59

The amendment was agreed to, and raised no further debate. It would ensure however, that if used to any great extent, then the deterrent aspect of the Detention Centre regime must necessarily assume dominant proportions for these offenders. A sentence of approximately 1 month could hardly allow for reformatory-type treatment. It would only allow for an immediate short, sharp shock, thus fulfilling only part of the (stated) philosophy of Detention Centres.

H. The Debate in the Commons

The debate in the Commons was more obscure, less informed, and with no real 'leading actors' as far as the provision of reliable information went.

Chuter Ede's speech, introducing the Second Reading of the Bill opened with direct reference to prison statistics re: young offenders.

In a statistical comparison between 1938 and 1947, he pointed to the increase in the number of offences, and in the number of prisoners convicted, "in almost every form of serious crime". In November 1938, he pointed out, there had been 11,086 in prisons and Borstals, whilst in 1947, there had been 18,426 :-

"The greatest increase tends to be in the young offender field. For example, of all adolescents (before the courts), 7% were sentenced to imprisonment in 1938, and 17% in 1945." 60

He concluded from this state of affairs that :

"Undoubtedly, the most difficult and distressing problem which confronts us is the problem not merely of the juvenile but of the adolescent criminal ... and, if we can reform them, we can prevent an increase in the number of habitual criminals ... They are, as it were, our last hope of preventing the growth of a habitual criminal population." 60

Outlining the proposals in the new Bill, he described Detention Centres thus :-

"(It is for) a type of offender whom it appears necessary to give a short but sharp reminder that he is getting into ways that will inevitably lead him into disaster. Their regime will consist of brisk discipline and hard work." 60

The members learned little more than this. Like their counterparts in the Lords, they repeatedly asked for more information generally, but particularly on Detention Centres, since some members tended to confuse them with Remand Centres. In the debate around the 2nd Reading, a member commented :-

"This Bill can be summed up in one sentence: it regulates the power of the courts to pass sentences; and it gives the Home Secretary power to establish institutions. It gives a very large blank cheque to the Home Office. It is astonishing that ... no one has yet asked what is the Detention Centre to be? ... No one has inquired as to what corrective training is to be given." 61

No one appeared to be able to offer him any more detail than that which was already available.

On April 15, 1948, an amendment was moved on Clause 17, to insert a paragraph on supervision under a Probation Officer in the post-sentence period of a Detention Centre order. The amendment would serve to make this compulsory, and it received objections from all sides. The amendment was thus withdrawn, with Chuter Ede commenting that Detention Centres were for that "small minority of young offenders for whom there is no possible alternative",⁶² adding that the institution of Detention Centre would serve to add another provision to those already available, making the total young offender system more comprehensive and enabling courts to "select the treatment most appropriate in the light of the circumstances of the individual case".⁶³ The number of prison and Borstal institutions in use had increased considerably since the beginning of the war, and it was no doubt hoped that the advent of the Detention Centre would lighten the burden on staffing and organisation in these 2 areas :-

Nos. of Prison and Borstal Institutions in use :-		
Prisons	1939	1947/8
Men.....	30	37
Women (a)	7	8
TOTAL	37	45
Borstals (b)		
Boys	10	16
Girls	1	4
TOTAL	11	20

Key:

- (a) Majority of women's prisons were located in a separate part of a men's prison. They are shown here though as separate prisons.
- (b) Certain Borstals were located in separate parts of prisons. These also are shown as separate establishments.

It was in the wake of this enthusiasm for Detention Centres, tempered by a despair from some quarters that detailed information on regime would never be available that Templewood's amendment on Attendance Centres finally swept through Parliament. It was introduced in the Commons by Mr. Younger, a junior Home Office minister, who, although commending both the original basis of the idea as well as the changes, pointed out the extent to which they would "limit the possibilities of offenders contaminating each other", and stressing the great financial difficulties that the scheme presented, concluding "the experiment therefore will be of a limited character".

It is evident from an examination of the debate in both Houses that the lack of information on Detention Centres was not so much about its *raison d'être*, or the aims it hoped to achieve, or even to any great extent for which group of young offenders it was intended, but what would happen inside it!

I. The 1948 Criminal Justice Act

The Act became law, following Royal Assent, in July 1948, and was seen, in essence as a great step forward in the furtherance of the reform ideal. It was presented to Parliament in the following terms :-

"To abolish penal servitude, hard labour, prison division, and sentence of whipping, to amend the law relating to the probation of offenders and otherwise to reform existing methods and provide new methods of dealing with offenders, and persons liable to imprisonment, to amend the law relating to the proceedings of criminal courts, including the law relating to evidence before such courts; to regulate the management of prisons and other institutions and the treatment of offenders and other persons committed to custody; to re-enact certain enactments relating to the matters aforesaid, and for purposes connected therewith." 65

'The Times' (July 31, 1948) announced that "the guiding principle of the Act is that there must be no despair of humanity", and informed the public that all possible emphasis was to be laid on the reform of the offender.

Briefly, its achievements were as follows :-

- (i) the abolition of corporal punishment as the sentence of the court, limiting its use to offences connected with prison: viz: grave assaults on prison officers, and mutiny;
- (ii) some adjustment to the death penalty regulations;
- (iii) the increased use of probation, including the condition that an offender should undergo mental treatment, where this was thought necessary;
- (iv) the introduction of preventive detention and corrective detention;
- (v) the increase of supervision after discharge.

With reference to young offenders, the Act was seen as supplementing the provisions of the 1933 Children and Young Persons Act, as well as legislating the recommendations of the 1927 Report, and the deliberations of the Advisory Council for the Treatment of Offenders; in that it took steps to further the long-drawn out process of removing young people under 21 from the scope of the prison system. The actual provision for young offenders may be summarised as follows :-

- (i) the provision of some place (not prison) to send 17-21 year olds, before conviction, and young prisoners under 21 who were deemed unsuitable for detention in a Remand Home;
- (ii) the prohibition altogether of imprisonment for persons under 15 years of age, and to limit the imprisonment of those under 17;
- (iii) to remove in the qualifications for Borstal training the limitation to criminal habits and associations;
- (iv) when alternative methods of dealing with young offenders had become available, to extend from 17 to 21 the age of complete

prohibition of imprisonment for young offenders found guilty by courts of summary jurisdiction;

- (v) (v) the provision of Approved Probation Hostels and Approved Probation Homes;
- (vi) the provision of Attendance Centres, for 12-21 year olds;
- (vii) the provision of Remand Homes and Remand Centres;
- (viii) the provision of Detention Centres.

Since the Act also abolished the sanction of corporal punishment except for grave offences in prison, it is highly likely that many people would conceive of the Detention Centre provision as a substitute for this, at least for the under 21's. Nevertheless, this, as I have indicated, cannot be seen as the sole *raison d'etre* for the setting up of the Detention Centre, as Land suggests :

"This new form of custodial treatment was a replacement for corporal punishment."
(Land, p.372)

It was not nearly as simple as that! The 1948 Act provided a Detention Centre regime for :

"... a person who is not less than 14, but under 21 years of age, when the court has power to impose imprisonment and if it has been notified by the Secretary of State that a Detention Centre is available for the reception from court of persons of his class or description (can) order him to be detained in such a Detention Centre." 66

The kind of offender to be sentenced to a Detention Centre had to fulfil the following requirements :-

- (i) the offence committed must be one for which a term of imprisonment could have been imposed;
- (ii) the offender had to be over 14 and under 21;
- (iii) no offender who had served a prison sentence or a Borstal sentence should be sentenced to a Detention Centre (s.18(2));

(iv) no offender may be sentenced to a Detention Centre unless the court has considered every other method of dealing with him, and found them inappropriate. (s.18(2)).

It is important to emphasise here that the last consideration (iv) considerably widens the terms of the original Home Office draft which I have referred to earlier in this chapter (see (24)), since the court must now also be satisfied that probation (not mentioned in the original) is also inappropriate. Furthermore, and perhaps more important still, the re-drafting implies, de facto, that the Detention Centre was clearly intended only for a minority (c.f. for e.g. Criminal Justice Act 1961) at this stage.

The basic provision was for a term of 3 months, but where the maximum term of imprisonment was less than that, the court could sentence for a term equal to that maximum, and if the maximum exceeded 3 months, and the court was of the opinion that, having regard to his special circumstances, a term of 3 months detention would be insufficient, the court could sentence up to 6 months or the maximum term, whichever was the shorter. In the case of an offender of compulsory school age, the term of detention could be less than 3 months, but must be at least 1 month, and this could only be ordered where the court was of the opinion that a term of 3 months (or the maximum term permitted) as described above, would be excessive.⁶⁷ An offender could be sentenced to a Detention Centre in default of payment of a debt or a fine (s.18(3)). The Act also provided that an offender not under 14 might be ordered to be detained in a Detention Centre in lieu of detention in a Remand Home, under section 54 of the 1933 Children and Young Persons Act, if a Detention Centre was available at the time for this purpose. (s.18(4)).

The regime of the institution was not to be clarified in outline until

the first Detention Centre opened in 1952. In the meantime officialdom and public were left with Chuter Ede's specification only :

"There is a type of offender to whom it appears necessary to give a short but sharp reminder that he is getting into ways that will inevitably land him in disaster. It is hoped that these Detention Centres which will be set up will enable that warning to be effectively given. Their regime will consist of brisk discipline and hard work." 68

The remainder was for the Home Office and the Prison Commissioners, and the Advisory Council for the Treatment of Offenders and other bodies to work out. They did not need to finalise such plans as they may have had until 1952. It is interesting to note however that Lionel Fox in his 1952 book on the English prison system, stresses the fact that the Detention Centre (not actually in operation at the time he was writing), despite the brevity of sentence, should not stop at simple deterrence. Indeed, Fox emphasised the notion that some "constructive form of training" was necessary, even within the short period of time available. It was to this end that Fox emphasised the central role to be played by "carefully selected staff".

Standard penology text books view the 1948 Criminal Justice Act as a progressive and reform-oriented piece of legislation. In a long-term historical perspective it certainly achieved many of the ambitions that the English penal system had nurtured since the time of Gladstone's recommendations. It was also, partly, a pragmatic response to contemporary problems, and particularly those of an economic nature, partly engendered as the result of six years of war-economy.

But the Act was more than that. It was designed to comfort the "reformers" (who were concerned to see a more humane penal system for young offenders, outside the confines of the adult prison and with an element of training/treatment), and appease the "hardliners" (whose main concern was to reduce the amount of youth crime by the only effective means, in their eyes, institutionalisation with a strong element of punishment).

But the introduction of Detention Centres was not merely an appeasement, a sop to Goddard et al, as may seem from a surface analysis. Neither was it an anomalous act, as several texts maintain. The struggle between the opposing interest groups certainly affected the timing of the Detention Centres entry into the English penal system, as this chapter has indicated. This chapter may also be situated as the "culmination" of the thesis followed through chapters 3 and 4, from Molony's complete rejection of the short term concept in 1928 through to the acceptance of it via the 1948 Criminal Justice Act. This thesis, throughout these 3 chapters, has attempted to outline this very complex social, political and penal history, and to place the gradual emergence of the Detention Centre idea firmly within its parameters. In doing so it has also attempted to demonstrate the fallacies and weaknesses inherent within existing quasi-explanations of the emergent Detention Centre ,

J. Conclusion

Hoare, Maxwell, Fox, Harris et al had been primarily concerned with formulating the concept of the Detention Centre, based on the rationale for extra provision for a specific category of offender who had hitherto been dealt with by other means (i.e.: via probation orders, Approved School, Borstal, or prison).

The type of offender was not new. What was new, and increasingly of concern, was the continuing rise in offenders for this category, and the increasing political concern for them in an era in which post-war capitalism needed to be bolstered and accommodated. In 1947, 21,152 boys and girls under 14 years had been found guilty of indictable offences in magistrates' courts, and 13,861 in the age group 14-17. In alarming contrast, in 1948, the figures were 26,715 and 16,991, an increase of 26%

and 23% respectively. The concern with youth in this period generally, both through welfare state legislation (see previous chapter) and then in the 1948 Criminal Justice Act, as well as the concern to keep young people out of prison, reflect the attempts to solve the problems presented by the "citizens of the future".

The preceding sections have indicated that the planning stage on Detention Centres had its roots from towards the end of the war period, and particularly from 1944, when the Advisory Council for the Treatment of Offenders (through the AJSC) were increasingly involved in the attempt to formulate a plan for some form of short-term deterrent sentence for 14-21 year olds. Their brief was a complex one, as has been indicated above, and informed largely by the dominant concerns of Maxwell, Hoare, Harris and Fox. Their problem, without a doubt, was to create a fusion between deterrence and punishment on the one hand, and rehabilitation and treatment on the other. The result needed to be a historically pragmatic response. The results were not merely contradictory, but representative of the major ideological contradictions of English penal policy during this period, as well as of burgeoning welfare state optimism. By the mid-1950's these contradictions would be even more acute.

The civil-servant near-monopoly in vital areas of discussion (not peculiar to this period alone) was exclusive to the extent that Parliament was denied the basic essentials required in the planning and discussion stage. They acted, in the true social-democratic mold, as a rubber-stamp on decisions already reached, inflicting change only on details of minor conjunctural importance. The Lords benefited from the presence of Lord Templewood, original creator of Attendance Centres and much of the 1938 Bill. His influence is illustrated, therefore, not only matters of a general nature on the new Bill, but more specifically in his successful attempt to re-introduce Attendance Centres at the eleventh hour.

Nevertheless, at the end of the day, it appeared that deterrence and punishment could be considered at least a legitimate partner of treatment and rehabilitation. Figures were too high, and contemporary penal philosophy - at pains to prevent and increasingly to cure - ensured it. Only economic factors prevented the fulfilment of the event until 1952.

In attempting to develop the stated aims of this chapter, which together might be described as an exercise in filling in the empirical and theoretical silences which have persuaded standard research that the Detention Centre idea is historically anomalous, inexplicable, and without socio-political antecedents, it should now be clear that the collective approaches of the standard text explanations (as far as they go) outlined in detail in the first chapter of this thesis, are both refutable on one level, yet understandable in their narrowness on another: some could not explain because of the confines of their epistemologies; some did not seek to; some were satisfied with hiatus.

This thesis, from the beginning, and particularly in the last 3 chapters, has sought to render as empirically and theoretically unacceptable, and incomplete, the 'standard' opinions, that :-

- (1) at worst, Detention Centres had no history at all, either on a penal level, or a socio-political level: at best, had an inexplicable and contradictory history;
- (2) Detention Centres sprang "fully grown like Athene" in 1947-48;
- (3) the Detention Centre idea was not discussed/formulated in any official quarters before the 1948 Act;
- (4) there was utter confusion across the board between the Detention Centre idea and the Attendance Centre idea;

- (5) the Detention Centre idea was totally anomalous to the general trend of the 1948 Criminal Justice Act with regard to young offenders;
- (6) no-one had any real idea (in parliament or Whitehall) of their purpose.

Furthermore, it is clear that the rise in youth crime, the debate over capital and corporal punishment, and the desire to train wayward youth had become dominant concerns, in ideologies and in practice, both in the political arena and in the socio-welfare arena by the middle 1940's. The interventionist state could not allow its youth, on the threshold of post-war welfarism, to develop (as it threatened to do) into a thorn in its flesh. At the same time its ideologies ensured it continued its attempts to keep young people out of the adult prison system, and confined within a specifically young-offender arena.

The next chapters will address themselves to an explanation of the history of the Detention Centre in its institutional phase, from 1952 to its threatened demise in 1974.

FOOTNOTES : Chapter 5

1. See: J.E. Hall Williams: "The English Penal System in Transition." Ch.23: Detention Centres. Pub. Butterworths. 1970.
2. Personal Minute from the Prime Minister, Winston Churchill, to the Home Secretary, Herbert Morrison. 13.4.44. Source: PRO.
3. Reply to Winston Churchill, from Herbert Morrison. 24.4.44. Source: PRO.
4. Reply to Herbert Morrison, from Winston Churchill. 28.4.44. Source: PRO.
5. Resolution from the Parliamentary Penal Reform Group, to the Home Secretary. 6.5.46. Source: PRO.- it is interesting to note that only a few months later, in November 1946, Lord Templewood, formerly Sir Samuel Hoare, the man largely responsible for the 1938 Bill, was defeated in the Lords in a motion urging the government to get the penal reform Bill through that session.
6. The Home Secretary, quoted in a Secret Memo to Samuel Hoare, (writer not identified) re: Extract from Minutes of a Meeting of the Legislative Committee, held on July 2nd, 1946. (Memo not dated.) Source: PRO.
7. At a Meeting of the Legislative Committee, held 5.7.46. Source: PRO.
8. The actual existence of this Committee is not referred to in penology textbooks. The most likely reason is that its existence was not made public in any way.
9. Sub-Committee of the Administration of Justice Standing Committee, on Compulsory Attendance Centres.
10. Templewood Papers, Cambridge University Library:- TEM. C.X. 6. Cambridge. 2.8.37.
11. Templewood Papers, Cambridge University Library :- TEM. X. 9 (27). 1939.
12. NB: this is altered to the plural from the singular in the original text.
13. Ref.: Criminal Justice Bill 1938, Cl.29.
14. An idea to which the police expressed opposition, on the basis that this would damage police-public relations, and affirm for them a predominantly punitive role. Source: PRO.
15. 2.11.45. Meeting of Principal Probation Officers. Source: PRO.
16. Minutes of 8th Meeting of the Administration of Justice Standing Committee. 10.12.45. Source: PRO.

17. Memo to Home Office from Mr. S.W. Harris. December 1945.
Source: PRO.
18. Minutes of first meeting of the Advisory Council for the Treatment of Offenders, 1944. Source: PRO.
19. Minutes of a meeting between two Heads of a Short-Term Approved School, and Fox, Harris, et al. at the Home Office. 2.4.46.
Source: PRO.
20. Criminal Justice Bill: Note of a Home Office Meeting 3.4.46.
Source: PRO.
21. Memo from Sir Alexander Maxwell, Secretary of State at the Home Office, to the Home Secretary 23.4.46. It is interesting, and significant, that all the Advisory Council for the Treatment of Offenders, including people like Margery Fry, agreed to the short-term institution idea, and to the ideology of training. SOURCE: PRO.
22. This action is noted in a Meeting on the Criminal Justice Bill held at the Home Office on 14.5.46, attended by Maxwell, Fox, Harris, Reynolds and Miss Goode (the Secretary). Source: PRO.
23. Home Office Note on Deterrent Short-Term Detention of Offenders Aged from 14-21. (Advisory Council for the Treatment of Offenders), A.C./68. May, 1946. Source: PRO.
24. The Deterrent Short-Term Detention of Offenders Aged from 14-21. Home Office 45/21950. 17.4.46. Source: PRO.
25. Original typing of the preceding conditional clause altered, and handwriting over top illegible.
26. See (24), para.6.
27. Ibid., para.7.
28. Ibid., para.10.
29. Ibid., para.11.
30. Or indeed, during previous Home Office discussions.
31. Ibid., para.15.
32. Ibid., para.19.
33. Ibid., para.20.
34. Ibid., para.22.
35. Ibid., para.26.

36. Details of most of the Advisory Council for the Treatment of Offenders meetings during this period, and especially the one in which this paper would have been discussed, are missing from the Home Office files. This assertion is therefore based on information gleaned from a detailed study of Home Office documentation of the relationship with the Advisory Council for the Treatment of Offenders. Indeed, the Home Office notes prepared for the Second Reading of the Criminal Justice Bill ACTO's role is made quite clear :-
"The provisions with regard to Detention Centres originated from representatives, made at a meeting of the Advisory Council for the Treatment of Offenders, and the scheme was shaped in consultation with the ACTO."
Criminal Justice Bill: Notes Prepared at the Home Office for 2R. 27.11.47. Source: PRO.
37. Home Office Note on the Deterrent Short-Term Detention of Offenders Aged 14-21. A.C/68. s 4.6. Source: PRO.
38. Document from the Magistrates' Association, on the Criminal Justice Bill. To: Home Office. 18.7.46. Source: PRO.
39. Letter to Sir Alexander Maxwell, from Mr. S. Harris. 28.6.47. Source: PRO.
40. Reply to Mr. S. Harris, from Sir A. Maxwell. 2.7.47. Source: PRO.
41. Memo to Home Office from the Children's Department on the Criminal Justice Bill, 1947. 15.10.47. Source: PRO.
42. Note of Interview with Two People on behalf of the London Juvenile Court Chairmen. 28.6.48. Source: PRO.
43. Magistrates' Association: Recommendations for Amendment of the Criminal Justice Bill, 1947: Source: PRO.
Letter to Home Office Re: Clause 17 (Detention Centres) 10.12.47.
44. Criminal Justice Bill: Estimate of Man-power Required. Home Office. S. Harris. 21.10.47 (Memo). Source: PRO.
45. Lord Goddard. H.L. Vol.155, col.495.
46. Ibid.
47. Lord Chancellor. H.L. Vol.155, col.552, April, 1948.
48. Lord Templewood. H.L. Vol.156, cols. 295-98. June 2, 1948. The similarity here is with Hoare's 1938 "nasty small boys' prisons" (see my page 183).
49. Lord Goddard, H.L. Vol.156, col.299. (2. 6.48).
50. Lord Goddard, H.L. Vol.156, col.300. (2.6.48).
51. Lord Chancellor, H.L. Vol.156, cols. 301-2. (2.6.48).

52. Lord Schuster, H.L. Vol.156, Col. 780, 781.
53. From H.L. Vol.156, cols. 781-783.
54. Viscount Simon. H.L. Vol. 156, col.785.
55. 23.6.48.
56. Home Office Memo. 24.6.48. Source: PRO.
57. Letter from S. Hoare to F. Mayell. 24.6.48. Source: PRO.
58. Lord Chancellor. H.L. Vol.157 (3R) cols. 360-1.
59. Lord Chancellor, H.L. Vol.157 (3R) col.362.
60. Chuter Ede. H.C. Vol.444, col.2130 onwards.
61. H.C. Vol.444, col.2285.
62. H.C. Vol.449, col.1309.
63. H.C. Vol.449, col.1366.
64. Compiled from Home Office Statistics.
65. H.C. Vol.443.
66. Criminal Justice Act, 1948 Clause 18.
67. Criminal Justice Act, Clause 18 (1).
68. Chuter Ede. H.C. Vol.444, col.2138 (2R) 1948.

SIX:

The SHORT, SHARP SHOCK

CHAPTER SIX

THE SHORT, SHARP SHOCK

Preamble:

The first part of this thesis has been concerned with an explanation of the gradual emergence and slow birth of the idea of a short-term form of institution for young offenders, set against the background of the gradual erosion of the hegemony of the prison generally, and the complementary and increased desire to keep young offenders out of prison. In doing so it has attempted to provide an alternative, realistic and more theoretically credible account of the emergence of the short-term idea, to the traditional textbook digests which have been unable to chart this history other than by designating it as an anomalous and largely irrational penal development.

The middle part of the thesis has attempted to outline the actual setting up of the Detention Centre system, from its legislative formulation in the 1940's through to the opening of the first Detention Centre, in 1952. This 3rd and last part, comprising chapter 6 and 7 will therefore be concerned with a rather different issue: that is the history of the Detention Centre from its inauguration in 1952 to its threatened demise via the Younger Report, in 1974.

It has been deemed necessary to divide this latter history into 2 sections, not for literary convenience, but for a very specific rationale, and one largely ignored by other penological literature. The first section, with which Chapter 6 will be concerned, addresses the nature and the character of developments in the decade or so between the 1948 Criminal Justice Act and the 1961 Criminal Justice Act. This span, not chosen in

arbitrary fashion, is of significance for the Detention Centre in that it was in the period between those two pieces of legislation that the Detention Centre developed from legislation for a minority form of provision (under the 1948 Act) with a tentative future and an 'experimental' rationale, through to a majority form of provision for young offenders (under the 1961 Act). Under the auspices of the 1961 Criminal Justice Act, there was a massive expansion in the use of the Detention Centre, and the opening of many new Detention Centres. This therefore constitutes a specific and very important first phase in the history of the Detention Centre in use.

The second section, with which Chapter 7 will be concerned, examines the period post-1961, through to the publication of the Younger Report in 1974. This decade is not only vital as a second stage in the history of the Detention Centre following its inauguration, but, more specifically, warrants analysis in the light of the direct contrast it presents with the previous section and period. This contrast is created by the fact that by 1974, despite expansion in the 1960's and the attendant move from minority to majority dispersal unit, the Detention Centre system was faced, quite categorically, with total shut-down.

The peak of usage in the early and middle sixties was followed hard upon by the 1969 Children and Young Persons Act (which legislated for the closure of junior Detention Centres), the 1970 Advisory Council on the Penal System Report on Detention Centres (which stressed the importance of the constructive, non-punitive element within the Detention Centre) and finally, the Younger Report, in 1974, which advocated the complete abolition of Detention Centres and their replacement with a general youth custody order. Hence the startling contrast between the two decades.

The main task then of these last two chapters, is to explain the history of these two decades, focussing on these two main developments - massive expansion and total abolition of the Detention Centre - which are particularly interesting in the light of the previous sections of this thesis in their essential policy contradictions, and ideological developments.

Before making a detailed examination of the first decade of the opening of the Detention Centre, it is necessary to consider the changing and complex structures of the post-war welfare state in which penal developments took place.

A. The Construction and Collapse of Post-War Hegemony: Economics, Social Structure and Culture.

"Undoubtedly the fact of hegemony presupposes that account be taken of the interests and tendencies of the groups over which hegemony is to be exercised, and that a certain compromise equilibrium be formed - in other words, that the leading group should make sacrifices of an economic-corporate kind. though hegemony is ethical-political, it must also be economic, must necessarily be based on the decisive function exercised by the leading group in the decisive nucleus of economic activity." ¹

The reconstruction of ruling class hegemony in the aftermath of World War Two must, in one sense, be located in the international stabilisation of the capitalist world, whilst in a more 'localised' manner, the beginnings of this process had already been grounded in the war period itself, exemplified in Beveridge and the reforms and legislation discussed in a previous chapter. Such a reconstruction was based on three contingent factors; firstly, economic factors, necessitating modifications in the internal structure of capitalism; secondly, political factors, which involved the extensive stabilisation of parliamentary democracy; and, thirdly, ideological factors, which entailed the marshalling of Western democracies in the face of challenge from the socialist world, and then of the development of "free enterprise" counters to Soviet power via the Cold War.

Both the Labour and Conservative parties made significant contributions to the route to 'stabilisation' in Britain. For the Labour Party, the period 1945-51 was one of particular significance in this stabilisation of capitalism, not the least because it was seen to hold the promise of greater advances for the people of Britain than had appeared feasible at any other previous time this century. But, paradoxically, with socialism apparently within reach, it also represented the end of an era - of everything that had matured in popular war. Labour's failure was that it tried to graft certain humane ideas of social reform onto a system of production it did not reconstruct. Social democracy became a real

substitute for socialism. Employment was kept full, but, as noted earlier (see Chapter 4), the real distribution of income (not between classes, but within one class, the working class) had already taken place during the war.

A severe wage freeze in 1948 was followed by a massive devaluation in 1949, triggered initially by Korean war inflation. The Labour Party also committed Britain firmly to the American side in the Cold War, in a Europe where every major political tendency slid into a middle ground, and where political life was stabilised around the key institutions of parliamentary democracy and the 'mixed economy'. The sacrifice of free prescriptions to the rearmament programme was the final piece of flotsam, before, in 1951, loss of nerve floated Labour - and with it the whole social-democratic interlude - out onto the tide. Yet despite this failure, the foundations of post-war consensus were laid in this critical period. They were, in sum: the construction of the Welfare State; the adaptation of capitalism to the 'mixed economy' solution; and the commitment to the 'free enterprise' side of the Cold War.

Labour planted the seed, but the Tories reaped the harvest, accepting the notion of a Welfare State as a necessary social cost - capitalism with a human face. Under the leadership of a reformed party under Lord Woolton and the 'new men', Conservatism moved into centre ground. The 1951 Conservative victory carried with it the Tory recognition and acknowledgement that the State should assume the responsibility for the general management of employment and demand, and was thus able to launch a popular consumer capitalism.

It is therefore important to acknowledge and understand that these developments were initiated within the logic of capitalism, and not against it. In attempting to absorb the various contradictory structures, British

capitalism was forced to 'recompose' itself along that path from laissez-faire to monopoly, initiated in the closing years of the 19th century. The fortunes of the system, and the fortunes of the Tory Party became indissolubly linked, via a vigorous Tory populism. The most succinct contemporary statement to this end is probably that by Anthony Eden :

"Our objective is a nation-wide property-owning democracy Whereas the socialist purpose is the distribution of ownership in the hands of the State, ours is the distribution of ownership over the widest practical number of individuals." 2

This then was the first stage in the post-war construction of consensus. The second was its political realisation - the so-called "politics of affluence", over which Harold McMillan later presided after 1957, with what seemed like infallible precision and ability, taking the Tories to the country in 1955 under the slogan "invest in success", and launching the now famous "you've never had it so good" slogan in 1957. The theme was sustained in the run-up to the 1959 election also, viz: "You've had it good. Have it better. Vote Conservative". "In short", Hugh Gaitskell was forced to concede, " .. the changing character of Labour, full employment, new housing, the new way of life based on the telly, the 'fridge, the car, and the glossy magazines - all have had their effect on our political strength".³ For Labour, no short-term electoral swing, but the whole structure and sociology of post-war capitalism seemed set against them.

The third factor which was a necessary contributory factor in this conjuncture was the development of the ideology of the "affluent society". The boom, the onset of rapid social mobility, and the temporary blurring of class distinctions for many had the immediate effect of diminishing the sharpness of the class struggle, or at least creating a hiatus in the storm. So did changes in housing (following a massive investment in this

area by the state and the private sector), in patterns of working class life on the new estates, and the enlargement of opportunities for some young people through the expansion of state education. Working class living standards appeared permanently underpinned from below by welfare, and stimulated from above by rising money wages.

The role of the ideological was to close the gap between the real, unequal distribution of wealth and power, and the 'imaginary relation' of the future equalisation of all citizens. This may be seen as an inflexion of the contradictory reality into the illusion of permanent progress to come. "Affluence" extrapolated the present into a future by its favourable side only. Thus, within its terms, monopoly capitalism, moving through welfare state politics and ideologies, came to be represented as the 'post-capitalist era'.

The whole enterprise required the most skilful political and economic management. The main economic trends which underpinned the affluence illusion had to be sustained, as had those social trends which appeared to favour the continuing hegemony of the few over the majority. Above all, the stabilisation of the institutional commitment of the masses to the system was necessary, binding the people to the status quo by consensus rather than simple coercion. The first objective was the task of the economic. The second was achieved through the deep adaptation of the Labour Party into an alternative party of capitalism. The third objective was, principally, the object of the ideology of affluence.

(i) Failure and Collapse:

The closure was never completed or secured. Its economic base was structurally unsound. Briefly, Britain developed into a third-rate post-imperialist state, failing to maintain her 1950's position as a leading world power. Inflation began to rise, as the competitive position

of Britain declined. The state was increasingly forced to intervene to maintain the national economy as a site for profitable investment. Further, the fragile consensus, outlined earlier, had been constructed across highly paradoxical phenomena. At home, the high point of 'affluence', in 1956, coincided with such highly un-consensual events as the Suez crisis; the Hungarian uprisings; the birth of the New Left; and the inception of extra-parliamentary politics in the anti-nuclear movement; and last, but not least, since it was to have no little effect on English penal and social policies, the emergence of a commercially-sponsored youth culture. All may be seen as discrepant phenomena of an 'affluent' society "floated out on the consensual tide".⁴ It seemed by the late 1950's that consensus, affluence and consumerism had produced not the pacification of worry and anxiety, but their reverse, a profound and disquieting sense of moral and political unease, shifting uneasily within the parameters of an increasingly unstable economic base

ii) Youth Culture:

The emergence of a youth culture has been mentioned earlier, above, but in terms of the structure of this thesis it is especially important, and thus warrants some detailed consideration.

When Great Britain emerged from the war, there already appeared to be a tendency for the generations to grow apart:

"'Youth' appeared as an emergent category in postwar Britain, one of the most striking and visible manifestations of social change in the period." 5

The previous chapters of this thesis have indicated that this was not a sudden emergence in the post-war period, but rather a growing concern and reference point for social welfare and government agencies. What is different about this period is that youth developed in cultural terms as well. The tendency was increased by the relative economic emancipation of working class adolescents in the 1950's, and the establishment of a

commercial market reinforcing and creating specifically adolescent desires in consumer goods services. What is particularly apposite here is the tendency which was very strongly in evidence by the middle 1950s, to perceive of all adolescents as members of a problem group. As Rock and Cohen have commented:

"We have had our Beats, Mods and Rockers and Hippies - all in their turn inevitably labelled problems. The first and greatest of this sequence was the Ted. He seems to stalk like some atavistic monster through much of the otherwise prosaic newspaper reporting of the 1950's."

Certainly the Ted was the epitome of the threat of youth in the 1950's, and furthermore, as Rock and Cohen have suggested, there is little doubt that modern youth, exemplified through the Teddy Boy, became the prime and central concern for media manufacture.⁶

As far as dress style went, the media construed sartorial uniformity as social uniformity - thus excluding the Teddy Boy, and much of the 1950's youth (who mimicked him in dress if not in social behaviour patterns) from a socially-acceptable form of adolescent style. Public pronouncements showed what sort of creature a Ted was. The Chairman of the Dartford Juvenile Court proclaimed to some offenders:

"You lads have set yourselves on a path of crime. You have turned yourselves into that very undesirable horrible type of youth which likes to call itself Edwardian, it is a lot of rubbish ... it will lead to prison or something worse." 7

Through this ritual denunciation not only did 'society' resolve an attitude towards the Edwardians, the Edwardians resolved an attitude towards themselves. In general terms however, despite his personal identity, the Teddy Boy was firmly placed in a galaxy of similar social types - thugs, spivs, and so on. His nature, and that of the contemporary juvenile delinquent generally, was clearly established. In time, like these other social types, he would become a model to be held up before society, so that right-thinking people could avoid his behaviour. He

became both the epitome of all that British youth should not be, and the rationale and reference point for official concern with youth.

The year 1955 witnessed actual changes in the pattern of delinquent behaviour. Although there were no outstanding dramatic incidents, the statistics of crimes of violence showed a large increase which was typically labelled as hooliganism or rowdyism. At the phenomenon spread from London incidents were reported from more and more seaside resorts and provincial towns. Isolated robberies and acts of vandalism - where the identification of the offender was dubious - were blamed on the Teddy Boys. And in 1956 there was a consolidation of the pattern of violence which had been apparent in the previous years. There were mass fights in some London suburbs. They were accompanied by vast pre-publicity through the media.

Rock and Cohen have suggested that the proliferation of riots which followed can be described in terms of :

" ... a particular feedback sequence in which an initial departure from valued norms is followed by a punitive reaction by the community. This reaction is more likely to take place when there is a gross lack of information about the potentially deviant group and its behaviour, and when the group is already regarded with suspicion and hostility by the community (as is the case with adolescents)." (see p.31)

6

Downes has suggested a framework for explaining delinquency which may be applicable to the Teddy Boys of the 1950's. He argues that many working class adolescents are dissociated from the system of school and work. They are not interested in, nor cannot relate to, the middle class standards which dominate the school. They also lack occupational inspiration, and do not question the social system which has allocated them to their roles. They are thus devoid of any aspirations towards achievement in school and work, and also of the idealism which appeals to their middle class counterparts. In a low-ceilinged market, they drift

through a series of dull, undemanding jobs which hold no future. Leisure therefore becomes increasingly important, since it potentially provides the excitement, self-respect and autonomy which are so conspicuously absent from work. It is at this point that the teenage culture becomes important - not because it is in itself delinquent, but because it generates precisely the values "missing" elsewhere. In the 1950's this took place at a time when the wages of adolescents were, for the first time, rising significantly faster than those for other age groups. They were thus given a new-found economic independence from their parents and were open to the attractions of the teenage culture.

The overall effect on the public was the amplification of strong disapproval and in many cases, fear; that on the social-welfare system the perception of a need to tackle this seriously-concerned social problem quickly and effectively; that in the Home Office and the Prison Commissioners an increasing recourse to the use of the Detention Centres. "Youth" thus provided a focus for official reports, legislation and official intervention of other kinds. "Youth", and especially deviant and delinquent youth, was therefore a major means of "binding" together the attentions of a wide range of interest groups. The first Detention Centre was opened as the seeds of the youth culture were shooting forth. By the early 1960's as the youth culture explosion seemed to have achieved its pinnacle, 9 more Detention Centres were in operation, 7 of them for senior offenders.

In terms of penal matters generally, developments were no less complex or profound. By the late 1950's two topics had captivated the imagination of grass root Tories - crime, and immigration. Both entailed the surfacing of themes of disturbance, not consensus or success. As has been indicated earlier, the Home Office had been concerned for

some time with the increase in figures for crimes committed by young offenders, and although the first Detention Centre did not actually open until 1952, this should not be seen as an indicator of any lack of concern on the part of the Prison Commissioners. The focus on crime generally was of considerable concern for the Commissioners and the Home Office. The focus on the young offender sector in particular was one of increasing importance. Whilst the main developments in the penal system in this period (roughly, 1948-1961) reflect the general political, economic and ideological parameters within which was constructed the new 'consensus' post-war Britain discussed earlier they also reflect a more complex and dialectical development of forces both within and without the parameters of Home Office policy and practice. These may be mapped out in the interpolation of instances resulting from the struggle between small pressure groups, (reactionary and progressive), both within and without official Home Office circles, and always affected often in both the first as well as the final instance via the limits imposed by Home Office finances, as and if they became available. Liberal reform ideologies and their representative groups, as always, were affected, and moulded by, available financial, plant, and personnel resources. Hence, the struggle towards change was determined both by broad political and economic developments, as well as by the relative autonomy of small pressure groups and individuals, and Home Office and public ideologies on youth, crime, and law and order.

Before turning to a detailed examination of the initial growth of detention centres in this period, I wish to provide a brief outline of general developments in the penal arena in the same period, attempting to indicate the emergent configuration of ideologies reflected in such development across the broad spectrum of penal policy. But before doing so, it is interesting in this context to return briefly to the youth

culture theme, discussed earlier in this section. It was noted earlier, in that section, that the emergence of a specifically youth-oriented culture, and, more importantly, the effects it had on the public as well as officialdom, presented a vital strand within 1950's penal policy generally; which makes it seem rather surprising that in her very long and empirically detailed paper on Detention Centres - a large part of which is directed to the 1950's - Hilary Land fails to address the topic in relation to the growth of the Detention Centre.⁹ On one level this is a rather surprising omission given that her study is generally very comprehensive in its sweep of detail; but the basis for her analysis tends to be oriented towards the work of individual actors and individual institutions, and largely those of an official nature (especially Parliament, and Prison Commissioners). Her study is therefore oriented towards a consideration of the effects of the work of such as Lionel Fox, Home Secretaries, the Howard League, the Prison Commissioners, etc., but not including a consideration of underlying social or welfare issues. This tends to be the central problem of her work, a failure to address those contemporary social, welfare and political trends which contributed to movements within the penal arena, complementary to the actions and philosophies of individual actors. This flaw in the epistemological basis of her paper is also responsible for her omission to make more than passing reference to the struggles over corporal and capital punishment. Indeed, her sole reference to one of them, viz:

"The debate about corporal punishment was renewed and magistrates asked for more detention centres." 10

is little more than a statement of fact.

There is also a silence on the reasons for the increased usage of the senior Detention Centres from the late 1950's onwards, despite her detailed references to the numbers of young offenders sentenced, as well as

to changes in regime and management over this period. For example, she makes reference to the fact that the Prison Commissioners pointed out in their 1958 Report that the first Detention Centre opened, a junior one, was "seldom used to capacity"; then goes on to tell us that the "main emphasis in the subsequent development of Detention Centres was to be on increasing the number of senior Detention Centres",¹¹ and noting that senior Detention Centres ran to full capacity throughout the period, yet failing to address the possible reasons for this, other than citing Grunhut's comment that magistrates were "keen to send offenders to Detention Centres".

Her course therefore tends to follow a descriptive rather than an analytical tract, despite early promise to the contrary. The only thread she maintains throughout her study which is of importance in this analysis is that which refers to the desire to keep young people out of prison. Thus her essentially microsociological approach denotes excessive (and largely uncritical) space to Grunhut's studies, and to individual opinion, but fails to examine the broader contemporary issues lying behind 1950's Detention Centre history.

B. Penal Practice in a Changing Society

(1) Introduction : the capital punishment debate:

Probably the most dominant struggle in the penal arena throughout the late 1940's, and the 1950's was that over the issue of the abolition of capital punishment. The 1948 Criminal Justice Act had abolished capital punishment except for very severe cases (see previous chapter), but had contained no provision for the abolition of the death penalty - a measure proving "a distinct disappointment to the abolitionists".¹²

Chuter Ede had managed to ensure that any amendment on the capital penalty should not be dealt with until the report stage of the 1947 Bill, when a decision could be made by the whole House on a free vote.¹³

In March, 1948, a new clause proposing the suspension of capital punishment for an experimental five years was tabled in the Commons (sponsored by among others, Sydney Silverman, Reginald Paget and John Paton). During the debate on the new clause, Chuter Ede (the then Home Secretary) spoke in favour of the retention of the death penalty-- although he had originally been in favour of its suspension in 1938. After a long and heated debate,¹⁴ the clause was passed by 245 to 222 votes. Although the Criminal Justice Bill then passed its Third Reading in the Commons without difficulty its passage through the Lords was dominated by the capital punishment debate. The real test for clause 1 (the capital punishment clause) was to come when the Bill went to the Committee stage in the House of Lords, where it was thrown out by a vote of 181 to 28. After a protracted struggle, the Commons managed to reinsert a new compromise proposal, Government inspired, with 307 in favour of the measure and 209 opposed. This compromised proposal seemed neither clear nor logical, and thus the Lords managed to delete it from the Criminal

Justice Bill by a vote of 97 to 19. Eventually, in order to halt the obvious delays the effect a continuing struggle would have on the whole Bill, the Government proposed :

"... to explore without delay the practical means there are of limiting the death penalty to certain crimes of murder in a manner which would not be open to the objections taken against the recent effort to reach a compromise." 15

Consequently, the measure passed easily through Parliament, and the Criminal Justice Bill received the Royal Assent on July 30, 1948.

Despite the general belief this created that the Labour Government would now not abolish capital punishment, the abolitionists were not too disheartened. The Howard League agreed to joint forces with the National Council for the Abolition of Capital Punishment (formed in 1925), and for the next 7 years the crusade against capital punishment was primarily the responsibility of the Howard League for Penal Reform.

The debate and the struggles continued to dominate penal matters throughout the 1950's. Its history is a long and complex one, but several landmarks are apposite to this study and as such need to be outlined: Chuter Ede's promise that an official enquiry would be opened led to the setting up of a Royal Commission on the death penalty, which collected its evidence from 1942-53 - by the end of which time the first Detention Centre had been in operation for approximately 12 months, and corporal punishment (except for serious offences in prison) abolished for 4½ years. The Royal Commission's terms of reference did not allow it to advise whether or not capital punishment should be abolished, but only how far and in what way the application of the death penalty should be limited, and what alternative punishments existed. The reformers took this as another piece of Government treachery, but Rose, in his history of the Howard League considered it was :

" ... probably wise to avoid the main issue if the Commission were not to split over it, and produce a divided report." 16

The Report rejected degrees of murder and suggested instead that the jury should have the power to say whether or not the death penalty should be imposed. Since jury discretion was against the whole trend of development of English courts, it was very unlikely that this would be accepted. By this time however, the Government had changed, and there was now a small Tory majority in the House. The key to future developments was the possible existence in the ranks of the Tories of enough M.P.s to bridge the gap between Labour supporters and Tory opposers to win the day. The case of the execution of Ruth Ellis in 1955 was followed swiftly by the launch of a new campaign for the abolition of capital punishment, and in November 1955, Sydney Silverman introduced a new Bill abolishing entirely the death penalty, and it moved through the Committee and Report stages unchanged, getting a Third Reading by 152 to 133 votes. With its rejection in the Lords, but the construction of a strong national campaign, the Government decided that it was time to produce their own measure and elbow out Silverman's Bill. The line they took was akin to the compromise resolution produced by the Labour Government in 1948, after the rejection of the suspension clause by the Lords. There were to be degrees of murder; capital murder was to apply to specific types of offenders "of the kind which, the Government maintained, public opinion thought most reprehensible", and all other types were to be given a life sentence.

The end result was the Homicide Act, 1957, the Lords, despite what Rose calls "the illogicality of degrees of murder", submitting "tame^{ly}". 17

With respect to young offenders, the Royal Commission itself was indicative of the continuing trend to both protect young people from the anti-social and negative aspects of modern life and to ensure they were dealt with in a manner befitting their age and experience. To this end

the Commission's brief included the instruction to ascertain, among other things, to "what extent the liability to suffer capital punishment might be restricted on account of the youth of the offender".¹⁸ There was also a suggestion that the age limit for the death sentence be raised from 18 to 21, although it should be noted that reprieves had been granted to persons under 18 for more than 50 years before these cases became exempt from capital punishment by law.

The history of the capital punishment debate may thus be characterised as a defeat for the traditionalists yet no great victory for the reformers. The former group were also to be thwarted by a complementary failure in the struggle to reintroduce corporal punishment. The crime rate started to rise noticeably in the mid-50's, capital punishment was no longer so readily available after 1957, and the second half of the 1950's witnessed the massive and threatening explosion of youth culture discussed earlier in this chapter. These three factors, alongside the developing trend in the prison system towards treatment and rehabilitation served only to create unrest among the traditionalists in the period ahead.

(11) Law and Order :

It is against this background that the opening of the first Detention Centres must be viewed. It is equally important to consider other contemporary reports in this period which inform the general directional trend in which young offender dispersal systems were moving.

Approximately 12 months before the first Detention Centre was finally opened, the Franklin Committee published its findings on Punishments in Prisons and Borstals.¹⁹ The Departmental Committee's major directive was to examine the problems of "particularly difficult" prisoners, and

whilst accepting that the problem was only a small one in numerical terms, it did nevertheless view it as one with which the penal system must come to grips in the fairly immediate future. It is clear from a reading of the Report that the Departmental Committee had little identity of interest with the Prison Commissioners, and roused strong disapproval from the Prison Commissioners in announcing their finding that there existed in Borstals what they described as "a policy of leniency". Furthermore, on the basis of certain evidence given before them and from their personal observation of the demeanour of some Borstal boys, they found that "discipline in general requires tightening, even at the cost of an increase in punishments", and that "the policy of leniency, appeasement, or soft treatment as at present interpreted is not having the success expected or desired". (para.33).

The Departmental Committee supported the need to set up a special Borstal-type of institution (opened in fact soon after publication, at Hull), for "hardened cases and persistent absconders", but intended to "train and not to punish". An increasing problem in this sector had come to be the continuing rise in the number of inmates absconding or attempting to abscond from Borstal institutions. The Committee suggested three reasons for this :-

- (1) the disintegration of the Borstal system during World War 2;
- (2) allied to this, the creation of a generation of very difficult to train young people, now in Borstals, who had suffered the most deprivation during the war period;
- (3) with the creation of open Borstals, "some lads who are sent there, would, by pre-war standards, have been sent to closed Borstals." 19

Whilst the first rationale is empirically viable, the second and third are interestingly conflicting, since the former reflects social-psychological notions of deprivation, the latter an appeal to a much more rigorously punitive notion of dealing with young offenders.

Indeed, the latter strand, an essentially punitive-oriented one, reflects very much the whole tenor of the Report, rendering it at odds with Prison Commissioner ideology, which was directed largely towards training, and later towards treatment. It is not surprising therefore that the Prison Commissioners were less than pleased with the tenor of certain of the findings of Franklin :

" ... the Prison Commissioners did not accept the existence either of this 'policy of leniency' or of the deterioration in discipline believed to have resulted from it." 20

Hence the Franklin report may be seen to reflect that stand of 1950's penal policy characterised by traditional and discipline-oriented overtones, yet complemented by the more reform-oriented rehabilitation policies of the Prison Commissioners.

The appearance of the Franklin Report, at a time when the internal organisation of the Detention Centre system was still at the planning stage, may well have contributed to the strictly disciplinary format it was to adopt. The Franklin-Prison Commissioners clash over the ideology and philosophy of punishment stands as an example of early 1950's penal ideology on such matters. The ensuing explosion of a highly visible youth culture which always appeared to break out on the perimeter of where acceptable and non-acceptable behaviour met added a great impetus to both a concern with young offender forms of treatment as well as a general public concern with law and order.

The other report of significance concerning young people during this period was not published until 1955, and was very different in

ideological tone, despite apparent parallels between the two reports. By the time the Underwood Report on Maladjusted Children had been published⁵ the categorisation of some children and young persons into a group defined as in need of special psychological attention had been firmly ground in mainstream ideology. "Maladjustment" was defined in the Report as :

" ... a term describing an individual's relationship at a particular time to people and lives which make up his environment." 21

and a maladjusted child (originally defined as a special category in Butler's Education Act, 1944) was defined as one "who is developing in ways that have a bad effect on himself and his fellows." The definition is broad if not sweeping and could as easily be applied to the young ("normal") offender as to the psychologically disturbed young person.

Various reasons were offered as to why and when the London Juvenile Courts were increasingly asking for special psychiatric reports, viz:

- (i) irrationality of child's conduct;
- (ii) in recidivism, the desire to establish if the child was capable of being influenced by ordinary methods;
- (iii) the relevance or presence of any additional (non-delinquent) trait;
- (iv) the general sexual nature of the offender;
- (v) when removal from home is under consideration.

The general view of both the Home Office and the Ministry of Education on such children was that they should be sent to a special school rather than an Approved School. The main recommendation of the D.E.S. Report was that a comprehensive child guidance service should be available from the Local Education Authorities, and that both the Ministry of

Education and the Local Education Authorities should keep under constant review the need for more places for maladjusted children over the age of 11, and especially boys with "I.Q.'s" less than 85-90. The centrality of the family in the nurturing of a "normal" and well-balanced child is evidenced in a careful reading of the Report. It is significant because of its contribution to this ideology vis-a-vis the family, during a period in which the government was increasing its hold via state welfare over what had traditionally been the exclusive role of the family, and at the same time asserting the primacy of family life and organisation in the development of "normal" citizens.

Although, like Franklin, the Underwood Report was centrally concerned with young people in need of state care, it is in many senses very different in its ideological overtones. The most important difference is reflected in its appeal to treatment via social-psychological methodologies rather than Franklin's concern with a punishment-oriented simple training philosophy. Viewed in this way it is Franklin's ideology rather than Underwood's which is reflected in the organisation of the early Detention Centre system. The latter report reflects the growing "scientism" of social-welfare and punishment methodologies, and especially the appeal to psychology, the history of which is outlined in an earlier chapter. At this stage in its history, the appeal to treatment with psychological overtones whilst attracting a growing audience was still forced to ride "on the back" of more traditional training with a methodology characterised by strong disciplinary overtones.

This growing emphasis on the reforming possibilities of prison had become an integral part of official policy and ideological practice by the time the White Paper "Penal Practice in a Changing Society"

appeared.²² Complementary to this was the developing appeal to the role played by scientific research, tempered by the realisation that despite the firm establishment of rehabilitative optimism and the increased emphasis placed on the efficacy of such research, the actual figures for offences committed had continued to fluctuate and mostly upwards, since World War II, with a noticeable slump in the middle 1950's, followed by a rapid 10% increase in the period 1955-65.

This very increase, following an obvious and pleasing slump in the early '50's must have assumed some significance in the minds of those worried by them, growing in the belief that perhaps science could provide the necessary information and means to improve the efficacy of the penal system, where other means seem to have failed - a position derived from the principles of positivist criminology and bolstered by the increasing role of science and technology in post-war capitalism.

The White Paper states that :

"The purpose of this paper is first to give the facts that this situation is about."

(i.e.: the high crime rate)

Also, and then, the statements incorporated in "PPCS" are intended as prescriptions for further action, charting the direction for policy-implementation, and going on to "set out the proposals of the government for dealing with some of its aspects."

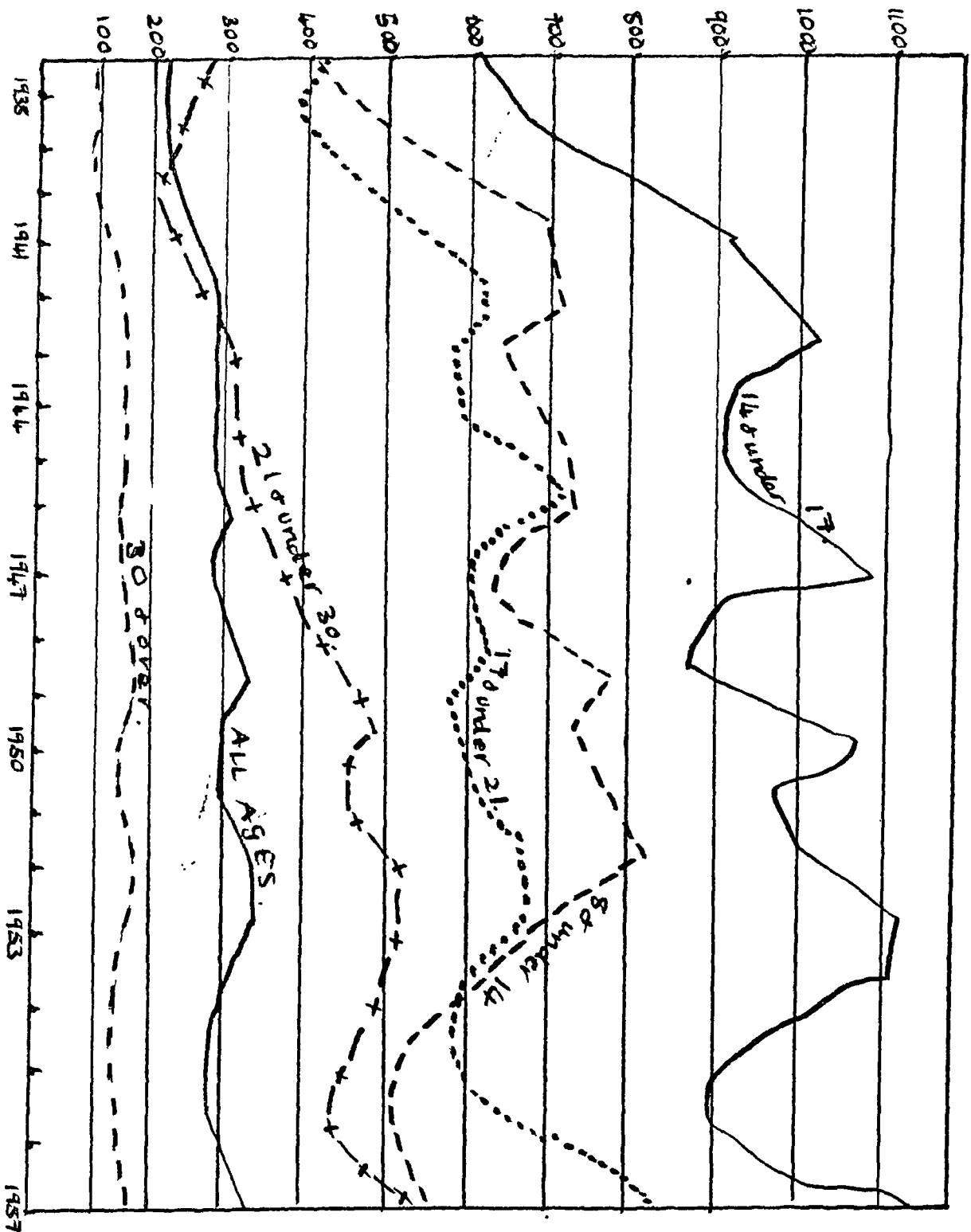
Also, it announced that :

"it is time to take stock of developments over the past 5 years in crime, the prevention and detection of crime, and the treatment of offenders, and to look again into the future." 22

The purpose then of "PPCS" was to :

- (i) present the facts;
- (ii) set out proposals;
- (iii) consider the prevention and detection of crime;
- (iv) plan for the future.

The essential spirit of the report may be identified as its concern to



INDICTABLE OFFENCES, 1938-1957: NO. OF PERSONS IN THE VARIOUS AGE GROUPS FOUND GUILTY PER 100,000 OF POPULATION IN THE AGE GROUP

(Source: "Penal Practice in a Changing Society." 1959. Cmnd. 645.)

examine the character and prevalence of crime in what was seen to be a rapidly changing society - in fact a post-war industrial society held together by a fragile consensus ideology - as well as a partial resolution of the problems in the penal arena via a form of rehabilitative optimism in the treatment of offenders. For these reasons, the White Paper must be viewed as representative of a forward-reaching and progressive movement within the penal system. It represents in essential terms the humanitarian ideology of 1950's penal reformers as well as its contradiction, their fears on recidivism and an increase in crime figures.

The recommendations of "PPCS", in sum, present a clear picture both of the central ideological concerns of the Prison Commissioners, as well as their main practical problems, viz:-

- (i) a review of the various forms of penal treatments available for the 17-21 year old age group;
- (ii) the integration of prison and Borstal into a single system of 6 months to 3 years. To this end it proposed a single indeterminate sentence of custodial training, from 6 months to 2 years, with release on the same principles as those which govern a Borstal sentence normally;
- (iii) more economic and advantageous use of the range of plant available;
- (iv) more research into the causes of crime;
- (v) the building of more workshops in prisons;
- (vi) an increase in the availability of psycho-therapeutic advice;
- (vii) an extension of pre-release parole;
- (viii) an extension of building programmes and an expansion of staff numbers;

(ix) a rapid extension, in terms of a building programme, to the Detention Centre system :-

"Six Detention Centres (4 of them completed) are in the present programme. Another six must be built." ("PPCS", para.89) and

"... the Detention Centre has a legitimate place in a variegated system of treatment for young offenders." ("PPCS", para.33, citing Max Grunhut's evidence)

But the overriding concern of the Report was the detestation of the local prison, seen in no uncertain terms as :-

" ... a monumental denial of the principles to which we are committed." (para.54)

which is a trend in official policy significant to this study, since it appears at the time Detention Centre expansion may be seen as nothing short of rapid.

These main points, referred to appear almost as a 'precis' of what was to be 1960's Home Office policy on penal institutions and penal practice. The development of a very firm, but in some way, humanitarian means of dealing with a specific fringe of young offenders who were at all costs to be kept out of the adult penal system, was part of this ideology and practice. The same concerns were reflected in the Reports of the Prison Commissioners; for example:

" ... the first concern of the prison department has been to preserve good order and discipline and provide for the basic needs of the inmates." 23

This was increasingly to be seen by the Prison Commissioners, and reflected in their reports, against a background of overcrowding, and an increase in population figures.

Since the partnership of the 1959 Advisory Council for the Treatment of Offenders Report on Young Offenders and the 1961 Criminal Justice Act were to have such a profound effect on the history of the Detention Centre during this early period of its life, they will be considered separately, towards the end of this chapter. Before such a consideration, one thing remains to be done: that is, a detailed examination of the history and development of the Detention Centre during the period under discussion - from the opening of Campsfield House in 1952, up to, but not including, the massive expansion which was to take place following the 1961 Criminal Justice Act. It is to this history that I now turn.

C. The Short, Sharp Shock

The first centre opened on August 25, 1952, at Campsfield House, Kidlington, near Oxford, in premises originally intended for use as a 'casual ward'. It was surrounded by open space, and hence seen to be "ample for both recreation and cultivation".²⁷ The building was adapted to give medium security, with an inner perimeter surrounded by a security fence. As a Junior Detention Centre, it catered for boys in the age-group 14-17 years. A second Detention Centre was already planned, in the premises of a former agricultural school (at Goudhurst, in Kent) and it was hoped it would be ready by the end of 1953. It was in fact not opened until 1954. This second Detention Centre was to serve as a Senior centre for boys (aged 18-21) from an area similar to that served by Campsfield House (re: the whole of the S. and S.E. of England and part of the Midlands).

An examination of the buildings acquired by the Prison Commissioners for the use as Detention Centres is very interesting, since it reveals several pertinent points. The diagram below indicates the acquisition of premises for Detention Centres during this period, and their previous, and in some cases, post use by the prison service.

DETENTION CENTRES : BUILDINGS FROM 1952-64

Year of Opening, and post and previous use

Year	No. Open	Name	Previous Use	Year Closed	Post-use
1952	1(JB)	Campsfield House	'Casual Ward'	- -	-
1953	-	-	-	-	-
1954	1(SB)	Blantyre House	agricult. sch.	-	-
1955	-	-	-	-	-
1956	1(JB)	Foston Hall	private	-	-
1957	1(SB)	Warrington	Approved Sch.	-	-
1958	-	-	-	-	-
1959	-	-	-	-	-
1960	-	-	-	-	-
1961	6	(Send (JB) (Aldington (SB) (Aylesbury (SB) (Buckley Hall (SB) (Medomsley (SB) (New Hall (SB)	Isolation Hosp. Open Prison Girls Borstal Boys Borstal Children's Home Open Prison	1940 - 1969 - - -	Senior D.C. - Y.P. Centre - - -
1962	3	(Erlestoke (SB) (Haslar (SB) (Moor Crt. (Girls)	W.D. Trng. Est. Barracks New	- - 1969	- - Women's Open Prison
1963	2	(North Sea Camp (SBO) (Kirklington (JB)	Borstal New Borstal Receptions	- - -	- - -
1964	4	(Latchmere Hse. (SB) (Swinfen Hall (SB) (Usk (SB) (Grendon (P.C.)	Allocation Ctre. Closed Borstal Borstal Psychiatric Ctre.	1971 1971 - -	Remand Centre Y.P. Centre - -

The increase in Detention Centres from 1952-60 after a slow start (by 1952, nearly 4 years after legislation, only 3 centres had been authorised and their openings were spaced out over a period of 4 years) is one of steady acceleration, with the opening of 1 Detention Centre in each of the following years, 1952, 1954, 1956, and 1957, in which period total receptions increased from 75 to 247, to 818, to 1093. The tendency from 1952, as the diagram indicates, has been to use existing premises for conversion to Detention Centres, and particularly those already used by the prison service. Buildings other than those already in the hands of the prison service have included a 'casual ward', an agricultural school, an isolation hospital, a children's home, a Works Department Training establishment, a barracks, and a private house, reflecting market availability at particular moments in time. One new institution was also acquired - Moor Court. Economic rationale - and restrictions - continued to ensure that the prison service made the best use of existing buildings and, where possible, the conversion of suitable buildings rather than building completely new units; with the proviso that every effort would be made both in the nature of the surroundings as well as the regime, to avoid "any prison flavour". Thus, when Campsfield House opened its doors to the first inmates in 1952, the staff were to wear plain clothes, and the Head of the Centre (a former Borstal housemaster) was to be known as the Warden.

(i) The Regime:

To devise a regime appropriate to the principles laid down by the Criminal Justice Act 1948 (s.18) and the Prison Act of 1952 (s.43) presented the Prison Commissioners with some problems. An earlier chapter in this thesis has outlined the contemporary confusion suffered in both Houses during the debate on the Criminal Justice Bill, and the

reasons for this confusion. It has also suggested that whilst the Prison Commissioners were to a great extent exempt from such confusion, they were however, necessarily touched by the various ideological contradictions of the system within which they worked (see this chapter, section B), as well as by economic restrictions re: availability of plant and capital for initial expenditure. The Prison Commissioners took great pains to outline in their Reports at the time (and especially in Prison Commissioners Reports of 1952 and 1953) that the regime in the new type of institution should be "strict and primarily deterrent in intention", and that the length of sentence would hardly allow time for a course of "constructive training". As previous discussion has indicated however, as well as in the growing spirit of rehabilitative optimism in official circles, every possible effort was to be made in the time allowed "to develop for mature influences and to encourage self-discipline". Exactly how such an aim was to be achieved was not specified in any depth.

Life at Campsfield House was intended to be "strict and rigorous". From the start, a boy was to be taught that "he must do as he is told". Each boy was allocated to a particular member of staff "to whom he can turn for help and advice, and who is charged with his personal care". Every officer was also expected "to learn as much as he can of his boys' qualities" and to report upon them and upon their "progress", to the Warden.

The Detention Centre Rules (1952) provided for a normal working week of 44 hours. It was hoped that apart from the domestic and maintenance work of the centre, the development of buildings and grounds would also supply a good amount. These buildings and grounds

were to be "cleaned up" at Campsfield House, and the laundry "put in order". The Prison Commissioners Annual Report for 1952 goes to considerable lengths to stress that great care was taken to ensure that "all work was useful and constructive", and that "boys could perceive that their efforts had direct purpose". A workshop was also made available "in which some suitable handicrafts" could be developed "as necessary".

It was also decided that the inmates should receive payments "related to their industry" in accordance with the rates approved by the Prison Commissioners. This could be spent in the canteen (on sweets and the like) but no smoking was allowed (presumably for reasons of health, as a fire precaution, and to "debar" inmates from teenage indicators of adult status). Initially, pay was up to 1s.6d. per week.

Since some of the boys would be of compulsory school age (ie: under 15) arrangements had to be made for their full-time education "within the normal working week". For those above school leaving age, arrangements were made for them to have part-time education, either within the normal working week, or outside it. The teacher appointed (a man) was supplied by Oxford Local Education Authority and 20 boys under the age of 16 had been received into his classes by the end of 1952. Part-time education was carried out in the evenings, and consisted of maths, English, and one evening's "practical work". (i.e. woodwork, metalwork, modelling, art and current affairs).

It was decided to use a 'grading' system as part of the means of encouraging inmates to adapt to their environment. All boys were made 'Grade 1' on entry, and promotion to 'Grade 2' (which included certain privileges) could be attained after 4 weeks at the Detention Centre. For more adaptable inmates remission with discharge could be attained for 1/6 of the whole term.

Recreation, in the form of P.E. and games, was to be both "hard and strenuous" in accordance with the general principles of the system.

(ii) Physical Training:

The 1952 Detention Centre Rules provided for "at least one hour a day" to be devoted to "physical training or organized games", and this was to form part of the working week. This tended to be translated in Detention Centres into 1 hour of hard circuit training per day, and reflects again the early appeal to a simple "training" element in the regime. Comparable rigours were never introduced into Borstals, which did not have a similar rule and were to be affected by "treatment" ideologies at a much earlier stage in their history.

The Prison Commissioners felt it would require the experience of some years to know whether "this novel experiment in the treatment of young offenders will have the effects hoped for". Presumption of success was based on the diversion of "a substantial proportion of boys from further delinquency", with the additional advantage that it would have been achieved "at the cost of 10 weeks absence from home" instead of a "prolonged period in another form of institution" (presumably Approved School or Borstal). The Prison Commissioners were also at pains to point out the relatively low economic cost of the new system (cf: length of stay in a Borstal).

But perhaps their overriding concern was that the regime should be seen to be positive in its effects, whilst remaining punitive in its intentions! :-

"If the treatment were to be punitive alone, then it would prove negative; the lads would be discharged from here physically fitter and more mentally alert, but possibly embittered, with the result that they might well become a greater menace to society. Something positive had to be evolved, and to this end, although the emphasis is, and always will be on the punitive aspect, two vital elements have been introduced which would elevate negative punishment into positive, intensive training." (see 27)

Again the emergence of the "training" element by the beginning of the 1950's is indicated clearly here. The Prison Commissioners intended that these "reform" and "educational" influences would play a prominent part in the life of the centre, and that their effect on boys departing the system would be that they would leave "not only hating the system but having developed a healthy respect for the law" and "a far greater appreciation of the qualities of all who try and influence them for good, whether it be in the home, on probation or here".²⁸

Rather than resulting in an unworkable union, punishment and treatment operated together as a complementary means of dealing with Detention Centre inmates, despite the fact that the actual degree of "treatment" meted out by staff in the institutions in those early days must be viewed as minimal.

(iii) Figures, Vacancies and Committals

210 boys were committed to Campsfield House during 1953. Committals up to March were heavy, and it became necessary to introduce a waiting list. Of these 210 boys, only 45 were first offenders, and 35 were ex-Approved School, with the following breakdown into ages :-

14 years :	59
15 years :	73
16 years :	78
	<u>210</u> : Total

One of the problems facing the Prison Commissioners was that of after-care. It was decided that the Warden would make contact with the local probation officer, who was to be provided with "sufficient information to help his interest in the case". Out of the first 31 boys discharged only 4 refused "voluntary supervision" which is probably a rather low number of refusals bearing in mind that state-organised after-care was still in its infancy at this stage, and that this category of offender is perhaps not likely to be the most conducive to a pastoral approach. The Prison Commissioners felt that the figures relating to the behaviour of boys after discharge "should be read with reservations at such an early period in the history of the Detention Centre". By this time (the end of 1953) Dr. Max Grunhut["] (based at Oxford University and therefore quite near to Campsfield House) had submitted his first report to the British Journal of Delinquency,²⁹ which indicated that:

- (1) the highest incidence of failure seems to occur during the first 3 months after discharge; and that
- (ii) a moderate criminal experience in the past does not rule out a fair prospect of success after detention; but boys who fail after a long-term institutional treatment will probably fail again, even after a period of detention.

This latter point directly reinforces the rationale of the Detention Centre system, as well as providing some concern about the efficacy

of the Borstal system in the light of Grünhut's prognostications on probable recidivism after longer-term institutionalisation.³⁰

Grünhut's findings were also bolstered (as well as dependent upon) the fact that in his first study 88% of the young men in a Detention Centre were not reconvicted during their first 3 months after release - the period usually viewed as that in which the young person is at greatest risk. Hence Grünhut concluded that "constructive after-care must therefore begin immediately after the boy's release from detention, and continue for a considerable time". The problem for the Prison Commissioners was that no easy solution was in view, for there was as yet no statutory provision for compulsory after-care.

During 1954 work continued on a second junior Detention Centre, at Foston, near Derby, and a building for a second senior Detention Centre was acquired at Werrington, in Staffordshire. (These were due to open in 1955 and 1956, but opened in 1956 and 1957 respectively.) Although the overall number of receptions increased in 1954, the number of committals fluctuated month to month. This increase was chiefly in the group of first offenders, with an increase also in those boys having 5+ convictions. Indeed, the opening of the first senior Detention Centre (Blantyre House) had caused some speculation as to whether the Courts would find enough boys in the 17-21 age-group to fill it. In the event, the institution operated with a near-maximum intake within a few weeks.

Of the 232 receptions in 1954, there was "... a wide variety of types" - first offenders, ex-Approved School boys, delinquent soldiers, young men who had failed to comply with the requirements of the National Service Act, and, by this time, the first trickle of "teddy boys" who were to provide a central focal point for Tory ideological outrage on deviant young people, manufactured in the mid-1950's, at its height by the late 1950's, as outlined earlier, and symbolic of all that threatened the domestic social and cultural equilibrium of post-war British capitalism.

Foston Hall Detention Centre was completed in 1955 and opened in January 1956, whilst work continued on the centre at Werrington. A site was sought for a fifth centre in the N.E. of England, and a new wing was added to Campsfield House, increasing its accommodation, and providing a proper gym. In order to cover the "personal work which is badly needed, especially for boys in the senior Centre", the Prison Commissioners "loaned" a housemaster to Blantyre House for an experimental period of 6 months. Such a move may be viewed as an early indication of the growing awareness of the importance of the social-welfare ethic in Detention Centres, heralding the posting of a social worker in all Detention Centres at a later stage in their development. Indeed, the following year, following pressure from the same profession, the Prison Commissioners were forced to concede that the Detention Centres were solely concerned with deterrence. They

therefore noted, with regard to the regime, that the tempo and effort demanded of the boys "while within each boy's reach, in order to give him a proper sense of achievement, are also sufficiently exacting to ensure a feeling of relief when the period of rigorous training is over".³¹

By 1957, a balance in numbers between the 2 types of Detention Centre established had been reached, a position not to be repeated thereafter, with the future growth in senior Detention Centres - with 2 junior and 23 senior Detention Centres. The Prison Commissioners noted that "experience alone will show whether this number will meet the needs of the courts". The existing centres were all in full use, and it was felt that the "experimental stage" was coming to an end.

Dr. Max Grünhut had continued his research on reconviction rates, and the effects of after-care, reaching the following conclusions by 1958:-

- "(1) the original proposition is confirmed that punitive detention appears suitable for boys with a more or less substantial criminality not due to deep-seated factors or seriously adverse home conditions; for whom detention is the first experience of any form of institutional treatment;
- (2) the reconviction rates compare favourably with what is so far known about reconvictions among unselected groups of Borstal boys;
- (3) the initial stage of the post-treatment period is not a 'time of grace', but rather a danger zone. This observation is strong evidence for the need of a form of after-care on the lines of probation;
- (4) There is a fair chance that a boy can be led back to a law-abiding life even under unfavourable circumstances. This observation justifies the proposition that detention in a Detention Centre has a legitimate place in a

differentiated system of penal and corrective methods for juvenile delinquents and adolescent offenders." 32

"Grunhut's second conclusion is a particularly flimsy one, since there was no guarantee that the Detention Centre/Borstal boys could be matched on previous convictions, age, family conditions, etc.

The effect of such research findings, however, in an era when the Home Office was increasingly turning to scientific research as a means of validating policy and practice, was to substantiate and support the recommendations regarding young offenders both in the 1959 White Paper (i.e.: examination and review of forms of penal treatment available for the 17-21 age group; more advantageous use of plant; extension of building programmes and increase in staffing; more research into the cause of crime, etc.) and the Advisory Council for the Treatment of Offenders Report on the Treatment of Young Offenders (i.e.: that Detention Centres should completely replace short-term imprisonment, etc.).

The February White Paper, "Penal Practice in a Changing Society", could note with some convictions the "encouraging results" of Detention Centres, and support the intention to accelerate the provision of more Detention Centres. Indeed Grunhut's research was explicitly used as a legitimization in "Penal Practice in a Changing Society".

Already, some magistrates were beginning to express "annoyance" at the lack of Detention Centres serving their area, and at the limited number of places available:

"Magistrates who know the work of the centres and have suitable cases for committal feel frustrated when there is no vacancy at a centre, particularly when they feel the alternative forms of treatment are unsuitable. The Commissioners sympathise with these feelings, and regret that owing to the difficulty of finding premises which are both unsuitable for conversion and not open to planning objection, they have not been able during the year to add to the 4 existing centres." 33

Indeed, by 1955, it had become increasingly difficult to find vacancies in Detention Centres. Werrington was full for the greater part of the year, and about 175 boys had to be refused places. It was out of this situation, one which is still with us to a great extent, that there developed the unique Detention Centre 'telephone system' whereby the Probation Officer responsible for the young person telephones to see if there is a vacancy in the local Detention Centre before the magistrate recommends such treatment.

The average age in senior Detention Centres was just over 18, and previous offences ranged from none to 12, 40.9% of the northern centre, and 30.8% of the southern centre having 3+ previous convictions. Because of the growing pressure on the centres, the Wardens expressed some concern about the practice of the courts, to the effect that whilst most courts sentenced in accordance with the original concept of the treatment, there were a number of cases which seemed to have been given detention in "the reverse order of treatment".

An example cited was that of a boy who had had 5 years residence in 2 Approved Schools, and 4 probation orders :-

"It is unfortunate ..." noted the Prison Commissioners, "... that when such places are scarce, that they should be taken up by boys with such unhopeful prospects." 33

At the same time, it was also noted that there had been a slight increase in the number of boys who were physically unsuitable for detention, and that it was "wasteful if treatment cannot be carried out effectively".

Perhaps one of the most significant developments in the 1958-59 period was the appointment of a woman social worker to the junior Detention Centre at Campsfield House (in addition to the appointment of an assistant Warden at a senior Detention Centre). Both were seen as people who could "help the boys in personal difficulties, so as to improve their prospects after release". The social worker interviewed all the boys, and did follow-up case-work where necessary, meeting parents and "helping in the preparation for release". It was hoped at the time of appointment that her success would lie partly in the fact that she would not be seen as an authority figure, and this is almost certainly why a woman rather than a man, was appointed. The appointment is significant for various reasons: Firstly, because it is an indication of the increased recourse to the social work ethic in penal matters; secondly, as an official, but rehabilitative type method of dealing with young offenders in an era of public and

official (state) outcry about 'young hooligans!', teddy boys etc.; and, thirdly, because it came at a point when cries about maternal deprivation, and the central role of the family in the ideological maintenance of a submissive citizenship for a crumbling consensus were at their loudest and strongest.³⁴

A comparison between the 'new' Detention Centres, both in terms of regimes and usage, and the well-established Borstal system will be dealt with in the next chapter, although it is apposite to note at this point in time that the increased recourse to Detention Centre sentences must also be seen in the light of what appeared to be a falling success rate (at least in terms of reconvictions) for the Borstal system. By 1963, the success rate had fallen to 40% and some critics suggested that the Borstal system had to be pronounced a failure. The Director of Borstal After-Care at the time, Frank Foster, had attempted to answer such criticisms by pointing to the following facts when looking at success rates:

- (i) many of the youths committed to Borstal training had already been experienced criminals;
- (ii) of those reconvicted in 1953, 35% had eventually become stabilised and were now leading normal lives;³⁵
- (iii) considering the nature of the case histories, it is surprising that the results are so good. 36

Nevertheless, the problems suffered in this part of the penal arena gave some weight to the philosophy and credence of the Detention Centre system at this important point in its history.

Pressure on the centres continued in 1960 although there was "a noticeable reduction in the range of delinquency as shown by conviction figures". It was also noted that in the junior Detention Centres, most of the boys came from the Secondary Modern 'B' stream, in the last term of their school life. This, it was felt, gave the centres "an opportunity to give a rounding off to their years of

formal schooling", a position which suggests that the Home Office intended and perceived of its role as that of social educator (via short, sharp shock plus treatment) at a particularly significant period in a young person's life - during the transition from school to working life.

It is significant also, that by this time work had started on Moor Court, which was to be the first (and only) Detention Centre for girls, although opinion was divided on this issue. Many people, from within and without official circles felt a Detention Centre and its attendant regime to be an inappropriate method of dealing with young delinquent women. Their views were based largely on traditional concepts of girls and women as essentially passive in nature and more plastic socially than boys or men. Tied through gender to hearth and home, only very disturbed females were likely to commit offences. If and when they did it indicated not the beginnings of a career in crime (c.f.: the recidivist male model) but a disturbed psyche, resulting from emotional insecurity, an inability to cope with social and cultural constraints, and the inability to resist temptation (often placed in their paths by young males). Hence, the lack of personal autonomy and self-sufficiency allowed to girls and women in the society of the 1950's ensured that the occurrence of offences were seen as reflections of the inability to resist criminal or anti-social temptations³⁷ or as the emotional disturbances to which the whole of their sex was considered to be particularly prone. The continued relegation of women to such an inferior social-psychological and political position played no small part in the closure of Moor Court only a few years later, in 1969³⁸. That a Detention Centre was nevertheless constructed for girls, and yet without

any real stress on the physical or the military, suggests a continuation of the 1948 "short term positive training for a minority" view, which, as we shall see, was soon to be superseded for both sexes.

Both the wider penological developments and socio-political factors discussed earlier in this chapter had ensured, by the late 1950's, that the simple notion of the 'short, sharp shock' no longer seemed so justified (in terms of emerging treatment ideologies and rehabilitative optimism in the young offender field) or practicable (in terms of the much wider range of offender now entering Detention Centres). By 1959, the Prison Commissioners felt compelled to announce that since Detention Centres were increasingly " ... attempting to train boys whose characters and developmental history cover a wide range", and concluding that there had to be, of necessity, " ... a shift of emphasis from the stark concept of a 'short, sharp shock' to a concept of embodying training as well". Their Report reflects to no inconsiderable a degree the tenor of the 1959 Advisory Council for the Treatment of Offenders' report on the treatment of offenders, which therefore warrants some analysis.²⁴

(iv) The Advisory Council for the Treatment of Offenders' Report and Beyond

The Council were asked to consider the proposals put forward by the Prison Commissioners for revised methods of dealing with young offenders between the ages of 16 and 21, the object of which method was

- "(a) to keep young offenders under the age of 21 out of prison; and
 - (b) to ensure the protection of society by providing that such offenders can be given the amount and type of training best suited to their needs, and from which they are likely to derive the most benefit."
- (18) (para.7)

The Advisory Council for the Treatment of Offenders confirms in its

Report (para.7) that these objectives conform with the fundamental principle that "the penal treatment of young offenders should be primarily remedial" and that such treatment "should be carried out in separate institutions or separate sections of institutions". Thus the importance of the Advisory Council for the Treatment of Offenders Report lies in its triple assertion, backed by the Prison Commissioners, that :

- " (i) remedial work on young offenders should be paramount;
- (ii) it should encompass training and treatment principles;
- (iii) its purpose should be rehabilitation and the final breaking of the hegemony of the prison; no longer just for a minority but, by implication, a majority of young offenders who might otherwise receive short sentences in prison establishments.

In line with the tenor of the Report, its main proposals may therefore be summarised thus:

- (1) the development of a policy to ensure that Detention Centres would completely replace short-term imprisonment (i.e.: 6 months or less), reflecting the tenor of the 1948 Criminal Justice Act.
- (2) to combine Borstals and YP centres into a single indeterminate sentence of 6 months-2 years (see also "Penal Practice in a Changing Society");
- (3) to provide imprisonment for 3 years plus, for the more serious offenders, as well as sentences of 18 months plus for the failures of the indeterminate sentence system.

The Report also notes that; with regard to the Detention Centres:

" ... the system has already shown some flexibility in expanding the original concept of a regime based primarily on deterrence, (but) to include elements of positive training".

Hence it assumes a position whereby the fact of imprisonment, and the length of sentence are viewed as deterrent in essence, whilst the extent and quality of the sentence should be remedial and "positive" .

As far as the Detention Centre system was concerned, the Report's recommendations covered the following:

- (1) that there should be 2 standard sentences of detention - 3 months and 6 months;

- (2) that the courts should be able to send a young offender over 17 to a Detention Centre more than once;
- (3) that no young person be sent to a Detention Centre if he had previously served an indeterminate sentence of custodial training (viz. Borstal);
- (4) that Detention Centres should not be used to punish for default of payment of fine (i.e.: prisons should still be used for this); and that:
- (5) there should be a system of statutory after-care, up to one year from the date of release from a Detention Centre, with compulsory review after 6 months.

It is very clear therefore that the widespread acceptance of the Council's recommendations and its legislation in the 1961 Criminal Justice Act, made a considerable contribution to the massive expansion of the Detention Centre system, and particularly in the Senior sector. Further, in its recommendations as to the nature and purpose of the Detention Centre regime it may be seen as a clear reflection of the increasing recourse to treatment-oriented philosophies dealing with young offenders. The advance of scientism in the penal arena played no small part in this as has been indicated in the previous main section on Detention Centres.

It is of no little importance that it was also during this period that the Advisory Council for the Treatment of Offenders was required to consider once more the matter of corporal punishment. In 1960, the ACTO finally confirmed the conclusions reached by Cadogan in 1938,²⁵ and it thereafter appeared certain that there was no longer any likelihood of altering the law "to put the clock back". (see 24). Indeed, in the debates in parliament, the following seemed to represent the views of the hard-liners in general:

"The Detention Centre and the short, sharp shock is, after all, the main substitute for the birch; it is the capacity of the Detention Centre, by means of a short, sharp shock, to do what the birch used to do which is the factor which decides my mind against corporal punishment."²⁶

Later, in the same speech, the same M.P. describes the Detention Centre

as "civilised alternative to the birch". (Col.635).

The corporal punishment debate (and its bedfellow, the capital punishment debate) is especially noteworthy here because it reflects the strength of the Tory demand for its reintroduction, for juveniles and young adults only. Resisted only with difficulty by R.A. Butler, the campaign was undoubtedly related both to the traditionalists' defeat over capital punishment (see earlier) and the growth of youth cultures (see also earlier, above). An expansion of what Tory hard-liners saw as a punishment - oriented short, sharp shock thus acted as a sop to their disquiet over the apparent rise of the treatment ethic, the "soft option", in the young offender arena.

The stage was now well set for legislation in favour of the massive expansion of the Detention Centre system, providing a major form of institutionalisation for young offenders, with rehabilitative optimism standing quietly on the side lines; and with the recommendations of "Penal Practice in a Changing Society" and the 1959 Advisory Council for the Treatment of Offenders' Report, supported by the Prison Commissioners, forming the basis in large part of such an Act. The 1961 Criminal Justice Act thus implemented the new arrangements relating to the methods of dealing with young offenders between the ages of 16 and 21, (see earlier) and also making provision, as recommended by ACTO for the after-care of detainees (coming into effect from January 1964); and providing for the abolition of short-term imprisonment for young adults. In practice the abolition has never taken complete effect, dependent as it has been (amongst other things) upon the sufficient availability of Detention Centre places.

Two of the original recommendations made by the Advisory Committee (see earlier) were not accepted - that there should be 2 standard

sentences of detention in a Detention Centre of 3 months and 6 months duration, and that fine defaulters should still be sent to prison, rather than to Detention Centre. The Detention Centre term remained fixed in the range of 1 month to 6 months, and fine defaulters were, subsequently, sent to Detention Centres.

Despite the wider criteria of young offenders which Detention Centres would now be using, the Advisory Council did not believe implementing the short, sharp shock regime would become too difficult;

"We believe that in this wider context it will be well able to maintain the same brisk and exacting regime which will be ... both more rigorous and constructive than is possible for short sentences in local prisons." 24

Parliament were also assured that these changes would not mean that Detention Centres would become less rigorous:

"There have been rumours that the regime in Detention Centres has weakened ... There is no intention whatever of not having the strictest regime for young people at Detention Centres." 39

Four Senior Detention Centres were opened in 1961, and 3 more (including one for Girls, Moor Court) the following year. By 1964, there were 14 Senior Detention Centres, and in that year alone, nearly 6,000 young offenders experienced a period in a Detention Centre, over 4 times as many as in 1960.

D. CONCLUSION:

The completion of the first decade of the Detention Centre had seen major changes both in its usage and its rationale. Set up as an experiment in 1948, primarily for young offenders unsophisticated in criminal ways, and intended as a 'short, sharp shock' type of sentence in which serious treatment principles were not deemed possible or essential, it had, by 1961, become a form of institutionalisation directed towards the majority of young offenders, largely regardless

of previous criminal history, and with a growing tendency to consider initially, the principles of training, and, later, short-term treatment programmes owing more to psychological and social-work theories than to military camp regimes.

The earlier parts of this chapter have attempted to outline the characteristics of the scenario within which such developments manifest themselves, including those within the adult penal arena. The corporal and capital punishment debates played no small part in this. Neither did the economic constraints facing post-war British capitalism, or the cultural shock and moral panics presented by the Teddy Boy era to state and civil society alike.

As this chapter has attempted to explain, the various "actors" involved in the Detention Centre scenario, each contributed, despite ideological dissonance and separate interest factors, to a common end in the expansion of the Detention Centre system.

For their part, the Prison Commissioners had several considerations to bear in mind and which were to affect their support for the Detention Centre system. Firstly, they were acutely aware that too many offenders were going to local prisons for short sentences, a position reflected directly in the White Paper of 1959, which referred to local prisons quite categorically as "monumental denials" of modern principles, and harked back to the ideas embodied within the Gladstone Report, as well as reflecting on other contemporary viewpoints - the 1959 Advisory Council for the Treatment of Offenders Report for example. Secondly, the Prison Commissioners were influenced to a great degree by Grunhut's["] legitimation of the system, endorsed also in "Penal Practice in a Changing Society". And thirdly, as always, they were under considerable pressure from the courts to continue to provide a disposal system for this particular group of

(theoretically) inexperienced young offenders, and one which could be seen by the magistracy to be concerned with hard discipline. Ultimately, the greatest influence on the Prison Commissioners seemed to have been the first, and largely because, as a body, they were dominated by the influence of Fox - otherwise the junior Detention Centres would have been greatly expanded, which was not the case at this stage in the proceedings.

As has been indicated above, the demand for expansion from the magistracy had almost nothing to do with Fox's legitimation. I have outlined earlier in this chapter the great social unease created by the Teddy Boy culture specifically and the emergence of strongly identifiable youth cultures generally. The moral panic was evident in parliament, Home Office and the general public. The demand for a punitive form of deterrence had thus come at a time of bewilderment for the traditionalists, who saw little hope in stemming the rampaging tide of anomic youth except through stern measures. They had failed both over the capital punishment issue, and in the campaign to re-introduce corporal punishment for juveniles and young adults. In one sense the expansion of the Detention Centre system was their final hope for the maintenance of law and order.

Similarly, the Conservative Government under Butler were relieved to see the system expand. Expansion was recommended to them by the Prison Commissioners, the system endorsed by Grünhut and scientific study. They could also offer expansion as an olive branch to the concerned magistracy - traditionally influential in Tory Governments. Furthermore, the case for expansion was useful in ideological terms. It could be used to draw in "middle sections" of the voting populace, as a civilised alternative to the birch in the corporal punishment

debate, which had arisen, as indicated, at the same time. Together, the actors of the scenario had thus colluded to one end; the massive expansion of the Detention Centre system.

Furthermore, it may be argued that this massive development of provision, and particularly its "new" rationale and clientele, was bound to produce a form of penal provision more contradictory than it had been in 1948. Hence the concept was short-term training with deterrence, for a minority group of young offenders. But, by 1961, the institution was fast becoming a form of provision for a majority of offenders, yet, due to internal and external pressures, one often conceived of solely as a 'short, sharp shock': magistrates in particular viewing the Detention Centre in such a light. Yet the treatment ideal was not completely invisible. Women social workers had been introduced into all Detention Centres (c.f.: the situation in Borstals, and compulsory after-care for the Detention Centre inmates came through the 1961 Act - implemented by 1964. The ideological confusion and the planes of interest which existed between the various groups of concerned parties was becoming increasingly apparent. Yet in real terms they had contributed collectively towards the massive expansion of the Detention Centre.

By 1974, a mere decade later, the apparent death knell of the Detention Centre had been sounded: a major about-turn in penal policy, with which the next, and final chapter will be concerned, in conjunction with a more detailed examination of the 1960's expansion referred to in this chapter.

Chapter Six : Footnotes

1. Antonio Gramsci: "The Modern Prince", in Selections from the Prison Notebooks.
2. Anthony Eden, quoted in: "Bread and Circuses : the Conservatives in Office, 1951-64" by M. Pinto-Duschinsky, in "The Age of Affluence : 1951-64" ed. V. Bogdanov and R. Skidelsky. London: Macmillan. 1970.
3. Hugh Gaitskell, in Party Conference Speech. 1959.
4. See: "Policing the Crisis : Mugging, the State and Law and Order", by Hall et al. Macmillan. 1978. p.233.
5. For a detailed analysis of the emergence of youth, see: "Subcultures, Cultures and Class", by J. Clarke, S. Hall, T. Jefferson and B. Roberts, in: "Resistance Through Rituals", Working Papers in Cultural Studies, No.7/8. Summer, 1975. Birmingham University.
6. Documented extensively by a wide range of social scientists, but see especially: "The Teddy Boy", by Paul Rock and Stanley Cohen, in Bogdanov and Skidelsky, op.cit.
7. Evening Standard, 24 February 1954.
8. See: "The Delinquent Solution", by David Downes, 1966.
9. See: "Detention Centres : The Experiment Which Could Not Fail". by Hilary Land, in: "Change, Choice and Conflict in Social Policy", by P. Hall, H. Land, R. Parker and A. Webb. Heinemann. 1975.
10. Ibid. p.349.
11. Ibid. p.357.
12. "The Crusade Against Capital Punishment in Great Britain", by Elizabeth O. Tuttle. 1961. p.57.
13. Parliamentary Debates. 5th Series. Commons. Vol.444 (27 November 1947), cols.2149-51.
14. See: Tuttle, op.cit., pp.64-66.
15. Parliamentary Debates. 5th Series. Commons. Vol.454 (22 July 1948). cols.710-11.
16. "The Struggle for Penal Reform", by Gordon Rose, 1961. p.218.
17. Ibid. p.221.

18. The Report of The Royal Commission on Capital Punishment, 1949-53. Cmd.8932. HMSO. p.4.
19. "Prisons and Borstals", (The Franklin Report). Cmd.8256. June, 1951.
20. Lionel Fox: "The English Prison and Borstal Systems", 1952, p.381.
21. Report of the Committee on Maladjusted Children (The Underwood Report) DES and HMSO. 1955.
22. "Penal Practice in a Changing Society", White Paper. Cmnd.645. 1959.
23. Report of the Commissioners of Prisons 1960.
24. "The Treatment of Young Offenders". Advisory Council for the Treatment of Offenders. Home Office 1959.
25. Report of the Departmental Committee on Corporal Punishment. (Cadogan Report). Cmd.5684. February, 1938.
26. A Tory M.P. H.C. Debates. 17.11.60. Vol.630, cols.632-33.
27. Report of the Commissioners of Prisons. 1952.
28. Source: Warden of Campsfield House. 1952.
29. See: Report of the Prison Commissioners. 1953. para.13, and: M. Grünhut: "Juvenile Delinquents under Punitive Detention" (January 1955) 5BJD, No.3, p.191. M. Grünhut: "After Effects of Punitive Detention" (January 1960). 10 BJD, No.3. Incidentally, Grünhut had no control group in his research which renders his analysis sociologically somewhat unacceptable.
30. For further details, see next chapter.
31. Report of the Commissioners of Prisons. 1956.
32. See Note 29.
33. Report of the Commissioners of Prisons. 1958.
34. In contrast, in Borstals, only the matron [a non-professional role] was female. All Detention Centres had social workers attached to them by 1964, and they were all female: an attempt to "soften" the masculine/disciplinary image of the Detention Centre.
35. Report of the Commissioners of Prisons. 1962.
36. Report of the Commissioners of Prisons. 1964.
37. A reflection of Freud's work on women, based on the notion that, as a sex, all women have "underdeveloped super ego's".

38. Following the Interim Report of the Advisory Council on the Penal System on the "Detention of Girls in a Detention Centre". 1968.
39. R.A. Butler. H.C. Debates. Vol.638, col.92.

SEVEN:

DISSENSUS, CONTAINMENT and COMMUNITY:
the PHOENIX DESTROYED?

CHAPTER SEVEN

DISSENSUS, CONTAINMENT and COMMUNITY : the phoenix destroyed?

Introduction

I have outlined at the beginning of the previous chapter the need to take cognizance of the startling contrast in Detention Centre history between the decade or so from the 1948 Criminal Justice Act to the 1961 Criminal Justice Act, and the latter Act and the publication of the Younger Report in 1974. I have then attempted to explain and chart the massive expansion of the Detention Centre in that period, despite the fact that this was not apparent from the tenor of the 1948 Act.

This last chapter, which covers the second major period of Detention Centre history post-inauguration, follows through the emergence of a very different and contrasting theme, that of massive expansion by the 1960's to threatened abolition in the mid-70's. Since this makes it a decade of startling contrast when compared with the previous one, the question which must necessarily be raised is: what had happened by the mid-1970's, and by the publication of the findings of the Younger Committee specifically, which heralded the threatened closure of what had become a majority disposal system for young offenders?

In order to answer this question, this chapter will need to examine both penal and socio-political developments over this period. But first, it is necessary to look at the empirical details of Detention Centre expansion following the 1961 Criminal Justice Act.

A. The System Expands:

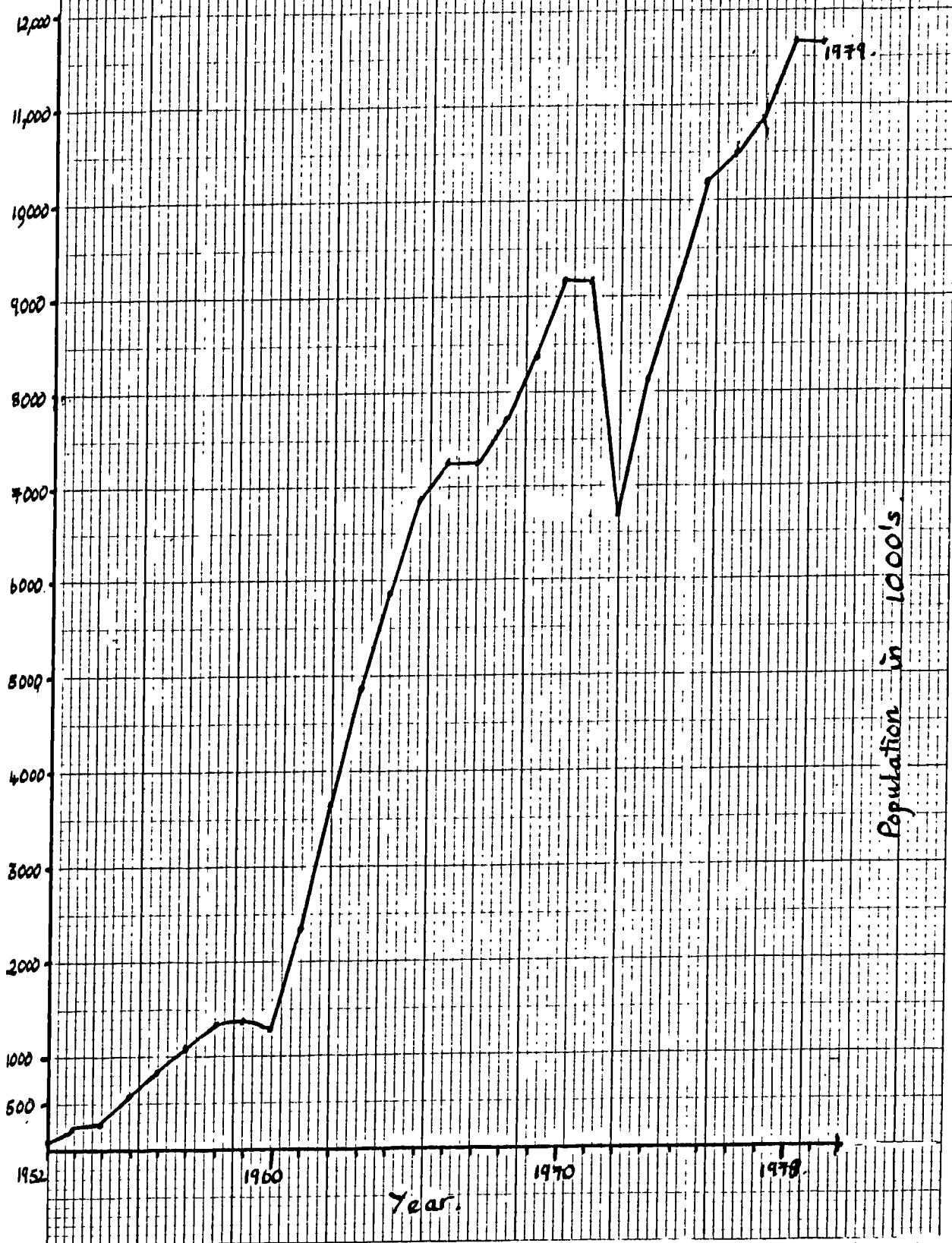
(1) Numbers:

The prolific increase in the number of young offenders receiving Detention Centre orders, in the 1960's, heralded by the 1961 Criminal Justice Act (see previous chapter), is reflected in the opening of 17 more centres in this period: in 1961, 6; in 1962, 3; in 1963, 2; in 1964, 4; in 1966, 1; and in 1968, 1.¹ This is of course of particular significance when compared with the total number of Detention Centres opened in the 1950's, the first 'decade' of Detention Centre History: i.e., four. This rise is indicated in the first portion of the graph (Fig.1), and further reflected in the first part of the figures for population and accommodation for all Detention Centres as shown in Fig.2.

Although the figures indicate only the gross numbers of young offenders sent to Detention Centres, and not any fluctuation in length of sentence, they certainly indicate quite clearly a greater recourse to this form of disposal system by magistrates in the wake of the 1959 Report and then the 1961 Criminal Justice Act.

Examination of the previous use of buildings acquired during the period reveals the interesting factor that the large majority of them had been, prior to their utilisation as a Detention Centre, a Prison Department building of some kind. The chart indicates that in fact of the ex-Prison Department buildings, the majority had been used as a Borstal of some kind: In other words, of the 17 Detention Centres being used by 1969, 7 of the 9 ex-Prison Department buildings being used as Detention Centres were premises previously used as a Borstal. Four buildings were acquired from other sources, and four new.² This special trend to utilise ex-Prison Department buildings, and

Total Receptions into Detention Centres,
Male and Female. 1952-1979.



(Fig. 1)

(compiled from H.O. statistics)

Fig. 2

Population and Accommodation Nos. for All Detention Centres : 1952-1974

Year	Actual Pop. at Dec. 31	Accommodat. Available Dec. 31	Total	Average Annual Accommodat. Available
1952		55	55	26
1953		55	55	55
1954		133	133	94
1955		133	133	133
1956		208	208	170
1957		277	277	242
1958		277	277	277
1959	261	277	277	277
1960	262	277	277	277
1961	613	669	669	472
1962	863	936 + 27	963	816
1963	1137	1220 + 27	1247	1105
1964	1467	1670 + 27	1697	1472
1965	1485	1669 + 27	1696	1696
1966	1561	1751 + 27	1784	1740
1967	1539	1822 + 27	1849	1816
1968	1282	1929 + 27	1956	1902
1969	1567	2016	2016	1986
1970	1548	1821	1821	1918
1971		1908	1908	1864
1972		1903	1903	1905
1973		1937	1937	1920
1974				

Fig. 3

Previous Use of Buildings Subsequently
Utilised as Detention Centres

Year	Number Opened	Name	Previous Use
1961	6	Send (JB) Aldington (SB) Aylesbury (SB) Buckley Hall (SB) Medomsley (SB) New Hall (SB)	Isolation Hospital Open Borstal Girls Borstal Boys Borstal Children's Home Open Prison
1962	3	Erlestoke (SB) Haslar (SB) Moor Court ((G)	W.D. Training Estb. Barracks New
1963	2	North Sea Camp (SBO) Kirklevington (JB)	Borstal New
1964	4	Latchmere House (SB) Swinton Hall (SB) Usk (SB) Grendon (PC)	Borstal Rec. & Alloc. C. Closed Borstal Borstal Psychiatric Centre
1966	1	Whatton (SB)	New
1968	1	Eastwood Park (JB)	New

particularly ex-Borstal plants, in the period immediately after the 1961 Criminal Justice Act may well be the result of two factors:

- (1) official Prison Department and Home Office support for the Detention Centre regime generally; and
- (2) economic rationalisation of available plant.

More specifically, it reflects the new 1961 tripartite sentencing policy, and the need to open, quickly, some new Detention Centres to make the new "majority sentence" policy feasible. Also, it was believed at the time that the population pressure on Borstals would be reduced by the 1961 Act's move to reduce the maximum sentence for Borstal training from 3 years to 2 years - though in fact population pressures quickly built up again within the Borstal system.

Furthermore, the trend to utilise Prison Department buildings reflects official faith in rehabilitation notions in the young offender field during the early 1960's, but cushioned by the overtly punitive aspect of a Detention Centre sentence. This contradiction may be seen particularly clearly in the debate during 1961-62 concerning the introduction of uniforms for senior Detention Centre staff. When the change was proposed it was received with mixed feelings, for wardens and Borstal-trained officers were "afraid it would prevent or seriously hinder the growth of personal relationships between staff and boys, which are already difficult, under a regime that is primarily deterrent".³

Despite these fears, the Prison Commissioners felt able to express the following early opinion about the change:

"Fortunately, this has not happened, and the outcome will no doubt surprise the critics of the form of treatment, who have expressed the view that the regime is an obstacle to training." 2

(ii) Girls and Boys, Seniors and Juniors:

The previous chapter has dealt briefly with the history of the one Detention Centre for girls, Moor Court, opened in 1962, and closed following official recommendation in 1969. The actual numbers sent to Moor Court are fairly insignificant when compared with the numbers of boys sent to male institutions:

Fig. 4.

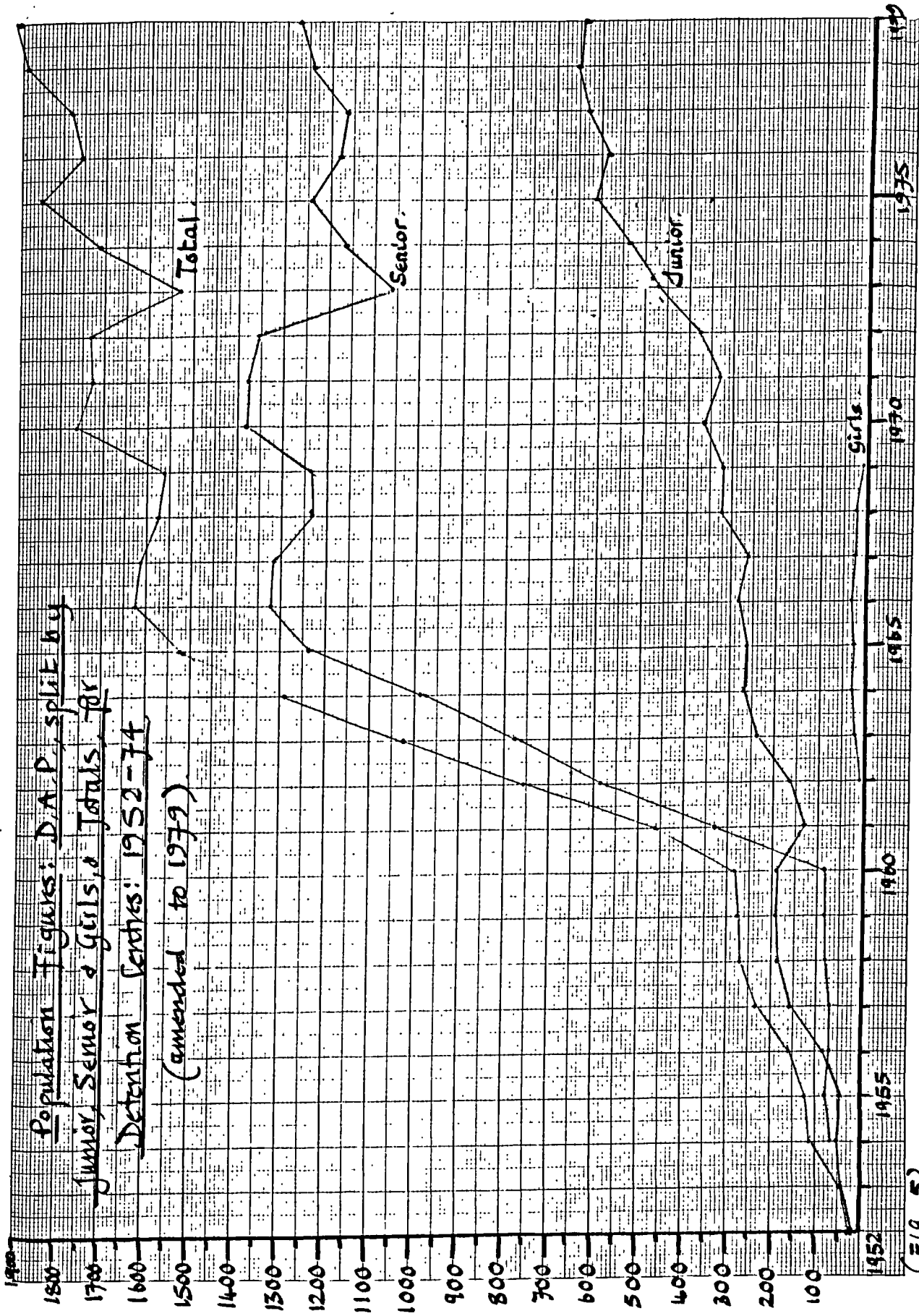
Population Figures for Detention Centres :
Split by Sex. 1960-1969

Year	Males	Females	Total
1960	275	-	275
1961	462	-	462
1962	753	1	754
1963	1014	18	1032
1964	1272	23	1295
1965	1501	21	1522
1966	1603	24	1627
1967	1585	23	1608
1968	1555	23	1578
1969	1560	2	1562

(Compiled from Prison Department Statistics.)

11 of the Detention Centres opened in the 1960's were for senior boys, and 4 for junior boys. The other 2 Detention Centres were Moor Court, and Grendon, part of which was used for boys in need of psychiatric treatment.

The prolific increase in numbers in Detention Centres from 1960 was accompanied by a relative (and as it turned out temporary) decline in the numbers in junior Detention Centres. Although from 1962 onwards there was a steady increase in the numbers in junior Detention Centres, this increase did not correspond in degree to the much more rapid increase in senior Detention Centres, which continued to expand at a significant rate until the slight decline in 1967-69. Junior Detention Centres experienced a 150% increase over and above the number of existing institutions during this period (1960-66), compared with a 500% increase in senior Detention Centres over and above the numbers of existing buildings. In other words, senior Detention Centres expanded



(Fig. 5)

at about 3½ times the rate of Junior Detention Centres. The respective increases would seem to reflect several factors:

- (i) the increasing tendency to send young offenders to Detention Centres instead of to prison, in an attempt to keep more young people out of prison, following the tenor of the 1948 Criminal Justice Act and subsequent legislation. This would affect Senior Detention Centres in particular, i.e., 17-21 year olds;
- (ii) The use of more punitive measures in penal policy generally (i.e., for young offenders and adults), particularly in the light of socio-economic and political factors of the 1960's (see later in this chapter); and
- (iii) the final abolition of corporal punishment. This very abolition necessitated that the Prison Department be seen to take a firm grip on its clientele. The punitive and deterrent aspects of the Detention Centres could thus be offered as 'comfort' to hardliners in both official circles as well as to the general public. The abolition of capital punishment in 1965 only served to emphasise the need for a firm and resolute penal policy.

But the most obvious reason for the differential growth between the Junior and Senior Sectors, was

- (iv) Junior Detention Centres were not part of the 1961 Act's tripartite sentencing policy - Senior Detention Centres were. Therefore the Prison Department both built and converted a considerable amount of plant for Senior Detention Centres, as indicated in the previous graphs and tables. The magistrates then filled them up!

All the new Centres which opened were quickly used by the courts, and the Wardens "generally felt that the boys received were the kind most

likely to benefit from treatment".³ At the same time, however, there was a certain degree of regret expressed at the reception of ex-Approved School boys, reported as being "the least promising, and most likely to be a nuisance".³

In contrast to this, the handful of 'mads' and 'rockers' responsible for the seaside disturbances of the late 1960's, who were sent to Detention Centres in the period of moral panics, were seen to do "very well", and were "tearful and remorseful"! Many of these were first offenders anyway, and the obvious 'benefit' they received from the regime must have acted as good publicity for this area of penal policy.

(iii) Remission:

On August 1, 1968, remission for inmates of Detention Centres was increased from 1/6 to 1/3, "to promote incentives for good behaviour, and a more effective regime", and to increase the hold over offenders during the after-care period (with its threat of re-call), as well as to aid in the problem of rapidly expanding population numbers (see Fig.2 and Fig.1).

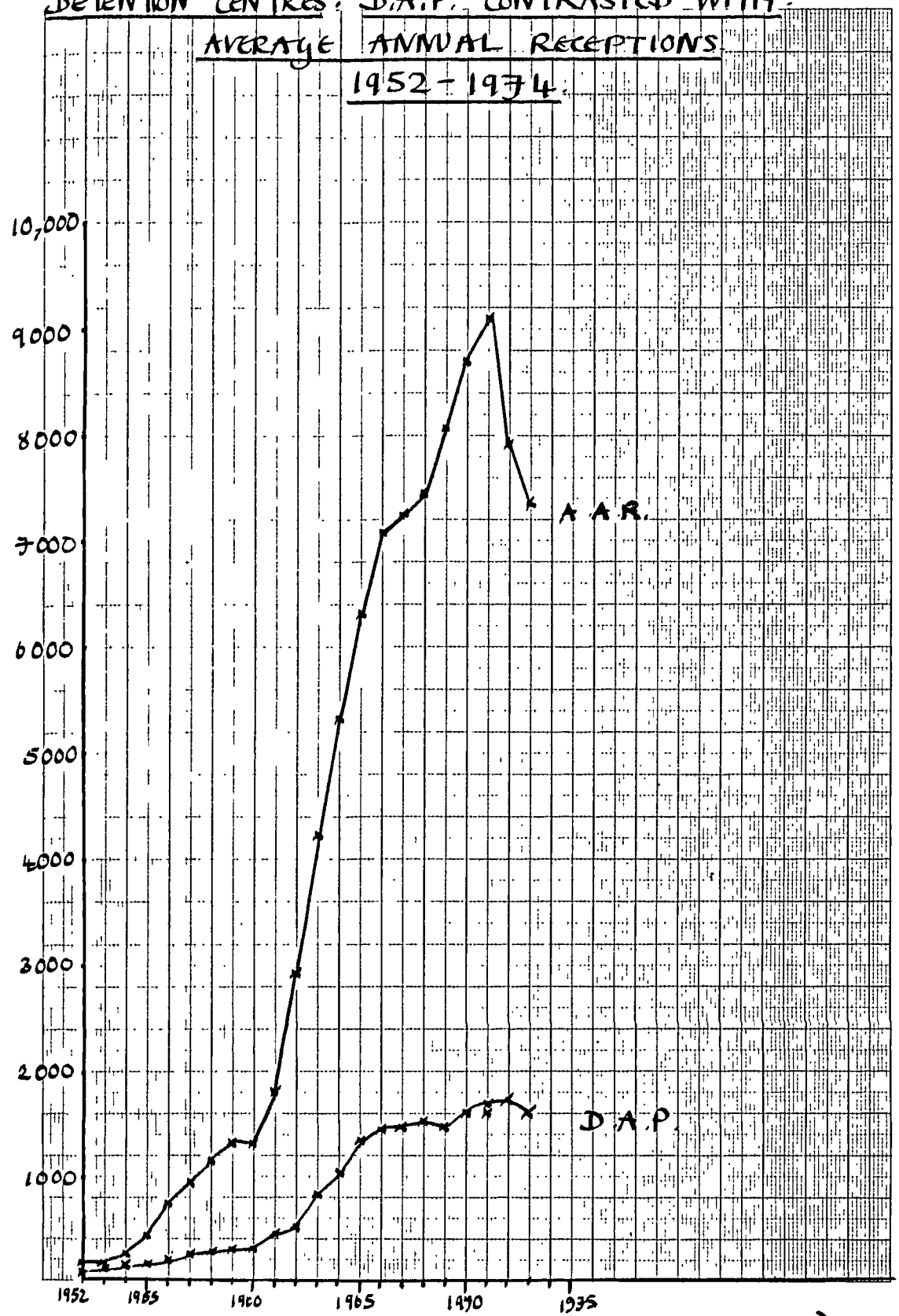
The slight and immediate drop in overall DAP's (see Graph, Fig.5) may well be an immediate effect of the introduction of remission. Thus although more young offenders passed through Detention Centres, their sentences were slightly shorter. (See Graph, Fig.6).

(iv) Prisons and Borstals:

Prisons

The increase in numbers of young offenders sentenced to a period in a Detention Centre is partly a reflection of the continuing trend in the attempt to keep young people out of prison, partly for pragmatic reasons connected with the continuing rise in prison populations, and partly as a result of contemporary as well as much longer-established aims

DETENTION CENTRES: D.A.P. CONTRASTED WITH
AVERAGE ANNUAL RECEPTIONS
1952-1974:



(Fig. b)

regarding a policy of rehabilitative optimism towards young offenders, with which earlier sections of this study have been concerned.

With the rapid increase in Detention Centre places during this period, and especially the early 1960's, Detention Centres increasingly began to take young offenders who might otherwise have been sent to Borstal, or Approved School, or even sentenced to a period of imprisonment. A comparative analysis of the types of offences committed by Detention Centre, Borstal and prison populations over even a short period, reveals that, on the whole, the proportions of the different offences committed by offenders in prisons and Detention Centres is more similar than either of these two compared with offences committed by Borstal inmates. In the years 1959, 1960 and 1961 for example, the majority of offences committed by offenders came, in all 3 cases, in the category "offences of dishonesty". But averaged out over the 3 years, the proportion of offences committed in this category (compared with others) was 48.30% in Detention Centres, 42.3% in prisons, and 82.3% in Borstals. In other words, the category of offence is similar in proportion in Detention Centres and prisons, but almost double the proportion in Borstals. Other offences are similar ^{/in} comparison (see Fig.7), whilst the proportion of young offenders committed to Borstal for offences of violence is significantly lower than in either Detention Centres or prisons.

In sum, the proportions of all the categories of offences leading to committal to Detention Centres and prisons during this period is similar. The significant contrast with Borstal offences is the high proportion committed therein for offences of dishonesty, and the (comparatively) low figures for other categories of offence. This would suggest the basis for the case that Borstals were increasingly taking ex-Detention Centre offenders who had failed to respond to the regime

Fig. 7 ANALYSIS OF THE OFFENCES* OF OFFENDERS SENTENCED TO DETENTION, BORSTAL TRAINING AND IMPRISONMENT IN THE YEARS 1959, 1960, 1961

	DETENTION CENTRES				BORSTALS				PRISONS									
	1959		1960		1961		1959		1960		1961							
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%						
1. Offences of dishonesty	334	50	304	45	828	50	2,599	85	2,842	82	2,856	80	1,052	42	1,162	44	1,066	42
2. Offences of violence	125	17	112	17	244	14	235	8	326	9	301	8	537	22	609	22	544	22
3. Motoring offences	91	14	166	25	388	22	77	2	63	2	182	5	355	14	449	17	402	15
4. Other offences	138	19	83	13	216	14	151	5	245	7	239	7	554	22	451	17	533	21
ALL	688	100	665	100	1676	100	3062	100	3,476	100	3,538	100	2,498	100	2,671	100	2,545	100

*The first category covers all groups of dishonesty except receiving (from petty thefts to breaking and entering). The second category covers all offences of violence against the person, except sexual offences. The third category includes T. & D.A. and car theft and all offences of driving while disqualified. The fourth category contains the heterogeneous offences that remain: rape, indecent exposure, willful or malicious damage, having an offensive weapon, loitering, receiving, non-payment of fines, and breach of an attendance order.

(From Dunlop and McCabe, 'Young Men in Detention Centres', pp.7 and 22)

Fig. 7

ANALYSIS OF THE OFFENCES* OF OFFENDERS SENTENCED TO DETENTION, BORSTAL TRAINING AND IMPRISONMENT IN THE YEARS 1959, 1960, 1961

	DETENTION CENTRES						BORSTALS						PRISONS					
	1959		1960		1961		1959		1960		1961		1959		1960		1961	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
1. Offences of dishonesty	334	50	304	45	828	50	2,599	85	2,842	82	2,866	80	1,052	42	1,162	44	1,066	42
2. Offences of violence	125	17	112	17	244	14	235	8	326	9	301	8	537	22	609	22	544	22
3. Motorling offences	91	14	166	25	388	22	77	2	63	2	182	5	355	14	449	17	402	15
4. Other offences	138	19	83	13	216	14	151	5	245	7	239	7	554	22	451	17	533	21
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(From Dunlop and McCabe, 'Young Men in Detention Centres', pp.7 and 22)

therein - in terms of reconviction and recidivism. For example, in Dover Borstal alone, of those discharged in 1962, 13.7% had Detention Centre experience, and of those discharged 1965-6, 42.5% had Detention Centre experience.⁴ It might also suggest that Detention Centres were taking (ideally at least) first offenders for minor offences, whilst Borstals dealt with the more serious and recidivist elements within this category. Such factors would seem to suggest a penal policy whereby the longer training provided by Borstal institutions was deemed more suitable for 'dishonest' offenders, whilst those found guilty of offences of violence were considered to be amenable to the deterrent regimes of Detention Centres or prisons - despite any real or apparent 'treatment' ethic operating within these latter two regimes.

Penal policy with regard to Detention Centres is further overlaid by an officially-centred contradiction that increased attention should be paid to a 'treatment within deterrence' ethic for the reasons outlined earlier in this chapter, and the previous one.

Borstals:

The history of the English Borstal system in this period is of some significance in the history of Detention Centres. Essentially the two systems were intended to deal with different kinds of offender. As indicated in the section above, on prisons, in contrast with Detention Centres, Borstals provided a longer period of institutionalisation, in which a treatment programme could be conducted. The corollary of this was that Borstal inmates were not, on the whole, first offenders, nor offenders who had committed crimes of violence who might best be dealt with instead by a largely deterrent or punitive sentence. This is not to say that the Borstal regime, ipso facto, was not intended to contain a deterrence element. But this was not its main function. Its essential purpose was one of training on a long-term basis. In

contrast, the essential purpose throughout the 1950's of the Detention Centre regime was one of punishment and deterrence on a short-term basis. Herein lay the difference at the opening of the 1960's.

In 1961, the Borstal sentence was reduced to a maximum of 2 years, and the Borstal system effectively 'combined' with imprisonment so there would be a single indeterminate sentence of between 6 months and 2 years - "custodial training". Indeed, the Criminal Justice Act (see earlier) clearly emphasised the recourse to Detention Centre sentences as an essential, but qualitatively different, method of dealing with young offenders. After-care was made compulsory for a period of two years after discharge.

The major problem for the Prison Commissioners, was that of "re-examining" objectively the principles of the 1930's, "associated with Patersonian notions of educational reform", in the context of intervening change.⁶ The number of escapes from Borstals after World War II had risen considerably, and the Prison Commissioners were therefore forced to conclude that instead of expanding the number of 'open' institutions, they needed more 'secure' establishments. Group counselling had also been introduced, reflecting both the increase in rehabilitative optimism assigned to the young offender sector generally, as well as the recognition that boys were becoming "more difficult to train".

Borstal Ideology

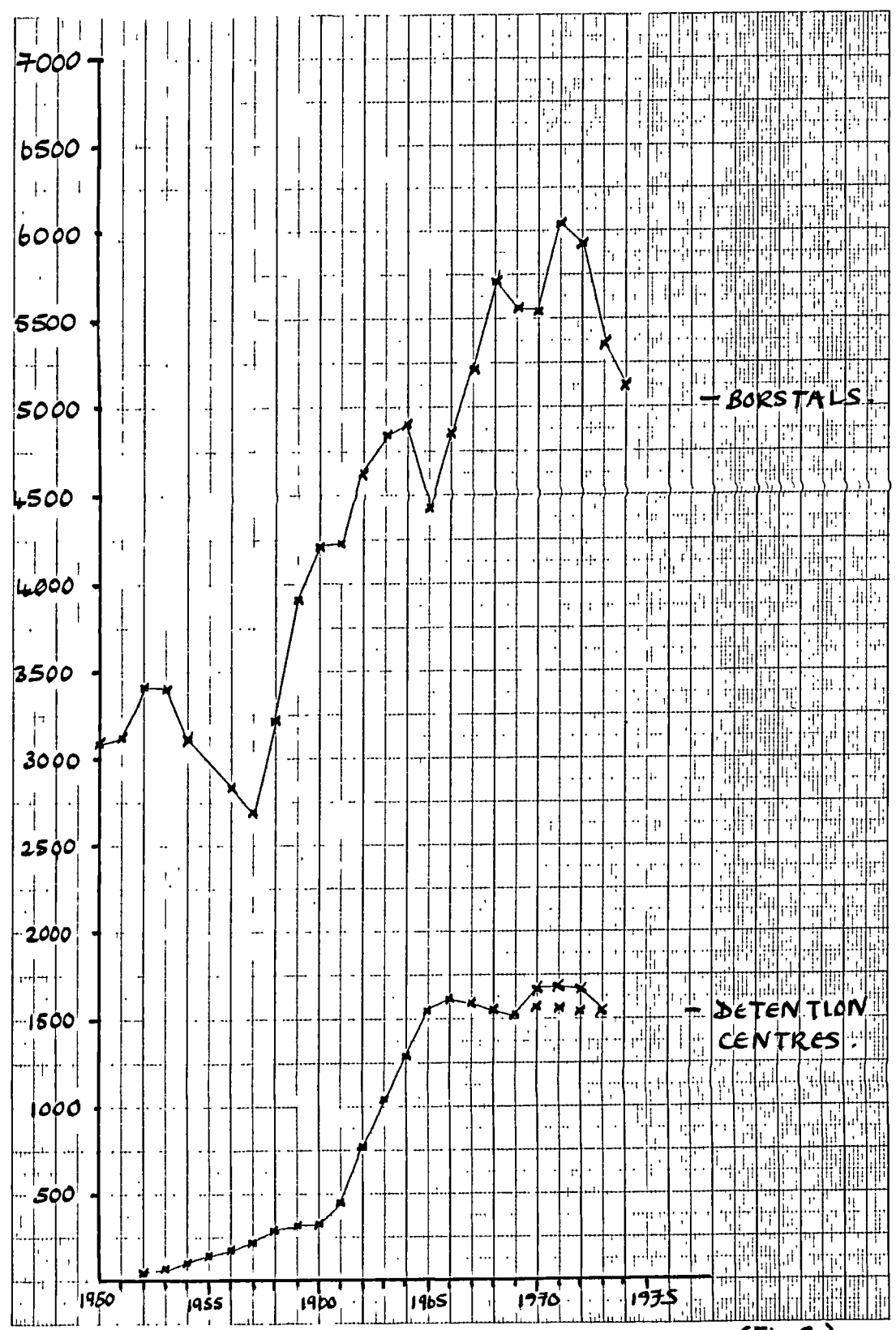
Indeed, this is a period in which the whole Borstal system was in ideological ferment. The Patersonian paternalism of the 1930's seemed no longer apposite by the 1960's, necessitating therefore, an examination of the appropriateness of contemporary methods to the problem of contemporary delinquents. In addition to social and

ideological differences between 1930's England and 1960's England, the system now had the additional factor of its relationship with increasingly professionalised and liberal-oriented social work departments. Add to this the increase in prison escapes (discussed later in this chapter), the increase in reconviction rates, and the swing to deterrence via the new post-war Detention Centre system, and we have the formula for the greatest period of ideological unrest the Borstal system had ever suffered.

It is therefore necessary to take account of the unrest in the Borstal sector, when considering the separate fortunes of Borstal and Detention Centre. The graph (Fig.8) shows comparative figures for Borstals and Detention Centres (DAPs), and indicates both the rapid rise in Detention Centres from 1960 (almost a 600% increase), compared with a much less marked, albeit steady, increase in Borstals over the same period. The use of Daily Average Populations (DAPs) is of limited value in that it does not reveal either the lengths of sentences being served or the number of places available in separate institutions. Neither does it provide details of the incidence of remission (particularly significant in the period post-1968). Nevertheless, it does serve to provide a general comparative picture of the use of the 2 types of institutions.

The length of sentence is clearly indicated in a further comparison, after the above, of average annual receptions in the two types of institutions.

COMPARATIVE FIGURES FOR BORSTALS and D.C.s:
D.A.P.s.



(Fig. 8.)

The higher numbers for Detention Centres are explained partly by the shorter length of a Detention Centre sentence compared with that in a Borstal. Fig.9 indicates the rapid expansion of the Detention Centre system from 1960 in a much clearer way than does the DAPs. It is also significant that despite the official concern about the raison d'etre, regime, and effectiveness of the Borstal system discussed earlier, figures for committals to Borstal also continued to increase during this period, indicating the following overall trends:

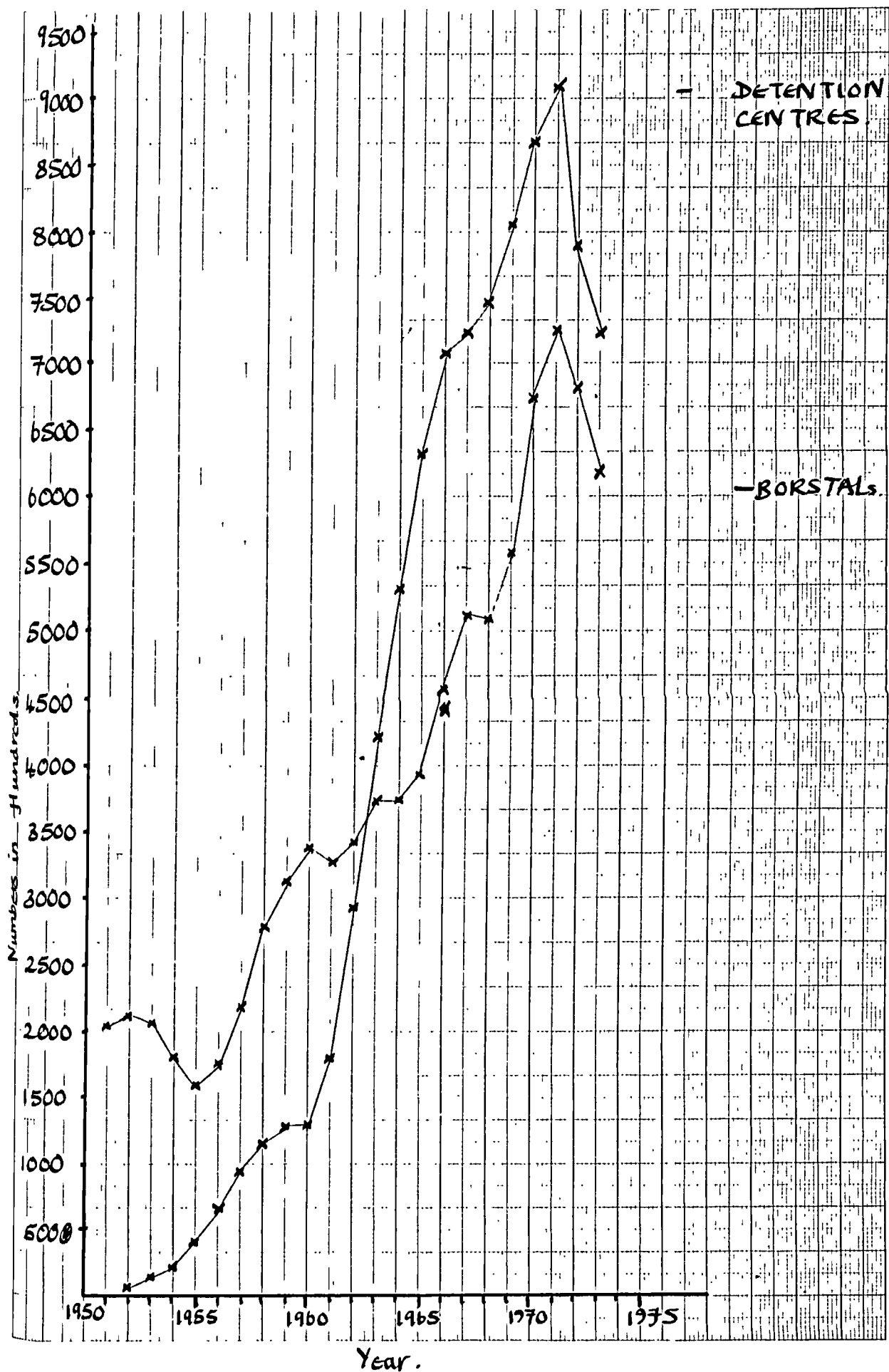
- (1) greater use of both Borstals and Detention Centres, and a concomitant increase in the numbers of buildings made available for such purposes;
- (2) a greater number of offences being committed and offenders apprehended;
- (3) a greater degree of rehabilitative optimism in the young offender arena; allied with:
- (4) an increasing attempt to keep young people out of prison, except for the more serious offences.

The advent of the Detention Centre system, therefore, did not concomitantly, in itself, lead to a decrease in the utilisation of Borstal during this period, but rather removed from the penal scenario a specific element or type of offender (and offence) previously dealt

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COMPARATIVE FIGURES FOR BORSTALS AND D.C.s : AVERAGE ANNUAL RECEPTIONS.



with by other means - in Borstal, or Approved School, or via probation, or fine, or sometimes in prison.

The conjunctural increase in Borstal reconviction rates served only to strengthen this trend in Detention Centre usage as well as highlight internal struggle within the Borstal system.

(v) Offences and Offenders, the Punished and Punishments

As early as 1962 regret was being officially expressed by the Prison Commissioners (and later by the Prison Department)⁷ about the reception (into Detention Centres) of ex-Approved School boys, "the least promising" of inmates in the light of the conception of the Detention Centre as an institution and regime in which the main purpose was "the deterrent effect". Reconviction rates were higher in the South East (and London) area than in the North, and the Prison Commissioners noted that boys from the North of England were:

"... more aggressive, but have stronger family ties, and are capable of greater loyalties than Southern boys." 8

The trend towards Detention Centres being used increasingly for other than first or non-recidivist offenders is indicated in Fig.10 below. In 1959, in Senior Detention Centres, 66% of committals had up to 2 previous convictions (compared with only 38% in Borstals), whereas in 1961 the number had decreased to 41%. It is also interesting to note that numbers in prisons for this category also began to decrease

FIG. 10.

PREVIOUS CONVICTIONS OF MALE OFFENDERS AGED 17-21 SENTENCED TO BORSTAL TRAINING, IMPRISONMENT AND DCS

IN 1959, 1960, 1961

No. of previous convictions	Senior Detention Centres Percentage of Commitals			Borstal Institutions Percentage of Commitals			Prisons Percentage of Commitals		
	1959	1960	1961	1959	1960	1961	1959	1960	1961
NIL	16)	14)	13)	6)	5)	5)	26)	12)	14)
ONE	25) 66	24) 61	14) 41	13) 38	13) 36	12) 34	13) 53	12) 39	11) 36
TWO	25)	23)	14)	19)	18)	17)	14)	15)	11)
THREE	15	16	13	19	20	20	12	13	14
FOUR	9	10	11	16	17	16	10	14	13
FIVE & OVER	10	13	35	27	27	30	26	34	37
ALL	100	100	100	100	100	100	100	100	100

rapidly, despite the maintenance of similar percentages in Borstals over the same period. This "hidden" group of offenders with 0-2 previous convictions, removed from both the Detention Centre system and the prison system are partly accounted for by a steady increase in Borstal figures during this period (not apparent in this category of table) and partly by an increased usage of non-custodial forms of treatment (probation and fines in particular) in the light of the 1961 Criminal Justice Act.⁹

By the beginning of 1962 (see below), 35% of Senior Detention Centre inmates had 5 or more previous offences (cf: 30% in Borstals and 37% in prisons). One aspect of the rehabilitative optimism of this period, the recourse to "treatment", was, ironically, encouraged by this steady increase in more sophisticated young offenders, warranting the appeal to deterrence of future criminality via a more "constructive and educative regime".¹¹

The opening paragraph of the 1965 Prison Department Report notes this 'continuing trend', viz:

"Among the boys committed to Detention Centres, the proportion of criminally sophisticated continues to increase," 12

and that the records of further offenders was increasingly suggesting that from $\frac{1}{3}$ to $\frac{2}{3}$ "are likely to be reconvicted within 3 years."¹³

The official figures for 1965, for example, were as follows :-

Detention Centres	Senior	%	Junior	%
1. Total no. admitted in 1965	5,465	-	1,275	--
2. Average no. of previous convctns.	4.3	-	3.9	-
3. No. previously on probation	3,108	56.8	824	64.0
4. No. previously at Approved School	705	12.9	68	13.1
5. No. prev. on probation & at A.S.	584	10.6	144	11.2

(Compiled from Prison Department Statistics.)

The proportions for each category of previous offence are roughly similar for Junior and Senior Detention Centres, i.e., 56.8% cf 64%, 12.9% cf 13.1%, and 10.6% cf 11.2%, for categories 3, 4 and 5 respectively. It was also in this year, 1965, that 'group discussions' were introduced into Detention Centres, in an attempt to create a more constructive atmosphere, and influenced by social psychological trends prevalent amongst the "caring" professions, social workers and probation officers, etc. By the end of 1966, it had been officially recognised that Detention Centre staff needed to "exercise the dual role of disciplinarian and social agent", which were seen to be "... the two complementary aspects of the purpose of detention".¹⁴

The 11th Report of the Estimates Committee¹⁵ reiterated Prison Department concern that the wrong young offenders were being sent to Detention Centres, making 3 main recommendations :-

- (1) that a pamphlet be prepared on the purpose of Detention Centres and the kind of offender most likely to benefit from a period in one, to be circulated to Magistrates;
 - (2) Magistrates' Conferences on developments such as Detention Centres;
 - (3) that the Prison Department review its policy on Detention Centres.
- The Report also offered a reminder that the 1961 Criminal Justice Act had

required that magistrates check if a place was available before sentencing a young person, advocating at the same time that Detention Centres should "not be tougher, but more understanding".

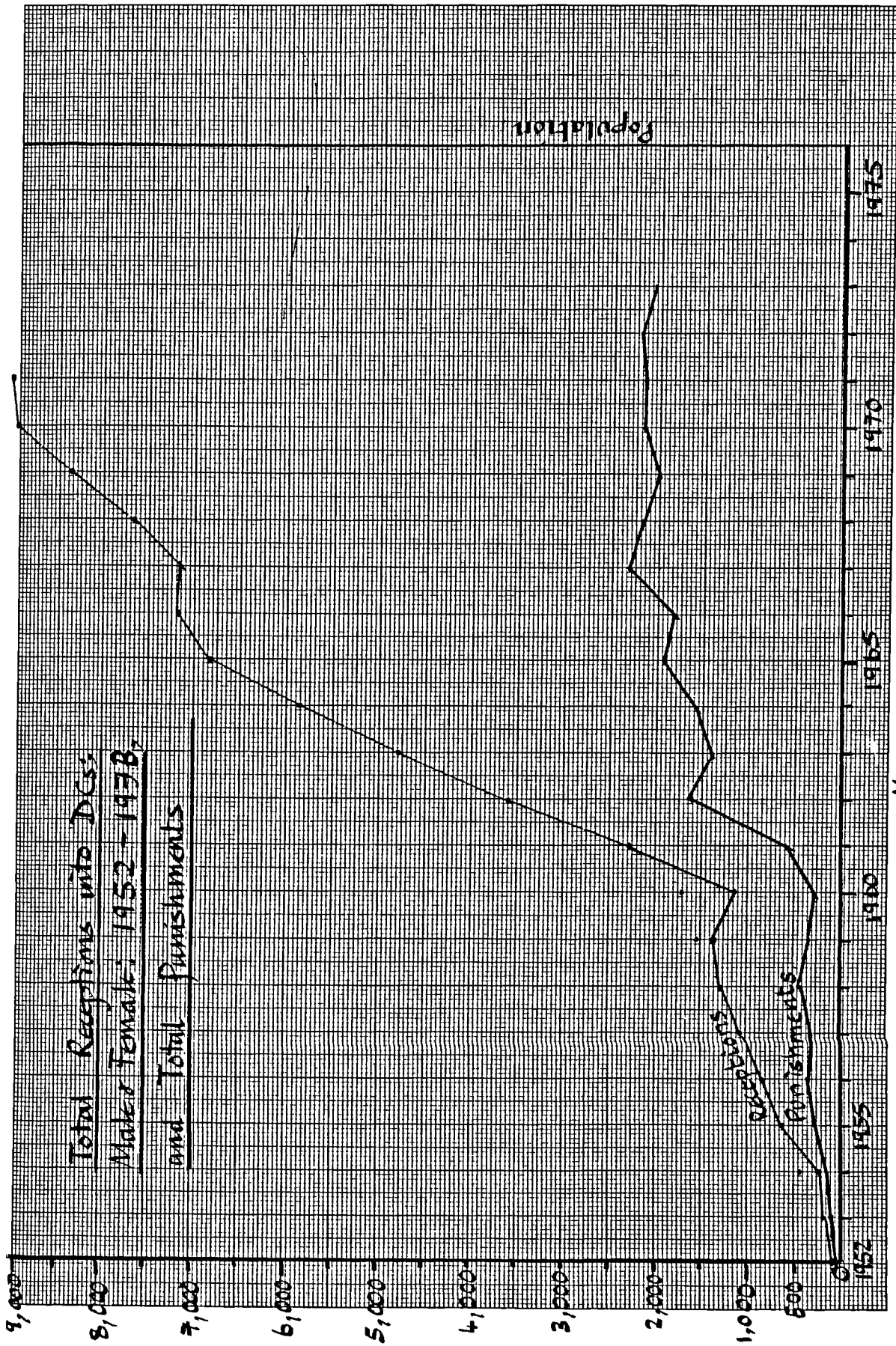
The scenario for Detention Centres by 1967 was thus characterised by:

- (1) an increase in the numbers of young offenders being sentenced to a period in a Detention Centre, and the attendant problem of finding enough places in the right part of the country;
- (2) the problem of accommodating both punishment and 'treatment' within a regime largely designed to facilitate execution of the former;
- (3) an increase in the numbers of young offenders with a criminally sophisticated history;
- (4) a continuing and increased policy oriented towards keeping young offenders out of prison.

Offences within the Institutions

An examination of the offences and punishments within Detention Centres during (and previous to) this period is interesting in itself. But it also serves to illustrate and support some of the points made earlier in this chapter, and particularly on the subject of rehabilitative optimism and the increasing recourse to a social-psychological ethic.

Fig. 11 shows the occurrence of punishments over the whole (and the previous) period which this chapter is concerned to analyse, as well as the total receptions. The most interesting factor is the significant drop in the resort to traditional punishments from 1963 onwards, despite sharp and continuing increases in total receptions throughout the period into the 1970's. That punishments were used less and less



Total Receipts into DCs,
Male Female, 1952 - 1978,
and Total Punishments

Population

Year.

(Fig. 11)

frequently as a means of disciplining inmates probably reflects to a large extent both the concomitant recourse to the social-work ethic, and especially following the introduction of social workers into Detention Centres from 1962/3 onwards; and the fact that more than 40% of new Detention Centres opened in the late 1950's and early 1960's were in buildings previously used as Borstals, where officers inherited traditions of less severity in punishments and the categorisation of certain actions as 'offences'. In conjunction with Fig. 11, it is useful to examine the graph and table below, showing numbers of offences committed within Detention Centres per head of average population (Figs. 12 & 13). It is striking that from 1960 there has been a sharp rise in the numbers of offences committed in Junior Detention Centres, peaking in 1965, at 3.6 offences annually per head of average population, compared with 0.3 and 2 in open Senior and closed Senior Detention Centres respectively. Throughout the period, offences per head of population in Junior Detention Centres are on the whole higher than, or at least as high as, offences committed in either closed or open Detention Centres, and considerably higher than in closed or open Borstals (see table 13). The decrease in offences in the one open Detention Centre (North Sea Camp) from 1960 to 1967 is in sharp contrast to these trends. This growing trend for offences and punishments to drop, in the light of a rapid increase in population is probably indicative of the advent and success of some degree of liberalisation in the institutions, the introduction of counselling and group work, and also a 'decriminalisation' of certain acts by inmates, leading to a complementary decrease in actions warranting punishment.

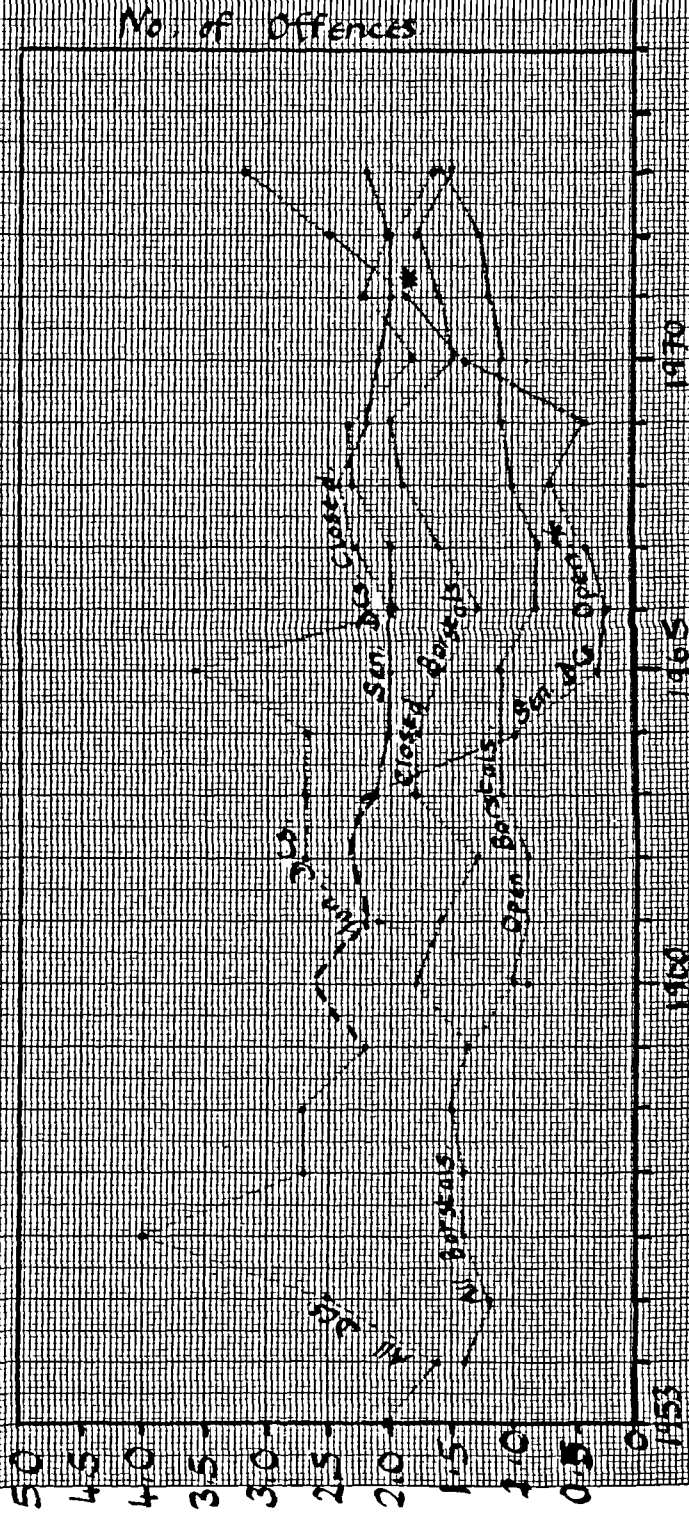
Categories of Punishment:

The six main categories of punishment in Detention Centres have been as follows:

Comparison of Offences in Borstals and Detention Centres

Annual No of Offences Per Head of Average Population

1953 - 1975



Year.

--- = All Senior DCs
 * = North Sea Camps
 1976

Fig. 12:

Fig.13

COMPARISON OF OFFENCES IN BORSTALS AND D.C.s :
ANNUAL NO. OF OFFENCES PER HEAD OF AVERAGE POPULATION
1953 - 73

Year	Borstals Open	Borstals Closed	D.Cs Junior	D.Cs Sen. Open	D.Cs Sen. Closed
1953			:	2.0	:
1954		1.4	:	1.6	:
1955		1.2	:	2.5	:
1956		1.4	:	4.0	:
1957		1.4	:	2.7	:
1958		1.5	:	2.7	:
1959		1.4	:	2.2	:
1960	1.0	1.8	0.9	2.2 2.6	:
1961	0.9	1.6	2.1	:	2.2
1962	0.9	1.3	2.7	:	2.3
1963	1.1	1.8	2.7	2.2	2.1
1964	1.1	1.8	2.7	1.0	2.0
1965	1.1	1.6	3.6	0.3	2.0
1966	0.8	1.3	2.0	0.2	2.0
1967	0.8	1.6	2.0	0.4	2.3
1968	1.0	1.9	2.3	0.7	2.4
1969	1.1	2.0	2.3	0.4	2.2
1970	1.1	1.5	1.8	1.4	2.1
1971	1.2	1.6	2.2	1.9	2.0
1972	1.3	1.8	2.0	2.5	2.0
1973	1.6	1.5	1.6	3.2	2.2

(Compiled from Prison Department statistics.)

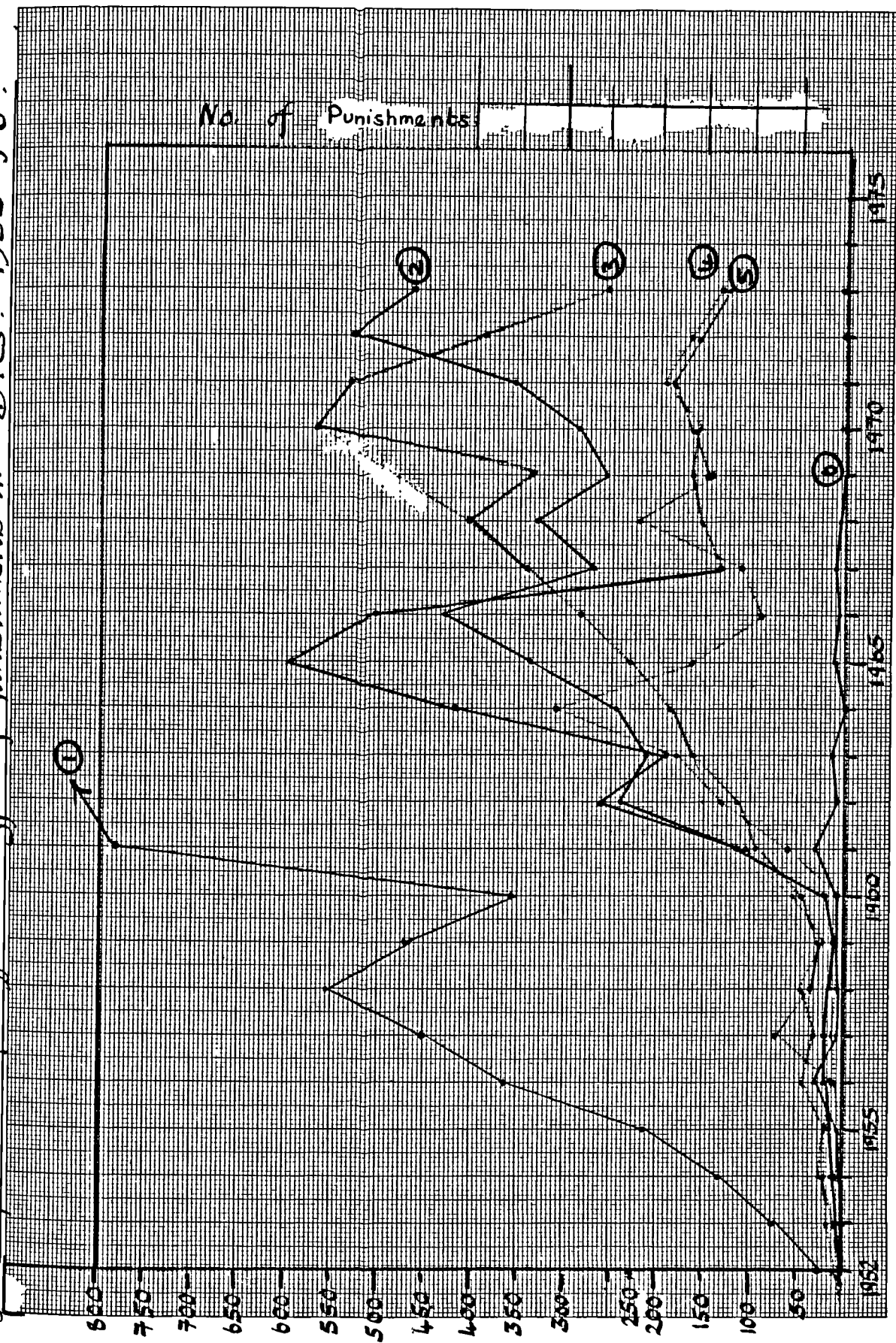
- (1) restricted diet - used rarely, and not at all after 1969;
- (2) loss of remission - the most frequently used, peaking in 1968, with the increase in remission from 1/6 to 1/3;
- (3) extra work, or fatigues - used regularly, especially in the middle 1960's and early 1970's;
- (4) caution - used occasionally, especially in the mid-1960's;
- (5) stoppage of earnings - frequently used, and peaking in the mid-1960's;
- (6) deprivation of privileges (especially reduction to Grade 1) - frequently used, rising rapidly in the 1960's, but tailing off in the early 1970's.

(See Fig.14)

Without doubt, loss of remission, with its rapid escalation after 1960, and the maintenance of a high peak from 1965, is the punishment most resorted to. (Fig.15) What the graphs do not indicate of course are the number of inmates punished, since many, potentially, would receive more than one punishment, and for more than one type of offence. These statistics are revealed in Fig.16.

The continued expansion in the opening of Detention Centre institutions, and in numbers of young offenders being sentenced is reflected in the steady increase from 1952, but particularly in the 1960's, in total offences committed, total punishments given, and total inmates punished. The percentage of the total population punished is reasonably steady (from 25% to 32%). The higher percentages early on in the history of Detention Centres were probably created by an initial tendency towards the purely deterrent and punitive aspect of the regime, as well as by a careful attempt via more overtly punitive methods to ensure a successful 'experiment' resulted. Other than this discrepancy, the outstanding deviation is for 1962, after the opening of Aldington, Aylesbury, Medomsley and New Hall (all Senior Boys) and Send, with a significant increase to 47.2%. It is significant that

Fig. 14: Comparisons of Different Types of Punishments in D.C.s. 1952-76.



Year.

Key over.

KEY:

①: Loss of remission.

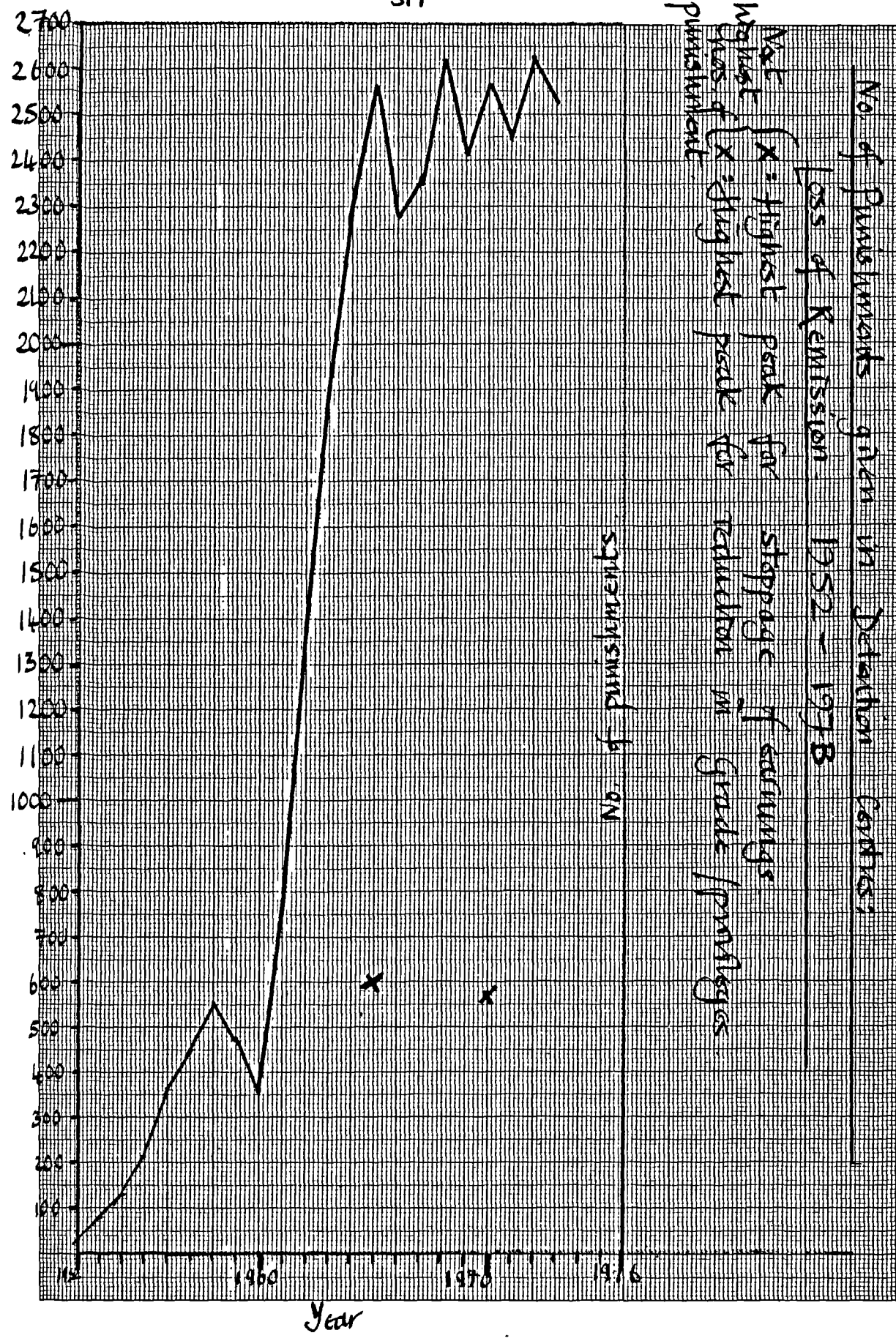
②: Extra work or fatigues.

③: Deprivation of privileges: esp. reduction to Grade I.

④: Stoppage of earnings.

⑤: Caution.

⑥: Restricted diet.



(Fig. 15)

Fig. 17. Offences and Punishments in Detention Centres during year ending December, 1952, to Dec. 1973.

Establishment	Offences							Punishments															
		Violence against the person	Damage to property	Absconds and attempts to	Idleness	Trfkg and b.i.p. unauth. arts.	Insubordination	Other breaches of regulations	TOTAL OFFENCES	Confinement to room (det.)	Deprivation of association	Restricted Diet	Depriv. priv., red. grade, del. prom	Remand to Detention Room	Stoppage of earnings	Caution	Remov. fr. activs.-other than work	Extra work or fatigues	Forfeit of add. letters / visits	Loss of remission	TOTAL PUNISHMENTS	TOTAL INMATES PUNISHED	TOTAL NO. INMS. IN DETENTION CS.
1952	3	2	3	5	3	9	2	27	-	-	-	-	19	1	-	-	-	-	23	53	19	75	= 25% all inms
1953	3	5	12	5	11	30	27	93	1	-	-	17	72	4	3	1	-	-	74	172	69	210	32%
* 1954	15	16	18	19	18	34	45	155	46	-	-	20	59	21	2	-	6	-	132	286	154	247	02.3%
* 1955	29	14	13	57	27	100	67	307	7	-	1	20	129	14	1	1	5	-	215	393	242	586	41.2%
** 1956	66	31	14	111	29	81	169	501	13	-	28	13	224	45	5	2	20	-	363	713	359	818	43.8%
*** 1957	72	23	9	118	32	107	266	537	8	-	3	76	163	36	7	-	19	-	450	762	311	1093	28.4%

- 1. * Incl. add. Blantyre House
- 2. ** Blantyre House, Campsfield House, Fost n Hall
- 3. *** + Werrington

(cont. over)

Establishment	OFFENCES							PUNISHMENT														
	Violence against the person	Damage to Property	Absconds/Mutiny	Idleness	Trfkg	Insubordination	Others	TOTAL OFFENCES	Confinement to Det. Room	Restricted Diet	(Dept. Privs) & to G. I	Remov. Det. Room Restrict/ pst. prils.	Stop earnings	Caution	Remov. Acts. other than work	Extra work or fatigues	Loss of remission	TOTAL PUNISHMENTS	TOTAL INMATES PUNISHED	TOTAL D.C. POPULATION	% of Total D.C. population punished	
(see below)																						
1958	100	32	21	118	69	84	316	740	12	1	35	236	44	5	-	15	551	899	412	1302	31.6%	
1959	68	13	26	71	47	93	284	602	14	1	29	176	27	7	2	8	470	734	375	1356	27.6%	
1960	57	21	17	21	68	65	245	494	30	1	48	89	55	5	12	22	353	615	327	1295	25.2%	
(4) 1961	202	22	46	183	146	164	255	1018	24	33	98	51	104	59	185	118	781	1453	641	2311	27.7%	
1962	273	45	41	451	267	506	209	1792	21	2	108	59	261	136	236	241	1379	2443	1703	3603	47.2%	
1963	187	53	47	398	258	342	1024	2309	57	10	162	83	191	182	192	211	1901	2989	1442	4839	29.7%	
1964	273	65	125	359	325	372	1373	2893	83	-	184	466	423	309	-	248	2299	4012	1672	5890	28.3%	
1965	470	147	108	886	432	216	1063	3324	68	5	231	225	599	162	-	341	2565	4196	1978	6827	28.9%	
1966	337	83	93	1201	463	177	685	3039	114	3	288	193	501	90	-	430	2287	3906	1848	7260	25.4%	
1967	360	107	80	1358	488	260	839	3492	224	8	346	284	707	137	109	273	2365	4453	2365	7220	32.7%	
1968	443	121	92	1362	600	307	709	3634	159	4	404	245	660	153	222	337	2612	4796	2291	7729	29.6%	
1969	389	88	67	1288	526	207	615	3174	117	-	340	156	487	166	146	256	2415	4083	2000	8356	23.9%	
1970	452	93	72	1322	621	238	712	3511	89	-	578	143	625	158	-	283	2589	4445	2213	9144	24.2%	
1971	414	95	85	1224	582	339	698	3446	84	-	534	122	608	194	-	357	2153	4352	2217	9146	24.2%	
1972	479	121	112	892	810	437	763	3619	8	-	390	123	643	169	-	528	2630	4491	2371			
1973	411	93	117	760	757	280	872	3393	-	-	253	116	531	134	-	466	2582	4032	2161			
1974								3806											2417			
1975								3885											2547			

(4) + Aldington, Aylesbury, Medomsley, New Hall, + Send

total offences, total punishments and total Detention Centre population continued to rise the year after, 1963, whilst total inmates punished decreased in number. One explanation for this may well be a temporary policy of 'clamping down' hard on the residual core of persistent offenders as a personnel reaction to a more liberal, social-psychological policy towards other offenders. Also, the degree of utilisation of more liberal principles almost certainly varied from institution to institution, and these figures do not indicate the 'spread' of methods used within the separate Detention Centres. It may also reflect the fact that the majority of new Detention Centres which came into operation in the period 1960-62 were senior Detention Centres, whose inmates were likely to have committed more previous offences before this sentence. Whether or not this affects staff attitudes in dealing with them when they then committed offences within the regimes is a matter for debate.

Comparison with Offences in Borstals:

Fig. 12 indicates, comparatively, the incidence of offences in Borstals and Detention Centres. The most outstanding feature of this graph is the difference in the numbers of offences committed between all Borstals and all Detention Centres. The annual number of offences per head of average population is consistently higher in all Detention Centres, and highest of all in junior Detention Centres. It is also interesting that the number of offences in the two open Detention Centres, North Sea Camp and Hollesley Bay rise rapidly after 1962 and into the 1970's, compared with all the open Borstals. One significant factor here is almost certainly the different types of boys sent to the two sorts of institutions. The majority of Borstal inmates had committed offences (before committal to Borstal) of dishonesty, which would be seen to require prolonged and careful treatment, partly along

social work lines, in contrast to the "impulse"-oriented offences of Detention Centre inmates, seen to necessitate a briefer and more traditionally punitive response.

Regimes

However, research has also shown quite clearly that the type of regime is more important in producing offences in prison environment than the type of inmate¹⁶ and would seem to indicate that a harshly deterrent regime characterised by a considerable degree of routine, meaningless and essentially punitive rules is more likely to produce higher rates of offences than are characterised by an essentially constructive, educative routine. The parallel between the 2 types of regime and the 2 types of young offender institution is therefore one of considerable significance, and is evidenced in the comparative figures for offences committed and punishments handed out in the 2 regimes (see Figs. 12 and 13).

(vi) Education and Work in Detention Centres

The part played by the Department of Education and Science (D.E.S.) in prison education generally had largely been exercised by His Majesty's Inspectors (HMI's) in the early years of our modern prison system. From 1950 onwards, HMI's visited prisons and Borstals regularly, "giving help and advice to establishments and to LEA's",¹⁷ and writing up the reports describing educational provision in such institutions. From 1961-2, the role of HMI's was officially envisaged as one which should "attempt to see and understand the whole of the daily life and work of the establishments they were visiting" in order to make a "more realistic assessment of the kind of educational programme being offered". From this point it became increasingly the trend to see the more formal schooling which took place in Detention Centres as an

integral part of the general educational and treatment aspects of the regime:

"Education classes are therefore no longer seen in isolation, but as part of the whole life a man can lead" 18

As a reflection of this, from 1961, a liaison was established between the Prison Commissioners and the Ministry of Education on administrative questions affecting the LEA's, and their teachers. By JHly, 1965, there were 42 full-time tutor organisers, 8 half-timers, 40 part-timers, and 1 educational psychologist, working in prison establishments of various kinds.

The Lord Chancellor's office considered that the purpose, content and effectiveness of a programme of study would be subject to the following conditions:-

- "(1) a governor's interpretation of what was appropriate treatment and training in his establishment;
- (2) the professional skill and personal qualities of the tutor organiser;
- (3) the extent of normal local authority provision in the neighbourhood of the establishment, and the consequent availability of teachers;
- (4) the teaching skills of the tutor organiser and his class teachers, their response to the peculiarities of the situation, and the ability to maintain freedom in methods and actions in the classroom, which is an essential element of English education;
- (5) the adequacy of accommodation and equipment."¹⁹

Such conditions were clearly formulated in order to ensure both a high level of co-operation between the authorities and the bodies involved as

well as a high degree of control over content, method, and availability of education within the institutions.

During 1968, steps were taken to review arrangements for education, throughout all establishments. This was the first such review since the Prisoners Educational Advisory Committee (PEAC) had met in 1947. Its object was to reformulate the purpose of education for people in custody and "...to devise appropriate professional and administrative arrangements".²⁰ The new programme was both recommended and accepted in 1962, and involved writing up the separate educational vocational training services. The whole was fashioned into one further education service, under the Chief Education Officer. Six new courses were introduced (3 in Borstals, and 3 in prisons).

Nevertheless, despite these developments both in administrative re-organisation and in the recognition of the role that the general educative process should play in the regime, the provision of education in Detention Centres remained somewhat limited, except that in Junior Detention Centres especially, the sentence afforded an opportunity for teachers to help individuals who were illiterate or semi-literate to a greater degree than the ordinary school situation might allow. In the Junior Detention Centres, all boys under school leaving age attended classes for all, or part of the day, for 5 days per week, for 51 weeks of the year, although the Royal Commission had admitted that the range of subjects taken was "limited".¹⁷

One problem was that educational provision of the sort that took place in schools could not easily be made available in Detention Centres, since the time period of about 10 weeks precluded the utilisation of vocational training and study methods deemed appropriate in a normal teaching situation. Also, as the Royal Commission hastened to point out,

the "nature" of the prisoner himself is of importance :-

"... the provision of adequate education depends primarily on understanding him, and his needs, in the situation in which he finds himself," 21

and hence :

"A very important part of the sentence is the period of Induction or Reception, when these motives and attitudes may be stirred." 21

The power of the psychological thread which was increasingly informing penal philosophy and treatment methods is evidenced in the same memorandum :-

"A prisoner's failure has arisen largely from within himself, and an education programme should therefore aim at meeting personal needs and at making good a man's inadequacies in such a way that he becomes involved in an educational situation in spite of himself." 22

The comment parallels a similar analysis in the 1963 Prison Department Report, referring specifically to girls; and noting their proneness to boredom :-

"A lot of their bad behaviour arises from an attempt to fill the void in the most exciting and immediate way acceptable." 11

Delinquency generally is therefore seen in psychological and non-situational terms, as an outlet for boredoms of various kinds, and characteristic of socially and psychologically inadequate young people. Hence, education, as part of a programme of 'treatment', is aimed at the solution of an individual problem via the re-moulding of basic traits and characteristics, aiding the offender to conform to a more stereotypical design based on the public image of the socially acceptable. The introduction of social workers into Detention Centres, as well as experiments in this period in 'counselling' methods usually associated with non-criminal casework served to strengthen this sort of trend.

But not all the changes made could be deemed 'educational

advances' as such. Much of the work associated with vocational training in the Senior Detention Centres, and in Moor Court, remained boring, repetitious and unproductive, and was in many cases of little or no use to inmates when their sentence had been completed. For example, in 1963, work in Moor Court was modified from being entirely domestic to include "an outside logging party and a small dismantling industry inside the institution". ! For the kind of young woman serving a sentence at Moor Court the most these exercises could hope to do would be to inculcate the work ethic and provide practice in the discipline of regular and repetitive tasks. They could not, on the whole, afford any sort of specific training which could aid them in the search for and acquisition of a job or trade of some kind when they left the institution.

The table below (Fig. 18), compiled from official Home Office statistics, indicates both the type and spread of work available in Detention Centres, as well as the proportions of young offenders who were afforded the opportunity to take advantage of it. Several factors emerge of some interest :-

- (1) the incidence of outside work (i.e.: work done outside the Detention Centre grounds and/or in the local community) is practically non-existent;
- (2) the percentage totals for all provision has fluctuated very little over the years;
- (3) domestic service, followed by manufacturing work, have developed as, and remained, the most resorted to occupations for both sexes;
- (4) the figures for girls are characterised by :

Fig.18

Year	TAR	Manufacture	Farming	Building	Domestic Service	Outside Work	Vocational Training	Non-Effective	Total Grand	Empl. % of Total Numbers
	Nos. in DCs									
1952	75	-	-	-	-	-	-	-	-	-
1953	210	-	-	-	34	-	-	2	36	17%
1954	247	-	-	-	40	-	-	3	43	17%
1955	586	16	-	1	91	-	-	4	112	19%
1956	818	23	11	1	90	-	-	4	129	15%
1957	1093	20	13	2	131	-	-	6	172	16%
1958	1302	38	17	4	185	-	-	27	271	21%
1959	1356	36	36	8	160	-	-	34	274	20%
1960	1295	44	16	23*	162	-	-	30	275	21%
1961	2311	54	37	65	266	-	-	40	462	20%
1962	3603	135: -	77: -	89: -	408: 1	- : -	- : -	44: -	754	21%
1963	4839	205: -	151: -	104: -	503: 18	- : -	- : -	51: -	1032	21%
1964	5890	277: 8	201: -	131: -	583: 14	- : -	± : -	79: 1	1295	22%
1965	6827	358: 7	249: -	153: -	622: 13	- : -	23 : -	96: 1	1522	22%
1966	7260	419: 8	249: -	138: -	683: 13	- : -	27 : -	87: 3	1627	22%
1967	7220	394: 4	224: -	131: -	701: 18	- : -	27 : -	108: 1	1608	22%
1968	7729	426: 6	199: 1	129: -	666: 15	- : -	30 : -	105: 1	1578	20%
1969	8356	452: 0	374: -	175: -	488: -	- : -	46: -	72: -	1607	19%
1970	9144	510: -	351: -	228: -	603: -	- : -	51: -	93: -	1836	20%
1971	9146	485: -	417: -	196: -	523: -	- : -	84: -	80: -	1785	20%
1972	6684	483: -	426: -	193: -	523: -	4 : -	68: -	135: -	1832	27%
1973	8110	414: -	325: -	174: -	413: -	5 : -	89: -	127: -	1545	19%

* hereafter denoted as Works Department

Fig.18. Work Available in Detention Centres : 1952- 1973.

- (i) an absence of opportunities offered;
- (ii) concentration in the area of traditional female work, notably 'domestic service' and 'manufacturing';
- (iii) the total absence during the life of Moor Court of any formal vocational training. A small number of boys were offered this.

B. The Political Arena : the Crisis of Managed Dissensus and the Emergence of the Law and Order State

I have outlined earlier in this study the basic feature of the post-war capitalist state in Great Britain, attempting to situate penal developments within such a framework as well as allowing for relatively autonomous developments in the penal system from 1945-1960. In political terms the 1960's and early 1970's may be seen as the opening scene for the law and order state of the late 1970's (and early 1980's), featuring massive attempts to stabilise post-war capitalism in the light and evidence of the increasing failure of consensus politics and low-key coercive policies. The roots of the law and order state of the late 1970's are clearly visible in this period, and it is against this background that the main theme of this analysis must be seen.

The previous chapter has outlined the promise held by the victory of the Labour Party in 1945, before their defeat in the 1951 General Election, and the slide into the delicately managed consensus of the 1950's and early 1960's under the Conservative governments, with the eventual short-lived career of 'affluent consensus' which began to disintegrate shortly after Macmillan's triumph at the polls in 1959.

The period between 1961 and 1964 may be regarded as transitional: not between Prime Ministers but between two variants of the consensus management of the state. The self-regulating, seemingly spontaneous cohesion of British social and political life, underpinned by the consumer boom, was gradually eroded during this transition. In its place

Labour attempted to construct a social-democratic variant based on an appeal not to individualism but to the 'national interest', and to a prosperity which would have to be struggled and fought for, both at home and abroad. This dominates the period up to the Heath victory in 1970. There were, in fact, many overlaps between the two phases. Indicative planning was introduced not by Wilson but by Selwyn Lloyd. Growth, out of which alone "more" could be provided, and modernisation, without which Labour could not be productive, had already become national goals, before Harold Wilson rephrased them into the new social-democratic litany. But these overlaps - by which, silently, the new structures of capitalism and the modern corporate state were matured - concealed the quality of the "leap" which Labour initiated on its return to power. What Macmillan had never attempted, and only Labour was in a position to initiate, was the full slide into corporatism. Labour had no alternative strategy for managing the economic crisis. By committing itself to capitalist structures, it had guaranteed the existing distribution of equality.

The only way the existing equilibrium could be maintained was to subsume class interests within the national interest:

"... the new social contract in this context is a contract not only between unequals but one in which the guarantor of the contract - the state is not and cannot be disinterested and neutral between the classes." 23

All sides had to be drawn into an active partnership with the state: to make labour and capital equal "interests", under the apparent impartial chairmanship of the 'neutral' state; to commit each side to national economic targets; to persuade each to regulate the share which it took out of the common pool; and thus to establish a 'tripartite' corporate bargain at the centre of the nation's economic life, based on the harmonisation of interests between labour, capital and the people the latter appearing in the heavy disguise of the state.

The pivotal notion was that of a permanent "alliance" between labour, capital and the state. It was also the basis of the social-democratic experiment in consensus-building: the "corporate consensus of the 'big battalions'." ²⁴ It depended, above all, on disciplining the nation to consent and on the institutionalisation of the class struggle, whereby the state would be responsible for establishing the network of institutionalised frameworks within which the 'bargains' could be struck. In this form, the state, while appearing to subsume within itself the best interests of everyone, in fact "firmly assumed command over the long-term conditions of capital - if necessary at the expense of short-run market considerations of individual capitalists". ²⁴

This pacification and harmonisation of the class struggle was accomplished in part through the generation of its own distinctive ideology of 'modernisation'. Unfortunately, as soon as economic pressures sharpened, the concoction began to fall apart. Once tested, it revealed its true internal logic: the attempt to conserve British capitalism and manage the crisis by the construction of a disciplined form of consent, principally under the management of the corporate state.

But Labour inherited the biggest deficit on the balance of payments in British peace-time history. The response was a return to the religion of sterling. The government borrowed furiously, persuaded the T.U.C. to accept a statutory wages policy, and won the General Election. The seaman's strike in 1966 threw the whole strategy into the balance. What was at issue, the Prime Minister said, was nothing less than "our national prices and incomes policy". Although the seamen eventually settled, the credibility of Labour as a reforming party of the working class evaporated. The run on sterling began again, with two deflationary packages following. "The magic of the social democratic consensus began silently to depart", with Wilson and the

Labour Party presiding over what can only be described as managed dissensus..

The crisis which was fast developing was equally as observable in the spheres of moral authority and civil society as in the political and the economic. By the mid-1960's:

".... the calculated innocence of 'swinging London' had been redescribed as 'pornographic Britain' by the populist guards of public morality. The moral backlash⁶ had commenced. The Police Federation, antagonised by a lost pay claim, the threatened abolition of capital punishment, and the killing of 3 policemen, warned that the police were 'losing the war against crime'." 25

The capital punishment debate became one of the pivotal points of popular reaction, and the view that the Moors murders (1966) were the inevitable result of the permissive society was widely interpreted. The media increasingly played a dominant role in the 'turning of the tide' against liberalism' and the moral stances and panics about drug abuse, the teenage pop and cultural scene generally,²⁶ the path of student revolt, and the contemporary heightening of racialist forms of abuse and violence, ensured that the slow but steady transition from the post-war hegemony of the social-democratic consensus by which the ruling class had maintained an uneasy dominance during the 1950's and 1960's had undergone a final erosion and transformation by the early 1970's. The qualitative change in British politics during this period is apparent in all aspects of society - social, political and economic, as well as in penal terms, and is consolidated in the emergence of a new form of state, which I have termed 'the law and order state'.²⁷

The student revolts in Britain mentioned above, accompanied by the golden summer of the hippies in the U.S.A., propelled the breaks and ruptures stemming from the rapid expansion in the ideological, cultural and civil structure of capitalism. The resulting form was a crisis of

authority :-

"From Berlin to Naples, Paris to Tokyo, the university - the ideological 'factory' - became the centre piece of an astonishing reversal and confrontation. An entirely novel repertoire of confrontation tactics, theatrical and dramaturgical in inspiration, was generated." 28

Their eventual failure in any significant political terms in Europe, (in the long-term anyway) was partly because they remained essentially a "festival of the oppressed", a revolutionary and idealistic dream of participation, worker control and creativity, with little insight into or understanding of the awful power of the state, or any concept of the role of or need for a vanguard party:

"This very hesitancy before the citadel of the state was to be its undoing." 29

As in 1848, Britain moved into this affair more cautiously and sedately than did many other cultures. "No workers marched, no factories were occupied and few heads were broken by police batons". Nevertheless, in her own 'peculiar' way Britain experienced her own '1968'. The resolution of the state to resist the opposition of its own 'chosen' children, and the panic and fear of the 'silent majority' at having their routinised way of life threatened and shattered, created a fateful partnership out of which the drift into the reaction and authoritarianism of the 1970's was born.

By comparison with the great abstract themes of the student movement ('participatory democracy', 'community power', etc.) the race theme, characterised by a renewed panic under the personal guidance of Enoch Powell, was concrete and immediate. It touched the disappointed aspirations and frustrated hopes of those in the 'respectable' and lower middle-classes who had invested their last savings in Macmillan's "property-owning democracy", only to have the equally respectable

(but black) family moving in next door, and sending property values plummeting. No first immigration generation had suffered more for the 'quiet life' than the early black immigrants to Great Britain in the 1950's, yet, objectively, they were destined to signify the dark side of the 'affluent dream' - to embody the repressive content of the affluent nightmare:

"Their Saturday night parties were a constant reminder of the sacrifices demanded by the regime of work and the taboo on pleasure enshrined in the Protestant ethic." ³⁰

A well-organised, vigorously anti-immigrant lobby developed rapidly within the ranks of the Tory party.

In February, 1968, Enoch Powell called for a virtual end to the entry voucher system and a virtual embargo against the Kenyan Asians. The Labour government, responding to the most immediate pragmatic and self-interested calculations, spirited a Bill through parliament introducing an entry voucher system for Kenyan Asians, and in doing so whetted the appetite of the anti-immigrant lobby: in April, Enoch Powell delivered his "rivers of blood" speech in Birmingham.

Long-term, 'Powellism' was symptomatic of deeper shifts in the body politic. Gradually through the 1960's, and then explosively in the period after 1968, English society had become distinctly unsettled. The unrelieved pragmatism of Wilson and Heath in this period was a living testimony to the bankruptcy of consensus politics in a period of renewed social conflict. By the mid-1970's, Great Britain had begun its lurch to the right, which was to be enhanced by the Tory victory at the polls in 1979, although an analysis of this later period in the political history of Great Britain is beyond the brief of this thesis.

The polls were beginning to reveal substantial majorities in Britain on the right for all the major social issues. The consensus,

it was said, had been undermined by 'extremism' on both sides. In September 1968, the Ford strike at Halewood made it the worst year for industrial stoppages in the motor industry, and initiated a period of prolonged and bitter struggle in the multinational grant. In October and November, the newly formed Northern Ireland Civil Rights movement organised a series of 'moral force' demonstrations against the Protestant ascendancy and Orange discrimination in the Province, and were opposed by Ian Paisley and the Royal Ulster Constabulary. Both these events were only further indicators of the 3 great conflicts that were to dominate the 1970's, under successive Labour and Tory governments, and reached an unprecedented crisis point under the Thatcher government in the late 1970's, race, crime and industrial unrest. The police as a specific professional body, and policing generally in the wider arms of the state apparatus were to play a more important role than perhaps ever before in the conflicts that were to develop as the state became more aware of the tenuousness of its hegemony on the one hand, and concomitantly (although not just simply -) more authoritarian in its management of the crisis through which it was moving on the other.³¹ And, at the same time, the themes of protest, conflict, permissiveness and crime began to run together into what appeared to many people as one great undifferentiated threat, where "nothing more nor less than the foundations of the Social Order itself are at issue".³² In other words, the individual themes of the crisis fused into an appearance of a progressively deteriorating general condition. This 'general condition' by the early 1970's is the conjuncturally-specific form of what seemed to be the final crisis of the post-war social-democratic consensus, and the opening act of the law and order state based on authoritarian rule and a recourse to a 'harder' form of law in order to avoid what seemed the inevitable alternative, in political and ideological terms,

the total collapse of law and order:-

"Violence and mob law are organised and expanding for their own sake. Those who organise and spread them are not seeking to persuade authority to act differently, to be more merciful or more generous. Their objective is to repudiate authority and destroy it." 33

Various specific debates, particularly visible at various times in penal and social history, were thrown into sharp relief at this conjuncture, and especially those around the topics of treatment versus punishment; the introduction of a recourse to intermediate forms of treatment; the stress on local community versus penal institution; the continued attempts in the direction of decriminalisation. All served to 'disturb' the hitherto seemingly autonomous equilibriums of the ideologies of social worker, probation officer, policeman and magistrate - as well as those of the staff who worked within custodial institutions. They also served to sound what seemed the final death-knell of the Detention Centre whilst at the same time the institution seemed to be flourishing.

The wider crisis of the state became displaced, in ideological and political terms, onto the terrain of law and order issues generally, and emerged as anxieties about youth indiscipline and delinquency specifically. Although in the crisis of the state in the post-war period has been essentially of an economic nature, it has reverberated throughout the superstructure in a manner which has constituted a very serious threat to ruling class hegemony.

The political and ideological issues which emerged during this period were not "conjured up" by the state, or cosmetically manufactured in deliberate fashion. They turned upon real anxieties, fears and contradictions within the class experiences of large sections of the population. In this respect, as Hall et al indicate, issues such as crime, permissiveness and immigration touch upon a dominant ideological construct which cuts across classes, to form a 'common' theme on which to focus in time of stress, what might almost be termed a localised hegemonic foundation.³⁴ And it is specifically upon such themes that consent for a shift into a law and order society was constructed.³⁵

C. The Penal Arena : the Crisis of Containment

The position of the Prison Department in the early 1960's was complicated to start with by its own internal upheavals and the crisis it was facing within organisational structures in the areas of reform and planning, and the manifest contradictions within the system relating to control, deterrence and rehabilitation. Thus, at this historical conjuncture, perhaps more than at any earlier point in its history, the Police Commissioners (after 1963 the Prison Department) and the Home Office carried an awesome burden of and for civil society. If the task for the penal system was awesome its contradictions were unprecedented.

The whole crisis of ruling class hegemony, a crisis of authority, seemed to rest on its shoulders, and be reflected in its organisation.

The ways in which the Prison Department responded to the growing crisis of the 1960's generally, and the ways in which it attempted to come to terms with its own problems would seem, when taken together, to indicate a historic turning point in post-war capitalist Britain. It is a turning point Gramsci describes as the passage from the "moment of consent" to the "moment of force", from the uneasy consensus of the 1960's to the more blatant coercion of the 1970's.

The adult penal arena was one characterised by an increasing degree of rehabilitative pessimism in this period, and complicated by adverse publicity created by the public fear and outrage which surrounded such events as the Moor Murders (1966), and the Great Escapes (Charles Wilson, 1964; Ronald Biggs, 1965; Frank Mitchell, and George Blake, 1966). Both the Mountbatten Report (1966)³⁶ and the Radzinowicz Report (1968)³⁷ reflect official concern with security and containment. In 1965 and 1966 the Prison Department established maximum security units in parts of Durham, Leicester and Parkhurst prisons, to hold long-term prisoners who were thought to be high security risks. The Radzinowicz Report³⁷ was against the continued use of such units on the basis that:

".... the regime of the units is unsatisfactory for men who have to be in them for long periods, and the risk of further disturbances inside the units is a very real one." (p.7)

They therefore recommended that prisoners be moved away from such units

"at the earliest date consistent with security".³⁸ The Report suggested that:

" there needs to be an increase in the co-efficient of security in our closed prisons, especially those in which long-term prisoners are contained." (paras. 44-46),

and that this need not necessarily be obtained at the expense of

"... a reversal of the trend towards a more liberal and constructive regime inside our long-term prisons, still less by a partial or complete return to the restricting and solitary life for the prisoner for which our nineteenth century prisons were designed". (p.76). The Report did not however accept the recommendation made by Mountbatten concerning the establishment of one top-security prison, feeling that the disadvantages heavily outweighed the advantages, and recommending instead that:

".... the problem of the satisfactory containment of a small number of violent and disruptive prisoners can best be met by the establishment of small segregated units within larger prisons." (para.41)

Both Reports, but particularly Radzinowicz, deal expressly with the problems of the English penal system by advocating methods aimed at a policy of humane containment. The Mountbatten Report in particular had a cataclysmic effect on the Prison Department, finding clear weaknesses in both physical security and in prison administration, both at the local level and at head office :-

"... not enough care has been taken to reduce unnecessary escapes from the old prisons. Much can be done towards this without imposing a harsh and inhumane regime"

A new classification of prisoners into 4 categories, based on the security risk was therefore proposed and adopted. Following Mountbatten large sums of money (some £2 million) were spent on re-equipping and reorganising the prisons from the point of view of security, and the number of escapes from closed prisons and remand centres was reduced drastically. The crisis in local prisons ³⁹ was reaching one of major proportions, with overcrowding a constant problem. By 1969, the Home

Office were to comment:

"Two factors have dominated the history of the prison service ever since the war. The first is the rise in numbers, and the consequent over-crowding. The second is the development of alternatives to the traditional form of imprisonment." 40

In 1967, the DAP of our prisons was the highest ever recorded, 35,000.

Although numbers fell somewhat in 1968 (i.e. 32,500) due to the introduction of the suspended sentence,⁴¹ the Home Office still felt that planning would have to develop

"on the assumptions that the number of people in custody is likely to continue to rise by over 1,000 a year, thus reaching about 40,000 by the early 1970's." 42

Indeed, the reduction in DAP created by the introduction of the suspended sentence proved to be only temporary.

Taken together, Mountbatten, Radzinowicz, and 'People in Prison' represent a somewhat pessimistic over-view of both the problems of the English penal system and the possible solutions to these problems. For this reason they contrast sharply with the optimistic tenor of the 1959 Report, "Penal Practice in a Changing Society". Basically, the practice of rehabilitative methods were to be translated into humane containment and warehousing. The manifest urgency of such a solution was based on the continued rise in numbers of people being committed to prison with the additional problem of a small, but for policy implications, significant, number of people serving long sentences. Nevertheless, the W.P.⁴³ was concerned to support and extend "changes in traditional forms of imprisonment", citing in particular Detention Centres and Borstals, as well as open prison, and recognising that:

"... the designation of an institution as a Detention Centre, Borstal or a training prison does not, of itself, alter the basic condition of custody, the artificiality of the inmate's life, the boredom or the drab uniformity." 44

Hence, the reassertion of the protection of society via security is tempered by an attempt to recognise and encourage the importance of the

quality of the conditions in which containment takes place.

D. The Young Deprived and the Young Depraved:

Several themes characterise 1960's penal policy as far as the young offender arena is concerned generally, and with respect to Detention Centres specifically. They are:

- (i) an increasing and continued recourse to an official faith in the efficacy of treatment, interpolated via a 'scientific' methodology based largely on a psychological model of human behaviour, and supported by a positivist sociological methodology;
- (ii) the pressure and efforts of a rapidly professionalising Probation and Social Work Service, in conjunction with the growing role generally of the Local Authority in familial and social matters;
- (iii) increased and continued pressure for penal reforms from the Quakers, the Howard League, et al;
- (iv) the continued apparent contradiction between the deterrent and treatment aspects of Detention Centres.

The contrast and apparent contradictions between young offenders and adult arenas in terms of a recourse to rehabilitative optimism is also clearly evident. All this was taking place at the time of significant expansion within the Detention Centre system, and the concurrent crisis within the Borstal system (see earlier). Some of these themes have already been touched upon. All are themes to which this chapter will return at various points.

The ideological representation of these trends are very strongly evident in the official penal and social policy reports of the period,

in the Ingleby Report (1960); the Morrison Report on the Probation Service (1962); in the two White Papers on young people, 'The Child, the Family and the Young Offender' and 'Children in Trouble' (1965 and 1968 respectively), and in the Seebohm Report (1968).

The Report of the Committee on Children and Young Persons in 1960 (Ingleby)⁴⁶ is indicative of the growing trend to privatise the structure of the family, whereby the remaining vestiges of family organisation via extended kinship networks is replaced by a paternalistic form administered through the state via the Local Authority, whose general duty it would be "to prevent or forestall the suffering of children through neglect in their own homes". Further, it also illustrates the gradual movement towards greater social work intervention via professionalization as a shift from one form of state control to another by suggesting that the juvenile court should be retained but should "move away from the conception of criminal jurisdiction". Hence there is a shift in the type and quality of state control, appearing as a liberalised form of social intervention.

Ingleby also recommended that the minimum age of criminal responsibility should be raised to 12, and the powers for "care and protection" should be widened to include the power to order detention in a Remand Home, or attendance at an Attendance Centre, hence extending the scope of criteria for this category of youngster.⁴⁶ Further, the power of individual parents was limited, by the recommendation that the parent's power to bring a child before a juvenile court on the grounds that the child is beyond his control should be revoked, and that a child found guilty of an offence by other than a juvenile court should be referred to a juvenile court in order to be dealt with.

Ingleby also recommended a standard period of 3 months in a

Detention Centre, followed by a period of statutory after-care, normally for 3 months.⁴⁷ The attempt via Ingleby was thus two-fold :-

- (i) to afford a certain degree of decriminalisation vis a vis the erring juvenile;
and
- (ii) to aid in the transfer of the handling of juvenile delinquency from the courts and penal institutions to the social work professions.

Hence, rather than attempting radical change (i.e. total decriminalisation and deinstitutionalisation) Ingleby in fact illustrates a subtle conjunctural shift from one form of state control to another. The family is still held responsible for the child's early social@psychological development, but emphasis is beginning to shift from a direct focus on the family as the centre of nurture and normalcy of behavioural norms, (especially prevalent in the 1950's), with state approval, to a form of state control whereby the power rests on the official state agencies, the local authority, and the social work professions. Of special interest here is Ingleby's position on the relation between proposed procedures and the nature and cause of delinquency. For the young child most of the responsibility lies "squarely" with the upbringers; but later on 'the child must learn to stand on his own feet and accept greater responsibility for his action'. In other words, as Bottoms has pointed out:

" ... the model was, in crude terms, one of social pathology for the younger child, but more classical assumptions about choice of evil for the older child ... and these models were to be reflected in the differing procedures - civil proceedings for the younger child and criminal for the older." 48

This increasing recourse to the replacement of the family by state official agencies for the control and treatment of the young offenders is also evidenced in a reading of the 1962 Report on the Probation Service⁴⁹ which rejected the established definition of probation as a conditional suspension of punishment, preferring to stress instead the trust that the court reposes in a probationer, whereby "subject to the offender's good conduct, the proceedings in England are ended by the making of the probation order". The Report wishes to avoid

the juxtaposition of "probation" and "punishment". Endorsing the findings of the Streatfeild Committee,⁵⁰ the Report goes on to recommend the use of Social Enquiry Reports, suggesting that :

" ... a copy of a social enquiry report on an offender who is sentenced to prison, Borstal, Approved School, or Detention Centre, should be promptly furnished to the institution's authorities for their confidential use ... and to a local authority to whose care, as a 'fit person', a boy or girl is committed." 51

The concern for a 'liberal' form of treatment is also evident :

"Requirements to undergo mental treatment are a valuable part of the prison service." 52

Finally, the Report defines the Probation Officer as "a professional caseworker, employing, in a specialised field, skill which he holds in common with other social workers. He is also, however, the agent of a system concerned with the protection of society".⁵³ A delicate balance is thus maintained between social worker and friend, and probation officer and authoritarian figure. The probation officer, therefore, may perhaps be said to be an excellent example of the fine balance between control via consent/manipulation and control via coercion/force, a balance central to the maintenance and equilibrium of post-war capitalist Britain.

Influenced by the 1964 Longford Report⁵⁴ and the suggestion to establish family courts, both "The Child, the Family and the Young Offender"⁵⁵ and "Children in Trouble"⁵⁶ continued this trend in the young offender arena. The later White Paper advocated a comprehensive system of community homes (to replace Approved Schools and fit person orders), to be run by the local authorities; as well as providing for the development of new forms of treatment, "intermediate between supervision in the home and committal to care", (to replace junior Approved Schools and junior Detention Centres). Bearing in mind

that this White Paper was published only shortly before "People in Prison"⁵⁷ it may appear, in one sense, to be rather at odds with the pessimism of the later White Paper. As has been suggested earlier in this chapter, there was strong evidence of a growing pessimism towards rehabilitation and treatment in the adult penal system by the late 1960's. Developments vis-a-vis young offenders, in contrast, seemed to be more optimistic. It would follow the trend of most penal analyses to see developments for young offenders as optimistic, more reform-oriented and humanitarian. To some extent this is so, but numbers for offences committed by the under-21's was continuing to rise, and institutional methods of dealing with offenders were increasing, with more children coming before the courts and other official agencies, including local authorities. What is happening therefore at this juncture is that there is a shift in penal policy, as outlined earlier, encouraged by increased professionalisation of such agencies, as well as encouraging such change in agency structure and function.

The 1968 White Paper, "Children in Trouble" heralded the central thrust of the 1969 Children and Young Persons Act, summing up its main proposals in a way which reflected very succinctly this interpolation of the social and psychological which was increasingly prevalent in English penal policy. It also highlighted the relationship which should officially exist between the family and the local state (the local authority), in procedures for dealing with erring or troubled youth :-

"There are many influences on the behaviour of children, and that of the family is particularly important. Much misbehaviour by children is part of the process of growing up, but some has more deep-seated causes. Action by society to deal with children in trouble should take account of each child's family, and wider social background, and should be designed where possible to support the child in the family, encouraging and helping parents to fulfil their responsibilities and preserving the child's links with his local community The use of formal procedures should be reserved for situations where this is necessary in the interests of the child and society." 58

The White Paper does not hesitate however to point out that :

"Firm and consistent discipline is, however, a normal and necessary part of a child's upbringing." 58

recognising that children sometimes require "control as well as help" if they are to "overcome their problems" and become "useful citizens", and stating quite strongly that :

"... society may have to provide this control for its own protection and for the sake of the child, where the parents are unable to do so." 58

Many of the recommendations of the White Paper were dealt with in greater depth in legislative terms in provisions within the 1969 Children and Young Persons Act, but, nevertheless, the White Paper is important as a statement in fairly overt terms of the sort of path that penal policy and practice should follow, "with children in trouble over the coming years". More importantly, it is a good example of the shift from Fabian to liberal professional ideology between 1965 and 1968: Labour had earlier criticised Ingleby for offering too little to help the family of the delinquent (the "source" of delinquency), and for not being sufficiently concerned about keeping children out of court altogether. Labour's stress was not, however, for a more pathological view of the deviant than Ingleby's

"... but rather if anything a modification of Ingleby's social-pathological concept towards a broader view of the delinquent as a "victim of external forces" rather than as psychically inadequate." " 59

By 1964, the Labour Party had set up a private party committee on criminal policy under Lord Longford, which, in its report, suggested the complete abolition of the juvenile court and the setting up of a new Family Service. The White Paper which followed it ("The Child, the Family and the Young Offender") was based essentially on Longford, and represents a further attempt by the Labour Party to create a more

welfare-oriented juvenile justice system. It failed "due to the strength of the opposition", "the wider issues" it raised, "the political difficulties of the Government" and a change of Home Secretary.

The second attempt, "Children in Trouble" was organised largely by "a very influential group of social-work oriented civil servants", although they in turn would not have been so influential but for "parallel developments towards professional and organisational unity in British social work". The success of this second attempt is attributable largely to a number of technical matters,⁶⁰ but particularly to the retention of the juvenile courts in this second White Paper, which deprived the Opposition of "its most evocative symbol".⁶¹

For these reasons the White Paper typifies and exemplifies the growing trend in English penal policy concerning young offenders, in the move from the form of centralised state power emanating directly from the Home Office to a more localised state power under the immediate auspices of a local authority represented by the increased professionalization of state workers and officials. The White Paper advocated the support of social workers in cases of families experiencing difficulties with young people, rather than the family councils suggested in the 1965 White Paper,⁵⁵ leaving the basic choice over the procedures for dealing with offenders between court proceedings and the provision of help and guidance on an entirely voluntary basis. It is worth noting at this point, that it was indeed largely the JUVENILE offender (the under 17) who was affected by Longford, "The Child, the Family and the Young Offender", "Children in Trouble", the Children and Young Persons Act, etc. The young adult (17-21) was thus left in something of a policy limbo at this stage; and it is this age group which dominates Detention Centre history in this period.

The same year, the Seebohm Committee's Report was published.⁶²

Appointed in December, 1965, its brief was :

"... to review the organisation and responsibility of the local authority personal social services in England and Wales, to consider what changes are desirable in order to secure an effective family service." 63

The official point of origin of the Committee was :

"... a concern at the increase in officially recorded delinquency, the need to concentrate resources ..."
and "... a belief that preventive work with families was of cardinal importance in this context." 64

The correspondence in ideological overtones between the two reports is thus very clear.

Much of both the thinking and the implications of 1900's penal philosophy and practice, discussed in the previous chapter, became embodied in legislative terms in what has become one of the most discussed, disputed and rigorously analysed parliamentary Acts in the post-war period, the 1969 Children and Young Persons Act. The Act has attracted such attention both in respect of the complexity of its content and in terms of the wide-ranging repercussions that various interpretations of its content and direction have had, and were seen to have, on 1970's practice with regard to children and young persons, in the light of wider social and political developments under both Labour and Tory governments. The scope of this study cannot allow for any deep or exhaustive analysis of the history and fortunes of such an important piece of legislation, although reference has been made earlier to its pre-history, and the 1900's ideologies which helped to shape it. Other penologists and sociologists have dealt with this in detail, elsewhere.⁶⁵ For the purposes of this study it must rather form one important, continuing, and vital strand in an explanation of the history of Detention Centres in England. I am thus keenly aware of the brevity of any analytical attempt at such in the following pages. What I have tried to do instead, therefore, is situate the

Act generally within the wider parameters of the penal and socio-political history of the 1960's and early 1970's, and specifically within an analysis of the young offender disposal systems of this period.

The earlier part of this chapter has discussed the slow but inevitable swing throughout the 1960's, from Ingleby onwards, to more socio-psychological and welfare-oriented methods of dealing both with the young deprived and the young depraved. With this, as indicated, came a complementary reliance, increasingly, in certain arms of the state machinery (and especially in the welfare and penal sectors) on "the scientific". This is present in the incorporation of an individualistic analysis of the child, or young person, into an increasingly welfare oriented philosophy for both offender and non-offender, whether institutionalised or in the community's care, and was an essential characteristic of the 1969 Children and Young Persons Act.

E. The Notion of Community

(1) The 1969 Children and Young Persons Act

The 1969 Act basically attempted 3 shifts in policy :

- (1) juvenile offenders were to be offered help from the social services rather than punished;
- (2) local rather than national government departments should decide on services for juvenile offenders;
- (3) juvenile offenders were to be helped in the community where possible, rather than by disposal to institutions.

The three shifts in policy, taken together, would ensure that it would be impossible to prosecute any child under 14⁶⁶ for a criminal offence,⁶⁷ whilst making it impossible for a compulsory (civil) care measure to be given to an offender of this age unless the court was satisfied not

only that s/he had committed an offence, but that "he is in need of care or control which he is unlikely to receive unless the court makes an order".⁶⁸ Hence, the offence in itself would constitute a necessary but not a sufficient reason for such an order. The Act also made the provision that a child should not necessarily have to go to court when an offence has been committed, but that where and when possible treatment should be voluntarily agreed between parents and social workers. The exception to this would be when an order for residential treatment was sought, in which case a formal court order would be necessary.

As a means of implementing this, 2 main disposals would be available for persons successfully prosecuted or found in need of compulsory care; i.e.: the "care order" and the "supervision order";⁶⁹ these would thus cover proceedings concerned with children and young persons brought before the juvenile court for: "...in broad terms, neglect or ill-treatment; exposure to moral danger; being beyond control; not going to school; and committing an offence".⁷⁰

Provision is made in Part II of the Act for Approved Schools, hostels and local authority and voluntary children's homes, to become part of a comprehensive system of community homes, available for all children in care. The change was intended :

" .., to enable the resources of the existing separate systems of residential establishments to be brought together, planned, and developed as a whole, and used more flexibly and effectively." 71

The legislation was intended to facilitate the replacement of Approved School orders and fit person orders with care orders; and probation orders for offenders under 17 and supervision orders under the existing care, protection and control jurisdiction, with supervision orders.

Most importantly, as far as this study goes, it also made possible the eventual withdrawal of the existing powers to make Attendance Centre orders, Detention Centre orders, and orders for Bostal training for those under 17, although a date for the withdrawal of the power to send a boy to a junior Detention Centre was not appointed.⁷²

It is important to note at this stage the link between the strong notions of welfare evidenced in the White Paper leading up to the 1969 Act (and especially in "Children in Trouble"), and the decision to abolish the junior Detention Centre. The relationship between modes of treatment for the young deprived and the young depraved had become increasingly conjoined in the concept of welfare and community. Since the Act intended to abolish the fine as the main form of disposal, an essentially radical move, it would also therefore be concerned to relegate the Detention Centre into an entirely separate category of disposal. The obvious way forward therefore would be to "merge" the junior Detention Centre into the concept of intermediate treatment, which, rather than distinguishing sharply between "those forms of treatment which involve complete withdrawal from home and those which do not", would allow for :

"... some form or forms of intermediate treatment ... (to) allow the child to remain in his own home, but bringing him also into contact with a different environment."
(White Paper. Para.25)

Time spent at a junior Attendance Centre was seen to be too short, and there were not enough centres. The problem with the junior Detention Centre was seen to be that it involved :-

"... removal from home which, although relatively brief, is sudden and complete.", (Para.25)

and therefore not within the spirit of The 1968 White Paper or of the 1969 Act.

As outlined in the White Paper, intermediate treatment was to fall into 2 categories: the first to involve temporary residence, attendance or participation for not more than one month in total during each year of supervision. This would involve residence at a specified place for a period of not more than 3 months, beginning within the first year of supervision. This second type of treatment was to be used where :

" ... a short period away from home seems desirable,"

When adequate facilities for short-term residence were provided under a scheme :

"... existing powers to commit to a junior Detention Centre will lapse." (para.29.)

In the meantime, the Government would continue to maintain junior Attendance Centres and junior Detention Centres, and would be ready :

"... to discuss with local authorities ways in which these facilities might be incorporated within new schemes of supervision or residence." (para.29)

Two major considerations here, outlined in the White Paper's Appendix on Intermediate Forms of Treatment, were :

- (1) that where possible a child or young person under supervision should be treated as a member of his local community and in association with others of his own age, with treatment of this nature not restricted to groups of delinquents alone: and
- (2) that any form of intermediate treatment was less likely to be beneficial if forced upon an unwilling recipient. (See Appendix C., p.22.)

The effect of this would clearly be the death knell of the junior Detention Centre as we had come to know it, submerged as it would be with the essentially distinct organisation of intermediate treatment.

Even before the Act was due to come into operation, the Labour government which championed it fell from power. The incoming Tory Government of 1970 almost immediately decided that it would not implement

the vital decriminalising Sections 4 and 5, which were intended to raise the age of criminal responsibility and to provide diversionary services through local social work intervention.

During the long debate and turmoil leading up to the Act, the Advisory Council on the Penal System (ACPS) had also been reviewing the operation of Detention Centres, and the categories of young offenders "for whom they are most suitable". The ACPS had their first meeting in March of 1968, and published an interim report in November, 1968, recommending that the only Detention Centre for girls should be closed without replacement. This recommendation had been accepted, and put into effect,⁷³ whilst its full report on Detention Centres was not published until January 1970. In April of 1968, the White Paper "Children in Trouble" was published.⁵⁶ As indicated earlier in this chapter the power of juvenile courts to commit to junior Detention Centres would eventually lapse, and thus the ACPS were authorised by the Home Secretary to concentrate their attention on senior Detention Centres only. The 1969 Children and Young Persons Act was still before Parliament when the ACPS published its final report.⁷⁴

(11) The 1970 Advisory Council on the Penal System Report :

The ACPS felt "at an early stage" that a review of the Detention Centre system "could not be effectively conducted" in isolation from the question of the treatment of young offenders generally". Nevertheless, in order to avoid wasting time, and because they could see no reason why "the regime of existing Detention Centres should remain in its unmodified state pending the wider review and any resultant legislation", the Council decided to go forward with its review of Detention Centres, "limited as it inevitably would be", and emphasising that their review would be conducted against the background of

contemporary provisions for dealing with young offenders. Their recommendations were thus provisional,⁷⁵ and included, inter alia, that :

- (1) the power to order detention in a Detention Centre should be retained, at least until such time as the review proposed has been completed (see above);
- (2) the power ... to order the short-term imprisonment of young offenders should also be retained, pending the wider review;
- (3) the punitive function of a Detention Centre should be confined to the deprivation of the offender's liberty;
- (4) the purpose of a Detention Centre should be to effect an improvement in the behaviour of the offender;
- (5) all aspects of the regime of a Detention Centre should be as constructive as possible;
- (6) the discipline in Detention Centres should remain firm, but should in general be less rigid than at present and based to a large extent on the establishment of mutual respect;
- (7) there should be increased emphasis on education for both remedial and general purposes;
- (8) every centre should make provision for work outside the centre, and wherever possible it should be work of value to the community;
- (9) Rules 32 and 33 of the Detention Centres Rules should be amended so as to abolish confinement to a detention room and dietary restriction, as punishments;
- (10) officers should wear plain clothes;
- (11) as a general rule, wardens should be relatively young;
- (12) consideration should be given to the provision of other open centres;
- (13) pending a wider review, there should be no change in the available length of Detention Centre orders, or in the period of remission, but 3 months should continue to be regarded as the most effective sentence;

- (14) after-care should be seen as an integral part of the sentence, and courts, when making an order, should always explain the liability;
- (15) the importance of the social worker should be clearly recognised, the post should be filled by a woman, and she should be a full member of the management team;
- (16) wherever possible, supervision and the liability of recall should cease after 6 months, or earlier.

Finally, the Council considered the question of sentencing, concluding that there should be no further limits on the categories of offender, for whom Detention Centres were available, but stressing the following points :-

- (i) when dealing with an offender who has been to an Approved School as a result of delinquency, the court would be well advised to consider whether Borstal training might not be more appropriate than a detention in a Detention Centre;
- (ii) if detention in a Detention Centre is to be effective, it needs to be applied before an offender has a long string of convictions;
- (iii) it is undesirable to send an offender to a Detention Centre if he is seriously handicapped, mentally or physically.⁷⁶

The general tenor of these 3 points is to remind interested parties that for a Detention Centre to be at its most effective, it should be a regime expressly oriented towards the young offender, unsophisticated in criminal matters. And yet, as indicated overleaf, they were hesitant to decry the width of offender-categories that were increasingly being absorbed into this disposal system. The figures below, available at the time of the Report, show breakdowns of some of these categories :-

TABLE 1

Male Offenders received into Senior DCs, 1965-1968 :
Expressed as percentages of the number of receptions

Previous Convictions & Treatment	1965	1966	1967	1968	
First Offenders	11	13	12	13	
Offenders with 5+ convictions	37	19	20	21	
Experience of A.S.	13	12	11	13	%s
Previous experience of detention	4	4	3	3	

(Source: Advisory Council on the Penal System Report 1970)

It is obvious that in each case, the largest percentage of inmates were those with more than 5 previous convictions. The Council would also no doubt be aware that the figures for reconvictions of persons discharged from senior Detention Centres since 1960 showed that "rather more than 40% were not reconvicted in the 3 years following release", and that the majority of offences were those against property.

The list of recommendations cited above, and particularly nos. 3-7, clearly indicate the Council's concern with constructivism, the tenor of which indeed runs throughout the whole Report. The comparison between the "short, sharp shock" type of regime advocated in the 1980's and the Report's emphasis on the development of constructive and purposeful regimes is important, particularly in light of the 1969 Act's move to abolish the junior Detention Centre - at least in the form in which it was known at the time. The constructivism the Council supported had been, and would be, largely because of the work of individual wardens in the institutions themselves. Thus, the emphasis in the Report is a qualitative one, concerned with institutional reorganisation rather than any external reorganisation, and "hanging" onto the edge of 1960's movements and legislations, uneasy in the face of what the

1970's may bring. It may be denoted in this sense as a symbolic bridge across the two decades, but one which is aware it may have to carry rather a larger number of passengers in the near future.⁷⁷

I have outlined the main themes and recommendations of these two documents, the Children and Young Persons Act and the Advisory Council on the Penal System Report, because, collectively, they illustrate succinctly the range of themes that characterise penal policy at the close of the decade.

The 1969 Children and Young Persons Act was, at the time, seen by many to be the legislative culmination of the development since World War 2, but especially throughout the 1960's, towards a policy of decriminalisation and decarceration, whilst having various implications for welfare organisations, local authorities and official policing agencies that, at the very least, indicated that serious problems lay ahead in the enactment of uneasy professional relationships in which "the law" was to be translated, interpreted, and acted upon in many and varying ways. The 1970 Advisory Council on the Penal System Report on the other hand indicated that whilst official circles at least recognised the importance of welfare via the treatment - oriented, non-punitive regimes ('hedging its bets' by an appeal to a future full-blown review of young offender disposal systems) that had been increasingly dominating the treatment of the depraved and the deprived, nevertheless it was not willing to take the final step forward in the complete abolition of short-term institutionalisation for young offenders:

"... we have concluded that there is at present a continuing need for some form of short-term custodial treatment for young offenders; and we have no doubt that, for the time being at least, the power to order detention in a senior Detention Centre should be retained." 78

In this sense, this aspect of the Report may be seen to represent what

by 1970 appeared to be the final tenuosities with the punitive institutionalisation of the young offender.

It is clear, therefore, from an examination of the documents with which this chapter has been concerned so far, and particularly in the light of the main overtones of the 1969 Act and the 1970 Advisory Council on the Penal System Report, that both official young offender policy and certainly professional social-work ideologies were moving in the direction of disposal within the community at the expense of incarceration within institutions. The break from one to the other was not to be a sharp one in historical terms, hence the contradiction between this gradual movement and the official statements on the retention of the senior Detention Centre system.

The movement away from incarceration to community-controlled disposal systems was nevertheless reflected in the parallel movement within the Detention Centre system from a training to a treatment dominated regime, again developing in an uneven fashion. The third section of this thesis has made constant reference to the contradictions between the two, and to the uneasy juxtaposition of the existence of both in various facets of Detention Centre organisation.

Those histories which dealt with the early years of the English penal system have chronicled the extent to which various approaches to incarceration and punishment were characterised by a recourse to the philosophies of punishment and deterrence, with very little attempt to reform the offender or provide for re-entry into the local community post-sentence. Others have documented the early attempts to help the prisoner prepare for the post-sentence period, including discussion of the role that churches and religion played in this history. Others again have tended to concentrate on the internal environment of the institution,

and the extent to which the prison may be identified as an institution defined within the parameters of a "community clinic" or "social asylum". (see Chapter 1).

The early part of this study has made considerable reference to the reforms initiated under Gladstone's office, and the concretisation of the aim that the prisoner leave prison a better person than s/he was on entry - the philosophy encapsulated in Rule 1 of the Prison Rules.

Early attempts at the development of 'positive' attitudes to the prison were specifically formulated in the context of a regime in which training rather than treatment was the guiding philosophy and practice. The Paterson era certainly attempted to move towards the latter approach, even though at this stage it was not within the parameters of a positivist criminology. It was not until the late 1950's and the 1960's, with the development of more overtly social-psychological and scientific approaches to imprisonment and rehabilitation, and a concomitant expansion of the social-welfare services that treatment within institutions became fully developed.⁷⁹

The birth of the Detention Centre was characterised by a punishment-oriented ('short, sharp shock') and training regime (P.E., drill, repetitive tasks, etc.). Few penologists would doubt or debate this. But with the broader developments outlined above, by the 1960's, and the introduction of the social-worker into the Detention Centre, the concept and practice of the treatment ethic had slowly permeated even into Detention Centres; despite the brevity of the sentence, compared with, for example, Borstal sentences.

In common parlance 'treatment' and 'training' are often used

synonymously,⁸⁰ but a closer examination of the history of penal regimes, philosophies and practices indicates definite and visible movements in the direction of one or the other over the last 150 years or so (despite apparent contradictory presences at times) which indicate that they have in fact separate and distinct philosophies and ontologies.⁸¹ By the 1960's the two can be identified as quite separate approaches. It may therefore be apposite at this point to consider their separate and distinct facets in more detail, for their operation is an important factor in the organisation and practices within the young offender disposal system with which this chapter is concerned.

(iii) Treatment and Training Ethics

The philosophy of 'training' is informed essentially by pre-determined, taken-for-granted notions of the social order, and a complementary set of rules about the kinds of behaviour that this social order will tolerate. Within this concept permitted social-behaviour patterns are clearly defined and seen to be learned from (or before) birth. Deviancy of only a limited nature may be tolerated, and thus the role of the disposal system is to secure conformity to the appropriate rules. There is little if any place for individual psychology, or the admission of individual roads to personal adjustment and satisfaction. Since there is only one set of rules and one social order, the members of this society must necessarily conform to the same (or very similar) behaviour patterns. Those who transgress can all therefore be disciplined in the same way. Essentially, within the English penal system, this has created an adherence to a corrective, custody-oriented disposal system, characterised on many sectors by the performance of mindless, repetitive tasks, on the basis that such organisation will produce unquestioning adherence to the social order or a sharp reminder

that certain forms of behaviour will not be tolerated. A central tenet of the 'training programme' is based on the premise that repetition produces adherence.⁸² Both the school of criminology which perceived criminal propensity to be based on genetic factors, and complementary schools dominated by religious and quasi-religious, evangelical approaches, from Gladstone and Duc Cane onwards, have utilised a 'training' philosophy. The prisoner is punished by society, hopefully deterred and acting as deterrent to others, and perhaps incidentally 'rehabilitated'.

It should be noted that Paterson's approach, although not in the vein of modern treatment ethics in any real sense, departed from this late 19th century training philosophy by incorporating an element of positive rehabilitation, based on the notion that there was 'good in every lad'. In this sense, his philosophy and practice stands a little way off from traditional training philosophies and practice, asserting as it does the primacy of the individual, but without the parameters of modern treatment philosophy and practice.

The completion of certain types of tasks in prison will create an attitude of unquestioning conformity, and was thus seen as a means of 'rehabilitation'. The identification of any individual traits - genetic, social or psychological - was only recognised as valid in that it served to emphasise the extent to which the offender had erred from this pre-determined set of rules.

It was primarily on the basis of such a training philosophy that the first Detention Centres were based, both in their official *raison d'être* (see especially, Hansards referred to in an earlier chapter) and the day-to-day practices of their regimes.

The concept of 'treatment', although present in embryonic form from the late nineteenth century, only developed fully with the emergence

of the medical model as a dominant feature in social-welfare organisations, which in turn was informed by the development of social-psychological models of human behaviour in the social sciences. The emergence in the 1950's and early 1960's of criminology as a high-status, scientific-based discipline,⁸³ (instanced in the formation of the Home Office Research Unit, and the creation of the Cambridge University Criminology Unit) ensured that adherence to the concepts of diagnosis and cure had become a respectable stance for social-psychologists and criminologists to adopt. Within this philosophy of human behaviour, society still has pre-determined, and often taken-for-granted, parameters of acceptable behaviour. The essential difference between this and the 'training' model is the predominance and central importance of a psychologically-oriented analysis. This model assumes that the individual deviant has a social or psychological 'problem', that 'experts' can at least play a significant role in defining and "curing" this problem, preferably with the deviant's co-operation, and that rehabilitation is therefore both possible and justified. In time, many practitioners, and academics, came to develop a similar concern for "the mad and the bad", with attendant emphasis on the offender rather than the offended.⁸⁴

Whether the offender or deviant is subjected to various forms of counselling, group therapy, self-introspection, etc., or to the completion of mindless tasks and drillings, the end result is, ideally, the same, conformity to a pre-defined, taken-for-granted, social order. The concept of treatment has become the ultimate approach for many theorists and practitioners via its adherence to the sacredness of the individual. Training is thus oriented towards a rigid and unquestioned conformity, whilst treatment is oriented towards an individualised, but ultimately unquestioned adjustment. The latter tends to be seen as

a more "humanised" approach, because of its focus on the individual, and more likely to achieve individual successes. Training is concerned with adjustment within narrowly-defined rules, treatment with personal rehabilitation. Ultimately, both have the same goal-conformity.

Although it is not my intention here to offer a critique of either approach, it is perhaps as well to note that both approaches have received considerable criticism.⁸⁵

The uneasy and fragmented development of these two ideologies have, particularly in the last few years, created many dissonances and contradictions within the young offender system, and particularly those discussed in the latter part of this thesis.

The ontology of sacredness which is the essence of the 'treatment' ethic necessitates the erection of a 3-tier system for dealing with the deprived or the depraved, whereby "treatment" can be meted out in the community before the problem reaches certain, officially and socially, defined pre-specified proportions; during the period of institutionalisation; and after release back into the community. Such a system thus necessitates the involvement and the services of a much wider and more flexible body of agencies - social workers, probation officers, psychiatrists, youth workers, Education Social Workers, police personnel, and school and religious advisers. Furthermore the 1969 Act advocated that services for juvenile offenders were to be a matter determined at local rather than at national level.

F. The Final Break

(i) Introduction

By the early 1970's therefore, the history of the Detention Centre system may be summarised briefly thus: the Junior system, through

the auspices of the 1969 Children and Young Persons Act, and as a result of the dominance of the rehabilitation-oriented treatment - within-community ideologies which dominated the juvenile scene, and which had flowered with psychologically-oriented analyses of youth behaviour, was on its sick bed - at least in relation to the form in which it had operated since 1952. As far as the Senior Detention Centre system went, its future and its organisation, was rather more uncertain. The crime rate, and particularly for young offenders committing multiple offences, continued to rise; the 1970 Advisory Council on the Penal System had been unwilling to take too firm a stand on abolition, content to wait for a more exhaustive survey of the young adult offender scene, and instead concentrating on an examination ^{/the} of means of promoting treatment-ideologies within walls. When this survey came, whenever that was to be, it would certainly be conducted within the parameters of a state moving quite firmly in the direction of strong "law and order" tactics. Furthermore, the delays in actually translating the 1969 Act into practice, exacerbated by the Tory victory at the polls, served to ensure that any following policy statement or legislation on the young offender sector must be awaited with patience by the various interested parties. By 1971, the number of young people in Borstal and Detention Centres had doubled compared with figures in 1964, although the sentencing patterns for young offenders in these two disposal systems had, across the board, fluctuated only slightly, although there is some indication of a downward trend in disposals to Borstal :-

Fig. 19

Males Aged 17-20 Sentenced as Higher Courts :
Distribution by Sentence. 1964-71 86

Year	Probation		Detention Centre		Borstal	
	No.	%	No.	%	No.	%
1964	1812	22.7	1041	13.0	3177	39.7
1965	2000	21.1	1375	14.5	3685	39.0
1966	2065	18.4	1763	15.7	4542	40.6
1967	2205	19.0	1688	14.5	4649	40.0
1968	2329	19.0	1601	13.1	4484	36.8
1969	2559	18.0	1775	12.5	5425	38.1
1970	2521	15.6	2189	13.5	6283	38.9
1971	2600	15.6	2170	13.0	6068	36.4

What is more revealing however, is a comparison of percentage increases within each form of disposal, vis.:-

Fig. 20

Males Aged 17-20 Sentenced at All Courts :
Distribution by Sentence. 1964-1971 86

Year	Probation	Detention Centre	Borstal
1964	8,102	4,926	3,177
1965	9,022	5,990	3,685
1966	8,908	6,297	4,542
1967	9,565	6,344	4,649
1968	10,265	6,529	4,484
1969	11,678	7,478	5,425
1970	11,273	8,383	6,283
1971	11,528	8,404	6,068
Estimated % change : 1964-1971	35.3 (increase)	61.7 (increase)	91.1 (increase)

(The figures above are taken from a table referring to all courts, in contrast with the preceding table which only covers higher courts.)

The obvious difference is the marked increase in the pre-Younger period in the number of young men sent to Detention Centre and particularly Borstal, from all courts, compared with the use of probation for this age group. The figures also suggest that, between systems, the provision of Borstal places was increasing at an even more rapid rate than places in senior Detention Centres, although there continued to be more boys sent to Detention Centre than to Borstal in any of these years. The increase in probation is only just over half the rate of Detention Centre increase and just over one third of the increase in the number of Borstal inmates

A comparison of the number of senior Detention Centre sentences handed out in higher courts as a proportion of senior Detention Centre sentences handed out by all courts, shows an interesting fluctuation during this period, viz. :-

Fig. 21

Percentage of Senior DC Sentences in Higher Courts
as a Proportion of all Senior DC Sentences

Year	Percentage
1964	21%
1965	23%
1966	28%
1967	27%
1968	25%
1969	24%
1970	26%
1971	26%

(compiled from Prison Department figures)

The marked increase in the mid-1960's coincides with the marked expansion of the Detention Centre system generally, following the 1961 Criminal Justice Act, and particularly with the opening of Whatton Senior Boys

in 1966. The latter was not only purpose-built but quickly became the largest Senior Detention Centre available, with the exception of North Sea Camp which is an Open Detention Centre.⁸⁷

Although it is possible to speculate that some of these boys in higher courts may well have been referred there by magistrates' courts for Borstal sentencing, it should be noted that Borstal sentences also rose in the same period (see Fig. 19).

Another interesting point is the comparative increase in Junior Detention Centre sentences during this same period (not indicated in the tables). Although the numbers sentences to Junior Detention Centres increased in this same period at an equally marked rate, there was not a similar expansion in the numbers of Centres available :-

Fig. 22'

Receptions under sentence to Senior and Junior Detention Centres, by sex. 1964-1971 88

Year	Senior D.C.		Junior D.C.	
	M	F*	M	F
1964	4,599	110	1,181	-
1965	5,465	87	1,275	-
1966	5,810	108	1,342	-
1967	5,824	110	1,286	-
1968	5,944	115	1,670	-
1969	6,440	-	1,916	--
1970	7,098	-	2,046	-
1971	7,087	-	2,059	-

(* The Detention Centre for Girls (Moor Court) was closed in 1969.)

In the period from 1964 leading up to the statistics most recently available to Younger and the Advisory Council on the Penal System, 7 new Senior Detention Centres opened, but only 1 Junior Detention Centre.⁸⁹

This would seem to indicate a certain degree of overcrowding in the Junior Detention Centre sector, by about 1971. Home Office figures support this, viz; for example :-

Fig. 23

Junior Detention Centres : Accommodation in 1971

Detention Centre	1. Total Accom. available	2. Average No. in use	3. Greatest No. in use
Campsfield House	71	76	102
Eastwood Park	100	109	127
Foston Hall	75	71	82
Kirk Levington	90	80	96

90

The percentage of 'over-use' by the four Detention Centres at the highest points (i.e. col.3) is 143%, 127%, 109% and 120% respectively. The figures above also indicate that the most recently opened Detention Centre (Eastwood Park, in 1968) had rapidly become the second most overcrowded, and in the first 3 years of its usage (127% overcrowding). The worst overcrowding was at Campsfield House, the first Detention Centre to open in 1952.

The apparent contradictions in all of these trends outlined above, in Borstal, in junior and in senior Detention Centres, were no doubt the result of the clash between the growth of treatment ideologies and community dispersals in those sectors, and especially in Borstals - and, the concern magistrates felt over the continuing rise in the young offender crime rate. Thus, ideological trends and sentencing practices together ensured that all 3 institutions were 'well-used' in the period immediately prior to Younger.

(ii) The Younger Report

It was not until the long-awaited Advisory Council on the Penal System Report under the leadership of Younger actually presented the promised survey of the whole of the young adult offender sector, that interested parties could feel that headway was being made. Its publication, in 1974, was therefore received with much interest, if not some degree of trepidation.⁹¹

As expected, and following the trends this study has outlined, the Report of the Advisory Council on the Penal System of 1974, "Young Adult Offenders", continued in its recommendations the apparent shift in emphasis from custody to community, and from punishment to treatment. Briefly, its main recommendations for bringing this about were :

- (1) a new sentence of custody and control (the Custody and Control Order), with an emphasis on early release to supervision in the community - and linked with the development of a network of custodial establishments serving local areas; and
- (2) a new non-custodial sentence of supervision and control (the Supervision and Control Order), designed to give the supervising probation service stronger and more flexible measures of control over individual offenders.

In order to facilitate this the Council suggested that :-

"The existing custodial sentences of imprisonment of young adults, Borstal training and detention in a Detention Centre, should be combined in a single 'generic' sentence, to be called a Custody and Control Order; and the separate systems of establishments catering for the 3 sentences should be merged into a single system." 92

This 'generic' sentence would be available in respect of any offence punishable in the case of an adult by imprisonment (except murder). A court should not, in pursuit of a 'treatment' objective :-

"... make a longer order than the sentence of imprisonment it would pass on an adult who had committed the same offence and had similar antecedents." 93

The Council further recommended that unless the offence was sufficiently serious to warrant a sentence of about 6 months, then the court "should employ a non-custodial measure",⁹⁴ and, further, that the time spent on remand in custody before conviction or sentence should count towards sentence, for the purposes of calculating the length of the Custody and Control Order and the entitlement to release.

The objectives of custody in the new community-based establishments were to be :

" ... education in the broadest sense, and such as to motivate the offender towards change and maturation. Classroom education, vocational and trade training, industrial work and ordinary institutional maintenance work should all be regarded as ways of meeting the overall educational objective." 95

Whilst providing the basis for secure control therefore, the new young offender establishments would still aim to provide forms of treatment and/or training for its inmates, along social-psychological welfare lines, alongside relevant educational and industrial training provision, and supervised by officers who would no longer wear a uniform. Such a gesture of informality it was hoped could only aid and contribute to the efficacy of this wider, more obviously treatment-oriented approach. The Advisory Council on the Penal System had already suggested in their previous report⁹⁶ that Detention Centre officers wear civilian clothes, and this had not been put into operation. Younger therefore re-emphasised their earlier decision, on the following grounds :-

"Uniforms are not necessary for simple identity, since offenders themselves generally wear distinctive clothing. Their function therefore relates to the status of officers within the establishment. Among Borstal staff the view has always prevailed that uniforms create an unnecessary barrier between themselves and trainees, and discourage the formation of personal relationships" 97
(my emphasis)

The comment is an interesting one, since it is an indication of continued official commitment to a treatment-oriented policy in Detention Centres vis a vis regimes. For some years, as indicated in this analysis, Detention Centres had been moving slowly in the direction of a more 'positive' regime, and ultimately to the point where the deprivation of liberty was seen to be (officially) the only constituent of the 'short, sharp shock'. In this sense the comparisons or parallels with the Borstal regime are obvious.

In its discussion on the reasons for which courts passed sentences of Detention Centre (or Borstal), the Report considered there to be "2 extremes" informing sentencing policy: one was a policy informed essentially by the belief that "everything else had been tried and failed" and the young offender needed simply to be kept "out of circulation", in order to "deter others"; the other was informed by the belief that "a period of full-time exposure to the influence of institutional staff or of subjection to a disciplined routine may produce desirable changes that would not take place if the offender were left in the community". Younger points out of course, that in practice most custodial sentences fall between the two, although it was never clear "which consideration is uppermost in the court's mind". (para.116).

Younger stresses this point on the uncertainties of court intentions to strengthen his concept of the rationality of the 'generic' sentence; and adding to the case further constructivist arguments (developed notably in the earlier Advisory Council on the Penal System Report on Detention Centres) concerning the regime of the Detention Centre :

"The regime in Detention Centres, where the sentence was originally thought to last too short a time to allow for constructive treatment, has evolved even further in the direction of borstal training." (para.120)

Younger also points to the increasing similarity between Detention Centre

and Borstal inmates :

"From 1955 onwards senior Detention Centres gave the courts an alternative custodial sentence, which was probably used for many who might otherwise have gone to Borsaal"
(para.141)

Hence, the Advisory Council on the Penal System saw "considerable advantages" in combining :

" ... the existing standard short term and medium term sentences of detention in a Detention Centre or Borstal training",

utilising their constructivist argument again :

"Although they were once intended to provide quite distinctive forms of sentence, the influence of the Borstal philosophy on the original 'short, sharp, shock' approach of Detention Centres -both before, and subsequently with encouragement from, our own Detention Centre Report - has been such that it is doubtful whether sufficient difference remains between the regimes of Borsals and Detention Centres for there to be any value in maintaining the distinction." (para.169)

Hence, their conclusion that :

"A short period of detention, if followed by compulsory supervision, could no doubt be regarded as the first stage of a continuum of treatment in custody and in the community." (para.173)

The general thrust of Younger seemed, without doubt, to be in the direction of a cessation or phasing-out of the Detention Centre system - at least in the form in which it had come to be recognised. This is compatible with Younger's overall commitment to a treatment-in-community approach, although Younger's definition of regime in the new 'generic' system could not be considered to be at odds with what Detention Centres already proclaimed to be attempting. Indeed, the definition of regimes for "Young Adult Offenders" was flexible enough to meet the needs of individual, institutional preferences. One difference however, would be in the length of sentence. Theoretically, a young offender who would normally have been sent to a Detention Centre could still be given a 3-6 month sentence under the new Custody and Control

Order (CCO). S/he could also be given a longer one :-

"The court would determine the length of the order in each case without restriction other than the statutory maximum for the offence, which would be the same as the statutory maximum prison sentence."

98

Younger does however make it clear that a court should not "in pursuit of a treatment" objective, make a longer order than the sentence of imprisonment it would pass on an adult who had committed the same offence and had similar antecedents".⁹⁹ Younger goes on to suggest that the maximum length of a Custody and Control Order that a Magistrates' court should be able to impose should in general be 6 months, and that the minimum length should be 3 months. Magistrates who felt 6 months was insufficient "should have power to commit to the Crown Court if they consider their powers insufficient."¹⁰⁰ At the other end of the 'custody-scale' however, Younger also recommended that, as with persons over 21, a court should :

"... not make a Custody and Control Order in respect of a young offender who has not previously been subject to such an order, unless it is of the opinion that no other method of dealing with him is appropriate",

and that it should :

"... state the reasons for that opinion".^{101, 102}

In contrast with the existing position of the time, Younger further recommended that time spent on remand should count as part of the sentence given :

"... for the purposes of calculating the length of the custody and control order, the entitlement to release and the expiration of any restricted release order." ¹⁰³

With regard to the period of supervision which followed time spent in custody, Detention Centre inmates had had compulsory supervision for up to a year. If an offender was re-called into custody during this time, the period of supervision which could follow had been equivalent to the length of the amount of remission received or 14 days, whichever was the

longest. Since remission was now 1/3 of sentence, it could therefore be as long as 60 days. In contrast with this, Younger recommended that the length of compulsory supervision in a Custody and Control Order should be equivalent to the balance of the term of order or 6 months, whichever was the longest, cutting supervision (for those offenders who would previously have gone to a Detention Centre) down, theoretically, by a half at the maximum. Younger's rationale for this change was that they considered :

"koncentrated supervision and assistance in the 6 months following release ... (a) ... more effective and a better use of resources than a one year or a two year commitment",

which was not seen to stimulate "a sense of urgency". (para.221). There was an additional proviso however, that :

"Licence requirements on release should be stronger and more specific than those at present and should give greater flexibility to the supervisor." 104

The idea was that the first 2 months after release should be regarded as a period of "long leave" during which the offender could be recalled by the governor "on any reasonable grounds without right of appeal."¹⁰⁵ Thereafter, an offender would be liable to recall only where there was a clear breach of the licence requirements, and even then "he should ... have a right of appeal".

On the whole, the Younger Committee's proposals are characterised by a more liberal approach, with emphasis on truncation of the whole period which covered the remand, custody and supervision experience of the young offender. But the 'sting' in Younger is in the re-call arrangements. Hence, despite various theoretical outcomes, and for the sort of young offender who would normally be given a Detention Centre order, the proposals of the Advisory Council on the Penal System relied less on lengthy custodial measures (despite the re-call contradiction), and more

on the quality of supervision. All that now remained was for Younger's proposals to be implemented, and the "pheonix" or the "experiment which could not fail", would be laid to rest.

(111) The Phoenix Destroyed?

The aim of this chapter has been two-fold: firstly, to chart the fortunes of the Detention Centre system in the period following the 1961 Act to the publication of the Younger Report in 1974, situating this firmly within contemporary political and penal parameters; then to explain why its total demise seemed apparent by the end of this second phase in its history. In attempting to explicate such concerns it has been considered necessary to address a series of apparent contradictions within the political and penal system of the period and a series of dominant contemporary ideological trends.

Between 1961 and 1974 the adult penal system was characterised by an overall pessimism, dominated as it was by a crisis of containment, an attempt at humane 'warehousing', and continuing economic problems. In contradistinction, the young offender system (and particularly the juvenile sector) was increasingly characterised by an attempt at rehabilitative optimism, the continued movement from training to treatment on the back of increasingly psychologised practice, the increasing professionalisation and intervention of the social work sector, and the concomitant growth of the community as the central site for the management of deviant citizenry.

The continuing rise in the crime rate affected both the adult and the young offender sectors, as did economic considerations. The socio-political scenario in which both sectors must be situated was characterised essentially by the movement away from the period of managed

dissensus of the 1960's into the first seeds of a law and order state in the early 1970's.

In narrower, penal-specific terms, the general fiscal crisis inevitably led to plant economies; the adult penal crisis led to containment problems; the effect of contemporary social work and related professional ideologies led to the growth of treatment ethics; the continued promotion of the social sciences led to the advance of the psychologisation of youth (in both penal and broader welfare terms); the political crisis created the seeds of a law and order state.

And, as far as the specific subject of this study is concerned, the welfare and penal legislation which emanated from these contemporary crises, led to the potential death of the Institution - in this case the Detention Centre. When the Advisory Council on the Penal System published its report in 1974, social workers, penologists, social scientists, Home Office officials, reformers, hard-liners, magistrates and general public alike could not be blamed for assuming that the final solution for a system which had come to provide disposal for a majority of young offenders was at hand. The phoenix was about to be destroyed. The pendulum had almost, it seemed, swung its full arc from Gladstone to Younger. All that was now needed was the act itself: closure. The hegemony of the prison for the young offender sector was on the slippery slope to final supersession. The seeds of the generic sentence and the supremacy of treatment-in-community were germinate.

These last two chapters have attempted to chart this section of Detention Centre history, and to explicate the reasons for its various developments and apparent anomalies. In doing so, they have also attempted to fill the hiatus created by what I have earlier designated

normal penological explanations; explanations which have either failed to address such problems, or have concentrated instead on addressing the post-1952 period of Detention Centre history as one requiring only empirical description.

CHAPTER SEVEN : FOOTNOTES

1. 1961: Send, Aldington, Aylesbury, Buckley Hall, Medomsley, New Hall.
1962: Erlestoke, Haslar, Moor Court.
1963: North Sea Camp, Kirklevington.
1964: Latchmere House, Swinfen Hall, Usk, Grendon.
1966: Whetton.
1968: Eastwood Park.
2. In percentages, this breaks down as follows :-

New buildings and other sources:	52.9%
Ex-Prison Department:	41.0%
And, of ex-P.D. buildings, ex-Borstals:	77.7%
3. Report of the Commissioners of Prisons. 1962.
4. A.E. Bottoms and F.H. McClintock: "Criminals Coming of Age". Heinemann.
5. It is also interesting to note that the other categories of offences doubled by roughly the same proportions.
6. For a detailed analysis see:- Roger Hood: "Borstal Re-assessed". 1965.
7. In 1963, the Prison Commissioners as such were abolished, and the whole re-organised, within the auspices of the Home Office, as the Prison Department.
8. Report of the Commissioners of Prisons. 1962.
9. The 1961 Criminal Justice Act restricted the powers of the courts in the passing of sentences of imprisonment on young offenders under the age of 21.
10. Compiled from figures given in the Report of the Prison Commissioners for 1959 and 1960, Appendix I, Table III, Tables D9, D11, and D15.
11. Prisons and Borstals. 1963. (Report on the Work of the Prison Department in 1963). Cmd.2381. p.38.
12. Report on the Work of the Prison Department. 1965. p.2.
13. Ibid., p.2-3.
14. From 1969, the Probation and After-Care Service took over responsibility for social work in Detention Centres, leading to a greater emphasis on casework.
15. The 11th Report of the Estimates Committee. 1966-67.
16. See: Emery, F.E.: "Freedom and Justice Within Walls: the Bristol Prison Experiment". Tavistock. 1970.

17. Written evidence to the Royal Commission on the Penal System in England and Wales. 1967; (Vol.I: Part II: Memo submitted by the Lord Chancellor's Department on the Functions of the D.E.S., para.14.)
18. Ibid., p.18.
19. Ibid., para.25.
20. The Report on the Work of the Prison Department. 1968.
21. Royal Commission, op.cit., para.44.
22. Ibid., para.45.
23. From: L. Panitch: "Social Democracy and Industrial Militancy". C.U.P., 1976./
24. From: "Policing the Crisis : Mugging, the State and Law and Order", by S. Hall, Critchley, T. Jefferson, J. Clarke and B. Roberts.1979.
25. Ibid., p.239.
26. For a much more detailed and thorough analysis see : Stan Cohen: "Folk Devils and Moral Panics".
27. For a full analysis of this see: Hall, Critchley et al, op.cit.
28. Hall et al, op.cit., p.241.
29. Hall et al, op.cit., p.261.
30. Ibid., p.244.
31. It was during this period that the various 'special squads' and the Special Patrol Group were formed.
32. Hall et al, op.cit., p.247.
33. Enoch Powell: Sunday Times. ;28.9.69.
34. For a detailed analysis of these constructs see Hall et al, op.cit. Ch.6.
35. See also: "Drifting Into a Law and Order Society", Stuart Hall. Cobden Trust Lecture. 1972.
36. Report of the Enquiry into Prison Escapes and Security by Admiral of the Fleet, the Earl Mountbatten of Burma. December 1966. Cmnd.3175.
37. The Regime for Long-Term Prisoners in Conditions of Maximum Security, Advisory Council on the Penal System. 1968. Home Office.
38. Mountbatten had already recommended that prisoners be divided into 4 main categories according to their security risk, and that a special top security prison be built on the Isle of Wight.

39. Described in details in: R/F. Sparks: "Local Prisons: the Crisis in the English Penal System". Heinemann. 1971.
40. From: "People in Prison", Home Office, November 1969. Cmnd.4214, para.237.
41. See: Criminal Justice Act, 1967.
42. "People in Prison", op.cit., para., 238.
43. Ibid.
44. Ibid., Ch.VIII. p.106.
45. The Report of the Committee on Children and Young Persons. (Ingleby) 1960. Cmnd.1191.
46. The 1961 Criminal Justice Act had extended the maximum number of hours to be served in an Attendance Centre, and had lowered the age limit from 12 to 10 years.
47. see also: Criminal Justice Act, 1961.
48. A.E. Bottoms: "On the Decriminalization of English Juvenile Courts", from "Crime, Criminology and Public Policy : Essays in Honour of Sir Leon Radzinowicz." Ed. Roger Hood. Heinemann. 1975.
49. The Report of the Departmental Committee on the Probation Service (Morrison Report). March, 1962. Cmnd.1650.
50. The Report of the Interdepartmental Committee on the Business of the Criminal Courts. (The Streatfeild Report) February, 1961. Cmnd.1289.
51. Morrison Report, op.cit., para. 49.
52. Ibid., paras. 81-85.
53. Ibid., paras. 54-59.
54. "Crime: a Challenge to Us All". (The Longford Report), 1964.
55. "The Child, the Family, and the Young Offender". Home Office 1965. Cmnd.2742.
56. "Children in Trouble". Home Office, 1968. Cmnd.3601.
57. "People in Prison", op.cit.
58. "Children in Trouble, op.cit., para.49.
59. A.E. Bottoms. 1975. op.cit., p.326.
60. For a much more detailed development of these themes see: A.E. Bottoms' paper, 1975, op.cit.

61. A.E. Bottoms 1975. op.cit., p.328.
62. The Report of the Committee on Local Authority and Allied Personal Social Services (Seebohm). July, 1968. Cmnd.3703.
63. Ibid., para.1.
64. Ibid., para.30.
65. See, amongst the wide range of literature, for example:
 - (a) Berliss, M. and Wassell, G.: "Caught in the Act". Penguin. 1974.
 - (b) Bottoms, A.E.: "On the Decriminalization of the English Juvenile Courts"., op.cit., 1975.
 - (c) Clarke, J.: "Social Democratic Delinquents and Fabian Families", in National Deviancy Conference (ed.): "Permissiveness and Control : the Fate of 1960's Legislation", Macmillan. 1980.
 - (d) Morris, A. et al: "Justice for Children". Macmillan. 1980.
66. Or any young person 14-17 years, except in certain specific cases.
67. Excluding murder.
68. Children and Young Persons Act 1969. Section 1(2).
69. There is also provision for an order binding over the child's parents, with their consent.
70. See: "Part I of Children and Young Persons Act 1969 - a guide for Courts and Practitioners". Home Office. 1970.
71. Ibid., p.3.
72. Children and Young Persons Act 1969. Section 7(3).
73. See: "Detention of Girls in a Detention Centre". Advisory Council on the Penal System, December 1968, Home Office.
74. See: "Detention Centres", Advisory Council on the Penal System. 1970. Home Office.
75. There were 50 recommendations altogether.
76. The Advisory Council on the Penal System did not however, conclude that a Detention Centre was not a suitable place for a young offender who was 'disturbed', although the short, and increasingly liberalised regime was, without doubt, geared towards a young offender lacking in criminal sophistication. The inclusion of 'disturbed' youngsters could only serve to complicate organisation of the regime, and continue to extend the already wide range of offender. In short, to accept 'disturbed' youngsters not only made for difficulties in the day-to-day organisation of an institution, but were not, as a category, in the spirit of the philosophy and principles of the Detention Centre.

It was for these reasons, and also because such a sentence could further exacerbate the condition of such an inmate, that Leo Abse objected to the Council's decision. (See: "Reservation by Mr. Leo Abse", p.50.) Indeed, Abse was expressly thinking, in his note, of the earlier findings of the Estimates Committee, cited also in the main Advisory Council on the Penal System thus :-

"It is true, as the Estimates Committee found, that many of those who are sent to Detention Centres are disturbed and in need of the continued help of a trained social worker." (p.39).

See also: 11th Report from the Estimates Committee; Session 1966/67; Prisons, Borstals and Detention Centres". 1967.

77. The numbers of offenders received into senior Detention Centres in the period immediately preceding the Report were as follows :-
- | | |
|-------|---------|
| 1965 | : 5,465 |
| 1966: | 5,810 |
| 1967 | : 5,824 |
| 1968 | : 5,944 |

It did not look as though a downward trend would occur, at least in the immediate future.

78. Advisory Council on the Penal System 1970. Op.cit., para. 150.
79. This statement is not intended to demean the important work done prior to this by the Probation and After-Care Service, and the Social Work services. But much of their work is (usually) carried out pre or post-sentence.
80. And even, regularly, in official Home Office documents!
81. I would like to make it clear here that I am not suggesting that individual officers operate exclusively with one approach or the other. Most do not. Indeed, everyday practice itself indicates the contradictions both within and between such ideologies, and the extent to which concrete operations act as 'rationalising agents'.
82. Cf: the methods used to train the armed forces. In both cases 'inmates' have to operate on the basis of unquestioning obedience to a higher authority. In the case of the Armed Services it is the superior officer. In the case of the penal institution/Detention Centre it is the Warden (or Officer). Both Officer and Warden are, in their turn, representatives of a higher, more powerful 'rank' or order, from which the philosophy takes its particular form - the state. Both forms of organisation have utilised such a philosophy in order to achieve optimum performance, either as soldier in battle, or citizen in community.
- Other than such comparisons, there is little similarity of regime. See, for example, Iain Crow's consideration of the logical extension of such a comparison, in:
- "The Detention Centre Experiment", published NACRO. August 1979, and especially Section 6: A Note on 'Glasshouses'.
83. Partly due to the work of researchers like Dr. Max Grünhut.
84. A much more detailed study of the conjunctural histories of criminological theory and practice is available, in:
- "The New Criminology" by I. Taylor, P. Walton, and J. Young, R.K.P., 1973.
85. See for example:

- (a) Emile Durkheim: "The Rules of Sociological Method". 1895.
 - (b) I. Taylor, P. Walton and J. Young. 1973. opocit.
 - (c) American Friends Service Committee: "Struggle for Justice". 1971. and later,
 - (d) A.E. Bottoms and W. McWilliams: "A Non-Treatment Paradigm for Probation Practice". B.J. Social Work. 1978. 9(2).
86. Source: Home Office figures, taken from: "Young Adult Offenders". (The Younger Report). Advisory Council on the Penal System. 1974.
87. Until the buildings were used as a junior Detention Centre as well, in 1972.
88. Taken from: The Report on the Work of the Prison Department, 1971; Statistical Tables. Cmnd.5156.
89. The junior Detention Centre was Eastwood Park, a new building.
90. Source: Report on the Work of the Prison Department, 1971. Cmnd.5037.
91. "Young Adult Offenders". (The Younger Report). Advisory Council on the Penal System. 1974.
92. Ibid., para. 79.
93. Ibid., paras. 182 and 186.
94. Ibid., paras. 176, 187 and 188.
95. Ibid., paras. 26, 338 and 339.
96. Advisory Council on the Penal System, 1970. Op.cit.
97. Advisory Council on the Penal System, 1974. Op.cit., para.370.
98. Ibid., page 21.
99. Ibid., paras. 182 and 186.
It is not too difficult to see that such recommendations must have given renewed hope to the early adherents to the 'justice model', a critique which was to emerge in the late 1970's.
100. Ibid., paras. 176, 187 and 188.
101. Ibid., para. 190.
102. Section 14 of the 1972 Criminal Justice Act provides that a count shall not pass a prison sentence on a person over 21 who has not previously served a sentence of imprisonment, unless it is of the opinion that no other method of dealing with him is appropriate.
103. Advisory Council on the Penal System, 1974. Op.cit., para.211.
104. Ibid., paras. 220 and 223.
105. Ibid., para.229.

EIGHT:

CONCLUSION

CHAPTER EIGHT

C O N C L U S I O N

As indicated in the Introduction (Chapter One), the *raison d'être* of this study has been to elucidate a rational and methodologically viable explanation of the creation and history of the Detention Centre system as one means of disposal for young offenders between the ages of 14 and 21. In doing so, the intention was to eradicate the hiatus created by either an absence of research, or by studies which have been unable or unconcerned to address its problematic emergence in English penal history both in its "pre-legislative" period (before 1945) and in its period of development from a minority to a majority form of disposal for young offenders, through to its threatened demise (by the mid-1970's).

Having first established the development of the hegemony of the prison as the major form of punishment in the movement from the corporal to the carceral, the primary task of this study has then been to follow through the emergence of a specifically young offender arena in the penal system, as a major strand of what I have termed the breaking of this hegemony. In doing so, it has been deemed methodologically necessary to take cognisance of the nature of the relationship between certain political, economic, ideological and social aspects of the British state, from the late 180's to the mid-1970's, and to point to those forces which have played a dominant role in the embryonic emergence, the birth and the growth of the Detention Centre system.

A central theme has been that illustrated in the opening quotations of this study (see Chapter One, p.1), the uneasy juxtaposition

between punishment and treatment, between pessimism and rehabilitative optimism, which have dominated the young offender arena since the Gladstone era; necessitating an explication of the effect these contradictory trends have had on the young offender sector at various moments in the emergence of a movement for a short-term young offender institution.

The first part of this thesis has outlined the rationale for and the emergence of the young offender sector and the early seeds of a perceived need for a specifically short-term type of disposal. The second part has elaborated upon this movement, referring to documentation of major archival importance in this development, and has tried to show how the Detention Centre system sprang not "like Athene fully clothed", or a phoenix from unknown ashes, but with a fully explicable pre-history and conception period. In one sense, this middle section may be deemed the most vital, since its development fills the greatest hiatus of all in the research already existing on Detention Centres - its conception and parturition.

The last section has attempted to chart the first 2 decades after its setting up - indeed what were thought to be its only 2 decades - seen as 2 discrete yet equally vital periods of development: one in which the institution changed from a minority to a majority form of disposal for young offenders, and the other in which threatened cessation became inevitable, with the publication of the recommendations of the Younger Report.

I have made reference in Chapter One to the "deafening silence" around certain economic, political, and ideological threads which must be considered in any comprehensive analysis of the emergence of the Detention Centre system (see p.14). In bringing this study to a close,

I want to make some reference to another kind of "deafening silence" in Detention Centre history, and that is with regard to the situation surrounding projected demise in 1974, following Younger's recommendations:

The publication of the Younger Report, as indicated in Chapter Seven, was long-awaited. Its recommendations provoked immediate and extensive comment. With hindsight, we now know that after all the excitement, the prognostication and the comment, came, not demise but what Lady Wootton has called another "deafening silence",¹ broken only by the Government in February 1977, when the Home Secretary made a statement to the effect that despite general support for Younger's recommendations, there was:

"... no prospect of early changes in the law or developments in practice", 2

due largely to a lack of financial resources to implement such change.

Not only were Detention Centres still in use, but they were receiving larger numbers of young offenders than ever. The "generic sentence" outlined by Younger seemed no nearer fruition, though there was pressure from the Opposition to abolish the existing restriction (1961 Criminal Justice Act, s.3) on the imprisonment of young adults for terms between 6 months and 3 years. Bowing to this pressure, the Labour Government finally promised early legislation for a generic custodial sentence, based on Younger, but within existing resources. The new Green Paper on this followed 18 months later,³ in 1978; it still looked as if the Detention Centre would still die as a separate institution. The differences between this Green Paper and the original Advisory Council on the Penal System recommendations have not been discussed in this study.

Neither have the details of the 1980 White Paper⁴ (or the 1982 Criminal Justice Act), published under a new Tory Government, and

clearly resisting the Detention Centre. The former proposed to repeal s.3 of the 1961 Criminal Justice Act, retain the Detention Centre system, and replace sentences of Borstal training and imprisonment by a single determinate sentence, provisionally described as "youth custody".

The contradictions between non-custodial treatment and punitive detention thus continued throughout the 1970's. Speaking shortly after the Tory victory at the polls in 1979, William Whitelaw commented:

"Non-custodial treatment has proved its success as a method of dealing with a wide range of offenders. We in this Government strongly support the dedicated work of the probation service with such offenders. We shall develop the use of community service orders, established by the last Government, as well as other alternatives to prison." 5

Yet in the same speech he also announced the intention and outline of plans for the new "hard-line" Detention Centre regimes at Send and New Hall! By the early 1980's, the Detention Centre was in use on an unprecedented scale. The pheonix continued to grow.

This study has not included within its aegis an analysis of what might come to be called the "3rd decade" of Detention Centre history. To address such a topic - the reasons for and analysis of the continued use of the Detention Centre system, and the re-introduction of the 'short, sharp shock' regime in some institutions - would necessitate a major theoretical analysis of the British state from the mid-1970's through at least the first part of the 1980's; what I have termed the 'law and order' state, in the last chapter of this study. To examine this "3rd" period, or partial-period, would entail a complex and detailed analysis of the 'law and order' state, of "Thatcherism", and of the peculiar juxtaposition of contradictory forces in a nation dominated by the rightist Tory policies of monetarism, and characterised by mass unemployment, widespread industrial unrest, a crumbling economy, unprecedented social and cultural despair amongst a population in which

vast numbers of people face long-term unemployment and no alternative to the "dole", and a crime rate which has continued to rise. It has not been within the brief of this study to research this period, vital though it will no doubt turn out to be in the annals of penal history generally and young offender history specifically.

One thing is certain however: that the Detention Centre, despite the work of various reform groups, will not face a demise in the immediate future. If anything, centres will continue to expand to overflowing. The hegemony of the prison for the young offender sector no longer faces the head-long slope to destruction. It has been halted - at least temporarily - by powerful political, economic and social forces beyond the parameters of penal and welfare reform considerations.

Commitment to treatment-oriented disposal systems continues apace in professional ideologies, and in practice in certain sectors of the young offender arena. Incarceration and punitive-oriented regimes, despite a committed movement against them, also continue to hold sway, supported by official Party policies. In this sense the sentiments of Crowe and Land, cited at the very beginning of this study, are not contradictory, despite the different purposes of their research!⁶

In the meantime, the 'short, sharp shock' has been resurrected on a scale penologists could little have imagined in their visions of a future penal system. But that is another story.

CHAPTER EIGHT † FOOTNOTES

1. See: Wootton, B. (1978) "Crime and Penal Policy".
London: G.A. & Unwin.
2. H.C. Debates: Vol.925., Cols.138-40. (Written Answers.)
3. Green Paper: "Youth Custody and Supervision: a new Sentence".
December 1978. Cmnd.7406.
4. White Paper: "Young Offenders". October 1980. Cmnd.8045.
5. Conservative Party Conference: William Whitelaw/1040/79.
Date: 11.10.79.
6. See opening quotations from Chapter One of this thesis.

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- Youth Custody and Supervision: a new sentence. Cmnd.7406. (Green Paper). 1978.
- Young Offenders. Cmnd.8045 (White Paper). 1980.

(3) ACTS OF PARLIAMENT

(This is not an exhaustive list, and includes only those Acts which are of particular importance in the main text. Others may be referred to also. Neither does it include the various Bills, and drafts of Bills and Acts referred to in the main text.)

The Penitentiary Act, 1779.

The Poor Law Act, 1834.

The Prison Act, 1835.

The Prison Act, 1877.

The Summary Jurisdiction Act, 1879.

The Probation of First Offenders Act, 1887.

The Probation of Offenders Act, 1907.

The Prevention of Crime Act, 1905.

The Children Act, 1908.

The Intoxicating Liquor (Temporary Restriction) Act, 1914.

The Criminal Justice Administration Act, 1914.

The Defence of the Realm (Liquor Control) Regulations, 1915.

The Housing and Town Planning Act, 1919 (Addison).

The Housing Act, 1924 (Wheatley).

The Housing Act, 1930.

The Children and Young Persons Act, 1932.

The Children and Young Persons Act, 1933.

The Criminal Justice Bill, 1938.

The National Health Service Act, 1946.

The Criminal Justice Act, 1948.

The Children Act, 1948.

The Criminal Justice Act, 1961.

The Criminal Justice Act, 1967.

The Children and Young Persons Act, 1969.

The Criminal Justice Act, 1972.