

CHAPTER FOUR

Women, Sexuality and the Crime Question

In the account we have presented so far of the evolution of the crime question in post-war political and social commentary, women have been almost entirely absent, as commentators and also as subjects of comment. It is only in the last decade, in fact, that the topics of the criminality of women and also crimes against women have been taken seriously within academic criminology; and probably only since the early 1970's that the contribution of women to the annual criminal statistics has become anything like a topic of animated discussion in Governmental circles, amongst police and in the mass media, as "an issue".<sup>1</sup>

In this chapter, I want to attempt to examine some key connections that have been suggested in some of the recent work on women and sexuality (specifically with respect to the crime question), but in a limited way. The limited nature of my comments are a product of two considerations. First, I am not a woman, and I am therefore not able to speak from experience on many of the questions that are central to contemporary feminist debate. It is not that I believe that my gender disqualifies me from comments on these questions, any more than the fact that I believe that not having been a prisoner in a jail disqualifies me from commenting on the prison question. But I do believe that it is difficult to men to comprehend the fears women routinely experience, in adolescence and adulthood, regarding the possibility of rape, sexual attack or harassment;<sup>2</sup> or, for that matter, for them to understand the ways in which the "institutions" of prostitution and pornography contribute, subjectively, to the reproduction of women's sense of subordination to men. When this thesis was being written, women in this part of England were clearly threatened, both objectively and subjectively by the so-called "Yorkshire Ripper". The subsequent capture and prosecution of Peter Sutcliffe early in 1981 may alleviate, but it

does not remove, the fears that women then experienced of sexual harassment, attack and even murder. In the aftermath of the Ripper, these are no longer matters which men can be allowed to treat in the manner of television comedians.<sup>3</sup> The work being undertaken by members of the Women's Movement into the questions of rape, prostitution and pornography in the current period of explosion in feminist studies will throw light on these issues in a way that this particular exploration could never do.

A second reason for attempting to delimit our investigation of this area is that we are primarily interested, in this study, in the question of ideology, and specifically in the implicit and explicit images of crime and conformity that exist within the three most significant ideological "constituencies" of conservatism, liberalism and social democracy. So we shall try to confine our comments here to the question of the nexus of women and sexuality as it exists in ideology, rather than dealing with the very broad set of questions (concerning the origins of patriarchy, the relationship of the family and the State, the nature of women's sexuality, the development of radical and revolutionary feminist (or "separatist") critiques of male domination, and others) which have been thrown up in recent feminist literature and political activity.

A few, inadequate, comments are required on these issues, however. We take the word patriarchy to refer to the set of structures and beliefs which sustain the oppression of women by men. So "patriarchy" can be a reference to the form of family structure (the patrilineal nuclear family) which subordinates women by marriage to the male Head of the family, or to <sup>/the</sup> sets of beliefs, laws, or ideologies, which describe these structural forms as natural and inevitable inequalities. "Patriarchy" is, in other words, a property relation. "Sexism", on the other hand, is best reserved as a reference to the sets of beliefs about the inevitability of "difference" between the sexes, which differences are seen, usually, to be the product of biological difference. Sexism exploits the fact of biological difference through jests and ridicule (in jokes about male and female sexuality) and also through silences (in suppressing discussion of women as subjects of history). Properly speaking, sexism is not patriarchal unless the

"jokes" and the silences are actually at work in the direct reproduction of the subordination of women to the male Head of the family, as a commodity.

The distinction between patriarchal and sexist structures is a very fine one indeed, however, and has been the topic of considerable theoretical examination within feminism (cf. Women: Publishing Collective 1976; Kuhn and Wolpe 1978). For our purposes, the key observation is the accommodation of social democratic thinkers to patriarchy, particularly in the support given by social democracy in the post-war period to the working class nuclear family. The costs that have been paid for this subordination by women (as wives and daughters) are largely uncalculated in the "sociology of the family", in post-war history or in orthodox social surveys, although some insight into the effects of sex-role stereotyping and coercive divisions of domestic labour is available in Sue Sharpe's study of the early childhoods of girls and in Sheila Rowbotham and Jean McCrindle's collection of reminiscences of working class adult women (Sharpe 1976 : McCrindle and Rowbotham 1979). An Italian study of the early socialisation of girls in working class families by Belotti has shown the pernicious power of sexist beliefs (especially when linked to theological themes of the dirty, devil woman) in relegating women to subordinate roles in the family and in life generally; and the enormous costs that are then paid by Italian women. (Belotti 1975). In conventional social democratic writing on the family in the post-war period, all of these costs, if mentioned, are insignificant by comparison to the overwhelming comforts and desirability for women of a life of domestic labour and child rearing. I shall give some detailed instances of this celebration of the nuclear family in the next section. For the time being, the point is merely to note the particular, primary and specific form in which social democracy worked ideologically on patriarchal structures.

Clearly, this primary articulation of patriarchy was also supported by cultural accommodations to sexism within social democracy. It is not merely that the Labour Movement has been tolerant and even active in the reproduction of

sexism as a form of humour or in the objectification of women, in the use of pin-ups in union journals, in the manner of the popular press. It is also that women's issues have been treated as if they were naturally separate from other issues. Until recently, this separation of women's issues from others was unambiguously "justified" by references to the obvious primacy for the Labour Movement of the economic struggles of male "breadwinners". In more recent years, the separation of women's and men's issues has tended to be justified differently (sometimes in recognition of the need for programmes of positive discrimination in favour of women, requiring separate discussion by women). But the differentiation of men and women as a natural division, irrespective of the issue in question (whether trade union struggles or crime questions) is a form of sexism in itself, in assuming that women's involvement in such struggles or in crime is essentially to be understood in terms of their biological gender.

The organisation of this chapter is itself sexist in such terms, in that I have decided to include in this chapter all the various topics which criminologists in general tend to discuss in textbooks on women and crime, or which surface in popular and political debate as if they were to do with changes in the character or the behaviour of women. There is no a priori reason for discussing the delinquency of girls in the same chapter as pornography and sexual offences, for example, except only in that they are "to do with" women. In the one, delinquency, girls are (at least allegedly) the subjects (in activities concerning, in particular, the breaking of laws governing property relations or the minimal age of voluntary sexual relationships), and in the other, pornography and sexual offences, women are the objects and, very largely, the victims.

It clearly is one task of socialist feminists to break the "essentialist" assumption that topics like the delinquency of girls and sexual offences are

discussable as if they are within an organic category, because they are thought by some to involve the facts of women's biology. A part of any socialist criminological project must be to show that the "delinquency of girls" is a reflexion of both patriarchal and capitalist class relationships, and also that "the delinquency of girls" is not simply a behaviour but an area of heavy ideological work, in which judges and magistrates debate with social workers and teachers, and others, in the presence of the mass media, and attempt to police the parameters of acceptable behaviour by adolescent girls. The "delinquency of girls" is a topic area made up of complex ideological work about social behaviour, the property relations of the classes and indirectly the sexual division of labour. The other topic areas discussed in this chapter, of prostitution, rape and sexual offences and pornography fall into relatively distinct areas of ideological work, but all have to do predominantly with the reproduction of women in general as the sexual property of men. They are areas in which ideological work is done that is crucial to the reproduction of patriarchy in the sense I described it above.

The rationale for retaining all these otherwise disparate topics in one chapter is not to reproduce a conventional and commonsense division between women's and men's issues. Certainly, it is no part of our concern to give any primacy to biological differentiation of the sexes as the essential or determinant social division. But, pragmatically, the issues discussed in this chapter are issues which will be subjected to radical and socialist analysis by feminist women examining the situation of other women, from delinquent girls to victims of sexual harassment. It is from the sense of sorority between oppressed women that socialist alternatives to the patriarchy and sexism of social democracy must emerge.

#### 4.1 The Problem That Has No Name

We need to retrace our steps in order to remind ourselves of the position of women in the talk, practices and policies of the major political

movements in Britain in the period before the emergence of a fullblown women's movement and the development and popularisation of a feminist consciousness during the late 1960's and early 1970's.

In Chapter One, we tried to show how the "social reconstruction" spoken of by social democrats in the immediate post-war period was intimately bound up with the "rehabilitation of the family". There is some debate as to the internal logics involved in this process of rehabilitation,<sup>4</sup> but the key agreement is that by the early 1950's the appropriate social role of women had been re-reconstructed as housewife and mother. Indeed, as Denise Riley has shown, there was within the report of the 1949 Royal Commission on Population and in the evidence submitted to it, a strong element of eugenicism and "pro-natalism", whereby the problem for Government was to "devise arguments that would render it easier for women to combine motherhood and the care of a home with outside activities".<sup>5</sup> It was thought to be especially important to construct

"(a) package of income tax reliefs, play centres, day nurseries and 'improved house design' (to constitute) the incentive to women to counteract the possibility of family size slipping to below replacement level, especially among the 'better educated', thus endangering the national intelligence quotient".  
(Riley, 1979, p.103).

And, as Denise Riley again has shown, the approach of social democrats specifically, to the question of the family, as developed in the evidence submitted by the Fabian Society to the Royal Commission, was actually as an accommodation to the existing demands of the political economy, on the one hand, and the balance of ideological debate on the women's question on the other. Whilst it was said that feminism "had come to stay", and that the "self-expression" of women was increasing, and no "narrowing of these horizons" by childbearing and childrearing should be allowed, the Fabians also observed that

"it is hardly necessary to stress, perhaps, that a mother's first duty is to her children and her home, and that, except in cases of sheer necessity, a mother should not

undertake work unless she can ensure proper care for her children. During the war, this principle was lost sight of ..."  
(quoted in Riley, 1979, pp.103-4).

What was crucial about the social-democratic argument for nurseries and for other forms of State aid for working mothers, in this period, was that it was qualified by the insistence that women should only find their mode of "expression" through work, if this could be seen to be in the interest, overall, of the family and population reproduction. Women were to be aided to be citizens but still, predominantly via their being, primarily, wives and mothers.

"What was strikingly absent from all the official nursery debates was any mention of a non-instrumentalist release for mothers. There were no feminist arguments for nurseries."  
(Riley, ibid, p.105).

We shall try to show later that the absence of a feminist dimension in the social democratic politics of the 1950's and 1960's was a limiting and distorting factor in the "liberation" of women (and men) involved in the period of Labour Government in the 1960's. What is crucial for our immediate purposes is the consequences of 1950's talk about women on the question of crime.

In one of the first, crucial interventions into the women's question, in the 1960's, Betty Friedan called the women question "the problem that has no name"; and other feminist writers, including those writing on crime, have spoken since of women as a "silence" or an "absence" in existing writing (whether of a popular or academic variety). This is perhaps only partly correct, for women did appear implicitly and explicitly in talk about crime (and in talk about social order) in the 1950's and early 1960's, prior to the advent of "permissiveness" and the challenge of the Women's Movement itself. Explicitly, women appeared as being likely, by virtue of character and social position, to be involved (mainly) in the "crimes" of shoplifting, prostitution, and, occasionally in "crimes of passion" (most dramatically of all, of course, in the shooting of her lover by the "blonde bombshell", Ruth Ellis in 1953). Implicitly, however, women as a whole appeared as the

archetypal conformists. In advertisements, in the television dramas of the time (Life with the Lyons), and in the overtly ideological work of the Conservative Party, women were the ideal-typical representatives of "the age of affluence". Where women for the social democrat were important to the proper psychological functioning of the family (and thereby a crucial part of the logic of social reconstruction and the creation of "community"), women for conservatives and liberals of the period were important in their role as individual consumers (cf. Birmingham Feminist History Group, 1979, p.49). They were the main targets for the rapidly expanding consumer-oriented industries of the 1950's, and they were also the happy exemplars of the "social benefits" of the managed, mixed capitalist economy. If the ideologies of Macmillanism were experienced by working men as illusory (the day to day drudgery of factory work did not disappear, and indeed it increased in tempo in the 1950's), they could at least find some patriarchal solace in the "spectacle" of "their" wives finding what they thought was a means of identity and expression in consumerism. And working women (who were much more numerous than contemporary or later commentators were to allow) could also recognise some "benefit" in the purchase of labour saving devices for their domestic work situation.

Writing in 1961, T.R. Fyvel observed that:

"In 1948, the estimated number of married women at work was two million, and ten years later in 1958 it was about four million, and there is no sign that the maximum has yet been reached." (Fyvel, 1961, p.128).

Fyvel's observation has since proven to be fundamentally correct: the number of women in some kind of employment outside the home has continued to increase throughout the post-war period to the point where, in 1978, they comprised some 41 per cent of the (waged) labour force. His observation does not reveal, however, two very crucial features of this continuing entry of women into paid labour. The increases in women's "labour market participation rate" have been checked very rapidly by the onset of periods of recession



(so that the 3 per cent increase in women at work in 1953 over 1952, at the beginning of the 1950's boom was partially offset by a 1 per cent decline in 1957 over 1956, at the recession point of the cycle). (Bruegel, 1979, Figure 1). In other words, women have until recently been the major constituent element in "the reserve army of labour". The character of the "reserve army of labour" has however been transformed by the black immigration into most western European societies encouraged during the post-war boom (a process which is now being halted, and perhaps reversed, by the return of a deep crisis of profitability in the West). Moreover, the expansion that has occurred in the numbers of women in employment is a function of the expansion of lowly-paid jobs in the "service sector", (in shops, factories and offices) including part-time jobs. These jobs are so poorly-paid that they do not attract competition from men, even in times of high unemployment like the present. Women who have joined the labour market have done so, very largely, have joined the ranks of the "low-paid" as servants to the well-paid central sectors of the labour market.

The attractions of "outside work", as it was called by Fyvel, for working class women was that "it enlarged their horizons ... emancipating (them) from the old drudgery at the kitchen sink .... (and also) speeded the advance towards the embourgeoisement in working-class life by adding to the combined family wage". (Fyvel, ibid, p.128). But the increasing movement of women into paid employment was also a process which caused social democrats like Fyvel to pause, in the same way as the absence of mother from the home as a result of the wartime production drive, and the absence of father at the front, had done a decade before :

"The general exodus of married women, many of them mothers, into outside work, in itself (has) helped to create a new social atmosphere, a new general way of family life, whereby 'home' for many boys and girls becomes less important in their lives, and the companionship and rules of the irresponsible gang therefore become more important."  
(Fyvel, ibid, p.129 emphasis in original).

We have already discussed, in Chapter One, the importance for social democrats of the family as a key agency of socialisation in the period of post-war reconstruction. The dangers to the family in the 1940's and early 1950's were seen to arise out of the dislocations of the war itself and also out of the continuing presence of spivs, black marketeers and other inappropriate role models. In the 1950's, increasingly, the family came to be seen amongst social democrats as an institution that was in danger of dislocation as a result of the advance of consumerism. In particular, as Andrew Tolson has noted, the advance of television and the continuing development of new techniques in magazine and televisual advertising in the 1950's resulted in the invasion of a public "consumer consciousness" into what had been previously a private, domestic sphere (the home). The emergent "ideology of consumerism" implies the possibility of liberation from mundane labour, especially in the home and therefore for women, achievable through the purchase of labour-saving devices, and also the possibility of new ways of expressing oneself, through the purchase of distinctive consumer goods. But it also implied the possibility of a libidinous expression of self, through a "modern"-minded display and enjoyment of sexuality (associated, in advertisements, with the purchase of alcohol, cigarettes, clothing and bath-soap, in particular). So the ideology of consumerism conflicted with both orthodox social-democratic and conservative ideologies from which sexuality in particular and hedonism in general, were absent.

It is vitally important to register the fact that this initial "liberation" of men and women's sexuality occurred within the parameters of consumerism, not only because it gainsays the insistent attempt of contemporary conservatives to locate this liberalisation of the sexual relation exclusively within the liberalisation of Authority generally (by way of mounting an analysis of "permissiveness" as the source of political, social and economic unease). It

is also an important connection in that it identifies a crucial dynamic in the appropriation of women's sexuality, especially, by commercial capital. Capital must not only create (saleable) commodities out of whatever natural and human resources it can find for such purposes: it must also be able to develop and recycle such commodities for further sales, in order to expand capital further. Sheila Rowbotham has dubbed the process in which women's sexuality was "liberated", and traditional notions that women held about their value subverted and replaced, as an "imperial onslaught", in which the cosmetics industry, for example, constantly created further and newer needs and products, so that

" ... the female who is the cosmetic ideal (becomes) more or less unattainable, no sooner captured she appears in another form. Playing on insecurity and anxiety the advertisers market goods which actually create new fears. Vaginal deodorants make people anxious about sexual odour."  
(Rowbotham, 1973, p.109).

The "permissiveness" of the 1950's and 1960's was fundamentally organised around the production and sale of sexual commodities, aimed both at women and men (in the form of pornography, as well as in the form of constantly recycled clothing styles, and even new models of motor car, described in terms of their sexual characteristics or in terms of their potential in attracting women). It was a "permissive" logic which developed on an international basis, through multi-national companies like the male-oriented Playboy Corporation and international car companies, on the one hand, and through international fashion houses, like Gucci and Max Factor, with their orientation to women and to men, on the other. And it was a permissive logic that had necessarily to re-emphasise and re-organise symbols of sexual difference, at each level of sexual liberation, in order constantly to generate anxieties in women and in men about their personal desirability as commodities, and also to generate an anxious curiosity in both men and women about new forms of sexual response, as yet beyond their experience. The

excitation of this curiosity could be generated overtly, in the alluring messages and images on the covers of pornographic magazines and in the popular press, or even covertly, as in the practice of "embedding" hidden, subliminal messages about sexuality in advertisements for consumer goods (as far removed as fashion and drink) - a common practice, in particular, of the American advertising agencies, investigated by Key (1973, 1976).

Sexual "experience" has become a crucial arena which we are all expected to consume, and yet in which we are all to some extent deprived (in pornography, for example, there are always realms of sexual experience to be desired and sought after, but which are impossible in everyday interaction; and in fashion, there are forms of sexual "display" which are impossible for many people to achieve because they do not have the money, or because they do not fulfil the requirements in terms of physical attributes). In this way, sexuality is made a commodity which like other commodities we are asked to see as a reflection of our character. In Sheila Rowbotham's terms :

"Sexuality as the symbol of the natural assumes an importance beyond itself."  
(Rowbotham, 1973, p.110)

The precise history of this early phase of post-war "permissiveness" in Britain has yet to be written, but the use of sexual imagery in journalism and in advertising, for example, aimed at women in particular certainly pre-dated the setting-up, by a Conservative Government, of the Wolfenden Committee's enquiry into Prostitution, which is widely taken to mark the onset of the first period of 'permissiveness' <sup>/in</sup> Governmental social policy and in the postures adopted by the courts. In particular, magazines like Marilyn, launched in 1955, Mirabelle (1956), Romeo and Valentine (1957), began to speak to adolescent girls of the existence of sexuality as a pleasurable activity, albeit best postponed until after marriage to a suitable (respectable)

partner. And adult men and women alike in the working class and lower middle class were increasingly exposed to explicitly sexual material, albeit mostly articulated in an adolescent fashion (sexuality as a "smirk") in weekly magazines like Reveille and Titbits, in television comedy shows involving dumb, "nubile" blondes like Sabrina on the Arthur Askey Show, and in a cinema industry whose products were being given an X certificate through the 1950's with increasing frequency (albeit amounting to only 5 per cent of all films certified in 1954). The permissiveness of the 1950's was primarily a permissiveness in the commodities available to be viewed in magazines, films and TV in conjunction with commodities available for purchase (which were overtly or covertly displayed within the same media). Consumerism did not in essence speak of premarital or extra-marital experimentation, of democratic or collective models of human love or physical sexual experience, or of any of the other subversive notions which have since been laid at the door of 1950's "reformism". Rather it demanded - and therefore it "permitted" - an expansion in the range of consumable commodities to include commodities of sexual and erotic potential.

The ideology of consumerism was, in any case, essentially contradictory with what Tolson has called the ideology of domesticity. This traditional ideology of women's role was built around three assumptions. First, "the private world is radically different from the public world" - for the man. The workaday world is contradictory, competitive, tiresome and divided; but the working man retreats from this public world into a private world where "the tensions of the day are 'cooled out' by sympathy and understanding". (Tolson, 1975, p.7). It hardly needs saying that no such solace is identified, within this ideology, for working wives themselves, for the second assumption of the ideology of domesticity is that the private sphere (the upkeep of home, children and husband) is almost exclusively the responsibility of the wife. Simply and familiarly put, "a man may work from dawn to dusk, but a woman's work is never done". The third element in the ideology of domesticity

is the emotional and sexual dependence of the woman on the man. The woman can be sexually and emotionally warm only within the relationship with her husband.

Clearly, such an ideology worked to emphasise and to reproduce the thoroughgoing patriarchal character of the division of labour in society as a whole. It served, in other words, to reproduce, and to make "natural", what Frederick Engels, in the nineteenth century, had called "the first class oppression .... that of the female sex by the male". (Engels, 1970, p.494). According to Engels, patriarchal social relations were a product of the transformation of the family in the aftermath of the collapse of organic "primitive society".

"In such a society, the fact that women had responsibility for child-rearing and for the household economy signified not their oppression but, in Engels' words, their 'free' and 'highly respected' position".  
(Zaretsky, 1973, p.31)

Again in Engels' words, the household

"was just as much a public, a socially necessary industry as the providing of food by the men."  
(Engels, 1884, p.240)

The development of patriarchy occurred as a result of the family being re-constituted by the development of the logic of production as a separate sphere of private life, in which what had earlier been communal property was increasingly appropriated by "private" individuals. Zaretsky's commentary on Engels observes that

"the rise of private property spelled the downfall of women. Production outside the household expanded far more rapidly than production within the household. As a result the traditional division of labour between men and women, which had originally arisen out of the physiological differences between the sexes, took on a new social meaning. As the household dwindled in importance, so too did the role of women."  
(Zaretsky, 1973, p.32)

Especially with the replacement of the matrilineal kinship by patrilineal forms :

"The wife became the first domestic servant pushed out of participation in social production."  
(Engels, 1884, p.240)

By the nineteenth-century, with the fullblown development of industrial capitalism employing a mass of free labour in intensive production, the "logic" of a patriarchal sexual division of labour was complete. Propertied males could ensure that their wealth would pass on through the male line, whilst working class males could rely on the women as domestic servant for emotional and physical relief away from the world of productive labour. Working class domesticity was in this sense an accommodation to the changing relations of Capital and Labour in the nineteenth century and also simultaneously to the patriarchal private family created by advances in pre-capitalist productive relations. It was this patriarchal family form, along with its associated division of "productive" from "domestic" labour, that social democrats (with the exception of certain deviant thinkers like Havelock Ellis, Edward Carpenter in the nineteenth century) came to accept and indeed to celebrate and which social democrats since have almost without exception accepted and celebrated.

Another way of putting this is to point to the fact that social democrats in the twentieth century have placed an impossible (and ultimately reactionary, and repressively anti-feminist) emphasis on the family as an arena in which both psychic and material fulfilment is expected to be experienced, especially within the reconstructed civil society of social democracy of the post-war period. Social democratic ideology has placed ideological demands on the "heads" of families and on "mothers" which have been progressively more impossible, given the reality of people's own "liberated" aspirations associated with changes in the nature of male and female employment.

The family form has had this character from the early years of the industrial revolution and the consequent separation of production (in factories) from socialisation (in families). Indeed the family was often unable - even

in the nineteenth century - to deal with new demands placed upon it by the world of production. The development of compulsory State education in the late nineteenth century resolved some of these contradictions, by supporting the family in its task of producing a literate work-force, but it did not reduce the pressure on families to provide an arena of relief and emotional fulfilment outside the world of production.

In the twentieth century, a gradual dissolution of the extended family as the fundamental unit of working class life has been brought about by the increase in geographical and occupational mobility in the working class, and, as Sheila Rowbotham has pointed out, polemically :

"as the family became smaller in size its emotional load became heavier. The monogamous nuclear family has become such a preposterous ideal that it sags with the weight of its unrealized hopes almost before it creates itself."  
(Rowbotham, 1973, p.60)

It is around the "preposterous ideal" of the monogamous nuclear family that social democratic thinking on sexuality and, indeed, on citizenship within social democracy has almost exclusively been articulated. In the first three chapters of this thesis, indeed, we outlined the heavy dependence of social democratic social policy on the family as an agent of socialisation and social control, and the continuing reliance of social democrats on the family as the central element of the "community" on which they base their hopes for social order. It is this social democratic "ideal" which, we will argue, later, has crippling costs, not only for women - and men - (in general), but also for young people who fall foul of the contradictions in the nuclear families, and especially for young girls who fall foul of the contradictions in working-class family life and its notion of respectable femininity.

#### 4.2 The Moment of Wolfenden Reformism

The underlying argument of this chapter is that the "problem that has no name" began to acquire a name (the subordination of women, especially with



regard to the family) and a momentum as a result of the increasing "participation" of women in the labour market in the 1940's and 1950's but that the initial expression of the problem in the post-war period was quite clearly articulated around the idea of woman as consumer. Women were endowed with a (circumscribed and heavily scripted) "right to choose" between a mass of new consumer goods, new clothing styles and even, in some accounts, between early marriage or "late" marriage - postponed in order to allow women to have some experience of independence in the labour market, or in order to give time for couples to "save up" (in order to marry into a consumer society).

This was the context, in the middle to late 1950's, in which there occurred a certain "liberalisation" of the laws governing sexual relations generally, but in particular around homosexuality, censorship, and the conduct of personal life. With Stuart Hall, we should remind ourselves that though these movements towards liberalisation have been linked together, along with the reform of law on divorce and suicide and the abolition of capital punishment, as part of a general "reformist" conjuncture, they do have "profoundly different roots". (Hall, 1980b,p.7). Hall's point is made forcefully with respect to the social democratic party itself, at least with respect to the positions taken by its individual representatives in Parliament :

"within the Labour Movement there was a long-standing opposition to the exercise of the death penalty, opposed to the traditional 'hanging lobby' in the Conservative Party - so much so that Silverman was genuinely surprised that abolition did not naturally follow the 1945 Labour victory. Legislation on homosexuality was not a traditional Labour demand; and when, in 1957, the move to abolish hanging secured a majority, none could be found for altering by a line the legislation on homosexual offences. The two things 'happened' roughly in the same period, but they can only be said to belong to the same conjuncture or tendency in a highly uneven way." (Hall, 1980b,p.7)

We shall return to the question of the different party-political ideologies and their "uneven" approaches to sexual relations later in the chapter. Indeed, it will be a central concern of this chapter to try to explicate

the particular contradictions in conservative, liberal and social democratic ideologies in this field, especially in the contemporary period.

But returning to our brief examination of the reformist legislation of the 1950's, we must also remind ourselves of the very limited scope of the "liberalisation" that was proposed and enacted in the period.

Crucially, "Wolfenden reformism", as we shall call the first phase of post-war legal reform of sexual relations, was activated in the first place by "a moral climate directed ... towards the tightening up of moral conduct", a climate encouraged by the spy "scandals" of the early 1950's (Burgess, Maclean and Vassall), by the trial of Lord Montagu of Beaulieu in 1953, and also by a concern, identified earlier in this book, with the "seduction of the innocents" involved in a-moral children's "horror comics" imported from America, a concern which was voiced by Conservative and social democratic parliamentarians alike.<sup>6</sup>

The Wolfenden Report of 1957 (The Report of the Committee on Homosexual Offences and Prostitution) was, however, a double-edged document, and Wolfenden reformism had a decided concern to balance permissiveness with prohibition. The Wolfenden Report did propose the decriminalisation of homosexual activity between adults in private but it nonetheless took ten years (and substantial pressure group activity by organisations like the Albany Trust) to bring these proposals onto the statute book (in the Sexual Offences Act of 1967). And the Act also took its cue from Wolfenden when it actually strengthened existing legal penalties against male importuning and soliciting, whilst also increasing the penalties for "gross indecency" between a man over 21 and a youth over the age of consent. The Wolfenden Committee's recommendations on female prostitution were also double-edged. The Committee enunciated a fundamentally "secular" set of principles as the basis for legislation on prostitution (enacted in the Street Offences Act of 1959) by erecting a distinction between "private moral conduct" (which should include the act of prostitution)

which should be no business of the criminal law, on the one hand, and "activities which offend against public order and decency" (which should include soliciting) which "the law is entitled to recognize and deal with", on the other. In so doing, it "permitted" prostitution and yet also it simultaneously increased the powers of the police in dealing with persistent soliciting, including a recommendation to increase the maximum length of imprisonment from 14 days to three months. It is a clue to our later examination of the ideological context of these reforms that the rationale for the increasing repression of soliciting was the visibility of the "women on the streets". In the words of the Wolfenden Report itself :

".... the simple fact is that prostitutes do parade themselves more habitually and openly than their prospective customers, and do by their continual presence affront the sense of decency of the ordinary citizen."  
(Wolfenden, 1957, p.87 quoted in Hall, 1980b,p.10).

The parading prostitute was an affront to the respectability and the decency of the "common man" for whom the Wolfenden Report attempts in places to speak, and, as Hall points out, it was the repressive proposals on soliciting in Wolfenden which were legislated immediately, and the permissive proposals on homosexual law reform which were delayed for a decade.

The "liberalism" and the "permissiveness" of Wolfenden lay more in the secular formulations it used to speak about the relation of law and morality than in any of its specific proposals. Like the proposals for reform of the divorce laws emerging during the 1950's, the Wolfenden debates were "morally agnostic", and a more or less accurate expression of an increasing secularisation of social life generally, a secularisation that was finding expression in declining church attendances, in the growth of satire on matters of religion, and ultimately in the development of an attempt to secularise some of the Church's own myths in Honest to God (published in 1958).

In this sense, "Wolfenden reformism" may be understood, as Hall suggests, as creating a distinct separation in law between sin and crime and between immorality and illegality. Following Professor Hart's attempts, in his exchanges with Lord Devlin, to remove law from the realm of private morality, "Wolfenden reformism" was concerned to

" ... stake out a new relation between the two modes of moral regulation - the modalities of legal compulsion and of self-regulation. This set of distinctions constituted a new, if temporary, 'moral economy'."  
(Hall, 1980b, pp.11-12)

Two further points have to be made about the character of "Wolfenden reformism". We have to note, quite firmly, that the prising apart of the stern, Puritanical moral standards that had predated Wolfenden was initiated and developed not by subversive intellectuals nor either by sexual deviants themselves (for most of these individuals were denied a public voice in the debates of the time) but by the logic of the labour market and the associated development of consumer industry and, in particular, by the nexus of advertising and the mass media.

We have also to say, secondly, again with some firmness, that the reformist politicians and intellectuals who were involved in the movements of "Wolfenden reformism" were the obverse of subversives (they were engineers of new forms of "moral economy"); they certainly did not conceive of the reformist legislation of the period as having the subversive quality of encouraging a general revolution in moral standards or a collapse of social order into some form of moral relativism or pluralism (in which "anything goes").

One of the founder members of the 1950's Albany Trust, C.H. Rolph, recently reflected on the "absurd behaviour" of the Gay Liberation Movement, "who feel that centuries of ill-treatment should now be avenged in any way currently available" and berates the Gay Liberation Front for

"attach(ing) themselves to everyone else's standard-bearing anti-establishmentarianism, hold aloft their own little placards calling upon each other to unite in something or other, and disrupt public meetings for no other perceptive

purpose than to flaunt an identity they were formally constrained to hide."  
(Rolph, 1974, p.231)

Behaviour of this kind is not the way to correct the "anomalies" that continue to exist, for Rolph, in the relevant law. The Wolfenden reformists (whatever their party) were not, in other words, "of the people" nor always of a feminist or homosexual persuasion themselves:<sup>7</sup> they were reformists responding to changes in the material form and publically available knowledge about sexual relations. This particular moment of reformism - from the Wolfenden Report up to the Suicide Act of 1961 - was characterised by

"pressure groups of a very specific and familiar kind. They were not the outcome of a wide popular agitation .... In an important sense, Parliament 'led' - and the lobbies served and serviced sympathetic Parliamentarians. These pressure groups were 'Fabian' in spirit and practice, if not in direct origin .... Their purpose was 'piecemeal moral engineering'."  
(Hall, 1980b, p.4)

The piecemeal moral engineering engaged in by the Wolfenden reformists was primarily concerned, as we have seen, with a redefinition of the responsibilities of the State in order to allow individual sexual preferences to be pursued - literally - in private, or (in the case of prostitution) without causing an affront to public morals and/or the "common man". It was certainly no part of the intention of Wolfenden reformism to advocate an equality of legal or social standing for homosexual or heterosexual preferences, or for prostitutes and their clients, or, indeed, for male and female sexual "rights". Wolfenden reformism was a reconstruction of the form of moral regulation. It was a reconstruction in which the state itself took on an ultimate responsibility for moral regulation in loco parentis, with a reduction only in the degree of reliance on Law as the primary instrument of "regulation" (or repression).

Although the speed of legislation on homosexual law reform and prostitution, and the active propagandists in each cause may have been different,

the overall consequences of "Wolfenden reformism" were identical. A part of the burden of the regulation of both sets of behaviours was shifted onto the private sphere. Homosexual activity in private was legalised (but any public display of homosexual affection heavily constrained) whilst

"... the real practical effect (of Wolfenden on prostitution) was to drive prostitution from the streets into a vast expansion of the commercial prostitution agencies and the organised, commercial business-companion, 'hostess' and call-girl rackets."  
(Hall, 1980b, p.13).

Sexuality, in other words, was increasingly privatised by law and yet simultaneously commercialised by the logic of post-war consumer capitalism; whilst the responsibility for setting the boundaries of acceptable behaviour in public was increasingly taken on by state welfare workers than the judiciary.

#### 4.3 Conservatism and Social Democracy on the Family, Class and Patriarchy in the Post-War Period

In Chapters One and Two, we tried to show how the existing political ideologies reached agreement (by a process of attrition, and also as a result of the consensual climate of 1950's affluence) on "crime" as a serious social problem, requiring intervention by (different arms of) the state; and we tried to show that this agreement masked, or failed to make explicit, the fundamental differences of view between conservatives and social democrats as to the relation of "crime" to social order.

Another unexplicated area of consensus and agreement in the 1950's was that which concerned the family. Once again, we suspect that the centrality of the family in the respective ideological frameworks has an entirely different meaning in each. For the pure conservative, the family was a carrier of traditional values and of the sense of continuity that is important in protecting children from the false gods of reform and change. It was also, importantly, the means by which property relations could be reproduced, in the form of

inherited wealth and/or proper education for productive leadership (of male offspring) or exemplary and supportive companions and mothers (in the case of girls). In this way, too, the family was the institution through which the only worthwhile social order (an ordered hierarchy of owners, managers, workers, and dependent domestic labourers and children) reproduced itself. The family was of course aided in this reproductive function, as it should be, by private schools to which families of traditional standing or worth, and also other families who had more recently accumulated wealth in commerce and industry, could send their offspring for the more formal inculcation of ruling class knowledge, manners and customs. The umbilical relationship of "the family" to private schools in the ruling class has always been emphasised in conservative ideology on education and social mobility, as indeed as the relationship between particular (Oxbridge) colleges and individual families.

At the other ideological extreme, social democrats have also stressed the continuing importance of the family, and, as we have seen earlier, have placed very great emphasis on the relationship between broken or "unsatisfactory" family backgrounds and delinquency, in particular, and social dis-ease in general. Implicit in this concern for the family have been at least two connected conceptions - of the family as a socialisation agency, and of the family as an institution of solace and community for members of the working population. In the working class family, the male offspring was trained either to follow father in his choice of occupation or to improve on father's occupation, whilst the female child was trained ideally to find a husband and also to be able to provide meals, sex and some company in leisure for her husband. This socialisation process prepared the male for his full citizenship in a social democratic society (a life in the labour market) and the female for hers (a life of domestic labour). "Naturally", the role of the woman was to organise the family around the male "productive" worker, and so the apparently matriarchal form of organisation that existed in working class family arose in

response to the overall demands of the patriarchal wage-earner. So whilst the nexus of family, school and career arose as the "natural", universal, and taken-for-granted way of life - the social order - for the ruling class male was and is characterised transparently by the overt domination of the male, so the family-school-labour nexus arise as the natural social order for the working class male, with the apparent domination of family by a matriarchal wife and mother.

In both ideologies, the family is thought to have historically performed, and is to continue to perform, a crucial role in what we may call, following Stuart Hall, the moral economy; that is, in regulating sexual activity. In the ruling and middle class family, the regulation works through the inculcation of norms of respectability, or what judicial and social philosophers may call moral education. The fact that it is the maintenance of the appearance of respectability vis-a-vis sexual activity which is crucial in the middle class family is evidenced by a vast array of literature on the use of prostitutes by the Victorian middle class (cf. inter alia Henriques, 1968; Marcus, 1966), by the findings of sexual researchers like Michael Schofield (Schofield, 1965, c.8) in the UK and, of course, by Masters and Johnson and Kinsey in the US as to frequency and variety of sexual experiences of middle class adults outside the family unit, as well as by the voluminous amount of expensive pornography of a distinctively disreputable character that is currently being consumed in this country by middle class and by wealthier working class alike.

In working class families, the norm of respectability is also evident, especially amongst those sections of the class that have aspired to upward social mobility in the period of the post-war boom. But there is also now considerable evidence that in some working-class families (and in some middle-class families also) the appearance of respectability (and the harmonious management of patriarchy) is achieved, by the male, through the use of physical violence. The traditional, unreformed social democratic conception of the



Family Man (a particular expression of patriarchy at one point in the class structure) and the real conditions facing men and women in working class families are increasingly discrepant. Working class families find it increasingly difficult to manage economically on the income brought in by the male wage-earner; large numbers of working class women do work in the wage labour market and learn there to challenge some aspects of male domination in their own domestic lives; and men and women therefore participate much more equally in the new working class estates in the roles of parent, domestic labourer and neighbour than they did in traditional working class communities.

This is to re-emphasise that conservative and social democratic ideological characterisations of the relations of family and social order have always fallen foul, in the contemporary period and also historically, of the troublesome material realities of a changing political economy. Many of the apparently organic and orderly families of the English ruling class have had rather tempestuous and fractious histories, and it is difficult to identify the precise moment at which these forms of family organisation ever existed within the kind of social calm that are described with such care in contemporary nostalgic literature and television drama. It is also apparent that the extended family form of the ruling class, with its dependence on inherited wealth, has not successfully reproduced itself throughout the commercial-industrial and non-commercial middle class. The middle class has been split, increasingly, during the period of the post-war boom, and by the inherent logic of Capital's post-war impact on class structure, between successful commercial and industrial families (who have moved on from the suburbs to the private estates) and the less successful, troubled, and insecure middle class of middle manager, bureaucrats and clerks (the new petty-bourgeoisie). It is a dislocation of the bourgeoisie which the radical Right has come increasingly to understand and to articulate in a political, as well as a conversational, form. It is within the families of this class that problems of "reproduction"

(and discipline) have occurred, as the prospects for the material and social advancement of both adult and youthful generations have dimmed, and the ability of that section of that class to believe in itself as a part of the ruling class or as the "centre" (the intended beneficiary) of the social formation has been threatened. It is of course precisely this petty bourgeois anxiety which is worked on by the racist Right and the radical Right inside and outside the **Conservative Party led by Margaret Thatcher.**

So pure conservative ideology no longer exactly fits the dislocated contemporary middle class family (it only really works as mythology, as on Upstairs, Downstairs). And pure social democratic "family talk" no longer fits that dislocated institution either. We have identified some of the structural sources of the dislocation of working class community, following Phil Cohen, in earlier sections of this thesis. But there is no doubt that this dislocation had particular consequences on women and girls, which have only recently become the object of any serious research. Brian Jackson could see the point in 1968, although he did not make much of it :

"No less important (than changed educational opportunity) has been the effect on community of the new freedoms in women's lives. Families can be planned. The perpetual pregnancies and nappy years are now a much smaller proportion of their lives. From the age of thirty onwards it is generally possible for mother to return to work in the mill or the office. The tradition of domestic service in middle-class households has shrunk, and women - ever since the factory demands of the first world war - have been inside the men's world of work. The change in the personal quality of women's lives has surely been immense. Contraception removes fears about love making, eats into the thick net of taboos built protectively around working class sex."  
(Jackson, 1968, pp.161-162)

The structural dislocation of traditional forms of working class family life not only involved a challenge to men's monopoly over production: the advent of the pill also gave women some control over reproduction, and hence over the exercise of their sexuality. This was a crucial development and one that has been largely ignored of the existing political and sociological literature

on changes in social relations. For both conservative and social democratic conceptions of the family had previously required and even celebrated the repression of women's sexuality, in the specific sense of demanding that women's sexual activity should be confined to reproductive activity and also that it should be monogamous. As we shall see, pure conservatism has been quite happy historically to tolerate the existence of prostitution (and actually therefore to sustain it, in that the availability of prostitution reduced the chances of one's own wives and daughters being devalued as desirable and marriageable property). Even in recent years, conservative and social democratic conceptions of the family have only very reluctantly acceded to the reality of pre-marital activity by girls (made possible by the advent of the pill). Both conceptions of the family have historically laid great stress on the importance of the virgin bride. Within the working class itself, there has existed a "working class culture of femininity" which has largely been accepted by working class girls: this stressed the importance of sexual display (as a means of attracting boys) but coupled this, in an apparently contradictory fashion, with the importance of sexual abstinence, if a girl intends to be a "good wife" to "her man" (cf. McRobbie, 1978). It is not that the "English" ideology is generally Puritanical: it is that the real stress is on the ideological repression of women's sexuality outside of marriage and the family, whilst also making available a pariah class of women, or other alternative sexual outlets, to allow the "natural" expression of the sexual interests of the adolescent male. It is an ideology of sexuality which naturalises the "double-standard" of abstinence for women, and sexual activity "on the side" for men.

#### 1.4 Contradiction and Change in Sexual Divisions

Due partly to the insistent equation together by conservative ideologists of permissiveness and welfare (which are seen as associated, advancing evils, requiring either moderate control or alternatively some actual reversal),

contemporary writers are nearly all more or less sensitised to seeing the involvement of women in active sexuality as a more or less recent phenomenon, occurring during the social construction period of the last thirty years. Similarly, there is a widespread tendency to speak of the allegedly associated problems of pornography and sex crimes as if they are also of recent origin, and therefore by definition a problem to be understood in terms of the nexus of welfare and permissiveness (i.e. within conservative ideology).<sup>8</sup> There are two connected problems here. One of these is the historical evidence for a much more extended period of sexual "liberation" than is allowed for in contemporary Conservative commentary, as well as in some liberal and even radical accounts, and in popular "commonsense". The other is the connected issue of the evidence for there being a continual difference between the values that people overtly express vis-a-vis sexuality, and the behaviours in which these people may in practice engage. This phenomenon has been called the "value-behaviour discrepancy" (Wheeler, 1960): and it is now axiomatic amongst students of sexual behaviour that

"expressions of moral sentiments with reference to sex (may be) quite conservative, while the sexual activities of persons who express these sentiments may vary substantially from these sentiments."  
(Gagnon and Simon, 1967, p.77).

This is to say that ideologies relating to sexual behaviour are ideological in character, not only (for example) in enshrining the much discussed "double-standard" that exists in organising appropriate sexual activity for men and for women, but also in actually disguising the actual sexual practices of people apparently committed to ideologies which generally serve to repress the expression of the human need for sexuality.

We shall return to this "disguising" function of sexual ideology in our discussion of pornography. For the moment, we want to make a brief excursion into the larger history of sexuality in order to give a context to our discussion

of prostitution, rape and other sex crimes, and, in particular, the mundane delinquencies of women.

In his controversial recent account of The History of Sexuality Michel Foucault argues against the widely accepted view of the nineteenth century as a period in which an entirely effective repression of non-patriarchal forms of sexuality was achieved in most western societies. In doing so, however, he seems to accept existing accounts of seventeenth century sexuality, in which, he avers :

" ... a certain frankness was still common ... Sexual practices had little need of secrecy; words were said without undue reticence, and things were done without too much concealment; one had a tolerant familiarity with the illicit. Codes regulating the coarse, the obscene and the indecent were quite lax compared to those of the nineteenth century. It was a time of direct gestures, shameless discourse, and open transgressions, when anatomies were shown and intermingled at will and knowing children hung about amid the laughter of adults: it was a period when bodies made a display of themselves."  
(Foucault, 1976, p.3).

The paradox of nineteenth century, or Victorian, sexual discourse was that its attempt to silence or to pathologise certain forms of sexual practice merely helped to construct a new set of sexual relations. The attempt to ignore the existence of the prostitute and her client and pimp, and the "hysterical" sexual woman - who was given over to doctors and psychiatrists, for purposes of control - was nonetheless a process that suggested the existence of other forms of sexuality outside and beyond the family. These were the "other Victorians" spoken of by Steven Marcus, and they were far more prevalent in the real world of Victorian society than the dominant forms of discourse wanted to allow. So far from the taboos and silences of Victorian morality being a "process of restriction", in other words, they involved "a mechanism of increasing incitement", and reconceptualising Freud, a process that has "not obeyed a principle selection, but rather one of polymorphous selection".  
(Foucault, 1976, p.12). There was, and there is, repression of these diverse sexualities in western societies, especially in the ways in which sex has been

normatively and overtly discussed, but this repression has had contradictory effects. For Foucault, the repression is "a ruse" whose object was to restrict and organise knowledge of sexuality around the desirability of repression, as achieved within the Victorian nuclear family. One of the implicit consequences of the repression of the Victorian period was indeed the construction for the first time of a sexuality dominated by power relations, in place of the naive and relatively "democratic sexuality of the classical period". But simultaneously, according to Foucault, this repression of diverse sexuality actually "incited" large numbers of people to explore their own sexuality, albeit in "outlawed" or subterranean fashion.

Foucault's argument is certainly consistent with the provocative piece of empirical historiography on the western family provided by Edward Shorter (1975). Using data on illegitimacy rates and on premarital pregnancy from various western societies, Shorter argues that the period between 1750 and 1850 involved an "enormous" increase in sexual activity amongst the young, in defiance of dominant morality, and in the context of "a crescendo of complaints about immoral activity amongst the young" (Shorter, 1975, p.100).<sup>9</sup> Shorter does not actually advance any clear account of the structural origins of the first "sexual revolution", except to argue that the demise of feudal relations has allowed men and women to make sexual contact without explicit concern for the effect of such contact on "relations of property" (in particular, the marriage dowry). There was some freeing of individuals to be attracted to each other on an aesthetic or even an erotic basis. The first sexual revolution allowed for some experimentation before and after marriage, but still at considerable risk (of conception, illegitimacy and associated problems). Significantly for our purposes, Shorter also uses similar data to argue that there has been a second sexual revolution in the twentieth century, which commenced with the increased (illegitimate) availability of various forms of contraception and abortion, which he dates at around 1900, in which men and

women have increasingly pursued sexuality for libidinal satisfaction, with far less immediate consideration for Victorian axioms demanding the restriction of sexual relations to the marriage partner. According to Shorter's account, sexual behaviour amongst men and women has followed more or less similar patterns throughout the twentieth century, and did not markedly change at the end of the Second World War or during the period of the post-war settlement, although he does think that evidence gathered in the U.S. indicates that there was an "acceleration" in levels of premarital and extramarital sexual intercourse in the 1950's and 1960's. In other words, the "permissive environment" which conservative observers have equated with the "reduction" of control over divorce, over explicitly sexual literature and over homosexuality in the 1950's and 1960's is actually dated back to the 1900's, and, notably, to the "Roaring Twenties".

Foucault's theoretical exploration of the history of sexuality, and Shorter's empirical historiography, taken together, suggest that these conventional accounts of an increasing permissiveness in the State's regulation of sexual and personal relations, may be mythical, in that they imply that the lifting of legal constraints was a cause of (rather than a consequence) changes occurring in the conduct of personal and sexual life. The conservative accounts of post-war permissiveness are also ideological, however, in their constant understatement of the extent of legal and ideological prohibition that continued to exist on questions of personal and particularly sexual conduct throughout the post-war period.

Carol Smart has already shown, for example, how the literature of professional criminology in early post-war period (when it was not silent on the question of women) addressed the criminality of women exclusively as a topic in demonology or psychological pathology (Smart, 1976). Traces of Roman Catholic teaching and also pagan theology were constantly apparent in accounts which spoke of the essentially devious, untrustworthy and demonic character of certain women

(notably, of course, the "fallen woman" involved in selling her sexuality for money); whilst in other accounts of the 1950's and even the 1960's, women who refused to play out their subordinate role were spoken of in terms of mental illness or, in more liberal accounts, in terms of some inadequate "personality formation".<sup>10</sup> Work of this kind can now be seen as ideological in character in two separate senses.

Firstly, this kind of work takes any expression (especially) of the emergent sexuality of the young as evidence of individual evil or pathology, and therefore attempts to reproduce and to enshrine the repressed sexuality of the Victorian period as the basic form in which sexuality must be constituted - even though the historical evidence suggests that this attempted repression of polymorphous sexuality was actually an incitement of it (and therefore the originating point for a variety of different sexualities). Accounts of this kind also completely ignore the way in which consumer-oriented capitalist enterprises were busily "eroticising" the lived environment of both men and women, especially in the 1950's and 1960's. They are therefore ideological accounts in the specific sense of trying to pathologise individuals who interpreted the commercial scripts of advertising, fashion magazines and pornography literally. Their focus was directed at the inadequate sexual socialisation of individuals rather than on the pathological and anomic character of the commercialised sexual landscape of the period. So, for example, nearly all the Freudian and post-Freudian accounts of youthful sexuality in the early post-war period are characterised by ignorance on the recent history of sexuality, and by a lack of theoretical curiosity as to the contradictions involved in the repression of sexuality<sup>11</sup> in a consumerist capitalist society.

But, secondly, and equally importantly, nearly all the work of professional criminology and psychiatry in the early post-war period on the criminality and deviance of women is ideologically patriarchal (whilst also proclaiming itself to be scientific). Work of this order often claims (because of its close reproduction of empirical data) to be "scientific", but the empirical



data which is gathered is silent on the broader changes in social and sexual relations of which such data are ultimately a product. So T.C.N. Gibbens, in an analysis of (the recorded data on) juvenile prostitutes, published in 1957, suggested that a common feature of the group was their "strong attachment to a father who was inadequate or unable to deserve or support such attachment" (Gibbens, 1957, p.7). It was and still is an indictment of this form of "science" that it could not locate these findings in terms of the challenge to patriarchal family formations that had been in progress for decades in adolescent sexual behaviour, as a result of changes in the division of labour in society and changes in the relations of production and consumption. And when the penal reformer C.H. Rolph writes of the "petty trickery" of prostitutes as evidence of the faulty character formation that brings girls into prostitution, we can see very clearly the patriarchal accommodation (in this case, of an avowed social democrat) to the point of view of the male client of a prostitute, and to the ideology which makes male sexuality natural and female sexuality un-natural (especially when sold for gain). (Smart, 1976, p.82). Polemically, we have to conclude that work done on sexuality by liberal and social-democratic criminologists in the 1950's and 1960's is clear evidence of the objectively repressive and reactionary character of criminology in that period. It legitimated the increasing use of "mental illness models" in the penal "treatment" of young women. It also failed to challenge the creation of sex-specific "offences" (like "promiscuity"), for which there is no male equivalent, and which were simply the legal expression of the attempt to maintain a patriarchal control over girls in the context of the 'liberalisation' in progress in social and sexual norms.

In a period in which dominant political and social ideology was heavily patriarchal, and popular entertainment significantly articulated around the sexist portrayal of young women as chorus girls or dumb blondes, there was very little concern for the prevalence or seriousness of sexual assaults and rapes

on women, or for the possible connections between the repressed sexuality of the English lower and middle class and sex crimes. One consequence was that women in the 1950's and early 1960's were largely unprepared to report incidents they experienced to the police for action, since the incidents were often defined as unavoidable facts of life, like patriarchal domination itself. Thus very little evidence is available (in criminal statistics or in newspaper or magazine reports) as to the "real", behavioural significance of rape or sexual assault in this period: it is, in other words, one of the key silences in the "discourse" of the period vis-a-vis "the problem that had no name". We shall see later that the legal "reforms" that emanated from the proposals of the Wolfenden Committee of 1958 are best understood as a reform of the law that was intended to "modernise" the legal defence of patriarchal forms of life in the nuclear family (against prostitutes, homosexuals and other potential threats): an ideological project with which most criminologists, and most conservative and social democratic commentators, enthusiastically concurred.

Mostly, though not exclusively, it was the rebellious and fractious behaviour of working class girls and women that was the source of anxiety, in this period, for professional criminologists, psychiatrists and welfare workers. This was because middle class women and girls were far more able, because of the advantages of their class position, to resolve the contradictions between liberative aspects of consumerism and the isolation and subordinations involved in domesticity in their own private, individual ways: they could pursue independence by going to university or college, by building a career, and by postponing marriage until the desire to have children arose. And when middle class women did marry, therefore, they did so with a degree of independence of their spouse already established, and with some claim to equality within the domestic division of labour. From the 1950's onwards, less and less emphasis has been placed in the middle class on virginity and Victorian respectability

as an essential feature of the "good woman", and more and more of a reciprocal concern between man and woman as to the character, achievements and independence of a prospective marriage partner. A space has been created in which the labour-saving assistance of consumer technology was of real value, and in which pre-marital sexual experience and personal expression of middle class women was "permitted" and even encouraged.

In the working class, the rise of "consumerism" and its ambiguously liberative ideology has had altogether different and contradictory effects. Working class women have entered the waged labour market in the hope of supplementing the family wage, and thereby participating in the consumer market place. They have also nursed the hope of winning some escape from the subordinate role of domestic labourer to the man. But, according to the evidence, the main result has been that working women have simply been subjected simultaneously to the exploitation of lowly paid jobs in the women's labour market (cleaning, catering, or on the production line) and the unpaid exploitation of being a domestic servant in the working-class household, albeit with the aid of a larger variety of consumer durables. This double exploitation has, of course, been aided by ideologies like that of the Labour Party which continue to speak in celebration of the role of "mum" in the traditional working class family as the cornerstone of social democratic order.

For adolescent girls in the working class, however, the rise of consumerism was in almost direct contradiction with the culture in which they had to live. For in as much as consumerism suggested the possibility of a more permissive and hedonistic existence for all (including girls themselves), it made the working class girl's fundamental project - of "finding a man" (as a way of starting one's own - working class - family) - that much more precarious. Finding a man, in the working class culture of femininity, required girls to retain their reputations as "good" girls, and to avoid being redefined by boys (or other girls) as worthless commodities in the marriage market. (cf. McRobbie, 1978).

This defence of virginity and/or reputation was fundamentally threatened by the permissive themes of consumer culture; and it is no accident, therefore, that the problem pages of the teenage magazines that were (and are) read by working class girls are very heavily concerned with this "negotiation". The negotiation is an expression of the larger contradiction between the "independence" of waged work (as a means to leisure and self expression) and domesticity (as a guarantee of personal security) which has provided the parameters within which working class girls and women have struggled to construct a way of living throughout the later post-war years. This is the site, we would argue, of the structural strains associated with girls' entry into prostitution, with the entry of women into shoplifting and, in more recent periods, the recruitment of girls into activities, like football and street violence, that have traditionally been associated with adolescent boys. It is to these empirical topics, as well as to the central question of violence against women, that we now turn, but we do so with some sense of the structural relations of men and women and the historical contexts within which it is helpful to discuss these topics. In this respect, we approach these apparently empirical topics (prostitution, rape, etc.), which have frequently been discussed by criminologists as if they were disconnected individual topics which are in principle discussable without reference to the facts of class and patriarchy, with a rather greater level of ambition.

#### 4.5 The Delinquency of Girls

From the Middle Ages onwards, adolescent girls and young women have been far more likely to be criminalised for the exercise of their sexuality than for almost any other offence against social order. So, as Helen Richardson notes rather disingenuously in her historical chapter in Adolescent Girls in Approved Schools that

"the descriptions of scolds, harlots and petty thieves of the middle ages fits a proportion of our more rebellious, more unseemly 14 to 17 year olds of the mid-twentieth century ..."  
(Richardson, 1969, p.6)

Richardson goes on to suggest that the girls in the approved schools she studied during the 1960's were more assertive and sophisticated about sexuality than would be expected in "normal" or mature adolescent girls.

"The range of emotional immaturity in the delinquent girl is the thing that distinguishes them most from the normal so that the more sophisticated in knowledge is driven more to experiment than would the average adolescent girl - to satisfy her infantile sensual needs for tactile comfort; to demonstrate to her superior contemporaries that she could win love; to pay a parent off for neglecting her."

(Richardson, 1969, p.41)

The consistent emphasis (in both the feudal and modern period) on young women's propensity to sexual deviance is associated with a variety of explanations of female crime (from possession by demons in popular theologies of witchcraft, in the early period, to neo-Freudian theories of maladjustment in the "modern" period). It is also characterised by the belief that only very small numbers of women are likely to be involved in crime of any kind. In the literature of the 1950's, for example, reference would nearly always be made to the very small number of girls aged from 10 to 17 who were being found guilty of indictable offences in England and Wales (3,270 in 1950) compared to the numbers of boys who were found guilty of such offences (39,145 in 1950). (Criminal Statistics, 1962, Appendix One). This view of women's "natural propensities" also tended to emphasise that women were not involved in the same kinds of delinquency as boys: reference could be made to the fact that only 360 of the 3,270 girls of 1950 were found guilty of breaking and entering, 105 of receiving, frauds and false pretences and 4 of violence against the person. (Ibid). It was a view which also propounded the apparently contradictory theses that delinquent girls were on the whole more likely to be successful "cases for treatment" in approved schools and elsewhere than were boys, whilst also being decidedly more difficult than boys in the treatment situation.<sup>12</sup> Finally, this view of women's natural propensities towards conformity was also associated, in an apparently contradictory fashion, with a keen awareness (or fear) of the possibility of some breakdown in social cohesion, whereby young women might

suddenly start to "turn to crime" in increasing numbers. Carol Smart has observed that many of the criminologists who have written on the crime of women, from Lombroso and Ferrero in the 1890's, to W.I. Thomas in the 1920's, Otto Pollack in the 1950's, and Freda Adler in the 1970's have been concerned to identify (and to correct) what they thought was a new social problem, the increase in female crime (Smart, 1979, p.53).

This overall view of the character of the criminality of adolescent girls has been largely shared by both conservative and social democratic writers, although the embellishments given to it have varied, especially in writing on prostitution. That is of course to say that both the major ideological perspectives have accepted a fundamentally patriarchal interpretation of the criminal statistics on female delinquency. So the relevant criminal statistics are taken as a true measure of some real amount of delinquency occurring amongst girls rather than as the end result of a sequence of control decisions taken by parents, school-teachers, social workers, police and courts. But a variety of studies, in Britain and in the United States, have shown that troublesome girls are often treated paternalistically by these agencies, in being referred back to the family and/or made a subject of psychiatric investigations. Alternatively, according to other observers, girls are seen as being treated "chivalrously". This chivalry is exemplified inter alia in the view held by policemen that girls who are apprehended for delinquency should be released, where possible, unless they are thought to need "protection". (Chesney-Lind, 1973, 1974). There is evidence to suggest that girls and young women are subjected to lesser degrees of directly penal discipline (and criminalisation) than are boys and young women, and that this particular discrimination is a product of the widespread acceptance (in all dominant and popular forms of ideology) of the subordination of women to men in the sexual division of labour. The discipline which is invoked by men over women is articulated precisely through these same broad ideologies of subordination, rather than through the penal system itself. So the relative invisibility of

female delinquency in the statistics is a product of a set of decisions informed by a dominant ideology within which young girls cannot really be criminal, rather than being a real measure of actual behaviour.

Two recent self-report studies on juvenile delinquency in Britain would challenge this dominant view (Shacklady Smith 1975, Campbell 1977), suggesting inter alia that a ratio of 2:1 male to female offenders would be more accurate as a measurement of actually occurring delinquent involvements than the "official sex ratio" (in the statistics) of 7:1. Carol Smart summarises these and parallel American studies as providing evidence that "'masculine' type juvenile offences by girls are (not) a new or recent occurrence" (Smart, 1979, p.56), and that the offences for which girls are prosecuted are those to do with sexuality, with the object of defending the double standard of morality.

Putting this more directly, it is not that young girls were never involved in the 1950's (or in any other post-war decade), in vandalism, house-breaking or in gang-fights; although both working and middle class cultures of femininity would work against any such involvement: it is rather that when they were involved, they were treated very differently to boys subsequently to apprehension. Young women cannot apparently be seen, in conventional ideology, to have the capacity or motivation to engage in the same kinds of criminal behaviour as young men.

The second feature of female delinquents that is singled out in conventional accounts - the fact that young women are difficult to deal with in treatment situations but nonetheless more likely to be successful products of treatment - is rarely discussed in terms of the sexual division of labour: by implication, we are asked to see these features of female delinquency as natural characteristics of female character and personality. Yet there is very detailed American evidence which shows that the adolescent girls who are charged with offences, and placed in treatment situations, are precisely those

who appear to be most reticent or rebellious about accepting the double standard of morality and who are most reluctant to engage in submissive behaviour vis-a-vis men (they are rebels against a forced sexual division of labour).<sup>13</sup> Much of this behaviour was only definable as criminal behaviour because of the existence in many American states of the so-called "juvenile status offences" (offences which would not be criminal if committed by adults), but nonetheless, as the President's Commission on Law Enforcement and the Administration of Justice was to show in 1967, more than a half of the girls referred to the juvenile courts in 1965 were dealt with under such statutes, being charged with 'offences' like "running away from home, incorrigibility, waywardness, truancy, sexual delinquency, ungovernability, or 'being a person in need of supervision'." (Chesney-Lind, 1974, p.43). The same author notes that in the President's Commission study, only one-fifth of the boys referred to juvenile court were charged with such conduct. Moreover, once girls are referred to court (as indicated, largely for reasons to do with their sexuality) they are more likely than boys to be placed on probation or institutionalised, rather than fined or to receive some sort of qualified discharge. At this point in the criminal process, the process of sexualization of delinquency is suddenly far from "chivalrous".

British court practices and statutes are certainly less direct in their "sexualization" of female delinquency than this (there are no juvenile status offences as such), and girls are very rarely charged in court with ostensibly sexual offences, other than the offence of soliciting. But the significance of the process of sexualization in Britain lies in the fact that writers like Helen Richardson could (and do) examine the institutional confinement of rebellious working-class girls, whose problems were those of class membership and rebelliousness within a forced division of labour, in terms of their emotional (read, sexual) immaturity. For these writers to recognise this fact would enable them to offer an altogether different account of the fact that



delinquent girls are difficult in treatment situations whilst also being more likely to avoid reconviction and further trouble subsequently. For the overwhelming majority of rebellious working class girls, the twin disciplines of motherhood and domestic labour, on the one hand, and part-time or full-time work in factories, shops or offices, on the other, were and are the most effective means of repression in the period after adolescence, when the ideological pressure within working class culture, directly also through the popular mass media, for working class women to marry and also to consume was and is at its most irresistible. And it is from this range of "options" that most adolescent girls released from care and treatment (other than those who turn to prostitution) must select. Without putting the point too finely, the "conforming" domestic and productive labour force of women lives a life in which there is not the time, or space, for outright rebellion, or even for periodic delinquency; and in which the costs of sexual activity outside the family are clearly too high.<sup>14</sup> The situation of working class men, by contrast, was and is one in which they are defined as having earned their leisure time, on evenings and at weekends, and having earned time, therefore, in which they are relatively free of the discipline of "their" workplace. For working class men, there is a realm of relative freedom of will. Working class women, on the other hand, are expected to adjust to subordinate roles in the domestic division of labour and to continue to carry out such a role even if they take paid work outside the home.

The conventional account of women's sexuality and family life romanticizes this process of "adjustment" (a social-democratic word) and "redemption" (its Conservative equivalent)<sup>15</sup> and it implies that the "normal", established division of labour and the arrangements within it for the expression of sexuality and all other human aspirations are also "natural" as well as being the proper desire of the "mature". It is an account which bears all the imprint of the two transitional periods in which it was most heavily constructed - the late Victorian period - and reconstructed (in the early post-war period of social reconstruction, in which

the public image of the "happy family" was unchallengeable in conservative and social democratic accounts).

Whenever the "hegemony of the happy family"<sup>16</sup> has been challenged by developments in political economy (increasing demands for women's labour), by wars (splitting up families) or by the development of women's consciousness (in the women's groups of the 1950's, or the contemporary Women's Liberation Movement), there have been associated increases reported in rates of female delinquency and crime. As we shall see in Chapter Five, the most recent example of a panic over female crime in Britain occurred in the early 1970's, and appeared to be constructed, in the main, by representatives of the Right within the British school system, and by reporters for the popular mass media, who helped to elaborate the theme of the "bovver-girl" as a folk devil of the times. This panic seemed to peak in 1974, and has been less apparent since. In accounts of this kind, and also in more academic accounts of the kind provided by Adler (1976) and Morgan (1978), the implicit or explicit thesis is that recent rises in women's criminality are related to the rise of the Women's Movement (as well as to the general "liberation" that the media, the police and judiciary, and Right wing academics think has occurred in recent times).

These accounts appear to be supported by the criminal statistics, which show, inter alia, that the number of offences recorded for women in England and Wales almost doubled between 1965 and 1975, and that this increase (of 95 per cent for all indictable offences) was greater than the proportionate increase in indictable offences by males over the same period (an increase of 83 per cent).

But, as Carol Smart has shown, figures of this kind are entirely misleading. The appearance of a large increase in women's criminality which is given by comparative figures which identify proportionate increases disguises the very small numbers of offences that are involved in any discussion of women's criminality, especially when compared to the numbers recorded of male offences.<sup>17</sup>

Moreover, in Smart's own words :

"It is also quite misleading to present percentage increases for one decade only. This practice, by omission, implies that previous increases are less significant or even less rapid."  
(Smart, 1979, p.53)

A further consequence of this is the continual reproduction of "a-historical" wisdoms about crime rates, which then become the subject of discrete moral panics in particular historical periods. In these moral panics, there is always an insistence on there being some contemporary increase in women's criminality (and criminality in general) which is, by implication, the product of some contemporary failings on the part of existing Authority, or of some other contemporary phenomenon, as in Adler's identification of the Women's Movement as the source, sui generis, of increases in women criminality.

Even the most "empirical" analysis of the criminal statistics in the post-war period would show, however, that "dramatic rises in female criminality are not a new phenomenon". (Ibid, p.53). In the period 1935-1946, for example, the number of offences against property with violence by women increased by 365 per cent, and the number of larcenies by 68 per cent (a very similar increase to that for "theft" between 1965-1975). But the increase in the number of larcenies by women was even greater, proportionately, at 127 per cent, between 1955 and 1965, which was not then and has not since been seen as a decade of women's "emancipation". Overall,

"with the exception of the period between 1946 and 1955, the figures for 1965 to 1975, the years of "emancipation" for women, show a slower percentage increase of women over men offenders for the whole period since before the Second World War. So although every decade except 1946 to 1955 shows women offenders to be increasing more rapidly than men, this was much more the case between 1935 and 1946; 1955 and 1965, than between 1965 and 1975, the years during which the women's movement in Britain was revived."  
(Smart, 1979, p.54)

Carol Smart's analysis shows that the contemporary equation by Conservatives and the New Right of the rise in women's consciousness with some unprecedented increase in the criminality of women is unwarranted and misleading.

The rates of women's criminality are related in a complex way to changes in the criminal law, to changes in the degree of public anxiety over troublesome youth generally, and, most fundamentally, to changes in the social and economic location of girls and women in the waged labour market.<sup>18</sup> It is also clear that the relationship between the ways in which women's economic roles are reproduced, and the extent to which the criminal law is routinely evoked and enforced for purposes of control, is heavily dependent on the workings of existing ideologies about women, in which both these logics (of social reproduction and criminalisation) are explained to the mass, and their justification attempted. As we have tried to show, this "justification" of women's position in society involves the celebration in both Conservative and social-democratic ideology themselves of the respectable pursuit of a private family life, dominated by a "working" man and serviced domestically by a woman. The patriarchal character of these ideologies is a crucial factor in itself in the creation of a "chivalrous" concern with the potential or actual delinquencies and/or "moral" misdeeds of adolescent girls and young adult women alike. It is a part of the explanation of the changes in the official rates of criminality amongst women. So the Conservative and New Right accusations as to increases in women's crime could have been made at any one of several moments in the post-war period, with some validity, born in part of real changes in the sexual division of labour and in part of the limited understanding of these changes in social democratic ideology and the anxious understandings that existed within Conservatism. Central to both ideologies throughout, however, was the celebration of patriarchy, and nowhere is this more apparent than in ideological reactions to prostitution.

#### 4.6 Prostitution

In 1958, 19,663 women were found guilty of "offences by prostitutes" in England and Wales (in magistrates and in assize courts), a doubling of the numbers of the annual average of 1950-4. (Criminal Statistics 1958, Table D).

In 1960, however, the number of convictions declined, drastically, to 2,726. This decline resulted from the coming into force, in 1959, of the Street Offences Act, in which the maximum penalty for soliciting was increased from 14 days to 3 months. As a contemporary anonymous commentator observed :

"Overnight, on 15 August 1959, the whole visible pattern of prostitution in London disintegrated. The many hundreds of girls who by long tradition had nightly traded their sex on the streets suddenly vanished. The Street Offences Act had not caught them unawares. Indeed, from the moment when the Wolfenden Committee's proposals were first published, prostitutes studied them anxiously and discussed them angrily among themselves. Opinion was united on one point: that the much stiffer penalties, especially the threat of eventual imprisonment, would make open street soliciting far too dangerous a method of securing custom.

As mid-August drew near, magistrates made a point of reminding prostitutes in court of the drastic change that was coming. For weeks before hand, girls seen loitering on the regular beats were informally warned by police patrols to expect no leniency in the future: the new law was to be determinedly and rigorously applied. The heavy fines imposed since the new Act came into force have indeed left no doubt about the official determination to keep the streets cleared, and some repeated offenders have already been sent to prison."

("The New Style Tart" New Statesman 7 November 1959).

The 1959 Act did indeed clear the streets to the extent that prostitutes turned to alternative means of attracting their clients (clubs and commercial outlets, contact magazines, saunas etc.). But many girls and young women continued to do business "from windows" and simply by being available in areas with established reputations for prostitution. During the 1970's, police activity in these areas increased, and the decline in local labour markets for women also had their effects, such that by 1978 the number of convictions for "offences by prostitutes" had increased, once again, to 3,764 (of which 1,500 were offences by girls under 21). 178 of these offences resulted in an immediate sentence of imprisonment, 244 in suspended sentences, 1,293 in fines, and the others in a variety of outcomes.

Table 4.1

Sentencing of Persons arrested for Prostitution, 1978 (England and Wales)

<u>Defendants</u> <u>Aged</u>	<u>14-17</u>	<u>17-21</u>	<u>21 and over</u>	<u>Total</u>
Persons proceeded Against	59	1,491	2,361	3,911
Found Guilty	56	1,444	2,264	3,764

Sentence

Absolute discharge	1	8	10	19
Conditional discharge	15	206	309	530
Probation or Supervision Order	21	143	180	344
Fine	14	885	1,293	2,192
Community Service Order		23	44	67
Suspended sentence		102	244	346
Immediate imprisonment		67	178	245
Committed for sentence		3	1	4
Otherwise dealt with	5	7	4	16
Recognisance			1	1
<b>TOTAL:</b>	<b>56</b>	<b>1,444</b>	<b>2,264</b>	<b>3,764</b>

There are several very obvious features of these figures. Firstly, a very high proportion of the persons proceeded against, on police affidavits, were found guilty in court (some 92 per cent). Secondly, a significant proportion of these received an immediate or a suspended sentence of imprisonment (5.5. per cent of the total) and only 6.8 per cent were conditionally or absolutely discharged: there is little evidence, here, of the chivalrous treatment with which deviant women in other contexts are treated. So, for example, only 86.4 per cent of women charged in 1978 with offences of theft and handling stolen goods (including shoplifting, the other major female offence in annual statistics and popular stereotype) were actually found guilty, and of those found guilty, over 23 per cent were given an absolute or conditional discharge, and another 12 per cent put on probation. Only 2,146 women offenders in the 'theft' category (or 2.3 per cent of the total found guilty) received an immediate or suspended sentence of imprisonment. (Criminal Statistics, 1978, Table 1(a)).<sup>19</sup> A third, taken-for-granted, feature of the statistics relating to prostitution is that they are solely statistics relating to offences by women. In part, this is because of the structure of the relevant legislation (to which we shall turn in a moment). But in 1978, no men were charged with aiding an offence by a prostitute and no charges were brought against the clients of prostitutes for offences under existing public order or vagrancy legislation.<sup>20</sup> So the criminalisation of prostitution is almost exclusively directed at women rather than their clients or their "pimps".

A fourth characteristic of prostitution in Britain which is not however revealed by existing criminal statistics is the concentration of the offences in certain well-known areas of large cities, traditionally known as the "red light district".<sup>21</sup> The offences are usually the result of activity by members of the local constabulary's Vice Squad, which is usually attached to the nearest police station and which spends most of its time in parked cars observing activity in the red light district. Very few of the women who appear in court on charges

of soliciting are "high class prostitutes", working out of the expensive hotels in most large cities, and relying on telephone contact lists, or women who engage in prostitution periodically, from their own homes outside the red light district. The policing of prostitution seems to be organised in such a way as to "miraculously" produce a familiar picture of prostitution (as a lower-class, red light district offence) when anecdotal, literary and informed evidence would suggest that prostitution as an institution is prevalent through the classes as well as being available as a commodity in locations other than the red light district. So prostitution in the statistics has the character of being almost self-evident to the police and the courts: being charged with prostitution almost guarantees a guilty finding, and it is treated with considerable severity; and it is an offence that is committed by women who "work" predominantly out of certain areas of the city. As in many other areas of "criminalisation", the main victims of the criminal law are those who have already been firmly victimised by the material divisions in life chances between the classes and the sexes, and in the ideologies which accompany and justify such divisions.

Our general argument about the criminalisation of prostitution has two major concerns. Firstly, we will be concerned to show that the picture of prostitution that is reproduced in the criminal statistics is the result of the operation of sexual ideology located within the individual ideologies of social democracy, liberalism and conservatism. Secondly, we shall want to suggest that the contemporary resurgence of interest in the predicament of street prostitutes is a function of a significant break in the ongoing reproduction of these sexual ideologies.

#### 4.6a Ideologies and Prostitution

Each of the ideological formations we have discussed in this book is fundamentally patriarchal in character, but in significantly different ways; and each of the ideologies therefore have both a general and a particular response to prostitution. We can examine these general and particular responses in



operation in part by reference to the parliamentary debates on the "Wolfenden" Street Offences Bill in January and April 1959 (Hansard (1958-9) vols.598 and 604).

In this debate, both Conservative and Labour spokesmen were agreed that the topic of prostitution was unsavoury. The Home Secretary, Mr. Butler, in moving the Bill, opened by remarking that the business of the day was one "in which none of us can take any great delight", and Mr. Anthony Greenwood, in opening for the Opposition, was of the opinion that

"the fewer prostitutes we have the better. They are a source of temptation to men and girls alike. They are a nuisance in the streets, and those of us who are husbands and fathers would welcome their disappearance."  
(Hansard, 598 , col.1292).

In general terms, therefore, prostitution was seen in the major ideological formations as an activity that was to be repressed and controlled. Liberalism intervenes then and now in this general assumption only to the extent of attempting to mitigate the severity of penal sanctions or the degree of harassment of street prostitutes by police, social workers and others. This unanimity of view vis-a-vis prostitution is not to be explained simply - for example, as the moral condemnation of commercial sexual exchanges or the objectification or exploitation of women (since other forms of commercial sexual exchange in our society - especially pornography - are not so routinely (or successfully) prosecuted as are prostitutes, and since women are routinely "objectified" in advertisements, in film and in other media). Instead, the unanimity of condemnation of prostitution appears to be bound up, in general terms, with the protection of family life from the "temptations" of prostitution. Prostitution is a contradiction of some kind to the reproduction of the larger social and sexual divisions via the family.

In Conservative ideological accounts, prostitution is a threat specifically to morality, and in particular to "respectability". Prostitution is one index of

the hypothesised general advance of permissiveness, in its particular impact on young women. It is also an example of "vice", of the mysterious physical and psychic pleasures of the "forbidden", which in Conservative and Christian thought are by definition the kinds of (unproductive) pleasures that are bound to encourage a general collapse of civil society into depravity. Prostitution is the obverse side of the decent, respectable standards that should be encouraged by the nuclear family in a bourgeois society. The perceived increases in prostitution in the 1950's (in the view of Mrs. Evelyn Emmet, Conservative M.P. for East Grinstead) must have arisen from the failures of the family or the schools to "teach parenthood and civic responsibility".

"I should like to see, parallel with this Bill, a real effort made in the educational world to study the problems of the adolescent and not to concentrate on what I would call pure sex teaching."

(Hansard, 598 , col.1329)

The development of character and individual responsibility in adolescents should be pursued by educational programmes which place sex in a "proper" context (in patriarchal families) rather than giving it an importance in and of itself as a source of self-expression and pleasure.

The development of prostitution can also be encouraged, however, through a process of corruption, and, in particular, corruption by alien or foreign elements. Just as male adolescents in the 1940's could be seduced into black market activity by emigre Poles and other Eastern Europeans, so female adolescents in the 1950's were thought to be at risk of being seduced into prostitution as a result of contact with "ponces" from Malta (in particular), West Africa and Ireland. This traditional example of Conservative racism had its origins ideologically in the late Victorian period during the expansion of the Empire, but it surfaced quite regularly throughout the 1950's in the popular press and in at least one book length treatment of prostitution (Gosling and Warner 1960), as well as the demand during the Street Offence Bill (made by a Labour MP)<sup>22</sup> for the deportation of colonial immigrants found guilty of living off

immoral earnings.

Carol Smart points out also that the concern with "commonwealth" pimps was avowedly related to those residential areas of London (Stepney and Paddington) in which unease about immigration was at its highest (Smart, 1980). Fears of immigration and anxiety about the sexual appetites and power of the Black Man connected together in working class and lower middle class areas of London in similar fashion to the way in which they had caused anxiety within the British ruling class in the days of Empire. As an ideological theme, it "worked" to suggest that English girls would not wish to enter into prostitution of their own accord except when misled by promises of an exotic life, made by foreigners, and in this way it did work in carrying some of the anxieties generated in the English middle class by the beginnings of black immigration during the mid-1950's.

According to this ("pure" and unreformed) Conservative ideology, prostitution is seen as a danger in offering girls and women a sexual life outside the patriarchal family (and thus in giving women a degree of independence from subordination to a single dominant male), and also an economic life of her own (relatively free from the restrictions of housekeeping money and/or the labour market for women). Conservatives are entirely silent on the dangers (of physical violence, theft, etc.) that routinely confront girls involved in prostitution at the hands of their clients or their pimps; and they also underplay the miseries (of cold nights, long hours, etc.) that are involved in the "independent" life of the prostitute. Neither is very much said by Conservatives as to the moral or other effects of prostitution as an activity on men, whether in their role as clients of prostitutes, or indeed in their role as observers of commercial sexuality generally. The pure Conservative account is however quite frequently predicated, as in the various writings and speeches of Mary Whitehouse in the U.K. and Anita Bryant in the U.S., on the acceptance of Christian theology as the main source for the spiritualisation of existence and as the main means through which to control the baser instincts of sexual desire. In this particular view,

sexuality of all kinds can and should be controlled by the act of will involved in making oneself a servant of God, rather than the sexually polymorphous Devil. It is this particular version of sexuality which was taken up by the Right during the 1970's in both the U.S. and in Europe in its reaction against "permissiveness", feminism and the Gay Movement, in the name of the defence of the family. (cf. Gordon and Hunter, 1977). And it is this particular version which justifies the use of repressive measures against the prostitute herself, as the personification of the evils and temptations of "vice".

There is a rather less racist and fundamentalist and a more "revised" version of Conservative ideology on prostitution and sexuality generally. This particular version is predicated on a recognition of the need for sexuality to be expressed rather than repressed, and on the problem of how sexuality can be expressed without subverting the basic institutions of society. It is a version of sexual ideology which is present in some of the writing and nearly all of the practices of the later Victorians and which is also present in some classic sociological and psychiatric writing on prostitution; but it is of course a version of sexual ideology which speaks almost exclusively of the primacy or the irreducibility of male sexual needs. In the classic article of 1937 by the American sociologist Kingsley Davis, for example, male demand for prostitution is seen to be a product of the "fact" that women are more sexually attractive than men and in part by the "fact" that men are more rich than women, but it is also a (constant) function of the sexual needs that are as obvious in male humans as they are in male animals. The problem addressed in this kind of account is how one sexual male can protect his female partner from the sexual desire of other men, and also how he can protect his woman from his own polymorphous or excessive sexual demands and thereby preserve her moral innocence and the respectability of his relationship.

This particular moral and biological service is provided by the prostitute who is in this sense "the eternal priestess of humanity, blasted for the sins

of the people." (Lecky, 1877, quoted in Davis, 1961). So the prostitute is a "functional response" in the social system to biologically given, unchangeable male sexual needs, and in some literary accounts by male Conservatives, she achieves an almost godlike status in recognition of this fact. So far from being the object of legal repression, the prostitute is transformed into a mistress and Madame to be located, preferably, in comfortable "brothels", away from the attentions of "narrow-minded" moral entrepreneurs, the Church, and in the modern day, the Vice Squads. And male clients of prostitutes are also implicitly protected, if not given the blessing of Law. They are certainly not to be criminalised (and thus stigmatised) themselves since, as R.A. Butler argued in the 1959 debates:

"the man who is the prostitute's customer does not ordinarily need to loiter or solicit; and, in fact, to take a perfectly human point, he is very often not annoyed - the very reverse. He appears briefly on the scene and is then gone."  
(Hansard, 598, col.1284)

This liberal Conservative version of sexual ideology is sexist in speaking only to the sexual (and experiential) needs of men. It refuses to speak of what Engels in 1884 called "individual sex love" as the basis for organising between the sexes relationships, where monogamy might arise in relationships because it was a matter of "mutual inclination" (Engels, 1884, p.144), rather than from the economic supremacy of men under existing relations of production; and where also other, non-monogamous, forms of "family" and social groups might be expected to arise. It is an ideological revision of pure Conservatism which nonetheless refuses to accord an equal power and authenticity to the sexuality of women and men.

Liberal ideologies towards prostitution have tended to "fuse" with this Conservative account in speaking of the irrelevance of legal repression of prostitution, and the need for the State to withdraw from attempts to police prostitution. In this instance, the liberal case was indeed well put by a Liberal MP, Mr. Joe Grimond, in the debate on the second reading of the Street

Offences Bill in 1959. He was concerned that the Government appeared to be wanting to legislate in haste against "the oldest profession in the world" and he was also worried about the argument that "any legislation (against prostitution) was better than none", on the grounds that the attempt

"to push prostitutes off the street in (certain) areas (may) achieve that object (and yet) lead to the more serious social problems of call-girls, squalid rendezvous, all sorts of advertising, and a more carefully organised vice racket than we now have."

(Hansard, 598, cols. 1311-1312)

This liberal position tends, if anything, to argue that prostitution should be penalised "equally" (that pimps should be treated on a par with 'their' girls) but that the use of penal sanctions as such, like prison sentences, should be minimal, and should depend on the prostitute causing a public nuisance in the areas in which she worked.<sup>23</sup>

Some liberal writing and argument on prostitution inclines rather more towards a familiar social democratic form, of the character which we have already identified in our examination of delinquency among girls. In the Report of the Social Biology Council in 1955 (Rolph, 1955), in Edward Glover's report of 1969 on Prostitution for the Institute for the Study and Treatment of Delinquency, and in a variety of other social work texts of the period, prostitution was an activity of the socially and psychologically deprived, ranging from girls who were deprived simply of the comforts of a psychologically stable and economically secure home environment (and who searched for a substitute) to those whose disturbance was more fundamental. In Glover's view

"the fact that the prostitute barter her body for filthy lucre is psychologically speaking neither so surprising nor so unnatural as it seems. It is ... one more proof that prostitution is a primitive and regressive manifestation."  
(Glover, 1969, quoted in McLeod (1980))

Prostitution was also seen by social democrats in this period as an unwanted intrusion into the public domain - a public domain dominated by men. It was an affront to the decency of the hypothesized common man identified

in the Wolfenden Report, for whom sexuality was an essentially private matter to be guided by his personal morality. Therefore, social democrats could approve of the Street Offences Act as an attempt at "balanced intervention .... to prohibit the open sale of sexual intercourse" (my emphasis), whilst also warning against moving down the slippery slope to outright censorship of sexual materials, and generally recognising that one consequence of the Act

"will probably (be to) augment the rackets which flourish on the periphery of commercial vice (and to) offer dangerous temptations to the police."

("An Experiment with Sex" New Statesman 22 August 1959)

Any further initiatives by the State in the area of sexual morality, prostitution and sexual offences, should await the results of research, in particular research at the newly established Institute of Criminology at Cambridge which is "supposed to possess techniques to make an objective assessment of such matters" (Ibid.). In the meantime, all social democrats of the day would agree with liberal conservative opinion on the pressing need to redeem the girls who had fallen into prostitution, in particular by tackling the "problems of social and emotional deprivation that such girls had experienced."

The three ideological formations of Conservatism (in its pure and revised versions), liberalism and social democracy on the problem of prostitution have worked with different degrees in effectivity in different "moments" in the post-war period. We can say however that the high point of Conservative ideological work was the 1950's, and in particular the moment of the Street Offences Act; and that the 1960's and early 1970's witnessed the advance of social democratic wisdoms. Throughout the two periods, liberals argued for minimisation of penal sanction whilst the patriarchal emphasis on the primacy of male sexual needs remained intact because largely unchallenged within the ideologies as constituted.

The post-war history of prostitution has been a history of continuously repressive social control, without any of the significant shift towards

"permissiveness" spoken of by the Right, and without any successful shift towards legalisation of prostitution that has occurred in other European societies. Carol Smart and Lucy Bland and others have shown that the Wolfenden Report (which was initially commissioned as an investigation of the law on homosexuality, but which subsequently took on responsibility for examining the law in relation to prostitution) was actually far more illiberal in theory and in practice than the earlier Macmillan Report on Street Offences (of 1928). In particular, in constructing the "practical and liberal concept of freedom of moral choice in the confines of privacy", (Smart, 1980), in order to justify its demand for legalisation of homosexual activity between adults, Wolfenden continued to allow (and even to encourage) the police to harass and to criminalise those prostitutes who needed to be publically visible in order to meet their clients. And the lack of attention in Wolfenden to the proper extent of "privacy" meant that within a year of the 1959 Street Offences Act, which was substantially based on Wolfenden recommendations, the courts were extending police jurisdiction to allow the arrest of women soliciting from a doorway or a window and also the arrest of publishers of contact magazines and the owners of saunas. Wolfenden's recommendations had been born of the attempt to make a distinction between behaviour causing "offence" to order and decency "in public" and essentially private behaviour, and thus to respond to the moral panic of 1950's over prostitutes "flaunting themselves" in very popular tourist areas in London, whilst also allowing for the withdrawal of the law from individuals' private spheres of morality. But

"(This) fragile concept of privacy was very rapidly destroyed and even the most discreet forms of prostitution, which Wolfenden had not been concerned to eradicate, came under the new law."  
(Smart, 1980, p.14)

Of equal consequence, the Wolfenden recommendations accommodated to the use of the term "common prostitute" in courtroom trials. This term originally derived from common law in which it was used to define a person as a "non-person"



in law; but the vagrancy legislation of 1824 added the further connotation that persons so described were also "incorrigible rogues". "As such they were placed outside civilised society". (Smart, 1980, pp.14-15). Despite major speeches during the debate on the Street Offences Bill by women M.P's like Lena Jeger and Eirene White, directed against the retention of this term in the Bill, the concept was indeed reproduced in 1959, albeit with the removal of its connections to the Vagrancy Legislation.<sup>24</sup> The description of a woman defendant as a "common prostitute" continued to be allowed in the charge read out to the court prior to the courtroom proceeding itself, and, since the term was allowed in law on the basis of one previous caution by the police followed by the current offence with which the police have charged the woman, the term was primarily an instrument of use for the police. Since in 1959, indeed, women found guilty in court of soliciting have almost all been described in the charge sheet as "common Prostitutes" and have been found guilty on the basis of police evidence only. In this, the police have been substantially aided by the removal by the 1959 Act of the need for witnesses or police to prove that a woman was a public nuisance.

It is clear that both the Wolfenden Report, which was initially commissioned in 1953, and the Street Offences Act, were products of particular "moral panics" over sexuality and the social order. The Wolfenden Report was initially taken up, in particular, with the effect on tourists visiting London for the Coronation and subsequently of highly visible prostitution in Hyde Park and the West End generally, and, as we have already indicated, the Wolfenden Report's concerns were translated by others into a racist context, where the growth of soliciting was alleged to be linked to the increase in black immigration. The passage of the 1959 Act itself may have been influenced by the proximity of a General Election. Whilst postponing action on Wolfenden's recommendations on homosexuality, the Tory Government moved fairly quickly to implement Wolfenden's proposals to increase the penalties for soliciting and

living off immoral earnings.<sup>25</sup> This particular aspect of Wolfenden was "popular rather than controversial, a benefit to the election campaign rather than a disadvantage". (Smart, 1980, p.10).

The panic over prostitution on London streets in the early 1950's and in the run-up to the General Election in 1959 were certainly the immediate contexts allowing for the updating and reproduction of the legal repression of prostitution. But the really significant feature of the post-war history of prostitution in Britain has been the relatively unproblematic reproduction of relevant law and the continuing use of that law by the police and the courts against lower class women (working "on the streets") in particular, via the use of the "common prostitute" charge. On the assertion of police officers in court, some 3,774 women were charged in this fashion in 1978, and 245 were immediately imprisoned. It was not until the mid-1970's, and the establishment of PUSSI by the high class prostitute, Helen Buckingham, that there was any significant activity against existing prostitution law in Britain, and not until 1979 that this activity resulted in any significant debate at parliamentary level, in the form of a private member's Bill, presented on 6 March by Margaret Colquhoun M.P., seeking "to abolish prison sentences for soliciting, establish one offence to cover all persistent street nuisances with evidence from the persons annoyed, abolish the term "common prostitute", and delete that part of the Sexual Offences Act of 1956 which classifies more than two women living together as a common brothel". This Bill was passed on its first reading by 150 votes to 30, but its further progress was impeded by the General Election in May, and the election of a substantially changed Parliament. In June 1981, a further Bill, the Imprisonment of Prostitutes (Abolition) Bill, brought by Clive Soley M.P., was "talked out" in the Commons, on the Government's insistence that legislation would be unwise until the Criminal Law Revision Committee had concluded its investigation of sexual offences. Pressure for the abolition of prison sentences for prostitutes and for the legalisation of soliciting is now the aim

of three separate organisations of prostitutes - PROS (Programme for Reform of the Law on Soliciting), ECP (the English Collective of Prostitutes) and PLAN (Prostitution Laws are Nonsense).

Founded in 1976, PROS is a movement of prostitutes and social workers, claiming several hundred members and with organised groups in five major cities. It campaigns around four demands :

- "1. In the short term, the abolition of all prison sentences for the offences of loitering and soliciting for the purpose of prostitution.
2. The abolition of the term "common prostitute" in legal proceedings. 33
3. The abolition of the offence of loitering for the purpose of prostitution.
4. The abolition of the offence of soliciting for the purpose of prostitution."

(PROS bulletin 3, (1979), p.3)

The English Collective of Prostitutes (ECP) and Prostitution Laws are Nonsense (PLAN) organisations have gone further and demanded the "total abolition of all laws concerning prostitution". Their arguments for abolition are in part specific to the increasing problems involved in prostitution (resulting from police harassment, interference of professional social workers and exploitation by pimps and landlords) - which they argue are due to the prostitute's weakness before existing law. Prostitutes are unable to protest against unjust arrest, unjust removal of their children into care, or unjust rental charges or physical violence from pimps because they are liable to arrest as "common prostitutes" on the basis of a policeman's decision to so charge. So the illegal status of soliciting and loitering for prostitution actually prevents the regularisation of prostitution under other legislation (for example, under laws governing wage rates, public hygiene or public nuisance).

But the ECP and PLAN's call for abolition of prostitution laws is also premised on the repressive effects of these laws on all women. The harassment of prostitutes by police under existing law often carries over into

the harassment of women generally by police, especially at night, and especially if women are not accompanied by men. The enforcement of existing law is one of the contributory factors in the prohibition of certain urban spaces (in coffee bars, or just walking home), and certain periods of the night, to women: it is law enforcement which deters women from exercising the right to freedom of movement, by suspicion. Women and girls who live in or near red light districts are also likely to be harassed by "kerb-crawlers", who have to search for prostitutes in this way because existing prostitution laws do not allow for a more regularised and commercial form of soliciting.<sup>34</sup> But the fundamental objection raised by ECP and PLAN to the laws is that they are a "trespass on the rights of all women" as to how to control their own bodies. They are therefore patriarchal laws, in that in order to try to penalise women for marketing their sexuality for gain outside of marriage, they try also to coerce all women into the confines of the conventional nuclear family.

The persistence and continuing reproduction of laws repressing prostitution in Britain is in part the product of the narrowly patriarchal character of the major ideological formations in this country. In contrast to the form assumed by "social democracy" in Scandinavia and Northern Europe generally, and also in contrast to the dominant ideologies in the Democratic Party in the United States and all the three major political parties in Canada, British social democracy in the post-war period has been pronouncedly "anti-feminist". Just as the trade union movement and the Labour leadership has refused to make the changing participation of women in the waged labour market a major element in their politics, so social democratic political and intellectual leaders have refused to confront "patriarchy" and its hold across the terrain of social policy and law, even in a period when the position of women in the domestic and waged labour markets have been subject to very considerable change. Rather, there has been a tendency for the existing social democratic leadership to accommodate to patriarchy, especially in its continual reversion to the nuclear

family, as currently constituted, as the ideal, the apotheosis of social democracy's vision of the happy life and social order.<sup>26</sup> The continual reversion has been to a concept of the family as an a-sexual "respectable" form in which child-rearing, feeding and sleeping and material and emotional provision, are the exclusive activities, and are spoken of as having no connection to sexuality or to the sexual division of labour.

This reproduction of patriarchy has had real consequences for women and girls in terms of reproducing a social formation in which they are likely to be the victim of sexual harassment and attack; but even more "mundanely" it contributes to the continual reproduction of educational and child socialisation practices which inter alia distinguish between men's jobs and women's jobs in terms of biological gender and which define what is useful or appropriate knowledge for girls and boys at school. In this way, the patriarchal element in social democratic ideology "works" to prepare young males for the waged labour market and young girls for domestic labour and then, as we have already seen earlier in this chapter, it also works to "pathologise" rebellious or "misfit" girls who fail to accept the values or practices which are purveyed in families and schools as a means of preparing girls for such a division of life chances between the sexes.

The workings of patriarchy operate in conjunction with economic conditions generally to forge the opportunities with which women are presented. So the thoroughly social democratic report of the Social Biology Council could note that :

"the national economic position to a large extent determines the economic tone of prostitution."  
(Rolph, 1955, p.82)

and also that the bulk of the prostitutes investigated had held or were holding jobs that were "low grade, unskilled, often seasonal in nature, offering little promise of advancement" (Ibid., p.234), without understanding that a girl's recruitment into street-level prostitution might centrally be a function of the regimented and featureless kinds of paid work that were available for women in the waged labour market, and the reluctance of many self-respecting young women to give up what little freedom and independence they were allowed in a class society. Instead, as we have already described (without explicitly making the connection to patriarchy), the entry into prostitution was seen in the research produced by the Social Biology Council to be caused by "defects in the ego" of certain young women, which caused them to "drift" away from ordinary society, and eventually move into prostitution.<sup>27</sup>  
(Rolph, 1955, p.108).

The social democratic insistence on prostitution as an implicitly abnormal adaptation for adolescent girls is also reproduced in the face of evidence about the overwhelming numbers of young prostitutes who have the additional social disadvantages (vis-a-vis the waged labour market) of having been in care or having been members of widely stigmatised immigrant groups. Large numbers of young people have experienced the post-war welfare state as an institution which provides alternative "parents" in homes, and alternative education - in special schools on the premises of the institution - but which then is unable to provide meaningful or well paying occupations (or futures) once the young person leaves the institution or the "home". The sense of self-respect and independence encouraged by welfare workers comes into contradiction with the monotonous and alienating production-line jobs that may be available for the few, and serves to encourage resistance to the labour market for women and also to the conventional alternative of domestic labour. In this way, the girl released from "care" into "society" may invert the rhetoric of the welfare state and welfare professionals, by selling herself to "straight" male members of society in return for a wage on which she can really be independent. In an analogous fashion, young girls from different immigrant groups can draw a sense of pride and independence from their own culture which encourages an act of refusal in the face of many of the (restrictive and poorly paid) job opportunities which are offered by the host society, and invert the racism institutionalised through the surrounding society, by making male members of the host society pay them for sexual favours. Thus, where traditionally prostitution in England has been a service provided to a significant extent by the Irish, Scots and Welsh, it has increasingly recruited other minority groups, as well as drawing on other rebellious sections (like the populations "in care") of a class society. In this respect, the policing of street prostitution is de facto the policing of "marginal" women members of the working class. So one consequence of this policing is that it is easy for prostitution to be seen by the media and by other agencies, as are all other aspects of life amongst marginal working class populations, as a result of the social or personal inadequacy of prostitutes themselves, rather than their particular position in a class society, in racial divisions, and in the sexual division of labour.

It is not that prostitution is a progressive adaptation for women in itself, or that it should be celebrated as a form of women's liberation, since it

is an adaptation which is freely chosen only in a situation of massive under-privilege in the labour market and in life (vis-a-vis young males) and is also an adaptation which collaborates with the reproduction of women as sexual objects available for purchase. But it is the case that prostitution arises as a rational option for certain women in a patriarchal society as "normally" and "naturally" as a variety of sexist practices arise for men, without being met with a similar measure of criminalisation and penal discipline. The current development of a political consciousness amongst some prostitutes is one important instance (like the revolts amongst prisoners) of the rebellion amongst marginal working class populations at having to bear the costs of the limited, sexist and racist, form of life that has been produced by social democratic reconstruction of the social order in the post-war period.<sup>28</sup>

#### 1.7 Rape and Sexual Harassment

Any legal initiatives or political writing on rape and sexual attack in Britain in the 1980's will have to take into account the fact of the "Yorkshire Ripper". Between October 1975 and December 1979, twenty women and girls living in the North of England were attacked in a similar and brutal fashion by a single man and thirteen of them died. (cf. Nicholson, 1979). As in the famous case of the original "Jack the Ripper", who killed five women in 1888, most (but not all) the targets of the "Yorkshire Ripper" are thought to have been identified by him as prostitutes. But much more important is the fact that in the Ripper murders, as in most multiple murders, the targets were women and girls.<sup>29</sup> The most notorious of these cases in the United States involved Richard Speck, who murdered eight student nurses in a Chicago boarding-house in 1966, and Albert DeSalvo, "the Boston Strangler" who murdered thirteen single women aged between 19 and 85, in 1962-3 (cf. Frank, 1966); and in Britain, apart from the original Ripper and Yorkshire Ripper cases, particular notoriety has attached to the case of John Reginald Christie who murdered eight women and interred them in the walls of his house at No.10, Rillington Place, Notting Hill

over a thirteen year period in the late 1940's and 1950's (Kennedy, 1971).

The overwhelming (but often taken-for-granted) feature of the sexual murders is the fact that they were committed by men against women. This is also a key feature of the "actiology" of rape, of domestic violence, and, slightly less significantly, of homicide and of crimes of violence in general. (cf. our examination of homicide in Chapter Two.) We should also add that some of these instances of sexual murder of women (like the Jack the Ripper killings) and of rape (especially in war-time conditions), have become the object of attention in literature and in film (The Virgin Soldiers, Soldier Blue and, in 1980, a whole series of films depicting violence against women), in which the injuries done to women (if actually treated seriously) are secondary to the eroticisation of the events that is constructed for the purposes of "entertainment". Sexual assaults on women are patently not seen to be an "abnormal" form of entertainment in patriarchal culture.

The real incidence of rape and sexual assault is notoriously difficult to estimate, because of the unwillingness of victims to report the assault to the police,<sup>30</sup> and also because of the legal definition of the offence.

For an offence on rape to be recorded, the police must ascertain that the assailant was not the complainant's husband, and also that he was not under 14. They must also discover that penetration of the woman's vagina occurred by the penis (since the definition of rape does not cover penetration of anus or mouth, or the use of bottles, broom handles, or other objects). Since the passing of the Sexual Offences Amendment Act in 1976, the legal definition of rape has been that:

"A man commits rape a) he has unlawful sexual intercourse with a woman who at the time of the intercourse did not consent to it and b) at that time he knows that she does not consent to the intercourse or is reckless as to whether she consents to it."

In 1978, in England and Wales, 1,243 offences are actually recorded as rape by the police (as against 422 in 1963). But there were also in 1978 11,814



cases of indecent assaults on females and 3,491 cases of unlawful sexual intercourse with girls under 13. Some of these cases of "unlawful sexual intercourse" may have been freely entered into,<sup>31</sup> but the general picture presented by most detailed analyses of sexual offences dealt with by the police is of an ongoing, continuous use of force by men to assault the body and psyche of women, with the reported numbers of rapes in particular being by everyone's account a vast underrepresentation of the total of rapes actually occurring. The FBI in the U.S. has asserted that only about one-tenth of violent sexual assaults occurring in that country are reported to the police, and this has been supported in a number of victim surveys there. There is little direct evidence on the "real prevalence" of sexual assault in the U.K., but it seems clear that it is one of the most under-reported of the serious crimes against the person, and it is also clear that, when totalled together with molestation and other sexual attacks, sexual crimes committed against women and children are one of the most common (and least publicised) of "mundane" everyday crimes in this country.

The massive amount of research which has been undertaken recently by feminists and others into rape<sup>32</sup> has also consistently revealed the operation of patriarchy in the practices of the police and the courts. Inter alia, the research has shown that the police in Europe and North America are more likely to drop cases of rape before trial on the grounds of insufficient evidence than they are in other types of court cases.<sup>33</sup> Of the 1,243 cases reported in England and Wales in 1978, only 592 resulted in criminal proceedings.\* (Criminal Statistics, England and Wales, 1978, Tables 1(a)(b) and (c)). Courtroom trials of rape cases are also relatively unlikely to result in guilty findings (in 1978, only 318 cases of the 592 cases taken to court and of the initial 1,243 cases known to the police resulted in guilty findings, a conviction rate of 25 per cent). "Even if the

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\* Two of these cases involved women being charged with rape.

rate of reporting was as high as 25% of all rapes", it has been pointed out, "this would mean that 90% of rapists got off." (Rape Crisis Centre, First Report, 1977, p.18).

In the discretionary decision of the police as to whether to proceed with a rape complaint, and in the deliberations of magistrates, judges and juries as to the guilt of the male accused, the primary criterion in operation appears to be the character of the victim. Considerable attention is given by police interrogators and by courts as to the general character, the "sexual history" and the specific behaviours at the time of the alleged rape of the woman complainant. No equivalent amount of attention is given to the male who stands accused of the physical rape of the woman.

The purpose of this questioning appears to be to establish whether the woman was the kind of woman "who can't 'officially' be raped", (Clark and Lewis, 1977). The women "who can't be raped" are those who display in their history, demeanour or behaviour those characteristics which police say make for (what they call) "bad" rape cases (those which are not worth taking to court) and, in Clark and Lewis' empirical analysis of rape cases in Toronto, these characteristics included being a single parent and/or divorced, being on welfare, having had psychiatric care in the past, "having a reputation" for drinking or for unacceptable sexual behaviour, having had some experience of drugs, living in certain disreputable (dilapidated or bohemian) parts of town etc. Women with reports of this kind on their police file were relatively unlikely to have their complaints taken up by the police and also relatively unlikely to be successful with their case in the courtroom situation, if they were able to reach the courts. These women were what Clark and Lewis call "open territory victims" of rape, in effect judged by the police and the courts to be of dubious moral character, untrustworthy in the accusations they might make of men, and therefore to be unable to complain of sexual assault by men.

In effect, say Clark and Lewis, women of this character are thought to be common sexual property. This is because it is women who are not in "open territory", but who are respectably married, with their marriage intact, preferably with children and living in reputable parts of the town - in other words, women who are the private property of individual men, women who are privately valuable - who are nearly always designated as serious complainants in rape cases. These are the women who are officially believed when they speak of being raped. These are what Clark and Lewis call the "authorised rape victims", and what other writers have called the "legitimate victims of rape".

Clark and Lewis point out that:

"this process of selection may have nothing to do with whether or not the complainant was actually raped."  
(Clark and Lewis, 1977, p.92).

Other feminist writers have shown how rape trials in America, Britain, Italy and elsewhere put the victim on trial rather than the man accused of the crime, who is virtually immunised from having his character and person subjected to close examination.<sup>34</sup> Certainly it is unheard of for men who are brought into police stations on a woman's complaint of rape to be subjected to a medical examination on their sexual parts. But an examination of this kind does take place routinely when women report a recent rape to police stations, or are brought into police stations or a hospital subsequent to a rape (Coote and Gill, 1975, p.9); this being done in order to establish evidence of the attack.<sup>35</sup>

The overt rationale for the various humiliations to which women complaining of rape are subjected to in the police station and in court is often repeated in judicial reminders to juries in rape trials to the effect that "rape is a charge which is easy to make and hard to prove". The source of this view is Matthew Hale, a lawyer writing in 1736, who continued by speaking of "the confident testimony of malicious and fake witnesses". The likelihood that is alleged of women being malicious and false witnesses in such cases has resulted

in the statutory requirement that a woman's evidence in sexual offences generally must be independently corroborated (Sexual Offences Act 1956, section 2,3 and 4). This demand for corroboration of evidence has no other parallel in statute law in Britain, and does not extend to sexual offences where the victim is male.

The overall effect of existing laws of rape and sexual assault, and the way they are enforced and applied by police and courts, has clearly been one of deterring women from making complaints to the police, and also of encouraging a sense of powerlessness amongst women who might otherwise use the law to erect some defence for themselves, other women and their children. And because most women also have come to "understand", subconsciously, the coded messages about life-style and behaviour that are contained in existing rape law, and the dangers of being a woman in "open territory", rape laws have until recently been quite successful in controlling women's behaviour. Most women have lost the freedom to walk out at night in most western countries,<sup>36</sup> and they have developed a cautious, repressed view of urban space as being divided up into safe areas and other, open (and dangerous) territories. They have also continually had to accommodate subconsciously to the way in which rape law mirrors the inequality of the sexes in the social structure, in putting the onus of responsibility on the woman to prove her own innocence (that she did not act "provocatively") before any man can legitimately be accused of rape.

The cultural and legal definitions which surround (and allegedly "control") the everyday fact of sexual assaults and rapes on women and girls alike, like those which have grown up around prostitution, mirror both conservative and social democratic versions of patriarchy and their conceptions of "the female".

We have already shown how conservative conceptions of "femininity" in the area of prostitution are bound up with the preservation of the respectability of the wife and family, and in its liberal versions with the satisfaction of

(biologically-given) male desire. Historically, this liberal-conservative version of patriarchy has coexisted with vigorous and promiscuous sexual activity and "flirtations" on the part of the ruling class at leisure, and it has also taken up but celebrated classical, theological themes of women as temptresses. This version of patriarchy denies the Puritanism of the traditional Conservative and the New Right, and also attempts to portray itself as the most solid defender of women's interests. Opposing Mr. Jack Ashley's Private Member's Bill on revision of the law of Rape in 1977, Mr. Nicholas Fairbairn, Conservative M.P. for Kinross and West Perthshire, now Attorney General for Scotland, averred that:

"Lest it be suggested that any man or any lawyer has some prejudice against women, may I declare another interest. No-one is fonder of women than I am.

I approach the subject from that basis, and I think it is a fantasy that is in the hon. Gentleman's mind that there is some outdated hostility to women. A phrase he used seemed to demonstrate all the frightful archaic attitudes to women and of chauvinism that have ever existed. He spoke of a male enthusiasm for sex - as though women hated it, did not want it, wanted to take no part in it, but were compelled to do so in marriage."

(Hansard, 19 July 1977, vol.935-2, cols.1398-9)

Liberal versions of Conservatism in this area are primarily concerned to recognise, to celebrate, and, of course, to preserve the sexuality of the woman vis-a-vis men. In so doing, they also tend to exhibit the paternalism and the false "chivalry" which we have already identified in the treatment of female delinquency. In the area of rape, this means that the notion of woman as a mysterious, and seductive but deceitful object of "the hunt" must be preserved:

"Hon. Members should remember the words of Ovid - and I translate them into English for those who do not know Latin:

'Whether they say yes or no, they all like to be asked. And, saying she would never consent, she consented.'

It is a part of the business of men and women that they hunt and are hunted and say 'Yes' and 'No' and mean the opposite."

(N. Fairbairn, M.P., Ibid., col.1401)

It is characteristic of liberal Conservatism that this "hunt" is presented as an equal contest, of equal attraction and benefit to all parties, and also that it is described as a fundamental feature of "the business" of men and women. Mr. Fairbairn also seems to think that this particular interpretation of the sexual division of labour can be put, without discussion of the absence of sexual assaults by women on men.

Social democratic definitions of rape can only be deduced from the writing of committedly social-democratic psychiatrists and legal experts, for the ongoing assaults of men on women are a topic on which social democracy, in its celebration of the a-sexual, utilitarian, family has been largely silent. Social democracy is as unwilling here to speak directly to the fact of sexuality and patriarchy in the case of sex attacks as it was in its analysis of prostitution in the debates over the Street Offences Act in 1959. It is symptomatic that the Sexual Offences Bill of 1956, which "consolidated" (and therefore reproduced) existing legislation on rape and on a variety of other sexual offences passed through the Commons with only one challenge from the Labour benches and nothing, even, from the women Members. Although the particular recommendations of the 1956 Act vis-a-vis brothel-keeping, incest, procuring and rape were more or less straightforward compilations of existing legislation, and although they were formulated in terms of the protection of females and children from sexual attack, it was also the case that the Act, therefore, actually reproduced existing sexual politics (with men as the primary aggressors, and women and children as their victims) without any discussion and, in particular, without discussion of the inevitability of the sexual and social divisions which reproduced such inequality and oppression.<sup>37</sup> In the absence of any challenge, we must conclude that social democratic definitions of rape and sexual crime are in this sense primarily characterised by "silence": the rapist and the rape victim are unwanted intrusions into established social democratic assumptions. Putting the point in another way, in order to connect

with the introductory comments to this chapter, women were still for social democrats of the 1950's "a problem with no name" and a problem that was not to be openly addressed.

We can, however, be sure from our earlier analysis that the question of rape and sexual assault in such social democratic talk as there is (and also in the routine discussions by working people in general) is located in talk about "pathology". The rapist is not seen as a normal product of patriarchal culture and the associated division of labour, who has misread (by taking literally) existing definitions of sexuality in the mass media, in pornography and in sexual ideology itself. Instead, the rapist is seen as sick, as mentally ill, and by definition a sexual deviant. So in this way, for example, the popular press is able to report on the police hunt for the "sick" sex deviant, the Yorkshire Ripper, a danger to all women, on the very same page (page three) as it presents pictures of nude women (the woman as seductress), and in the same issues as it advises its women readers on techniques of seduction and its male readers on techniques of conquest, without any recognition of contradiction.<sup>38</sup> By the same logic, academic elaboration of the recently developed notion of the "dangerous offender" (a notion which is very centrally bound up with some recent rape cases and repeat killings) can proceed in terms of individual pathology rather than in terms of the individual's normal learning of abnormal cultural messages.<sup>39</sup> The rapist's motivations are still somehow those of the psychopath, the result of pressures beyond his knowledge and control,<sup>40</sup> rather than the normal consequence of the unchallenged recent development of very elaborate forms of sexism in pornography, film, TV, and popular culture generally. Such a view of rape, as a product of individual pathology, is obviously completely undermined by the (largely unpublicised) fact that only a tiny fraction of rape offenders are found by the courts to be in need of referral for psychiatric attention. (Only 1.5 per cent of convicted offenders in 1975). The other 98.5 per cent were presumably judged, in other words, to be "normal".

Perhaps the most insidiously sexist of accounts of rape and sexual assault is the liberal version, particularly as developed with sociology and in some social work circles in the late 1960's period at a time when both the counter-cultural Left and the Right tended to confuse and conflate "permissiveness" with the elaboration of sexist imagery and (commercialised) pornography. Menachem Amir's much quoted Patterns of Forcible Rape is the key work, written within the perspective of an "interactionist" sociology and so-called "victimology" (Amir, 1971). Amir studied data on 648 cases of rape that had been made known to the Philadelphia Police Department in 1958 and between 1960 and 1968, and then wrote these data up as if they were more or less typical of rape cases in general. Among other things, he discovered that in 48 per cent of these cases, the victim and offender were well known to each other or indeed "intimate"; that the great majority of incidents occurred in the home territory, if not actually the home, of the "aggressor" (the male); and that the great bulk of the incidents seemed to be accompanied by what Amir thought to be "temptation" or "verbal coercion" on both sides. These and other findings were used by Amir to challenge the popular stereotype of rape, as an incident involving a violent, and surprise, attack on solitary women by male strangers in back alleys, in parks, and in "open territory" generally. Rape is described by Amir in rather the same way as homicide is described in an earlier "victimological" work, by Wolfgang, on homicide: as a fundamentally "domestic" or conventional act that results from a fundamentally conventional sequence of cues, miscues, conflicts and frustrations and, most of all, from "provocation". (Wolfgang, 1957). In this victimological perspective, the eventual victim of homicide or rape is seen as playing a part in (or as "precipitating") his or her own fate by acting in such a way as to provoke an act of physical violence or a sexual attack. In a liberal, permissive society, "we" should all presumably be able to understand (and accept) that certain language, posture and behaviour is sexually provocative (especially to men) and "we" should adjust our language and behaviours accordingly.



/argument

The implication of Amir's is that rape is a risk taken by the un-informed and the careless, or by those who fail to accept the widely available sexual "scripts". He does not deal with the troublesome fact that such misunderstandings of existing sexual scripts have rather different consequences for men and women, for the rapist and the raped.

Amir's work was enthusiastically taken up in the 1970's by sociologists, social workers and others as a way of going beyond a merely individualistic account of sex crime as psychopathy. It provided a way of understanding the sex offence without pathologising all sex offenders, and it allowed liberals to argue for the treatment (rather than the punishment) of both rapists (sex criminals) and their victims. Victims of sexual assault could be counselled in social work settings about the risks involved in frequenting open territories and the risks attaching to certain forms of precipitation.

Amir's work is extremely dubious in its original formulation and in the way it has been applied. It is far from clear that the rapes and sexual assaults that are reported to the police are typical of all rapes (the very fact that the assailants are known to the women victims may be the determinant of the report), and it is therefore absurd to suggest that rape is "fundamentally" - essentially - an interaction between familiars. It is also very dangerous to assume that the interactional and causal character of rapes and sexual assaults in 1958 and 1960-8 is the same as that of the 1970's and 1980's, in the aftermath of very considerable changes in the relations of the sexes and massive increases in the amount of explicitly sexual material in the public environment. It is also a very limited response for social workers and others to locate the cause of violent sexual crime in the specifics of sexual interaction between individuals (in order to mitigate the severity of punishment) rather than in the broad environment of a (changing) division of labour and a commercialised sexual culture in advertising, newspapers and magazines, and in film.

It is also a very sanguine and patriarchal account of rape that endows a violent, forceful assault, of the kind that frequently leaves women "overwhelmed by fear of retribution, fear of people, of places, sleeplessness, loss of appetite, nightmares, withdrawal, broken relationships etc." (Rape Crisis Research Centre, First Report, 1977, p.18) primarily as an interactional process, characterised by "precipitation" and misunderstanding.

Discussion of rape amongst "official" social democrats has been minimal in the 1970's and 1980's, but insofar as it has occurred, it has gravitated between an acceptance of "commonsense" of the popular press characterisation of sex crime as psychopathy and the liberal visions of interactionists like Amir, advocating treatment for all, but seeing rape as more or less inevitable. Neither of these accounts have any programme for attacking the sexual division of labour in late capitalist societies (indeed, in the case of popular social democracy, the same division of labour is celebrated); and they have no programme for the elimination of sexual attacks on women and children and the creation of social relations free of such terror. Conservative accounts of both traditional and liberal kinds positively accommodate to the divisions of the sexes by endowing women with the special ideological character of Goddess or Temptress. So it has been left to feminists to speak of the necessity for fundamental changes in the sexual division of labour and the notion of "the female" as an end in itself, but also as a means of eliminating the human cost (in the extreme form of sexual crimes) that results from such divisions.<sup>41</sup>

We will address some of the political demands arising out of feminist critiques of the major, patriarchal ideologies in the final chapter of this thesis. For the moment, we want to note the similarities and dissimilarities in the two major ideological movements that have developed out of, and in part in reaction to, the "permissiveness" of the earlier post-war period, those of feminism and the radical Right, represented, in this case, by Mary Whitehouse.

Neither of these two ideologies is content with the existing form of the relations of the sexes; both believe that sex crimes are on the increase; and both relate the decline in moral order to failings in liberal Conservatism and in social democracy.

#### 4.8 The Challenge of Permissiveness

According to the Report of the Committee on Obscenity and Film Censorship (the Williams Committee), published in 1979, the combined monthly sale of the five main "soft porn" magazines in Britain - Club International, Mayfair, Men Only, Penthouse and Playboy - was in the region of 850,000 (Williams, 1979, p.253) and the combined total readership was approximately 4.0 million (Ibid., p.256)<sup>42</sup> Prior to 1954, the year in which the British edition of Playboy was launched, "pornography" in Britain had been much less explicit about sex (it was purveyed largely through "naturalist" magazines like Health and Efficiency, or in the form of "racy" stories and pictures of women in swimsuits in Titbits and Reveille), and sexuality could therefore only really be pursued, and understood, in a covert manner. However, by the 1970's, very large numbers of "hard" pornographic magazines were being seized by the Metropolitan Police and by H.M. Customs and Excise; and increasing numbers of private film clubs, massage parlours and other institutions where sexual entertainment or favours were available, were on the increase. Also according to the Williams Committee, some 43 per cent of films submitted to the British Board of Film Censors in 1978 had to be awarded an 'X' certificate (as suitable only for exhibition to adults) as against only 13 per cent of films examined twenty years earlier (Ibid., 1979, Table 1, p.29). In the meantime, Mary Whitehouse's National Viewers and Listeners Association, originally founded in 1965 but at the height of its influence in the middle 1970's was complaining of the continual advance of sexual explicitness, particularly, on television; and the BBC, in particular, was being arraigned by Conservative MP's with arguments that had previously been the stock-in-trade of organisations like Moral Rearmament.<sup>43</sup>

4.8 (a) The Radical Right on Permissiveness

From the moment of her first involvement with campaigns against permissiveness, in 1963-4, Mrs. Whitehouse appears to have been most concerned to challenge television discussion of pre-marital sex, and specifically the then current idea that pre-marital sexual experience might be helpful "experimentally" for couples contemplating marriage.<sup>44</sup> Mary Whitehouse's objection to this was classically Victorian: the suggestion that sexuality was an important element in itself in family relations and social relations generally ran counter to the need for men and women to repress sexuality and to accord it only a minimal importance. In Tracey and Morrison's terms, to speak with any fondness of sexuality as such was to "invade the innocence" of children and of most "respectable" adult citizens alike. The suggestions being made by libertarians like Alex Comfort and others were subversive of the form of sex education that Mrs. Whitehouse, Senior Mistress at Madeley Secondary School, Shropshire, and thousands of other predominantly middle class teachers and parents, were attempting to purvey to adolescents in the increasingly turbulent times of the early 1960's. Sexual experimentation and the celebration of sexuality as such threatened the reproduction of the sexually repressed family form elaborated for the first time during the Victorian period.

*But something more than the repression of sexual activity as such was at stake. For Mary Whitehouse and her supporters, the teachings of the "New Morality" on sexual experimentation prior to marriage were at one with the anti-establishment satirists on television in the early 1960's and with social reformers working to liberalise abortion and divorce law, theatre censorship and the laws affecting the portrayal of sexuality in literature, in suggesting that the regulation by the State of sexual and family matters should no longer be based on the teachings of the Christian Church. "Permissiveness" was to be indicted as an accommodation, or indeed a sell-out, by Authority (and*

especially the BBC) to the secularisation of the "mass" of society. This secularisation took the most discussable form of very marked declines in church attendance, but also took the form of the advance of rationalist, pragmatic or utilitarian judgements for judging behaviour, in which the definitive question was "does it work?" rather than "is it right?".<sup>45</sup> The advance of utilitarianism was especially dangerous for conservatives like Whitehouse for whom society was essentially a moral order (based on Christianity) because it "relativised" morality, and therefore, by definition, encouraged the growth of divisions within society arising out of the conflict of competing moralities. The precise character and cause of this advance of pluralism and "utilitarianism" may be subject to debate amongst social scientific commentators, although it is almost universally seen to be linked inextricably to the advance of "affluence"; but for Mary Whitehouse the massive changes occurring in the world in the early 1960's, and the supine attitudes of Authority towards 'these changes, were the result of the corruption or subversion of authoritative institutions by "a very small number of people with particular determination and commitment",<sup>46</sup> the "liberal-humanists" who were consciously engaged in attempting to secularise the basis of law and morality. These liberal-humanists were propounding the essentially subversive idea that there were human needs and desires which earlier Christian teaching had denied and they were also wanting to "permit" (and indeed to encourage) the expression of what previously had been repressed. Such a liberal-humanism was therefore potentially revolutionary in its implications for the existing form of society (and especially for the family). Throughout the late 1960's and the early 1970's, the Right's critique of liberal-humanist influence in the media has been elaborated in at least four different ways. Firstly, the massive extension in the amount of pornography available in public places and the considerable expansion of commercialised forms of sex have both been linked, in ideological work undertaken by the Right, to the liberal-humanist lobby and, by implication, to the influences of this liberalism in the post-war Labour Governments. The second proposition which has been

made is that the televising of sexuality (and also "violence") has had real, socially harmful effects in itself (a proposition that has now been supported "scientifically" by academics of the Right, like Eysenck and Nias (1978) and Belson (1978)). These effects include the increases reported in the Criminal Statistics in violent crime and in sexual offences. Thirdly, the polemical assertion has been made that the advance of pornography, permissiveness and liberalism gives rise to new dangers to "traditional family life", like the increasingly vociferous proselytizing of homosexuality by the Gay Movement and even, in more informed accounts from the Right, in the lesbianism proffered by "radical separatists" in the Women's Movement. Finally, precisely because all these developments (violence, sexual deviance, pornography, the Gay Movement, radical feminism) are said by the Right to derive from the liberalism enshrined in the welfare state and in the Labour Party, then it follows that the only way to the "remoralization" of society and the re-establishment of "innocence" and the family, is an ideological offensive against liberalism and social democracy as most broadly defined.

The ideological offensives are undoubtedly primarily motivated by the anxieties of the petty-bourgeoisie, especially upset at the collapse in the post-war period of "respectability" as the route to material security and presumed moral superiority in class society. These anxieties (over permissiveness and the relativisation of traditional values) have connected into anxieties about immigration, affluence and youth, and the effects of all these material changes on the social position of the lower middle class. For this section of society, the restoration of traditional social Authority and moral discipline is massively attractive, a fact that is well understood by the current leadership of the Conservative Party, and especially by Mr. William Whitelaw, who has spoken to two of the recent annual conferences of the National Viewers and Listeners Association.<sup>47</sup>

But the rhetoric of the radical Right on sexuality has not actually resulted in action by the Thatcher Government against existing permissive

legislation in the specific area of sexuality.<sup>48</sup> Indeed, the Manifesto produced by the Conservative Party for the 1979 Election contained no proposals or discussion of any kind reflecting the "remoralization" programme proposed by bodies like Mary Whitehouse's N.V.A.L.A. It appears unlikely that the Thatcher Government will legislate in a fundamental way against pornography, or the commercial availability of sexual favours as such, and much more likely that it will accede to the largely utilitarian-pragmatic proposals of the Williams Report on Obscenity and film censorship.<sup>49</sup> Pornography will continue to be easily available in shops and in newspaper kiosks, only it will have to be separated out from other magazines and newspapers, with the displays identified by "Adults Only" signs. The public display of pornographic materials will be restricted, whilst the "private" content of pornography in these adults only areas will be substantially de-regulated. There will be no Governmental offensive on the portrayal of women in the popular newspaper press, in advertisements, or on the ways in which women are objectified in television entertainment and comedy (any more than there will be a real offensive on the portrayal of blacks in these media).

The "populism" of the Thatcher Government is not straightforwardly authoritarian in the sense of attempting to restore discipline across social relations as a whole: crucially the populism of the Government, unlike that of the radical Right, is one that recognises the popularity of much that it deplores (eroticism, low brow comedy) as well as accommodating willingly to popular prejudices of sexism and racism which it has helped to construct and sustain. Even more crucially, the demand for social discipline implicit in the election of the Thatcher Government is, of course, articulated in part around the rhetoric of the freedom of the individual, and especially the freedom of the individual in the market place. A strong state is required in order to protect the "free individual" from the coercions of organised interests other than those that operate "freely" in the market, (Gamble, 1979) -

the strength of the state is to be oriented particularly to protecting the freedom of the individual consumer "to choose". This is, of course, an ideological position which is entirely compatible with the Williams Report's proposals-which would continue to allow sexual materials to be available to the enquiring customer, albeit on a more restrictive basis than at present. "Permissiveness" will continue to be attacked ideologically, in other words, as a way of attacking the effects of political liberalism in social policy; and, for similar ideological and fiscal reasons, the family will undoubtedly be given increasing prominence on Conservative work on social policy;<sup>50</sup> but sexual and sexist television entertainment, advertising, magazines and films will also continue to be generally available as (specialist) commodities in a free market.

#### 4.8 (b) Social Democracy and Permissiveness

Existing social democratic analysis of the "permissive revolution" is quite distinct from that of the Right.

But nonetheless social democrats do seem now to accept, with the Right, the ideological characterisation of social and moral relations in Britain as "permissive". This accommodation is crucial, for it marks a retreat even from the mild criticism of the Puritanism and hypocrisy of the "morality" of British class society that was proffered in the late 1950's by Roy Jenkins and Anthony Crosland, amongst others. There is now no attempt amongst dominant social democratic thinkers to identify the way in which such Puritanism has worked ideologically to restrict the pleasures and social horizons of the mass of working people in Britain, nor either any attempt to expose powerful individuals and groups for their own double standards.<sup>51</sup> The acceptance of the "permissive" description of society amongst social democrats is also an accommodation to the view that British class society has been significantly and (excessively) "liberalised" and to the implied conclusion: that there is a need to restore discipline.



It is precisely this accommodation which allowed Lord Longford and his study group in 1972 to offer an account of society's discontents as arising out of the availability of sexual materials. As Bernard Crick nicely put it :

"(Longford's) major assumption was that the lack of altruism in our society, its all too obvious selfishness and materialism, is caused by sexual misconduct of which pornography is the major cause ... Odd for a Labour peer to have moved from an economic to a sexological account of social ills."  
(Crick, 1974, p.52)

Even odder for Longford (with his knowledge of the workings of the legal system) to postulate that the attempt to restrict pornography by law could in any way lead to a society of greater altruism and reduced materialism.

Whilst some social democratic commentators on permissiveness have been won to conservative arguments about remoralisation, other social democratic analysis had tended to be articulated around and through the civil libertarian opposition to censorship. Social democratic instincts have always rebelled against the puritanical and hypocritical values of the British middle class, and have tended therefore to equate any debunking or subversion of bourgeois values as progressive in itself, and to think therefore that any attempt to control the kinds of amounts of sexual materials available must be repressive and uncivilised in itself. This particular social democratic prejudice was extended and constantly re-emphasised by the libertarian counter-cultures of the 1960's, whose most significant journals, OZ and IT (with its "IT girl"), were often difficult to distinguish politically and visually from the discourse and imagery of Playboy and Penthouse, and other "progressive" magazines of sexism.

Social democratic and libertarian analyses of both sexuality and violence have tended to want to urge scepticism as to the power of the media, and especially television, in affecting behaviour and reorienting social morality. Where Eysenck and Dias (on the basis of data on the numbers of hours that television is viewed by adolescent and adults in western societies) see TV as a central "influence" on people's "picture of the world" and therefore on their actions (Eysenck and Dias, 1978, p.20), and where Mary Whitehouse insists on the premise that television is the "most potent medium of communication - some

would say propaganda - the world has ever known", their opponents have been more cautious. Tracey and Morrison, in their critical analysis, Whitehouse, simply note that

"after several decades of effort by various forms of sociologists, psychologists and statisticians .... definitive proof of effect (of television and the media generally) is no more likely to appear than was Godot."  
(Tracey and Morrison, 1978, p.75)

Murdock and McCron are even more careful, and show that the definitions of different situations or incidents shown on the media as violent or as sexual involves political judgement by the researcher. So, for example, the television researcher, William Belson, argues for censoring programmes like The Sweeney on the grounds that the "considerable violence" shown on the part of the "law enforcer" could stimulate serious violence especially amongst adolescent boys who watch these programmes. As Murdock and McCron observe, Belson's argument is actually a plea for "altering the images and explanations of deviance and control that are widely available" in society. (Murdock and McCron, 1978, p.66). Belson would retain television characterisation of other forms of violence, on the grounds that they provide evidence of the problem with which law enforcement agencies had to deal.

Murdock and McCron's own analysis, like that of serious social democratic writers on the media, is primarily concerned, in other words, to cast doubt on the ability of television (or cinema) independently to produce behavioural effects. Belson, Eysenck and Dias, and others, use simple versions of psychological conditioning theory, some data on individuals' recall of particular programmes and a host of individual cases where criminal offences appear to have occurred in imitation of incidents in particular programmes or movies, in order to suggest that film and television can indeed condition behavioural responses in people, and especially amongst "heavy viewers". Television (and visual images generally) become a carrier of the moral contagion that is traditionally the source of subversion of absolute values in Conservative ideology. Against this, Murdock and McCron argue that the receipt of media messages is not a simply psychological process, and that media effects cannot be understood or evaluated without a more comprehensive, and social, theory

of the relationship of media messages to the general social environment and to socialization processes, class consciousness and personal biography (cf. Murdock and McCron, 1978).

§ (c) A Permissive Society ?

The social democratic and conservative description of society as "permissive" has been vehemently challenged by libertarians. In particular libertarians have been opposed to the State acting as "custodians of morals" for society, and they have called for the repeal of the existing (residual) powers of the State to control and to criminalise "obscenity" (on behalf of innocent private individuals) (cf. Burns, 1972, pp.38-9). The arguments advanced against the existing obscenity Acts (of 1959 and 1964) are that they are unworkable ("obscenity" is so subjective a concept that no two juries can be counted upon to concur on its scope) (cf. also Robertson, 1979), that there is no demonstrable benefit to "the public" from the operation of the Acts, and, crucially,

"No crystal ball can lay down dogmatically whether more or less pornography would result from Repeal but in any case there is a complete absence of evidence to suggest that sex in the arts, even when aphrodisiac in intention, has criminal or anti-social repercussions."  
(Burns, 1972, p.37)

This radical version of libertarianism appears to argue against any form of State control at all over erotic materials, but it then concedes

"that it is reasonable to protect individuals who may be affronted by offensive displays or behaviour in public places"

and records that the Arts Council Working Party and the NCCL

"would leave intact the Children and Young Persons (Harmful Publications) Act 1955 (which prohibited the publication or sale of children's comics which showed criminal, cruel, violent or repulsive behaviour in such a way that the work as a whole would tend to corrupt a child or young person)."  
(Ibid. p.39)

We will return to these caveats in a moment. A libertarian opposition to controls over pornography does, however, exist without qualification, and is summarized by Gregg Blachford as follows :

"Libertarians see the sex drive not as a beast but as a potential means of creative self-fulfilment, if only it was not twisted and repressed by an oppressive State for its own ends. They would advocate that pornography should be published without limits, if there is a market for it, to allow the demand to be satisfied. Whatever forms of sexual pleasure an individual desires should be catered for. Pornography can be used as a celebration of sexuality which makes it a strong weapon against the State."  
(Blachford, 1978-9, p.27)

Any attempts to legislate against pornography come up against the problems of subjective definition; they will threaten to increase the powers of the "repressive state apparatus"; a black market will result in any case in order to satisfy demand; and the concerns of feminists will be suppressed by the more influential "morality campaigners" of the NVALA and the Right. So the burden of the argument should be turned against any argument for control.

But like all libertarian arguments, Blachford's argument is predicated on the belief that the relationship of the free individual and the State must necessarily be antagonistic: there is no sense that the State might be constituted as it is, even in part, as a functional response to demands made over time by individuals organised into social interests (for example, past and present Women's Movements) for the representation of their values and purposes in law. There is no sense therefore of the State as being a site in itself of the struggles between organised social interests; in this case, of the contradictory interests of the relatively unpropertied and dependent (female) population and the propertied (male) population; or between the commercial interests involved in the production of erotic material, and feminist and Conservative critics of pornography. The State is seen, monolithically, as an "oppressive" apparatus which has emerged in dominance over, and in defiance of the interest, of all individuals. So, for

Blachford and other libertarians, no concession is necessary to the view that one man's interest might be a woman or a child's victimisation, or there is no sense of any real conflicts of interest in the question of sexual expression. At the end of his long review of the subject, Geoffrey Robertson recognises the need to make the criterion of social interest paramount in any justifiable censorship system, and in so doing he returns to the two caveats advanced earlier by the NCCL and Arts Council Working Party:

"The justification for censorship (should) cease to be stated in scientifically untenable propositions about erotic materials causing crime, or overwhelming majorities pornography, but (should instead draw support from the desirability of furthering undisputed social interests, such as the protection of individual privacy against unsolicited mailings of offensive literature, or protection of children from potentially damaging materials until they are sufficiently mature to handle them."  
(Robertson, 1979, p.318)

Robertson's "realist" reformulation of a libertarian programme hangs on the notion of undisputed social interests, which are undisputed in the sense of being deeply engrained in the form of individual freedom and paternal attitudes towards children, in western culture in general. There are certainly grounds for believing that the majority of people in Britain would want to accept these qualifications on any libertarian revision of existing legislation, and that they would be an element in the control of erotic material even in societies which did not try to understand themselves through "bourgeois" western ideology. What is more problematic is the "disputed social interest" represented by feminism, which points to the explicit function of pornography in reproducing patriarchal attitudes and thus in legitimating patriarchal social formations. There are very few serious attempts to argue that most pornography has any other ultimate or fundamental social function:<sup>52</sup> what is denied in Conservative and in libertarian accounts is that this should constitute the grounds for any form of censorship or control. Denials of this kind set the interests of "the public" against the attempt to challenge alien, fantastic

pornographic expressions (of women) in law. In this respect, they argue against the State acting, in part, as a protector and representative of women in the cultural realm, whilst already having argued that the State should indeed be a protector and representative of "free individuals" and children.

We suggest the need for social democrats to rework the question of permissiveness in order to maintain real areas of freedom whilst also attempting to provide real legal controls over the cultural reproduction of patriarchy and sexism (in pornography, in advertisements, and elsewhere). This is not to suggest that legislative action is any substitute for a political attack on sexism and patriarchy, and neither is it to be sanguine about the difficulties that may be experienced in distinguishing attacks on sexism from attacks on permissiveness, of the kind that are being mounted in the name of remoralization. Nor either should any attack on the commercial forms assumed by sexism be taken as evidence of an acceptance, by social democrats, that society has, indeed, become too "permissive", in the generalised sense in which such an accusation has been made from the Right.

So social democracy seems to have acceded to the massive moral and social changes that have, ideologically, been described as the "permissive revolution", (a) by accommodating to the general description of society as permissive, (b) by aligning itself with civil libertarians against State control over "sexual materials" or other displays of social reality, and (c) by casting doubt on the independent contribution of television and film media and pornography to such "permissiveness" and its associated discontents. On each count, social democracy is misguided, and in need of revision.

And again, more specifically, it is clear that the sexist content of much film, television and pornography, is far from being "permissive" for many women and adolescent girls, for whom such display is certainly problematic and often offensive - not in the sense of threatening innocence, but in the

sense of displaying the alien imagery of women that is continually reproduced in patriarchal societies. The popularity of the feminist campaign against violence against women in films - a campaign which even received a favourable coverage in the Daily Express, suggests that increasing numbers of women from all sections of society are now sceptical of the ability of the "permissive" form to represent the interests of women. (cf. "The Scandal of the X-Cert Ripper" Daily Express 26 November 1980). The "permissiveness" of much male-oriented pornography is a real threat to women's own struggles to win equality and independence in sexual and social relationships.

In accepting the description of society as permissive, social democrats are also being blind to the unequal spread of the real benefits of the "permissive revolution". Insofar as the ideology of permissiveness was underpinned by a reality, it was a reality which was almost exclusively experienced by the non-commercial middle class, the "New Class" of the 1960's, which was involved in some degree of innovation and experimentation in sexual activity, especially in the aftermath of the increasing availability of contraception. It was not a "revolution" whose effects were directly experienced in life-style and leisure to the same extent by working class adolescents, faced with the reality of the labour market, on the one hand, and working-class cultures of femininity and motherhood, on the other. So the notion of "permissive revolution" was ideological, in the sense that it was not a general phenomenon affecting all classes and both sexes in a similar manner, and also, very crucially, it left many people out.

#### 4.9 The Marketing and Control of Sexuality

This exclusion is a feature of the sexual, permissive revolution which is well understood by journalists and editors who produce the popular press, as well as by those photographers and writers who "stage" the models in pornography and cinema. The imagery and writing in this literature resonates either success (the women are almost always posed in affluent, international settings) or very specific class contexts (motor car workshops etc.), and very rarely are stories

and photos located in surroundings which are neutral in terms of economic or class structure.

"Super"-sexuality is depicted as being either out of reach socially or alternatively it is likely to be encountered only in fantasy. It is not immediately available, except - voyeuristically - in pornographic magazines.

The popular press in recent years has modified this image, and has attempted to democratise the sexual revolution. Centre spreads have been run in the Sun and Star on sexual techniques for men and for women, on women's sexual needs, on sexy underclothes, and on a whole variety of sex-related topics. In 1980, the Marshall-Cavendish Corporation launched Man and Woman, a new 52-part weekly magazine on techniques for sexual fulfilment, and many of the women's magazines (19, Cosmopolitan and others) carried pieces on sexuality and its contexts. In the meantime, popular cinema films like The Bitch, Emmanuelle and even the soft pornographic comedies have shown women taking sexual initiatives outside of marriage. In this way, the press has appropriated some elements of feminist arguments about the concentration of existing sexual scripts on male needs, revised the scripts in order to respond in part to female eroticism, and constructed new images of entertainment (and commercial product) on this basis. They have also taken up traditional working class sexual scenes (the seaside trip, the visit of the milkman etc.) (where sexuality was recognised to occur, but furtively) and relayed them as "liberated" sexual encounters. In the continual contest of the popular newspaper media and the film industry for audiences, the boundaries of the "erotic" have been continually pushed back, as familiarity of the audience with one level of stimulus has encouraged progression to ever more seductive products.

This increasing availability of sexual messages in the mass media does seem to have had troublesome effects not only for conservative defenders of repressive sexual ideology, but also for the media audience in general, because



of the discrepancy between their mundane experiences and the increasingly fantastic and alluring quality of popular press, pornographic magazine, and film images of sexuality. We certainly do not have the evidence, in the empirical social scientific sense, of making a definite connection between this particular discrepancy in individual "desires" and socially structured opportunities and reported increases in rape, in sexual assaults or in incidents of domestic violence, but there is no doubt amongst many feminist commentators that the "permissive revolution" as appropriated in the mass media has created unprecedented levels of anxiety about sexual achievement, and exclusion, especially amongst males, at whom such messages are still predominantly aimed.

The effect of this is indeed as some conservative and liberal commentators have suggested. E.J. Mishan :

"Gatecrashing into sex is not too surprising a response of the denizens of the consumer society, long reared in institutions dedicated to bloating men's appetites; a foredoomed attempt to combat their growing despair, and the stresses produced by being subjected to, and having to keep up with, rapid technological change."  
(Mishan, 1973 , p.146)

What is crucial here is that pornographic and sexist sexuality is seen by an economics specialist as a consumer product, initiated and elaborated for purposes of profit by capitalists working on their particular markets in a particular period. Later, Mishan, like other conservative commentators on the so-called sexual revolution,<sup>53</sup> confuses this explanation of permissiveness, as a new market product, with an explanation focussed on the naivety or bad faith of liberals; but this does not destroy the truth of Mishan's materialist explanation for the continuing propagation of pornography.

What Mishan cannot explain, and what most liberal opponents of state control of pornography ignore, is the particular content and ideological significance of contemporary pornography. Lord Longford and others are right in thinking that pornographic magazines and films have over the last ten years elaborated a more and

more "fantastic" image of women: but they have not clearly seen that the image is also more and more sado-masochistic. Until the pornographic magazine industry established the British Adult Publications Association Ltd. in May 1977 and decided to regulate the contents of the pornography produced by its members<sup>54</sup> (presumably in order to avoid action by the Government, which had just set up the Williams Committee of Enquiry into Obscenity and Pornography), "soft" pornography was becoming increasingly articulated around images of women in chains or in bondage, in witchcraft and horror scenes, or in other forms of humiliation. In the United States, in the meantime, "snuff movies" were being produced, and were actually depicting women being killed as the culmination of sexual encounters. In films as diverse as the musical, Cabaret, and the soft core pornographic movie, The Bitch, the presentation of power and domination as eroticism, and the implicit celebration of fascism, were presented as more or less unobjectionable mass entertainment. Feminist critics made the straightforward connection :

"I don't think it any coincidence that the explosion in imagery of violence against women accompanies the contemporary struggle for women's liberation. It is a means of dealing with 'uppity' women: bind us and flog us on record album covers as we march through the street demanding wages for housework ....

Look around. As women press our demands for a fair share of wealth and power, even as we imagine a tough, sweet new order of 'bread and roses', the defence of male authority becomes even more bizarre and desperate, as it depicts women in increasingly grotesque ways, usually sexual, as though to reduce us to our despised sexual function again is to blow us away in the wind."  
(Kostash, 1978, p.6)

In accounts of this kind, the increasingly sado-masochistic and objectified images of women in pornographic literature are seen to be saleable as commodities to men, not because such images are inherently saleable, but specifically because these images attempt to re-establish women as untroublesome, quiescent sexual objects. This imagery has the primary function of gratifying men who are indeed troubled and challenged by the increasing

numbers of women who take jobs in the waged labour market, and who are therefore more troublesome and difficult to patriarchs in the working class and middle class home alike. So, as Kostash observes, in some pornography

"women are shown headless, so irrelevant to their being are their consciousness and intelligence. With every succeeding image of their nudity, we come to know the minutiae of their bodies, the pores and hairs and clefts, just so, and privacy and autonomy are banished. Women are not allowed to withhold themselves. Neither may they generate their own activity."  
(Ibid.)

An advertisement for a rubber doll called "Heaven" in a pornographic magazine can read :

"At last, she's here. The constantly submitting, eternally young, perpetually lustful woman of your dreams, can be yours. Yours to dominate, to crush beneath you as you penetrate her warm and welcoming body again and again. You'll command and control her as you never believed possible. 'Heaven' has only one function in life, to please you ..."

55

Liberal and social democratic accounts of pornography have argued against the control of this and other versions of pornography, firstly, on the grounds that State  censorship  is inherently repressive and, secondly, that pornography may have therapeutic functions in allowing the release of sexual frustrations of large numbers of repressed individuals who might otherwise attempt to resolve their frustrations on sexual attacks, especially on women and children. The first view is politically and socially naive:  all  form of State power assume  some  form of censorship in what information and knowledge they make publically available: all forms of State "censorship" mirror and reflect the wider, dominant and/or negotiated conceptions of what is a desirable social order, and how this order might be protected in legal codes pertaining to censorship, the release of information and the free display of "entertainment", knowledge and opinion. To argue as we now must for the legal restriction of forms of pornography that deal with the humiliation, injury or murder of women is to argue for the reorientation of existing legal restrictions in order that they might provide some defence of the new sense of self being asserted by women, and also to demand

a symbolic rejection in law of the more pathological forms of "sexual fascism". It is to argue for laws that are genuinely (rather than "chivalrously") protective of the interest of all women - in "outlawing" any attempt to eroticise the violence committed by male supremacists against women.

10The Social Effects of Pornography and Mass Media Permissiveness

The therapeutic defence of pornography, which until 1978 was available in English law as the "public good defence",<sup>56</sup> was often underlined by reference to the specifically "criminological" work of Berl Kutchinsky in Copenhagen. Kutchinsky's work demonstrated that the withdrawal of legal controls over pornography in Denmark, in 1967, was followed by a "dramatic" decline in the number of "sex offences" reported to the police, and Kutchinsky hypothesised that this must provide some support for what he called the "safety valve" conception of pornography, and also very strong evidence against the Conservative conception of pornography as a "trigger" to sex crime.

Kutchinsky's work was, however, very limited in scope (it was an analysis of trends in Copenhagen only, over a period of eleven years only) and his particular conclusion was justified by reference to the declines in the number of offences of "exhibitionism", "peeping", "physical indecency towards women" and molestation of young girls in particular (all of which were reported to the Copenhagen police less and less frequently throughout the 1960's). The offence of rape, on the other hand, was more or less stable throughout the period, at about 30 cases a year being reported to the police, and was therefore unaffected by the liberalisation of the law.

Criticisms of Kutchinsky's work, and its liberal implications, from the Right have been just as partial as Kutchinsky's own analysis in suggesting the existence of certain causal chains and not others. The concern of Conservative critics like John Court has been identical to the concern of Conservative critics of "television permissiveness": there has been an attempt made to identify pornography as a source of imitative behaviour, through identifying instances of

sex crime arising directly and "causally" out of an actor's learning the behaviour in a pornographic magazine or on a film.<sup>57</sup> Analysis of this kind is open to ridicule from liberal social science, precisely because John Court, William Belson, and H.J. Eysenck and D.K. Nias and other contemporary protagonists of Gabriel Tarde's nineteenth-century theory of imitation really should know that social learning is more complex than this. It is also just as plausible on existing historical and comparative evidence to argue, as does Michel Foucault, that the attempt to ban information about sexuality, or to restrict such information to the celebration of reproductive sexuality within the nuclear family (as John Court and Mary Whitehouse appear to want to do) may have the effect of inciting popular curiosity in the variety of possible sexual experiences, only in a more covert and repressedly perverse manner. Research undertaken in the U.S. by Goldstein and others, for instance, has suggested that sex offenders in general tended to have had a more limited exposure to "several specific depictions of sexual materials" than had control groups of non-offenders (Goldstein et al, 1971). The radical conservative argument for the repression of sexual information is ultimately an ideological argument for the defence, or restoration, of patriarchy, rather than being an uncontroversial "scientific" account of the relationship between the availability of "stimuli" in the form of pornographic sexual materials and later sexual "responses".

Insofar as liberal opponents of the control of pornography have argued that pornography has no effects, however, they are correctly criticised by Conservatives. The liberal argument is clearly inconsistent, in any case, in that these same liberals may want in other moments to speak of the role of the media generally in helping to generate a youth cultural style or in stereotyping women. Liberal analysis of the media generally tends to take a predominantly eclectic or commonsensical form: that is, it reads the contents of the media in terms of simple categories, as in content analysis, or in terms of very

conventional and limited conceptions of the quality of media content. It also tends to investigate the way in which the media are used by its audience through straightforward surveys of the sizes of audience or in clinical studies of the psychological effects of particular kinds of literature, film or television. So one typical liberal strategy for investigating the significance of the display of sexuality in the media is to devise experiments, often conducted in laboratory settings, in which samples of the potential wider audiences will read or view explicitly sexual materials. The researchers will then measure levels of excitation and/or question and examine the subjects about their intended subsequent behaviour. (cf. Zuckerman 1971, Bancroft 1971). More ambitious researchers have tried to investigate the effects of pornography by asking convicted sex offenders about their exposure to different types and overall estimated amount of sexual materials, and then comparing these results to control groups of non-offenders. (Goldstein et al 1971) whilst others have tried to look at the differential impact of erotic materials on different age and social groups and on male and female audiences (Gebhard et al 1965). All of these studies have been subject to very heavy methodological critique, on the question of the problematic relationship between clinical settings and "real life" usage of pornography, on their reliance on the powers of recall and self-awareness of its selected audiences and on its often very unimaginative and conventional definition of what may work as erotica. These studies have in common a theoretical and methodological inability to investigate the long-term, "dialectical" relationship between the availability of sexual materials, the long-term learning of sexual scripts by the consumers of the materials, and the forms of social and sexual behaviour and ideological relations between the sexes developing over time. In particular, we can say now, liberal studies of the effects of pornography and erotica have been tellingly silent on whether there is a relationship between the actual ideological content of erotic material (for example, the consistent use by many male-oriented pornographic

magazines of sado-masochistic themes) and recent changes in the domestic division of labour and the relations of the sexes in the waged labour market (a point we shall return to later). It is very clear, for example, that very little of the erotic content of contemporary pornography is organised around a celebration of Engels' "democratic", non-patriarchal conception of "sexual love". Contemporary pornography is patriarchal almost by definition (it is organised as titillation for men, with any "effects" on women being secondary and mostly unintended) and it is permeated ideologically with the themes of domination, authority, conquest, the division of the sexes and, often with the theme of interpersonal violence. To argue, as many liberal researchers do, that this constant reproduction of sexism in a fantastic form is without effect is merely an indictment of the methods of liberal research; and to argue that its effects are so various or complex as to make generalisation impossible is to be irresponsible on the specific effects that may be suspected or knowable in principle by further investigation. To absolve "pornography" of overall effects because of its uneven effects is rather like absolving imperialism in general of overall effects, on the grounds the British were popular with a proportion of the population of India. What is crucial, and what liberal researchers never do, is to situate the question of erotic materials in specific contexts; and in particular the structural and ideological relations of the societies in which they are produced and consumed.

Kutchinsky's work is significantly different from that of other sex researchers in that he was able to investigate the "liberalisation-behavioural effects" hypothesis in the "real world" - subsequent to the removal of legal controls on pornography in Denmark in 1967. But it is open to the same kind of critique that we have levelled at other liberal researchers, in being silent on the question of patriarchy and in failing to investigate the growth of pornography in post-war capitalist societies as a function of changes in the

relations of the sexes, and, in particular, the fracturing of patriarchy. It is not that Kutchinsky was unaware of broader changes in sexual ideology other than the liberalisation of pornography (indeed, he tries to control for changes in "attitudes" as a potential influence on people's willingness to report sex crimes); it is that he "reads" the changes as a more or less egalitarian liberalisation: a valorisation of "sexuality" as a source of pleasure that was equal in substance and effect, irrespective of the sexual division of labour, for men and women alike. We have seen that some pornography has recently tried to incorporate and to articulate women's sexuality; but it is also abundantly clear that the primary and dominant function of pornography, as a sexual institution of western capitalist society, is to entertain and excite men through the objectification of patriarchal sexuality, and also to do ideological work for men by denying the reality of changing sexual relations, or by providing a "fantastic" alternative to them. What is entirely possible, and what is entirely uninvestigated in conservative and liberal accounts of pornography, is feminist theory's view - that pornography provides some of the "scripts" that are utilised by men and adolescents to justify continuingly patriarchal behaviour (in marriage and courtship, and also in sexual assaults on women) at a time when other ideological supports for patriarchy are more fragile.<sup>58</sup> In this sense, pornography (in "hard" and "soft" forms) may carry ideological messages, with important effect in legitimizing behaviour whose primary source is the traditionally patriarchal division of labour of capitalist society.

The notion that the media has little or no "effect" on existing ideological relations and thereby on the social relations they describe is obviously naive, although it is also clear that the effect is not reducible to the effects that is measured by psychological researchers studying physiological levels of excitation, nor is it decipherable through attempts to generalise from some instances of what is alleged to be "imitative" behaviour.



Social democracy's accommodation to the patriarchal division of labour, and its continuing silence on the women's question, can now be seen to have other consequences. It is unable to speak on the social and ideological context of particularly destructive forms of assault on women and girls (rape, molestation etc.) (except from within the language of psychopathology); and it is also unable to explain and even more import to distinguish the character, respectively, of "permissiveness" (the modification of existing sexual roles and, in particular, of repression as the approved mode for the management of sexuality) and "pornography" (the fantastic characterisation of women for the entertainment and reassurance of men); and it is also therefore unable to deal effectively with Conservative attempts to equate popular anxieties about sex with the advance of "permissiveness" in general. It is also more or less agnostic on the question of permissiveness in the television, film and written media, except insofar as the liberal wing of the Labour Party has, historically, argued against censorship and for the autonomy of television producers, and other creative workers (e.g. on the public stage) from State interference, on the grounds that liberalisation of censorship and obscenity laws is a prelude to a general "freedom of expression", and also an essential element in the creation of a more honest, less "repressive" and more joyous and elevating television and popular culture. These arguments are important, and they are constantly under threat, especially in moments like the present.<sup>59</sup> But they do not themselves constitute an essentially social-democratic position on the routine, everyday ideology that is purveyed by the media in all its dominant forms, and especially the ways in which popular television, the popular newspaper press and soft pornography, taken together, constantly and overbearingly reproduce an increasingly anachronistic, and therefore divisive, and an increasingly bizarre and fantastic, image of women's sexuality, for the "entertainment" of the mass. This everyday fact of life in British capitalist society may create a sense of participation in the sexual revolution, especially amongst working-class males,

but it is a participation in the purchase of alluring commodities (rather than the genuine freeing of the human libido); it is the sexualization of objects by market forces. And as we have tried to show in this chapter, the human costs of this everyday reproduction of patriarchal and objectified forms of sexuality, in the constant re-production of rape and sexual assault on women, on the one hand, and in the constant enforcement of "feminine roles" on women (which many, being "delinquent", reject), on the other, are considerable, leaving prostitution as the only true "freedom" for some. The everyday psychic consequences of this reproduction of patriarchy (the existence of a confirmed sense of inferiority and subordination in women's subconscious) is another question again. These are the largely unspoken costs of social democracy's failure to challenge the sexual division of labour.

FOOTNOTES to CHAPTER 4 \*

1. The concern over the alleged increased involvement of women and adolescent girls in crime and violence appears to have commenced, in the British mass media, in about 1974, with rumours of a "bovver girl cult", involved in football hooliganism and in discotheque fights.
2. A vivid and moving account of women's fears of rape (in the U.S.) is provided by Griffin (1971). Griffin sees the rear of rape as an everyday reality for all women in the United States. Whilst this may overstate the danger of rape (as some critics have argued), it by no means overestimates the danger of sexual harassment (in the form of exhibitionism, molestation and assault).
3. It was an indication of the seriousness of the Ripper threat in this area during 1980 that female students of this University were being provided by the Students' Union with escorts in returning in the dark evenings from the University to their halls of residence and lodgings, and that female staff at the University Library who had to work on evenings were being provided with transport home in taxis at the University's expense. Nationally, the question of sexual attacks on girl students in areas around universities and colleges has become a matter of extreme concern for the National Union of Students.
4. Denise Riley argues (in an implicit critique of earlier work) that the reinstatement of the family in the 1940's was underpinned and accompanied by widespread ideological work in support of parental use of nurseries (as a support to tired, overworked, and therefore "incompetent" housewives), and that it was not until the 1950's that the effects of the work of Anna Freud, John Bowlby and others in placing the main emphasis on the family as a psychological agency really began to have their impact on social policy and/or "State interventions", in urging the return of women to full-time motherhood, (Riley, 1979, p.100).
5. As Riley observes, one of the problems for "pro-natalists" like Eva Hubback and the Family Endowment Society in the immediate aftermath of the world war fought against fascism was to distance themselves from the unqualified natalism of the Right. "Thus the nicely-titled Report on Reproductive Wastage (that is, still births, peri-natal mortality, abortion) recommended that it should be the duty of the National Health Service to advise on contraception, rather than withholding the information". (Riley, 1979, p.10).

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\* This chapter has benefitted considerably from the help given me by Carol Smart, Research Fellow in the Faculty of Law at the University of Sheffield, and from other discussions with John Pratt, doctoral student in the Centre for Criminological and Socio-Legal Studies.

6. The phrase "the seduction of the innocents" (with its use of the corruptor theme that is present, in different forms, in both Conservative and social democratic ideology) is also the title of a critique of children's comics (as causes of delinquency) by an American psychologist, Frederic Wetham, published in 1954. This book was widely used by a variety of prominent individuals in 1954 and 1955 (including Kingsley Martin, the editor of the New Statesman) to bring pressure on the Government to legislate on the "horror comic menace". The Government eventually brought in legislation (the Children and Young Persons (Harmful Publications) Act of 1955) to ban these comics. (cf. Rolph, 1974, pp.202-203).
7. There are some exceptions to this rule. Peter Wildeblood's Against the Law, originally published by Penguin in 1955, was an avowedly homosexual 'polemic', and certain members of the Albany Trust wrote newspaper articles in which their own homosexuality could be inferred. But many prominent figures who were homosexual (for example, E.M. Forster and Tom Driberg) did not "come out" at this time; and certainly almost no Wolfenden reformist in the areas of female prostitution and censorship argued their case in terms of their own personal acquaintance with the facts of prostitution or pornography.
8. This equation of "permissiveness" with post-war social democratic reconstruction is an assumption, for example, in Christie Davies' account of Permissive Britain (Davies, 1971), and in the various books, pamphlets and polemics produced by Mary Whitehouse and the National Viewers and Listeners Association. It is also an extrusion in the critiques of the "pornographic society" advanced by David Holbrook and E.J. Mishan, in which accounts no real distinctions are perceived between the liberalisation of the relations of the sexes (allowed by Welfare State reconstruction) and the appropriation of this permissiveness by commercial capital. In Mishan's essay on pornography, for example, the "sickness" of the pornographic society derives from the "easing of economic circumstances in the West (and the) growth of the Welfare State (as a result of which) the older virtues of frugality, stoicism, moral responsibility and self-discipline have more limited scope and more limited appeal" (Mishan, 1973, p.146). This is the fundamental logic, but Mishan allows that it is a logic which is compounded and accelerated "by the developments of modern technology, by automation, computerisation, and motorisation". (Ibid.). The consequence of this is "a growing restlessness and discontent" which, for reasons Mishan does not quite articulate, results in a "gate-crashing into sex". (Ibid.).
9. Shorter is aware that complaints about immorality amongst youth may be "a historical constant", but he argues that the statistical evidence on the enormous increase in illegitimacy rates between 1750 and 1850, coupled with the widespread concern amongst "middle class observers" (sensing) "a groundswell .... in popular life", constitutes evidence of "real changes" in the sexual behaviour occurring during this period. (Shorter, 1975, p.103).
10. Smart references a wide variety of investigations into the criminality of women using mixtures of "demonic possession theory" and psychiatric theories of personality formation. Lombroso and Ferrero's study of The Female Offender (1895) constructed in terms of a Darwinian theory of criminality as atavistic throwback to early stages in the evolution of the species, would be a pure example of the former category, whilst, at the other extreme, the more recent work of Cowie, Cowie and Slater on Delinquency in

Girls (1968) concentrates on equating delinquency with the inadequate learning of biologically determinate personalities (of submission etc.) (cf. Smart, 1976, cc.2,3). Much of the standard work on the criminality of women slips uncritically between each of these two differently theorised versions of sexist ideology.

11. We have in mind here the work of the social democratic psychiatrists of the early post-war period, and, in particular, John Bowlby, Anna Freud, D.H. Stott, and (latterly) Gordon Trasler. (Cf. our discussion in C.1.).
12. The Report of the Committee on Maladjusted Children (the Underwood Committee), published in 1955, was of the opinion that "girls make much greater affective demands on the staff, female as well as male" (para.297); a view that was subsequently repeated in a variety of studies of treatment in welfare state institutions (approved schools, clinics, community homes), and a view which now has a commonsense status amongst many treatment workers (without being "theorised" in relation to the question of women's position in the sexual division of labour).
13. I am using the notion of a forced sexual division of labour in rather the same way as Durkheim wrote of a forced division of labour in society generally (cf. Taylor, Walton and Young, 1973, c.4): in order to contrast a situation in which there is a discrepancy between the spontaneous desires and abilities of the people and the institutional arrangements for their expression, with a situation in which "occupational arrangements would be in accord with individual aptitudes" (a "spontaneous division of labour") (Ibid., p.83). It is entirely plausible to conceive of the activity of rebellious working class girls, in this sense, as one index of the contemporary existence of a forced (and unspontaneous) division of labour in the sexual sphere and also in the occupational sphere.
14. I have in mind here the abundant evidence on the growth of wife-battering in most western societies (Pizzey, 1974 on the U.K.; Klein, 1980, on the U.S.).
15. The "redemption" of fallen women has been a classic theme in much religious writing (and is also the target for satirical treatment in "cameo" plays and films about prostitution like Irma la Douce): but it is also a favoured formulation in Conservative circles, and was the chosen phrase of R.A. Butler in moving the Street Offences Bill of 1959.
16. The notion of the "hegemony of the happy family" was initially formulated in an American analysis of wife beating by Klein (1979).
17. In 1950, only 76 females in every 100,000 were found guilty of an indictable offence compared to 553 males (out of every 100,000) and in 1975 the figure was still only 278 in every 100,000, compared with 1,694 males in every 100,000. (Smart, 1979, Table 4).
18. It is also clear that some level of "relationship" does exist, as evidenced by the fact that the "domestication" of women in the immediate post-war period (1946-1955) was one in which women were less frequently criminalised than when they were employed in the official labour force: there was a decrease of 1.5 per cent in the number of indictable offences recorded against women in this period.

19. 50.2 per cent of the women found guilty of offences of prostitution in 1978 were fined, whilst some 62 per cent of the women found guilty of offences of theft and handling were fined. Without information about the level of fines it is difficult to compare the severity of such sentencing practices.
20. Under the existing vagrancy legislation, some 223 men were charged in 1978 with living off a prostitute's earnings, and another 867 men were charged with importuning other men. But there is no record of men being charged with public order or vagrancy offences (like "kerb-crawling") whilst searching out prostitutes, although this behaviour is a common source of complaint amongst women who live in the vicinity of "red-light districts" in most urban areas.
21. These areas have developed their reputations over the years, with different degrees of accuracy. In London, the "red-light district" has shifted over the post-war period from Hyde Park and Stepney to Soho; whilst in other cities the major districts have been Chapeltown in Leeds, Manningham Lane in Bradford, Havelock Square in Sheffield, Derby Road in Southampton, St. Paul's in Bristol.
22. Mr. Norman Pannell, MP for Liverpool (Kirkdale), Hansard 598 (1958-9) Cols.1316-1318.
23. One of the main arguments in the debates over the Street Offences Bill in 1959 was over the question of whether people who wanted to complain about the activities of prostitutes in their areas of residence should have to prove that the prostitutes were causing a "public nuisance". As Lena Jeger pointed out at the time, the Report of the Street Offences Committee of 1927 (the Macmillan Committee) had dealt with this issue much less narrowly by proposing "a new and comprehensive measure to deal with the nuisance caused by street misbehaviour by men or by women". (Hansard, 598, col.1318). In this way, the Macmillan Report had been comprehensive enough to deal with kerb-crawling by men, and the general harassment of women that goes on in areas where prostitution is known to be practised. The 1959 Act, when passed, however, abolished the public nuisance rule altogether by handing responsibility for the discretionary control of prostitutes over to the police altogether, rather than continuing with a system in which local citizens who were 'annoyed' by prostitutes would have to go to court and prove the fact of 'public nuisance'.
24. It is worth noting that the arguments of the women MP's against Wolfenden and the 1959 Bill were more dependent on civil libertarian arguments than on feminist arguments as such. Lena Jeger charged that the "retention of this phrase means that a woman defendant is brought into court as a person of low moral quality. The scales are already weighted against her. I find it a most extraordinary reversal of our tradition that a person is innocent until proven guilty. I find it an extraordinary reversal of our cherished ideal that we are all equal before the law. This Bill will create a section of the community, a section of third-class citizens, to whom these principles will not apply." (Hansard, 598, col.1320). In this idealist, social-democratic jurisprudence, there was no attempt to explain the origins and functions of the law on prostitution in the real relations of the sexes, i.e. in patriarchy.

25. The recommendations were to increase the penalties available to the courts to £10 for the first offence, £25 for the second and £25 or three months' imprisonment or both for the third and subsequent offences. In 1980, the equivalent sentences are £50, £200 and £200 or 3 months' imprisonment. Women who are on suspended sentences, and who are then found guilty again, may serve a six month sentence.
26. This celebration of the nuclear family was at no time more marked than in the 'Callaghan Government' of 1974 to 1979, and in particular in the then Prime Minister's continual allusions to the family as a cause of and yet as a solution to football hooliganism, vandalism, drug use and delinquency and crime in general. It was this particular connection which was used by Callaghan in his attempt to counter the "law and order" rhetoric of Tory spokesmen during the 1979 Election (cf. Clarke and Taylor, 1980a).
27. This analysis is presented (in commonsensical Freudian terms) in Rolph as an alternative to the "existing theory" (of Edward Glover's) that the prostitute has a neurotic personality (and therefore is totally frigid); or, in other words, that she has a defect of the super-ego. (Rolph, 1955, p.108).
28. The extent of this politicisation can be exaggerated, but street level prostitutes have been very active in several recent interventions into the renewed public debate over prostitution laws. Birmingham prostitutes cooperated very closely with the film producer, Kenneth Loach, in the making of Prostitute, which was put out on general release early in 1981. Other prostitutes were involved with the production of the Independent Television programme, Prostitute I am, Common I'm Not, screened in August 1981. Prostitutes were also at the centre of the demonstrations outside the Old Bailey in May, during the trial of Peter Sutcliffe, protesting against the treatment of prostitutes in the popular press during the search for the Ripper and during the Ripper trial itself.
29. There are some exceptions to this rule. Nicholson references the case of Peter Kurten, brought to trial in Germany in 1931, who maimed and killed men, children, horses, sheep and a swan as well as women; and there are some examples of the mass murder of fellow homosexuals by men (the most recent and horrific of which was the case of John Gacy, who was found guilty in Chicago in February 1980 of the murder of 33 young men and boys).
30. The Sexual Offences (Amendment) Act of 1976 provided for victims to remain anonymous in court, and this is thought to have resulted in the 22 per cent increase in the number of rapes reported to the police during 1977-8. (Criminal Statistics, 1978, para.2.16).
31. There is evidence to suggest that adolescent boys and girls do voluntarily engage in sexual contacts with their elders in the context of strong emotional involvement, in play and also, less romantically, even for money. (Cf. Reiss 1961, ; Schofield 1965, c.4).
32. There is now a voluminous literature on rape in Europe and North America. The most important feminist statements are by Brownmiller (1975), Griffin (1971) and Russell (1975) in the U.S.; the most inciteful extension of these being provided by Clark and Lewis (1977) writing on Canada, and the most misleading of analyses is by Amir (1971). Some of these works are discussed with reference to Britain in Smart (1976) and in Smart and Smart (1978).

33. In Canada, the decision made by the police is actually whether the evidence shows the complaint to be "founded" or "unfounded" (Clark and Lewis, 1977, p.58).
34. The relative immunity granted the male in rape cases appeared to be being extended in the infamous judgement of the House of Lords in DPP vs. Morgan in 1975. In this case, three airmen who had virtually "gang-raped" the wife of their serjeant (at the serjeant's invitation) appealed a rape conviction because they argued they had reasonable grounds for believing that the wife had consented. The Law Lords found, by 3-2, that a man should be acquitted of rape if he honestly believed that the woman consented, no matter how unreasonable the belief may have been. There followed furious condemnations by the Womens Movement, a Private Member's Bill to reverse this finding, and mass media descriptions of the finding as "a Rapist's Charter". But Professor Glanville Williams on the one hand and Anna Coote and Tess Gill on the other then argued that the Law Lords were merely restating the legal requirement for the prosecution to prove a guilty mind prior to any conviction. (Coote and Gill, 1975, pp.24-31). The problem with Coote and Gill's libertarian defence of the principle reiterated in DPP vs. Morgan is that they may be seen to accommodate to the patriarchal functions of the law in practice, in that the defining element in establishing the fact of rape (an exploitative and violent act committed by definition against women) remains the word of the male. The resulting Report of the Advisory Group on the Law of Rape, chaired by Mrs. Justice Rose Heilbron, attempted to circumvent this problem to some extent by recommending that a woman complainant's counsel should be able to respond to the attempt to impugn the woman's word (by attacks on her character) - as the main defence - by "letting in" the accused's bad character or previous convictions. (Home Office, 1975, Cmnd.6352, Para.142).
35. The conventional assumption, in other words, is that the evidence of assault and sexual intercourse will be found on the woman but not apparently on her male assailant, and this assumption is carried further in police interrogation of women complainants in rape cases where evidence of violent resistance is often demanded as evidence of the fact of rape itself.
36. In the wake of the Barbara Leach murder by the Yorkshire Ripper in 1979, it was women rather than men who were encouraged by the police to observe a curfew, and stay off the streets at night. (Cf. Nicholson, 1979, p.83).
37. The absence of discussion of the Sexual Offences Bill was justified by the Speaker on the grounds that the Bill was merely a consolidation measure and also on the contradictory grounds that some of its provisions were under discussion by the Wolfenden Committee. It was left to a solitary Labour MP, Marcus Lipton, to suggest that "bad" law should not necessarily be consolidated and to anticipate that the passage of the Bill might later be used to excuse inaction subsequent to the Report of the Wolfenden Committee. (Hansard 555 (1955-6, Cols.1750-1).
38. Carol and Barry Smart make the astute observation that the popular press tend to under-report the conventional rape (in all its domestic conventionality) and to "over-report" the bizarre examples of rape (like the case of the masked Cambridge Rapist of 1974-5) in order to sustain the notion of rape as the act of a psychopath, and in order to disconnect rape from its real location in the mundane, sexually discontented world created by that press for its readership. (Cf. Smart and Smart, 1978, esp. p.99).



39. The notion of the "dangerous offender" is currently being "worked up" in social control circles in Britain, the United States and Canada and in Italy, in order to make distinction between hardcore mental hospital patients (whose sentences could be constantly "reviewed") and the rest of the mentally-ill; and between hardcore members of the prison population and the rest of that population. Cf. our discussion of these dichotomies in Chapter 6. In Britain, the "renaissance" of this particular notion of dangerousness commenced with the publication of the Report of the Interdepartmental Committee on Mentally Abnormal Offenders (the Butler Committee) in 1976, as a response to the case of Graham Young, who within 9 months of being released from Broadmoor, killed two people, attempted two other murders, and also wounded two others. But the notion has been used in discussions of certain rape cases, and especially the case of the Cambridge Rapist in 1975.

The pathological character of rapists in general, and the particularly dangerous character of a hardcore of untreatable (working class) rapists, is asserted in a wide variety of ways in West, Roy and Nichols, 1978. For a critique of the self-confirming methodology of this study, see D. James, 1979.

40. Laurie Taylor has discussed the use by sexual deviants (from rapists to exhibitionists) themselves, on trial in the courts, of accounts which stress the involuntary and mysterious character of their actions. (L. Taylor, 1972). The notion that "something came over me" has functions for the defendant in mitigating punishment, but it also has functions for the defendant and the court in repressing discussion of the ways in which sexual assaults on women are a normal part of the erotic component for men of patriarchal culture.
41. Feminists would also, correctly, argue that the physical injuries and psychic distress of the battered wife and the battered baby are human injuries produced directly by the burdens that women are expected to carry in the unequal, repressive domestic division of labour demanded by patriarchy, and which they sometimes therefore refuse.
42. This is the Williams' Committee's researcher's figure for the number of different readers per average issue of the five most successful porn magazines (the "total audience", with many readers viewing more than one magazine, was more like 7.5-8.0 million).
43. The most recent examples at the time of writing were Commons debates on 27 March 1980, in which Mr. John Farr MP, argued that there had been "a big increase in low quality, pornographic, and second rate material screened" on BBC television, and on 2 April, in which Mr. John Stokes MP said that the BBC was "inflicting appalling damage to the moral fibre of the nation" by putting too much sex and violence on television. (Guardian 28 March 1980; Daily Telegraph 3 April 1980). These statements can be compared to the argument put by Roland Wilson, national secretary of Moral Rearmament in Britain, in a speech of December 1963:

"It seems to me that the aim of the BBC is to foster and increase a taste for sex so that the more leisure people will have that is all they will want. If you soften the people of a nation limitlessly by feeding them with sex, you may so reduce their power to say 'No' that there are certain other things to which they will be unable to say 'No', such as dictatorship and tyranny."  
(quoted in Tracey and Morrison, 1979, p.62).

44. Mrs. Whitehouse was also very much opposed to the televising of rapes (as on an International Film Series on BBC Television) and also women in labour, on the grounds that these 'insensitive' programmes 'set back' her own approach to sex education in schools. (Whitehouse, 1967, pp.15,17). She does not directly discuss her approach to other realistic television portrayals (of war, class struggle etc.).
45. The advance of utilitarianism is discussed quite graphically in Tracey and Morrison, 1979, c.1.
46. The conspiratorial interpretation of social and moral changes as the result of a traison des clerics is present in many of Mary Whitehouse's speeches. This particular formulation is from an interview on Person to Person on BBC-TV July 1979, reported in The Listener, 5 July 1979.
47. NVALA Annual Conferences 1977, 1978.
48. Although full support was proffered in opposition to the Private Members Bill brought by Cyril Townsend, a Conservative MP, to outlaw the photographing of children for pornographic purposes, which was given a second reading in February 1978 on a free vote of 301 votes of all parties to nil, and given Royal Assent in October.
49. The Williams Report proposed the restriction (rather than the prohibition) of material "whose unrestricted availability is offensive to reasonable people by reason of the manner in which it portrays, deals with or relates to violence, cruelty or horror, or sexual, faecal or urinary functions or genital organs." (Proposal number 7). The restriction would take the form of banning the display, sale, hire of restricted materials except by mail or in the form of a restricted performance; and the Report also proposed new categories of censorship in film and also the classification of certain cinemas by local authorities as being able to show restricted film.
50. The reassertion of the responsible family as the major instrument of social policy for the Tory Party began with Sir Keith Joseph's commissioning of Mia Kellner Pringle in 1974 to produce evidence for the enquiry into the death of Maria Colwell; and in his constant attempts to locate the cycle of deprivation in the (genetic and moral) inadequacies of certain working class families, which could be corrected by the 'remoralisation' of the family.
51. The case of a London prostitute who held Christmas parties for judges, parsons and other prominent individuals late in 1979 reached the press in April 1980 on the grounds of her 18 month sentence, rather than out of any anxiety over the involvement of some of the nation's moral guardians in shameful decadent activity.
52. I am aware of the argument voiced by Gregg Blachford, who wanted to "suggest the possibility of 'reading' images (in pornography) quite independently of the dominant ideology's view of sexuality. For example, male gay pornography, although its context is clearly exploitative in that it uses the discourse of heterosexual pornography and simply substitutes men for women, can perhaps have a different meaning for those men who know that they are homosexual but feel as if they are the only ones in the world 'like that'." (Blachford, 1978-9, p.25).

Male gay pornography may have this function, and of course heterosexual pornography may also be useful for lesbians and lonely or repressed adolescents and adult heterosexuals. But erotic materials that fulfil these functions do not have to be patriarchal in order to "work" in this way; the key question is to distinguish between "permissiveness" and patriarchal reproduction.

53. The most elaborately ideological account of all forms of "permissiveness" as stemming exclusively from the unchallenged advance of liberalism is Christie Davies' Permissive Britain, where political liberalism is depicted in itself as a form of authoritarianism, and conservative revanchism and patriarchal puritanism as the only, absolute true freedom. (Cf. Davies, 1971).
54. Hugh Herbert "Porn of a Dilemma", Guardian 15 November 1978.
55. Advertisement from Valentine Products, Fiesta Magazine 14(4) (1980?) p.8.
56. The 'public good' defence originated in the Obscene Publications Act of 1959, which established the principle that even though an article had been found to have a tendency to deprave and corrupt, it could nonetheless be cleared in criminal proceedings if its publication was found to be in the public good on account of its literary, artistic or scientific merit. The public good defence was used to vindicate the publishers of Lady Chatterley's Lover, in 1961, and was frequently used in a variety of other cases in the 1960's and early 1970's. The use of this defence has recently been effectively curtailed by the House of Lords' finding in DPP vs. Jordan 1976 in which the use of expert evidence to show that pornographic material had therapeutic effect on some of the public was ruled to be inadmissible (and a diversion from the original intention of the 1969 Act); and by the decision of a Court of Appeal in 1978, on a reference from the Attorney General, that the educational role of sexually explicit material could not be admitted as evidence of the contribution of particular material to learning. For a history of the law on obscenity, see Williams 1979, c.2, and Robertson 1979.
57. Mary Whitehouse's first publication of instances of crime arising out of imitation includes just such a "survey" (a survey of the "effects of television programmes on the commission of crime etc. in the Lincolnshire Police District" during 1964 and 1965) (Whitehouse, 1967, Appendix III). This takes the form of a list of offences in which the offender is quoted as saying he got the idea from television, or in which some unspecified commentator states that "a similar incident was depicted in great detail" (e.g. "in the Dixon of Dock Green episode of the same date"). (Ibid., p.217).
58. The notion of a "sexual script" derives from the analysis of sexual conduct by Gagnon and Simon, who use this term in reference to the wide variety of elements in any sexual situation. "Scripts are involved", they aver, "in learning the meaning of internal states, organizing the sequences of specifically sexual acts, decoding novel situations, setting the limits on sexual responses, and linking meanings from non-sexual aspects of life to specifically sexual experience." (Gagnon and Simon, 1973, p.19). Scripting has both an internal (motivational) element and an interpersonal context, the latter requiring two (or more actors) to agree on some "shared convention" for defining the situation. Clearly, such agreements may involve references to broader, cultural convention concerning the character of sexual interaction; and they may, therefore, involve references to the

themes of contemporary pornography or alternatively, to the themes that were prominent in pornography at an earlier point in an actor's sexual maturation. Curiously, Gagnon and Simon do not deal with this aspect of the formation of sexual scripts, except to say that the argument about pornography as a "trigger" or a "safety valve" is reducible to "empirically testable questions", and that once this is attempted, "a simply causal picture turns out - as usual - to be complex". (Ibid., p.279). Gagnon and Simon are also completely silent on the relationship between sexual scripts, the content of explicitly sexual literature and film, and patriarchy.

59. I have in mind the widespread attack from the Government, politicians and from the National Viewers and Listeners Association, on the Independent Television Authority for their screening of their documentary-play, Death of a Princess (with its denunciation of the treatment of women under Islamic law in Saudi-Arabia), during March 1980.

In the previous chapters, we have been concerned to show how the development of "social control" in post-war Britain can be explained in terms of the production of an ideological consensus between social-democracy and conservatism which (amongst other things) identifies the existence of a crime problem, and gives priority to the work of the welfare and law enforcement apparatus in "combatting" this problem. In other words, we have explained the different emphases in State policy towards crime as resulting from the changing ability of social democracy and conservatism to make sense of material developments in the wider society at different moments (for example, in talk about crime), and also the overall escalation of State intervention and expenditure, as arising out of the dynamic of ideology itself.

Our warrant for seeing the talk about crime as being ideological has been our assertion that these two forms of "conversation" displaced and therefore disguised the essential or material problem of social control in capitalist societies, the reproduction of a labour force and the management of the reserve army of labour. Social democracy was ideological in the 1950's in its production of the "youth problem" as a metaphor for speaking of the overall situation of working class youth (as a casual labour force) during the "full employment" of the period, whilst in the late 1970's Thatcherite or radical Right rhetoric acted in a similar fashion, in sterner times, to displace the question of the reserve army into the highly elaborated ideological field of "law and order".

There are two major transformations in the contemporary posture of the State to youth which we want to underline here. One is that youth control has been routinised as a State function. Stuart Hall and his co-authors noted

that youth in the 1970's were a topic of law and order campaigns which had an "altered sequence" to those of earlier periods. That is to say that youth was actually anticipated as a future as well as a contemporary problem, rather than being seen as problematic only in the aftermath of some precipitating event. And the metaphorical message that was carried by youth was also much more complex than in earlier moments: a whole series of threats ("drugs", "pornography", "permissiveness" and "student militancy") had been mapped together as a single, connected challenge to Authority. No new panic about a new youth group (like the Skinheads) was required to strengthen the collective conscience any further; and indeed no new single, discrete moral panic did emerge about an individual youth group throughout the 1970's. Instead, troublesome youth in general, and especially working class youth, were the object of much more systematic policing and social work surveillance, and the mass media appeared to content themselves in pointing to particular instances or examples of trouble to which the police should be paying attention.

The history of soccer hooliganism during the 1970's was one in which the police were being constantly alerted, through the media, to the anxieties of working class populations and shopkeepers living near football grounds, as well as to the concern of the owners of large retail stores in the city centres (Taylor, 1979b). The local press in the 1970's was also full of stories about fears of vandalism and robbery of residents in large housing estates, high-rise dwellings and the inner city areas; and, later in the 1970's and early in 1980, with stories of assaults on bus crews and on the staff of late night trains on British Rail and London Underground. A telling difference between these press stories and those of the 1960's and earlier is that they were constructed by pressmen (unconsciously) within the already established recognition that the problem of troublesome youth is initially a police problem, that it is a problem of law and order (a question of Authority

and Control), and that it is in the interest of all that it should be so treated. As we shall see later, the system of youth control now in operation does not rely exclusively on the police and it does not only work through the imposition of penal discipline, but the police are certainly the "front-line" of social control vis-a-vis football hooligans and vandals and also vis-a-vis "street crime".

This routinisation of the control of youth as a State function also carries an unspoken but widely shared assumption: namely, that many of the most troublesome of youths are black, and that many black youth are involved in street crime. There has in other words been an equation in dominant ideology of race, crime and youth. Stuart Hall and his co-authors have described the rapid process of the construction of the mugging panic of 1971-2 involved a series of court cases, from that involving the Oval Four in March 1972 to the infamous Handsworth case of 1973, in which the fact of the defendants being black was widely implied in press reports (Hall et al, 1978, pp. 38-42). The National Front posters which appeared in 1975 equating mugging with blacks were merely confirmation of the ideological work in the Metropolitan Police that had gone into the construction of the mugging panic, and Home Office refusals to publish the statistics on the racial group of youth people arrested for mugging were taken, commonsensically, as further evidence of the truth of the equation.

What the Home Office and even liberal sections of the mass media could not do was to admit to the statistical correlation of arrests for mugging (a category of "offence" invented for such purposes, with no simple or definite place in the existing categories within the Criminal Statistics) and blackness, and simultaneously mount an explanation of this connection in terms of the racism that is "institutionalised" in the fabric of British

social institutions, and also the differential policing of the black population. (cf. Clarke and Jefferson, 1974.) For to locate the source of "street thieving" by young blacks in terms of the worsening situation of that section of the working class in the labour and housing markets, and then to describe the ways in which the Metropolitan and other police forces actually attempt to maintain their control over such a predictably fractious and rebellious population (by harassment and, in particular, by the frequent use, in recent years, of the previously redundant "Sus" laws) would require that the Home Office, the liberal press and their connected academic, political, and bureaucratic advisors actually examine and confront the reality of racial inequality and police-black "relations", rather than live within the liberal ideology which they espouse, which describes the racial question in rather more benign and pluralistic terms.

In particular, as John Rex and others have argued, to examine the reality of racism in Britain today would be to reveal that racism - so far from being a cultural problem (deriving from barriers of language and custom) - is actually embedded in a structure of institutions (including the central institutions of social democracy itself, the Labour Party and the trade union movement). Specifically, it is inextricably bound up with the recruitment of a black population throughout the 1960's and 1970's to work as an underclass within the working class (in all-night restaurants, on public transport, in low-paid hospital and other public sector jobs, or in non-union sweated labour industries, like Grunwick's), and, in moments of slump, to serve as the reserve army of unemployed labour.

The attention given to this black population by the police in the 1970's and early 1980's is in this sense not without a rationale, and it is certainly not explicable simply as "racial bias" (though this is not to deny the importance of identifying the existence of such bias in individual police officers or in



the practices of particular constabularies or of special units within the police). Policing the reserve army of labour must be a "quintessential" function of the police force in a capitalist society in trouble. It was a function that was carried out less visibly in the 1950's, in police operations conducted vis-a-vis the Teddy Boys and other troublesome youth, as well as with downwardly mobile unemployed inhabitants of "skid-row" (cf. Archard, 1979). It was also a significant factor in the policing of commercial prostitution by women (as discussed in Chapter Four). In all of these instances, it was a police function that could be carried out more or less "consensually", as both social democratic and conservative ideology worked to exclude troublesome youth, psychological and social misfits and women from full citizenship in the reconstructed social order.

Policing blacks is rather more problematic. There are substantial Conservative traditions of paternalism, drawn from the days of Empire, and also social democracy's liberal antipathy to overt racialism which act as a check on any outright populist programme of suppression. Moreover, the black population was given promises, by the English, in the earlier post-war boom; and unlike women members of the reserve army (subordinated by patriarchal ideology), and heavily subordinated skid-row and youthful population, the black population is assertive. Well before the momentous events of 1981, the reaction of the black population in St. Paul's, Bristol, to a routine police visit (in April 1981) to a local West Indian Social club, gave notice of the fractious relations of the black under-class and the police in Britain, and of the problems the State confronts in forcing this section of the reserve army to bear the burden, in housing, job and other terms, of British capital's current crisis.

But the constant equation of black youth and crime is now part of the

everyday reinforcement of ideology. The local BBC radio station in Sheffield routinely carries a series of police reports in which the racial group of suspects is a matter of factual reportage, albeit that these reports may be understood by listeners of local radio audiences almost exclusively in terms of the rhetoric of the radical Right and the National Front.

The preoccupation of the English with "their" black problem may in part explain the general absence of any anxious "societal reaction" vis-a-vis any particular sector of the youthful white population. By this, we do not mean to suggest that there was a decreased awareness of troublesome white youth in this period: we have already suggested that a posture of readiness and an understanding of the need for vigilance and stern measures, was already established in the early 1970's. But we do want to note the general absence of any significant attention in the popular media to the general harassment of the black population in Britain by youthful white members of affiliates of the National Front or the British Movement, even in the aftermath of murders of young Asians in the East End and in Southall. (Bethnal Green Trades Council, 1978). Perhaps less obviously, it may be that the lack of popular and mass media anxiety over the new wave and Punk styles in the late 1970's was a function of the ongoing identification of black youth as the primary folk devils, albeit that there were predictable expressions of disdain at the disrespectful antics and attitudes of the Sex Pistols, and the expressions of ennui and amazement at the use of safety pins and razor blades as integral elements in Punk attire. Even the recent re-embrace of Mod, Skinhead and other styles in the wake of Franc Roddam's successful movie, Quadrophenia, has only resulted in some local press reaction, following ritual street fights in the city centres. There has been no national panic of the kind that occurred "the first time round" with the original Mods' battles with the Rockers on the beaches of Brighton, Clacton and Hastings, in 1962-4.

Following on from the analysis presented in Policing the Crisis, we are indeed suggesting that the current preparedness of State agencies for 'youth trouble' is heavily inflected, in a way that would never be overtly discussed in White Papers or in penology textbooks, with the problem of controlling black members of the reserve army. It is no simple institutional task, but it has involved considerable retreats from the ideological descriptions of the character of "crime" and the functions of social control in both consensual conservative and liberal ideology.

### 5.1 The Expansion of the State

We can justly be accused of idealism, in putting too much emphasis on the power of ideology. The form assumed by the State and the structure of social control is not deducible straightforwardly from the areas of consensus and dissensus in party-political or other "regional" ideologies.<sup>1</sup> Indeed, there are strong grounds for arguing that the form assumed by the State in western societies in the post-war period is highly autonomous of the conflicts and agreements within a national political culture: the overall level of public expenditure and therefore the level of the penetration of the State in individual national economies has been remarkably similar in most western societies since the war, at least within the O.E.C.D. (Gough, 1979; McRae, 1979). That is to say that the dynamic element determining the relationship of the State to the economy and civil society is some material force common to all the late capitalist societies (which also does not necessarily "appear" in its own right in the ideological rhetoric of organised political parties). That dynamic element has been responsible for an increase in the proportion of G.N.P. being appropriated by the British Government for public expenditure programmes from 10.1 per cent in 1910 (and 16.0 per cent in 1937) to 29.6 per cent in 1975.<sup>2</sup> Using a different measure, "social expenditure" on income maintenance, health and education had reached 18.2 per cent of GNP in Britain

by the early 1970's, but elsewhere it had reached 20.4 per cent (in Canada), 22.1 per cent (in Germany), 22.4 per cent (in France) and 23.7 per cent (in Sweden). (Gough, 1979, Table 5.2). Even in the U.S., public spending by the Federal Government rose from 12.8 per cent of GNP in 1945-50 to 22.4 per cent in 1966-70, and local government expenditure from 5.9 per cent to 11.5 per cent over the same period. (O'Connor, 1973, c.4).

It is also clear that these increases in public expenditure by the State occurred in each society in two distinct time periods, from the middle 1940's to the middle 1950's (the period of the "post-war settlement") and then from the middle 1960's to the point around 1970-2.<sup>3</sup> And it is also apparent that the expenditure by the State has taken the form, primarily, of current and capital spending on health, education and welfare, but with a significant and increasing proportion being spent on what may be called a "public sector labour force" employed within these agencies.

Conventional liberal accounts explain these expenditures in four connected ways. Primarily, an emphasis is placed on the existence of an ongoing "commitment to welfare". The commitment is to the provision of social services to aid and sustain the elderly, the physically and mentally handicapped, children deemed to be in need of care, those who cannot find work, or who cannot work by virtue of some disability and other "casualties of life". The process of providing for these populations is seen in conventional accounts to be an ongoing process of reform and political pressure in liberal democratic society, with gaps and inadequacies in provision being constantly identified and being filled, and the opposition of the reactionary populations confronted and overturned. Coupled with the struggle for provision is the tendency for new "needs" for provision constantly to be created by "social and economic change". Notable examples would include the need for the payment of benefit and the financing of the retraining of middle-aged people made redundant by

technological changes in industrial production, and the provision of financial and social work support for the victims of rapid housing redevelopments. Again, the rapid mobility of families, and an increase in the number of women in the labour market, has given rise to a substantially increased demand for professional child care. The demand for services, and perhaps for an increase in the quality of services, has increased.

This process has also been influenced by the patterns of demand placed upon it from the population, whose absolute size and internal composition has varied significantly in most western societies. In many western societies in the post-war period until early in the 1970's, the proportion of the population in the younger age-groups was increasing both relatively and absolutely, alongside of an absolute increase (though a proportional decline) in the size of the retired population, which resulted from a decline in the death rate. But the end of the post-war "baby boom" resulted in the beginnings of a process of overall aging of the population of these same societies. In the earlier phase (up until the early 1970's), the State was called upon to provide for both the dependent populations of the young (in nurseries and other child care, and in education) and the old (old people's homes, health costs, transport etc.).<sup>4</sup> In the latter phase, the prospect emerged of an increased demand for provision for the aged, because of an increase in their numbers, and a changed demand for provision for youth (in terms of financing of youth retraining schemes, job creation programmes etc.), as a State response to the shortage of employment for juveniles and youth. State finances have to be relocated from the education sector to industrial planning (or else State planning has to bring industrial planning more closely into line with existing educational programmes).

All of these desirable responses involve high cost to the State, as the services that are required in the social welfare field are much more

expensive than other goods or services (either because they are very labour-intensive, or, as in health expenditure, because of monopolistic production of products and price-control).<sup>5</sup> For example, public housing costs in the U.K. rose 41 per cent more rapidly during 1970 and 1975 than the general price index, and the costs of health and the personal social services by some 13 per cent more than the index. Only the social security (welfare) system, with a relatively constant level of staff and the increased utilization of computer technology and the public mails, was able to keep its costs close to those of the index. It is also clear that costs have risen because expectations of service have increased, and more time and attention demanded by clients (in private industry, by contrast, an increase in investment results in less time having to be "spent" on each individual product: there are economies of scale).

In some of the liberal analyses of public expenditure, and in all the "social democratic" analyses of the "welfare state", the provision and financing of services is also seen to be a response on the part of the State to "pressure from below", of the kind exerted, for example, by the organised Labour Movement on the State in Britain during the 1940's, or indeed of the kind exerted by the organised working class and the trade union movements prior to the ascendancy of the Liberal Government of 1906-14. So, clearly, liberal accounts of the growth of the welfare state are aware that the ideologies acting in support of such an extension of public spending by the State do have a real base, in the class, or in the leaderships of the class; but they also argue that such ideological pressure is just one factor among many in the development of State spending.

There are two obvious problems with such accounts, Firstly, no clear explanation is offered of the opposition and resistance to increases in public expenditure, especially on welfare, of the kind that is now influential in

most western societies. An account in which such opposition is only understood as being an (anachronistic) function of prejudice or insensitivity to the needs of others cannot really make much sense, for example, of the successful growth of the Anti-tax movement in California or the winning of the British Conservative Party leadership to a monetarist theory of economic activity. In particular, liberals have no answer to the populist accusation that welfare benefits undermine productivity, except to deny such a relationship, since they did not specifically examine in their earlier, Keynesian, period the effects of welfare spending on economies in decline.

Secondly, liberals do have difficulty in explaining the significant increases in public expenditure that have occurred in nearly all the developed capitalist societies, and in particular the fact that very large increases in public expenditure have occurred in countries where there are no organised labour or social democratic movements. In other words, they cannot explain the growth of welfare in countries like the United States which are dominated politically by parties which are explicitly anti-socialist, and determinedly in favour of "free enterprise" capitalism. The liberal has no theory of the relation between State expenditure and the interests of the free enterprise system, or, more succinctly, the relation of welfare to the "logic" of capital. (cf. Altvater, 1973). Indeed, in some liberal accounts, it appears as if the growth of State expenditure is merely incidental, and not integral, to the logic of the post-war Keynesian boom, a flight of ideological fancy with no real material functions for the political economy within which it occurs. Perhaps the best introductory account of this relationship is provided in Gamble and Walton (1976). They start with the observation that:

"the role of the State has become so overwhelming in modern capitalism that some have argued it constitutes a new stage in capitalist development. Certainly the development of the modern State poses special theoretical problems for all economists. The nineteenth-century liberal view of the State that treats it as just another economic household with special responsibilities is moribund." (Gamble and Walton, 1976, p. 162).

For the nineteenth century liberal, these special responsibilities included the management of legal developments, the defence of the national currency, and the financing and organisation of defence and external relations. But they did not include any direct involvement in economic relations: in Keynes' words, the State was merely a "nightwatchman". The progress of accumulation of capital, however, and in particular the development of concentration of capital (monopolies and trusts) in the twentieth century led to "demands from both capital and labour for measures of State intervention". (Ibid. p. 162). The demands were different in purpose and in origin, (ranging from the pro-capitalist economic "radicalism" of Keynes to the anti-capitalist political radicalism of some Western European labour movements) but the effects were to increase the role of the State in the economy. The consequences of this "revolution" are that the State now plays three roles in the modern capitalist economy: "it manages demand, it socialises costs, and it seeks to maintain social peace. All were essential for the long boom." (Ibid.).

#### 5.1 (a) Economic Management

In this role, the State attempts to control the supply of money to the economy (especially in the form of private credit and government spending) and in this way to "smooth out" the trade cycle. The State may pursue this in different ways in different countries (in the U.S., the main contribution of the State has been one of maintaining a heavy arms budget in order to keep



demand high in the economy, and in order to allow the free growth of credit) And indeed the "elaborate array of counter-cyclical and stabilisation devices" utilised by the State appeared to be successful in reducing the boom and slump cycle to a period of about three years, and moderating the extent of its overall fluctuation, at least until the middle 1960's. Then

"in 1966-7 there occurred the first generalised fall in output and demand throughout the OECD area in the postwar period. The West German economy was particularly affected. It recorded the first downturn since the Second World War. This was also the period in which sterling finally collapsed (as a world reserve currency), and the defences of the dollar breached. The response of the United States ... was to attempt to spend its way out of the crisis. The behaviour of the world economy grew steadily more erratic, sharp booms alternating with steadily longer periods of stagnation. Inflation began accelerating as governments kept expanding their spending and stimulating private credit to maintain prosperity. The boom of 1973 was the fastest rate of growth ever recorded by the OECD area .... It was followed in 1974 by the start of the most serious recession the OECD area had faced since 1945." (Gamble and Walton, 1976, p. 165).

For Gamble and Walton, the relative ineffectiveness of the State apparatus at national level as an economic manager in the period from 1974 onwards is absolutely central to an explanation of the attacks that have been made on the level of State control of resources and expenditure.

#### 5.1 (b) Socialisation of Costs

The State has increasingly taken on the burden of many of the costs of private capital, and in so doing it has helped to guarantee a profitability for private capital. The costs include the State's expenditure on "the infrastructure" (road and ports), on research and development, and on education, retraining and health. In Europe, the State's acting out of this role has involved the establishment of mammoth cooperation schemes between national and multinational firms and the State apparatus (West Germany,

France, Netherlands)<sup>6</sup> and indeed the nationalisation of otherwise unprofitable but necessary services and also primary industries, like gas, electricity, railways and mining (United Kingdom, Italy, Scandinavia). In the USA, some industries, like aircraft and shipbuilding, are almost completely dependent on Government arms expenditure.

#### 5.1 (c) Maintenance of Social Peace

One of the most crucial reasons for the advance of State expenditure, especially in the older class-divided societies of Europe, and especially in the first years of the post-war settlements, was the need for a framework of State provisions which would help to provide political stability and social peace. Major concessions were made by the ruling classes-in-Government to demands put by the movements of labour, and by the liberal middle class, for State expenditure on "welfare". State pension schemes provided a version of Lord Beveridge's demand for "security from the cradle to the grave" for the population as a whole. The State pension and unemployment and sickness benefit schemes established by the 1906-14 Liberal Government were expanded and normalised, as a response to years of pressure from working class movements; and similar massive injections of State expenditure went into training vastly increased numbers of health workers, teachers, social workers and others, who then found employment in the publically financed health, education and welfare services, as State workers. During the course of the post-war "settlement", these State workers have come to be known as "public servants", "care workers", "public health" workers, and even "benefit clerks" (my emphasis): they have been presented as the benevolent face of the State. They have been the living demonstration of the fact that the capitalist State (which in the 1930's had plunged the world into Depression) has fundamentally changed, and that it was now, indeed, a "welfare State".

In this perspective, the expansion that has occurred in State expenditure is intrinsically bound up with the character of Keynesian economic policies for resolving the "economic and social" contradictions of capitalism. The State has intervened not only in the economy (influencing supply and demand) through its own investments and purchase: it has also intervened, through its employment of a variety of State workers, in the body of civil society. These interventions have taken a remarkably similar form in many Western European societies, in the provision of benefits during illness and unemployment ("sustaining" the labour force and the reserve army), and in the surveillance of problem families and working class communities with social workers and police ("policing the family"), irrespective of the political complexion of the governing political party in dominance in an individual social democracy. The State has (relatively) effectively performed the task of reproducing the social relations within which the relations of production (between a capitalist class and its workers) are themselves reproduced.

It is clear that this expansion of the State has been understood differently by the citizenry of different societies according to the form of politics that is dominant in those societies. In the United States, the increased use of State funds was understood as part of the "Great Society" programme (an expression of the greatness of "America") where in the United Kingdom it was interpreted as evidence of the arrival of a "welfare state" (an expression of the victory of "social democracy"). But an analysis of the "logic" or trajectory of capital in different western societies indicates that the expansion of the State cannot primarily be comprehended as a function of the victory of individual ideologies or even as a result of the dominance of compromised bipartisanship of Butskellite or similar forms of consensus politics.

## 5.2 The State and Technology

Accounts of the form of the State which speak only of the shift of ideology may be forgetful, also, of the real technological advances and transformations produced by economic activity. Conventional sociological accounts of changes in British society in the post war period, for example, concentrate on well-documented changes in the neighbourhoods and employment markets of the working class, without speaking quite so conclusively about the significance of these changes being experienced and interpreted increasingly through the mass medium of television. The impending replacement of broadcasting media by new forms of "narrow-casting" electronic media (video and cable) directed at specific audiences may have further effects on the form and the sense of "community", and also class, in western societies, which cannot be anticipated here.

It is not necessary to accept the vision of Marshall McLuhan or of any other technological thinker in order to recognise the massive changes that the arrival of new forms of technology will have on existing social relations. The impact of the "micro-chip" on the labour market is just one example of this: and the development of new computer capabilities is clearly of massive significance in transforming the relationship of capital to labour (capital's dependence on large numbers of labourers is decreased whilst its dependence on small numbers of specialised kinds of labourers is increased).

For our purposes here, the impact of this technology on the relationship of the State to civil society is obviously vital. It took only eight years (1965-1973) for the Home Office and Metropolitan Police to investigate the national computer requirements of police in Britain and to put the Police National Computer into operation, which immediately began to handle something

between 40 million and 60 million transactions annually, and drawing on files held on over 2.5 million people. (Duguid, 1980). This technological development has fundamentally altered the relationship of the police to civil society, in encouraging a definition of policing as a form of State surveillance over what are deemed to be potential dangers to the State and society, and in relegating the earlier social democratic concept of policing as a form of community protection, organised in some responsiveness to local, "community" norms.

The rapid development of information technology has also had the effect of widening the net that the police cast over civil society. The Police National Computer includes in its Criminal Names Index

"details of persons wanted or suspected of offences, vulnerable persons reported as missing, persons found, and other categories of people such as deserters, escapees, or people we need to locate for many reasons. (Cubberley and Blkey, 1976, p. 56, quoted in Campbell, 1980, p. 86).

By September 1979 there were 100,000 names in this index, and the capacity of the index was planned to be about 140,000.

In the meantime, the less well-known computer of 'C' department of the Metropolitan Police has, from January 1974 taken over and massively expanded the records of Special Branch, the Central Drugs Intelligence Unit, the Immigration Intelligence Unit, Fraud Squad and C11 (Criminal Intelligence). According to the tender document issued to manufacturers, the police requirement was for the capacity of the computer to increase overall from 1,343,000 records in 1974 to nearly 3 million in 1985. By far the largest holding is of Special Branch files which will total 1,414,000 by 1985, with "immigration intelligence" comprising 287,000. (Campbell, 1980, pp. 98-100). In 1974 the Home Office inaugurated an experimental programme in the computerization

of the records of "collators" (local information officers) of a local police force, the Thames Valley Police. Though even the Police Review had doubts about this exercise (the collator's information was described as "calculated guesswork"), some 21 police stations in Oxfordshire, Buckinghamshire and Berkshire are now linked to the collator project computer. In September 1979, there were 267,756 files in the Thames Valley project (with 99,825 on "persons"), for an area in which the entire population was no greater than 1.5 million. Examination of the headings under which information is stored includes reference to "gait", "habits" and "linked occurrences", and even victims of crime (since the Metropolitan Police have acknowledged that collator's files include people who make "frequent complaints" to the police). (Campbell, 1980, pp.120-122). The actual number of the 99,825 people on file who had criminal records is officially not known.

The police net has been widened in the sense that the capacity to check quickly on suspected persons or on persons on whom there is "informal" information has been put on official computerised record. This has the effect of creating (officially) a population of suspicious persons of "repute" who then become the people amongst whom the police make further enquiries subsequent to crime (expanding their records, whether arrests are made or not) or against whom they mount pre-emptive surveillance (for example, in the form of phone taps, or in other forms of Special Branch surveillance). So the widening of the net also tends to give credence to the police definition of what constitutes a "suspicious person" in a way that police record keeping may not have done prior to computerization. That is, the technology at police disposal can be utilised in order to "improve" the amount of information on suspected populations, in order, in turn, to justify further (technological) surveillance of the same population. Previously, police files were kept up

to date by "hand" haphazardly and also under the continual pressure of economic costliness, and they were justifiable primarily by reference to their utility in terms of realising arrest. Being a police suspect was a short-term career of the few. Given the current technological capacity of police information keeping, the characterisation of society so beloved of the Chief Constables Association and the Police Federation, as being composed of a beleaguered "respectable" population increasingly under threat from a mushrooming army of criminals and subversives, becomes a reality - on file. It is "a reality" which a strong State could want in a situation of severe social strain or breakdown to combat, via the containment and control of the "suspected" population.

Technology of this order is enormously capital-intensive, and its development is only possible with investment from large organisations with heavy funding. This means that access to this technology is really only available to large private capitalist organisations (like banks, supermarket chains, large industrial conglomerates etc., and branch plants of the multinational corporations) or to the State, and especially to a State which is not so politically localised as to make economic investments of this order impossible. The development of police "information technology" in Britain (thought to be amongst the most elaborate in the world) has been made possible by the series of amalgamations in police forces which followed on from the Royal Commission of 1962 and the 1964 Police Act and also by the "rationalisation" of local government, and the rapid development of much larger, more "corporate" local states, in the Local Government Act of 1970. The size of local authority jurisdictions and of police authority areas now justifies the kind of expenditures which are necessary to introduce and to sustain the level of technology that is demanded by the police in order to carry out their new role of constant, 24 hour surveillance of civil society. These "incorporations" also justify and anticipate the increasing use of computer data and surveillance

technique in other activities of the local State, from education through to social work.

None of this is to suggest that the fundamental trajectory of capitalist society (the accumulation of private capital) or its effects on civil society (in the reproduction of class as a fundamental social structural division) have been superceded by another relationship (the technology of "mass" society in dominance over powerless individuals and groups). But it is to suggest that there have been massive changes in the character of capitalist enterprise. There has been some movement from its reliance on the production and sale of basic or primary products to the production and sale of goods with very developed and specific information and entertainment functions, like the video cassette recorder. There has also been a fundamental change in the form of State functioning itself (especially in its increased capacity to survey its citizenry) which are not comprehended by the kinds of "class analysis" and theories of the State and ideology which we have tried to interpret, in a popular style, in our own accounts of post-war change. A central feature of the changed, contemporary situation is the massive technological capacity (in the area of information-storage and surveillance) that is available to "large capital" and to the State. The State is strong in the special sense of having knowledge, of a kind, with which to police the citizenry.

### 5.3 The Local State

Analysis of the State which speaks, by implication, of the growth of the nation State is forgetful not only of "international" factors making for the growth of "the State" in most western societies, but also of the internal developments in the form of the State. One of the most important of these developments, which has occurred in nearly all western societies, has been a



considerable growth of influence of local government agencies and State institutions, particularly those involved in tasks of "social reproduction", in education and welfare.

In Britain, the expansion of these local State apparatuses occurred mainly during the 1960's and culminated in local authority re-organisation in 1971. Perhaps the crucial document in the promotion of the local State was the Report of the Committee chaired by Lord Seebohm, which had been established in 1965 to investigate the conditions of local authority and allied personal social services, and which reported in 1968. Prior to the Seebohm Enquiry, social work had been carried out by a great variety of agencies of national and local standing and on a statutory or voluntary basis. The Seebohm Report insisted on the unification of social work into "generic" social services departments under the direct control of the local authority, and also argued the case for an even greater expansion in the numbers of local authority welfare workers, with appropriate support:

"... more resources are required. Although such items as accommodation and transport are needed, the principal resource of the personal social services is manpower .... a reformed organization should, in part, be justified by its greater ability to increase the recruitment and training of appropriate staff and to deploy them better ... Being larger it will provide a better career structure. A wider range of work and experience will be available without the present necessity of moving between departments ..."  
(Seebohm Report, 1968).

For reasons which should be clear from our discussion of the youth question in Chapters 1 and 3, a significant proportion of the energies of these social workers was already being put into work with children and adolescents either in local institutions or "in the community". Expenditure on child care increased from £25 million in 1958 to £65 million in 1968 (Barratt Brown, 1971, Table 3.9), and Phoebe Hall calculates that there was an increase in

total expenditure on child care and local welfare services between 1952 and 1968 of 180 per cent (in constant prices), an increase that was far in excess of the percentage increase (73.9 per cent) in total public expenditure by the State over the same period (P. Hall, 1976, pp. 7-8).

Prior to the legislation of the Seebohm proposals, the work of children's department social workers was carried out in close collaboration with educational welfare officers and health workers in the employment of local education departments, whose primary concerns had historically tended to be with questions of truancy (cf. Dimmen and French 1977). The narrow scope of this definition of school social work was challenged in 1967 by the Report of the Central Advisory Council for Education, Children and their Schools (the Plowden Report) which

"called for an extension of educational social services from the school back into the home and for more comprehensive, co-ordinated social services in the community. From the education side, the report recommended greater contact between the teachers, educational welfare workers, and parents. The school health service should function primarily as a preventative service and the duties of the school nurses (most are Health Visitors) should be expanded to include 'the social environment of the individual', which includes the 'whole family', there should be an expansion of the school psychological service, including the development of 'observation registers', which would be able to identify children with problems and make this information available to social workers....."

(Handler, 1973, p. 89).

The Plowden Report also joined the "rising chorus calling for the reorganisation and integration of the social services", with the support of the problem family as one of the primary tasks.

The Seebohm and Plowden proposals for the further integration of professional social workers into local communities were also a central element in the Green Paper, published in July 1968, on the administrative reorganisation

of the National Health Service, which proposed that many of the existing responsibilities of doctors and health service professionals should be integrated into local area health boards. These particular proposals were fiercely resisted by the medical profession and the Green Paper was withdrawn, but, subsequent to the publication of the Maud Commission's Report on Local Government in June 1969, it was clear that the unification of professional health and social services activity by State workers within local areas, as celebrated in Seebohm, was to be the key to Government policy in the immediate future. The second Green Paper on the reorganisation of the NHS, published in 1970, was a pragmatic recognition of this victory of local social workers, in placing the skills of the social work professional on a par with those of the local General Practitioner or hospital specialist. Subsequent to the publication of this paper, and the Local Authority Social Services Bill in February 1970, the momentum of local State unification was irreversible, and only the details of the administrative division of labour remained to be resolved. The Bill itself received the Royal Assent on 29 May 1970, on the day that Parliament dissolved.

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Earlier in this thesis, we spoke of the 1964-70 Labour Government as being characterised by a managed and disciplined consensus, born of the attempt of the Labour Party to encourage the British capitalist class and working class into an alliance with the State, and thus to unify "the Nation" in a programme of economic reconstruction. A "corporatist" economic policy of this character necessarily entailed social policies in which personal and social problems and needs of the people were answered by "the State", as well as encouraging a new degree of dependency on the State for the resolution of these problems. This new dependency would be encouraged, in any case, by the fragmentation of working class communities, and the loss of informal

arrangements in these communities and in extended families for the resolution of problems and needs; and it was also demanded by the growth of liberal-professional agencies in health, education and welfare for whom, as we have seen earlier, any presenting social and personal problems in individuals or in communities were symptoms of larger problems requiring the skills and intervention of the professional State worker.

It is clear that this expansion of the local State was often misunderstood by British social democrats themselves. Richard Crossman, as the then Secretary of State for the Social Services, has been reported as thinking that the Seebohm Committee had failed to justify social work, and also as thinking that the argument between the medical profession and social workers over NHS reorganisation was merely a question of petty rivalries between two professions. (P. Hall, 1976, pp. 84, 105). The final debates in the Commons on Seebohm and local authority reorganisation "were....extremely poorly attended and ... lacked the sparkle of more contentious legislation". (Ibid., p. 107). Then, as now, in other words, social democratic politicians had failed to comprehend the significance of the ineluctable advance of the local State as an instrument for the management of the relations of the classes. The ideology could recognise the process only as an attempt of the "caring profession" to help the "problem family". In our own perspective, what social democrats did was to give support to this advance as if it were in some sense a stage in an advance towards an alternative set of socialist arrangements.

To problematize the advance of the local State in this way is not, of course, to suggest that no real benefits accrued to the "clients" of the new "Seebohm" social services departments. Massive advances have occurred in the provision of facilities (like day care centres) for people (like the physically and mentally handicapped) for whom there is now no alternative, informal support in the class. Mentally handicapped people in particular have

undoubtedly been helped by the provision of help by generally trained social workers, who can deal with a wide variety of clients' problems as being "of a piece"; and they have also been spared the stigma of being dealt with only by specialist workers. Generally, as Mike Simpkin observes, there is

".....little doubt that the principle of unification was correct, not just because it removed anomalies but because it thrust social workers into the real world by breaking up the little niches in which different practices had become comfortable. By removing labels which justified intervention, it became much easier to universalise the difficulties clients were facing. Similarly social workers who were now brought into close contact with each other found out what they had in common and has to face the implications of different practices. Child care officers, accustomed by and large to the personal needs and feelings of children received into care were shocked at the way old people were despatched to homes without any thought of introduction; welfare workers found their standards challenged when they were faced with rebellious teenagers; both groups were alarmed at the cosy relationship of mental welfare officers with psychiatrists and hospitals, but terrified at the prospects of dealing with the mentally ill."  
(Simpkin, 1979, p. 17).

Thus, "Seebohm" has had a definite impact in reducing the authoritarianism of certain kinds of existing social work practice and also in "democratising" the relationship of these practices to each other to some extent, albeit within a bureaucratic local State apparatus. But there are two reasons at least for scepticism as to whether the expansion of the local State has an essentially anti-authoritarian or democratising logic.

One is that the local State's functions have expanded, along with public expenditure itself, in societies which make no pretence to socialist political aspirations. In Canada, for example, the biggest increases in expenditure on social welfare in the early 1970's occurred in unemployment insurance and then in the area of "assistance to disabled, handicapped, unemployed or other needy individuals" most of which is administered through municipal

authorities or through local offices of the Provincial Governments. (cf. Taylor, 1979c). In the United States there are over 90,000 separate local units of government, which in 1969 were divided by the Nixon Government into ten regions.

"Each of the five federal 'human resource' departments - Housing and Urban Development, Labor, Commerce, Agriculture and Health, Education and Welfare - as well as the Poverty Program, formed regional offices in the 'home city' of each region. Each agency realigned its administrative boundaries to conform with the Federal regions..." (Feshbach and Shipnuck, 1973, p. 16).

From that date on, regional governments began to participate with the Federal Government in "revenue sharing" programmes, allowing the local state to spend considerable sums on regional development according to plans already accepted at national level.

The second reason for scepticism about the advance of the State is the effect of this advance on the class. The effect is at least double-edged. It is part of what Thomas Mathiesen calls the process of "expulsion", and what some Italian commentators have called marginalisation, in "Statist" social democracies. (Mathiesen, 1974; Seppilli and Abbozzo, 1975). That is, the State provides what is in effect a wage to the unemployed and the unemployable in order to maintain that reserve army of labour as clients of welfare, rather than as people who can any longer expect to earn a greater return, a greater self-respect and improved life chances, in the labour market. As economic circumstances, and the logic of capitalist development itself, made it more and more difficult from the early 1960's onwards for capitalist societies to generate employment opportunity for the class, so capitalist welfare states expanded, at national and local level, in order to manage a large client population, expelled and marginalised from the working class itself. So the expansion of the State, so far from being a step towards a more equitable, or

socialist, society, was in this perspective a particular form of the capitalist State.

An effect of this expulsion was the development of a population that is actually dependent on the State, rather than its own work (in labour), or its own collective organisation (as a working class), for its future destiny. A "State dependent" population may indeed develop a politics and world-view that is unhelpful from the point of view of socialists, in that it is a population that is continually conditioned by State officials and by social workers into being "clients", and thus is "individualised" as well as being continually reminded of its own personal and social inadequacy. The likeliest "escape" from this form of labelling by State workers is for "clients" to embrace some form of radical (anti-State) populism of the Right, rather than for them to move into solidarity with "the class".<sup>7</sup>

The massive expansion of "State dependency" in post-war social democracies is evident in several fields - from the dependency of the unemployed and the disabled through to the dependency of increasing numbers of children on the State as a substitute parent. In March, 1977, partly as a result of the two Children and Young Persons Acts of the 1960's<sup>8</sup> and also as a result of the Seebohm reorganisation, the numbers of children in Care in England and Wales had risen to

"more than 100,000, representing some 7 per 1,000 of the estimated population under the age of eighteen. Nearly half of these children were in some form of residential care."  
(SSRC, 1980, p. 8).

The same report continues by observing that

"The level of resources involved is....considerable: the total gross expenditure by local authorities in 1975-6 on children in care was over £180 million. In Scotland the figures...are even greater....on 31 March 1978 there were over 17,000 children in care or under supervision, representing 11.5 per 1,000 of Scottish children under 18." (Ibid., pp. 8-9).

and, further,

"judging by the statistics over a period of time, the number of children requiring some form of care is increasing." (Ibid., p. 9).

This increase in State dependency of children and adolescents has been noted for many other western societies also. Both the United States and Canada have significantly higher proportions of their youthful populations in care, probably as a result of the more rapid rate of family dislocations through divorce and remarriage in those societies. The increase has considerable fiscal implications for the State,<sup>9</sup> which has had also to take into account the increasing costs in the health and domiciliary services accruing from the gradual ageing of the population<sup>10</sup> as well as the cost of providing some minimal living "wage" (in the form of State benefit) for the expanding population of unemployed and unemployable.

The growth of the state-dependent populations was a function of the fragmentation and dislocation of existing class and social relations in the 1950's and 1960's, in particular, brought on by the changes in the relations of capitalist production during the "long boom", or, in other words, by changes in the labour markets (and "career opportunities") for men and women, by increases in the level of wage and salary (increasing competitiveness for promotion, etc.) and by major developments in the range of housing and leisure



alternatives for the successful middle and working class people. The State came to provide support for the families and the individuals who were left behind in these changes (for example, older people left behind in the inner city neighbourhoods, or for children who were no longer wanted by families that had broken up as a result of social strains and conflict). The State-funded liberal professionals oversaw a process in which an increasing number and variety of client populations were identified as being "in need", and were directed to the State agency where some form of professional support or control was applied. It was a process in which a variety of clienteles were, indeed, "conscripted"<sup>12</sup> into a relationship with the local children's or educational welfare department, with the local hospital or even with the criminal justice system. And it was a process in which an increasing proportion of the population came to be dependent on the benefits or the disciplines of the State itself, where, prior to the post-war expansion of the State apparatus, they would have attempted to resolve their problems within their own class, neighbourhood or family and kin. It was a development towards State-dependency, as a function of the development of State expenditures on the provision of benefit, and it was therefore just as marked a development in countries like the Netherlands with well-developed State social welfare programmes as it was in the U.K.

The resulting State form is one in which a national apparatus coordinating the relations of the welfare and penal systems to the demands of political economy and generating the demand for legislative reform, supplemented and represented at local level most obviously by the local health and social services, probation and education departments, by the local police and local courts, but actually by the framework of local State institutions as a whole. These institutions may indeed quite accurately be referred to by the clients of the State as "Town Hall" or simply as "them" (people who

do things to "us"). It was certainly not an apparatus which clients felt to be theirs but it was an apparatus on which they were dependent. We can speak of this apparatus as a Strong State, not in the sense that its clients had a strong sense of affinity to its operation and purpose, but in the sense that this State was strong in its ability to demand and generate acquiescence to its procedures and its rules, either because it was the provider of needed benefits or (in the case of the police, the courts and, increasingly, the local authority Social Services Department) it had the power to coerce.

#### 5.4 State Control of Youth to 1979

One of the clearest examples of the emergence of this "Strong State" has been the massive expansion that occurred during the 1960's and 1970's in State interventions in the lives of youth.

Earlier in this thesis, in Chapter One and Chapter Three, we traced the emergence of youth as a social problem through an examination of the problematic character of youth in the dominant ideologies of Conservatism and Social-democracy. We also saw how these conceptions of youth came to "converge" on the use of liberal professionals, with their much more pragmatic definitions of their social role, as the practical guardians of public order and the major agency of control in regard to youth. Conservatives would be urging a mixture of care and discipline on these professionals whilst social democrats might still tend to be thinking of the liberal care worker as an agent contributing to larger social reconstruction in some cases and as<sup>a</sup> controller of pathological individuals in others, but, overall, the ultimate product of this process of ideological convergence was the rise of the liberal professional in child care and juvenile justice work.

It was in the context of this kind of ideological convergence that one of the most fundamental political debates vis-vis crime of the entire post-war period was to emerge. But the development of this debate-initially around the White Paper released in 1965 by the Labour Government of one year (The Child, The Family and the Young Offender) - was not simply a creation of some ideological convergence between politicians and social workers over the desirability of care. It was also an expression of the new elevation of the State itself into the place of the family, church and school as the major instrument for the socialisation of youthful populations and, in particular, for the resocialisation of the more troublesome of those populations.

The White Paper of 1965 was a substantive reproduction of the proposals made in the 1964 Report of a Home Policy Study Group of the Labour Party, Crime: a Challenge to Us All. The proposals made here for an informal Family Service of the kind that had been envisaged by the Fabians in the 1950's were translated in the Home Office Paper into the proposal for

" a more 'Family Council' in each area, consisting of 'social workers of the children's service and other persons selected for their understanding and experience of children'." (Bottoms, 1974, p. 329).

In the words of Tony Bottoms, "a flood of criticism....descended upon the new White Paper", in particular from the magistracy and the probation service and in particular in the defence of the juvenile court. The criticism was mollified by the publication of the 1967 White Paper, Children in Trouble, containing a new set of proposals and couched in an altogether different language. The Magistrate responded to the publication of Children in Trouble with the relieved observation that:

"there is a clear acceptance (In Children in Trouble) ... of multiple possible causation, that there are 'bad' as well as 'mad' children ... and that the needs of the community must be considered as well as the welfare of the young offender."  
(1978, p. 83).

Bottoms argues that the major reason for the relative acceptability of Children in Trouble was the fact that its "argument has much more of the influence of professional social work thinking than of the Fabian politico-social thinking, which tended to characterise the earlier Labour papers, especially Longford" (Bottoms, 1974, p. 331). In particular, of course, the proposal to replace the juvenile court did not occupy anything like a central place in Children in Trouble, and it was eventually dropped in the Children and Young Persons' Bill released in 1968. Equally important, however, as Bottoms indicates, the new White Paper effectively re-located the topic of juvenile justice reform onto the terrain of liberal professionalism, disconnecting it from the Fabian contexts of the Longford Report and 1965 White Paper.

The redrafting of the earlier White Paper is attributed by Bottoms to:

"a very strong team of civil servants at the top of the Children's Department of the Home Office...led by the late D. H. Morell and Miss Joan Cooper, ...committed to a 'child care' view of delinquency in a strong form...for them, delinquency (was) a presenting symptom of a deeper maladjustment, children will grow up deviant if they are denied the advantage of early social work intervention at crisis periods, and residential institutions, they maintained, should take the form of therapeutic communities."  
(Bottoms, 1974, p. 332).

The 1969 Act was, in this sense, the result of a legislative coup by friends and allies of senior social workers in the Home Office and, in particular, by adherents of the psychoanalytical tradition that had been a

resilient feature of orthodox social casework in Children's Departments and in other social work agencies throughout the 1950's. It was a tradition which had been supported to some extent by John Bowlby in the 1940's and 1950's, and articulated by psychiatric writers like Kate Friedlander and Anna Freud in the 1940's; and it was very much a key feature of social work training in the earlier post-war period. But it was never an uncontested version of the social task, and in the 1960's it was undeniably a tradition that was on the defensive, particularly as a result of the growth of early counter cultural criticism and from the early work of the anti-psychiatric school of R. D. Laing and David Cooper.

There is no doubt either that the particular version of liberal professionalism which was advocated legislatively in the 1967 White Paper and in the Bill itself was extremely "permissive" rhetorically. That is to say that the rationales provided for increasing the power of social workers over clients committed to total authority care were primarily articulated in terms of the clients' own interest, rather than in terms of any other coherent set of purposes. The juvenile court was basically to act as an arena within which juveniles could be judged according to their emotional and personal needs, the court assessing the possibility of these needs being better satisfied by the child's family situation or by being sent away into care. The courts were to act as judges not of legal guilt but of whether children needed care and attention.

The "permissiveness" of the 1967 White Paper and the 1968 Bill (like the "client-centred" permissiveness of many practising Freudians) was merely rhetorical, however. It was tolerated by the magistracy, the police and other critics of The Child, The Family and Young Offender because there had at least been a retreat in the Home Office from the commitment to the abolition of the court. And the magistrates knew from experience that the liberal

Freudianism of the Morell and Cooper axis was by no means the only version of casework in use in social work and probation offices. They knew that more "disciplined" interpretations of the social workers' essential tasks would be adhered to in the practical operation of the Act.

The passage of the 1969 Act occurred in the aftermath of widespread anxiety over troublesome behaviours amongst working class youth (especially /the in the shape of Skinheads) and middle class youth alike, and it was apparent to many (in the media, in the police and the judiciary) that the permissiveness of the rhetoric in the Act could not detract from the courts' responsibility to uphold the authority of law. Whilst there was no widespread sense that the "consensus" was under fundamental threat, it was certainly in need of support, in the continuing use of the law and of segregation in the disciplining of recalcitrant youth. It was very little time before the permissiveness of the Act's intentions, as framed by its architects in the Home Office, was replaced by a continual resort to discipline in its actual operation.

The key clause of the 1969 Act, as passed, was section 1(2), which stated:

"If the court before which a child or young person is brought under this section is of the opinion that any of the following conditions is satisfied with respect to him, that is to say -

(a) his proper development is being avoidably prevented or neglected or his health is being avoidably impaired or neglected or he is being ill-treated; or

(b) it is probable that the condition set out in the preceding paragraph will be satisfied in his case, having regard to the fact that the court or another court has found that the condition is or was satisfied in the case of another child or young person who is or was a member of the household to which he belongs; or

- \* (1b) it is probable that the condition set out in para. (a) of this sub-section will be satisfied in his case, having regard to the fact that he is a member of the same household as a person who has been convicted of an offence mentioned in schedule 1 of the Act of 1933; or
- (c) he is exposed to moral danger; or
- (d) he is beyond the control of his parent or guardian; or
- (e) he is of compulsory school age within the meaning of the education Act 1944 and is not receiving efficient full-time education suitable to his age, ability and aptitude; or
- (f) he is guilty of an offence, excluding homicide, and also that he is in need of care or control which he is unlikely to receive unless the court makes an order under this section with respect of him, then, subject to the following provisions of this section and sections 2 and 3 of this Act, the court may if it thinks fit make such an order."

\* This paragraph was added by the Children's Act of 1975.

The original objectives of the architects' of the CYPA were firstly, to abolish the use of criminal proceedings altogether with 10-14 year olds, and to replace these proceedings with "care proceedings" using the "offence condition" (or what is called the "double-barrelled" test); and, secondly, to restrict criminal proceedings with 14 to 17 year olds very heavily (care proceedings being deemed to be "preferred" in most cases) (Section 5). Children less than 10 were to be dealt with exclusively by care proceedings as before (i.e. by using care proceedings, but without the offence condition, since children under 10 were (and still are) not deemed to be capable of criminal responsibility). The intention was also that there would always be close consultation between police and social work; although, as we shall see, the power of the police to "caution" without consultation was not restricted.

It is clear that the architects of the Act were themselves influenced by radical liberal critiques of institutional placements as a means of dealing

with young offenders, and in particular by continuing anger at the use of the militaristic detention centre with young offenders. Section 2(7) of the Act recommended that consideration should be given to the phasing-out of junior detention centres (for the under-16's). For the architects of the Act, it was not just that the CYPA would encourage the decriminalisation of "children in trouble"; it was also constructed as the basis on which a widespread "decarceration" of the young might begin.

But very soon after the Conservatives' return to power in June 1970, however, Mr. Mark Carlisle announced that the new Government "would never increase above twelve the age below which no criminal prosecutions may be brought; that it would not impose any administrative restrictions on the bringing of prosecutions for persons aged 12-16, for whom a free choice of care or criminal proceedings would therefore be available to the police; and that it would not implement certain treatment provisions for the time being" (Government Statement on Children in Trouble, Home Office Press Release, October 1970). So the Conservatives, in 1970, effectively restricted use of the "double-barrelled" test by social workers and police acting in collaboration (in order to ascertain whether a child was an offender and in need of care) to 10- to 12 year olds only. For 12 to 17 year olds, both care and criminal proceedings (of the traditional variety) were available, but with the discretion left in the hands largely of the police.

In the period since 1970, the police have almost always preferred to bring charges under the criminal proceedings alternative, and it has been from amongst 12 to 17 year olds who have been so charged that the most startling increases in institutionalisation have occurred. Considerable pressure was brought to bear on the Home Office by organisations like the British Association of Social Workers during the early 1970's for a Government



order to make care proceedings rather than prosecution compulsory, especially for the younger age groups, but these campaigns were insufficient to persuade the Labour Government's Home Secretary, Mr. Merlyn Rees. As a result, neither of the two original intentions of the architects of the Act - that criminal proceedings should be abolished with the 10-14 year olds, and heavily restricted for adolescents (14 to 17) - have been realised. Care proceedings are only available for children and young people under 17 whom the police have decided not to prosecute and who have not been dealt with by cautions administered by the police.

In the operation of the Act after 1971, a variety of dispositions became available, all of these being seen as measures for providing treatment under the auspices of the newly-formed generic social services department (created by the Local Authority Social Services Act of 1970). But the main two alternatives were and are the care order (whereby a child is placed in the care of the local authority until the age of 18, with the authority acquiring full parental rights) or the supervision order (where the local authority acquires these rights for a period of up to 3 years). In either case, the local authority social services department acquired full discretion over the choice of where to place the child or young person on a care or supervision order (for example, whether to place the child in a community home, an ESN or maladjusted school, with foster parents, or with their own parents).

In the case of care orders, a frequent disposition has been to the new "community homes" which were inaugurated by the CYP A. The homes are in fact an amalgam of the various institutions of child care and youth control that had existed outside the prison system prior to 1969: reception centres (local authority institutions for the non-delinquent) remand homes (used by courts before and after conviction), children's homes (used by local

authorities in cases of family breakdown or illness and for orphans), probation hostels (for homeless young offenders), children's hostels (for children who had not been on probation), and, most importantly, the approved schools (which had a long history going back to the nineteenth century of dealing with delinquents).<sup>14</sup> The purpose of the amalgamation was to ensure that the local authority would have a sufficient number of facilities within its area with which to provide the variety of "treatments" implied in the CYPA. Once again, the "Community Home" concept was a product of the Home Office Children's Department, under D. H. Morrell and Joan Cooper, and the intention was to create institutions built primarily on therapeutic relationships, rather than any specific training. According to the document, Care and Treatment in a Planned Environment (published in 1970), which resulted from the project initiated by the Children's Department to create a blueprint for the ideal home, the problems of children in care were predominantly those of emotional deprivation, a "failure of relationships". Once again, as in Children in Trouble, the broader social deprivations of "children in trouble" were a silence.

The community homes were one of the clearest exemplars of the liberalism and "permissiveness" of the CYPA. Even those that were most successful compared badly, so far as the magistracy and police were concerned, with the old approved school, precisely because of their overriding concern with "good relationships" with the (youthful) client and the regular refusal of the staff of these homes to reject even the more difficult of their clients when they fell into trouble with the police. The community homes were also characteristically liberal in working within according to a concept of "community care". The institutional community is seen as a part of a broader caring community, which should continue to provide supports for children who had been in trouble, subsequent to their return to their families and neighbourhoods after a period in care. The role of the community as a caring agent

was underwritten, in the 1969 Act, by the support given to the concept of intermediate treatment, "intermediate" between casework-type interventions into the family and treatment in residential institutions.

Intermediate treatment has been described by D. H. Morrell himself, as a "mongrel of somewhat mixed parentage and doubtful history". Its most immediate origins lay in the proposals contained in Children in Trouble to extend the scope of the existing supervision order in order to increase the range and flexibility of measures to deal with children suffering from problems (including delinquency) which resulted from combinations of "boredom in and out of school, ... unsatisfactory family or social circumstances ... maladjustment or immaturity ... or a deviant, damaged personality". (para. 6). The main feature of the new provision was "to reduce the distinction between removing a child from his home and community, and leaving him within it." (Personal Social Services Council, 1977, p. 14). The intention was that attendance centres and detention centres should ultimately be replaced by 30-day and 90-day forms of intermediate treatment. (Children in Trouble, para. 29; CYPA section 7(3)).

As a form of "treatment" for "delinquency", I.T. parallels the efforts of liberal reformers in Europe and America over the last century, in referring to the need to provide the troubled, disadvantaged child with some alternative experience to that available in the home environment, in speaking of "relationships" as a "cure" to "deprivation", and in avoiding the harmful disposition of institutionalisation (which were and are seen as "schools" of delinquency). The supporters of the I.T. proposals in Children in Trouble did draw on a key element from social-democratic ideologies on crime, in accepting "the argument of previous reports that the distinction between deprived, disadvantaged and delinquent children was a false one". (P.S.S.C. 1977, p. 14).

But the fundamental ideological thrust of I.T., as formulated by Joan Cooper, the assistant director of the Home Office Children's Department throughout the late 1960's and now Head of Social Work at the DHSS, was liberal (albeit in an imaginative, and occasionally transcendental, way). In an article in Probation, in 1970, Cooper argued that I.T. should "test abilities in dangerous but acceptable ways"; that it should not be merely physical (because it should help to "teach children about their place in the universe"), and that it should be a constantly changing concept.

I.T. was conceived to stand or to fall on its own merits (almost irrespective of larger Government social and economic policies); it depended on the imagination and sensitivity of liberal professionals; and was clearly conceived as an alternative, more individual and personalised conception of "treatment" vis-a-vis the sociological conception of treatment in the family propounded by earlier Fabian thinkers.

These original conceptions of community care and intermediate treatment were immediately challenged, during the early 1970's, by the introduction of "secure units" (and an associated authoritarianism) into community homes and also by the relocation of intermediate treatment into an alternative ideological framework stressing the primary importance of I.T. as an instrument for the remoralisation (rather than the care and treatment) of young offenders. The permissiveness of the Morrell and Cooper framework in regard to institutional practices and in legislative form were therefore both very quickly undermined. The implementation and enactment of the Bill drafted by Morrell and Cooper in 1968 not simply a "compromised" statute as many liberal social workers have since bemoaned. Nor either has the Act failed in its liberal intentions because of the failure of central government to give proper financial backing for intermediate treatment (as representatives of the British Association of Social Workers were to complain throughout the early 1970's).<sup>15</sup>

Much more crucially, the fate of the "liberalism" of the C.Y.P.A. was that it was almost immediately re-appropriated during the early 1970's, in defence not of the caring consensual society envisaged by the professional liberal but in defence of existing social and economic arrangements experiencing a deepening crisis of reproduction. So far from being an instance of permissiveness, the CYPA was to become the means to a vastly enlarged State surveillance and containment of youth, as youthful unemployment magnified very rapidly and the conditions that had sustained social, racial and cultural consensus in the earlier post-war period began to evaporate. The CYPA was to become a part of the legislative and institutional apparatus of the "strong State" of the 1970's.

By the second half of the 1970's, borstals and detention centres were full as never before. There were 8,999 Commitals to borstal in 1978 (as against 2,860 in 1969), and 13,209 sent to detention centres in 1978 (as against 6,652 in 1969) (Criminal Statistics 1970, Table 16q, and 1978 Table 6.1). 6,525 people aged 17 to 21 were sentenced to immediate (rather than suspended) sentences of imprisonment in 1978 as compared to 1,684 in 1968 (Criminal Statistics 1978, Table 37). There were therefore some 12,000 young offenders at one time in institutions in England and Wales in the late 1970's.

The individuals who were sent away to institutions were usually those who had "failed" in other settings or who had been identified by the police (and the magistracy) as being in need of containment. The power to send young offenders aged 12 and over into detention centre and (above the age of 16) into borstal was retained for the courts by the retention by the Conservative Government of 1970 of the criminal proceedings clause.<sup>16</sup>

There are no studies describing this offender population in detail, although most of the "hard core" offenders are actually identified by the police by the street-level policing of the inner-city and of problem housing estates (and therefore come from the reserve army of labour).

Many of the young people who are apprehended and charged by the police have previously been in receipt of a police caution (which has for most of this century been regarded as a beneficial, informal alternative to prosecution - equivalent to the proverbial "clip around the ear"). But the caution has increasingly become to be the point of entry for many young people into the juvenile justice system as such, since it has identified some young people (to teachers and to other authority figures and, of course, to other police officers) as young people who were "at risk" of "getting into trouble". However, prior to the debates of the late 1960's on the Children in Trouble White Paper and then the Children and Young Persons Bill, the use of the caution by the Police had been falling, with the 72,000 cautions of 1960 being reduced to 60,000 by halfway through the decade. Then, in the words of a research study produced by the Home Office:

"the number rose sharply to 74,000 in 1969, and by 1974 reached approximately 136,500. Virtually all of this increase was accounted for by juvenile cautioning, i.e. of children aged 10-13 years and young persons aged 14-16 years."  
(Ditchfield, 1976, pp. 5-6).

The sudden increase in the use of the caution has not been explained by the police, and the exact nature of the cautions being administered remained unspecified in public records or in law. But in the juvenile bureaux established by police forces as a means for operating the 1969 Act the caution became a relatively formal matter administered in a stern and unambiguous manner by a Uniformed Officer. No rule requires the presence of the juvenile's parent or guardian. The evidence provided by the BFI film, Juvenile Liaison,

on the activities of the Blackburn juvenile bureau of the Lancashire police in 1975-6, where very young offenders were taken into the cells and harangued, would suggest that something more than a simple oral warning is involved. Tellingly, the figures produced by Ditchfield showed that just under half of the 10-16 year old offenders processed through the juvenile justice system in 1974 were dealt with by police "cautions" (101,000 out of 212,000 juveniles "in the system" in that year), as against some 25% in 1964. (Ditchfield, 1976, Table 2(a)). Another way of putting this point, indeed, is to say that just under half of the "juvenile crime wave" of the 1970's was contributed by the number of juveniles taken into juvenile bureaux for "cautioning". And we repeat that it was from amongst these recruits to the justice system that the future "hard core" of offenders is identified, since it is amongst "persons known to the police" that searches are made by the police in order to try to solve crimes that are reported to them. It is also those who have been cautioned who are most likely to be charged in routine public order offences, like hooliganism at soccer grounds, night clubs and city centres. So we believe that it is in this way that the repeat or the persistent offender is routinely identified. In their book on the aftermath of the 1969 Act, Berlins and Wansell speak of a group who

"are difficult, who persistently offend, who do not blanch from physical violence and for whom the law offers neither realistic help, nor any deterrent."

and follow this by noting that

"of the nearly 70,000 boys under seventeen found guilty of indictable offences in 1972, more than, 4,400 of them had four or more findings of guilt made against them when they appeared before the juvenile courts. This amounts to about 6 per cent."  
(Berlins and Wansell, 1974, p. 103).

In order to "cope" with this hard core of "chronic delinquents", Berlins and Wansell observe that the "obvious method" is to expand the available stock of secure accommodation and "at the same time to give them intensive treatment to suit their needs". (Ibid., p. 104). Hence - in one sentence - the operating ideologies of professional liberals and Conservatives converge on the terrain of containment and control. As we argued in Chapter Three of this thesis, the three major ideological constituencies of conservatism, social democracy and liberalism accept the need for segregation of the "hard core" from the mass, albeit they advance different accounts of the necessity for such a segregation. A clear example of this "convergence and divergence" of ideology appeared in a local Sheffield newspaper in 1974. ("Sheffield Schools Rowdies Could Finish Up in an 'Alcatraz'" The Star (Sheffield) 7 March 1974). A proposal to introduce this "educational Alcatraz" as a means of segregating "the rowdies" was discussed through three contrasting interviewees. Sir Alec Clegg, Chief Education Officer of the West Riding, supported the proposal on the grounds that there was an escalating problem of pupils

"making life intolerable for their teachers....  
This group is not officially recognised like the blind  
and deaf. But in the end it will cost more....  
....The "give 'em six of the best" and "clip 'em round  
the ear" philosophies are now disgraced. But nothing has  
successfully taken their place".

This muted Conservative sentiment was contrasted with a statement from and "official" social democrat, the General Secretary of the local National Union of Teachers, Mr. Dennis Spooner, who was quoted as saying that he did not believe the situation was worse than ever:

"We are simply more aware of, and sensitive to, the scale  
of the problem."



Nevertheless, Mr. Spooner also favoured "a refuge kind of school" for maladjusted pupils who by disruption show they had difficulty fitting into normal classroom life:

"The nature of their problems can be investigated there."

In social democratic talk, a (lock-up) unit described by journalists as an Alcatraz is translated into a "refuge" and a convenient site for psychoanalytical investigation.

Finally in the report, "a spokesman for the Education Department" took the role of the managerially-minded liberal professional, and was quoted as saying:

"whether this is a temporary phase and will ease off we just don't know. It's difficult to know why there is a breakdown."

No arguments were presented against such a unit, and no attempt was made to ask if and why a breakdown in classroom behaviour was occurring. The three major ideological constituencies are reported as accepting the escalating demands for the segregation and secure containment of a hard core of rebellious or troublesome youth in schools (and, by implication, elsewhere in society's institutions for the control of youth), but in their own, very different, political terms.

We take our cue here from Berlins and Wansell, who spoke of the expansion of "techniques" and "method" for providing what they called intensive treatment for the "hard core" at this time. A related development during this period was the emergence of a much closer relationship between local social services departments (with their networks of community homes and field workers) and local mental health practitioners (in child psychiatric

clinics in "special units", and in hospitals). Children and adolescents who proved to be difficult in the "conventional" community home regime could be referred to a variety of local institutions and psychiatric personnel, where a psychiatric diagnosis and an intensive treatment programme could then be devised. These "treatments" (which frequently involved drug therapy) might be managed in the client's community home, but they could also require the client to be transferred into a special unit or to be contained in "secure accommodation" (through "certificates of unruliness" or otherwise).<sup>17</sup>

In some cases, psychiatric diagnosis might result in transfer to schools and homes for the maladjusted, or other types of institution that are deemed to be appropriate. The numbers of children in special schools classified as "maladjusted" rose from 587 in 1950 to nearly 14,000 in 1975 (with another 6,000 awaiting places.)<sup>18</sup> (Box, 1979, p. 99). It was through psychiatric diagnoses of this kind, at the interstices of the community home, the hospital and the psychiatric unit, that there has been a growth in the number and scope of various "scientific" categories of disorder, which the liberal professional since the 1950's has claimed he or she is able to "treat". The most well-known of these categories is that of "hyperactivity" (sometimes called MBD, "minimal brain damage"), a medical label of extreme ambiguity but underpinned by a biological theory of social behaviour (cf. Box 1979), but there have also been rapid expansions in the designation of children as "autistic", "medium educationally sub-normal" and "epileptic".

In other words, there is now a type of social work with (or on) adolescents (the hard core) where the so-called demise of rehabilitative optimism has resulted - not in a withdrawal from "treatment" - but in an intensification of it. This intensification of treatment also shifted the "theory" justifying intervention, in the specific sense of giving space to medical interpretations of the causes and "cure" of behaviour that has previously been socially

defined in some social context (like a family, a school or a community home) as anti-social. It was and is a theory which prescribes the use of heavy tranquillising and other psycho-active drugs (like Ritalin for hyperactivity) on an increasing extent, particularly with very troublesome individuals, and which has also extended, in the United States, to the use of brain surgery (Breggin, 1972). There is absolutely no doubt that the use of drug treatment with difficult youth is also on the increase in Britain (cf. Box, 1979; Packham, 1977), and that in-patient containment of young children (under 15) in mental hospitals is on the increase, against the trend established for the over-15's.

So the containment of the hard-core is still "justifiable" - but in terms of a particular theory of treatment, and indeed by a version of treatment (as pacification or, in some few cases, incapacitation) that is in no way contradictory with ideologies stressing the need for discipline and control. The only "debate" between the magistracy and the medical profession in the 1970's, (and that occurred infrequently), was over the character of the presenting symptoms.

This growth in the use of measures of penal discipline and intensive treatment for youth in the 1970's paralleled and to some extent contained the growth of rehabilitative forms of treatment managed by social workers in institutions or outside them. There were 4,000 fewer supervision orders made in 1978 under the provision of the 1969 Act than there were probation orders in 1969 itself; and the total numbers of children in care only gradually increased throughout the 1970's. The estimated number of children in care in England in 1977 was 96,300, as compared with 91,300 in 1974 and 83,700 in 1971. An increasing proportion of the children in care were contained in community homes (31,900 in 1977 as against 10,900 in 1974), but in the

meantime 32,700 were boarded out "in the community" and another 17,000 living at home "under the care or control of a parent, guardian or friend". (DHSS Annual Report 1977, para. 209).

"In the community", a vast expansion occurred in the use and variety of preventative, alternative and community-based schemes for an increasing variety of youthful populations. These schemes were said to be aimed at the diversion of the "pre-delinquent" from further offending, in providing treatment "in the community" as an alternative to institutions and even at providing half-way house facilities for offenders returning into "the community" from institutions. The 1972 Criminal Justice Act added the legal punishment of "community service orders" to the list, in which young offenders (aged 17 and 21) and adults alike were required to participate in schemes in which other citizens were given practical help requiring manpower assistance.<sup>19</sup> In 1977, some 4,443 offenders received C.S.O.'s (as against 226 in 1973, the first year of the Act's operation).

This turn to "the community" was also apparent in mental health. From 1954 onwards, indeed, the amount of time that a patient spent in residential care declined,<sup>20</sup> and in an important White Paper of 1971, provision was made for a reduction of nearly 50 per cent in the provision of beds for inpatients and for expansion of provision for day patients by a factor of ten, and also provided for a sevenfold increase in residential provisions in local authority, voluntary or privately-owned homes. Thus, whilst speaking of alternatives to institutional treatment for the mentally ill, the White Paper also and simultaneously countenanced an overall net expansion of the capacity of the existing mental services of some 16,950 places. (K. Jones, 1975, Table 1.1). Evidence on the numbers of direct admissions into hospital (which began to increase in 1955 - when there were 78,586 such admissions, reached 95,344 in

1959) (K. Jones, 1970) and 170,527 in 1968, and on the numbers of patients being dealt with "in the community" (191,000 in 1967 as against 148,563 in 1957) indicates that there has been a considerable expansion in the numbers of people who are being given some form of psychiatric treatment in Britain, albeit on a less intensive basis than that which occurred in mental hospitals.

The emphasis on the community as a treatment agent for those diagnosed "mentally-disturbed" or "delinquent" is obviously massively paradoxical and ideological. Any person so diagnosed must by definition already have been labelled as problematic in the community, and must in turn have found the community in one way or another problematic himself or herself, yet notions of community treatment do not specify how this may be overcome. But, in addition, as we have shown in Chapters Two and Three, the very notion of the community, with its connotations of integrity, solidarity and common social interests, is profoundly ideological, a rhetoric with no self-evident contemporary relevance. As Stan Cohen puts it:

"... just at the historical moment when every commonplace critique of 'technological', 'post-industrial' or 'mass' society mourns the irreplaceable loss of the traditional community, so a mode of deviancy control is advocated which depends on this same lost community being present."  
(S. Cohen, 1979a, p. 609).

For Cohen, the growth of "community-control" of delinquency was part of a general move in which the locus of social control has been shifted from institutions, operating "by themselves", to what some American writers have called the "correctional continuum".<sup>21</sup> Social control functions are carried out, with different degrees of self-consciousness, by a variety of agencies (from detached youth workers through to the lock-up secure units) working more or less in tandem. Clients found difficult in a crime prevention project

in the inner city may be referred onto more intensive treatment settings, and their pre-delinquent potential confirmed; school children may be being referred into psychiatric units for behaviour problems; whilst children already so defined may be shifted from I.T. projects onto social worker caseloads, or returned to the court for redesignation as "Section 2 cases", under the 1948 Childrens Act and taken into institutional care.<sup>22</sup> Cohen sees the overall trajectory as involving not only (self-evidently) a widening of the system of State control over youth (since surveillance is extended to populations - predelinquent youth "diverted" from institutions - that would not have been "covered" prior to this particular phase in the expansion of the State) but also a blurring and a masking.

By "blurring", Cohen means that the boundaries of the social control apparatus have become less visible. The contrast is with the segregated prisons and industrial schools of the nineteenth century where "those outside could wonder what went on behind the walls", and "those inside could think about the outside world". In the contemporary phase in the development of social control, however,

"the ideology of the new movement quite deliberately and explicitly demands that boundaries should not be made too clear. The metaphor of "crumbling walls" implies a vague open space."

Thus:

"New diversion agencies become attached to the court, without supposedly being part of the legal system. Very open prisons become indistinguishable from secure "community correctional centres". Intermediate treatment is supposed to be somewhere between sending a child away from home and leaving him in his normal home environment." (Cohen, 1979b, p. 610).

There is, as we have said, a "correctional continuum" in which different

social control functions are not simply "calibrated in terms of their degree of coercion, intrusion or unpleasantness". (Ibid.). According to Cohen, the blurring of social control "beckon(s) to a future where it will be impossible to determine who is enmeshed in the social control machine at any one time". (Ibid.).

The third feature of the new "community-control" for Cohen is what he calls the process of masking. This is

"the way in which the benevolently intentioned move to the community may sometimes disguise the intrusiveness of the new programme."

(Cohen, 1979b, p. 611).

Cohen has in mind the example of the Californian community-based delinquency programmes, which have been dissected so effectively by Paul Lerman (1972).<sup>23</sup> A key element in these programmes was the power granted to the community-based workers to enforce their supervisory relationships with "clients" with the threat of revoking a supervision order, and returning the youth to court for institutional sentence. This power was used with increasing frequency after the initial years of the Californian projects. A power very similar to revocation has been explicitly proposed for British probation officers in the Report of the committee into Young Adult Offenders\* (The Younger Report) which reported in 1974. The report called for a double-pronged system of control for these over 17 year old offenders. Most of the probationees would be supervised on a new court order, the Supervision and Control Order, remaining in their home environment but reporting to a probation officer on a regular basis.<sup>24</sup> But probation officers would have the power, in a minority of more difficult cases, to revert to Custody and Control Orders. These orders would be served in a new type of local penal institution, yet to be built, for indeterminate periods of time (usually less than three years.)<sup>25</sup>

\*"Young adults" for penal policy purposes are those aged over 17 and under 21 at the time of courtroom appearance.

So in the Younger Report, explicitly, and in existing developments in the control and surveillance of youth implicitly, the locus and the parameters of control were increasingly blurred. The "net" of social control was to be widened, and the "passive" surveillance of community and I.T. workers, probation officers and others, was increasingly linked to more directive interventions, or actually into forms of detention. The enormous discretionary power of the social worker was that (s)he was given the responsibility of allocating a client within the correctional continuum: a decision to identify a youth as what Cohen, following Rutherford, calls a "deep end" or a "shallow end" offender. It is a logic which, as we shall see, is even more evident in the adult penal system.

But before moving on to discuss the control of adults, we should qualify the analysis provided, in slightly different ways, by Bottoms, Cohen and Rutherford. The "correctional continuum" does not exist in a social vacuum. For example, it directs offenders and others into the field of medicine and mental health, a terrain in which some of the very same ideological logics are apparent, in the emerging distinction between dangerous offenders and others and also in the distinction between "intensive treatment" and other forms of "treatment". The continuum also interlocks with the education system, in which a clear distinction has emerged in recent years between problem pupils of different kinds, who are dealt with in special classes, units or schools, and others, with considerable discretionary power being exercised over this divide by teachers themselves. So "bifurcation" is a general strategy of social control, rather than merely a distinction arrived at within the penal system for pragmatic managerial purposes. It is a strategy that allows for individuals who are deemed to be troublesome in particular social situations to have their special needs dealt with by intensive treatment (drug therapy and other medical techniques); by containment (lock-ups) or in special



classes or in separate institutions. Almost unseen, there has been a fundamental transformation of the welfare state. Where the whole purpose of "reconstruction" of education and welfare in the 1940's was to bring the community together (to reproduce the communality of the war-time effort) and within that community to undertake the task of solving community and family problems; the actual effect of State policy, especially since the early 1950's, has been to accentuate the larger disintegration of community. The State has expelled or marginalised an increasing variety of individuals and groups whose (actual or potential) behaviour or characteristics were deemed, in ideology, to be a threat to the respectable and conforming centre, in particular the possessive petty-bourgeois adult male we discussed in Chapter Four. "Bifurcation" allows those who are definitely most threatening to this hypothesised Majority Opinion to be intensively ("vigorously", "rigorously") corrected or contained and other potential threats to be surveilled. The "correctional continuum" of the penal and welfare systems is one part of the State apparatus so constructed.

The second qualification to make returns us directly to the current initiatives of a Conservative Government. Many of the existing analyses and critiques of the "new movements" of penal control are couched in terms of a critique of the unchecked growth of social work "liberalism". Cohen's analysis is of new "community-control", whilst other writers have concentrated specifically on the accentuation of social workers' discretion in the highly elaborated systems of treatment and control (cf. inter alia Parsloe 1976). The growth of State power over individuals is impugned, and implicitly the alliance of social work liberals and post-war Labour Governments is identified as having allowed or encouraged this development: the implied response must be to restore the protection of law to individuals in order to ensure that all discretionary decisions follow rules of "due process".

But for all their theoretical commitment to an anti-Statist individualism, and even to a Bill of Rights, there is no sign of any concerted attempt by the new Government to bring about any fundamental reform in the discretionary and expansive continuum of State control. Indeed, as we shall see in our discussion of the Thatcher government in Chapter Six in the case of Intermediate Treatment, there is clear evidence of a more firm commitment (to the surveillance of the "shallow end").<sup>26</sup> For us, this is no real explanatory problem. The "anti-statist" rhetoric of the Thatcherite Right in Britain has been quite muted, compared to the radical attacks that the Right in North America has made on State institutions and indeed on State employees there. There has as yet been no direct ideological or fiscal attack in Britain on "State workers" as such, albeit that teachers in secondary and higher education have been allowed to fall under suspicion for failing to contribute effectively to national economic recovery. What has happened, however, is that state workers in the social services have been subjected in recent years to a lengthy process of persuasion as to the proper conduct of their jobs. This process of persuasion has had both economic and ideological aspects. "The recession" has had the dual effect of increasing the competition for posts in the labour force whilst also threatening many people who are already in post with redundancy. This has encouraged the development of a more fervent ritualism in the way that many workers perform their jobs, especially in the public sector labour force. The frequently moralistic commitment which many public sector workers in the 1960's and 1970's expressed about their jobs (implying that their jobs were actually a part of larger social revolution, providing essentially humanistic benefits both for the client and for the worker) has been replaced in large numbers of cases by an instrumentalist approach to the job. The prospect of "personal growth" has increasingly been displaced into the arena of leisure and, in particular, as Christopher Lasch puts it, the pursuit of "narcissism". (Lasch, 1979).

This withdrawal of the liberal professional from an engagement with ideology and politics in the workplace has left that field open for ideologies of the right. In social work, as we shall see in Chapter Six, this has led to the increasing popularisation of right-wing rhetorics about the "remoralisation" of the client. Whether in the guise of the "justice model" or the "contract" theory of social work (where the social workers and client each contract to undertake tasks to a larger but specified goal), there has been a significant move in the direction of the moral task of the State that is spoken of by the new Conservatives of the 1970's.

So the "bifurcated" State penal policy described earlier in this chapter is not fundamentally incompatible with the purposes of the new Conservative Right. Professional social workers employed by the State may not after all be so parasitical for the Right, especially if they pursue the goal of remoralising their recalcitrant clients both in institutional and non-institutional settings. Since orthodox liberal conceptions of the social work task as individual rehabilitation through care have obviously failed to provide "social order", this "new" raison d'etre of State support for social work (as remoralisation) has considerable ideological appeal (for the Right and for many social workers alike). It gives the continuation of the strong State established earlier in the post-war period a new and contemporary purpose. We will, however, leave our discussion of the effects of this reconstruction of the Strong State on the area of youth control until Chapter Six and turn now to the development of State penal policy towards adults.

#### 5.5 Prisons: Rehabilitation to Positive Custody

It was under the first post-war Labour Government, in 1948, that Parliament demanded, in the Criminal Justice Act, that a set of Rules should be

made "for the training of prisoners", and in 1949 that the following was set at the forefront of the Prison Rules:

"the purposes of training and treatment of convicted prisoners shall be to establish in them the will to lead a good and useful life on discharge, and to fit them to do so." (Rule 1)

It was not the first time that prisons had been spoken of in such terms. The Gladstone Report of 1895 had spoken of people being sent into prisons "as punishment but not for punishment", and of course the institution of prison as such (along with other institutions of incarceration) was initially legitimised, in classical penal philosophy, as an institution allowing contemplation and reformation. (Ignatieff, 1978). The particular significance of the Prison Rules of 1948 was that they were struck at the immediate moment of post-war social reconstruction. Prisons were to be transformed into a part of a treatment apparatus which was re-fitting social misfits and cast-offs for full citizenship in the new social democracy. The actual responsibility for initiating this project was given to the Prison Commissioners of the Home Office Prison Department (a department which was proud of its reforming traditions, and jealous of its independence of direct State interference through the Home Office); and a series of innovations were undertaken by 'treatment-minded' Governors and Assistant Governors alike. (Thomas, 1972, c.9). It was in the 1940's and 1950's that "free association" on prison wings, vocational training, and outside visits were introduced for the first time (in the so-called "Norwich" system). It was anticipated that rehabilitative measures of this kind would have a consistent and progressive effect in reducing the rate of reconviction, and thereby the crime rate and the overall prison population. This would also be aided by the effects of "reconstruction" on housing and social environment, and on social equality generally, which would also have an effect in reducing the level of crime.

The average daily population in adult prisons in 1946 was 12,328. In 1978, the figure was 41,796, an increase of 350 per cent; and in that year the Government's White Paper on its Expenditure Plans predicted a prison population in England and Wales of 48,100 in 1981. The Prison statistics for 1978 revealed that the number of prisoners in prisons in England and Wales in November 1978 was 43,036, and in July 1981, after a temporary reduction during the Prison Officers' dispute in 1980-1, the prison population exceeded the earlier high level, in reaching 45,500. The social democratic vision of the 1940's of a gradual diminution in the use of prison had clearly lost credibility by the late 1970's. What the Home Office called the "average inmate population" (the people under sentence in prisons, borstals, and detention centres) doubled between 1956 and 1971 in absolute terms and, in the case of the male population, the proportion of the over-14 population imprisoned in one of these three institutions also doubled.<sup>27</sup> By 1979, in other words, the last year of the third post-war Labour Government, and in many commentators' view the first year of the second great inflation of the 1970's, the prison population was nearly four times its size of 1945, and also three times the size of the prison population in 1929, at the entry into the Great Depression.<sup>28</sup> Moreover, so far from reducing the numbers of prisons as such, the liberal-professional administrators of the post-war State actually undertook (and are now trying to continue with) a substantial programme of prison building. A recent calculation suggests that 82 (61 per cent) of the 135 "functional units" that constitute the adult prison system have been built since 1945 (King and Morgan, 1979, p.6) - a percentage that compares rather well with the proportion of schools and hospitals that have been built since the war.<sup>29</sup>

Many of the new prisons were built in response to the recommendation of the famous reforming document of R. A. Butler, Penal Practice in a Changing Society, published in 1959. In this document, the argument was put for an

"urgent" programme for building new prisons, a prison hospital (Grendon Underwood), Borstals and detention centres; and work on seven new prisons, two remand centres, four Borstals and one Borstal remand centre, and some dozen detention centres was indeed begun in the aftermath of this report. (cf. Prisons and Borstals 1960, pp. 89-90). These additional buildings added to the existing "local prisons" (of which there were 25 in 1959), 13 special prisons (for "star" prisoners of "good behaviour" transferred from other prisons), 9 central prisons, and 12 regional prisons; as well as the seven Borstals for girls, and nineteen for boys; and four detention centres. (Prisons and Borstals, 1960, Appendix A). These prisons were actually built and opened during the Labour Government of 1964-1970. By January 1979, indeed there were 14,976 male prison officers, and 1,358 women prison officers serving in 29 local prisons and 38 training prisons in England and Wales and the total cost of the Prison Service was given in 1979 as over £242 million.

This massive expansion of incarceration has occurred - as Fitzgerald and Sim observe - in a period in which the prison system has increasingly been described as being in "crisis". (Fitzgerald and Sim, 1979, c.1). The crisis is described to the public as revolving primarily around the degree of overcrowding in prison cells; 11,040 prisoners were "doubled-up". Prisons built to hold 890 (Strangeways, Manchester) housed an average of 1,466 in 1977 (with a maximum of 1,573). (Ibid., p. 16). Many of the official explanations for the rebellions in British prisons from the early 1970's onwards have concentrated on overcrowding, although "the major prison disturbances of the past decade have not been in the short-term overcrowded local prisons, but in the new long-term institutions such as Gartree and Albany, which are not overcrowded." (Ibid., p. 19).

So the overcrowding question may itself be a metaphor for a more profound "ideological" crisis, which has two major connected aspects. One is

that prison has failed as a rehabilitative institution, and there is no evidence to suggest that prison could be reconstituted to "do rehabilitation", in any traditional social work sense, with the kinds and numbers of prisoners it currently receives. The "demise of rehabilitation" in prisons was signalled by the rapid implementation of the recommendations of the Mountbatten Enquiry into Prison Security in 1966, which had been set up (and reported in great speed) in the aftermath of a "rash" of escapes from British prisons. One of these escapes was by the Soviet spy, George Blake, serving 42 years.

Immediately following the Mountbatten Enquiry, nearly all Britain's prisons were made massively more secure in physical terms, with the introduction of new forms of technology throughout, but even more consequentially, all prisoners were henceforth classified according to escape risk and danger to the public. Their sentence was then served in terms of the kinds of living conditions and privileges attaching to their security category. Any pretence that these categories might relate to what penologists called "typologies" (of prisoner treatability) came to look more and more absurd, as the organisational logic of containment took a stronger and stronger hold.

Secondly, however, the "authority" of the prison institution and its staff has been rejected more and more conclusively, commencing with the nationwide strikes precipitated by the prisoners' trade union, PROP, in 1972, and reaching an interim climax in the physical destruction of Hull Jail by prisoners in the summer of 1976. The collapse of "rehabilitation" as an avowed legal purpose of jail, and the de facto substitution of containment as its only conceivable function, has laid the prison open for confrontations between Authority (the executive staff - the prison officers) and subject (inmates), which have in turn opened up major ideological struggles between the "liberal" Prison Governors, who need to adhere to some elevated conception of the prison task, and control-minded rank-and-file prison officers.

This process of polarisation has been accelerated by the increasing success of penal reformers, prison abolitionists and prisoners organisations in prizing open the secrecy with which the Home Office has traditionally managed to maintain around the management of the prison system. Individuals and groups have used the European courts and also local and national press to give publicity to particular issues, and the contacts established between prisoners, ex-prisoners and the Left in the early 1970's have proven to be important in bringing the prison question to the fore as a major political question in many circles in its own right. The "expelled population" has been given a voice into public politics which it did not have before, and also the naive public political talk about prison as rehabilitation has been replaced by a knowledge of prison officer violence, massive tension and distress, racial and other victimisations, etc., as an integral part of the prison world.

This "prizing open" of the prison for public scrutiny has helped to give publicity, among many other incidents and developments, to the kinds of punishments handed down by the Prison Visitors without legal representation, (for example, after the 1972 Prison Strike); the physical violence on prisoners in Hull in 1976 (12 prison officers being eventually sentenced in court); the development and character of the Control Units, established at Wakefield and Wormwood Scrubs, the so-called MUFTI squad in Wormwood Scrubs in 1980.<sup>30</sup> (See also Cohen and Taylor, 1978). Given their previous record, it is fair to say that none of this would have been made public by the Home Office or by official liberal penology of their own accord.

The precise development of the different crises in prisons is a major study in itself, attempted by other authors elsewhere.<sup>31</sup> Our concern here is to try to capture the most important contemporary themes in the prison debate, with a view to a revision of defunct social democratic positions, still caught, hopelessly, within the rehabilitative mould. It is a revision



which is essential if social democracy is not to be left arguing in support of institutions whose only essential function is the "warehousing" of "marginal" populations from the working class.

Some, but not many, of the important themes are present in the Report of the Inquiry into the United Kingdom Prison Services (the May Report), commissioned "urgently" by Merlyn Rees, Labour Home Secretary, in November 1978 and published in October 1979.

The May Report managed to argue both for a reduction in the prison population and also for a new prison building programme. It did so despite the fact of having received a vast amount of evidence and a large number of submissions stressing the ineffectiveness of prison as a treatment agency, and also in full knowledge of the fact that increases in the availability of prison places have, historically, encouraged "sentencers" (the magistracy and judiciary) to intensify their use of such places. It also made a case for a massive increase in capital provision on what is called a "run-down" "penal estate" (p. 282). It felt able to do this despite having acknowledged earlier that the Committee had received "little systematic or precise evidence on (what the) objectives (of prison) could be". (p. 227).

The confusions in the May Enquiry Report are a good example of the increasing incoherence of liberal criminology and penology in the current period. In particular, the Report attempts in a characteristically liberal fashion, to rescue the notion of treatment in prison (as symbolised in Rule One of the Prison Rules) by translating it slightly, and arguing that the object of prison should be "positive custody". "Positive custody" is intended to encourage the management of penal establishments in terms of "an openness of approach and mind not only to the staff but to all public requirements as well as to the interests of the inmates". (p. 277-8). The naivety of such

a vision in the overcrowded and politically and socially polarised prisons of Britain in 1979 is breathtaking. It is also founded either on a misunderstanding of the logic of prison's recent development or is actually an attempt to deny this reality with an ideological gloss. No such denial or misunderstanding informed the personal submission made to the May Enquiry by two well informed and practically-minded penologists, Roy King and Rod Morgan, in their recommendation that the existing Rule One should be replaced by a set of rules specifying minimum conditions of "humane containment".<sup>32</sup> The adoption of an objective would at least have allowed prisoners (and prison officers) to bring pressure on the Home Office and on Government on the inhumanity of their living and working conditions ("minimum standards to govern custody"). It also allowed King and Morgan, as realists with respect to actual practices occurring in prison, to speak of the need for the settlement of disputes and conflicts that occur within prison by neutral Prison Arbitrators or by Prison Service Commissioners (of the kind that currently exist, for example, in Canada).

The rejection by the May Enquiry of King and Morgan's argument for recognising (in Rule One) what they say are the actually occurring conditions and practices in the contemporary prison requires explanation. In part, such an explanation depends on obtaining an account of the deliberations of the May committee. But we can venture the view that the May Enquiry's concluding recommendation for the use of the objective of "positive custody" (and its rejection of the "justiciable" objective of humane containment) is an attempt to recognise (in Liberal terms) the authoritative, State, definition of the function of prison as being one of containment and as still containing a version of treatment, in the intensive "treatment" of the troublesome, recalcitrant prisoner (the "hard core"). The correctional practices that are recognised in the concept of positive custody are those which have been developed by behavioural psychologists, by specialists in the "science" of

personality modification in institutional environments, and by psychologists and medical researchers working in the field of the control of behaviour through drugs.

These forms of correction are types of "treatment", and some liberal professionals may even be won to these new logics in the penal system on the basis of the disingenuous appeal to the treatment goals implied by these methods. The key point, however, is that such "treatments" are intended to be correctional on the hard-core of rebellious and "difficult" prisoners (those who have indeed resisted the larger logic of containment and warehousing), whilst the rest of the populations of prison are to continue to be "warehoused" under the surveillance of the prison officer. The logic of bifurcation, with its ideological effect on liberals as well as conservatives, is as central to the emergent State system for the control and containment of adults as it is for the control of youth.

The attempt to reinstate a revised version of "treatment" as an operating goal for professional State workers in prison must be placed in the context of three major transformations in prison institutions during the period of its recent crisis. These transformations concern the increase in the length of prison sentences, the development of new containment facilities in the prison system, and the increasing adoption of behaviour modification (including the use of drug therapy) as a containment and "treatment" technique, especially at the "deep end" of the prison population.

#### 5.5 (a) Long term and life sentences

The number of prisoners serving "life" in English and Welsh prisons has increased by 1000 per cent in 21 years (from 122 in 1957 to 1274 in 1978);<sup>33</sup>

and the Home Office estimates that there will be 1500 lifers by the beginning of 1981 (Cohen and Taylor, 1980). In addition the average length of all the sentences being served in prison increased by 50 per cent between 1965 and 1975, so that over half of the prison population are now serving sentences of more than eighteen months. This change in the amount of "time" involved in a prison sentence has largely been due to the increase of 12 per cent between 1973 and 1978 in the number of adult males serving more than four years (an increase exceeded only by that of the life-sentence population). (Prison Statistics, 1978, p. 42). By 1978, "21 per cent of the average daily male prison population in England and Wales was made up of lifers and long termers .... (In) closed training prisons only, the proportion was 67 per cent". (Cohen and Taylor, Ibid.). As Cohen and Taylor observe, sentences of this kind, and in particular those carrying a judicial recommendation as to minimum length of sentence, are:

"undoubtedly related to the idea that especially long sentences are required for the "dangerous" or "exceptional" offender who, it is often believed, represents a growing threat to society."  
(Ibid.)

Offenders of this character have to be held over long sentences, not only to protect "society" from them as individuals for a greater period of time, but also to deter other individuals (of similar, socially threatening character). Explicit in many a judicial pronouncement accompanying the imposition of lengthy sentences, in other words, is the reassertion of "general deterrence" as an objective of imprisonment, and, in particular, the superiority of this objective over either "treatment and training" or "humane containment". The "positivism" of "custody", for the judiciary, resides in large part in the (realistic) ability of the prison to influence the behaviour of the "dangerous classes" through deterrence.

The ideological work of the judiciary on the need for deterrent sentencing is clearly intended as having general application to the disciplining, and the correction, of society at large. Increasingly, the judiciary is at the forefront of moves that are taking place to revise and replace the "permissiveness" of the period of the Welfare State, and to re-acclimatise society to an orderly acceptance of Authority. The vision of "reconstruction" implicit in the ideological work of the judiciary is ambiguous (a mix of nostalgia and a variety of anxieties over race, class, sex and hierarchy) but it has at its core an insistence on the destruction of the liberalism and permissiveness in the relationship of the State and the individual, and the correction of individuals (and organisations, like trade unions) who behave "incorrectly", with what are deemed to be ill consequences for the maintenance of social order. It is the harsh face of the remoralisation programme of the Right.

It was precisely these kinds of anxieties and desires which lay behind the imposition, in 1973, of a 20 year fixed sentence on the half-caste 16 year old, Paul Storey, by Mr. Justice Croom-Johnson in the Birmingham Crown Court for a "mugging".<sup>34</sup> And it is these kinds of "revanchist" concerns which have underlain the massive increase in the use of fixed and lengthy sentences on adult offenders, and which were exemplified in the hostile reaction of the judiciary to the May Report's attempt to introduce new limits on the length of prison sentences being handed out by the judiciary.

In June 1980, a report of the Parliamentary All-Party Penal Affairs Group, Too Many Prisoners, finally concluded that since "repeated persuasion and exhortation" had not had the slightest effect in reducing the length of prison sentences, then "the powers of the courts must be restricted by legislation". (Guardian, 26 June 1980).<sup>35</sup> Comparison was made with Holland where the current average prison sentence is 2½ months, and where the rise

in crime in the post-war period has been no greater than in Britain: an equivalent reduction sentence length in Britain would reduce the prison population to 12,000.<sup>36</sup> During July 1980, both the Home Secretary and the Chief Justice (Lord Lane) made major speeches urging much shorter sentences, and it was obvious that a major ideological initiative was in train to avoid having to bring in legislation to protect the judiciary and magistracy from itself. ("Whitelaw Seeks Cuts in Sentences", Guardian, 16 July 1980; "Chief Justice Urges Shorter Prison Terms", Guardian, 22 July 1980). Central to this offensive, significantly enough, was a continuing insistence on the role of prison as some kind of correctional or even rehabilitative institution. The Vice-chairman of the Penal Affairs Group, Mr. John Wheeler, observed that "the evidence was that the effectiveness of prison was contained in the first few weeks or even days" (Guardian, 26 June 1980), and the Home Secretary and Lord Chief Justice repeated this theory (of the "initial impact") in the several speeches made in the ideological offensive on the jury. The demise of rehabilitation in jails was being implicitly explained as a result of overcrowding in prison which resulted from the passing of punitively long sentences by a reactionary judiciary. The reduction of the prison population was being urged not only for fiscal reasons, but also to reinstate the prison as a viable institution of rehabilitation, or, at least, of "positive custody".

#### 5.5 (b) "Chinese Boxes"

In the same way as long sentences are related, in dominant forms of ideology, to "dangerousness", so other forms of containment are also justified for the consciously rebellious prisoner and also those who resist (or "fail to respond" to) prison regimes for what are thought to be reasons of personality. So one of the serious debates in the management of prisons in Britain over the last twenty years has been over what Stan Cohen calls the "mode of segregation". (Cohen, 1977). This debate was couched throughout

the 1960's in terms of the problem of choosing between "concentration" and "dispersal", with a decision being made in favour of dispersal of "high risk offenders" throughout the system. As Cohen observes, however, considerable concentration exists in the system now "in at least three ways" (in the subjection of Category A prisoners to severe forms of control and deprivation; in the creation of special institutions for maximum security containment - the equivalent of what the Americans call the "Super Max"; and in the segregation of offenders in a special unit within the institution). Arrangements of this character are, indeed, a part of the logic of penal control in the aftermath of the prison rebellions of the 1960's and early 1970's:

"The potential or actual trouble-makers ("security-risks") are concentrated or segregated in one place to protect the special character of the systems they are prevented from entering (or expelled from) and in the hope that some means may be found for dealing with them collectively".  
(Cohen, 1977, p. 222).

The clearest example of this in England and Wales was the opening of the two Control Units at Wakefield and Wormwood Scrubs in 1972, in the aftermath of the mass demonstrations of that year. The purpose of these Units was officially described as being to

"relieve dispersal prisons, for limited periods and as occasion arises, from the pressure and strains imposed by the activities and influence of the small minority of prisoners who may from time to time deliberately set out to undermine and disrupt the pattern of life in the prison in which they are held, and show by their repeated behaviour that they are determined not to cooperate with the normal training regime. This will be done by removing any such prisoner to the Unit until such time as he is able to show his willingness to behave himself and the ability to sustain the good behaviour for a substantial period of time, within the framework of the regime of the Unit."  
(Home Office, Prison Department, Circular Instruction 35, 1974).

The control unit regime was divided into two "intentionally austere" stages, each of three months in length. Fitzgerald and Sim summarise:

"In Stage 1, prison life was reduced to the barest statutory minimum. Prisoners would not be compelled to work, but the Circular Instruction points out that "until and unless he does, he will not even begin to qualify for the second stage". Only after three months of continuous good behaviour will the prisoner enter Stage 2. The second stage, also lasting three months, provided a "modest element of activities designed to test the prisoner's willingness and ability to sustain good behaviour in associated conditions, that is to resist the temptation to resort to the kind of misbehaviour that got him sent to the control units in the first place"....it was made clear to the prisoner that there would be regular tests of his willingness to co-operate "by performing regular work, both in his cell and in the company of others, and by not causing trouble". A prisoner who failed to work or attempted to cause trouble would revert back to Day 1, Stage 1, and serve his time again."  
(Fitzgerald and Sim, 1979, p. 104).

The "correctional" function of the Units was to modify behaviour and not to "rehabilitate" in the traditional sense. The Circular Instruction observed that

"there is no expectation that it will cure prisoners of wanting to stir up trouble; only demonstrate to them that it does not pay to do so."

After public protests about the units, which concentrated on the suspicion that "sensory deprivation" techniques were being used to "break" inmates in the Wakefield Unit, the units were "temporarily" closed in 1975. But there is now a suspicion that techniques of this kind are being used within conventional training prisons themselves. In July 1980, a life prisoner in Long Lartin Prison smuggled a note out to the national press to protest that he had been locked up for 156 days in a "strong box" (a small concrete cell without windows or furniture), and claimed that he was now "a physical and mental wreck". (Guardian, 25 July 1980).



The Prison Officers Association has made repeated calls for the reopening of the original Units, and indeed the cage at Inverness was reopened in 1978 after six years of non-use. Segregation and concentration remains an essential element in the internal logic of the system.

#### 5.5 (c) Prison Medicine

The Prison Medical Service is a body of full time medical officers, separate from the National Health Service, who have a wide variety of functions, including historically the transfer of prisoners into psychiatric hospital,<sup>37</sup> as well as the more routine tasks of doing medical examinations on all prisoners on reception, adjudicating on their fitness to work, and also, with the help of hospital officers (prison officers with medical training) administering drugs and other programmes of treatment on sick prisoners. All medical treatments, except operations, are undertaken by the prison medical staff within the hospitals contained in every British prison, and, of course, prisoners, unlike other citizens of a social democracy, cannot change their doctor if they are dissatisfied with this arrangement. Prison medicine is unambiguously State controlled, with a captive population of over 44,000 potential patients.

At the end of 1978, the Prison Medical Service became embroiled in a controversy over the alleged use of tranquillising drugs in prison, resulting from exposes made in the liberal press, particularly involving statements made by the ex-Government Minister, John Stonehouse, regarding the conditions in Wormwood Scrubs Hospital and the use of drug therapy which he had experienced or observed during his seven year sentence. The fear was expressed that prisoners were being forced to take these drugs on threat of loss of parole, or other exercises of discipline, and there was also anxiety as to the extent to which prisoners were being used as guinea pigs in experimental

programmes fostered by international drug companies.

Some of the exposes of individual cases of "treatment" or of individual programmes did miss the point, and in doing so they risked legal action from defenders of these practices, including the Prison Medical Services, on purely factual grounds. The increasing use of drugs in prisons is openly justified as a behaviour modification technique, and cannot be challenged in such terms. What must be challenged of this kind of technique with human captives for what are not unambiguously beneficial or education purposes which should be highlighted.<sup>38</sup> The introduction of these techniques into prison has occurred in the aftermath of the most serious series of disturbances that have ever occurred in British prisons, at a time when British prisons have their highest ever population, and in the moment of major dissensus between politicians, managers and staff as to the objectives of the apparatus as a whole. The key feature of behaviour modification in this respect is precisely the fact that it specifies no other goal than behavioural conformity. It can be introduced into prison without requiring that the prisoner finds some rehabilitative goal to be legitimate. It is a version of behaviour modification that is obviously appropriate to a prison system in which the vast majority of inmates do engage in offences against institutional discipline;<sup>39</sup> and to a form of social and economic order that has to make increasing use of prison and other penal measures without any clear ability to legitimate these increases via an ideology of individual rehabilitation.

But another crucial aspect of behaviour modification, like "intensive treatment" with juveniles, is that it is a way of correcting or at least containing the "hard core". It has the advantage therefore of appealing to social workers and others who believe that prisons can "treat", in particular because it takes the "hard core" out of circulation from the main prison where they are believed, by liberals and conservatives, to contaminate an otherwise

conforming mass. It allows for a programme of correction on rebellious and troublesome minorities to back up the generalised surveillance of the "warehouse". "Prison" is still an institution in which prison staff can do treatment on the refractory "hardened" and difficult "villains" under their control, whom they deem to be in need of special or intensive treatment. That many of these are black (and that prison officers may either be members or sympathisers of movements like the National Front), is a consideration which does not surface in the May Report, or other proponents of prison as a place for "positive custody". Indeed, the actual lived environment of a prison system that is caught in the centre of a containment and an ideological crisis is one of the real silences in contemporary official reports on prison.<sup>40</sup>

In each of these three transformations of prison, in fact, just as in the restructuring of youth control, the language of reform and treatment remains as the dominant theme, qualified only by the recognition that there are offenders who simply need to be out of circulation because they are a danger to the public (a theme which is more evident in discussion of adults than it is with youth). There is a continuing and familiar insistence on the need for some State containment facility where "hard core" offenders can be controlled, linked into a highly elaborated system for the surveillance of the population as a whole. In the case of the adult population, to a much greater extent than in the case of the surveillance of youth, this function is carried out primarily by the police. And it is the restructuring of the police over the last decades which has been amongst the most fundamental expressions of the arrival of the Strong State.

## 5.6 Restructuring Policing, 1962-1980

Contrary, perhaps, to current belief (and certainly to some Conservative

rhetoric) social democrats of the 1940's like Hermann, Mannheim, Laski and others argued for an increase in police power in a reconstructed State. But they did so in the specific sense of wanting to see the expansion of a benevolent form of beat-policing, characterised by the avuncular clip over the ear, but linked also to local authority children's departments, to the extended use of approved schools, Borstals and prisons, as a response to the continuation of juvenile delinquency in the post-war period. They did so also in a period in which, as we said, the police institution was itself affected by a social-democratic prejudice (for equality of material return, and against those who took advantage of unequal opportunity), and in which one of the most admired forms of policing was detective work in the areas of fraud and corruption. And moreover, individual social democrats at the time were alive to the recent experience of the Labour Movement in wanting to see local authority Watch Committees exercise a proper form of liberal-democratic control over the police, especially in their activities in working class areas, and in and around strikes. (cf. Bunyan, 1976, p. 72).<sup>41</sup>

The police institution in Britain in 1981 bears very little resemblance to the democratically accountable institution for the defence of popular interests which was anticipated by some social democratic supporters of the police in the 1940's. The expansion in numbers of police in itself has been rather more marked than social democrats might have envisaged (from an actual "establishment" of 60,190 in England and Wales in 1949, the low point after the war, to an actual establishment of 108,201 in England and Wales in 1977, with a further 5,692 in Northern Ireland and 12,046 in Scotland) (Committee of Inquiry on the Police 1978, Appendix VII).<sup>42</sup> The Thatcher Government announced in its White Paper of November 1979 that the increases in expenditure on "law and order" included an allowance for an increase in the numbers of police officers to 115,500 by March 1981, in England and Wales, with provision for use of the contingency reserve "if this estimate for numbers of

police officers is exceeded". (Guardian, 2 November 1979). The significance of this expansion, which is a little less marked than the expansion in numbers of police in the USA and other western societies.<sup>43</sup> is partly hidden, however, until we add that this expansion has occurred in a period in which the police have relinquished a considerable number of functions in the area of traffic control to traffic wardens (who increased in number from 336 in 1961 to 5,087 in 1977), in administration to civilians (increasing in number from 10,984 in 1960 to 34,119 in 1977), and, most important of all, in the area of the protection and transportation of money and property, to the private security companies, where the "government guess" for 1979 was of an employed population of guards, patrolmen and watchmen of some 100,000.<sup>44</sup> Expenditure on the police in the U.K. increased from £73 million in 1951/2 to £914 million in 1975/6 (out of a total of £1,342 million spent on justice and law). (Social Trends, 1977). In the period from 1961 to 1975, total expenditure on justice and law almost doubled as a proportion of Gross National Product (from 0.8 per cent to 1.5 per cent). This level of increase was accelerated by the advent of the Thatcher Government in May 1979. At the end of the year, Conservative plans for local authority expenditure on "law, order and protective services" (the new official term for justice and law) were for a current expenditure of £1,858 million, and a capital expenditure of £66 million in 1980-1 (a total of £1,924 million) with national expenditure bringing the total "programme expenditure" in this category up to £2,542 million by 1980-1 (as against £2,172 million in 1974-5) (The Government's Expenditure Plans 1980-1981), and an absolute increase of £258 million on the Labour Government expenditure of 1977-8 (in a White Paper which reduced public expenditure overall from 1979-80).

This expansion in the number and financing of police does not clearly reveal the changes that have occurred in the kind of work undertaken by the police in the post war period. As we have already suggested, the police

institution has become a heavily capital-intensive part of the criminal justice system, with a very considerable investment in high level computer and surveillance technology, and, more recently with a significant involvement in armaments, in special vehicles, and in equipment for special task forces. Capital expenditure on the police increased by 33 per cent between 1975-60 and 1978-9 (in contrast to the 7 per cent increase in current expenditure). The development of the technology of policing has occurred in the context of the development of specialist policing (in the form initially of the regional crimes squad, but culminating most recently in the Special Patrol Group), and in a period in which the earlier rhetorical descriptions of the British police as an unarmed, democratically-accountable and therefore consensual, universally acceptable institution have been rendered progressively anachronistic by the changes occurring in the form of policing.<sup>45</sup> According to the Report of the Metropolitan Police in 1979, police in London "asked for and were issued with arms on 6,647 occasions, compared with 5,835 in 1978". (Guardian, 29 February 1980). This compares with the figure of 803 occasions on which police in London were issued with guns in 1973 (1,072 occasions in the UK as a whole). (Bunyan, 1976, p. 93). Bowden concluded his survey of the forms of policing assumed in the "crises" beginning in the late 1960's by observing that "what is generally held to be an unarmed force does have several heavily armed components, with every force having an armed capability." (Bowden, 1978, p. 268).

Whilst the organisational reality underlying the image of the unarmed British "bobby" was undergoing such fundamental transformations, the structure of local control over policing, which even Conservatives on the Royal Commission of 1962 had seen as an essential element in the avoidance of a police state, was increasingly rendered more and more spurious by the ongoing amalgamations of police forces and by the development of crisis forms of policing. As a result of the powers granted by the 1964 Police Act to the

Home Secretary, the number of police forces reduced by 1978 to forty one; and the functions of local police authorities vis-a-vis the larger police forces restricted to the actual appointment of the Chief Constable and the maintenance of an "adequate" and "properly equipped force". Matters of policing policy, function and strategy were centralised in the nexus of the Chief Constables and the Home Office. The form of local police practice has come, in other words, increasingly to be dictated by the State.

At the same time, the traditional "consensual" functions of the police force (community peace-keeping and crime detection) have progressively been replaced as the primary police function.<sup>46</sup> The maintenance of "law and order" has become the rhetorical device for describing the increasing involvement of the police in the control of marginal populations and of real or imaginary political threats to the State. By far the most significant changes in the internal divisions of labour within the enlarged police forces have been in the direction of strengthening the capability of the police in "pre-emptive intelligence gathering" and in the control of demonstrations, strikes and "public order" in the street generally. In May 1978, the Home Secretary revealed that there was a total of 1,259 police officers in the Special Branch in England and Wales;<sup>47</sup> and, also for the first time, Chief Constables in their annual reports were encouraged, or allowed, to provide accounts of the work in the Branch within their areas. The brief of the Branch was reported, by the Home Secretary, to have been widened to include the "monitoring" of "subversive" activities, or in other words, activities "which threaten the safety or wellbeing of the State, and are intended to undermine or overthrow parliamentary democracy by political, industrial or violent means." (Mr. Merlyn Rees, Hansard, 6 April 1978).

The emergence of the Special Branch as a legitimate, public and conventional form of policing appears to have been allowed by the parallel

development of even more controversial ways of policing the crisis during the 1970's. The Special Patrol Groups, which now exist in twenty four of the 52 police authorities in the UK, have been engaged since 1972 in the monitoring of demonstrations "at which militants were thought likely to cause disorder", in the overseeing of "protracted industrial disputes involving dockers and building workers" and in random stop-and-searches of pedestrians and cars under the 1839 Metropolitan Police Act. (Report of the Commissioner of the Metropolitan Police, 1972). In 1976, some 60,898 "stops" were made, and 3,773 arrests (overall figures for stops have not been published since 1976). The murder of Blair Peach in Southall in 1979 is one of the most publicised of the instances of SPG actions in "public order situations" (what the police themselves call "fire brigade policing"), but the SPG of the Metropolitan Police was also involved in the shooting of two young Pakistanis at the Indian High Commission in 1973, and in the police actions in Red Lion Square demonstration against the National Front of 1974 (at which Kevin Gateley died). Extensive calls for the disbandment of the SPG have been made in the aftermath of these events, even by centre social-democratic bodies like the TUC, but these have been rejected even in the liberal press, like the Guardian, on the grounds that the SPG's are "a bid to keep the Army off Britain's streets." (16 June 1979).

The development of the SPG is an expression of what can be called "deep end" policing, whereby the police can swamp an area with a "snatch squad" (as at Southall), or as a deterrent force in a campaign against particular crimes. In the years leading up to the events of the summer of 1981, the latter strategy appears to have been activated in the use of the "sus" law to harass and arrest young blacks in areas like Brixton on suspicion of pickpocketing and/or mugging and also in the targeting of restaurants used by the black population as places in which cannabis and other drugs are suspected, along with "after-hours" drinking.<sup>48</sup> We will discuss the impact of such



policing in relation to the 1981 riots in Chapter Six. Policing of this kind would appear to be in contradiction with the current reactivation of "community policing" as the desirable form of "shallow-end policing". Mindful of the experience of Southall, in 1979 which had resulted in enacting local black groups a policy of non-cooperation even with the local police force, the Guardian notes that

"A police force which has been trying to build up its links with a community is always under threat from a unit, which can be called into its territory in an emergency and then move out again."

(Guardian, editorial, 25 July 1980).

For the Guardian, and apparently for the Home Secretary, the "need" for a "mobile reserve" is firmly established: what is required is the decentralisation of the reserve to the level of the local police division, in order that the use of such coercion can be integrated into the use of a community control strategy in each locality. This decentralisation (announced in the press on 11 March 1980), along with measures to introduce much firmer supervision within the SPG's over the use of weapons, should serve to allay any fears. "Mobile reserve" policing and "deep end policing" generally are seen to be a contemporary fact of life (in the aftermath of the Grunwick demonstrations of November 1977, the break up of the National Front march by the Left in Lewisham in August 1977, and the mass sit-down of Asian anti-Nazi demonstrators in Southall in March 1979); but the hope is entertained in liberal circles that no fundamental transformation in policing has occurred or needs to occur. The belief is that "consensual" policing is still possible; and that therefore support for the police, as currently organised, is in everyone's interest.

Insofar as liberals recognise a problem in this perspective, it is "corruption". "Corruption" of various kinds in the police force has been a

"public issue" since June 1964 when Detective Sergeant Challenor was found "unfit to plead" to charges of perverting the course of justice (on twenty four separate occasions, all at the West End Central Police Station) by planting evidence on demonstrators protesting against the visit to London of Queen Frederika of Greece in 1963. Public anxieties were also activated by revelations that members of the Sheffield City Police, also in 1963, had been using "rhino whips" on four men in their custody. It is now admitted also that rumours of corruption by police officers were circulating widely, and being investigated and confirmed by the Home Office and the Times newspaper.<sup>49</sup> Beginning in 1969, these rumours were to result in three major enquiries into the Metropolitan Police, one of which was provoked by further allegations about the planting of evidence; and in 1972 Robert Mark was brought in from outside the Metropolitan Police, as the new Commissioner, with a brief to "clean up the Met". (cf. Cox, Shirley and Short, 1977). Several hundred officers have since left the Met of their own accord or have been subjected to discipline and, in some cases, public trial. But in 1978, further allegations of corruption led to the establishment of the "biggest investigation into police malpractice ever undertaken in Britain", "Operation Countryman", with 80 police officers working full time on allegations concerning the Metropolitan and City of London forces. By early 1980, it was apparent that Operation Countryman was encountering very heavy opposition within these forces in the refusal by the police to pass information to investigating officers, and the Sunday Times spoke of the need for "inner city" police methods (rather than "rural" procedures) in rooting out the "police cancer". (13 April, 1980).

Paralleling the growth of suspicions of corruption has been a concern over the use of violence by police. The "rhino-whip" allegations in Sheffield in 1963 were widely spoken of by policemen locally as methods the villains understood. In 1973, two detectives of the West Yorkshire Constabulary were

eventually brought to trial for the manslaughter of a Nigerian vagrant, David Oluwale, and in the trial it was revealed that Mr. Oluwale had been the target of constant harassment by police. In 1977, in the first of a series of similar incidents, Liddle Towers died during an arrest by police in Birtley, Co. Durham and in 1979 in Huyton, Liverpool, Jimmy Kelly died in the custody of a police station (itself the target of many other popular complaints locally). Questioning in the Commons by Mr. Michael Meacher, M.P. resulted in the official admission that 274 people had died in police custody between 1970 and 1979, and in the establishment of a House of Commons Select Committee to investigate these deaths.<sup>50</sup> "Moderate" Members of Parliament have called for random visits to police stations by new supervisory or investigatory bodies and even the Society for Conservative Lawyers, in its evidence to the Royal Commission on Criminal Procedure, has suggested that all interviews by police should be recorded. The "police cancer" is a matter for anxiety in these liberal accounts, but continually the explanation given of police "malpractice" is that it is exceptional and that it is carried out only by individual "bad apples" in the force. It is controllable, albeit with difficulty (the police must not be subjected to too many controls on their action and discretion): the police are an executive power and not a political power in themselves.

The liberal account of contemporary policing is silent on the two issues of accountability and police politicisation.

On the question of police accountability, a reminder is essential. The emergence of a police force in England in the early nineteenth century was fear of centralised State police that had been established by the revolutionary forces in France. Mass demonstrations occurred in 1830 against the establishment of Robert Peel's "blue locusts" in London, and again in 1833; and also in northern cities throughout the 1840's.

"In the cry, 'No standing Armies', there resonated an echo of the 18th century commonwealth and country party comparison between 'continental despotism' (meaning standing armies, police spies, lettres de cachet and Bastilles) and 'English liberty' meaning rule of law, balanced constitution, unpaid constables and local justices of the peace". (Ignatieff, 1979, p. 443).

The opposition to the "New Police" rested on a mixture of feudal and democratic sentiment:

"The idea of a bureaucratic central force also offended against a tradition which held that social control should be a private, local and voluntary matter, best left to the master of the household, the parish beadle, and the J.P. A 'paid police', no longer responsible to the community, would set servant spying on master and master denouncing servant. In this rhetoric, there is resistance to something we now take for granted - the right of the State to interfere in the disputes of the household." (Ibid.)

Middle class acceptance of a paid police force was only won on the establishment of the local Watch Committees in the Municipal Corporations Act of 1835, and also of course by the effective use of police against vagabonds and footpads, and also against individual radicals and groups. (cf. Bunyan, 1976, p. 63). A similar acceptance of the form and content of policing has never been achieved in working class areas of large British cities, except in the recent context of particular panics about hooliganism or political and racial violence given publicity in local and national mass media, and what Phil Cohen calls "urban pacification" has historically involved the police conceding whole areas of the city to local popular control. (P. Cohen, 1979). The policing of these parts of the city was undertaken, in particular, by the "heads" of working-class family and kinship networks.

The Watch Committees of the 1835 Act were the institutions through which members of the local gentry and middle class ensured that police activities

in defence of Property and Persons were not allowed to infringe on the liberty of the free-born (bourgeois) Englishman. But the watch committees were of some importance, therefore, in the control of a policy activity generally. As local police forces developed a sense of their own national significance, however, they began to look to London (to Scotland Yard and to the Home Office) for the measure and control of their activities, and by the 1930's Chief Constables increasingly saw themselves as the local representatives of the Home Office and therefore of the national State. Thus, as Tony Bunyan has observed, accountability was centralised

"during the same period that the majority of the working class were given the vote and Labour Party councillors were beginning to form the majority party on councils."  
(Bunyan, 1976, p. 72).

Any significance that the watch Committees might have had as an arena in which democratically-elected local representatives could dictate the nature of the police task locally was lost in the aftermath of the Royal Commission of 1962. Following on from the recommendations of the Commission, a substantial programme of amalgamation was undertaken, and the number of police forces in England and Wales reduced from 117 to 49 (subsequent reorganisation has reduced this further to 43). The old watch committees were named police authorities, on which would sit nominated representatives of local councils within police authority areas and also magistrates. Bunyan notes that

"The police authority was to receive an annual report from the Chief Constable and its function was to be limited to the provision of adequate staff, accommodation and equipment (thus excluding discussion of policy and practice)."  
(Bunyan, 1976, pp. 72-73).

Thus, the discussion of "public order legislation" that occurred in 1979 and 1980 in the aftermath of the demonstrations against the National Front in Southall and Leicester was almost entirely articulated around the respective powers and responsibilities of the Home Secretary as against local Chief Constables, with little reference to the role of the police authorities. In February 1980, the Association of Chief Police Officers presented evidence to the Parliamentary Home Affairs Committee investigating public order law and their submission almost "naturally" argued for removing local authorities from decisions on demonstrations and meetings altogether: the decision to allow any such demonstration should be left to Police Chiefs and the Home Office, acting together.

"Public order" had become one of many areas of massive political significance which had been translated into a "technical" area of police discretion (a State matter), free from the troublesome interference of party political or local community representatives. Defenders of this corporatist conception of police, like John Alderson, Chief Constable of Devon and Cornwall, would no doubt argue that the local Chief Constable would have to take local opinion into account in making his discretionary decisions. But in 1979 there were several instances of police forces acting in defiance of the local police authority. Prophetically, Councillor Mrs. Margaret Simey, the Chairman of the Merseyside police committee, was reported as saying that she (and her constituents) "were simply appalled by the lack of democratic scrutiny of what the (Merseyside police) do" (Observer, 21 October 1979),<sup>51</sup> and, just one month later, members of the West Riding Police Authority heard for the first time about a report from their Chief Constable (on the Ripper hunt) involving significant public expenditure, in the press. (Guardian, 28 November 1979). Early in 1980, Granada Television released a programme on policing in the North West of England, in which there was substantial evidence of the police being in constant confrontation with their

own communities (especially in areas of heavy black settlement), rather than acting in response to them; and in July 1980 several black people's national organisations declared themselves for a general policy of non-cooperation with the police. In black areas and in traditionally "difficult" housing estate areas alike, the democratic influence of the local people was minimal, and the ability of the local people to give a direction to police activity as such almost non-existent. Partly this had to do with the logic attaching to police ideology itself. One function of the increase in reduction in the numbers (and increase in power) of Chief Constables subsequent to amalgamation has been a massive increase in the visibility and legitimacy of the Police Chiefs as public commentators and protagonists on moral and social order. The entry of the Chiefs into public debate began with the appointment of Robert Mark as Metropolitan Commissioner, who used the media to very considerable effect. Singlehanded, he transformed the relation of the police to the State to one in which the police advised the State to one in which the police very often spoke as or for the State.<sup>52</sup> Subsequent to Mark, media coverage of "law and order", "public order", strikes and picketing, "crime", welfare, and even religion and personal morality nearly always involves a Police Chief speaking as an expert and Authority, whether he be of the liberal "community policing" persuasion (Alderson) or of the straightforwardly moralist and authoritarian persuasion (James Anderton, Chief Constable of Greater Manchester). (cf. Kettle, 1980). So far from the form and content of policing remaining subordinate to "the consensus", in other words, Police Chiefs (and also the Police Federation) were at the forefront of the attempt to reconstruct the character of the alleged consensus. In Anderton's case, the targets were :

"social nonconformists, malingerers, idlers, parasites, spongers, frauds, cheats and unrepentant criminals."  
(quoted in Kettle, 1980, p. 43).

He was also

"shattered by the double standards and hypocrisy in public life, among politicians and other public figures. They are wavering when strong, reassuring voices are needed."  
(Ibid. pp. 43-44).

Sir Robert Mark, with a reputation as a liberal, in the meantime, showed his hand in an attack on the trade unions and on "Socialist philosophy" published in the Security Gazette at the time of the 1979 Election; and after 1979, other Chiefs, like Barry Hain of Kent and Alan Goodson of Leicester, followed Mark in arguing a strongly authoritarian line in the guise of the balanced judgement of the "expert". And from 1975 onwards, the Police Federation, representing rank-and-file policemen, has been involved in what it sees as a "law and order campaign" "to harness the public's growing concern about the state of crime and public order into a programme for positive action" (quoted in Kettle, 1980a, p. 28).

The specific proposals emanating from the Police for such "positive action" have revolved around their support for the magistrates' campaigns against the 1969 Act (which the Federation wants repealed), support for the reintroduction of the death penalty, and proposals made for particular items of legal "reform". Robert Mark campaigned against the suspect's right to remain silent and against other rules of evidence in criminal procedure by reference to the rates of acquittal in court; and he was apparently successful in persuading the Criminal Law Revision Committee of his views. Sir David McNee has taken this further in his evidence to the existing Royal Commission on Criminal Procedure in arguing that failure to answer police questions should be taken by the Court to suggest that a suspect's evidence "may be less likely to be believed." (see Kettle, 1980).



The specific proposals are underpinned, however, by a less well-focussed and almost hysterical demand for public support and the restoration of police legitimacy. The Political Editor of the Sunday Times, Hugo Young, no known enemy of the established State form, observed in 1980:

"Let anyone (other than police themselves) - above all a Labour politician - begin to probe, or any branch of the media depict the police in less than glowing terms, and a ferocious whingeing begins. Police leaders, abetted by the right-wing press, see a 'campaign' of 'smears' and portray the force as defenceless against a conspiracy to erode one of the pillars of society."  
("The Case of the Whingeing Policemen" Sunday Times 20 April, 1980).

The rapid development of police authoritarianism, so far from being a product of any loss of power, is in part a product of the increasing distance of the police from "society" and a movement away from its earlier, heavily negotiated relationships with both the middle class and working class community, occasioned by the increasing power of police technology and capitalisation. The police have tended increasingly to relate to society through computerised files (checking up on people through the files, or using encounters with the citizenry as occasions on which to improve the files), and therefore to think in terms of society as composed of "computer profiles" (as well as of the stereotypical criminals depicted in the media). Less and less time is spent in interaction with "real people", and less and less time therefore is available to penetrate the world "described" in these profiles and stereotypes.

This distancing is also accelerated by a real decomposition in the communities which are to be policed, as well as by a real polarisation of the Left and Right, and of Capital and Labour, commencing in the late 1960's. Nearly all informed accounts of contemporary policing date the real transformation of consensual forms of policing as beginning in the aftermath of the major left-

wing demonstrations in London 1967 and 1968, and in particular the Grosvenor Square demonstration of the Vietnam Solidarity Campaign of March 1968, when the police lines were only just sufficient to protect the American Embassy from crowd attack. A second major watershed was the defeat of the police by pickets organised by the Yorkshire NUM during the Miners Strike of 1974, at the Saltley Depot in Birmingham.

And policing has become more authoritarian also because some of the behaviours of the under-class have become more nihilistic, anti-social and violent. The "mugging" epidemic was an ideological construction, but it had a basis in the growth of street crime as a form of anti-White politics amongst young blacks. Football hooliganism has taken on more violent (sometimes explicitly racist) forms, especially in South East London and on tube trains and buses in the Metropolitan area. (Taylor, 1979b). Knowledgeable reports of violence in pubs and in New Wave dances and discos (which are not subject to much reportage in the mass media, and are not therefore "amplified") speak of the parasitism of British Movement youth groups and nihilistic violence by Skinheads. (cf. inter alia Brazil, 1979a, 1979b). Statistics for crimes of violence in England and Wales increased by 6 per cent annually in the late 1970's, even when, as in 1978 and 1979, overall rate of crime decreased by 3 per cent. The policing of the black and white underclass on the margins of the reserve army took on a genuinely more perilous character, and one which seemed unlikely to be moderated by continuing racial and social conflicts, by massive increases in unemployment and by a telling collapse in popular optimism about the patterns of social order.

So the changes in police practice are intelligible, along with the restructuring of adult and youth control, as a reorganisation which allows the police to "snatch" and arrest those who are thought (by the police) to be the most dangerous and the most subversive individuals (especially in public

order situations) whilst also developing the capacity for effectively and continually surveilling the rest of the population. Some of these individuals may indeed be dangerous and interpersonally violent (like skinheads affiliated to the racist Right), but they are grouped together by the police with others (like young blacks in general, youth, militants, gays and feminists etc.) who are only "dangerous" in ideology. But their dangerousness can nonetheless be established in court or in inquests (for example, that they were "suspicious" under the meanings of the vagrancy legislation, or that a "riotous" situation existed when the SPG moved into Southall). The ideological distance between police suspicion and real social relations is constantly being bridged in the criminal courts and in other "legal" arenas, and the police definition of events thus confirmed. And as observers of the mass media have noted, this definition can then be appropriated uncritically by television news programmes, documentary programmes and, especially, in election debates on law and order. (Clarke and Taylor 1980a, Hall 1980).

This is a process in which the police have real ideological power. So far from being the defenceless Robin Hood's of Police Federation and ACPO releases, the police are

"uncommonly privileged. The first executive act of this government was to speed up a 40 per cent pay rise for them. In court witnesses, they are almost invariably given the benefit of the magistrate's doubt. In the dock as accused, they often receive the same advantage from juries.

With the media, too, they enjoy certain benefits. No group has more insistently asserted its right to challenge television programmes it does not like. On radio and in the press the coarse rebuttals of the Police Federation - a body, incidentally, with more explicit representation than any equivalent organisation - get more than their share of attention.

From top to bottom, in short, the police have formed themselves into a very effective interest-group, lobbying for their reputation and for their view of society - and they are crucially fortified by a body politic which accepts this logic."  
(Young, 1980).

It was not so much a question in 1980 of Britain becoming a "police State". The police were not "in control" of the fundamental institutions of political and social power nor were they about to win such control, and there were real constraints on the police's power in a wide variety of their activities. Not the least of these constraints is the fact that the police do occasionally have to answer to local or national representatives of "social democracy" for their actions, notably to the local Labour Party and/or trade union movements in their representations on local councils.

But the police are an increasingly influential and powerful element in the State itself both in numerical, fiscal, and in ideological terms. The official "establishment" of the police is at its highest ever, at twice its 1945 figure, despite a considerable loss of traffic functions and an increase in the use of civilians for office work; and police pay has quietly been "inflation-proofed". Police Chiefs and the Secretary of the Police Federation are regularly "accessed" spokesmen for the State on mass media discussions of issues ranging from public order to industrial relations; and police wisdom is increasingly legitimated as the best means for doing social work, race relations work and crime control. A certain deference to police power and wisdom has become noticeable in other parts of the State apparatus in the recent period, in the introduction of police officers into schools, in citizenship courses and the like, and in the creation of "court team" specialists in the Probation Service and in social service departments to liaise with police during court cases.

In part, the present strength of the police as a part of the strong State arises out of the support given to the police as peace-keepers and as crime fighters within "social democracy" itself: it is no mere ruling class imposition. The lack of accountability of the police, like the lack of responsiveness of the State as a whole, is also in part an expression of the support given by social democrats to the advance of the State in itself as a means of resolving problems in civil society. It is that "authoritarian State" which, as we have seen, is now being appropriated and used for very different political purposes by the "authoritarian populists" of the Right.

CHAPTER FIVE

Footnotes:

1. The notion of regional ideology is that of Louis Althusser, as a contrast to "global" ideological formations (like "bourgeois ideology" as such). (cf. Althusser, 1971). We are aware that the arguments advanced about the relationship of ideology to Capital in this thesis are much less systematically formulated than in Althusser and in the 'scientific' theories of ideology his work has since inspired.
2. An important qualification is required to any presentation of statistics on growth in public expenditure. Distinction must always be made between resource expenditure (which is expenditure which consumes labour, energy, buildings and other "real" inputs), and transfer expenditure (which comprises items like welfare benefits, pensions, etc.), and which is simply money-spending power transferred from one part of the economy to another (from the military to transportation or old age pensions, for example). Transfer expenditure has no impact on the resources that are available to Government, except (indirectly) insofar as by transferring spending power to other groups (e.g. the aged or the ill) it creates a resource (e.g. the increasing ability to work) which was not there before.
3. In Britain, expenditure on all the social services increased from £3,710 million in 1958 to £9,256 million in 1968 (an increase, in real terms, of 191 per cent).
4. For example, the number of elderly people increased, officially, from 6,850,000 in 1951 (13.6 per cent of the population) to 8,898,000 in 1971 (16 per cent of the population). (P. Hall, 1976, p. 8). This increase occurred at a time of decline in the number of extended families and other informal arrangements for caring.
5. We are aware that the high cost of health care is explained by the Right in terms of there being no financial cost to the consumer of medical attention and in terms of there being no absolute, final state of health. This ideological interpretation is premised on the belief that the health services have a financial problem because they are widely used, rather than because they are under-financed in terms of the real needs of the society.
6. We will see in Chapter Six that this process centrally involved a variety of "quasi-illegal" activities.
7. The paradox is that clients and the workers of the bureaucratic, discretionary and un-reciprocal welfare state are both potential recruits for such a radical, anti-state populism.

8. The Children and Young Persons Act of 1963 placed the responsibility on local authorities to intervene into families where there was a suspicion of material (and emotional) neglect. Thousands of children had been referred (in the 1960's) to children's departments (234,000 in 1966-7) for various kinds of help, a significant proportion provided with help of a material kind (133,000 in 1967), and one eighth of those children referred (46,000 in 1967) were actually taken formally into the care of the local authority. (Packman, 1975, p. 69). Subsequent to the establishment of the "Seebom" local authority social services department in 1970 and the enactment of the CYPA of 1969, these figures rose further. There were 91,300 children actually in the care of local authorities by 1974, as compared with 83,700 in 1971. (Health and Social Service Statistics for England and Wales 1975 Table 7.13).
9. We have already referenced the increase in expenditure on child care and local welfare services between 1952 and 1968 (of 180 per cent). By 1971/2, nearly £118 million was being spent on the child care services (out of a total expenditure on the personal social services of £243 million) (Klein 1974, p. 39) - an average increase annually since 1968 of about 9.9 per cent.
10. Ian Gough indicates that the total number of elderly people (aged 60 or 65 and over) in Britain has increased by 41 per cent since 1941. He calculates that overall the "population effect" has increased the costs of the NHS by 10 per cent, of the personal services by 20 per cent and the education system by 27 per cent in the period from 1965 to 1975. (Gough, 1979, p. 86, and Table 5.2).
11. Even in financial years before the advent of "the crisis", the cost of providing State benefits for the unemployed was significant. By 1975, such "unemployment compensation" was costing 0.4 per cent of GDP in Britain (as against 0.5 per cent in U.S., 1.2 per cent in Germany and 2.0 per cent in Canada). By 1977, with under 19 year olds making up about 31 per cent of the unemployed in Britain, the Labour Government's schemes for providing introduction to "working life" and its "disciplines" for young people had cost over £900 million over the previous two years. (Gough, 1979, p. 137). The "manpower measures" were already costing an additional 0.5 per cent of GDP in 1975, and the figures were increasing. (OECD 1978, p. 76).
12. The notion of the clientele being "conscripted" is that of Edgar Friedenber, who observes that the provision of public services to those designated to be in need is actually involuntary: the client is not presented with "an opportunity to reject the service". The service, nonetheless, "consists of activities which provide no satisfaction to, and may be intended to humiliate, coerce or destroy, those who are most affected by them". (Friedenberg, 1976, p. 1).
13. The PSBR in Britain fell to 9 per cent of GNP in 1976, and was further reduced to 4 per cent in 1977. At £5.9 billion in 1978, the PSBR was 5.2 per cent of a GDP of £115.5 billion.

14. The abolition of the approved school did not occur without skirmish, but the case put by its defendents was not helped by the decline in the schools' success rates (by 1967 only 34 per cent of approved schools boys had not reconvicted within two years of leaving, as against 51 per cent in 1956, and 60 per cent in 1938 (PSSC, 1977, p. 12); and by the Enquiry into the excessive punishment administered on young offenders at Court Lees Approved School, which reported the year before Children in Trouble. (Home Office, 1967). In addition, the tendency of the approved school to follow the tradition of its founding institution, the industrial school, and to restrict its treatment to training in particular skills was coming under criticism from critics in the treatment establishment for being restrictive and relatively untherapeutic.
15. By 1977, Intermediate Treatment was in receipt of quite substantial funding. A local Authority circular was issued in January 1977 announcing that "money can be spent on intermediate treatment for children in care, children thought to be at risk of getting into trouble and those under supervision who express a willingness to take part" (PSSC, 1977, p. 17). Mike Nellis observes that "1977 was undoubtedly the year of intermediate treatment, at least in terms of the written material on the subject" but also in the financial appropriations being made by the national Government. (Nellis, 1978).
16. The original intentions of the 1969 Act were that the maximum age for the use of compulsory care proceedings (under Section 4) should be 14, but that even in the case of 14 to 17 year olds, care proceedings were to be preferred. Criminal proceedings ought to be a poor third to care proceedings and 'voluntary agreements'. However, the Conservative Government statement of 1970 indicated that the Government would never place any restriction on the use of criminal proceedings with 14 year olds or above, and stated that it would only implement Section 4 (making care proceedings compulsory) for those up to 12.
17. "Certificates of unruliness" are usually issued by the courts "at the request or with the acquiescence" of local authority social service departments, "chiefly on the grounds that suitable local authority accommodation is not available" for particular young people. Until recently, all children dealt with in this way were sent into prison department establishments, mainly to remand centres (but in some cases to prison). In 1974, 5,135 children were dealt with in this way. The growth of secure accommodation in community homes have been justified, in part, as an attempt to limit the placing of young people in prison or in prison-like establishments. (cf. Howard League, 1977).
18. This expansion in the use of the maladjusted category will clearly have followed the expansion in the number of homes and schools for maladjusted children. In other words, the labelling process will have had as much to do with the size of the State provision as with actual behaviour. It is not there were no difficult children in conventional secondary modern schools prior to this expansion: it is that they were dealt with (and understood) very differently and that little thought was given to the possibility of "medicalising" them.



19. Community service orders were in our view a conception of real rather than Butskellite Conservatism, in the overt equation of the idea of "doing service" (in a class society) with the building of moral character. Along with the real returns to victims of crime as reparation, community service was a process in which offenders ought to recognise the beneficial benign character of existing social arrangements. However unequal the distribution of property and power, it was a free and equal contract.
20. 1954 was the year in which the numbers resident in mental hospital peaked at 148,000, or 3.5 individuals for every 10,000 people in England and Wales (Scull, 1977, p. 65).
21. Cohen's interpretation of the increasing use of "community-control" is implicitly a critique of more conventional accounts of this, and other forms, of "decarceration", and in particular those which see these "alternatives" as cheaper, and therefore, a response to the "fiscal crisis of the State". Malcolm Dean's evaluation of the 1969 Act a decade after its enactment is a good example of this kind of argument.

"More juvenile offenders are being placed in penal institutions than occurred ten years ago. Both the number sent to Borstal and the number sent to detention centres have doubled in the last decade. In addition to these 7,700 juvenile offenders - 2,000 in Borstal and 5,700 in detention centres - another 7,000 are in community homes.

The juveniles in Borstal and detention centres will cost about £15 millions this year. The offenders in community homes are about twice as expensive. On top of this there are the expensive new secure units being built for local authorities. Over 200 are already open with 400 in the pipeline for 1980.\* Grants of over £5 millions have been made to pay for their cost.

Yet for all this expenditure - say £50 millions a year - little progress is being made. Eight out of every ten boys leaving Borstal are reconvicted within two years. Seven out of every ten juveniles leaving detention centres are similarly reconvicted."  
(M. Dean, 1979).

As a result, any Government must for fiscal reasons "tempt the 100 or more reluctant local authorities to make more use of community schemes and less use of institutions" (Ibid.). They must also ensure that the Residential Care Order, which was due to replace the care proceeding of the 1969 Act, would be determinate (and outside the discretion of social workers), so reducing the amount of time that will be spent by the juvenile in costly institutional care.

There are several reasons for doubting this fiscal interpretation. Most obviously of all, the State's crisis is not bringing about any reduction in law and order expenditure generally, and, as we have seen in this chapter, Intermediate Treatment has been brought by the Conservative Government into the ambit of this particular category of expenditure.

Secondly, Governments must be aware that "community treatments" are not necessarily cheaper than institutions. The Home Office-financed National Association for the Care and Resettlement of Offenders made this point quite strongly in its Report on Children and Young Persons in Custody, produced in 1977. Data on the clearest experiment in decarceration, in the State of Massachusetts, which closed all its youthful institutions in 1969, would suggest that the cost per head of young people involved in their 'alternative' programmes are no less than the cost of institutional programmes.

The third reason for scepticism about Malcolm Dean's liberal account is its literal interrelation of the functions of juvenile justice. Like the Younger Report and like proponents of Intermediate Treatment, Dean berates the low success rates of Borstal and Detention Centres as if these were intended primarily to be rehabilitative institutions. In other words, Dean accepts the State's own account as to the functions of its youth control system, and completely fails to relate the changes taking place within that system to the changed set of problems in civil society (unemployment, race conflict, crises of legitimacy, etc.) that are currently confronting the State. Malcolm Dean fails to see that the systems of community control are now operating in parallel to other institutions, with social workers acting as agents of surveillance in the community generally and as controllers of the hard core in institutions specifically, but focussing overall on the reserve armies of unemployed youth.

22. Sections 1 and 2 of the 194 Act are still the basic instruments used by many local authorities in exercising control over children in their care. Section 1 assigned local authorities the duty to provide care for children, where the parents were unable to provide "proper accommodation, maintenance and upbringing" by reason of sickness, incapacity or "any other circumstances", and intervention was deemed to be necessary to the "welfare" of the child. Under Section 2, however, the local authority could assume parental rights over a child (if the parents were dead, or appointed no guardian, if they abandoned the child or suffered some permanent disability which prevented them from caring for the child, or if they were of "such habits or mode of life as to be unfit to have care of the child". This last condition is obviously the most subjective, but it is also the most commonly used in court, the evidence of parental unfittedness being the behaviour of the child), as local authorities try to gain more control over a particular child by a claim for "a section 2".
23. I discuss Lerman's work, and other critiques of social work "discretion" in juvenile justice in some detail, in Taylor 1978, pp.66-8. The Californian programmes studied by Lerman were very similar in conception to intermediate treatment (in content, practice and in the manner of their funding). The fact that the offenders were "in the community", with the social worker under pressure to prove the effectiveness of his or her supervision to his audience (as well as to his or her supervisors) meant that the social workers came increasingly to use some form of sanction to cement their supervisory relationship. Increasingly, the sanction demanded by social workers was institutional (so that an offender who did not adhere to the informal appearance of rules of the relationship could be reminded of the formal reality of those rules). In one of the projects Lerman investigated, the Community Treatment Project in Sacramento, juveniles released by the court into the community, actually spent as much time in institutions as those committed by the same courts directly into institutions.

24. The case for the Supervision and Control Order was made by the Younger Committee, like the case for Intermediate Treatment by senior social workers in the DHSS, on the basis of an antagonism to institutional confinement. Specifically, the Younger Committee was concerned that institutions "do not work" (i.e. in preventing reconviction).
25. Despite receiving a lukewarm reception from the police and the magistracy and considerable criticism from liberal and radical elements in the Probation Service (who felt that their relationship with clients should not have to be underpinned so overtly by coercive powers) (cf. Beaumont et al 1975), the Younger Report was adopted by the Callaghan Government as official policy, to be acted on when funds allowed.
26. There are indications in 1981 that some new Intermediate Treatment programmes are being oriented towards "deep end" offenders (a bifurcation within the I.T. segment of the continuum).
27. The "average inmate population" (the number of people over 14 in prisons, borstals and detention centres) rose from 19,941 males in 1956 (120 per 100,000 of the over 14 population) to 38,673 (213 per 100,000) in 1971. For females there was a decline from 866 (4.8 per 100,000) in 1956 to 841 in 1971 (4.5 per 100,000). In recent Reports of the Prison Department, the calculations of the "average inmate population" as a proportion of the over-14 population do not appear.
28. Tony Bottoms points out that the post-war increase in rates of imprisonment has not been as rapid as the increase in crime rate; in that sense, imprisonment may be said to have declined in proportionate significance as a form of punishment for indictable offences. (Bottoms, 1980, p. 5). 13.4 per cent of people found guilty of indictable offences were imprisoned in 1975 as against 32.8 per cent to 55.3 per cent. In addition the use of suspended sentences (10.1 per cent of committals in 1975) and community service orders (8.6 per cent) has become a major element in the "battery" of court dispositions.
29. This contradicts the statement taken by Fitzgerald and Sim from Prisons and the Prisoner, the Home Office publication of 1977, that "the majority of British prisons were built in the nineteenth century". (Fitzgerald and Sim, 1979, p. 15). It is probably true that the majority of prisoners are housed in the big, local prisons which were built in the nineteenth century; but the smaller specialised prisons (like Coldingly or the new Lancashire prison, opened in 1979) are in the majority so far as the individual units are concerned.
30. The MUFTI squads are groups of prison officers who have been trained in the "Minimum Use of Force Tactical Intervention". Training of prison officers in "intervention" began in the aftermath of the "riot" at Hull Prison in 1976, as a means of quelling disturbances before they escalated into attacks on the physical fabric of the prison building and into attacks on prison officers. (The Hull riot had cost the State £¼ million, in order to rebuild the prison). The MUFTI squad for the South East Region's prisons was put into action on 31 August 1979 at Wormwood Scrubs Prison, with at least 52 prisoners being hurt, and the prison hospital running out of supplies to treat the wounds sustained. In March 1980, after a sustained campaign by lawyers, families and relatives and PROP, the Home Secretary finally admitted that there was a prima facie evidence of criminal assault by the MUFTI squad; whilst also asserting that the squad's intervention had been "fully justified."  
(cf. Anna Coote "Wormwood Scrubs Cover-Up" New Statesman 2534 (12 October 1979), pp. 536-7; and "Gritty Origins of a Prison Uprising" Sunday Times 2 March 1980).

31. The text in question is the first edition of Fitzgerald and Sim's British Prisons published in 1979 but now unobtainable in bookshops as a result of writs issued by the Prison Medical Services, for its use of quotations from newspaper reports on the use of drug treatments in prison.
32. "Humane containment" was proposed by King and Morgan as a sensible goal to which prisons could be expected (by the Home Office Prison Department) to aspire. It is, for them, a realistic way of facing up to the obvious collapse of the rehabilitative pretensions contained in Rule One of the Prison Rules. But it also had the specific advantage of being a principled goal, already accepted by the U.S. Commission on Criminal Justice Standards and Goals in 1973, by which it becomes possible to assess the extent to which prison systems are successful, efficient and also (by implication) just. (King and Morgan, 1979, para. 131).
33. Only a very small proportion (about 5 per cent) of the increase in the use of life imprisonment sentences by the judiciary can be attributed to the 1957 Homicide Act and its restriction of capital punishment. "For although 'life' is now the mandatory penalty for murder, a check on the annual number of executions taking place before the 1957...Act suggests that in the average year only about 2 or 4 of our present lifers would previously have been executed. In other words, as a result of the 1957 Act our penal system is now coping with approximately 60 more 'lifers'." (Cohen and Taylor, 1980, introduction). The total numbers of lifers increased by 1,152 over the period.
34. The length of the original sentence was confirmed, on appeal, by Lord Chief Justice Widgery on the grounds (originally devised by Mr. Justice James, in an earlier application) that since "the court was quite ignorant of...his motivation....the only date when it could be said with any confidence that he should have fully matured and rid himself of whatever personality defect that caused the activity was when he would reach his early thirties and 'this particular tendency has burnt out'." (Times Law Report 28 June 1973).
35. Further evidence of the ideological distance between Thatcherite and reformist Conservatives on the law and order question was provided in the statement of the Vice-Chairman of the All-Party Group, John Wheeler, Conservative MP for Paddington. For Mr. Wheeler, shorter sentences would be 'enlightened self-interest'. The most important "need (is) to encourage ways of preventing crime at source, since this obviously prevents the whole complicated saga of police, courts and social services from being brought into play." (Guardian, 26 June 1980). Hardly the rhetoric of the Barrier of Steel speech of Mr. Wheeler's party leader.
36. On the same day, 25 June, MP's in the Penal Affairs Group recommended the abolition of custodial sentences for a series of offences including "sus", prostitution, drunkenness, and possession of cannabis. (Guardian, 26 June 1980). Major "abolition" demands were being forced by the "crisis of containment".

37. The use of the 1959 Mental Health Act in order to remove prisoners to psychiatric hospital has significantly declined in recent years, as has the use of temporary hospital orders: only 56 males and 5 females were removed to hospital in 1978 (as against 102 males and 11 females in 1968), and only 560 males and 87 females were put on hospital orders. (Prison Statistics 1978 Table 10.8). But statistics for the number of treatments - 5,072,133 - for an average daily population of 41,796 - suggests a heavy use of drug therapy as well as of treatments for physical injury and illness.
38. "Behaviour modification" as a technique (for example in a teaching situation with a large number of lively adolescents) is only amoral or insidious to certain kinds of anarchist. It is when erected into a general ideology, specifying the goals of action as such, as well as giving means, that it does require close political examination.
39. In 1978, 38,782 punishments (involving cellular confinement, forfeiture or postponement of privileges, stoppage and/or reduction of earnings, cautions, exclusion from work in association, or forfeiture of remission) were imposed on 22,576 different male inmates in prison and remand centres in England and Wales (from an average daily population of 33,160). In senior and junior detention centres, moreover, 2,496 male adolescents (in an average daily population of 1,890) were punished for a total of 3,536 offences, and in borstals 5,790 young men were disciplined for 10,352 offences. In penal institutions for women and girls as a whole, where there was in 1978 an average daily population of 1,386, 2,307 inmates were punished for 5,352 offences. (Prison Statistics 1978, Table 9.2-9.6). Between 1968 and 1978, the numbers of offences being punished in this way increased from 1 offence per year per head of average population in institutions for males to 1.3; and from 2 offences per year per head of average population in female institutions in 1968 to 3.3 offences in 1978. (Ibid. Table 9.1).

As Graham Zellick, the NCCL and other observers have pointed out, the vast majority of these extra punishments, which have further expanded the length of prisoners' sentences, and also the cost of the penal system to the rest of society, are imposed by the Governor or Warden of a penal institution, without reference to any independent or legal body. Only 4.1 per cent of disciplinary cases in penal institutions in England and Wales in 1978 were referred to the nominally independent Boards of Visitors. In 1978, in addition, 387 males were subjected to "restraint" on non-medical grounds (and 135 on medical grounds) - in the vast majority of cases (on 417 occasions) in special cells - for periods of over 24 hours. Eleven years earlier, in 1967, 174 males and 14 females had been restrained on non-medical grounds (and 97 males and 5 females on medical grounds).

40. The only comment on the quality of prison life in the May Report is the remark, in para. 6.41, that the "worst prisons are rather bad". No descriptions are provided. Mike Fitzgerald has drawn attention to the very specific descriptions and condemnations of prison life in the official all-party investigation conducted in Canada, only two years earlier than the May Enquiry. In this Report (the MacGuigan Report), prison conditions are clearly identified as brutal and oppressive, and there is a clear recognition that violence by staff and continual injustice are the everyday reality of prison, with rehabilitative effects notable for their absence. Subsequent to this Report, there has been some attempt in Canada to "weed out especially brutal staff and also to improve inmates' access to legal representation.

41. The demand for accountability was essentially "liberal-democratic" in being concerned, primarily, with giving the Labour Party at local levels some influence over appointments, especially over Chief Constables (there had been considerable resentment at the aristocratic style of some "well-connected" Chiefs during the war). Then, as now, the demand for accountability was a demand for participation in the formal procedures of government over the police, rather than the control over what the police might be asked to do. The furore caused in the early 1970's by the Labour Home Secretary's concern to introduce an independent (i.e. non-police) element into the procedures for investigating complaints made by members of the public is an indication of the fact that the police have been allowed to acclimatise themselves to their own definition of the police task, and to resent the "interference", i.e. the democratic demands, of civil society at large. The continuing ability of the police to influence the complaint bodies that were created is indicated by the revelation in its second annual report, that the Police Complaints Board endorsed the police's own handling of complaints in all but 15 of the 11,940 cases it looked at in 1978 (a disagreement rate of 0.1 per cent).
  
42. The authorised establishment for the police in 1977 in England and Wales was 118,279; so the police were officially "undermanned" by 10,078. It was partly in response to this, and to pressure by the Police Federation, that the Edmund Davies Inquiry into the Negotiating Machinery and Pay of the Police was appointed in August 1977, reporting 11 months later. (Cmd. 7283, 1978). The very first announcement of the Thatcher Government on 6 May 1979 was that it would activate the pay awards recommended by this Inquiry in full, and in one move rather than two. A further (technically illegal) pay award for police of 13 per cent followed in August 1979; and in that month local police authorities reported increases in recruitment, to top the extra 2,500 gained after the payment of the first half of the Edmund Davies award in September 1978. (The Economist August 18 1979). By August, indeed, "the police force offer(ed) one of the highest paid first jobs a University Graduate can take". (Ibid. p. 23). The Edmund Davies Enquiry had recommended that in future police pay should be revised annually to bring it into line with average pay increases in the country, and in July 1980, it was announced that police pay would be increased by 21 per cent from 1 September 1980. (This announcement was made without comment at a time of considerable mass media opposition to pay increases of 14 per cent for teachers, and other "inflationary" rises being received by public sector workers). (Guardian, 25 July 1980). On 24 July 1981, a further 13.2 per cent increase in police pay was announced (at a time when other public sector workers had been limited to 6 per cent increases). Starting salary for constables had doubled in just three years.
  
43. In the US, police manpower increased from 273,000 in 1955 to 653,000 in 1975 (an increase of 250 per cent). As in Britain, this increase in the size of the state police force was matched by an expansion of civilian work within the police institution, and by a "delegation" of other police functions to the private security industry (cf. U.S. Department of Justice 1975). The budgetary appropriation of the Law Enforcement Assistance Administration, the federal body established by the Nixon Administration to coordinate and advise on the activities of law enforcement agencies nationally and internationally, increased from \$63 million in 1969 to \$1,015 million in 1975 (Center for Research on Criminal Justice, - 1977, p. 7). In Canada, expenditure on the police increased from 40 per cent of all criminal justice expenditure in 1936 to 60 per cent in 1974, and with 65,000 police, in 1978, for a population of under 30 million, Canada was proportionately much more heavily policed than Britain or most European countries. (Solicitor-General of Canada, 1976, Chart 1, p. 161).

44. The figures on traffic wardens and civilian staff are from the Report II of the Committee of Inquiry on the Police 1978 (Cmd. 7283), Chapter 3, Para. 24. The "government guess" of 100,000 employees in the security industry is quoted by Kettle, 1979, who also notes that "Hilary Draper, author of a recent book on the security industry, puts the true national figures at more than 128,000 - higher than the total number in the police force."
45. The expansion of police numbers has occurred primarily in the specialist units established within the police since the early 1960's (the uniformed branches has experienced manpower shortages, as measured in terms of the shortfall of actual establishment behind authorised establishment, throughout the 1960's and 1970's).
46. One important impact of the current crisis within the police force itself is a breakdown in the conventional responsibility of the police in providing an informal form of discipline over working class communities, with a degree of consensual support. The demise of the policeman as a "domestic missionary" has resulted from the development of specialist policing, from the disappearance of beat-policing, from the decriminalisation of some offences and the processing of others (like shoplifting) through regulatory and private modes of prosecution, and from the massive growth of private policing. It is in the demise of this disciplinary relationship with the "community" that the encouragement to the use of force in the police may have occurred.
47. Scrutiny of the Annual Reports of the 12 Chief Constables reports for the rest of the UK would suggest that there were 112 Special Branch officers in Scotland, and 279 in Northern Ireland. State Research (vol. 2) 13 (Aug-Sept (1979) p. 123). These figures indicate that the Special Branch has increased in size by at least a factor of six since 1961.
48. The 'targeting' of 'migrant' and black restaurants has a long history predating the trouble at the Black and White restaurant, Bristol, prior to the St. Pauls riot of 1980. The Mangrove Restaurant in Notting Hill was a police target throughout the late 1960's and early 1970's, and Cypriot restaurants in London were targeted in a similar fashion in the 1950's (in this case, on suspicion of being the centre of "prostitution rackets").
49. It was in a context of these suspicions of corruption, as well as anxiety over the role of the police in demonstrations, that police recruitment in 1968 reached its lowest figure of the decade (only 5,415 new recruits were discovered, as against 8,839 in 1967). (Committee of Inquiry on the Police, 1978, Appendix VIII).
50. The Select Committee reported in July 1980. It had not examined individual cases in depth but concluded that there was "no evidence to support generalised accusations of police brutality to those in custody". But the committee put forward seven suggestions for the overhaul of coroners' inquests and their handling of custody deaths, and also suggested that the Director of Public Prosecutions should be less secretive and more willing to allow prosecutions to proceed (it was revealed that the DPP had not prosecuted any of the 12 custody deaths referred to him between 1970 and 1979). Six of the Committee's suggestions were "straightforward repeats" of those made by the Brodrick Report of 1971 on coroners' courts (including the suggestion that coroners

should be assisted by civilians not police), and the other affirmed that the police investigator's report (on cases of death under police custody) should be made available to the legal representatives likely to be present at the inquest. This was clearly a comment on the procedures adopted in the cases of Jimmy Kelly and Blair Peach in 1979.

51. The substantial influence exercised by a Chief Constable over local police authorities in framing discussion through setting the agenda has been noted in a paper that resulted from research on the Merseyside Police (cf. Brogden 1977).
52. Police chiefs have spoken for the State not only in the wake of terrorist incidents like the siege of the Iran Embassy in 1980, but also in the aftermath of highly contentious police actions like those at Leicester and Southall in April 1979 (where police actions against thousands of Asians and Anti-National Front demonstrators were all justified in a blanket fashion as necessary for the defence of freedom of speech). Authoritative statements of this kind disguised any suggestion of the police being "out of control" (as was subsequently shown in the Unofficial Enquiry into Southall) or even of the "mobile reserve" being used ill-advisedly (without maps of the Southall streets, a fact that was revealed at the Blair Peach Inquest).



CHAPTER SIX

Crime, Populism and the Advance of the Right

6.1. The Crisis of capital and the State

Early in Chapter Five, we showed how the emergence of a "strong state" in the post-war period had depended on the growth of State expenditure on social services as much as on the development of the "repressive apparatus of the state". Growing state expenditure on health, education and social welfare had contributed to political stability and social peace by mitigating the effects of class division and the associated inequality in the distribution of resources. But this growing state expenditure has to be financed, and, as Gamble and Walton note,

"State expenditure is always a deduction from surplus value (the overall profitability of capital - IRT) in the short run, however much it may help increase surplus value in the long run. From the standpoint of capital it is unproductive expenditure. It does not directly increase value."

(Gamble and Walton, 1976, p.168, my emphases)

Raising income for public expenditure purposes involves a Government which works within this logic (i.e. of aiding capital to epochs of accumulation) and which is also responsible to the political demands of working people (like a Labour Government), in what Gamble and Walton call "political difficulties". (Ibid., p.169). Attempts to maintain full employment will fuel inflation, because the subsidy that is provided by Governments to private industry will reduce the competitive efficiency of capital and thereby reduce the overall surplus provided by capitalist producers. The fact that a declining surplus is coupled with an increasing supply of money must mean that the value of money will decline. But any cut in public expenditure or in public credit which governments might make in order to increase the

relative resources available to capital will result in increases in unemployment. Again, as Gamble and Walton observe :

"Governments must either reflate or face defeat  
at the polls."  
(Ibid., p.169)

The ultimate source of this contradiction in capitalist societies lies in the much-discussed tendency for the rate of profitability of capital to fall. According to Marxist political economy, this law-like feature of capitalism is a product of the imperative, which the capitalist mode of production imposes on each individual capitalist, to reduce the amount of (costly) living labour that is required in the production of an individual product. However, this mechanism - of reducing the amount of living labour and increasing the amount of technology (or "dead labour") that goes into production - also has the effect of reducing the amount of surplus value that is realised from a product, because the reduced overall wages that have been paid to labour as a whole by capital as a whole have depressed the demand for the products of capitalist industry. Hence the tendency in capitalism for the rate of profit to fall explains the current tendency for production to fall (because of decline in demand).

This is not the place to enter into contemporary debates on the adequacy of the original Marxist theory of capital in either its general or specific features. But we do want to spell out the elements and implications of this theory, though, as a background to the concerns of this chapter.

It should be evident from what we have already said that both the growth of state expenditure and also therefore the development of state policy operate within fairly specific parameters. In particular, although we do not think this is a simple or "mathematical" kind of

determination, the expansion of state expenditure is significantly a function, primarily, of the "health" of an individual national capitalism and, secondarily, given the increasing interpenetration of capitalist economies, of the wealth of multi-national capitalist economic cartels and corporations. We do not say, however, that the relationship between state expenditure as a whole and the health of a capitalist economy is a straightforward question, with the level and internal distribution of state expenditures in any one nation-state being "read off" from an analysis of the activities of capital within that nation-state. The growth of expenditure by the state always has a specific political history which must be "read" in terms of the detailed development of the economic and the political and ideological struggles of capital and labour in each nation-state. From analysis of these struggles, explanations can be advanced of the level and the internal patterning of state expenditure within individual capitalist economies (from expenditure on armaments through to expenditure on child-care facilities operated by the state in support of working parents). For although (as Ian Gough has shown) there are great similarities in the growth of the state as a factor in all capitalist economies, there are also very marked differences in the internal "structuring", or patterning, of public expenditure in individual capitalist nations.

So, for us, the current economic crisis of capitalism is an expression of a fundamental tendency within the capitalist mode of production: the tendency for the rate of profit to fall. We are at the end of what was for capitalism a particularly successful period of continuing expansion and accumulation (the "post-war boom"), which was generated in part by the utilisation of Keynesian methods of

economic management in individual capitalist states, to mitigate the effects of boom and slump through attempts to plan production and demand. The current "crisis" in western capitalist societies is therefore economic in a particular sense. Capitalism as a whole is in the process of attempting to restructure in order to "re-tool" for a renewed period of accumulation. But in this process of restructuring there will be at least three victims. Many capitalist firms that are "inefficient" in the sense of being unable to sell their products must collapse (even if their products are actually socially useful). Large percentages of the working populations will experience unemployment for the first time in their lives, as firms "off-load" labour in the hope of being able to survive by reducing overall costs. These two developments (of industrial collapse and increases in unemployment) will continue at least until the point is reached at which the healthier capitalist firms can buy up the stock and the labour of their defeated competitors in order to fuel their own further expansion and accumulation. But the collapse may continue further than this (an "worklessness" may become a very significant long-term feature of capitalist societies), since many capitalist societies have now become so dependent on technology as to be technically unable to substitute living labour for machines.

The third victim of the crisis is state expenditure on the social services. It is this particular feature of the crisis which is often referred to, following James O'Connor, as "the fiscal crisis of the state". (O'Connor, 1973).

In the early 1970's, increasingly anxious attention began to be given in authoritative circles in western societies to the emergent and annually recurrent "short-fall" between state revenue and expenditure. In Britain, for example, the so-called "Public Sector

Borrowing Requirement" fell into deficit in the amount of £6.3 billion in 1974 (about  $8\frac{1}{2}$  per cent of total Gross National Product) and increased to £10.5 billion (or about 11 per cent) in 1975. In Italy the PSBR in 1976 was about 10 per cent of GNP, in Germany  $5\frac{3}{4}$  per cent, and in Japan  $4\frac{1}{4}$  per cent. These budget deficits rapidly forced both national and local state governments to turn to the International Monetary Funds and to other large financial institutions for loans to finance these short-falls, often granted only on stringent conditions involving cuts in future social programming. And they also generated a series of measures to cut existing or expected annual expenditures, in particular by the introduction of new costing mechanisms, like cash-limit budgeting. These measures have had important political effects in increasing the economic power of the national over the local state (as the national state in most western societies is the primary source of social revenues through taxation, and is now also the determining influence on the proportion of such revenue that will be available for local expenditure).

So public expenditure, having provided a bedrock for capitalist expansion in the period of the "long boom", has emerged as an obstacle or a threat to a further period of capital accumulation. It has done so however not because of the absolute size of the expenditure requirements for social programmes but because of the relative cost of such programmes compared to the demands of capital. As we have already indicated, capital itself was threatened with a series of serious problems of both a long-term and immediate character. Profit rates for British industry in 1980 were reported at mid-year to be running at 1 per cent of turnover. The fall in profit was affected by a series of adverse conditions - the loss of markets in the Third World after decolonisation, the strength of trade unions in conditions

of full employment and also, of course, the rising costs of energy. But they were also an expression of over-production (for example, in the consumer goods industries) relative to the ability of "living labour" as a whole to purchase the commodities produced. And as industries under-use their capacity, so they sack more of their workers, and the long-term tendency to stagnation accelerates. During 1973-5, in which these effects were undoubtedly magnified by the oil crisis, the combined GNP of all member OECD declined by 5 per cent, world trade by 14 per cent and unemployment in all OECD countries totalled 15 million (Gough, 1979, p.132). All of these economic logics had an effect on the level and pattern of state expenditures, although the effect was not straightforward. The economic necessity for Governments to reduce their demands on the surplus produced by capital must always be counter-manded by the political requirement that the state should provide some level of benefit or welfare payment for those who are made unemployed. Like capital, the state has itself to "restructure" in order to enter into a new phase of development - and the state, like capitalism as a whole, must aim for economic viability, whilst also providing the social framework which enables production and accumulation to proceed. Some substitute for the "strong state's" dependence on an expanding economic surplus, funding an ever increasing expenditure social programme, has obviously to be found.

One of our concerns in this chapter will be to locate the entry into Government of the Tory Party under Margaret Thatcher, in 1979, against the background of the particular crisis of British capital. In general terms, we will be interested in seeing the significance of the new ideological commitments of the Tory Party under the Thatcher leadership as a basis for the attempted political resolution of the

economic crisis we have described, and, in particular, we will be interested in understanding the emphasis given to "law and order" in the rhetorics of the Thatcher leadership.

In what we have said so far in this chapter (and in the thesis as a whole), we have tried to avoid the dangers of a simple economic reductionism in which the articulations of ideology are a simple "reflexion" of the "economic base". So a caveat is in order here in order that we avoid the opposite danger of "ideologism" (such that no restructuring of the state form might appear as an "effect" of ideology, and of Thatcherite ideology in particular). The Thatcherite programmes for restructuring the form of the state came at the end of a period in which the Conservative Government of Edward Heath and the Labour Government under James Callaghan had already begun to transform the allocation of State funds in the direction of much greater expenditure on what were officially called "law, order and protective service". Between the financial years 1972-3 and 1977-8, capital and current expenditure on the personal social services in Britain increased by an average annual growth rate of 6.5 per cent (as against an increase for health and social services as a whole of 3.5 per cent) (from £30.8 million to £59 million) whilst expenditure on "law, order and protective services" increased by some 4.4 per cent per year over the same period. Capital expenditure on the police and on prisons, however, increased by the astonishingly high figures of 7.3 per cent and 14.8 per cent per year. (Klein, 1974, cc.10,12). The proportion of Gross National Product spent on "justice and law" in Britain increased very gradually from 0.6 per cent of GNP in 1910 to 0.8 per cent in 1961, but then doubled as a proportion of GNP in ten years to 1.3 per cent in 1971, and then continued to rise, more rapidly, throughout the 1970's. (Social Trends, 1972, 1977). The expansion of expenditure on coercion

was in progress within the "strong", "welfare" state well before the electoral victory of Thatcherism in 1979.

## 6.2 Thatcherism

The various crises of the British State in the 1970's were "lived" by the mass of the people - at the level of consciousness as well as in terms of ideological assumptions - through the consensual forms of social democracy, liberalism and conservatism we have described in this thesis. But from 1975 onwards, subsequent to the election of Margaret Thatcher to the leadership of the Conservative Party (replacing Edward Heath), these consensual political ideologies were placed under increasing challenge, especially in "popular consciousness" and in the Tory Party itself. Supported by sections of the popular press, the Tory leadership began to take up an altogether more radical posture towards the fixed economy, towards the State and towards social issues generally. In May 1979, aided by the events of the previous winter, the Tory Party under Thatcher was able to score a notable electoral victory over the Labour Government of James Callaghan.

Some commentators on the 1979 Election have thought that the defeat of the Callaghan Government was explicable rather straightforwardly in terms of the "need for a change". This was certainly one of the (less strident) themes in the Conservative electoral campaign. In this view, the economic strategies of the Callaghan Government were said to have been self-evidently unsuccessful in the task of raising productivity (with Gross Domestic Product actually declining by 0.1 per cent per year, and the British economy having fallen in 1976 to eighteenth in the world in terms of Gross Domestic Product, from ninth in 1961); and also unsuccessful in producing a sense



of social order (reference would be made here to increasing fears of racial conflict, strikes and other forms of civil disturbance).

So conventional commentators, like those of the North American press, felt that the British people were right to look for a change of government.

What this conventional "political science" interpretation ignores is that the Conservative Party in 1979 was successful in persuading very large numbers of previously Labour voters to vote for a party whose economic policies were then, and are now, against their objective interest. The scale of the victory itself was by no means insignificant, with the 339 seats won being the second largest number of Conservative seats in Parliament in the post-war period, after the 365 of 1959. And although the Conservatives only polled 43.9 per cent of all votes cast as against 46.4 per cent in 1970 and 49.7 per cent in 1951 (the highest proportion of the total vote achieved by the Tories in any post-war election), the total number of votes cast (at 13,607,753) was higher than at any time since 1959, and very close to that particular high point (13,749,830).

Even more telling, however, is the evidence produced by Market and Opinion Research International as to the character (and "social composition") of the Conservative vote of 1979. Most of the increased support for the Tory Party (over the 10,464,817 votes of 1974) was gained from skilled and semi-skilled workers (some 37 per cent of whom voted for the Tories in 1979, as against 28 per cent in 1974); and amongst the 18-24 age group (where the Conservatives gained 41 per cent of the voters, as against only 24 per cent in 1974). (Kellner, 1979).

The Conservatives achieved this political victory for ruling class economic policies without making any short or medium term commitments

to welfare or employment policies which would guarantee the quality of life for the working class and middle class voters who gave them electoral support (some of which middle class voters must have realised that their own security of employment would be in danger under Thatcher). Indeed, the 1979 Conservative Election Manifesto was quite unlike the manifestoes on which Conservatives had fought elections in the 1950's, 1960's and even in 1970 and 1974 (in which the benefits of Conservative rule were said to derive from the ability of Conservatives to manage a mixed economy): the Conservatives of 1979 promised a withdrawal from State intervention in the economy, and a return to a form of civil society dominated and disciplined by "the market" itself.

Retrospective examination of the election campaign fought by the Conservatives in 1979 indicates indeed that the detail of the intended economic strategy was never spelt out, (as some Labour spokesmen like Shirley Williams perceived at the time), in the knowledge that it would not have been possible for the economic strategy to succeed as an electoral package.<sup>3</sup> The surgery that was planned by the monetarists in the Conservative leadership would run directly counter to the habitual but widespread popular belief in the possibility of a slow improvement in the British economic situation, through some mixture of State planning, prices and wage control, and cooperation between the two sides of industry. It was indeed precisely at the moment that the detailed implications of the Conservatives' economic policies began to be spelt out by Labour spokesmen (in the last week of the 1979 election) that Conservative spokesmen switched their attention to other issues.

This chapter is in part concerned with the way in which the new Right-wing leadership of the Tory Party would like the rest of society to see and understand these other issues. No false unity is being implied,

however, when we speak of "Conservatives" (or Tories) in general, for we are well aware of the differences that exist between the various interest groups which gave their support to Margaret Thatcher in 1979. In particular, we are well aware of the tensions that exist between supporters of traditional Authority in the Tory Party ("real conservatives" in the judiciary and magistracy, amongst senior police officers, Headteachers, landowners and others) and the "populist" conservatives in the rank-and-file of the police Force, in the media, as well as in the various organised groups of petty-bourgeois populists like Mary Whitehouse's National Viewers and Listeners Association and the National Union of Licensed Victuallers. The relationship of both of these interest groups to each other and also to the reform Conservatism of the post-war years has always been uneasy. It is by no means self-evident that their relationship to the Thatcher Government is unproblematic either,<sup>4</sup> although clearly a much greater unity of interests has been established by the Tory Government with the Right than by earlier Tory leaderships in control of State power. What is clear is that these various interest groups were very successfully held together by the Tory leadership in the months and years before the 1979 Election by "Thatcherism".

This is to say that the Conservative Party in 1979 was a carrier not only of a (desperate) economic strategy of the currently dominant fractions of the ruling class: it was also a carrier of the ideological assumptions, hopes, and anxieties of quite differently situated sections of the middle - and working-class in Britain in the middle-1970's. It was a carrier of the fortunes of both declining and ascendant sections of the bourgeoisie; and it was indeed very important that the party was this at the level of social ideology, because increasingly the dominant fractions of the Party were wedded to an economic strategy

which was likely to accelerate the decline, and demise, of certain forms of industrial capital (around ship-building, steel, and other areas of heavy manufacturing) which had been of considerable support to British capital in the past, and in which was invested (directly or indirectly) a considerable amount of private capital.

The tentative accommodation of the different fractions of ruling class opinion to Thatcherism was a product of the problems being experienced by these different groups in reproducing (or attempting to regain) their own positions of wealth, power and status in a class society that had been dislocated for them by economic change, and marginal social-democratic reform. Thatcherism was and is an attempt to cut into the Welfare State ideologically, withdrawing positive evaluation from the clients and the employees of the Welfare State (whilst allowing benefits to be continued for the victims of illness, old age, physical injury and - for obvious reasons - unemployment). It was and is an affirmation of the moral value of bourgeois independence, just at the moment when the economic system created by possessive individuals appears to have encountered its own limits to growth. Thatcherism also attempts to exclude or to silence liberal objections and social democratic opposition, by posing questions that liberalism and social democracy were not developed to answer. So it is State social democracy that is said in Thatcherism to be responsible for the crisis of productivity of British capital<sup>5</sup> and, concomitantly, the bureaucrats and managers of the local (state financed) Social Services that are said to be responsible, in failing to behave with authority towards their clients and their own staff alike, and especially towards the unruliness of youth in the inner-city, in schools and in working-class youth subcultures.<sup>6</sup> Through its attempt to interfere in an

authoritarian way in the economy, but also through its libertarian permissiveness in its interventions of civil society, "social democracy" has fatally undermined the natural workings of "the market" and of hierarchies of authority and subject. So "social democracy" has served to obstruct both economic growth and also the development of social order.

The stress on the market and on the authority of law in Thatcherism is tired reworking of traditional Conservatism: it derives directly from the social theories of radical right economists like Milton Friedman and F.A. Hayek. For these "economic liberals" (from whom most of Sir Keith Joseph's analyses of the contemporary economic situation derives) the market, and not the State, should be governing; and the market must be free from State interference, the concentrated powers of monopolies or trade unions. Law has to be supreme, and the authority of the judiciary must be paramount (even over the Government and the State) because there have to be general rules (irrespective of the particular problems which Governments confront "conjuncturally") to guarantee the freedom of the market to operate, and also because there may be specific problems to resolve which cannot and should not be solved by politicians and bureaucrats, who will unavoidably be prey to particular special interests. The key element in the theory (of the so-called "social market economy") is the preservation of the freedom of the entrepreneur to create wealth: the liberty and democratic involvement of other organised groups is a contingent question, and, in the case of the trade unions, contradictory with the realisation of the "free market".

So the fundamental weakening of trade union power is absolutely central to Thatcherite strategy for the revitalisation of the economy

(through restoring the freedom of the entrepreneur) - even this revitalisation requires a massive interim slump in order to weaken the bargaining position of trade unions and to destroy the economic self-confidence of working class people born of the earlier years of affluence (in order to reduce the immediate demands being made by Labour on Capital). This political strategy, operated by the Thatcherites through the State, did of course require massive previous ideological work on the question of the trade unions. In this regard, there is absolutely no doubt that the Tories were aided in the most propitious way by the events of the winter of 1978-9, the so-called "winter of discontent". Ambulance drivers, hospital orderlies, train drivers, delivery truck drivers, dustbin collectors, gravediggers and a host of other low paid workers who went on strike against the 5 per cent pay rise imposed by the Callaghan Government were widely proclaimed to have acted in contravention of the sense of "fair play" which must guide the behaviour of the British, and especially (as Jeremy Seabrook observed) their servants.

"Long before there was any question of the withdrawal of labour of a whole Mayhew sub-class of occupations we scarcely know exist - the ratcatchers and draincleaners and gravediggers - we were in the midst of something more fundamental than mere industrial dispute. It was breakdown Britain; Britain wrecked, stranded and reduced to the breadline; a threat to our whole way of life."  
(Seabrook, 1980, p.151)

The coverage of the strikes of the low-paid in the newspaper press and on television alike had a more than usually hysterical quality; and Seabrook's article is one of the few attempts to understand why. He continued by noting how :

"We had reminders every day of our own vulnerability. There was a sense of discomfort and shame as if it was discovered that the serving classes still exist, even though they may have deserted their former private masters and mistresses 40 years ago. Because it was brought home to us that blood and vomit are the daily

concern of thousands of working people, we had to be reassured that this was all they were fit for - a contemporary version of knowing their station in life. So we were allowed to be present while they used sick children as counters in their demand for more money, while they ceased answering mercy calls, declared their readiness to leave the sick and injured to suffer, the old to perish. The language took on a heightened, almost biblical quality. It was as though the press had come upon its vocation. It was writing scripture.  
(Ibid.)

No attempt was made in the press or on television to give an account of the desecration of the low-paid worker in the public sector. Indeed, insofar as any explanation was forthcoming from any direction as to the cause of the anti-social "militancy" of the low-paid, it came from the Right, claiming that the strikes were the result of the work of "wreckers" in the trade union movement. Questioned by Denis Tuohy on TV Eye on 24 April 1979 as to her use of language in an article in the Daily Express (in which she "gave a list which included most of the public sector workers" and said she would pursue these "disruptive elements"), Margaret Thatcher replied that she would indeed pursue them "with unremitting hostility".

"This is the most important point you've raised ...  
... One of the problems today is that we have a few, a comparative few people .... who wish to destroy the kind of free society we have .... Many of these people are in the unions."

So, here and on any other occasions in the period around the 1979 Election, the Tory leadership claimed to speak for "the people" against the power not of capital nor even of the state itself but of the unions.

And this defence of "the people" - society as a whole - was also elaborated as a means of attacking the failure of social democratic and liberal crime policy, again on its own terrain (the failure to provide a sense of social order for the people):

"All the bye election candidates have spoken of voters who will only speak to them through letter boxes or from behind chained doors; of people afraid to go out at night."

(William Whitelaw, Edge Hill Bye Election, 26 March 1979)

On at least two occasions (at the Conservative Party annual conference at Blackpool of 14 October 1977, and during her famous "barrier of steel" speech in Birmingham, on 19 April 1979), Mrs Thatcher observed that :

"people have asked me whether I am going to make the fight against crime an issue at the next election. No, I am not going to make it an issue. It is the people of Britain who are going to make it an issue."

This accommodation to the "will of the people" in the non-economic field was an absolutely essential move in the struggle to win popular support for the Right wing economic politics involved in the construction of a "social market economy". It was an attempt to connect the real fears and anxieties of working class and lower middle class people to an attack on social-democratic State policies in the non-economic field; the next move being to reconnect these anxieties into support for radical Right economic policies mounted to undermine the strength of the unions. In her speech in Birmingham during the 1979 Election, Margaret Thatcher argued :

"in their muddled but different ways the vandals on the picket lines and the muggers in our streets have got the same message - 'we want our demands met, or else', and 'get out of our way, give us your handbag, or else'"

(Margaret Thatcher, 19 April 1979)

There should be no doubt as to what is being said here. An ideological discourse was being constructed in which the interests of "the people" and "the nation" were being set against those of "the criminal" (in itself, a classical posture used by traditional Conservatism) but also against trade unionists engaging in collective action in defence of the pay claim or jobs, especially when in sympathy with others).



Margaret Thatcher went on in this speech to recall a "chilling" debate on law and order at the last Labour Party conference, where (she said) speakers had attacked the rule of law<sup>7</sup> and labelled the police as fascists.

"The path Labour delegates were charting on that occasion was the path to social disintegration and decay, the path to a pitiless society in which ruthless might rules and the weak go to the wall. Across that path we will place a barrier of steel ... "

(Margaret Thatcher, 19 April 1979)

What was tellin here was the careful attempt to speak for "the weak" and against "ruthless mi-ht" (a traditional terrain of social democratic argument), but also to disconnect these conflicts from the contradictory (but everyday) experience of living in a class-ridden dec ying capitalist society. In place of the conflict of Capital and Labour was placed the conflict between Organised Labour and criminals, on the one hand, and "the people" (doing service for the interests of the social market economy), on the other.

"How often one hears Socialists saying that criminals are the products of their environment and victims of society. In tr th, it is society that is the victim of the crim'nal - 300 times an hour, 7000 times a day" (William Whitelaw, Ed e Hill Bye-Election, 26 March 1979)

Some of the ideolo ical points in the Tory campaign in 1979 will be familiar, as constants in post-war Conservative ideological work, but it is im ortant to note how these familiar themes were significantly re-elaborated and repac' aged by the Tory leadership in 1979 in order to signal the Party's departure from its accustomed consensual posture.

As Stuart Hall so succinctly puts it :

"The radical Ri ht does not appear out of thin air. It has to be understood in direct relation to alternative political formations attempting to occupy and command the same space. It is en aged in a struggle for hegemony, within the dominant bloc, against both social democracy and the moderate wing of its own party. Not only is it operating in the same space: it is working

directly on the contradictions within these competing positions. The strength of its intervention lies partly in the radicalism of its commitment to break the mould, not simply to rework the elements of the prevailing 'philosophies'. In doing so, it nevertheless takes the elements which are already constructed into place, dismantles them, reconstitutes them into a new logic, and articulates the space in a new way, polarising it to the Right."  
(Hall, 1979, p.16) (my emphasis)

"Law and order" in the rhetoric of the Thatcherites was a more powerful and comprehensive ideological conductor (of several populist themes) than the question of "crime" had ever been for Butskellites or even the "Selsden" supporters of Edward Heath. It enabled the Thatcher leadership to connect up street crime, terrorism and the central question - of trade unions - to the main signifying problem of maintaining the supremacy of Law. It was a connection which was foreshadowed by Margaret Thatcher's speech on the no-confidence motion which brought down the Callaghan Government on 28 March :

"The events of the winter ... produced a new phrase from the Attorney General : 'Lawful Intimidation'.

If the P.M. and Ministers take that view of the law, it is not surprising that others will follow.

A trade union leader had advised his members to carry on picketin because they would act in such numbers that the authorities would need to use football stadiums as detention centres.

That is the rule of the mob and not of the law, and ought to be condemned by every institution and minister in the land. The de. and in the country will be for two things: less tax and more law and order."

(Mrs. Thatcher, quoted in The Guardian 25 March 1979)

The themewas taken up by Mrs. Thatcher's Deputy Leader on the followin day :

"The criminal, the mugger and the vandal must learn the lesson that their surer detection and firmer punishment will be our Conservative aim."

(William Whitelaw, Edge Hill Bye Election, 26 March 1979)

Two comments are in order about the re-elaborated right-wing criminology and social policies propounded by the Thatcher leadership.

First, it is clear that the radical right has been aided in no small measure by both the popular newspaper press and also, indefensibly, by national television media. Journalists working for both these media relinquished nearly all the formal and occupational requirements enshrining the preservation of balance in news coverage and even in Election broadcasting, and shamelessly reproduced the stereotypes (of "the mugger", "the vandal", "the militant" and "the (violent) "Anti-Nazi" Left) on which Thatcherite rhetoric depended. It was in the massively stereotypical character of its coverage of issues like law and order, in other words, rather than simply in its "bias" and its eventual urging of electoral support for Mrs. Thatcher in 1979, that the popular media performed its most crucial service for the radical Right (throughout the 1970's, but with decreasing ambiguity as the decade progressed). In the television specials screened by both BBC and ITN into the attitudes of the parties to law and order both the visual captions used and the questions asked in "voice-over" commentaries had the effect of affirming the fundamental truth of radical right polemics whilst also evidencing the ineffective and mistaken character of social democratic assumptions. No other lesson could be "read off" from this particular media account (cf. Clarke and Taylor, 1980). Similarly stereotypical imagery was also used in mass media discussion of the question of the "welfare state" (which was again discussed almost exclusively via the question of the welfare scrounger, the subject of a massive amount of earlier ideological work by the Right).

The susceptibility of the professional journalist to the "newsworthiness" of Thatcherism in the late 1970's was a serious problem for any socialist (or liberal) trying to advocate alternative strategies for Britain, since the advance of Thatcherism up to 1979

and the first initiatives of the ensuing Government both occurred without any serious interrogation either in the popular media or on national television. Serious questions exist about the willingness of television journalists and ability of the existing forms of political television to distance themselves from the ideological assumptions of the British ruling class (as well as from the police and the judiciary). (cf. Clarke, Taylor and Wren-Lewis, 1981).

But the second point to make very strongly is the help given Thatcherism by the weakness of social democratic ideology in the form it assumed in 1979. The radical Right was easily able to marshall popular sentiment into an "anti-Statist" political position, precisely because the State, under social democratic political tutelage, had been experienced by the mass of people "not as a beneficiary but (as) a powerful bureaucratic imposition". (Hall, 1979, p.18). This was no mistake: the only Labour Party strategy for escaping the crises that have beset British capital since the early 1960's was, indeed, to extend the role of the State as a manager of the national interest (acting in the interests, in practice, of that fraction of "big" capital that has been able to win influence in the State). The objective of Labour's corporatist alliance with capital was to attempt to fulfil the rising economic expectations that had been generated in the working class during the so-called "age of affluence", without having to mount any fundamental attack on structures of inequality and power. This was to be achieved, as we described in Chapter Three, through the State enforcing its discipline on labour and making requests of capital. The State was at the very centre of Labour's project of corporatist reconstruction. Moreover, as later economic crises developed, and further "fissures" began to appear in the architecture of civil society (for example, in the conflict between black youth and

police in the "inner city"),<sup>50</sup> Labour's response has also been one of enlarging the scope of authoritarian control of the State in all its operations (the legal apparatus and the welfare institutions); and of reducing the possibilities of democratic representation and struggle. It was in this sense that Poulantzas had written of moves within social democratic states in the West towards a new form of "authoritarian State". These were characterised by the

"Intensification of state control over every sphere of economic life combined with radical decline of the institutions of political democracy and with draconian and multiform curtailment of so-called 'formal' liberties ..." (Poulantzas 1978, quoted in Hall, 1980a, p.161)

The rhetoric of the Thatcherite Right is articulated against this tendency towards an "authoritarian State", and in favour of the "authority of the people". Again, as Stuart Hall observed :

"in any polarization along this fissure (of the State and the people) Labour is undividedly 'with' the State and the power bloc and Mrs. Thatcher is, undividedly, out there 'with the people' ... the anti-statist elements in the discourses of the radical Right are key supports for the new populism. It is no rhetorical flourish. To add that it then does some service in making respectable the radical Right assault on the whole structure of welfare and social benefits is only to say that the work of ideological excavation, if well done, delivers considerable political and economic effects." (Hall, 1979, p.1 )

Thatcherism, in this sense, offers to replace the "authoritarian State" with what Hall has now called "authoritarian populism". (Hall, 1980a).

An absolutely central feature of this authoritarian populism is its commitment to the "commonsense" and the realism of ordinary people ("it is the people of Britain who are going to make (crime) an issue"). The appeal is made to the "realistic appraisal" which most people, under acquisitive economic relations of capital and labour,

have come to accept as "natural" and inevitable - that possessive individualism is a fact of human nature. So it is "commonsensical" to see that the reforming efforts of the State (whether at the level of the personality itself, in social work, or at the level of the economy itself, in political programmes aimed at redistribution of wealth) must fail, because "that's human nature". According to James Q. Wilson and the New Right criminologists in America, Government expenditure cuts are desirable because they will limit the ambitions of the State in attempting the impossible: money will not be spent in trying to reform the facts of human nature (cf. Platt and Takagi 1977).

This "new realism" is apparent for example in the rhetoric of the Thatcherites, and in the Conservative Manifesto of 1979 :

"Attempting to do too much (Labour) politicians have failed to do those things which should be done (and) ... we want to work with the grain of human nature, helping people to help themselves - and others ... " (p.7)

This realism places particular emphasis on the commonsensical belief that "wrong-doing" should result in punishment, and that concomitantly doing right should be given every reward. The "new realism" is in this respect bourgeois moralism. People are believed to be able to reform and to improve their own lives through an act of will and to realise the beneficial features of existing social order. Working class people, in particular, are to be encouraged to see that opportunities for self-improvement and "success" exist for all, especially in the forthcoming social market economy.

In this respect, indeed, New Right politicians do sometimes portray themselves as the true optimists, in contrast to the cynical or defeatist posture that was characteristic in the later 1970's of much social-democratic and liberal talk about crime and social order.

In a speech given to the National Association for the Care and Resettlement of Offenders in 1979, Leon Brittan Q.C., the then Minister of State at the Home Office, made what was in all probability an unspoken reference to the Labour Party's own policy document of 1978 on law and order (Law, Order and Human Rights), which had followed Professor Leon Radzinowicz and Joan King in speaking of the inevitable and international "growth of crime". Mr. Brittan then astutely connected to the essentially moralist world-views of his social worker audience with the observation that :

"one primary danger facing those dealing with the crime problem, whatever function that they may fulfil, is that the more common the phenomenon becomes, the more it may be seen as intractable and as the normal pattern of life. It is so easy to become complacent and acquiescent and console ourselves by saying 'ah well, it is a feature of urban life; no developed nation has escaped it, and in any event it is no more than a product of an increasingly acquisitive, materialistic society'. That is a temptation which we must resolutely resist."  
(Brittan, 1979, p.2)

So Thatcherism here (as in relation to behaviour of trade unionists and workers in the market place) tries to "change the soul", in Margaret Thatcher's own words, by a combination of moral persuasion and penal coercion. The actual act of reform on the part of a delinquent might occur, in other words, either as a result of the gentle casework of a social worker or, in other more difficult cases, from the "short, sharp shock" of a sentence in a junior detention centre. In the United States, in the meantime, politicians of the New Right gave support to programmes in which young offenders were taken into prisons in order to be terrorised by adult convicts out of their established behaviour patterns.<sup>9</sup>

"Popular commonsense" suggests that there are some young offenders who require the "short, sharp shock" and others who would benefit from

being "remoralised" by their first experience of constructive activity under supervision, of the kind that is available in local authority Intermediate Treatment programmes. But it is also "commonsensical" that other offenders may require lengthy periods of segregation and incapacitation, in order that "society" can "mark the seriousness" of their offences, or in order that society can feel protected from their further offences. Both of these tasks (of punishment and social defence) were the prerogative of the magistracy prior to the enactment of the Children and Young Persons Bill in 1969. So it was against the responsibility given the social worker over the disposition of delinquents by that Act that many disparate sections of the radical Right, in the magistracy and the police, were propelled into political action during the 1970's. We now want to depart from our generalised and undoubtedly rather limited) analysis of the character of Thatcherism as a political and social ideology in order to examine the campaign against the 1969 Act in some detail, because (in contradiction to some rather generalised and hysterical analyses of Thatcherism) we believe that this campaign is a good example of the kind of specific and limited campaign which Thatcherism has been able to re-articulate into a more general attack on social democracy, in the name of its own more general (theoretical) version of social reconstruction.

We have already noted in other words that the "authoritarian populism" articulated by the Thatcher leadership has to do service for rather disparate constituencies, including the Police Federation, the magistracy, the NVALA and also some rather more senior, less socially insecure, bodies like the Headmasters' Association. It has, in other words, to attempt to link the material and political commitments of very broad sections of the middle class to Thatcherism as a social



ideology and also to create a popular base for this social ideology within the working class. The intriguing fact which this chapter underlines is that the Thatcherite attack on both Labourism and on reformist Conservatism has involved the reworking of some of the same issues (like delinquency, the question of law and, indeed, the redefinition of crime and criminal action) that were the subject of ideological work during the period of "social reconstruction" by the Labour Government of 1945-51. That they have been so is some indication of the key questions that are always involved in the "social reproduction" of capitalist societies. Reproducing the conditions for capitalist production to continue requires inter alia that the processes of accumulating capital should not be a routinely policed and criminalised activity. The routine processes of business must be clearly distinguished in law and in ideology from the "real crime" of working class property offenders. This "real crime" must therefore be the subject of constant and heavy attention in the public ideological work of the Right.<sup>10</sup>

We shall offer detailed discussion of this ideological work on the part of the Right a little later in the chapter. For the moment, we want to return to the field of juvenile justice and youth control. We have already pointed, in Chapter Three, to the functional relationship of the juvenile justice system, in particular, to the labour market for youth. We were concerned there to point up the continuing importance of the form of the state's systems for the control of youth to the continuing problem, in capitalist societies, of "rejuvenating" the labour force and, therefore, in particular, of producing acceptance of the disciplines of work (and of workers' relationship to capital) in each generation of youth. In the 1950's and 1960's, the juvenile justice system increasingly endorsed a rhetoric of care and treatment

and increasingly blurred the given distinction between the delinquent and the deprived. The system increasingly presented itself as an essentially benevolent system, surveying the youthful population in search of unmet social and personal deprivation and need. The passage of the Children and Young Persons Act in 1969 was, in appearance, the high point of professional-liberal version of youth control, but, as we shall see, it also marked the beginnings of a more coercive approach to juvenile justice by the magistracy and by many local police forces.

### 6.3 The Magistracy and the Right

In Chapter Three, we examined one of the attempts made by a Conservative MP (David Price) to identify the limits beyond which liberal reform of the criminal justice system should not be allowed to proceed. These concerns were raised by Conservatives in the House of Commons on several occasions,<sup>11</sup> as well as by magistrates and the Probation Service in the controversy surrounding the two juvenile justice White Papers of the 1960's. These interventions were muted, however, compared to the ideological offensive that was mounted by the Magistrates Association in June 1971 on the Children and Young Persons Act, six months after its eventual arrival on the Statute book.

Though there was a short period of conciliatoriness in the Magistrates Association's journal towards the Act (signalled in an article headed "May God Bless All Who Save in Her"),<sup>12</sup> the offensive on the Act was continuous and increasingly confident throughout the 1970's. An immediate effect and/or support to this campaign was the Home Office circular issued by the new Conservative Government in October 1970, announcing that it would never reduce below twelve the age at which criminal proceedings could be brought and that it would not restrict by law the bringing of prosecutions against children aged

12 to 16 (leaving the use of care proceedings as a discretionary matter to be decided by the police).

The magisterial campaign against the Act is in our view an important example of the form of the right-wing offensives of the 1970's on earlier professional state liberalism. Similar campaigns were waged, in this period, by the National Association of Schoolmasters against "permissive" education (alleging that it resulted in vast increases in truancy, vandalism and violence amongst pupils) and by the Police Federation against what it alleged was "soft" sentencing practices of the courts and the subsequent permissiveness of the treatments meted out in institutions. All of these right-wing campaigns were "populist" in the specific sense of claiming to speak for the mass of the people against the ongoing direction of state policy, which was itself identified as being under the unwarranted control of bureaucrats and/or liberal professionals who were out of touch with popular sentiments and anxieties. But being "populist" campaigns rather than authentically popular campaigns arising directly out of popular experience, they were in practice constructed by specific groups within the existing apparatus of the welfare state. In particular, they were constructed by groups (Headteachers, police officers and sentencing magistrates) whose positions of social power had undeniably been impugned, qualified and challenged by the advance of the liberal professionals during the late 1950's and early 1960's. By analogy if not by literal application of class analysis, these right-wing campaigns can be thought of as the construction of the "petty-bourgeoisie" within the population employed by the state. That is to say that they were a product of the resentments felt at a loss of power and importance on the part of particular sections of the state apparatus. It is not

to imply that all these sections of the apparatus, like the magistrates, were all literally "petty-bourgeois" in terms of their class position.

The right-wing campaigns of the 1970's were effective in two connected respects. Firstly, they did have a concrete effect on the application of existing state policy and in some cases on the actual form of that policy itself. So the N.A.S. campaign on violence in schools has resulted in the introduction of special holding units in schools as well as in the construction of special curricula for the "violent" or "dangerous" pupil. Social work departments have also had to adapt their practices across a broad range of activity in order to "liaise" with local police forces and thereby to subordinate their own working judgements to the ideological anxieties of the police. There have also been, as we shall see, fundamental modifications in the procedures governing enforcement of the 1969 Act.

But an even more consequential feature of these right-wing campaigns is that they generated the ideological groundswell to legitimate the social ideologies propounded by Margaret Thatcher in 1979. There is no clearer indication of this than the fact that the Police Federation was able to issue its Letter to Candidates on Law and Order to the press on the very same day (19 April 1979) during the General Election that Margaret Thatcher made her speech in Birmingham on the law as a "barrier of steel", without it ever appearing that this coincidence of Election initiatives was actually a conspiracy. No such genuine coincidence was necessary, however, on the many other occasions when magistrates, judges and police were given access to give their support for the return of a Conservative Government committed to the authoritarian enforcement of the authority of law.

We are a little reluctant to speak of these right-wing campaigns straightforwardly as instances of the advance of what American writers have identified, generically, as the "New Right". For there is little evidence in these campaigns in Britain that the right-wing bodies have succeeded in amassing the large-scale support of previously disorganised popular groups, in a way that the New Right appears to have done in North America. There are some fairly obvious reasons for this. There is little basis in Britain for the work done in the United States in support of the causes of the Right by organised churches and, in particular, by revivalist and evangelical preachers, working in part through commercial television media. Outside of areas of Irish settlement in Britain, the churches have rarely adopted a popular or democratic posture and have equally rarely entered the political realm. But, in addition, the absence of populism in the history of British social movements is clearly to be explained in terms of the fundamental effects of class division on popular experience. Whilst there may be no articulated sense in the British working class of their own political and economic interest, there is clearly a widespread sense in the class of class culture and of "social position". There is a clear understanding that society is divided between "us" and "them", fundamentally along class lines, rather than primarily between "the people" and "the State". It is difficult in some circumstances for right-wing rhetorics about populism to penetrate deeply into the working class, except perhaps when these rhetorics are articulated around racial themes. Then, the rhetorics may -spuriously - connect to the deep anxieties of the working class about the real dislocation occurring in the highly valued defensive traditions of working class community.

So we think there are some limits in the British context to the advance of the "pure" ideology of the New Right. The right-wing campaigns conducted by the magistracy, the police and traditionalist school headmasters around moralistic and authoritarian themes must run up against historically highly resilient and secular traditions of class culture. But we must also recognise that the campaigns of the Right have been developed in what has been a period of severe dislocation in the economic and social experience of the British working class. The dislocation of working class neighbourhoods occasioned by the period of social reconstruction and the associated dislocation of the working class family institution, has relatively rapidly been followed by the slowing-down of the post-war economic boom and the replacement of the rising expectations of the 1950's and 1960's by the anxieties associated with falling living standards and the fear of unemployment. In many of the British urban areas which are worst affected by this social crisis, the traditional culture of the British working class has become increasingly ineffective in maintaining discipline within the class (than it was, for example, in the inter-war years) and also less powerful, therefore, in its appeal to unemployed or insecure members of the class, adult or youthful. A space has been opened up, in which ideologies of the Right are finding some appeal. Once again, however, the evidence would suggest that the most powerful of the populist and right-wing rhetorics is that of racism rather than of populist Conservatism generally. But there is no doubt that the continuing references by the magistracy, the police and Thatcherite politicians to the insecurities felt by working class people about street crime and about social order generally were important in creating some credibility for Thatcherism at the crucial moment of May 1979.

We want in the remainder of this section to go into some detail on the magistrates' campaign against the Children and Young Persons Act. We do this for two main purposes. We want in the first place to show how the campaigns mounted by the magistracy had real effects on the application of the 1969 Act throughout the 1970's, thus contributing to the subversion of liberal conceptions of care and treatment as the operant strategies for the control and surveillance of youth. Included here will be an examination of the support given to new forms of coercion and containment of especially "dangerous" or "disruptive Youth - including the new secure units in community homes and, latterly, the new "experimental" regimes eventually introduced in 1980 into some detention centres. And we want, secondly, to identify the contribution of the magistrates' campaign (especially with the support of the campaigns of the police) to filling out the details of the social ideologies of Thatcherism in relation to juvenile justice. Included in this will be some analysis of the "sociology" of the youthful population that is offered out by the magistracy. When we have sketched out these two features of the magistrates' campaign, we will turn to an examination of the measures taken in the area of juvenile justice by the Tory Government elected in 1979.

#### 6.4 The Magistrates' Campaign against the 1969 Act

The main concern of the magistrates was signalled in the regular choice of a phrase in their letters to their house journal and in the public pronouncements of the Association. The constant refrain was that they lacked "the power" to deal with the offenders before them in the court. In particular, however, the magistrates argued that they lacked power to deal with the recurrent offender.<sup>13</sup> In addition, a memorandum sent to the Home Office from the Association's Juvenile

Court Committee in 1972 complained of "substantial under-occupation of approved schools",<sup>14</sup> lack of accommodation in remand homes, and a reduction in the number of junior detention centre places.<sup>15</sup> These complaints were voiced strongly at the Day Conference on "The Juvenile Offender, the Court and the Social Services", on 13 January 1973, called in response to magisterial demand, which was chaired by Sir Keith Joseph, in his capacity of Minister for Social Services.<sup>16</sup>

The Minister's response to magisterial complaints was to insist that the Act as implemented would not be reviewed, but that more places for offenders in "approved schools and remand homes" and in "all categories" would be provided; and with the help of the Director for Social Services of Newcastle on Tyne, Mr. Rycroft, the point was made that social workers would play their part in the imposition of punishment on offenders who "deserved" it. In addition, as we shall see later, there would be an expansion in the number of "secure places" in the system. A further short period of relative conciliatoriness followed this conference, to be broken periodically by letters from individual magistrates, and then overturned by the publication of the Younger Report on Young Adult Offenders. This was thought by one writer "to be a soft option for all young thugs and bully boys" (1974, p.119); and another thought that the Report "could not have come at a worse time" as "society" was already too lenient "with hooligans who wreck trains, beat up elderly people and spoil the enjoyment of many". In November 1974, following the report of the enquiry into the Maria Colwell case<sup>17</sup> which laid blame squarely for Maria Colwell's death on the inefficiency of the local authority bureaucracy, The Magistrate commented that the story was of the sort "that must threaten juvenile courts as a recurrent nightmare when they are considering a course of action". In the same year, the Association submitted a short,



succinct set of proposals to the House of Commons Expenditure Sub-Committee (which in the event were to provide the framework for the Sub-Committee's report when it was published, two General Elections later, in July 1975). In December 1974, a House of Commons motion, brought by Roger Sims, MP, a magistrate, was withdrawn on the basis of a promise from the Home Secretary, Mr. Merlyn Rees, that the workings of the Act were the subject of an internal Home Office Inquiry, as well as the investigations of the Expenditure Sub-Committee.

The main two arguments of the Magistrates, from 1971 onwards, made with special clarity throughout 1974, were over sanctions and institutional containment. The sanctions argument revolved firstly around the complaint that fines were unenforceable (this "undermine(s) the authority of the courts (and) encourages some determined youngsters to flout the law"). (The Magistrate March 1975)<sup>18</sup> and, secondly around the lack of a concept of breach of supervision, especially with repeat offences. On the institutional issue, the magistrates appeared to be quite unable to understand the infrequency with which local authority social workers appeared to avoid institutions (by preference) for children who were placed on care orders.<sup>19</sup> In practice, there was a variety of reasons why children did not go to institutions, one of which was the newly acquired right of heads of community homes to refuse places to children whom they thought inappropriate for their home; another being the unwillingness of some voluntary associations to join the State system of community homes (with a resulting shortage of places). According to research done on the issue, the number of disagreements between magistrates and social workers are not so significant as the magistrates may have thought. What is clear, however, is that the magistrates were concerned not simply at their own loss of

power, resulting from the Act, but also at the methods through which social workers exercised their new powers. The struggle was over the effectivity of control of individual offenders via coercion (the exercise of sanctions) or via care, persuasion and the liberal attempt to reconstitute the child's relationships to the "community".

As we noted in Chapter Five, the magistrates themselves were in the meantime using the Detention Centre Order with increasing frequency (partly because the order was in their direct control, and partly because it could be used as a sanction on children who were already on care orders). The numbers sent to detention centres rose from 6,652 in 1969 to 13,209 in 1978. The magistrates were also committing more children to Crown Court, in the belief that the magistrates there would make use of their power to send to Borstal (the increase was from 2,860 in 1969 to 8,999 in 1978). In addition, section 23 of the CYPA allowed the magistrates to remand children between 14 and 17 awaiting trial to (a Prison Department) remand centre or into an adult prison, in cases where the court decided that "he is so unruly a character that he cannot be safely committed into the care of the local authority". These remands could be continued after trial. Some 1,399 boys and 96 girls were remanded on these "unruliness certificates" in 1971; and 3,700 boys and 276 girls in 1975. (NACRO Working Party 1977 Appendix 5). Through the use of these custodial dispositions, the magistrates saw themselves as maintaining the need for coercive forms of sanction against youth, and also preventing "the Law" from being undermined by the permissive concerns of social workers.

A subsidiary theme in the attack on the social work discretion allowed by the Act was an attack on the requirement in the Act that all offenders under 14 should be supervised by local authority social

workers, and the intention to phase probation officers out completely. (The magistrates had been happier with probation officers whose relationship to "the law" was guaranteed by their role as "officers of the Court").

The paradox is that social workers themselves were continuing to use institutional placements, including the "unruliness certificate". Section 23(3) of the CYP A allowed local authority social service departments to go to court in order to vary the care order already placed on someone in their care, and to replace it with an order committing that person to remand centre or to prison.<sup>20</sup> The use of these "unruliness certificates" increased considerably, as the availability of secure places in the community home system increased from 1975 onwards. The acceptance of the liberal social work aspirations of decarceration of the 1960's (if ever it had been widespread amongst practising social workers) was firmly qualified by social work acceptance of the "practicalities of the situation" and by the ideological pressure from the magistracy.

#### 6.5 The Expansion of "Secure Accommodation"

One of the most important effects of the ideological struggles conducted around the CYP A has been a rapid, almost unseen, expansion in the provision of "secure accommodation" within the community home system.

The use of a small number of Secure Units in the English approved school system was a product of the riot of 1959 at Carlton House School, in Bedfordshire (although they had apparently existed at Rossie Farm School in Scotland since 1959). An official Working Party of the Approved Schools Central Advisory Committee in 1960 described their future function as being to provide a means of containing persistent

absconders and unruly and uncooperative boys, as well as providing security for exceptionally disturbed boys requiring psychiatric help and medical misfits. To this already contradictory list were added in 1968 and 1969 children who had committed "very serious crimes"<sup>21</sup> and children who had engaged in "threatening homosexual behaviour". The units themselves were established (with twenty places each) within three of the large classifying schools of the approved school system (Aycliffe, in Co. Durham, refused to accede), with some small "intensive care units" for girls being attached to open establishments.

In 1969, a Home Office Working Party investigated the secure units, and concluded that their functioning was "very confused"; that their "clients" were a "mish-mash" and that they were very rarely full. Sixty secure places was the very most that "the system" required.

In March 1975, however, six years later, the Department of Health and Social Security replied in writing to an inquiry from the House of Commons Expenditure Committee, informing them that 673 secure places were planned (or in existence) in the community homes.

Milham, et al 17, p.28). Some of these places were required by the Childrens Bill, which was enacted in 1975, in response to which £2 million was allocated by the Government for building 80-90 places, and others had been generated by the DHSS in drawing up its regional plans for the fully operational community home system. The exact commitment of the DHSS remained elusive throughout this period,<sup>23</sup> and there were actually suggestions of an attempt within the DHSS to stem the move towards building more units.<sup>24</sup> However, it was confirmed in a parliamentary answer in 1981 that the number of secure places in the community homes had continued to expand, reaching 600 in April of that year. (Guardian, 15 April 1981). But the fact remains that the "demand"

for secure accommodation within the juvenile justice system had increased by at least nine times in six years; a phenomenon which both the Howard League (1977) and Milham et al (1978) have been at pains to explore.

The design of the secure units which were under construction for the DHSS was leaked to the Guardian during 1977; and it was revealed that they were being designed to be "physically secure", with sheet steel facings on bedroom doors, with observation panels to enable surveillance of bedrooms, and high walls around the exercise yards outside ( Au ust 1977).<sup>25</sup> The Director of the Howard League described the designs as being for "mini-prisons at the cost of £7,000 to £13,500 a year".<sup>26</sup> To the Detention Centres of 1948, the Borstals of 1908, and the remand centres (which are a part of the prison system) had been added a new form of lock-up prison for young-<sup>/the</sup>built into the treatment institutions inaugurated by the 1969 Act.

In an article in Labour Weekly, in 1979, research was quoted to show that an increasing percentage of the population imprisoned in the secure units were between 12½ and 14½ (31 per cent in 1964-8, but 55 per cent in 1975); and that in the long term secure units, children could be held for as long as four or five years. Clearly for offences for which adults in magistrates' courts would receive under six months imprisonment, large numbers of children are now being put into care and then into "lock-up" for years on end. As the article observes, this was happening to

"more children ... for indeterminate periods (and with no official system of appeal) than at any time since they were taken out of prison by the Children's Charter of 1908".  
(quoted in The Guardian 25 August 1979)

✓ The introduction of these lock-ups into the community home system seems to have received its first and only political legitimation - in

Parliament - in the Report of the Expenditure Sub-Committee, released in 1975. It is also worth noting, however, the recommendations made in this Report for the creation of a Secure Care Order (for those committing offences whilst in care) (para.25), for the extension of Attendance Centres (which the 1969 Act had intended should be abolished) (para.49) and a new short Detention Centre order (para.46).<sup>27</sup> The Labour Government's response to the Expenditure Sub-Committee, released in May 1976, was to accede to most of these demands (and indeed to proceed to open twenty new attendance centres), but to refuse to create new Detention Centres. The Government had already indicated in addition that the proposals for a secure care order were unacceptable. But in July 1978, a joint report of a Working Party of the Magistrates Association, the Association of Metropolitan Authorities, and the Association of County Councils indicated that the proposal for a secure care order was still at the head of the agenda, and added to the armoury of demands the proposal for a "code of practice for local authorities as to the most appropriate actions to be taken concerning children in care". "It is the belief of the Associations that by following (these) guidelines ... local authorities can do much to foster confidence and understanding between juvenile court magistrates and local authority social services staff". (Appendix D, para.2).

The framework for a fundamental revision of the Children and Young Persons Act of 1969 was already quite clearly established, in other words, by 1975, and, especially in the absence of any clear alternative firm social democratic organisations, it was very much an unchallenged wisdom at the moment of the election of the Thatcher Government. What is more, in the process of creating this framework for new legislation, the Magistrates' Campaign had had a significant immediate effect on the existing practices of the courts and social

services departments and particularly on the range and use of institutional "lock-ups" available within the system. An Act which had been constructed around the radical-liberal project of decarceration had been substantially reappropriated into the State's reconstruction of its own structures for the effective control of youth.

#### 6.6. A Right-Wing "Sociology" of Youth

At least as important an effect of the Right's campaign against the CYP A of 1969 was the support the campaign gave to ideological work taking place as the real character of juvenile crime and, indeed, of crime in general. Some of this work was undertaken by right-wing "academic" writers like Patricia Morgan (notably in her Delinquent Fantasies, published in 1978, but also in a series of articles for the Daily Telegraph) but, especially as compared with the United States, where academics have contributed very significantly to the right-wing shift, the great bulk of the ideological work was done by politicians and/or by magistrates and the police.

The key feature of the new "sociology" that was being advanced as an account of youth crime was the Right's insistence on the existence of a "hard core" in any cohort of juvenile offenders. In a report submitted in 1977 to William Whitelaw, in his capacity of Shadow Home Secretary, the Conservative Parliamentary Home Affairs Committee offered the following account of the "errors" of the 1969 Act :

"It was an Act founded on good intentions and optimistic hopes. It set out to provide treatment rather than punishment for young offenders, and transferred the responsibility for applying the treatment from the court to the Social Services. But for the hard core of persistent offenders (approximately one in eight) the Act appears not only to have failed, but to have positively encouraged the activities of these hardened young criminals."

(Conservative Parliamentary Home Affairs Committee, 1977, pp.1-2)

Conservatives and magistrates alike would have noted with satisfaction that the House of Commons Expenditure Committee, also reporting in 1977, had concluded that

"... the major failing of the 1969 Act is that it is not wholly effective in differentiating between children who need care, welfare, better education, and more support from society and the small minority who need strict control and an element of punishment." (para.167)

A belief in the existence of a minority of offenders in need of penal discipline and containment has been a feature of most forms of Conservative ideology. In David Price's pamphlet of 1961, which we examined in Chapter Three, the existence of minority of "evil" young offenders was inevitable. ("They are just wrong 'uns. Bad through and through"). In official Conservative reactions to the 1965 White Paper, The Child, The Family and The Young Offender, a similar refrain was apparent, and nowhere was the source of Tory anxiety put more clearly than by Mr. Peter Thorneycroft. Thorneycroft had made a close study of the White Paper, in his capacity as chairman of a Conservative Study Group which had been set up to deal with the proposals originally made by the Lonford Report. Opening an attack on the Government in the Commons debate of 2 February 1966, Thorneycroft observed that the arguments in The Child, The Family and The Young Offender were constructed by people :

"who feel that the difference between delinquency and non-delinquency ought somehow to be obliterated. This is an error. I read the other day an article in the Observer by Barbara Wootton. She criticised the White Paper from the other point of view, because she thinks it does not go far enough. She says 'In practice, everything will turn upon whether the councils - that is, the family councils - do or do not succeed in obliterating the division of children into sheep and goats, delinquent and non-delinquent.' But we cannot utterly abolish the differences between right and wrong in this world. If we do, we shall not further the cause of the war against crime.



The article continued :

'Never shall I forget interviewing in the same week a parent whose child had won a place at Christ's Hospital and another whose boy was on his way to an approved school. The cheers in one case the tears in the other illustrated, as could nothing else, the difference between an educational and a penal decision.'

But there are members in this House and people outside who think that there is a difference between winning a scholarship to Christ's Hospital and being sent to an Approved School. If we tried absolutely to obliterate all difference, the damage which we should do by sheer muddle and woolly-mindedness would be damage which should not be permitted by the Government."

(Peter Thorneycroft, M.P.

Hansard: vol.676 (1966) cols.1119-1120)

These natural differences were the product not just of effort ("winning" a place at Christ's Hospital) but of the facts of heredity: and amongst the most important facts of heredity, in the reformulation of reform conservatism originally begun in the late 1960's, is the existence of "minorities" of "evil, violent" individuals in need of containment and punishment.

In the early 1970's, these themes were taken up again by a Committee into the CYPAs established by the Society of Conservative Lawyers, under the chairmanship of Edward Gardner, Q.C. This committee was particularly keen to issue reports on its progress to the mass media (at least three reports on its work were issued in 1973), and it also produced two final reports, in August 1974, under the title Apprentices in Crime, and another, in October 1976.<sup>28</sup> These particular reports were notable for the authoritative (not to say authoritarian) way in which "suggestions" were made to social services departments and also the schools as to the most appropriate way for dealing with delinquents, and also for the continual repetition of certain catch phrases (which were then taken up again for populist purposes by other groups). The outstanding example of this was the repeatedly publicised assertion that "children are depraved as well as deprived". We were already repeatedly being told that

"the law" was being "mocked", and magistrates and police "have their hands tied". (This is at a time, 1973-6, when committals into existing institutions were doubling, and the massive secure accommodation programme winning official acceptance).

Another feature of the Gardner Committee's report, and the statement released to the press by that Committee in July 1973, was its anxiety over the increasing delinquencies of girls, especially in the 14 to 17 age range. These girls

"are mocking the law because (under the CYP A) courts can no longer punish them."  
(Guardian 30 July 1973)

We begin here to have a sense of the social location and origins of the "hard core" (and the functions of the Conservative insistence on "evil", as a way of responding "in ideology" to changes in the social structure). In these press releases, the image of rebellious, independent working class girls (rejecting the future that is mapped out for them under existing social arrangements) was clearly unsettling to Conservatives: for them, the orderly reproduction of patriarchy in most of its forms and the orderly reproduction of deferential relations between the classes are both fundamental to reproducing the "normal" social and economic relations.

In 1971, the year in which Hall et al suggest the threshold of violence was encountered, and the year before the raising of the school leaving age, the annual conferences of the National Association of Head Teachers, the National Association of Educational Welfare Officers and the National Association of School Masters were all taken up, predominantly, with the question of delinquency. For the NAS, introducing the results of a survey of violence in schools (over one month - October 1971), the problem was the result of the presence of a

"disruptive minority" whom teachers had previously been unprepared to identify and punish because of likely parental response and also because of "pressure from administrators" ("Violence in Our Schools : the Grim Reality", Sunday Times 21 November 1971).<sup>29</sup> Raising the school leaving age (planned for 16 April 1972) threatened to make this minority even more difficult to handle. On 25 November, in both the Guardian and Daily Mirror, the NAS recommended the introduction of special schools "possibly with an 'Outward Bound' regime ... for the segregation of especially violent children".

From 1971 onwards, the popular press, serious newspapers, weekly journals and television alike gave a full and sympathetic coverage to most of the annual conferences of the professions involved with schools and with educational welfare. By 1975, the impression had been created of a total breakdown in schools (the NAS in that year passed a motion "refusing to teach the violent pupil"). The campaign was thought by the social-democratic National Union of Teachers to be "sensational" and "inaccurate". Mr. Max Morris was quoted in the Guardian as observing that :

" ... it does teachers and the education service no good to give the public the impression that we walk in fear and trembling of seven year old babies or fifteen year old youngsters. It simply is not true. Nor can discipline problems be wished away by saying we won't teach them: surely someone must teach them."  
(Guardian 7 April 1975) <sup>30</sup>

The reports continued, however, and their repetitiveness and their expression in catch phrases bred familiarity. Mr. R. Smith, speaking at the 1975 conference of the National Association of Schoolmasters, spoke of magistrates "working with their hands tied behind their backs", and Mr. S. Poulton spoke of children going to court "with fewer misgivings than if they were going to have a haircut".  
(Times Educational Supplement, 11 April 1975).

The functions of these campaigns in relating an ideology to specific developments in the youth culture (and again, specifically to "problems" that were occurring among girls) is clear in another Times Educational Supplement report in 1975 :

"Mrs. Joyce Burton, president elect of the Educational Welfare Officers' National Association, will propose an independent survey of the reasons for increasing schoolgirl violence ... at the association's national conference next week ...

She believes the trend is partly a result of emulating boy's fighting tactics as well as their clothes and hairstyles: 'You can't wear these unisex clothes without some comeback' she says 'it's going to get more bizarre'.

The media give young girls an education in sex and violence before they have learnt how to become a woman ...

Other influences which Mrs. Burton thinks would be revealed by a survey include the social inequality of women and the violent tactics used by women's liberationists.

Another factor is the shortage of educational welfare officers so that they cannot give enough time to preventative work in schools."

(Times Educational Supplement, 28 March 1975)<sup>31</sup>

The work done by politicians, schoolmasters and others in this period was closely paralleled by the increasingly vociferous and self-confident interventions of senior policemen and of the Police Federation into public debates about social order. One of the most restrained examples was the lecture given by Commander Peter Marshall of Scotland Yard's Community Relations Branch to the Association of Chief Police Officers conference in 1974. Marshall observed that

"we have a situation in London, echoed in Birmingham and Liverpool, not dissimilar, I believe, from New York, Chicago and Tokyo - a major social problem unresponsive to the efforts of police, social workers, courts and penal institutions. Persistent juvenile offenders are a world-wide problem."

(quoted in The Guardian, 19 September 1974)

These international developments were not helped, however, by

"policies which have concentrated on the provision of housing units to the exclusion of community, education policies given by political dogma, which have produced teaching factories where head teachers may not even know their staff by sight, let alone

their pupils, and the growing number of aimless youths, are areas for examination." (Ibid.)

Marshall's attack on social democratic education and housing policies was couched in liberal terms, however, when compared to the public statements of the rank and file police officers' union, the Police Federation, including this from the Federation's annual conference in 1976 :

"a strong attack on the 'gross irresponsibility of some teachers and social workers' came yesterday from the chairman of the Police Federation, Mr. Leslie Male ... These included 'teachers who are so indoctrinated with their alien political creed that they convince kids that it's all the fault of the system'... and social workers who turn a blind eye, sometimes even connive at offences committed by children in their care ... " 32

and then, with some familiarity,

" ... we need to stress, until people in high places get the message, that there are deprived children and there are depraved children."  
(Guardian, 20 May 1976)

And in 1979, another familiar refrain :

"There is a hard core of criminals who are so dangerous that society, and their potential victims, must be protected ... "

The problem was "the Act", which was the result of

"the insidious invasion of the theorists in the realm of lawmaking. They were obsessed by the idea that there was no such thing as a 'child criminal'."  
(Editorial in Police, quoted in The Guardian 15 May 1979)

The ideological initiatives of teachers, police and right-wing politicians were given some support in the later 1970's by a small number of Conservative academics as well as by the popular daily press. There were significant differences of emphasis and of sophistication in each of these interventions. But a key common concern of these various groups was the attempt to point to the existence of a "hard core" of young offenders, who were by definition immune to the rehabilitative efforts of social workers and of teachers in the ordinary

school. For this hard core, much firmer measures were required. They might have to be taken out of general circulation in schools by being dealt with in special classes. They might also have to be sent away to detention centres, or they might have to be placed in secure units within the community home system (there were and are differences amongst right-wing commentators as to whether this hard core can be reformed or whether it can only be contained).

It is important to note how the specific social location and characteristics of the hard core are very rarely specified in these accounts. The hard core reveals itself in various places within the youthful population, by being identified as such by police, teachers and others. In this respect, the Right's ideological identification of the "hard core" was generally useful as an account of a wide variety of youthful troubles occurring in the late 1970's. It "made sense", for example, of the disturbances occurring in Southall, Leicester and elsewhere during the 1979 Election and then of the "riot" in St. Paul's in Bristol in 1980. It also did service in the public statements made by the police and the Conservative Government about the riots of 1981, though with more difficulty.

The rhetoric about a hard-core of youthful offenders closely paralleled the development of a concern with the dangerous adult offender (a concern which was also apparent in the law reform initiatives of the Reagan Administration in 1981.) This "renaissance of dangerousness", as Tony Bottoms has called it, however, was, in the British case, more the product of the work of professional psychiatrists, the Prison Medical Service and workers in the mental health field, working through essentially medical concepts, than it was the work of the Right-wing politicians. But whether "hard-core" or "dangerous"

offenders were identified in terms of a medico-social pathology or in terms of the random distribution of evil, the general ideological effect was similar. A much more sustained attempt to pre-empt, identify and contain the danger was required on the part of the State. The benign rhetorics of rehabilitation of any one in the general population with an "unmet need" was increasingly replaced by a more alert rhetoric which re-defined the function of the social work and justice system as being to identify and segregate the hard core.

### 6.7 The Thatcher Government and Youth Control

Public statements on youth by senior ministers in the first two years of the Thatcher Government concentrated on two concerns, which they discussed separately as though they were unrelated. These were the topic of unemployment, especially among school-leavers, and the question of juvenile justice, and especially "that Act", the Children and Young Persons Act of 1969.

On the first topic Ministers indicated continually that the actual level of unemployment in Britain was now going to be left to the adjudication of the "market", even though it was acknowledged that this would result in an immediate and substantial increase in unemployment, especially among school leavers. This governmental statement of intent came at the end of a five year period in which overall unemployment in Britain had already "risen sharply ... to a level not seen since the 1930's. This was due partly to a reduction in employment opportunities, and partly to "a rapid rise in the numbers of economically active married w men, (i creases in) the numbers of young people joining the labour force ... and a fall in the number of people retiring". (Social Trends 9 (1979), p. 8). There had also been a major increase in the number of people officially classified as "long-term unemployed", reaching 300,000 in 1977 (as compared with 50,000 in 1966).

By 1980, the question of unemployment amongst school-leavers, in particular, was finally surfacing as a "national problem" in the eyes of the mass media, with the "youth unemployment rate" reaching 10 $\frac{1}{4}$  per cent and projected to increase to 14 per cent by 1981. (It had been increasing, exponentially, since 1969, but it had not been the subject of much journalistic investigation in the popular media, which had concentrated instead on the more "newsworthy" behaviours of youth as the essence of the youth question proper). The now incontrovertible arrival of a major recession within western capitalism led the OECD itself to designate the question of projected youthful unemployment throughout Europe as a whole in the 1980's as a major political and economic problem for "the west" (Guardian, 11 July 1980). In the meantime, the total unemployment figures for the U.K. escalated from 615,000 in 1974 (2.6 per cent of those registering for work) to 1,475,000 in 1978 (6.2 per cent). Then, after a brief respite in 1979, a further spiral began, with unemployment reaching 2,552,300 in June 1981 (10. per cent). Unemployment - as measured officially and therefore not including many women and others who have given up registering for work - has, in other words, increased by four in a period of five years.

In part, the increases in youth unemployment could be accounted for by the advent of new forms of labour-saving technology (in particular, micro-chip technology), an effect that had been anticipated, for example, in a Department of Employment study of 1974 which projected that the proportion of under 20 year olds in the labour force would decline from 8.6 per cent in 1971 to 4.6 per cent in 1991 (in 1921 the figure had been 1.7 per cent). And in part the increases in unemployment were an effect of the general crisis of profitability being experienced by all western societies, from which British youth previously been protected



by the state-financed Youth Opportunities Programmes and Temporary Employment Subsidy initiated by the earlier Labour Government. But the increases in unemployment after 1979 were directly the result of the withdrawal of Government financial support from the shipbuilding and steel industries and from regional aid programmes, as well as of the reductions in expenditure forced on local authorities. They were a product of the attempt by the Thatcher Government, operating to monetarist principles, to "free the market". This freeing of the market is required, according to the theory, in order to allow individual capitalists the space (and the capital) to create new products for which there will be demand, thereby to recreate the basis for a new phase of capitalist expansion.

The Thatcher Government clearly recognises that the "freeing" of the market will have no immediate or universal effects. Its private explanation of this undoubtedly lies in the Conservative belief in the inequality of human talents. Some people are simply unable to grasp the opportunity that "freedom" presents, by virtue of failings of heredity and socialisation. For these, some measures of "resocialisation" may have some effect, especially in the form of the re-learning of the relationship between "effort" and success. In this respect, proposals that were being mooted by the Thatcher Government in July 1980 to encourage unemployed youth to work on an entirely voluntary basis, as a means of repaying the State unemployment benefits they received, were entirely consistent with the monetarist theories of the origins of production and wealth (i.e. that wealth is a product of worthy individualism). So the advent and escalation of high levels of unemployment, especially amongst youth, is not an economic problem in itself, but is posed as a question about the ability of the unemployed to participate in the new epoch of production and

accumulation which the restoration of freedom to the market is supposed to achieve.

The moralism of the Right coexists however with a "realism" about "human nature", which asserts that there are also human beings who cannot even benefit from the moral socialisation of legitimate and worthy Authority. (cf. Van den Haag 1976). There are "evil" and "dangerous" people, especially amongst youth (since - as we have seen - each new generation contains a "hard core" which has not yet been apprehended and segregated off from society, in the interests of public safety). So it is no surprise that the second major area of concern for the Thatcher Government, and in particular the Home Office (under William Whitelaw) and the Department of Health and Social Services (under Patrick Jenkin) has been with the reorganisation of the juvenile justice system, and in particular the revision of the Children and Young Persons Act of 1969.

Two themes were observable in the early initiatives on "juvenile justice". The Home Secretary affirmed the commitment of the Government to the creation of a "Residential Care Order" which would allow the court, once a gain, to send a juvenile directly into an institution. In addition, there was once again a need to create new forms of detention centre regime in which young offenders would be given a "short, sharp shock". Two new experimental regimes, based on existing centres at New Hall near Wakefield and at Send in Surrey, were announced at the Conservative Party conference in October 1979, (Mr. Whitelaw informing a delighted audience that life would be lived "at a brisk tempo" in order to show that criminal behaviour would not be tolerated); and the centres were opened on 21 April 1980.<sup>33</sup>

In the same months, however, Government policy was affirming a commitment to measures of a preventative and non-institutional character.

In particular, at a major speech to eight hundred social service departments directors and senior staff in conference in Sheffield on 9 July 1979, the Social Services secretary underlined the Government's commitment to the Intermediate Treatment provisions enshrined in the 19 9 Act. Though it might appear inconsistent, the Conservative Government's revision of "that Act" was to take the form of the reintroduction of the stern and punitive regime of a military institution, on the one hand, and the expansion of benign forms of non-institutional treatment, on the other. No withdrawal was to take place from the use of the treatment workers who had been put "in place" by years of consensus politics. Indeed, in a carefully worded section of his speech, Mr. Jenkin noted that

"... the Government's recent call for reductions in planned expenditure will mean that local authorities will have to review their priorities. I do not wish to preempt decisions on where local authorities should seek economies but I do ask them to bear in mind the priority the Government attaches to law and order. I could perhaps make the point that many parts of local authorities' child care services share a major responsibility with the police, probation and prison services for coping with delinquent young people on remand or found guilty by the courts. To this extent, the Government are prepared to regard child care services as an integral part of the national pattern of law and order services, and to have the priority which that accords it."  
(Jenkin, 197 , p.9)

The commitment made by the Thatcher Government to Intermediate Treatment surprised many observers, who had anticipated that the new Government would give its support exclusively to penal and disciplinary programmes. Commentary of this kind missed the way in which Intermediate Treatment itself had come increasingly under the influence of the courts during the 1970's<sup>34</sup> and it also missed the commitment of the new Thatcher Government to endow the social work services, in particular, with a new project of surveillance and remoralisation, in place of the discredited task of "rehabilitation". So Patrick Jenkin's speech to the

Intermediate Treatment conference began with references to the host city as a city that was memorable for the sturdy independence of its artisans and built up to the demand that Intermediate Treatment "must not, empathically, be confused with treats" and that individual programmes must be "constructive" and able to win the support of the magistracy, for their positive contribution to the lives of their clients. Intermediate Treatment programmes are now expanding throughout the local authority social service departments and financing of such programmes has expanded correspondingly: local authorities spent £4.2 million on I.T. programmes during 1979-80.

In October 1980, the Thatcher Government introduced the White Paper, Young Offenders, as "a fulfilment of its pledges" in the 1979 Manifesto. This White Paper involves a final and fundamental revision of the system established by the 1969 Act. There are several discrete proposals.

The Government promises to introduce a new sentence for the young adult offender (aged 17 to 21) to be served in existing borstals, detention centres and prison. This new sentence, of "youth custody", will restore to the courts the power (of which they had been deprived by the Criminal Justice Act of 1961) of

"imposing a determinate sentence whose length was appropriate to the circumstances of the particular offence and the young adult offender."

Discretion will be located entirely in the courts and sentences will be determinate.<sup>35</sup> For most young adults, the new sentence will be served in senior detention centres, which are to be "adapted" after the experiments at Send and New Hall. The minimum detention centre sentence is to be reduced from 3 months to 3 weeks only, on the grounds, says the White Paper, that the

"deterrent effect of a sentence of this kind is likely to diminish after the first few months."

And the maximum sentence is also to be reduced from 6 months to 4 months, presumably in order that a much greater number of young adult offenders can be processed through the centres. In relation to offenders under 17, the Young Offenders White Paper also responds to the complaints raised initially in 1975 by the Magistrates' Association and later adopted as policy by the Associations of County Councils and Metropolitan Authorities by proposing that a "Residential Care Order" should be available to the courts "in relation to a person already subject to care proceedings brought because the person was guilty of an offence." The White Paper reveals that a code of practice was already in existence (drawn up by the Associations of County Councils and Metropolitan Authorities) to deal with the problem of reoffending by children already in care, and to enable the child to be sent away from home. But the Government :

"thinks it necessary to go further and to give the courts statutory power to require the juvenile's removal from home so that this can be seen by the public and by the offender to be a direct result of the offence and the court appearance."  
(Para.45)

The R.C.O. is envisaged for children aged 10 to 16 charged with imprisonable offences, and the White Paper insists that children so charged must be offered legal representation and that there must be a right of appeal. Sentences of up to 6 months will be able to be imposed by the courts, with the actual placement decided upon by the local authority social services departments. In the rest of the White Paper, the Government announces that the role of the court in relation to Intermediate Treatment may be extended, with the court being given power to require "a programme of specific activity" from an offender including community service (Para.50). It also hints at

giving proportionately more financial support to the Probation Service than to social service departments (Para.51), and finally it proposes that parents should be required to pay fines imposed on children up to 17 (currently, the court has discretion in this respect with children over 14).

The overall theme of the Young Offenders White Paper is clear. Power over the control and disposition of troublesome youth should be restored to the courts, with the objectives of professional liberals being firmly subordinated to those of the magistracy and the police. Offences by young adults and also by children should be seen as such and not as presenting symptoms of a psychic or social maladjustment. There should be a clear and commonsensical relationship between "wrongdoing" and punishment, but punishment should never be imposed without a finding of legal guilt. Punishment itself - especially of the young - should not, however, be merely retributive or deterrent: it should be "constructive" enough to point out to an inexperienced young offender the error of his or her ways and to point to alternatives. The White Paper avers th t its approach is based on the belief that "training and education" have to be provided for young offenders at what is a crucial point in their lives, for they

"may be at a turning point which decides whether they will become recidivists or responsible citizens".  
(Para.12, my emphasis)

Twelve years on from the 1969 Act, and thirty five years on from the war-time enquiries of the International Committee of the Howard League into the problem of youth control during social reconstruction, the dominant description of the State's responsibilities vis-a-vis troublesome youth has returned to classical penal philosophy for guidance, and has jettisoned any reference to the alliance of

juvenile justice, client-centred social work and social reconstruction as such. So far from being thought of as an agency for dealing with client needs or even an agency making "correctional" decisions, the court is to be seen as an instrument for allocating punishment and thereby, also in ideology, as the provider of the chance for offenders to make the freely-willed decision to reform.

The functions of this "redrawing" of the court in the current economic climate and social crisis of British capital are clear. The creation of social order is to be everyone's individual responsibility, in the literal sense that we are all to be urged to be "responsible" in our own private and public behaviour, treating other possessive and private individuals as they would have them treat us. The boundaries of acceptable conduct are to be policed by an enlarged police force supported by a range of sentences that the courts can impose, proportional to particular offences. Outright failure to act responsibly will indeed result in lengthy sentences, but the primary Governmental objective is that the courts should reduce the length of sentences they impose overall, in order that they should have a greater variety of shorter sentences available (especially in prison and detention centres. In this way, greater numbers of young offenders may obtain the beneficial and remoralising experience of punishment, and may come to realise that their own future success in life depends not on the State or on the collectivity in which they have so far intuitively depended, but on themselves. Like the National Service currently being proposed for the young offenders, "punishment" has a primarily moral appeal for the Thatcher Government - its fiscal implications are secondary and unclear. The dominant feature of "punishment" in the Young Offenders White Paper, as in Conservative rhetoric on detention centres, is its ability to coerce young offenders into an acceptance of

the benefits of the self-reliance of the respectable artisan, and into a rejection of their own dependency on neighbourhood or class traditions of collectivism. It also has the appeal of appearing to "prefigure" the rampant individualism that would be demanded in a fullblown reconstruction of British class society into a "social market economy".

So our argument is that the campaign waged by the Magistrates Association against the 1969 Act, dominated as that campaign was by the specific and retributive attempt to impose punishment and discipline on recalcitrant black youth, unruly girls or difficult schoolchildren, whilst clearly having been taken up by the Government, has also been significantly re-articulated. The role of juvenile justice work in the courts has indeed been "re-theorised", as part of the moral re-ordering of society into a mass of atomised but responsible individuals, in the same way as social democrats "re-theorised" the role of the courts in the reconstruction of the 1940's as being an instrument for identifying social and personal "need". The Young Offenders White Paper, for all that it also contains some recommendations which have won the support of official Labour leaderships,<sup>36</sup> is an integral part of the process of social reconstruction that is currently being attempted by the Thatcher Government. It is clear that the riots in British cities of the summer of 1981 caused the Government to pause in this process of reconstruction: but it is not clear that they have had any fundamental effect as yet on the trajectory of social or penal policy.

#### 6.8 Conservatism and Real Crime : an essay on organised crime and the crime of corporations

The really central factor in the attempt to restore order (and the dominance of Capital) in British class society is the ability of Thatcherite economic policies to conjure a new epoch of capitalist



accumulation, with its anticipated spin-off, a "social market economy", based on a rapid circulation of wealth between propertied individuals, Progress towards this nirvana, however, requires that the Thatcherites should negotiate a "transitional" period, in which two clear dangers exist. One danger is that the restoration of the "free" market is perceived by the people as a whole, as being ineffective in producing social order; and the other is that the accompanying "freeing" of capitalists and entrepreneurs from State control is perceived as being in the interests, only, of particularly advantaged groups (in a class interest), rather than "society as a whole".

The recognition of these dangers is evident in much of the rhetoric of the Right. The domination of the propertied and the entrepreneur must be presented as an effective means of moving towards a more stable, rather than a more anarchic, social order. The "free market" must, in other words, be accompanied by a strong state. In particular, the state must be strengthened in order to be effective in pursuing those groups which the Right has identified as enemies of the people and the nation ("hard core" and "dangerous" offenders, "welfare scroungers", illegal immigrants, and others).

Stuart Hall et al have examined at length the way in which one crucial theme, of racism, was elaborated during the 1970's in order to identify ideologically young blacks as a key source of the disorder in British society. (Hall et al, 1978). A connection was forged in ideology between the threat of street crime in urban centres (*mugging*) and the need for the constant surveillance of the black population (the Metropolitan Police's use of the "sus" law). Such a firm handling of race is also evidenced in the Thatcher Government's attempt to restructure the Commission for Racial Equality, in the increased

frequency of police raids against suspected illegal immigrants, and even more tellingly in its proposed changes to nationality law. Here, Thatcherism plays on an equation (of crime/youth/race) which had been established "commonsensically" by the New Right, the Police, and the National Front, throughout the 1970's, without any effective ideological counter attack from the social democratic left.

A similar ideological closure occurred during the 1970's around the issue of "welfare", a topic which still continues to be discussed by the popular press overwhelmingly in terms of "welfare scrounging".<sup>37</sup> It was a closure which seemēd to be hastened by the beginnings of an obsessive concern in the popular press in 1976 with the question of social security abuse. 1976 was the year in which the Government announced three reductions in public expenditure (in February, July and December), as well as a year in which levels of unemployment continued to increase and the real value of wages continued to decline. (Goldin and Middleton, 1978). In the absence of any clearly popular alternative explanation on the part of social democracy, and in a context in which nearly all the newspaper proprietors, and significant numbers of the journalists, became convinced of the newsworthiness of Thatcherism, petty bourgeois politics and economics start to do ideological service on behalf of a working class squeezed between the claimant and an increasingly impoverished capitalist class, with wage awards (therefore) falling behind the rate of inflation.

"The discourse of the 'spendthrift State', recklessly giving out wealth the nation has not earned (here, the shopkeeper 'subject' is condensed) and thereby undermining the self reliance of ordinary people (here, the possessive individual makes his appearance) produces as its discursive opposite the 'welfare scrounger', living off society, never doing a day's work (here, the Protestant ethic makes a late return ...."  
(Hall, 1980a, p.180)

This is indeed real crime in every "obvious" populist respect. It was allegedly in response to the anger and anxiety which this "criminal" abuse of "society" created that the number of special investigations employed by the DHSS was increased, first by the Labour Government by nearly a third between 1974 and 1978 (to 428), and then by the Thatcher Government. Mr. Jenkin, Social Services Secretary, announced in November 1979 that there would be an increase of 600 staff to tackle "abuse in the social security system". In this process of reaction, it does not seem to matter that the amount of fraud that is actually being discovered is a minute proportion of state expenditure on benefits as a whole,<sup>38</sup> and it also appears not to concern Right-wing /popular journalists working in the media that campaigns on welfare scroungers have demonstrably had the effect of deterring nearly a million claimants in 1975 from collecting the state benefits to which they are entitled.<sup>39</sup> What matters is the "smack of firm (authoritarian) Government" being responsive to popular anxieties which supporters of the new Government in the newspaper media have helped to create and sustain.

The relative ease with which the campaign against State welfare has been mounted should alert us as to one of the major strengths of the Right's position in the current situation in Britain. The fact that there has been very little protest within the Department of Health and Social Security nationally or at local level at the cuts imposed in the level of state benefit suggests that Thatcherism commands support within the welfare state apparatus itself. Indeed, as we argued earlier in this thesis, a telling indictment of the statist and bureaucratic form of post-war social democracy in Britain is that one of the strongest areas of support for Right-wing ideological offensives of the last decade has been amongst executive level state workers as a whole (amongst teachers, welfare workers, immigration officers, and police and prison officers).

Social democracy itself certainly offers no account of this bureaucratic relationship other than as state benevolence for the deserving poor and as a form of state control for the un-deserving, pathological, rebellious poor (with the state worker being responsible for making the distinction in individual cases); and it suggests no alternative way in which those who are made marginal to the productive labour market by national or local recession might be described or understood. It has no programme for involving the "marginal populations" (the unemployed, blacks, working women, etc.) in popular political debate over welfare, immigration and race, and social order itself.

The most important reason for this is that the "Statist" form of social democracy requires a vast expansion in the number of executive level bureaucrats, whose primary function is to make unilateral discretionary decisions about other people. These decisions range from the question of whether a person is entitled to a particular state benefit to the question of whether a person might be arrested for acting "suspiciously", but each decision is a non-reciprocal one; that is to say, the client is in each case entirely dependent on the State official for some discretionary benefit, whilst the official is subordinate to and accountable not to the client, but to "the State". As Edgar Friedenberg has observed, the clientele of the State is in fact "conscripted" into involuntary and unequal relationships with officials, who work for the State (Friedenberg, 1976). The tendency is for both the State official and the client to treat the relationship in purely instrumental terms (the one for power, and the other for material needs), albeit with rather more telling consequences for the client.

The number and frequency of instrumental relationships between State workers and marginal populations must continue to increase in the current period as the number of clients of State welfare and

crime control agencies increases; and for the state official, himself or herself a victim of public expenditure cuts, the "spectre" of this increasingly sizeable population must constantly provide commonsensical visible evidence of what he or she sees (in the absence of alternative accounts) as a decline in moral order and an inequitable burden on the Treasury.

The moral panics over "welfare scroungers" in the 1970's, for example, cannot be understood only in terms of the longstanding concern of the popular press to reassure respectable "working men" (and domestically labourin women) of their productivity and righteousness, or in ter s of the prejudicial campaigns of individual MPs. They were campaigns that were partly generated (for example, in stories leaked to the popular press) by the commitment of some state workers to a theory of social justice, "service" and social advance (derived from social dem cracy) which they thought were violated in the instrumental way in which their clients approached "the welfare". One element in the re entment, is, indeed, populist rather than traditionally Conservative or fascist: it is fuelled by a commitment to equality and an apparently social-democratic opposition to individualistic greed, or to the taking of "advantage". Even at the rank-and-file police and prison officer level, the delinquencies, criminality and rebelliousness of their client population are resented, because they are said to be a product of an unearned degree of affluence, or to be produced by generations that have been "mollycoddled" by the Welfare State, and because they result in social harm, to "the community" of which they are members. It is not just that the experience of welfare is said to have diminished an individual's sense of responsibility: it is also that youn vandals do spoil the environment of others; that trouble-  
some pupils do diminish the learning opportunities of other working

class children in school; that difficult prisoners do make it difficult for others to do time; that young thieves do sometimes make their target the hard-won savings of others of their class; and that young hooligans do withdraw respect from the authority of their respectable working class parents. Of course this populism is silent on the larger relations of exploitation between capital and labour and it accommodates to the larger class society by arguing for respect for "authority", and therefore domination, irrespective of the benefits and other consequences of such domination. But it has progressive elements: it identifies and opposes the fact of inequality in life, and it is also committed to a reduction in amount of injury that must be sustained in life. Moreover, there is in populism a continuing reference to the "threat to community" involved in the predatory behaviour it identifies in delinquency and crime: in this sense, in a paradoxical fashion, populism betrays a commitment to the re-affirmation of the sense of community that has been dislocated by the logic of post-war capitalist economics and urban planning.

Above all else, however, this populism is authoritarian. Clients of the welfare state are of inferior personal capacities and character by virtue of being clients, in the same way as immigration officers, housing officials, police and others tend to see blacks as particularly parasitical on welfare by virtue of being black, and in the same manner as some employment officers and DHSS officials currently see women as parasitical by virtue of wanting to work or to claim unemployment benefit. The "sense of injustice" in authoritarian populism reflects primarily the loss of authority that the respectable, white, working class male has had to sustain in the post-war period, but locates this sense of powerlessness and loss in the attempt to regain superiority within a racist and sexist set of social arrangements, in which welfare

claimants will certainly not be allowed to be parasitical on the productive worker.

On race, immigration, welfare and the question of the control of youth, the Thatcher Government has given evidence of its ability to restructure state policy (and state structure) in order to respond to the logic of authoritarian populism. It has accepted popular interpretation of these fields as fields in which there "really" is serious and frequent crime, (mugging, illegal immigration, welfare scrounging and delinquency generally). For all the (muted) objections of liberals and social democrats, it has redefined these fields of state activity (above all else) as being in need of policing. It has shown its determination to restore social discipline on behalf of the lower middle class and the threatened sections of the working class. So far from the State being "rolled back", it has been reorganised and strengthened in order to carry out new social and disciplinary tasks.

The second objective of the New Right, however, is to "free the market" from excessive influence of the state and also of the trade unions, as a first move in what they hope will be a new epoch of capital accumulation. This liberation of capital may indeed require that the state exercises discipline coercively over those who may fall foul of capital's restructuring process, in being made unemployed and/or in having the value of their state benefits heavily reduced, but it will also require that respect is recreated for the free entrepreneur whose freedom to create wealth is to be the motor-power in the restructuring of capitalism. Within the parameters of the disciplined social order, in other words, there will be an enlarged area of freedom for certain kinds of individuals, for whom a moral respect will also be demanded. This is not without parallel moments in the post-war period: Raphael

Samuel observed the growth of a literature in the early days of the state-managed "people's capitalism" of the 1950's, which attempted to depict "the Boss as Hero", taking primary responsibility for the burdens of social reconstruction. The celebration of the entrepreneur which is to be expected in the 1980's is more likely to be directed, however, towards capitalists rather than managers, and to be contextualised in talk of the freedom of individuals rather than the interests of the citizenry as a whole. And given the primacy of the "rule of law" (for social discipline) as the guarantee of this freedom, there is likely to be a parallel sanctification of senior police officers and other representatives of the coercive apparatus of the state. A pressing concern of the New Right in Government is, generally, to "re-moralise" individual initiative and capitalist endeavour, at the same time as they restore a sense of Authority and Discipline to the management of a class society.

Conservative ideology has, of course, always worked to forge connections between morality and authority, to suggest that subordinate or relatively powerless populations are in some sense a-moral or immoral, and to imply that this lack of appropriate personal qualities is in part responsible for these populations' subordinate social position. But the linking of capitalist activity or business to morality is always less secure and more troublesome in Conservative ideology than the authority-morality relation. Partly the difficulties arise because the remorseless pursuit of profit does tend to bring individual and corporate capitalists into collision with the law or, which may be the same thing, with other capitalists, who may want to bring charges in law against their competitors. There is a constant tendency for the criminality of individual capitalists to surface in the public domain, as a challenge to the equation of capitalism and the moral life.



According to Mack and Kerner, one of the most spectacular developments in criminal behaviour "in the last decades" has been a sudden rise in major frauds, commencing in the late 1960's. (Mack and Kerner, 1975). In the period 1967 to 1972 in Britain, nineteen major frauds (of insurance companies, banks and major companies) involving assets of over £100,000 were reported in The Times, including the £600,000 defrauding of insurance companies by Emil Savundra and the "John Bloom affair" "in which the figure quoted was £1,140,000" (Mack and Kerner, 1975, p.24). Mack and Kerner's evidence is obviously not very systematic, since what these investigators call "business type crime" is inherently difficult to research because of its relative immunity from police surveillance or the observation of researchers. The evidence made available in the early 1970's to the Conservative Government of Edward Heath on corruption was, however, sufficient for the prosecution by the Attorney General of John Poulson and his associates under a variety of charges under the Prevention of Corruption Acts (mainly for bribes offered to secure building contracts into local authority areas in the North of England), and for the establishment of a Royal Commission on Standards of Conduct in Public Life.<sup>40</sup> The evidence of corruption was also sufficient for Edward Heath to make his famous attack on this form of business endeavour as the "unacceptable face of capitalism".<sup>41</sup> Recent and forthcoming evidence suggests that "long firm" frauds (where a "bent operator" builds up the creditworthiness of a company before departing with the funds) now amount to between 30 and 80 cases a year in Britain, and that something over £12 million in cash is involved. The total amount involved in all Fraud Squad investigations has multiplied tenfold in the last ten years to almost £300 million (Sunday Times Business News, 1 June 1980).

The growth of fraud (the abuse of credit obtained from financial institutions) and corruption (the use of bribes to short-circuit competition for business contracts) in the financial activities of British entrepreneurs has been paralleled by a proliferation of technically illegal, or legally dubious, activities in the areas of speculation, tax avoidance and the connected area of what Mack and Kerner call "fiscal fraud". A pressing concern of financial journalists throughout the 1970's and into 1980 was with the opportunities presented by the instabilities of the international currency situation, and general instability within national financial markets, for "insider dealin " (the manipulation of share prices for profit by individuals with special knowledge), not so much because of its moral status, but because of its tendency to amplify and worsen existing instability. And, earl'er in the 1970's, the Sunday Times insight team's investigation of he rise and fall (in 1970) of Investment Overseas Services illustrated the rapid growth of enterprises using chain-letters "to pers ade very large umbers of new and unsophisticated investors to invest large sume of money ... in a variety of mutual-fund (unit-trust) companies". (Mack and Ker er, 1975, p.22). In this particular case, the American based I.O.S. was able to raise 2½ billion dollars, which it then domiciled "wherever in the world they would most avoid taxation or regulation". (Raw et al, 1971, p.13). The investors lost all their money, as I.O.S. reached the limits of its ability to sell the Units, and confidence of creditors evaporated.

The practices of I.O.S., of working "offshore", "in the interstices of the world's jurisdictions and administrative systems", meant that "they were able to do with impunity things that would have been illegal had their enterprise been located in any one place". (Raw et al, 1971, p.15). The expansion of such a quasi-legal form

of entrepreneurial activity has also been observed in the use by entrepreneurs of real or hypothetical international trade transactions specifically as a means of avoiding tax, or as a means of collecting tax remission from governments. "Fiscal fraud" is made possible in such cases by fabricating evidence of a trade transaction on which tax remissions are due in one country or another. Similar opportunities exist on the annual returns which companies have to make to the state on Value-Added Tax, which now exists in nearly all European countries. (Mack and Kerner, 1975, pp.16-17).

The proliferation of fraud, corruption and various forms of fiscal fraud has been observed in the United States (Rose-Ackerman 1978), as well as in all the major European societies (Mack and Kerner 1975). Most importantly, the growth of "business-type crime" committed internationally and within the international companies (outside the direct control of any one national legal system) has been the subject of a major international consultation of western capitalist states, including the conference of the OECD held in Paris, after 18 months of negotiations, on 21 and 22 June 1976.<sup>43</sup>

This conference followed on from revelations made to the U.S. Senate Foreign Affairs Committee in February 1976 that the Lockheed Aircraft Corporation had made monetary payments to government officials and leading politicians in Japan, Italy and the Netherlands in connection with the sale of aircraft; and from investigations by the same committee into the making of similar payments by a large number of large U.S. corporations, especially those in the aerospace and petroleum industries. (cf. Keesing's Contemporary Archives 16 July 1976, pp.27 and 40).

The growth of "business crime" has been very poorly documented, and there is very little explanatory literature on it. Such explanations

as do exist tend to focus on the increasing "complexity" of business itself or of national and international law (suggesting that the increase in complexity may create new "criminal opportunities" or alternatively that it may criminalise previously legitimate activity) or on the notion that there are individual "bad apples" in business, who are responsible for the bulk of the criminality of business. But even a neo-classical economist like Susan Rose-Ackerman has been forced to observe that :

"the study of corruption requires a confrontation with the most fundamental questions of political economy in a modern society .... political decisions that are based on majority preferences may be undermined by the wide use of an illegal market as the method of allocation. Legislative decisions may themselves be 'for sale' to the highest bidder .... A central question is whether democratic government can withstand the pressures of market forces: to what extent does the stable operation of a mixed (economic) system require political participants to dedicate themselves to democratic ideas, even when this is not otherwise in their self interest?"  
(Rose-Ackerman, 1978, pp.1-2).

The pursuit of economic self-interest by the few is recognised here to be a problem politically, in making "virtuous" government of the whole society unlikely (it maximises the opportunity for corrupt practices, and minimises the rewards on honesty). It also tends to generate and to give support to "pay off opportunities ... similar to those found in government agencies" (Ibid., p.88) - a reference to practices which have traditionally been called "white collar crime" by criminologists ("crime committed in the course of an occupation"). It also legitimates the kind of economic self-interest in what has been recently called the "hidden economy" (petty property crime and "fiddles" as a species of normal, everyday social interaction, in the "pilfering" of goods from employment for possession, trading and sale). (Ditton, 1977; Henry, 1978). The danger for Rose-Ackerman is that a society may emerge in which economic inequalities resulting from opportunities

for gain in legitimate business and in the official market for goods are amplified uncontrollably in illegitimate business and in unofficial markets, and the political cohesion of "democracy" itself, as a system requiring formal equality, undermined. The seriousness of such a "degeneration" of democracy could not be underestimated, since it would threaten the ability of legitimate business to portray itself as a provider of essential goods and services for all, and thereby as a universal social interest.

Rose-Ackerman's account of the crisis of corruption in the U.S. is an advance on existing accounts of economists, lawyers and political spokesmen, in recognising that the pursuit of individual entrepreneurial goals must always potentially conflict with the defence of universal social interest (like "virtuous" government), irrespective of the complexity of law or the existence, or otherwise, of individual bad apples. It stands as evidence of the ideological character of the writings of New Right theorists and many finance capitalists on the morality of the market. But it does not in itself explain the proliferation of "corruption" and other quasi-legal practices in capitalist societies in recent years.

The relationship of capitalism and law is currently a topic of considerable theoretical investigation amongst legal scholars and sociologists. (cf. Hadden, 1977; Edelman, 1978; Hirst, 1979). It already seem clear that national legal frameworks have been inadequate in providing consistent rules for the form and substance of capitalist activity in recent years (in particular, the multi-national corporation) and even rules established by international governmental agencies, like the 1976 set of guidelines for multi-national agencies drawn up by the EEC, have proven to be less than effective (Hadden, 1977, p.511).

The explanation of this constant infraction or circumvention of law by capital in recent years lies in the current and recent situation of capital itself.

The fundamental origins of the "uncontrollable" criminality of individual capitalists lie in the falling rates of profit that have been experienced by most major western capitalist enterprises since the early 1960's, consequent on capital encountering a fall in its ability to sell the goods it produced. This "historic tendency" of capitalism was accelerated by the decline in the extent of markets controlled by the west, and by the increases in the cost of the energy required by capital for use in production. In a situation of this kind, capitalism started to disintegrate as a unified national and international system, in the specific sense that individual capitalist states start to look primarily to their national interests (in protecting or extending their own capitalists' markets, their own currency, their own living standards, etc.) and also in the sense that individual capitalists or individual corporations tend to want to protect their own position in markets in which accumulation and profitability are increasingly problematic. This "war of position" in national and international economies tends also to make it important for capital to adopt much more diverse strategies in order to reproduce itself. Capitalists of all kinds (in small firms, in middle size national companies and in large international companies) will look to the opportunities for rapid accumulations of further capital in order to aid even short-term survival (where in the period of the boom, they would tend to be more interested in more long term goals). The concern of capitalists as individual owners and managers is with economic survival through the current period of capitalist crisis into the

"restructured" capitalism that is currently being worked for politically and ideologically by parties of the Right in most western societies.

In a transitional situation of this character, the individual instances of constraints provided on economic activity by national and international law will appear to be anachronistic, incoherent and dysfunctional to individual capitalist enterprises, although there will also be the clear recognition, on the part of capital as a whole, of the need to maintain a framework of law within which contracts between capitalist and capitalist, capitalist and worker, and capitalist and consumer are predictable and enforceable - in the interests of the capitalist system as a whole. But a certain conditionality will now obtain in capitalists' attachment to individual instances of law, and also there will be an increasing willingness to circumvent law in competition for markets, as well as to bring other capitalists to law in order to reduce or eliminate competition. In such circumstances, the different access of large monopoly capital and other forms of capital to law and to the state will become increasingly significant and decisive, as it has been in other moments of transition in the development of the capitalist mode.<sup>44</sup>

But no matter how intentional and knowledgeable the breaking of law and no matter how significant the resulting financial gain, these semi-legal initiatives by capital must not be seen as "real" crime. "Real" crime has the one essential quality "in ideology" (under the existing social relations of capitalism) of being committed by the criminal classes. Mack and Kerner (who are not the most theoretically curious of students of the capital-state relation) put the point in the mildest possible way :

" ... many of those who set the tone in government circles, in administrative circles, in business and industry, and in society generally, tend to deplore the blurring

of the conventional distinction between crime and non-crime that a close study of (business-type crime) would appear to involve."  
(Mack and Kerner, 1975, p.25)

Historically, the location of real criminality in subordinate classes has been achieved in ideology of a variety of ways. One of the most constant connections has been that made between organised and professional crime on the one hand, and mundane juvenile and adult crime, on the other. In this perspective, in both conservative and social democratic variants, juvenile delinquency of all kinds is seen as the first experience of crime as a behaviour, for young people, and thereby as the source and origin of adult crime. So according to social democrats of the 1940's, like Hermann Mannheim, the absence of appropriate socialisation may lead young people into adopting adult criminals as alternative role models to their parents; and this might also extend to the imitation of black marketeers and "bent" businessmen generally in a culture in which conspicuous acquisition of wealth is celebrated as a goal in itself. The same process was recognised in Conservative ideology as resulting from weakness of parental authority amongst the lower-classes, coupled with the inadequacies of the measures of discipline and punishment adopted by the courts in dealing with young offenders. The young offender was not sufficiently deterred from the learning of criminal techniques, or from learning that crime can pay. So "sophisticated" young offenders graduated into adult criminal circles - the "underworld" so beloved of crime writers and crime reporters.

Now it is clear that significant numbers of organised and professional criminals have been involved in delinquency earlier in their lives, although the reverse is not true. One of the few unchangeable "facts" about the aetiology of crime is the number of young offenders who do not get apprehended or prosecuted for crime in their adult lives.



It is also apparent from the evidence that many of the areas of professional and organised crime including fraud, forgery and art theft, for example, do not primarily involve recruits from working class delinquent subcultures. There are other important discrepancies between the conventional accounts in organised crime in conservative ideology and the actual organisation of such crime as reported both by researchers and by participants. It is now clear, for example, that many of the protection rackets that were organised by professional criminals in London in the 1960's around the sale of pornography, the provision of abortions, the supply of drugs and the development of illegitimate businesses generally operated with the connivance and, in some cases, the involvement of senior and junior police officers, especially in the CID (cf. Cox, Shirley and Short, 1978). So far from being involved in a moralising war against crime, established authority was effectively and extensively controlled by the racket itself, over a considerable period of time. So far from being unable to discover the mechanisms of a racket's operation (a common police complaint in crime fiction and in conventional accounts of the police's problems in the area of professional crime), the mechanisms were fully known to the police, since they helped to operate them.

Another telling feature of conventional accounts of professional crime amongst "the criminal classes" is the resilience of certain important myths, especially among crime reporters in the popular press. Central amongst these is the mythology of the gang, an image that has been used for reporting organised crime in Britain since prohibition in the United States (the 1920's). But it was also an image that was worked on and reinforced in the 1950's, in the period that witnessed the demise of the black market and the rise of new forms of organised criminality, focussing on theft, vice, protection and illegal gambling.

Steve Chibnall summarises the existing literature on this period :

"The modern pattern of underworld organisation was being established. The characteristic unit of organisation was no longer the 'craft team' of pickpockets, burglars and small time robbers, but the semi-permanent competitive 'mob' of friends and associates whose everyday existence is grounded in on-going protection rackets or gambling, prostitution and fraudulent concerns. The mobs formed the recruiting ground for 'project thefts' - lorry hi-jacking, pay-roll snatches, bank robberies, etc. - which became an increasingly prominent part of the crime scene in the fifties, culminating in the Great Train Robbery of 1963. In London, it was a time of considerable upheaval. In 1955, the coalition between Jack 'Spot' Corner and Billy Hill began to break up and they began to compete for the title of king of the Underworld. But while Hill enjoyed a brief victory, the struggle left his organisation weakened and opened to challenge by the rising figures of the sixties - the Krays, the Richardsons, Frank Mifsud and Bernie Silver."  
(Chibnall, 1 77, p.65)

Chibnall's account here rather paradoxically reflects the conventional wisdoms of the crime reporters he is otherwise concerned to criticise. This 's odd, because, as Chibnall himself observes about the 1950's :

"the more public exploits of the mobs kept the crime correspondents busy, (and) there was little attempt to probe beneath the surface happenings to uncover the shifting organisation of professional crime, its economic infrastructure, and the necessary contribution of police corruption towards its continuance. Britain's Gangland remained a mysterious world which periodically erupted into open violence for no apparent reason."  
(Ibid.)

/involved

The image of the criminal family in organised crime seems to exercise almost as great a fascination for crime reporters and police as the image of the gang itself. Here, several elements appear to be at work, including some sort of displacement of Mafia mythology of the <sup>/the</sup> inter-war period and also, it has been suggested, a displacement of the reality that legitimate capitalist business is often organised through and by extended families (the Rothschilds, the Ruckerfellers, the

Kennedys) handing down their positions within "the family" for generation after generation (cf. Albin, 1971). But as Chibnall suggests the images of the criminal family and the gang bore no simple relation to the real organisation of professional crime.

#### Social Democracy and Organised Crime

Conservative accounts of organised and professional crime have tended to accept and to rework these public images, and in the 1950's and 1960's especially, to elaborate the police definition of organised crime as being of major significance, not only in the area of robbery, gambling and illegal services generally, but also across the field of crime as a whole, and therefore as a major source of juvenile delinquency (as a provider of criminal opportunities). Social democrats have tended to respond to such accounts with scepticism. C.H. Rolph, again, writing in 1959 :

"The notion that economic crime in England contains a 'nation-wide organisation' will always be with us because it has become an emotional necessity. For the truth, you have two alternatives to choose from. First an organisation far too efficient for the police ever to have got near enough to smell it: secondly an endless succession of smaller enterprises, like the racket in hand-painted china exports after the war the Messina brothers\*, the huge larcenies of transit goods always in progress on our roads (what a story will break here one day) and some of the home industry schemes - glove-making, weaving, machine-knitting, and the rest - by which countless readers of small ads in respectable newspapers are being heartlessly exploited at this moment.

I favour the second alternative. I don't believe we have an Al Capone, a Waxey Gordon, a Lucky Luciano, and Albert Anastasia or a Joe the Barber. We are too small, our police resources are too big, and our legislation is, with daft exceptions, too rational." ("The Drug Barons", New Statesman, 28 November 1959)

And in the aftermath of a decade in which, Chibnall alleges, "the modern pattern of underworld organisation was being established"

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\* The Messina Brothers were exposed by The People, in 1950, as organisers of what was then called a "vice empire".

in Britain, the Labour Party Study Group Report on Crime, published in 1964, did not even contain a single reference to the question of organised crime.

The sanguine approach was to be significantly challenged by developments in organised crime in the 1960's, and in particular by the series of murders and woundings associated with the Richardsons and Kray gangs, firebombings of Soho clubs in 1967 by rival enterprises and other major incidents including, of course, the Great Train Robbery of 1963. It also was and is unable to account for the escalation that has occurred in the use of firearms in robberies (which increased from 265 in 1967 to 949 in 1975), much of which is a product of the struggle between organised crime and the development of armoured transport and reinforced stores by the private security industry. (Greenwood, 1979, p.7). The social-democratic attempt to "defuse" the mythology surrounding organised crime has encountered the contradiction that this mythology (exaggerated and ideologically framed as it was by Conservative and police professional ideology) did have a "rational kernel".

What social democratic commentators missed was the particular significance that organised crime had for working class people in general. Where in the restrictive climate of rationing and shortages of the 1940's, organised crime (or more accurately, "economic offences" in general) was parasitical on a community which was engaging in real material sacrifices in order to aid the process of social reconstruction, the organised crime of the "affluent" 1950's and the "permissive" 1960's had other - more contradictory - effects on sections of the working class. Just at the moment when the post-war boom appeared to be bringing about significant improvements in working-class standards (the return for "honest labour"), so there was new evidence (albeit of an indirect

character, very often purveyed through the newspaper press by crime correspondents) of the relative benefits of dishonest and deviant behaviour, far in excess of the petty pilfering that is traditionally accepted as normal in working class community.

In the East End of London, in particular, longstanding traditions of villainy and boxing were transformed and elaborated by the new opportunities of the "age of affluence" of the 1950's; and there were major rackets involving long and short-term frauds, bank robberies, bribery and violent intimidation and corrupt dealings in prostitution, pornography, drugs and gambling. These working-class rackets began to move into Soho and the West End generally in the aftermath of the passage of the permissive Betting, Gaming and Licensing Acts of 1961 (which, in its removal of controls over the profit margins allowable in gaming, created the opportunity for realising vast fortunes from fruit machine businesses in particular). In a short time the popular press began to resonate with stories and photographs of a "swinging London", with East End criminals like Reginald and Ronnie Kray shown in what is conventionally called "distinguished" company. (Hebdige, 1974, (section d)). In 1965, Reginald Kray's marriage was treated by the press as the "East End marriage of the year", and David Bailey took the wedding photographs. (Ibid.). But in 1966, the rivalries between the Kray "firm" and the "South London gang" of Charles and Eddie Richardson exploded onto the street, with petrol bombings, shootings and, eventually, the murders of George Fornell, a Richardson associate, by Ronald Kray, in 1966, and of Jack McVitie by Reginald Kray the following year. The "Richardson gang" was broken by the events of 1966, and the Krays were brought to trial in 1968, having been "set up" by a U.S. Treasury Department "agent provocateur" investigating the flow of stolen American securities into London.

Incidents and developments of this kind were not confined to areas with longstanding reputations for "gangsterism". The permissive legislation on gambling resulted in a vast expansion of gaming clubs - for example in Newcastle on Tyne - and also in the introduction of fruit machines into the majority of the 1,500 working men's clubs in the North East as a whole. This development encouraged a heavy migration of "racketeers" from London, a phenomenon which was to surface in the mysterious murder of Angus Sibbett in 1967, for which Dennis Stafford, a London "businessman" with a considerable police record, and Michael Luvaglio were controversially convicted. (cf. Lewis and Hughman, 1971). The rise and fall of Newcastle's "clubland" was given a rather different coverage by a Northern newspaper press to that received by racketeers in London, with the summary piece in the Newcastle Journal on the trial of Stafford and Luvaglio being framed under the headline "Men from a Strange World".

The reactions of working people to organised crime in the 1950's and 1960's are not on record in any social survey. But popular attitudes seem to have involved several contradictory elements, and to have varied between London and the North. In the East End, in particular, according to John Pearson :

" ... the old villains ... did possess a sort of glamour. However brutish and brutalized, they stood out from the grey world around them. Everybody talked about them. Charles Kray knew them all. Jimmy Spinks, Timmy Hayes, Old Dodger Mullins: none of them admirable men, but they represented something the East End understood. They did what many better men would like to have done. They never worked."  
(Pearson, 1972, pp.28-29)

Also escaping the "grey world" of everyday labour, the newer villains of the 1950's also succeeded in updating outlaw mythologies, most tellingly in the theft of £2<sup>1</sup>/<sub>2</sub> million from the State in the Great Train Robbery, which was undoubtedly greeted with admiration amongst

millions of working people, and whose aftermath has been followed with fascination by the popular press ever since. Like the older villains before them, the racketeers of the 1950's ostentatiously led a life which was an accentuated and glamorous version of working class masculinity, free from the troubles of domestic as well as waged labour, and with money in the pocket to spend on cars, horses, dogs, and fast women.

But the tendency to romanticisation of the racketeer was contradicted by the rackets' move into techniques of intimidation of the intimate members of the working class community, especially during the 1960's. Some of the intimidation was directly experienced by shopkeepers, publicans and even trade unionists in the London docks (Hebdige, 1974, p.23); but much of the effect of the violence was "reputational". The violence of the gangs, like the violence involved in soccer hooliganism at the time, was certainly "amplified" by the newspaper press, but both were also clearly experienced by working people as alien developments in working class neighbourhoods and leisure. They were examples of a dysfunctional, unregulated violence quite unlike the street fights and boxing matches of traditional working-class community.<sup>45</sup> Dick Hebdige has shown how the initial respect that the Krays had gained in the East End (as defenders of the traditional community, particularly against "redevelopers" and also as exemplars, after a fashion, of the working class family) was rapidly eroded once it became clear that their most active commitment was to "the struggle for 'lebensraum' for the Kray family". (Hebdige, 1974, p.40).

Any idealisation of the racketeer as a rebel against wage labour was simultaneously contradicted by a sense of resentment at the easy living that was unearned by daily labour that was felt in large sections

of the working population, especially in the North. As Lewis and Hughman observed, the Stafford and Luvaglio trial was firmly and inescapably contextualised as an occasion for putting an end to the activities of London-based organised crime in Newcastle's "clubland" :

"(Geordie) disapproval extended ... to the men on the fringe of this world, to the fruit-machine vendors, night-club owners and gambling organisers, who provided a good evening out, but who also made a great deal of money without the backbreaking labour which many of their customers needed to provide the sixpences for one-armed bandits ... the public mood was one of distaste, envy and a certain satisfaction that men who made an easy living might meet their just deserts."

(Lewis and Hughman, 1971, pp.30-31)

Hebdige observes that there appears to be "an essential difference in status assigned the Train Robber and the Gangster in popular consciousness", which approximates to the distinction, made by Eric Hobsbawm in his study of "primitive bandits" in the eighteenth century, between the "Noble Robber" and the "Avenger".

"The Train Robber would correspond to the Noble Robber who effects a redistribution of wealth (albeit on a very small scale indeed); who avoided unnecessary violence; who is admired, helped and supported by his people, and who is captured only through treason (The models for this type include Robin Hood, Angelo Duca, Pancho Villa and Zelin Khan) ... A recent headline in the Sun (February 9 1974) reads "Biggs the 'Robin Hood' Thief may soon go free in Brazil."

The gangster on the other hand conforms to the archetype of the Avenger most perfectly represented by Lampiao of Brazil. The avenger symbolises power, and vengeance, inspires fear more than love, emerges in time of rapid social change, and appeals to the public imagination by demonstrating that 'even the poor and the weak can be terrible'." (Hebdige, 1974, p.49)

Social democrats were certainly correct in the 1950's to cast doubt on the existence of a Mafia-like nationwide network of organised crime in the U.K. (although there is evidence that a significant connection was forged by the Krays with organised rackets in the United States). But they were clearly wrong then, and they would also be



wrong now, to underplay the existence of rackets on a significant scale in the larger cities of Britain, or to underplay their contradictory material and ideological effects on working people in general. The well-published high living of organised criminals did ultimately tend to reinforce the widespread working class suspicion of permissive legislation in the 1960's, and of permissive lifestyles in general, as being irrelevant to ordinary people. Working class people now felt that they <sup>/were</sup> excluded from the benefits of both legitimate and illegitimate success. The success of some racketeers, like the escaped train robber, Ronald Biggs, in reaping the benefits of individual crimes, has been no help to trade union or socialist movements, in being a further confirmation of the benefits that can be gained from unscrupulous individualism.

Social democratic accounts of organised crime have ignored all these fundamental questions of the relationship of different forms of deviant activity to the class, and instead have spoken either of organised crime as an "emotional necessity" in the popular mind, or alternatively have been guilty of romanticising certain aspects of organised crime (like bank-robbery) as a form of "social-banditry" (committed against "big capital") - without understanding its more repressive effects, for example in the form of intimidation, in working class communities. They have also failed to relate the form and prevalence of organised crime to other forms of property crime (other than petty delinquency) and to the larger dynamic of the capital-labour relationship itself. Hermann Mannheim's reforming insistence in the 1940's on relating the incidence of "economic offences" in general to the dynamic and structure of an unequal economy and to the relative absence of legal controls over the everyday activities of businessmen and government was entirely forgotten in social democratic professional criminology and in political discussion of crime in the 1950's

and 1960's. There was also no recognition or analysis of the connections which seem to have existed, for example, in the North East, between organised crime and the widespread corruption in "legitimate" local industry and government - the only exception to this silence being the indictment of all crime as evidence of the moral failings of an uncontrolled capitalism, ('an acquisitive society'), in the Labour Party Study Group Report of 1964.

There is not even very much overt discussion in social democratic accounts of the ways in which the form of organised crime is intimately related to the changes that have occurred in the way in which property and money are transported and protected in late capitalist society. Mary McIntosh made this functionalist point quite clearly some years ago :

"When we bewail the increased use of violence in modern society, the cool-headed precision with which jobs are planned, the way in which inside employees are softened up and corrupted to give information, we shall remember that these changes do not result from a general lowering of moral standards that can be corrected by stricter schooling or harsher punishments. The changes result rather from changes in the nature of property and of our protection of property. As there is more large-scale convertible property, so there is more large-scale theft. As we develop safes, armoured cars, security forces and ghost squads, so thieving develops further in directions we find unpleasant."  
(McIntosh, 1971, pp.130-1)

In the moralistic perspective of the Labour Party's "Crimes: A Challenge to Us All", and in the otherwise heavy silence of social democracy on the criminality of the powerful, "crime" is allowed to remain an essentially lower-class phenomenon, and it is also unrelated, explanatorily, to the booms and slumps, and other historical trajectories, of capital. In this way, no connection is forged between the causes, the class significance, and the social costs of the spread of organised crime, on the one hand, and the widely reported increases in tax avoidance

and other forms of "white collar" crime, the massive increases in forms of fraud and corruption in corporate industry and semi- or quasi-legal forms of tax avoidance by multi-national corporations, of the kind we have begun to discuss earlier in this chapter. There is no attempt to identify the everyday operation of capital as being beyond the control of existing law any more than there is any attempt to connect the logic of capitalist accumulation with the disorder (of unemployment, inflation, racial and class conflict) that is the site of the criminalisable behaviours of the lower class most affected by this logic. That no such connections are made within social democracy is in part, of course, an explanation of the widely held view amongst social democrats that crime is, essentially and "naturally", an issue that works to the advantage of the Right. It is, in other words, a reason for the ease with which the Right has regularly been able to reproduce a conception of lower crime in general, and "organised criminal gangs" in particular, as real crime.

In the rhetoric of the Conservative Right, with its studious avoidance of any form of structural analysis, "real crime" is on the increase within industry and commerce as well as in the form of attacks on banks, robberies of art treasures and forgeries. The increase is however seen as an aspect of the general decline of morality; and the perpetrators of such real crime (whether they are in East End protection rackets, or in international stocks and shares), are seen to hold in common with thieves in the lower class a predatory and greedy commitment to criminality. So the significance of the growth of these otherwise very different forms of activity is to be sought in the explanation of the development of criminality itself, which has been allowed to become more widespread and also more sophisticated because of the inertia of authority or the failure of social democrats and liberals to give resources and power to the police.

We have already discussed the general ideological utility for the Right of this displacement of different forms of social dislocation into the criminal category. But another particular advantage of locating the source of threats and dangers to society in the development (and increasing technological sophistication) of criminality, especially that which is located in organised criminality in the lower class, is the justification it provides for state surveillance of the population. Writing in 1970, in a Conservative Political Centre, W.R. Rees-Davies, MP, quoted the District Attorney of New York, Frank Hogan, in saying that electronic surveillance (wire-taps) was the "single most valuable weapon in the war against crime", and argued for the extended use of computer technology and infra-red photography, electron microscopes and telephoto lenses in routine criminal investigation. He also argued for the work of the Intelligence Section of individual Police forces to adopt the techniques of the armed forces in war-time, working under cover as a means of gathering information on the population and never appearing in court trials to give evidence. (Rees-Davies, 1970, pp.20,13). It is clear from recent reports about the extent of police surveillance over the British population that these programmes have been applied with enthusiasm and with the backing of considerable State investment over the last decade.

Some part of this activity will result in information that is put to use in Fraud Squad investigations or in other individual investigations of corporate crime, but existing evidence would suggest that the vast extension of routine surveillance over the population has other more "conventional" targets.<sup>46</sup> All the while, crime-fighting is being depicted as an activity that an authoritarian State must conduct, on behalf of people as a whole, against the predators in its midst, in amongst the subordinate populations. In this way, real

crime is all the more assuredly to be found amongst the lower-class, the more that the pressure on sections of the ruling class to engage in illegal or quasi-legal activities in the market intensifies. The "magical" effect, of course, is that the economic recession of Western societies will actually produce more predatory behaviours within the class, which the new forms of surveillance will increasingly effectively identify and help to apprehend. Large numbers of working class people will give their support to the police and the courts in their efforts to control such predatoriness, and social democrats who have merely argued against exaggerating the extent of "real crime" and who have not spoken of its effects on the class will be left without a meaningful and popular criminology. Unchallenged at the level of ideology, the Thatcherites' discipline of civil society will be popularly understood, as a necessary means of controlling recalcitrant and disturbed youth, on the one hand, and real, anti-social crime, on the other. Time will have been purchased for the "difficult" times that lie ahead" in the transition from "socialism" to the social market economy.

CHAPTER SIX : FOOTNOTES

1. In the opening section of this Chapter, I am indebted to the recent work by Stuart Hall on Thatcherism (1979, 1980). There seems to be more of a recognition of, or emphasis on, the struggles between ideologies in these recent papers than was present in Policing the Crisis; and this makes the papers very similar in substance to the kind of argument I have been trying to sustain throughout this thesis.
2. For an account of the shift in the political posture adopted by the Tory leadership after Thatcher's election to the leadership, see Gamble 1981.
3. The observations on the 1979 Election derive from work done by Alan Clarke and myself on "The Law and Order Issue in the General Election of 1979", with some financial assistance from the Social Science Research Council (Grant No.HR6545). Some of this work is reported in Clarke and Taylor 1980 and Clarke, Taylor and Wren-Lewis 1981.
4. We already noted in Chapter Four the absence of any urgent Governmental campaign of remoralisation in the area of "personal life and morality" or, indeed, in the regulation of public displays of sexuality. The popular newspaper owners and the publishers of pornography have been allowed their market freedom as entrepreneurs, albeit the Public Displays Act of 1981 will require a separate "signposting" of pornography in newsagents shops and similar locations. The response of the NVALA to the experience of the Thatcher Government to date is far from enthusiastic.
5. In reality, the "responsibility" of the State for any crisis of capital can only be secondary at most, for, as Claus Offe has pointed out, whilst the State may have the authority and indeed the mandate in capitalist societies "to create and sustain the conditions of accumulation", it is not actually allowed by capital to order or to control production itself. (Offe, 1975, p.126). In this sense, the State is itself dependent for its own existence on the continuation of production, and thus of accumulation.
6. One of the most obvious exclusions from the 1979 election debate over Law and Order were the senior managers of Social Service Departments (who had of course been natural "authorities" during the Labour Government of 1966-1970, especially, on this topic, and even during the early 1970's). This was despite the creation of an ad hoc liberal body, New Approaches to Crime, which was formed early in 1979 by seven highly respectable welfare state organisations (the Association of Directors of Social Services, British Association of Social Workers, Conference of Chief Probation Officers, National Association for the Care and Resettlement of Offenders, National Association of Probation Officers, National Council of Voluntary Child Care Organisations and National Youth Bureau), specifically to gain "air time" for the views of liberal professionals. They were totally unsuccessful in obtaining any television time.

7. In fact, the Labour Party conference debate to which Margaret Thatcher referred was a debate on the inappropriateness of law as an instrument for resolving all industrial relations situations. The debate had, it is true, condemned "the law" for taking sides with the National Association for Freedom against the Asian women workers at Grunwicks in 1977, who were struggling for union recognition. But this constituted a vote against laws which were used to suppress collective unionisation and not a vote against "the rule of law" per se.
8. See Margaret Thatcher interview with Ronald Butt "Economics are the Method: the object is to change the Soul". Sunday Times, 3 May 1981.
9. The State of New Jersey inaugurated, in 1978, a system whereby adult convicts on long term sentences were given consideration in terms of parole for participating in a scheme in which young offenders were taken into the State prisons to be given frightening accounts of prison life by the convicts themselves (as a form of deterrence).
10. To point to the importance of Right-wing ideological work on the character of "real crime" is not to imply that legal offences will not be identified amongst capitalists during periods of Right-wing Conservative Governments. Quite the contrary, insofar as the election of such governments is a product of deep crises in the normal functioning of capitalist economies, so also is an increasing competitiveness and desperation on the part of individual capitalists. This is a point that is also made, inter alia, by Jeffrey Reiman and Sue Headlee in a recent article :  
" ... crisis pushes individuals at all levels of society to move downward on the spectrum of competitive activities that starts from the legitimate forms and then passes the legal frontier into the criminal forms ... the location of the legal frontier is itself part of the competitive struggle."  
(Reiman and Headlee, 1981, p.43, emphasis in original)
11. See, for example, the Conservative motion before the Commons on 2 February 1966 (Weekly Hansard (679), (1966), Cols.1105-1227).
12. It was felt necessary in the July 1970 issue of the Magistrate to acknowledge that the Act was going to be implemented, and so the article to that effect was printed under the headline "May God Bless Her and all who sail in her."
13. The June issue of 1971 of the Magistrate carried a note entitled "CYPA 1969: How it is working" which signalled the end of resigned cooperation, and the beginnings of the attack (which continued throughout the 1970's). The maximum period on which this assessment could have been based is five months, a period which could not in other circumstances have been taken as definitive. In 1967, an editorial in the Justice of the Peace responded to criticism of the detention centres (first opened in 1952) by remarking that "Detention centres are still an experimental form of custodial sentence. It is too early to say whether they have a permanent place in our penal system." (quoted in Cohen, 1969, p.220).

14. This complaint was the subject of a paper submitted by the Association in 1972 to the DHSS and to the Local Authority Social Services Division with a copy to the Home Office Children's Department.
15. The Association was extremely reluctant to recognise the amalgamation of the different traditional institutions into the community home system, and continued to refer to the former approved schools (which contained some 2,500-3,000 of the 40,595 in community homes in 1977) by their former name. It is worth adding that the magistrates were not the only group to continue to think of institutions in terms of their pre-1969 characteristics and names: the terminology of the Community Home Project of the Home Office Children's Department were by no means accepted into the everyday language of professional social workers.
16. The implementation of the CYPA was a joint responsibility of the DHSS (which was responsible for "treatment") and the Home Office (the latter being responsible for the juvenile justice process as far as the finding of guilt). Sir Keith Joseph took the chair at the Day Conference as most of the controversy was over care orders and their implementation.
17. Maria Colwell was an eight year old child who died in 1973 from injuries sustained as a result of violent assault by her step-father, after being returned to him from the care of her foster-parents, who had had parental rights over the child for six years. The report on the case was published in January 1974. It was partly in response to this case that proponents of fostering and adoption accelerated the pressure for a fundamental reform of relevant child care law, in order that the interests of the child should become the "first and paramount" consideration at law, and the child's "subservience" to his or her biological parents reduced. The Children's Act of 1975 was the result of this pressure and this legislation signals the move of State legislation away from its post-war reliance on the psychoanalytical emphasis of John Bowlby and others on the "blood tie" as the basis of child care practice. Many of the arguments in the Colwell case (The Needs of Children (1974)), commissioned by Sir Keith Joseph, in which Mia Kellmer Pringle placed primary emphasis on the need to revive "responsible and informed parenthood", and on the need to provide clear alternatives in the form of fostering and adoption where such a quality of parenting is deemed to be impossible.
18. The only way the court could enforce the payment of fines was through attachment of earnings (but this was only applicable if the child was in work, which was sometimes unlikely, especially after the sharp increases in unemployment after 1972).
19. A study by Michael Zander of practice in one locality revealed that 48% of children on care orders were placed in institutions; 29 per cent were at home because there were no residential places available; and 18 per cent were at home as a matter of policy.



20. The Expenditure Committee Report's first recommendation in July 1975, however, was that the practice of remanding young persons to adult prisons should "cease forthwith". In March 1977, a Government order appeared ending "unruly remands" of girls under 15. Two of the remand centres in question are Risley and Ashford, the scene of a considerable number of juvenile suicides over the last few years; as well as the subject of a series of "concerned" reports in the liberal press, and a campaign by one M.P., Robert Kilroy-Silk.
21. This addition was no doubt prompted by the case of Mary Bell, the "child murderer", in 1967, who had had to be placed in an adult remand centre: as a result of this order, she was eventually moved to Redbank closed unit in Lancashire.
22. The secure places resulting from the Children Act were apparently taken into account in the DHSS document of 1976, Priorities of Health and Social Services in England, a "stock-taking exercise should be demanded at a time of fiscal constraint, but which clearly indicated that £10 million was to be made available to local authority for building 500 "special community home places including secure provision".
23. Totalling the figures in the Howard League's Unruly Children in a Human Context (1977) would suggest that there was a Government commitment at that time to the building of 1,000 places in secure units, but Norman Tutt, a senior advisor in the Social Work Service of the DHSS, suggested (in a personal communication in February 1979) that this involved double-counting, and that the commitment in 1979 was "under 500 places built or planned in the child care sector in England". Milham et al observes, merely, that "the estimates are confusing" (Milham, et al (1978, p.28).
24. At a conference in London on "Research into Secure Accommodation" in October 1978, a considerable number of research findings critical of secure accommodation by the DHSS Social Work Service were authoritatively displayed before a large number of senior local authority representatives.
25. Hoghughi, Head of the Regional Assessment Centre at Aycliffe, provided some description of the "secure house" he had pioneered there (with a capacity of 10 to 14) (Hoghughi 1977); and he also allowed access to the BBC television producer, Franc Roddam, who produced a documentary there, under the title of Mini. Most of the other secure units' regimes and practices are unknown and largely unresearched. In 1980, the Aycliffe Centre produced a further "relatively simple and open ended" report on the Unit, entitled "Aycliffe School Special Unit - the First Year" (Hoghughi, 1980).
26. According to the NACRO Working Party of 1977, the provisional cost of a place in detention centres during the financial year 1975-6 was £4,368; in borstal £4,420, remand centre or prison £3,596 and community home £3,640 (NACRO 1977 Appendix 8).

27. The Expenditure Sub-Committee's Report also included a direct attack on the discretionary power of social workers in a recommendation that magistrates and social workers should reach agreement in court on a child's disposition (para.24); in the requirement that supervision orders should specify the conditions with which "the subject of the order" (the child) must comply. "Breach" of these conditions should result in the supervisor returning the child to court for a fine or an attendance centre order (para.119)); and in the provocative proposal that the courts should be free to nominate either the probation service or social service department as supervisor irrespective of age (para.39). Like the more "visible" proposals for new detention centres and for a secure care order, each of these proposals was to find a place in the Thatcher Government's White Paper on Young Offenders.
28. The second report was substantially the same as the first, but the composition of the Committee had been widened to include social workers and academics.
29. Most of the behaviours referred to in the NAS Report are to do with the management of order, and the maintenance of authority in schools. The extreme examples include teachers being punched, kicked and one who had his nose broken (Guardian 25 November 1971).
30. In true liberal professional style, Mr. Morris deplored the publicity given to the "unscientific" surveys of the National Association of Schoolmasters and the Association of Chief Educational Welfare Officers. In true social democratic style he argued that the best response to the "increase which nobody would deny is occurring in disruptive behaviour" would be to increase resources, in order to reduce the level of staff turnover in urban schools.
31. The main function of the educational welfare officer in Britain is the regulation of truancy (the EWO is in fact the successor to the school attendance officer established by the 1870 Elementary Education Act, in order to enforce compulsory education of children aged 5 to 13). The characteristic EWO is untrained and a member of neither the educational nor social work profession. There were 2,380 in post on 1 January 1970. One of the recommendations of the Seebohm Committee (which was not taken up by local authorities) was that work with truants should be handed over to social services departments (since truancy was clearly a symptom of 'other' problems). In the Ralphs Report of 1973, the policy of up-grading 'educational welfare work' by providing a proper career structure and salary was preferred, and the educational welfare officer (with the help of local headmasters and local education departments) escaped integration into the post-Seebohm social services departments. (Dinnen and French, 1977).
32. 1976 was the year in which the popular and the quality media (suddenly) gave heavy coverage to stories about "lax" supervision in community homes, and in particular to cases of young girls in care working as prostitutes (apparently with the knowledge of their supervisors). Cases were reported in Bedford in March (three different cases) - with a call for the establishment of

special units for prostitutes, Birmingham (April) (a boy prostitute), and Oldham (May). 1976 was also the year in which it was announced that the level of social worker provision would have to remain static or decline, because of cuts in local authority expenditure.

33. In March, 1981, the Home Secretary announced that the Government now intended to expand the experimental new regimes in Detention Centres. The more rigorous regime was now to be extended to two more centres (Foston Hall in Derbyshire and Haslar in Hampshire). (William Whitelaw, written reply, House of Commons, 23 March 1981).
34. A circular sent by the DHSS to local authorities in January 1977 clearly anticipated the later equation by Patrick Jenkin of Intermediate Treatment with the tasks of the "law and order services", and also gave some guidance to local authorities on how they were to understand their power in relation to the criminal courts. Its main thrust was summarised in the statement:
- "The power to attach intermediate treatment requirements to a supervision order is a positive power which strengthens the hand of the supervisor. It is, however, a delegation by the courts to the supervisor of compulsory power, and magistrates will be reluctant to impose such requirements unless they have full confidence in the facilities provided and the way in which they are used."
35. The Youth Custody sentence proposed in the Young Offenders White Paper differed from the sentence of the same name that had been proposed in the Labour Government's White Paper of 1978 (Youth Custody and Supervision : a New Sentence) in two respects: first, it opposed the proposal to create a single generic sentence in place of existing sentences (of borstal, detention centre and prison) on the grounds that these sentences are "too differentiated" to be merged. But second, it was opposed to the idea of a single generic sentence, with custodial staff in the classifying centres deciding on disposition in individual cases, on the grounds that this would allow an unacceptable degree of executive discretion. One of the key themes in Young Offenders is the return of discretion to the court.
36. Speaking in his capacity of chairman of the Association of Municipal Authorities' Social Services Committee, Mr. David Blunkett (the leader of Sheffield City Council) welcomed the proposal in Young Offenders for extending community service orders to 16 year olds and also praised the increasing Government commitment to non-custodial treatment. He also opposed the reintroduction of "magisterial control" over dispositions away from home, but purely on fiscal grounds. The Residential Care Order would add £5 million to local authority costs, twice the Government estimate. He also thought that short-term sentences served little purpose. (Guardian 3 January 1981). Excellent though Mr. Blunkett's understanding of Thatcherism has been in struggles over housing and transport, he seems not to have understood the essentially moral character of the new penal policy emanating from the Thatcher Government.

37. 30.8 per cent of stories on television news, in the national press, and in the local press and radio in two cities on welfare and social security analysed by Golding and Middleton in the second half of 1976 dealt in some way with social security abuse, and another 12.6 per cent with legal proceedings. (Golding and Middleton, 1978, p.195).
38. According to Frank Field "in 1977-8 - the most recent figures available - less than £3 million was wrongly claimed in supplementary benefit. Unemployment benefit came next with almost £440,000 .... In total in 1977-8 over £14.2 billion was paid out in social security benefit: the total amount of detected abuse was less than £4 million ... In other words, the losses are equivalent to someone who earns £80 a week losing about 15p". (Field, 1979, p.756).
39. In 1975, "930,000 eligible claimants, two thirds of them pensioners, failed to claim £240 million of supplementary benefits to which they were entitled. Many other benefits are left unclaimed by people only too wary of the labels they may acquire in the process." (Golding and Middleton, 1978, p.197).
40. This Royal Commission has been seen as relatively radical in its investigations and conclusions, but it was nonetheless confined by its terms of reference to the investigation of the "public sector" and private sector dealings with the public sector. The empirical basis of the Commission's work was also very limited, consisting mainly of the details of the Poulson case (which had surfaced in court in 1974) and the bare outlines of the charges brought by the Director of Public Prosecutions in England and Wales and Scotland, and the Crown Agent for Scotland, between 1966 and 1975. (Cf. Royal Commission on Standards of Conduct in Public Life 1974-1976; Chairman: The Rt. Hon. Lord Salmon, Cmnd.6524).
- The Poulson case was also important in revealing the extent to which powerful members of the Labour Party at local level, especially in the North-East, were prepared to be used as intermediaries between the "local state" and capitalist enterprises, especially in their capacity as paid "consultants" to the fourteen public relations companies established by T. Dan Smith, leader of the Labour Group on Newcastle City Council. (Salmon Report, chapter 2, para. 13,14). The full extent of the involvement of the Labour Party in corruption of this order was not really revealed by this Report. (cf. Milne, 1976 and Tomkinson and Gillard 1980).
41. Mr. Heath's primary concern was with revelations of bribery and corruption in the Lonhro Corporation. Asked about these revelations in the Commons, Heath replied :

"it is the unpleasant and unacceptable face of capitalism, but one should not suggest that the whole of British industry consists of practices of this kind."

(Hansard, 15 May 1973, col.1243)

42. The concept of 'quasi-illegality' is developed by Jachcel (1981) as a means of analysing the growth of behaviours and practices which are not necessarily illegal in one particular nation-state (or juridical boundary) or in one particular historical moment, but which are so defined in other juridical units or moments; and which may therefore repay examination as if they were illegal. Quasi-illegal practices (of the kind engaged in by the Crusaders in the Middle Ages and by multi-national corporations in the twentieth century) are thought to be especially significant in periods of transition between different modes of production.

43. The purpose of this 24 nation meeting was to establish "a set of guidelines for the conduct of multinational companies covering principally the avoidance of bribery and greater disclosure of corporate information". Despite pressure from the two major trade union confederations, and from some member-states (notably Sweden) for stringent national controls over multinationals :

"the guidelines ... finally adopted ... were contained within a declaration which also emphasised the need for a liberal climate of international investment incentives. The code of conduct recommended that multinational companies should 'take into account' the policy objectives of host governments, but was to have no legal standing with either governments or countries, it being envisaged that the latter would declare voluntary support for its provision."

The major provisions of the code refers to the discouragement of bribes of all kinds to political parties or holders of public office, to the need for companies to provide information by "geographical area" on their activities, to the need for commercial practices to conform with existing laws and customs in individual markets and to the discouragement of threats of transfer of business across countries as a weapon in negotiations with individual trade unions. A succinct account of the meeting and the code is available in Keesing's Contemporary Archives 6 August 1976, p.27874.

44. The important analysis of the role of monopoly capital in the framing of Anti-trust legislation in the United States, in the period 1898-1902, and 1925-1929, by Pearce 1973, 1976, and the helpful critique of this 'instrumentalist' conception of the relation of the state (law) vis-a-vis capital by Jones (1979). We have no doubt that our own account of the criminality of business is also open to the critique developed by Jones, namely that it is inadequate as political economy, and, in particular, the theoretical refinement of concepts of capital.

45. Dave Robins and Phil Cohen have written very perceptively about the decline of the boxing tradition in the East End and in North London and they were the first to see that the contemporary street violence of working class youth is "no longer regulated, and transmitted through the parent culture, but (emerges) directly through the peer groupings of youth". Fights amongst youth are therefore "denuded of (their) symbolic content" for

the class as a whole. (Robins and Cohen, 1978, p.93). This "de-regulation" of intra-class violence accounts for the ambivalence of the class as a whole towards youth violence, and also towards the violence used by the rackets in the 1950's and 1960's.

46. In 1974, the Fraud Squad maintained files on 26,500 people and 15,500 companies. (These were expected to triple by 1985). But also on record on the C Department National Intelligence Computer were 13,000 people of interest to Immigration Intelligence Unit (to increase to 60,500 people by 1985), 76,000 for drugs (to increase to 287,000 by 1985); and on the more well-known Police National Computer, some 4 million names of people who have at any time been convicted of what police designate as the "more serious offences". (Campbell, 1980, pp.103-4).