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THE METROPOLITAN POLICE OF LONDON: FACTORS
THAT LED TO ITS DEVELOPMENT

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THAT LED TO ITS DEVELOPMENT

By

Richard James Terrill

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ABSTRACT

THE METROPOLITAN POLICE OF LONDON: FACTORS
THAT LED TO ITS DEVELOPMENT

By

Richard James Terrill

The purpose of this thesis was to explore some of the factors
that led to the establishment of the Metropolitan Police of London. My
primary concern was to examine the intellectual and political effects
of the period ranging roughly from seventeen hundred to eighteen hun-
dred and twenty-nine, and to illustrate how and why both influenced the
development of the police of England. Most of the histories of the
English police have failed to offer an in-depth analysis of the poli-
tics of the time. This is unfortunate, particularly in light of the
fact that contemporary criminologists recognize the pervasive influence
that the world of politics has over the criminal justice system. Intel-
lectual history is the study of how the world of thought becomes action.
Like political history, the relationship between the development of the
police and intellectual history has been neglected.

ACKNOWLEDGEMENTS

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There are certain features in the character of the
English, that are thought to be remarkable and
striking, which I shall now relate. One of the
first, which may be looked upon as general, is a
national pride. All nations love their respective
countries; but the English, I believe, shew it in
the highest, . . .

The predilection of the English for their own coun-
try, and their high opinion of it, is not of a very
modern date, but was recorded centuries ago, . . .

From this high opinion which the English entertain
of their country, and of their nation, it may be
explained, why they adhere so much to their old
customs, and to certain habits; perhaps, for no
other reason, but because they have been told, from
their infancy, that nothing is so good and so per-
fect as Old England.

<div align="right">

Gebhardt Friedrich August Wendeborn
A View of England Towards the Close
    of the Eighteenth Century, 1791

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INTRODUCTION

> Ignorance is the first requisite of the historian, ignorance
> which simplified and clarifies, which selects and omits.
>
> Lytton Strachey, from the
> preface to Eminent Victorians

The thrust of most education programs in criminal justice is to train future practitioners or to up-date in-service personnel in the techniques of making more meaningful and timely decisions for the system. The ability to understand and to utilize the decision-making process is central to the educational philosophy. The student is taught that the decision-making process involves a number of factors: the availability of data on the status quo; the decision-maker's understanding, albeit a limited one, of the future state he wishes to achieve; the ability to comprehend the difficult cost-benefit analyses which are imperative in determining the direction and process of moving from the present to a future state; the social-psychological make-up of the decision-maker, that is, his biases, prejudices, priorities, and assumptions; the decision-maker's understanding of his agency's place within the total system; and the decision-maker's skill at comprehending the all important environment that exists beyond the justice process that enables the system to work. Therefore, the emphasis is on the present and future, with little regard for the past.

Because so many criminal justice classes and much research are designed to examine the current criminal justice system--hoping to improve its effectiveness at some point in the future--it is difficult to

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comprehend how and why the history of criminal justice has been relegated to such an insignificant status in both course offerings and funded research. The question that must be asked of criminal justice educators is: how can they successfully teach people the method of making better decisions for the future, if the decision-makers lack a clear understanding of the system's past? If these decision-makers are truly going to make the meaningful and timely decisions that society expects them to, an understanding of the evolutionary nature of their profession, its institutions, and philosophies is essential.

Interest in the history of criminal justice is a relatively recent phenomena. Only in the last ten years have American historians turned their attention seriously, to the study of crime and to the institutions and leaders in the criminal justice field.[1] In addition, it has been even more recent that some criminal justice educators have recognized the importance of history as a significant component of their multi-disciplinary field.[2]

Admittedly, the history of the English police has been research and written about more than any other country in the world. In the past, however, these works have tended to fall into two categories. Some were surveys that studied the evolutionary nature of law enforcement from Anglo-Saxon times to the present. As a result, they were rather superficial in content. Others focused on shorter periods of time, and often

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[1]For an insightful study of the current state of the literature on the history of criminal justice, see John A. Conley, "Criminal Justice History as a Field of Research: A Review of the Literature, 1960-1975," Journal of Criminal Justice, vol. 5, 1977, pp. 13-28.

[2]The program themes of the 1978 and 1979 conventions of the American Academy of Criminal Justice Sciences appear to suggest this change in attitude.

suffered from the author's myopic understanding of history. Because historians neglected police history for so many years, these authors felt justified in concentrating solely on the development of police institutions and the personalities of the founders. Although these were important contributions to the history of police, they neglected to synthesize into their discussions the variables that were not specifically identified with criminal justice in general or law enforcement in particular. These variables, however, had a profound impact on the development of the Metropolitan Police of London.

The purpose of this thesis is to explore some of the factors that led to the establishment of the Metropolitan Police of London. When this force was established in 1829, it was regarded as the first modern police force. Later, it would be used as a model by police departments from around the world. My primary concern is to examine the intellectual and political histories of the period ranging roughly from 1700 to 1829; and to illustrate how and why both had a pervasive influence on the development of the police in England.

Seventy-five years ago, most history books were written as political history. They were the history of the winners of political and military battles. As is true of so many things, history has diversified since that time. As the social sciences developed, it became fashionable to write social and economic history. These works added a new perspective that was badly needed, but they often neglected the political views of the time. Like the old political histories, they were guilty of ommissions. Most of the histories of the English police have failed to offer an indepth analysis of the politics of the time. This is unfortunate, particularly in light of the fact that contemporary criminologists

recognize the pervasive influence that the world of politics has over the criminal justice system. Therefore, one of the primary purposes of this thesis is to examine the political climate of opinion that existed in the eighteenth and early-nineteenth centuries.

Unlike political history, the interest in intellectual history is a recent development. It was part of that new perspective that historians have attempted to bring to the study of the past. Intellectual history is the study of why men thought the way they thought, at the time that they thought it. It is the study of why and how ideas change, and examines how ideas affect people who are not intellectuals. It also explains how the world of thought becomes action. Like political history, the relationship between the development of the police and intellectual history has been neglected. Therefore, the other significant concern of this thesis, is the study of the intellectual history of the period that preceded the establishment of the Metropolitan Police of London.

Available Source Materials

The primary source materials for a study of the history of the English police are rich and varied. Although it is sometimes essential to utilize the research facilities at the British Museum and the Public Records Office in London, it is not always necessary. Most sources have been published and are available in university libraries that have developed extensive foreign document collections, special collections, and law libraries.

Foremost among the published sources used for this thesis were

the treatise written by Henry[3] and John Fielding,[4] Jonas Hanway,[5] Patrick Colquhoun,[6] and Edwin Chadwick.[7] These are invaluable for any discussion of a theory of police, and are generally found in the special collections section of a university library. Editions of Sir William Blackstone's Commentaries on the Laws of England, 4 vols. are readily available, as is The Works of Jeremy Bentham, 11 vols. edited by John Bowring. Blackstone and Bentham were two of the more important contemporary commentators on the English criminal justice system.

Other extremely important sources are those pertaining to Parliament, and these consist of three kinds. The Statutes at large from Magna Charta, which has appeared in a number of editions, is a compilation of the statutes passed by the English parliament. Some of these are of particular interest in identifying the organizational changes of the magistrates, constables, and watchmen of the metropolitan area. Most law school libraries have several editions of these. Cobbett's Parliamentary History of England, ed. William Cobbett and after 1803, T. C. Hansard's

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[3]Henry Fielding, An Enquiry Into the Causes of the Late Increase of Robbers &c. (London, 1751) and An Account of the Origin and Effects of a Police Set on Foot (London, 1758).

[4]John Fielding, A Plan For Preventing Robberies Within Twenty Miles of London (London, 1755) and Extracts from such of the Penal Laws, As particularly relate to the Peace and Good Order of this Metropolis: To which are added, The Felonies made so by Statute, Some General Cautions to Shop-keepers; and A Short Treatise on the Office of Constable (London, 1762).

[5]Jonas Hanway, The Defects of Police (London, 1775).

[6]Patrick Colquhoun, A Treatise on the Police of the Metropolis (London, 1800) appeared in seven editions, his A Treatise on the Commerce and Police of the River Thames (London, 1800), and A Treatise on the Functions and Duties of A Constable (London, 1803).

[7]Edwin Chadwick, "Preventive Police," London Review, no. 1, 1829, pp. 252-308 and his The Health of Nations, 2 vols. (London, 1887). His thoughts on police appear in the second volume, pp. 321-440.

Hansard's Parliamentary Debates are useful for identifying the members of
Parliament and their perception of the problem of crime and law enforce-
ment in England. They consist of summaries of parliamentary debates, and
are usually found in the documents section of a university library. A
final source is the various parliamentary committee reports. These are
of particular interest in light of the number of committees that were
formed to examine the state of the art of law enforcement in the late-
eighteenth and early-nineteenth centuries. There was not, at the time, a
systematic process for recording the findings of these committees. As
result, these reports appeared in various publications. For example, the
conclusions of the Police Committee of 1750 are scattered throughout vol.
26 of the Journals of the House of Commons.[8] The reports for the Commit-
tees of 1770 and 1772, on the other hand, appear respectively in Cobbett's
Parliamentary History of England[9] and the British Sessional Papers.[10]
Another useful report of police and corrections is the "Twenty-eighth
Report from the Select Committee on Finance," which is found in a series
of folio volumes entitled Reports from Committees of the House of Com-
mons.[11] And in the early-nineteenth century, a series of committees
studied the state of policing in the metropolis. These reports are found
in the British Sessional Papers, which are on readex microprint.[12] All

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[8] Journals of the House of Commons, vol. 26, January 17, 1750 to
April 6, 1754, pp. 3-5, 26-28, 38-40, 122-24, 154-60, 189-91, and 187-90.

[9] Cobbett's Parliamentary History of England, ed. William Cobbett,
vol. 16, 1765-1771, col. 929-43.

[10] British Sessional Papers, 1731-1800, vol. 1, no. 10-13.

[11] Reports from Committees of the House of Commons, "Twenty-eighth
Report from the Select Committee on Finance," vol. XIII, 1803, pp. 344-
426.

[12] See British Sessional Papers, 1816, vol. 5, pp. 1-379; 1817,

of these parliamentary reports can be found in the foreign documents section of a university library.

Finally, many eighteenth and nineteenth century journals are another gold mine of articles and sources for the study of the English police. The most useful of these are the Edinburgh Review, The Gentleman's Magazine, London Magazine, The Monthly Review, The Pamphleteer, and The Quarterly Review. The Monthly Review and The Quarterly Review are especially helpful in summarizing the findings of parliamentary reports both on general criminal justice topics and on specific issues relating to the police.

In addition to the primary sources, there are a number of useful secondary materials which are listed at the end of the thesis.

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vol. 7, pp. 1-577; 1818, vol. 8, pp. 1-293; 1822, vol. 4, pp. 3-140; and 1828, vol. 6, pp. 3-417.

CHAPTER I

METROPOLITAN LONDON, 1700-1829

My Lords, and Gentlemen,
I am sorry to be obliged again to mention to you a subject which
reflects dishonor upon the nation, as well as creates great dan-
ger and mischief to my good subjects: it is with the utmost re-
gret I observe that the horrid crimes of robbery and murder are,
of late, rather increased than diminished. I am sensible that
works of reformation are not to be effected at once; but every
body should contribute their best endeavours: and let me ear-
nestly recommend it to you, to continue your serious attention
to this important object.

King George II addressing Parliament
November 15, 1753

On Monday, March 10, 1828, Sir Richard Birnie, Chief Magistrate

at the Bow Street Magistrate's Court, appeared before the House of

Commons' Select Committee on the Police of the Metropolis. Birnie had

served at Bow Street since 1814. For ten years prior to that appointment,

he had been a magistrate for the County of Middlesex. With such creden-

tials, the Committee would be attentive to both his perception of the

crime problem and the state of the art of law enforcement in London.[1]

When asked why there had been an increase in crime, Birnie responded by

saying "there were various causes; increased population to begin with,

want of employment, youthful delinquency, boys trained up to thievery

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[1]In this thesis, unless previously qualified, London will be used
to refer to the greater metropolitan area which includes: the cities of
London and Westminster, the Borough of Southwark and the parishes that
were connected to these areas.

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and, though last not least, cheap spirits."[2]

Birnie's comments were not unusual, for the causes he cited for the increase in crime reflected some of the larger issues in the social and economic history of the period. Throughout the eighteenth and early-nineteenth centuries, this relationship had been discussed in articles, books, pamphlets, and parliamentary reports.[3] Yet, in spite of the apparent concern over the issue, the problem persisted.[4]

The purpose of this chapter is to examine some of the salient economic and social issues that affected the crime problem in London. The period was uniquely rich in the number of events that produced these factors, such as: it was during this century that the agricultural and

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[2]British Sessional Papers, "Report from the Select Committee on the Police of the Metropolis," 1828, vol. VI, p. 34.

[3]One of the earliest pamphlets was the anonymous "Hanging not Punishment enough, For Murtherers, High-way Men, and House-Breakers" (London, 1701) and one of the last books to appear on the eve of the passage of the Metropolitan Police Act was John Wade, A Treatise on the Police and Crimes of the Metropolis (London, 1829).

[4]Historians, who have studied the eighteenth century, have written that England was a country of contrasts--order and elegance, existing with disorder and barbarism. Because of these conflicting views, there is a lack of agreement as to whether the social conditions, which would include the crime problem, were improving or getting worse. Among those who saw an improvement are: L. O. Pike, A History of Crime in England, 2 vols., (London, 1876); M. Dorothy George, London Life in the Eighteenth Century (New York, 1965); and Patrick Pringle, Hue and Cry (New York, 1955). Those who disagree with their views are Sir Leon Radzinowicz, A History of English Criminal Law and its Administration, 4 vols., (London, 1948-1968) and Douglas Hay, et al., Albion's Fatal Tree Crime and Society in Eighteenth-Century England (New York, 1975). The views of J. J. Tobias, Crime and Industrial Society in the Nineteenth Century (Harmondsworth, 1972) fall between the two groups previously noted. Although Tobias sees an increase in crime, he points out that it was less violent. For a synopsis of the views held by some of the leading writers, both foreign and English, of eighteenth and early-nineteenth century London see Arthur J. Weitzman, "Eighteenth-Century London: Urban Paradise or Fallen City?," The Journal of the History of Ideas, vol. 36, 1975, pp. 469-80.

industrial revolutions emerged; these two events profoundly influenced

the growth in commerce; there was also an increase in the population; and

the Englishmen of this period, who were noted for their "love of aggres-

sion," illustrated this fact in a number of wars and mob disorders.[5]

Commerce

By 1700, London was the largest city in the world, attaining

this status because trade was its principal economic activity. Trade

dominated London's economy to such an extent that it has been suggested

that a quarter of the population was directly dependent on it for employ-

ment.[6]

Although London handled over three quarters of the country's

trade, it was more than just the largest port in England.[7] The City was

quickly developing into the largest center for international trade. "In

all, 80 per cent of England's imports, 69 percent of her exports, and 86

per cent of her re-exports passed through London in 1700."[8] Moreover,

London was the center of the ship building industry and owned the world's

largest number ships. As the markets continued to multiply throughout

the century, the City also became the headquarters of the world insurance

and banking industries.

The size and the position of London as the center of overseas

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[5] J. H. Plumb, The First Four Georges (London, 1966), p. 14.

[6] E. A. Wrigley, "A Simple Model of London's Importance in Chang-
ing English Society and Economy 1650-1750," Past and Present, no. 37,
1967, p. 62.

[7] George Rude, Hanoverian London 1714-1808 (Berkeley, 1971), p. x.

[8] Theodore Barker, "London and the great leap forward: on the
economic web," The Listener, June 29, 1967, p. 846.

trade had a marked effect on the development of the English economy and the nation's employment. This was due to the fact that London was becoming the largest consumer of the nation's agricultural and industrial productions. To illustrate, the City's populous were making immense demands on the fuel industry. By the eighteenth century, coal had replaced wood as the major source of domestic fuel. In order to meet the City's needs for fuel, the domestic shipping and coal industries were expanded. By 1750, 650,000 tons of coal were shipped to the London market, doubling the tonnage of the preceding hundred years. The number of people outside London who were employed directly in the industry, was also doubled.[9]

London continued throughout the century to generate more of the nation's wealth. The manner in which goods were displayed by shops which carried both staple and luxury items, not only made them appealing and accessible to potential customers, but to thieves as well. One scholar has concluded that, "in general the increasing and increasingly obvious wealth of the city must have provided both stimulation and opportunities for theft."[10]

Agriculture

Because most Englishmen worked on the land at the beginning of the eighteenth century, the nation was self-supporting in food stuffs and able to export large quantities of wheat and dairy products. While the conditions of soil, climate, and terrain varied throughout the country,

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[9] Wrigley, op. cit., pp. 58-60.

[10] J. M. Beattie, "The Pattern of Crime in England," Past and Present, no. 62, 1974, p. 93.

there was one important constant--the arable land was either an unfenced and open field or a field divided by fences, walls, or hedges. The open-field system was suited for the production of grains and some livestock. It was a subsistance system that had existed before the advent of feudal-ism in the early medieval period. The enclosure or fencing of common fields had been taking plaee since the thirteenth century. This was done to provide a product for a specific market. For example, during the six-teenth century, enclosing the land was quite popular, the market was wool and leather products. Thus, the land was enclosed for use as pasture.

At the beginning of the eighteenth century, both of these systems of land management existed. With England's growth in population and posi-tion as center of international trade, it was becoming evident that both domestic and foreign markets for food were expanding. In order for British agriculture to meet these markets, new units of arable land were needed to enable experimentation with methods of increasing food produc-tion. The enclosure of more common fields provided for this. Fortunate-ly, England also had men with the educational and leadership capabilities to conduct these necessary experiments. During the first half of the cen-tury, Jethro Tull invented the horse-drawn hoe; Charles Townshend experi-mented with crop rotation; and Lord Lovell was active in the utilization of marl, a mineral fertilizer. With these improved techniques, enclosure brought about an increase in soil productivity.

This revolution in agriculture was not limited to utilizing and improving arable land. This caused a movement to improve the country's livestock. As the population grew and the standard of living rose, a premium was placed on meat products. Men began to breed animals for meat for the first time. Robert Bakewell perfected the selective breeding of

sheep, while Thomas Gresley and Charles Colling made advances in cattle breeding. These experiments, along with the demand for more woolen and leather goods, required enclosing additional tracts of land.[11]

Due to the complicated nature of English land law, it was necessary to secure an act from Parliament before an open field could be enclosed. Between 1740 and 1760, 194 acts of enclosure were passed and in the following decade, at least 480 were recorded. In the years that followed, these figures continued to increase.[12] The initiative of people like Tull, Townshend, and Bakewell had created a revolution in the innovation of agricultural techniques. The advantages gained from the revolution were numerous and ranged from the economic prosperity for a few, to dietary improvements for a large portion of the English populous.

As is true with most economic changes that claim to benefit, and thus improve the status quo, there were also negative effects that must be considered. A number of people who resided near or in an open-field village, lived precariously. When the land was enclosed, these people were evicted and their cottages were razed to the ground. Furthermore, with the new techniques in agriculture, it was only necessary for the landowner to employ a few of these villagers as tenant farmers. The

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[11]The improvements that resulted from these enclosures are shown in the weight increase of livestock during the eighteenth century:

	1710 average	1798 average
beef	370 lbs.	800 lbs.
calves	50 lbs.	148 lbs.
sheep	28 lbs.	80 lbs.
lamb	18 lbs.	50 lbs.

See Lord Ernle, English Farming Past and Present (London, 1936) pp. 188-89.

[12]T. S. Ashton, The Industrial Revolution 1760-1830 (London, 1969), p. 43.

social dilemma was succinctly stated in a report published by the Society

for Bettering the Condition of the Poor. They argued:

> The improved system of farming has lessened the comforts of the
> poor: It has either deprived the cottager of those slips of land
> which contributed greatly to his support, or it has placed upon
> them an excessive and grinding rent. But as the comforts of the
> cottager are diminished, his respectability and his self-respect
> are diminished also, and hence arises a long train of evils. The
> practice of farming upon a great scale has unquestionably im-
> proved the agriculture of the country; better crops are raised at
> less expense: but in a national point of view, there is some-
> thing more to be considered than the produce of the land and the
> profit of the landholders. The well-being of the people is not
> of less importance than the wealth of the collective body. By
> the system of adding field to field, more has been lost to the
> state than has been gained to the soil.[13]

Some villagers found employment in the secondary and tertiary occupations

of agriculture as the demand for more food in the large urban centers

required drovers, carters, badgers, corn chandlers, and brokers. Others

moved to cities such as London in the hope of finding employment in a

non-agricultural trade. Most failed because they lacked the basic skills

that these jobs required. With no hope of returning to the land and

little hope of finding steady employment in the City, these displaced

people joined the ranks of the urban poor. Some, out of sheer frustra-

tion to subsist, turned to crime.

During the first half of the century, the harvests were plentiful

in England. So much so, that many social and economic historians have

referred to this period as a "golden age" for the agricultural laborer.

After 1760 and into the early-nineteenth century, however, there were

many years when the weather was bad and the harvests poor. This resulted

in an increase in farm prices and a decrease in the amount of work that

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[13]Anon., "Reports of the Society for Bettering the Condition of
the Poor," Quarterly Review, vol. 15, 1816, p. 197.

was available.[14] Therefore, those people who remained on the land as day laborers and those who took secondary and tertiary jobs in agriculture, faced yet another problem. Although it is impossible to monitor how many people left the land due to these adverse conditions, it is probable that some moved to the cities. It is also probable that they suffered a similar fate as their displaced neighbors before them.

Industry

Juxtaposed to the agricultural revolution was a revolution in industry. The industrial innovations were as significant as those in agriculture, but the process of change was more gradual and drawn out. This was the result of a number of factors: the need to possess large quantities of capital, the failure of some early inventions, a lack of proper materials, the inability of workers to acquire necessary skills, the absence of sufficient avenues of transport, a resistence to social change, and the need to spread the idea of progress and have it accepted by a larger segment of the population.[15] In spite of these setbacks, the industrial revolution took place earlier in England than on the Continent. This was due to the expanding domestic and foreign markets, the enormous quantities of coal and iron, and the fact that the English were unusually prolific with inventions.

Central to the success of this revolution was the invention of machinery and its application to manufacture. Before this period machines had been a subordinate factor in manufacturing. The production of cloth, for example, was conducted in the cottages of workers with the

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[14]Beattie, "The Pattern of Crime in England," p. 87.

[15]Ashton, The Industrial Revolution, pp. 40-1.

entire family participating. Most products were made by using the spin-
ning wheel and hand loom. By the end of the eighteenth century, however,
human power was replaced by machine power.

The textile industry took the lead in the area of machine utili-
zation. The number of inventions perfected in this industry, in a fifty-
two year period, illustrated the revolutionary nature of the changes. In
1733, John Kay patented his flying shuttle; James Hargreaves developed
the spinning jenny in 1765; two years later, Richard Arkwright produced
the water frame; in 1779, Samuel Crompton combined the principles of the
spinning jenny and the water frame to produce the spinning mule; and in
1785, Edward Cartwright invented a power loom that could weave automati-
cally, permitting a weaver to operate more than one machine.

Not only were these machines too expensive for the average worker,
but they were too large for their cottages to accommodate. Moreover,
weavers working with hand looms could not produce the goods with the
speed, the quality, or the low costs that the machines could. Economic
necessity demanded a change to the factory system.

The advent of the factory system created a number of problems for
the worker. As was stated above, cloth was produced in the worker's
cottage before the application of machine power to the textile industry.
For many of these workers, this was a seasonal occupation. Agriculture,
which was also seasonal, occupied the rest of their time. The factory
system which was centered in urban areas, forced these rural people out
of the industry. The spinning that now was accomplished in factories,
was done by women and children. These people were the poor of the parish
workhouses. They were a central problem in this period, particularly the
children who were outnumbering those of earlier times. This was due in

part, to improved techniques in child delivery, hygiene, and better diets.
The workhouse would hire out these people to a manufacturer who would ob-
tain cheap labor in return for keeping them alive.

Although London was never considered an industrial city like
Birmingham or Leeds, nevertheless, it supported a number of industries
such as: textiles, brewing, clock and cabinet making, glass and furni-
ture, and included many of the luxury industries. The conditions in most
industries were almost unbearable. The average work day ranged from four-
teen to sixteen hours, six days a week, with Christmas and Good Friday
off. Even children apprenticed to some of the better trades were abused.[16]
The Gentleman's Magazine frequently reported such abuses to the public,
but little reform was forthcoming.[17] When the Society for Bettering the
Condition of the Poor investigated the lowly trade of the chimney sweep,
they found the following:

> The greater part of these boys are driven to a profligate and
> vicious course of life by the want of education and protection:
> that of about two hundred master chimney sweepers in London,
> there are not above twenty who can make a decent livelihood by
> it; and that in most instances the master is only a lodger,
> having one room for himself, his wife, and children, and an-
> other (generally a cellar without a fire place) for his soot
> and his apprentices, without any means of providing for their
> comfort, health, or cleanliness, and without any other bed for
> them than the soot-bags which they have been using in the
> course of their day's work.[18]

Another serious problem, not originating but augmented by indus-
trialization, was the problem of drunkenness. As early as 1735, the

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[16]See M. Dorothy George, London Life in the Eighteenth Century
(New York, 1965), pp. 228-36 for a discussion of the problems of appren-
ticeship.

[17]See The Gentleman's Magazine, vol. 37, September, 1767, pp. 433-
37 for an example of the abuse of apprenticed girls.

[18]Anon., "Condition of the Poor," pp. 223-4.

Grand Jury of the City of London addressed a letter to the Lord Mayor on the problem of liquor. They viewed the sale of liquor as a "publick Nuisance" that caused "the daily Increase of Prohaneness and Immorality" and "most of the Murders and Robberies lately committed."[19] Various governments attempted to control the sale of liquor and to regulate the ale-house.[20] Concerned citizens also pointed out some of the horrible effects. The Gentleman's Magazine indicated that some mothers would murder their "own child, threw it into a ditch, and stripped it of the cloaths, just put on by a charitable person, to pawn for nine-penny worth of gin."[21] Yet, much of this legislation and public indignation was ignored.

With industrialization, the problem continued. Asa Briggs pointed out:

> If the new industrial workers, whether they were employed in factories or not, had to develop a new attitude towards work, they also had to develop a new attitude towards leisure and home life. Many of them continued to try to secure as much leisure as they could, on what was known as St. Monday, for instance, a day of large-scale absenteeism, but they had to fall back restlessly on the very restricted and usually escapist outlets for leisure in new urban communities.[22]

The large-scale absenteeism was due to an excessive use of alcohol. It enabled those employed to escape from the drudgery of their work, and the unemployed to escape from their poverty.

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[19] Grand Jury of the City of London, "A Letter to the Lord Mayor on the problem of Liquor," London Magazine, vol. 4, 1735, p. 496.

[20] See Statutes-at-large: 24 Geo. II, c. 40; 26 Geo. II, c. 31; and 32 Geo. III, c. 59.

[21] Anon., "Arguments Against Distilling Spirits," The Gentleman's Magazine, vol. 30, 1760, p. 20.

[22] Asa Briggs, The Age of Improvement 1783-1867 (New York, 1960), p. 63.

In addition, there was the oversupply of workers in the labor market. This was due to an increase in the population, which will be discussed presently. The effect that this had on the industrial worker was lower wages. Regardless of whether a person was employed or not, they were still impoverished because of rising prices, low wages, or a total lack of work. As a result, this caused some people to turn to crime. This fact is documented in the rise of indictments of offenses against property at the end of the eighteenth and beginning of the nineteenth centuries.[23]

Population

Another factor in London's social history was the remarkable growth in population. In 1700, there was approximately five and a half million people in England and Wales; in 1750, this number rose to six and a half million. When the first census was taken in 1801, the population was almost nine million, and by 1831, it had reached fourteen million.[24] Roughly one out of every ten people lived in London throughout this period.

According to George Rude, population increases were attributable to one, or a combination of four, demographic factors. These factors were: an excess of births over deaths, an influx of immigrants over those emigrating, population shifts within a city, and the expansion of a city to adjoining suburban areas, all of which London experienced.[25]

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[23]See Georg Rusche and Otto Kirchheimer, _Punishment and Social Structure_ (New York, 1939), pp. 95-7 and J. M. Beattie, "The Pattern of Crime in England," p. 95.

[24]Ashton, _The Industrial Revolution_, p. 4.

[25]George Rude, _Paris and London in the Eighteenth Century_ (New York, 1971), p. 37.

Due to improved methods of midwifery and the development of lying-in-
hospitals and orphanages, after 1740, there was a marked decline in the
death rate among infants; especially among the poor. In spite of the
English emigration to North America and Australia, a number of people
from the Continent and Ireland moved to England in search of employment
or political freedom. Many of the residents of the actual one-square-
mile City of London were forced to leave as the City became the interna-
tional center of commerce and finance. Because of this, people either
moved to the City of Westminster or to one of the suburban parishes in
the County of Middlesex. Thus, the ancient one-square-mile City of
London was being referred to as metropolitan London.

The high birth rates led to an increase in the proportion of
young people in the population. Some had been abandoned by their parents
who were imprisoned for debt. Children of parents who were poor or unem-
ployed were also abandoned. Despite the industrial revolution, there was
not a sufficient number of jobs for this large quantity of youth. Patrick
Colquhoun pointed out that:

> It has been shown that above one million of individuals, in a
> country containing less than nine millions of inhabitants, have
> descended into a state of indigence, requiring either total or
> partial support from the public, to the amount of nearly
> £4,300,000 a year.[26]

This forced many young people to eke out a living as best they could. The
Society for Bettering the Condition of the Poor discovered that:

> The recent parliamentary inquiry has shown that there are from
> 120 to 130,000 children in the metropolis without the means of
> education; between three and four thousand of whom are let out
> by their parents to beggars, or employed in pilfering,--and
> thus trained up for profligacy, the prison, and the gallows.

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[26]Patrick Colquhoun, A Treatise on Indigence (London, 1806),
p. 81.

A like proportion would be found in all large cities, and throughout the manufacturing districts a far greater.[27]

In 1806, Colquhoun suggested a series of proposals to remedy the situation. He recommended that poor children be provided with an education or apprenticed for occupations. He also suggested the development of a national system of poor relief that would replace the current cumbersome and ineffective local system, to reform the system of workhouses, and to improve the habits and manners of the poor.[28] Many of these ideas had been suggested in the past and would be cited in the future. Unfortunately, the national and local governments did not act upon these recommendations. The development of these ideas was left largely to the resources of private philanthropic organization, but with their limited resources and lack of authority, the problems of the poor and the delinquency among the young continued.

War

In the hundred and twenty-nine years between 1700 and 1829, England was at war for sixty-six years and at peace for sixty-three.[29] On the whole, trade expanded in time of war. The war effort created activities that promoted industry and trade which enlarged the work force. Correspondingly, peace brought economic depression or stagnation, causing the employment created by the war effort to decrease. More importantly, peace resulted in the discharge of thousands of men,

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[27]Anon., "Condition of the Poor," p. 226.

[28]Colquohoun, op. cit., pp. 255-81.

[29]England was at war with Spain between 1702-13, 1717-20, 1739-48; with France between 1756-63, 1793-1802, 1802-15; and with America between 1775-83.

especially into ports like London, who would soon be without money and might be drawn into crime.

The problem of discharged soldiers and seamen turning to crime was a serious and almost inevitable situation that faced local and national authorities. This was particularly true after the Napoleonic Wars, when at the height of the war effort, thousands of men were impressed into military service. Impressment enabled the authorities to release debtors, vagabonds, and other criminals from prison to assure a plentiful supply of men serving in the army and navy. This fact, in part, offers another explanation for the rise in indictments of offenses against property at the beginning of the nineteenth century.[30]

The Mob

On Saturday, June 13, 1752, Henry Fielding recorded in his Covent-Garden Journal the following observation:

> It may seem strange that none of our poli[ti]cal Writers, in their learned Treatises on the English Constitution, should take Notice of any more than three Estates, namely, King, Lords, and Commons, all entirely passing by in Silence that very large and powerful Body which form the fourth Estate in this Community, and have been long dignified and distinguished by the Name of THE MOB.[31]

Fielding went on to point out that the mob had long exercised a control over the other estates and "clearly asserted their Right to it by Force of Arms; to wit, by Fists, Staves, Knives, Clubs, Scythes, and other such offensive weapons."[32]

Like the wars, mob disorders were prevalent throughout the

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[30]Supra., ft. 23.

[31]Henry Fielding, The Covent-Garden Journal, ed. Gerard Edward Jensen, (New Haven, 1915), vol. 2, p. 22.

[32]Ibid., p. 23.

eighteenth and early-nineteenth centuries. In his study of the mob,

George Rude identified as many as 275 disturbances between 1735 and 1800.[33]

Historians tend to agree that the poor social and economic conditions

were the significant causes for the disorders. And, depending on the

specific issue at hand, the size of the mobs varied from a few dozen to

thousands of people.[34]

Throughout this period, the activities of the mob assumed two

different forms. One was the deliberate use of a mob that was illus-

trated in the political history; the other was a more spontaneous action

that was associated with the social and economic history of the times.[35]

The celebrated cases of John Wilkes and George Gordon were examples of the

deliberate use of a mob for political purposes. Wilkes, who was a member

of Parliament, wrote a number of libelous and slanderous statements

against the Crown and the Government in a paper called the North Briton.

Instead of appearing before Parliament to answer these charges, he fled

to France in 1764. Although he was declared an outlaw, Wilkes returned to

England in 1768. He joined forced with the radical fringe of the politi-

cal world and was elected to Parliament. After the election, he insisted

on being arrested as an outlaw. Mobs formed outside the prison in the

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[33]George Rude, The Crowd in History A Study of Popular Disturban-
ces in France and England 1730-1848 (New York, 1964), pp. 35-6.

[34]Although there is a good deal of agreement as to the frequency
and causes of mob disorder during this period, there appears, however, to
be considerable disagreement over the social makeup of the mob. M.
Dorothy George, London Life in the Eighteenth Century attributes it to the
"slum population" and Dorothy Marshall, Dr. Johnson's London (New York,
1968), claims that it was composed of the criminal elements of the soci-
ety. George Rude, The Crowd in History, on the other hand, offers a fair-
ly comprehensive thesis that the small wage earners were the most active
elements in many English riots.

[35]E. P. Thompson, The Making of the English Working Class (New
York, 1963), pp. 62-3.

hope of freeing Wilkes, who was viewed as a victim of the political estab-
lishment. Moreover, Wilkes was denied his parliamentary seat, because he
was elected while an outlaw. Again, mobs protested the action and began
to refer to Wilkes as a symbol of liberty.[36] In the case of George
Gordon, he opposed the passage of a Bill presented in 1780 that would
repeal certain penal provisions against Roman Catholics. In speeches be-
fore crowds of people, he aroused their anger to an extent that they van-
dalized a number of homes and businesses of both Catholics and Catholic
sympathizers.[37] In both instances, the motive behind the disorders was
of a political nature.

The other cause for mob disorder was due to social and economic
grievances. This form of disruption was particularly evident during the
early decades of the nineteenth century. People were underfed as agri-
cultural prices continued to rise and with the end of the Napoleonic Wars,
unemployment or underemployment became a serious issue. One form of this
kind of disorder was the Luddite riots. These riots, named after Ned Lud
(an early proponent of this type of protest), often consisted of indus-
trial workers destroying machinery. The people generally resorted to this
type of violence to protest low wages or to react in an apparent blind
rage. This rage was lodged against industrial progress (extensive use of
machines) which was depriving some people of making a living. Food riots
also became prevalent throughout the country as another form of protest.
Finally, there were meetings which demanded a general reform of the social,
economic, and political system. The meetings, at Spa Fields in London and

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[36]See J. Steven Watson, The Reign of George III 1760-1815 (Oxford,
1960), pp. 99-102, 131-43, and 148-50 for a brief but comprehensive study
of Wilkes and his career.

[37]Ibid., pp. 235-39 for a brief but comprehensive explanation of
the Gordon Riots.

St. Peter's in Manchester, were two of the more notable protests which ended in rioting.

The growth of social unrest necessitated the deployment of military troops throughout the country to assist the civilian authorities in maintaining order. The utilization of standing armies merely enhanced the displeasure of the citizenry, however. The English had always prided themselves in the fact that their Government did not have to resort to employing standing armies in times of peace.

These were the major economic and social issues that affected the crime problem in London. And, had it not been for a number of private philanthropic groups, the social dislocation and economic unrest could have been considerably worse. The Society for Bettering the Condition of the Poor attempted to improve the welfare of all poor people; the Marine Society helped delinquent boys; the Philanthropic Society aided deserted children and vagrants; and the Bath Society and the London Society assisted vagrants and beggars. Still, it was obvious throughout this period that these organizations, singularly, could not resolve these issues. Fortunately, another event in the eighteenth century established a philosophical climate of opinion that caused some men to view the problem of crime and its enforcement from a new perspective. That event, is referred to as the Enlightenment.

CHAPTER II

POLICE THEORISTS AND THE ENLIGHTENMENT

> London has neither troops, patrol, nor any sort of regular watch;
> and it is guarded during the night only by old men chosen from
> the dregs of the people; who have no other arms but a lanthorn
> and a pole; who patrole the streets, crying the hour every time
> the clock strikes; who proclaim good or bad weather in the morn-
> ing; who come to awake those who have any journey to perform;
> and whom it is customary with young rakes to beat and use ill,
> when they come reeling from the taverns where they have spent
> the night.
>
> > Pierre Jean Grosley,
> > A Tour to London, 1772

Between 1733-1734, Alexander Pope composed his famous couplet,

"Know then thyself, presume not God to scan; the proper study of Mankind

is Man."[1] For Enlightenment theorists (known as philosophes), Pope's

description was indeed accurate. Their metaphysic, which was based upon

John Locke's philosophy, had accepted science as a universal discipline.

They were particularly interested in the study of social science and

sought by it to achieve individual freedom and social morality for people

living in a corrupt world.

A number of years ago, Jacques Barzun suggested that the unity of

an historical period, is not based on people thinking alike, but rather

that they address themselves to the same problem. It is the question

raised, not the individual answers, that provide the perimeters which

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[1]Alexander Pope, "Essay on Man," in Selected Poetry and Prose, ed.
William K. Wimsatt, Jr., (New York, 1965), p. 138.

distinguish one period of history from another.[2] Barzun's argument is applicable to the Enlightenment. The philosophes agreed on the question that needed answering but disagreed on their individual answers.

The Enlightenment

Although it is dangerous to ascribe specific dates to an historical period, historians generally agree that the intellectual climate of opinion, known as the Enlightenment, was conceived with the publication of Sir Isaac Newton's Principia Mathematica (1687) and John Locke's publication of Essay Concerning Human Understanding (1689) and Two Treatises of Government (1690). This period ended around 1789 with the French Revolution. This age was noted for a particular attitude of mind which was found among a small group of men living throughout Europe, particularly in France, Germany, and England. These men believed that people had been corrupted by an evil world and the unscrupulous people in it. According to the philosophes, this was why people were not virtuous and wise. They associated wisdom and virtue with freedom and wanted people to attain these qualities. People, however, had become too corrupt to move voluntarily in that direction. It was the goal of the philosophes to move man from an evil life to a virtuous life. Only then could the ideals of life, liberty, and the pursuit of happiness be realized, which the philosophes invisioned achieving for all men. By the end of the century, this attitude gradually spread throughout Europe and its assumptions had either been accepted or rejected by the educated classes. With the French Revolution, there occurred a dissolution of the Enlightenment attitude of mind.

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[2] Jacques Barzun, Romanticism and the Modern Ego (Boston, 1943), pp. 21-2.

In spite of this, the philosophes popularized among the people of Europe the notion that they were living in a new age. Once and for all, the yoke of the Middle Ages had been removed and the modern period had begun. This transformation was marked by a basic change in the metaphysic. Once based on the supernatural, myth, and authority, it became supportive of a natural, scientific, and individualistic form of thinking. This shift was largely due to the works of Newton and Locke.

Isaac Newton's contribution to the climate of opinion was based on his explanation of the universe as a mechanical system. Through the use of mathematics and physics, Newton was able to prove that the universe operated through "natural laws" of gravitation and centrifical force. Thus, for the first time, a person could understand the universe by utilizing mathematical concepts. Prior to Newton, men could only conceive of the universe pictorially, making this a significant event.

Newton had employed a scientific method to explain his mechanical system of the inanimate world. This profoundly influenced eighteenth century theorists. They applied these basic concepts and assumptions of the natural sciences to the study of the social sciences. Not only were non-human organisms thought of as mechanisms, but human beings were also studied socially, economically, and politically as mechanical systems.

Whereas Newton was the prophet of scientific nature, John Locke was the prophet of human nature. He influenced the philosophes in two aspects of philosophy, epistemology and political thought. In his Essay Concerning Human Understanding, Locke argued that all our problems were a result of our inability to understand what knowledge is. He rejected the idea that knowledge was innate; instead, he maintained that everything in the mind was acquired through experience. This was a significant

development because he had demonstrated a rationalistic and an empiricalistic approach on how we acquire knowledge. Thus, he explained what Newton had previously done. Moreover, as Newton proved that God was not necessary in understanding the universe, Locke was proving that God was not needed for acquiring knowledge. Therefore, revelation was limited to what reason said it was in this "modern" world. In the Middle Ages, however, the roles were reversed. Revelation was necessary to check reason.

In his Two Treatises of Government, Locke defended the political settlement reached in England as a result of the Glorious Revolution of 1688 and the passage of the Bill of Rights in 1689.[3] In the first treatise, he denied the divine origins of government that had been espoused by Robert Filmer in the Patriarchia (1680). In the second, he offered a secular-scientific defense for limited government. Locke maintained that without government, we would have a natural order which is indigenous to nature itself. But he said the whole purpose of political society, and the basis of the social contract, was to overcome what he called the inconvenience of the state of nature. This inconvenience was based exclusively on the lack of an authoritative judge between parties to disputes. For Locke, then, the state was a judicial body, interpreting the law of nature for individuals. The implications of this treatise were significant: men are equal in rights, the state's role is to protect these pre-existing rights and not to create rights, and it is necessary to respect the state because it is the very embodiment of the disinterested judge.

Eighteenth-century thought was both Lockeian and Newtonian. The synthesizing of these two influences resulted in a specific concern about

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[3]See Statues-of-the-Realm: 1 William & Mary, st. 2, c. 2.

method, and the substance of that method. In epistemology and methodology, the empiricism expounded by Locke and practiced by the physical scientists were producing significant effects. The agricultural revolution in England illustrated that fact.

The philosophes inconsistently blended the unempirical belief in rationalism. In their metaphysic, the idea of a "natural order" which was based on "natural laws" and ordained by a benevolent God or "designer," assured for non-human and human nature a harmonious, orderly universe. Thus, some philosophes placed an excessive faith in reason, without supporting it with experimental or empirical data. These dual notions of rationalism and empiricism profoundly affected the substance of eighteenth-century thought. It also supported Barzun's contention that the resolution of an age's central problem could be viewed with a variety of approaches in mind.

In the eighteenth century, the central problem was man, as Alexander Pope had stated. The philosophes debated this issue with a series of questions throughout the century. Was man born in a good, evil, or neutral state? Was he perfectible or fixed for all time? If man was perfectible, how could this be accomplished--internally or externally? This led to another series of questions. Did man possess free will or was he entirely conditioned by his environment? How rational was man? And were all men equal? "None of these questions was exactly new," according to Franklin Baumer, "but they were put now with a new urgency and in new ways, as men reflected on recent science, . . . , and on the social problems of their age."[4]

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[4]Franklin L. Baumer, Modern European Thought Continuity and Change in Ideas, 1600-1950 (New York, 1977), p. 162.

The approach that the philosophes took in answering these questions was influenced by the particular concerns found in each country. In France, for example, the philosophes wanted to change their environment politically and economically. Once this was accomplished, they believed that Frenchmen would be free. Locke's political philosophy and England's political system became the prototype for the French philosophes. Charles Louis, the Baron de Montesquieu, was the French Enlightenment's leading political theoritican. In his Spirit of the Laws (1748), he advocated transforming France's absolute government to one based on a separation of powers. Claude Helvetius joined Montesquieu in condemning both the Monarchy and the Catholic Church. As a result of absolute and abusive power, Helvetius thought they had created a bad environment in France. Led by Pierre Dupont de Nemours, Anne Robert Jacques, the Baron de Turgot, and Francois Quesnay, the Physiocrats addressed themselves to the prevailing economic law. They argued that it was wrong to have the economy controlled by the government. They maintined that all people were motivated by the natural principles of pleasure and pain. Therefore, each man should be allowed to follow his independent pleasures, and his own interests. By removing governmental control from the economy, a laissez-faire system could be established.

In England, the immediate issues were different than those found in France. England, the homeland of Newton and Locke, after all, embodied the environment that conceived the Enlightenment. Most English intellectuals were not concerned about reforming their political or social systems. The Glorious Revolution of 1688 had already accomplished this.

The eighteenth century has been viewed as a period of political calm for the English. Moreover, the English were not vehemently

opposed to the church as were the French. While English churchmen were influenced by enlightenment ideas, the French churchmen were not. In England, religion was based on reason rather than myth. As a result, there was no censorship of the church or by the church.

Historians generally associate three basic concerns with the English Enlightenment. Some intellectuals were interested in the study of ethics and morality outside the realm of religion. Henry St. John, Viscount Bolingbroke, argued that there were two non-religious sources of morality. One, classical philosophy, based moral behavior on reason rather than revelation. The other source, history, could assist us to act morally and ethically. For St. John, history was philosophy teaching by example. Anthony Ashley Cooper, Lord Shaftesbury, maintained that we do not need religion to be ethical. According to Cooper, it was natural for man to be ethical, because we were born with an instinctive moral sense.

Another concern which was most pronounced in England, was that of developing a strict empirical philosophy. This group, which became quite radical, was led by Bishop George Berkeley. They maintained that we only gain knowledge through our senses and experiences, and if reality is not perceived, it does not exist.

The final concern of English intellectuals involved the development of an economic theory that would correspond with the advent of the industrial revolution. Adam Smith led the way in his Wealth of Nations (1776) by advocating a laissez-faire economic system. It consisted of government releasing its control of the economy, because invisible, natural laws assured the state that each man would rationally pursue his own self-interests. By allowing each individual to do what was right for himself, society would benefit in return.

Police Theorists

Historians of the English Enlightenment have been content to associate St. John, Cooper, Berkeley, and Smith among the leaders of this intellectual movement. This was largely the result of their acceptance, of the assumption, that the social and political climates were calm. Admittedly, the world of politics was relatively stable prior to the period commencing with the American Revolution.[5] More recently though, interpretations of the social history had raised questions regarding the social conditions, especially in the developing urban areas.[6] Moreover, with the exception of Sir Leon Radzinowicz, historians of the English criminal justice system have failed to associate the intellectual developments of the Enlightenment with criminal justice.[7] In particular, the police theorists had been the most neglected of all.[8]

Both Henry Fielding and Jonas Hanway offered significant insights into the state of the art of law enforcement during the eighteenth

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[5] See CHAPTER III.

[6] See CHAPTER I.

[7] Leon Radzinowicz, A History of English Criminal Law and its Administration, 4 vols., (London, 1948-68).

[8] For a discussion of the Enlightenment and theories about crime and punishment see Michel Foucault, Discipline & Punish The Birth of the Prison, tr. Alan Sheridan, (New York, 1977), Coleman Phillipson, Three Criminal Law Reformers Beccaria, Bentham, and Romilly (Montclair, 1975), especially the section on Beccaria, and Georg Rusche and Otto Kirchheimer, Punishment and Social Structure (New York, 1939). Two articles have appeared recently dealing with the leading contemporary spokesman of the English legal system, Sir William Blackstone. They are Rupert Cross, "Blackstone v. Bentham," 92 Law Quarterly Review 1976, pp. 516-27 and Richard A. Posner, "Blackstone and Bentham," The Journal of Law & Economics, XIX, 1976, pp. 569-606. In Radzinowicz, vol. 3, he discussed the attitudes of three English Enlightenment thinkers toward the police. William Blackstone showed a lack of interest in the idea pp. 417-20; Adam Smith questioned its utility pp. 420-23; and William Paley expressed a fear of its establishment pp. 423-25.

century. They were products of the intellectual milieu known as the En-
lightenment; and their assumptions, concerns, and priorities reflected
the climate of opinion. They were concerned about the central problem of
the age, and like their contemporaries, they addressed themselves to a
specific issue. That issue was the policing of their community. Their
efforts were directed at assuring the possible attainment of the ideals of
life, liberty, and the pursuit of happiness. After all, such ideals em-
bodied the attitude, which exemplified the purpose of the Enlightenment.

Prior to Robert Peel, Henry Fielding had the greatest popular re-
putation of all police reformers. This was partly attributable to his
important career in literature before his appointment as Chief Magistrate
at Bow Street in 1748. He began writing plays in the late 1720s, and in
February 1728, his first play, 'Love in several Masques,' was performed
at Drury Lane. He journeyed to the Continent following his first success,
where he studied literature at the University of Leyden for two years.
Upon his return to London in February, 1730, Fielding produced a series
of comedies, farces, and burlesques. From his early successes and recog-
nition among other writers (notably Jonathan Swift), it appeared that
Fielding would pursue a career as a playwright. This was not the case,
however. A bill, making it necessary to license all dramatic performances,
became law in 1737. As a result of this legislation, Fielding turned his
interests elsewhere.

Fielding's devotion to law and order was almost hereditary. Son
of an army general, Edmund Fielding, he was born on April 22, 1707. His
mother, Sarah, was the daughter of Sir Henry Gould, a judge of the Court
of King's Bench. Young Henry was tutored by a Mr. Oliver and then went
on to attend Eton. Among his classmates were George Lyttelton, Thomas

Winnington, William Pitt, Henry Fox, and Charles Pratt. All went on to achieve distinction in politics or in the law. Lyttelton was particularly instrumental in Henry's appointment to the Bow Street Magistrate's Court.

When Henry abandoned playwriting at the age of thirty, he entered the Middle Temple, one of the Inns of Court that prepared men for a career in law. He was called to the bar on June 20, 1740, and then left London to practice law in the western counties of England. While practicing law, Fielding renewed his interest in writing. He wrote a few plays, contributed a number of articles to journals, and produced two novels, Joseph Andrews and Jonathan Wild.

Fielding was back in London by the late 1740s, and through his old friend Lyttelton, he was introduced to the wealthy and powerful Duke of Bedford. In December 1748, Henry was appointed a justice of the peace for Westminster. This particular office was recognized as the premier magistrate for Westminster. Fielding moved into the house on Bow Street which was occupied by the previous first magistrate, the late Thomas De Veil. The house was owned by the Duke of Bedford, who was now a Secretary of State.

For a number of years, Fielding had attacked the quality of justice and the condition of the poor through his plays and novels. In fact, the office he was to assume was considered corrupt. Magistrates were not paid a salary, thus, resulting in some supplementing their income by accepting bribes. At that time, they were referred to as 'trading justices' and some amassed considerable fortunes. Fielding accepted the position on the condition that he be paid a salary. As a man trained in the law, critical of the quality of justice, and sympathetic to the

plight of the poor, he had no intention of bartering away a person's legal rights.

In a position to change the status quo, Henry Fielding became a disinterested and public spirited reformer. The powers and duties of a justice of the peace were described by Sir William Blackstone. He explained:

> [The] duty of a justice of the peace depend on his commission, and on the several statutes, which have created objects of his jurisdiction. His commission, first, empowers him singly to conserve the peace; and thereby gives him all the power of the ancient conservators at the common law, in suppressing riots and affrays, in taking securities for the peace, and in apprehending and committing felons and other inferior criminals. It also empowers any two or more of them to hear and determine all felonies and other offences.[9]

Therefore, Fielding had become the chief law enforcement officer for the City of Westminster.

Fielding's efforts to reform the office he now occupied, and therefore improve its efficiency, were approached from two separate avenues. Both were addressed to the same problem--the serious increase in crime in metropolitan London. One approach was the publication of his study of the crime problem entitled, An Enquiry Into the Causes of the late Increase of Robbers, &c. (1751). Fielding's investigation occurred at roughly the same time that the House of Commons had appointed a committee to inquire into the criminal laws and the increase in felonies.[10] The Committee's formation was due to the constant protestations of George II. Fielding's treatise was his own idea, and its purpose was succinctly stated in the dedication to Lord Hardwick, the Lord High Chancellor:

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[9]William Blackstone, Commentaries on the Laws of England (Oxford, 1765), vol. 1, p. 342.

[10]See Journals of the House of Commons, vol. 26, passim., but especially pp. 159, 190, and 289.

The subject of this Treatise cannot be thought unworthy of such a Protection, because it touches only those Evils which have arisen in the Lower Branches of our Constitution. This Consideration will account for their having hitherto excaped your Lordship's Notice; and that alone will account for their having so long prevailed: But your Lordship will not, for this Reason, think it below your Regard; since, however, ignoble the Parts may be in which the Disease is first engendered, it will in time be sure to affect the whole Body.[11]

Therefore, Fielding's intention was to enlighten those in authority of the serious nature of the crime problem. A problem they had either overlooked or attempted to disregard in the hope that time would somehow resolve the problem. The rationale for the work was strikingly similar to that of other Enlightenment theorists. They too were concerned about the effects of social evils--luxury, liquor and gambling--on the lower classes, but failed to associate the same evils with the upper classes.

The first intention of the treatise was to acquaint the reader first with an introduction to some of the larger social issues of the day that were contributing to the growth in crime. The second dealt with specific factors that encouraged the perpetuation of crime. Among the broader social issues, Fielding was concerned about the increase of trade in the port of London. He claimed that this was a contributing factor to the increase in robberies.[12] He was also critical of the excessive availability of liquor, especially gin.[13] He once stated "The dreadful Effects of which I have the Misfortune every Day to see."[14] His concerns also compassed the problem of gambling.[15] Fielding feared that some of the poor, having lost what little money they had by gambling, would be led to "unlawful and violent Means of relieving the Mischief which such

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[11]Henry Fielding, An Enquiry Into the Causes of the late Increase of Robbers, &c. (London, 1751), pp. vi-vii.

[12]Ibid., p. 6.   [13]Ibid., pp. 20-34.

[14]Ibid., p. 28.   [15]Ibid., pp. 35-47.

Vices have brought upon them."[16] In addition, the Chief Magistrate at

Bow Street was critical of the houses of correction. He pointed out that

their intents were to correct idleness, yet there was a lack of work with-

in these institutions.[17]

Next, the author identified specific factors that encouraged the

perpetuation of crime which he divided into two major categories. One

was the blatant problem with which stolen goods could be disposed. Here

Fielding speculated as to how this situation could be arrested and offer-

ed three approaches to the prevention of fencing: advertise the thefts

in newspapers, regulate pawn brokers, and make the receiving of known

stolen goods an original offence.[18]

The other problem dealt with the probability of escaping punish-

ment. Due to a number of factors, Fielding felt the criminal was almost

assured of escape. One such factor involved the relative ease with which

one could leave the scene of a crime. Fielding placed the blame for this

on the environmental design of the metropolitan area. He pointed out:

> Whoever indeed considers the Cities of London and Westminster,
> with the late vast Addition of their Suburbs; the great Irreg-
> ularity of their Buildings, the immense Number of Lanes,
> Alleys, Courts and Byeplaces; must think, that, had they been
> intended for the very Purpose of Concealment, they could
> scarce have been better contrived.[19]

Another factor was the fear that possessed constables when they tried to ap-

prehend a felon. While in pursuit, they were often attacked by other

felons, thus, enabling an escape.[20] And, he also pointed out that citi-

zens refused to assist the constable when in pursuit of the felon or when

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[16]Ibid., p. 48.   [17]Ibid., pp. 94-7.

[18]Ibid., pp. 114-15.   [19]Ibid., pp. 116.

[20]Ibid., pp. 145-46.

the officer was set upon by a gang.[21]

Moreover, the process of prosecuting the felon encouraged them to continue to commit crimes. During this period, the victim prosecuted the case. Fielding found that many refused to do so because they were intimidated by threats, did not want to get involved, thought the expense would be too great, or were fearful that their actions might result in a person being executed.[22] And an ancillary issue, was the inability of the authorities to find corroborating witnesses.[23]

Fielding concluded his treatise by supporting capital punishment. His support of such a penal policy may have appeared rather contradictory to the general spirit of the Enlightenment philosophy and to his personal sympathy for the poor, who were usually the recipients of the state's capital punishment statutes. The contradiction, however, exists in our twentieth-century reading of the treatise, in our reading history backwards. Enlightenment thinkers shared views that were rather ambiguous and were often contradictory. People thought of nature as being benevolent, yet it could also be destructive. People sought liberty by utilizing the powers of absolute monarchs. They believed in the universality of mankind, but retained a class structure. And they viewed man as a potentially moral ideal citizen, yet accepted the fact that he had the potential of becoming an economically isolated, selfish citizen. Each of these seemingly contradictory views were accepted, causing one of the problems in trying to conceptualize the Enlightenment milieu.

Furthermore, in eighteenth-century England, the dominant political philosophy was Lockeian. In his Commentaries, (1765-69), William

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[21]Ibid., pp. 157-58.   [22]Ibid., p. 164.

[23]Ibid., pp. 172.

Blackstone (the century's leading spokesman for the common law and the system of English government) explained in Lockeian terms: the state's right to punish, the reason for capital punishment, and the rationale for such punishment. Regarding the state's right to punish, he said:

> It is clear, that the right of punishing crimes against the law of nature, as murder and the like, is in a state of mere nature vested in every individual. For it must be vested in somebody; otherwise the laws of nature would be vain and fruitless, if none were empowered to put them in execution: and if that power is vested in any one, it must also be vested in all mankind; since all are by nature equal. . . . In a state of society this right is transferred from individuals to the sovereign power; whereby men are prevented from being judges in their own causes, which is one of the evils that civil government was intended to remedy. Whatever power therefore individuals had of punishing offences against the law of nature, that is now vested in the magistrate alone; who bears the sword of justice by the consent of the whole community.[24]

Blackstone went on to explain the necessity for capital punishment,

> It is therefore the enormity, or dangerous tendency, of the crime, that alone can warrant any earthly legislature in putting him to death that commits it. It is not it's frequency only, or the difficulty of otherwise preventing it, that will excuse our attempting to prevent it by a wanton effusion of human blood. For, though the end of punishment is to deter men from offending, it never can follow from thence, that it is lawful to deter them at any rate and by any means; since there may be unlawful of enforcing obedience even to the justest laws. Every humane legislator will be therefore extremely cautious of establishing laws that inflict the penalty of death, especially for slight offences, or such as are merely positive. He will expect a better reason for his so doing, than that loose one which generally is given; that it is found by former experience that no lighter penalty will be effectual.[25]

Finally, he offered the rationale for punishment,

> As to the end, or final cause of human punishments. This is not by way of atonement or expiation for the crime committed; for that must be left to the just determination of the supreme being: but as a precaution against future offences of the same kind. This is effected three ways: either by the amendment of the

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[24]Blackstone, Commentaries, vol. 4, pp. 7-8.

[25]Ibid., pp. 9-10.

offender himself; for which purpose all corporal punishments, fines, and temporary exile or imprisonment are inflicted: or, by deterring others by the dread of his example from offending in the like way. . . . which gives rise to all ignominious punishments, and to such executions of justice as are open and public: or, lastly, by depriving the party injuring of the power to do future mischief; which is effected by either putting him to death, or condemning him to perpetual confinement, slavery, or exile. The same one end, of preventing future crimes, is endeavoured to be answered by each of these three species of punishment. The public gains equal security, whether the offender himself be amended by wholesome correction; or whether he be disabled from doing any farther harm: and if the penalty fails of both these effects, as it may do, still the terror of his example remains as a warning to other citizens. The method however of inflicting punishment ought always to be proportioned to the particular purpose it is meant to serve, and by no means to exceed it: therefore the pains of death, and perpetual disability of exile, slavery, or imprisonment, ought never to be inflicted, but when the offender appears incorrigible: which may be collected either from a repetition of minuter offences; or from the perpetration of some one crime of deep malignity, which of itself demonstrates a disposition without hope or probability of amendment: and in such cases it would be cruelty to the public, to defer the punishment of such a criminal, till he had an opportunity of repeating perhaps the worst of villanies.[26]

Fielding, a product of this climate of opinion, could not be expected to think otherwise. For him and the age, capital punishment was necessary. Fielding differed from some people, however, in his attitude as to how the punishment should be executed. He preferred that it have the "three particulars of celerity, privacy, and solemnity."[27] Marked by its humanistic intent, this was a significant difference.

Although Fielding suggested changes in a number of areas, he was not in a position to implement many of them, the majority of which were beyond his control as a magistrate. His treatise was essentially a fact finding study. Its purpose was to describe the status quo with a degree

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[26]Ibid., pp. 11-12.

[27]Fielding, op. cit., pp. 196-97.

of precision not found in his novels and plays, which had been based on
more superflous observations. And, as was stated in the dedication, the
work also served to enlighten authorities as to the nature of the crime
problem.

The treatise received a favorable review in The Gentleman's
Magazine.[28] And undoubtably, it was read by a number of influential
people. Shortly after its publication, a few laws were passed to control
some of the evils that Fielding discussed.[29] It is difficult, however,
to determine whether Fielding's treatise, or the findings of the Commit-
tee of 1750, created this legislation. Both were probably instrumental in
assisting with the passage of this legislation, as their findings were
supportive of each other.

The publication of his treatise was one avenue that Fielding util-
ized in addressing himself to the crime problem. His other major approach
was more pragmatic in nature. It involved improving the efficiency of his
jurisdiction as magistrate. Specifically, Fielding implemented three
major changes. The first, involved overhauling the operation of his
court. Prior to his appointment, the court was in session at the whim of
the presiding justice. Moreover, the 'trading justices' preyed on the
ignorance of the poor in handing down decisions. With Fielding, the
people were assured that a magistrate would be sitting daily between
10 A.M. and 3 P.M. And in his court, Fielding emphasized helping the poor

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[28]See The Gentleman's Magazine, vol. 21, January, 1751, pp. 3-4.
Also Norman Hampson, The Enlightenment (Baltimore, 1968), p. 55, esti-
mated that the Magazine's circulation during this period was between 10-
15,000.

[29]See Statutes-at-large: 24 Geo. II, c. 40, an act to control the
sale of spirits (1751); 25 Geo. II, c. 36, disorderly houses act (1752);
and 26 Geo. II, c. 31, a licensing of alehouses act (1753).

by providing free legal advice.

Another change was in his organizing of parish constables, who attempted to detect and arrest criminals. This incorporated the retention of some of the constables to be detecting crime on a full-time basis. This was significant because constables were elected to serve only one year terms. Generally, they had been more visible at night as they assisted in the supervision of the parish watchmen. Although an important accomplishment, Fielding had no authority to establish his own police force, thus, their existence was kept a secret.

Finally, he used posters to publish the commission of crimes and to describe various criminals. Fielding had these distributed throughout London. He elaborated on the types of crimes committed and various known felons in his Covent-Garden Journal, which also recommended methods of crime prevention to merchants and homeowners.

Most of these innovations appeared in his treatise, An Account of the Origin and Effects of a Police Set on Foot (1753). This treatise was presented to Thomas Pelham-Holles, the Duke of Newcastle, who was a Secretary of State. The Duke had requested that Fielding develop a plan to reduce the number of robberies in the metropolitan area. At the time, Fielding's health was seriously deteriorating and he desired to go to Portugal to rest. Instead, he postponed his trip and outlined his plan for the Duke. Some of the ideas found in the treatise had already been secretly implemented, such as the full-time force of constables. Others, such as providing a fund for informers, was new. By the time Fielding completed the task, his health had deteriorated. On June 26, 1754, he embarked with his wife and daughter to Lisbon, and on October 8, he died.

Although Fielding held the office of magistrate for only a short

time, his work provided a significant frame of reference for others to follow, and his death did not bring to an end the implementation or elaboration of his ideas. Rather, Fielding's work was carried on by his blind, half-brother, John Fielding. In fact, when Henry Fielding died, John succeeded him at Bow Street. John was Henry's brother by his father's second marriage, and had a close association with Henry throughout his adult life. When Henry was appointed a magistrate, John was named as assisting magistrate. In spite of his handicap, John served as Bow Street magistrate from 1754 until his death in 1780.

Unlike his brother, John was not given to speculating about the causes of crime or developing new and innovative methods of coping with the problem. He was instrumental, however, in implementing the policies suggested by his brother. Among his contributions to the development of eighteenth-century law enforcement were: the utilization of Henry's secret force of constables as detectives, which became known as the Bow Street runners; the establishment of a horse patrol to patrol the main roads leading into the City; the development of a central register of burglars, thieves, receivers, and of lost or stolen property; and the creation of a periodical called the Hue and Cry, which was the forerunner of The Police Gazette. These ideas were published in a little tract called A Plan For Preventing Robberies Within Twenty Miles of London (1755).

John published two other useful works. One was his Extracts of the penal laws.[30] This compilation of laws pertaining to frauds and

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[30] John Fielding, Extracts from such of the Penal Laws, As particularly relate to the Peace and Good Order of this Metropolis (London, 1762).

felonies was published in 1762. Fielding was concerned about the citizens fears that their liberties were being curtailed by the creation of more penal statutes. In the introduction, he explained how he hoped the work would dispel those fears:

> From an attentive Perusal of these Extracts it will appear, that it is scarce possible for a Subject to suffer either Inury, Inconvenience, or even Insult, without speedy Remedy: and as the Ignorance of a Law is no Excuse for the Breach of it, it is greatly to be hoped and much to be wished, that this Publication of the penal Laws, will take away the disagreeable Necessity of putting any of them in Execution;--Prevention being in all Respects more eligible than Punishment.[31]

Finally, Fielding published <u>A Short Treatise on the Office of Constable</u>.[32] In a letter addressed to the constables of the County of Middlesex and the City of Westminster, he explained the genesis and purpost of this treatise:

> I have carefully collected and revised the Observations found among my Brother's Manuscripts on this Subject, and have made such Additions as may possibly render the Work more useful, though I am far from offering it to the Public as a perfect Treatise; yet if it should be the Means of any Respect of rendering the Office of Constable more easy and intelligible, or of preventing either Trouble to, or the Prosecution of any Peace Officer, it will fully answer my Purpose.[33]

John made good use of Henry's unpublished manuscripts. Unfortunately, part of the crowd involved in the Gordon Riot sacked the Bow Street Office, destroying many of John and Henry's papers, as John lay dying.[34]

Henry Fielding was a pioneer in discovering the origins of crime and developing methods to alleviate the problem. One does not necessarily

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[31]<u>Ibid</u>., p. 6.

[32]John Fielding, <u>A Short Treatise on the Office of Constable</u> is usually found printed with the <u>Extracts</u>.

[33]<u>Ibid</u>., p. 322.

[34]<u>Supra</u>., pp. 23-4.

have to agree with his conclusions or methods, but one should understand that his approach--with all of its assumptions and priorities--stemmed from his total acceptance of the Enlightenment philosophy. Man was living in a corrupt world which evolved, in part, from corrupt institutions. Perhaps Fielding understood this better than most theorists of this age, for he became actively involved with one such institution. His initial approach was to reform the institution; the reformation of man and man's movement toward individual freedom, would follow. This was evident by the laws of nature. John Fielding continued that tradition.

One of the more perplexing characteristics of Enlightenment theorists was the ambiguity, and at times, contradictory nature of their views. In the realm of political philosophy, they believed in freedom and liberty, but not in political or social democracy. They were intelligent enough from their own perspective, to realize that all people were not enlightened. Therefore, they had no desire to turn the political process over to the people. Yet, they were not pleased with the rule of absolute monarchs. Instead, they advocated that a country should be governed by the rule of law. The law would control the state and regulate morality. They could not agree, however, on what type of institutions were needed to assist in this endeavor. Henry Fielding obviously thought that the office of magistrate was a useful and effective institution. Throughout the century, other theorists agreed, disagreed, or in some way modified Fielding's perspective.

Disagreements over the quality and quantity of law enforcement were often instigated by the failure to agree upon a definition for police. Writing around 1730, Jonathan Swift had this to say:

> Nothing is held more commendable in all great cities, especially
> the metropolis of a kingdom, than what the French call the

police; by which word is meant the government thereof, to pre-
vent the many disorders occasioned by great numbers of people
and carriages, especially through narrow streets.[35]

In 1755, Dr. Samuel Johnson defined police in his Dictionary as being:
"the regulation and government of a city or country, so far as regards
the inhabitants."[36] And in 1766, Adam Smith described police as "the
second general division of jurisprudence . . . which properly signified
the policy of civil government, viz: --cleanliness, security and cheap-
ness or plenty."[37] Each definition placed different limits on what could
be expected from the police.

In light of these disagreements over which institutions were
needed to assist in the state control and regulation of morality and the
failure to agree on a definition for police, Jonas Hanway offered yet an-
other perspective on the meaning and function of police in his treatise,
The Defects of Police (1775). When compared with Henry Fielding's work,
Hanway's views illustrated the extent to which theorists could agree upon
the central problem of their age and the specific aspect; concerning the
relationship of crime and police, yet, disagree or emphasize different
methods to resolve the problem.

Jonas Hanway was born on August 12, 1712, in Portsmouth. His
father, Thomas Hanway, was a victualler for the navy. In 1729, Jonas
began a successful career as a merchant, which took him to Russia and the

[35] Jonathan Swift, The Prose Works of Jonathan Swift, ed. Temple
Scott, (London, 1905), vol, VII, p. 267.

[36] Samual Johnson, A Dictionary of the English Language (London,
1755), unpaginated.

[37] Adam Smith, Lectures on Justice, Police, Revenue and Arms, ed.
Edwin Cannan, (New York, 1964), p. 154.

Middle East. After spending approximately seven years in the Middle East, Hanway returned to London in October, 1750. With the exception of two trips abroad, he spent the duration of his life in England.

Hanway is generally remembered as the person who popularized the use of the umbrella. Fortunately, his voluminous writings indicated that his contribution to English society was more extensive and significant than that. Hanway was particularly attentive to the conditions of the poor, and for over thirty-five years, until his death on September 5, 1786, most of his energy was devoted to improving their plight.

Hanway was financially secure enough to become an advocate and supporter of a variety of philanthropic causes. He and his colleagues, among them John Fielding, founded the Marine Society in 1756. This institution supplied the navy with seamen by training boys--particularly delinquent boys--with the requisite skills for a career at sea. In 1758, he became a govenor of the Foundling Hospital, which cared for deserted infants. He also assisted in establishing a charitable organization that assisted reformed prostitutes, known as Magdalen House, in the same year.

The breadth of Hanway's interests are illustrated by the fact that he published over seventy books, pamphlets, and articles. Only one work, The Defects of Police, specifically addressed itself to eighteenth-century criminal justice. This book was based on twenty-nine letters he had written on various subjects pertaining to policing society.

Hanway agreed with the Fieldings on a number of the causes of crime, and like Henry, his criticisms were not limited to social ills. He claimed a number of institutions were to blame for the crime problem. Hanway maintained that the first principle of government was to teach its

citizens obedience to the law, both divine and human.[38] He argued that it was apparent that the clergy had failed to discharge their duty regarding divine law.[39] He went on to point out that the English legal system was not executing the statue law to the fullest extent possible, and implied that this failure produced the effects of a society without law.[40]

Throughout the treatise, Hanway expressed a deep concern for the moral state of society. He was dismayed at the fact that "our manners are more civilized; but our morals are in a more barbarous state." He went on to say that the period was distinguishing itself "as the age of Pleasure."[41] Public houses and various amusements, such as lotteries, were criticized for destroying the public morals.[42]

With regard to the state of public morality, Hanway was particularly concerned about the poor. He blamed the nobility and gentry for the neglect of the poor, because they had failed to amend and improve the poor laws. From Hanway's perspective, the poor laws had been a significant instrument in the policing of the community, and it should not be allowed to fall into disuse.[43] He advocated building new workhouses that would provide employment for the poor and those guilty of some crimes.[44] He also favored regulating apprenticeship programs to control their numbers and to prevent their abuse.[45]

The most notable distinction in Hanway's perception of the police role, from that of the Fieldings, was one of definition. When the

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[38]Jonas Hanway, The Defects of Police (London, 1775), p. 28.

[39]Ibid.   [40]Ibid., pp. 2-3.   [41]Ibid., p. 265.

[42]Ibid., pp. 24-6.   [43]Ibid., p. 142.   [44]Ibid., pp. 71-6.

[45]Ibid., p. 93.

Fieldings referred to the police in their works, they described the specific tasks and duties of magistrates, constables, and watchmen. Hanway, however, offered a much broader definition. On three occasions in his treatise, he explained the rationale for police. Early in the work, he said:

> If we consider the consequences of our ignorance, and spiritual idleness, we shall find the greater necessity grow from it, to establish a police with all possible attention to religion. Police is the minutia of government, but without it there can be none of those restrictive regulations, which are preparatory to the execution of laws of the greatest importance.[46]

He went on to say that the "police means good regulations for the economy and preservation of the people."[47] And in an attempt to justify the very existence of the police, he argued:

> The notion that our liberty will not admit of a police, is in effect saying, that liberty is productive of misery of every kind, and that it must terminate in anarchy and the dissolution of government. On the contrary, it is as demonstrable, that a great people cannot live without police, as that they cannot survive long on a plan of corruption.[48]

Throughout the work, Hanway emphasized the importance of religion in assuring an efficient and effective police.[49] He maintained, that if people failed to adhere to the basic principles of Christianity, the entire social order would be subverted.[50] Hanway, like other Enlightenment theorists, did not believe that people were capable of becoming enlightened without some direction. From his perspective, religion was a key element in providing that necessary direction. He considered religion a natural instrument for imposing order and discipline on a society.[51] Once this was accomplished, the people could become enlightened.

Hanway's treatise also offered some innovative approaches to

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[46]Ibid., pp. 11-12.   [47]Ibid., p. 93.   [48]Ibid., p. 100.

[49]Ibid., p. iii.   [50]Ibid., p. 28.   [51]Ibid., p. xx.

coping with the problem of crime. Emphasizing discipline and teaching through example, he suggested that local parish officers could do more for the alleviation of their parishioners from becoming paupers, by teaching them to spin and knit. He said, "these are arts which both children and adults may carry with them, especially when they have no other employment."[52] He was convinced, that if parish officers were given the power to encourage these endeavors "they might keep many out of the paths which lead so directly to the gallows."[53]

He also recognized that one of the significant reasons for the crime problem was the serious increase in the population of the urban centers, and argued, that some of these people should be moved to the country.[54] The overcrowding was detrimental to everyone's health and comfort, and this move to transplant people would help resolve that problem. As a businessman, he was also keenly aware of the fact that many of these people would never acquire the skills necessary to work in industry.

Hanway's sense of business enabled him to recognize that policing a community was an expensive undertaking. Therefore, he suggested that a tax be imposed on various London amusements to help defray the cost for police. Amusements which he thought would provide "plentiful sources of funds," included theatres, concerts, balls, masquerades, billard rooms, and tennis courts.[55]

The Defects of Police offered yet another eighteenth-century view of the problem of crime and how to cope with it. Like the Fieldings,

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[52]Ibid., p. 189.   [53]Ibid., p. 190.

[54]Ibid., p. 252.   [55]Ibid., p. 237.

Hanway's assumptions and priorities were influenced by the intellectual climate of opinion dominating this age. Despite the fact they based their approaches and conclusions on the same philosophy, the Fieldings and Hanway differed significantly on where to direct the greatest concern. The Fieldings focused their attention on one particular institution, the office of the magistrate. This became their method of reforming society, albeit a small part of society, which would enable man to move toward a state of individual freedom. On the other hand, Hanway considered the problem of law and order on a larger scale by contending that law and religion could start a reformation of society. Without order and discipline, failure was inevitable for those striving to enlighten others.

Enlightenment theorists were impressed by three things: nature, law, and reason. According to law, everything should function naturally. They had an absolute, objective standard of how the world should function, and the last mature expression of that standard was the American Declaration of Independence.

During the second half of the eighteenth century, some Enlightenment thinkers began to examine critically these notions of nature, law, and reason. Rejecting the feasibility of an absolute objective standard were: David Hume in England, Jean Jacques Rousseau in France, and Immanuel Kant in Germany. Because nature is neither moral nor immoral, they maintained that we cannot depend upon rationalism to be moral. Moreover, that we could not rely upon empiricism, as it did not provide the degree of objectivity that earlier theorists claimed. For Hume, Rousseau, and Kant, empirical knowledge was subjective knowledge.

Hume, Rousseau, and Kant were suggesting that the world was not a mechanical, static reality, but rather an evoluationary phenomena. They

also contended that the scientific method was not as empirical as some believed, but based on casual observation. Furthermore, Enlightenment theorists admitted that unless government was enlightened, the Age of Enlightenment could not exist. The French Revolution proved that the theorists had failed to enlighten the French government, and the rise of political radicalism in England, indicated that the English government was not as enlightened as once thought.

The Fieldings and Hanway were guilty of each criticism levelled at Enlightenment thinkers. Their acceptance of a mechanical, static reality resulted in their suggested changes merely patching up the status quo, but not reforming it. The method, upon which their judgments were based, was their personal and casual observations. The problems that they were addressing, however, needed more than qualitative data, as there was a serious need for quantitative data. In order to improve the state of the art of law enforcement, the English government and the political process would have to change. This was an impossibility with the overwhelming influence of the Whig party.

CHAPTER III

POLITICS AND GOVERNMENT

And thereupon the said lords spiritual and temporal and commons,
pursuant to their respective letters and elections being now
assembled in a full and free representative of this nation, . . .
for the vindicating and asserting their ancient rights and liber-
ties, declare that the pretended power of suspending of laws or
the execution of laws by regal authority without consent of
parliament is illegal; that the pretended power of dispensing
with laws or the execution of laws by regal authority, as it
hath been assumed and exercised of late, is illegal; . . .
that levying money for or to the use of the crown by pretence
of prerogative without grant of parliament, for longer time or
in other manner than the same is or shall be granted, is ille-
gal; that is is the right of the subjects to petition the king,
and all commitments and prosecutions for such petitioning are
illegal; that the raising or keeping a standing army within the
kingdom in time of peace, unless it be with consent of parlia-
ment, is against the law; . . . that election of members of
parliament ought to be free; that the freedom of speech and de-
bates or proceedings in parliament ought not to be impeached or
questioned in any court or place out of parliament; that ex-
cessive bail ought not to be required, nor excessive fines im-
posed, nor cruel and unusual punishments inflicted; that jurors
ought to be duly impanelled and returned, . . . and that, for
redress of all grievances and for the amending, strengthening,
and preserving of the laws, parliaments ought to be held fre-
questly.

<div align="right">

Excerpts from the
Bill of Rights, 1689
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"Government," declared John Locke, "has no other end but the pre-

servation of property."[1]   Throughout the eighteenth and early-nineteenth

centuries, Locke was the political philosopher who explained the world

of English politics better than any other. Few thinkers in modern history

have exercised such a pervasive influence and have had such a profound

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[1]John Locke, <u>Two Treatises of Government</u>, <u>The Second Treatise</u>,
(1690), sec. 94.

ascendency over the minds of generations of theorists and politicians.
Locke's maxim, which explained the purpose of government, was the reason
a sizeable number of capital statutes were created during the century.
This significant increase was illustrated by the fact that: during the
period from the accession of Edward III (1327) to the death of Henry VII
(1509) only six capital statutes were enacted; during the period from
Henry VIII (1509) to the accession of Charles II (1660) thirty statutes
were added; while the period from Charles II to 1819 saw the passage of
one hundred and eighty-seven new capital statutes.[2] Among the felonies
considered capital crimes were treason, murder, rape, and forgery. Cap-
ital crimes also included such offenses as: marking the edges of coins,
pick pocketing of an amount of twelve pence or over, destroying the heads
of fish ponds, and being in the company of gypsies. A popular periodical
of the day, The London Magazine, ran accounts of those executed at Tyburn.
On March 10, 1735, Elizabeth Ambroke was executed for the murder of her
bastard child and Jane Habron for stealing plate.[3] Michael Magimus,
James Hayes, and John Andrews were all executed on March 23, 1752, for
murder, robbery, and forgery respectively.[4] Sir Leon Radzinowicz dis-
covered that only 94 of 678 offenders executed in London and the County
of Middlesex between 1749 and 1771, were found guilty of serious crimes
against the person or the state. Such crimes were murder, attempted mur-
der, treason, and rape. The other 584 offences committed were crimes

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[2]Radzinowicz, A History of English Criminal Law, vol. 1, pp. 4-5.

[3]See The London Magazine, vol. 4, 1735, p. 158.

[4]See The London Magazine, vol. 21, 1752, p. 144.

against property.[5]

It has already been pointed out that William Blackstone, Henry and John Fielding, and Jonas Hanway accepted the use of capital punishment in controlling crime. Others rejected its use, at least in part. Dr. Johnson had this to say about the excessive dependence on capital statutes:

> It has been always the practice, when any particular species of robbery becomes prevalent and common, to endeavour its suppression by capital denunciations. Thus, one generation of malefactors is commonly cut off, and their successors are frighted into new expedients; the art of thievery is augmented with greater variety of fraud, and subtilized to high degrees of dexterity, and more occult methods of conveyance. The law then renews the pursuit in the heat of anger, and overtakes the offender again with death. By this practice, capital inflictions are multiplied, and crimes, very different in their degree of enormity, are equally subjected to the severest punishment that man has the power of exercising upon man.[6]

With his careful reasoning, Johnson went on to suggest why this dependence should be curbed,

> This terror [death] should, therefore, be reserved as the last resort of authority, as the strongest and most operative of prohibitory sanctions, and placed before the treasure of life, to guard from invasion what cannot be restored. To equal robbery with murder, is to reduce murder to robbery, to confound in common minds the gradations of iniquity, and incite the commission of a greater crime to prevent the detection of a less. If only murder were punished with death, very few robbers would stain their hands in blood; but when by the last act of cruelty no new danger is incurred, and greater security may be obtained, upon what principle shall we bid them forbear?[7]

Others supported Johnson's view, and one anonymous writer pointed out that to inflict death on:

> . . . the highwayman, footpad, and sheep and horse-stealer, and even for smaller crimes were too severe; and experience hath

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[5]Radzinowicz, op. cit., p. 148.

[6]Samuel Johnson, The Rambler (London, 1809), vol. 3, pp. 14-5.

[7]Ibid., p. 16.

proved, that as hanging left no room for the sufferers refor-
mation, so few, if any, of those classes took warning, or were
deterred by their unhappy fate.[8]

Another critic stated that "death has never lessened the number of offen-
ces; few men are made better for the numbers they have gazed at on the
fatal tree!"[9] Towards the end of the eighteenth and the beginning of the
nineteenth centuries, the courts administered capital offences with a good
deal of discretion. Pardons were granted under a number of circumstances,
such as: the age of the offender; whether it was a first offence; those
with good character; crimes committed without violence or weapons; those
driven by necessity; those who returned the stolen goods; and those who
were convicted by their own confession.[10]

Capital punishment was utilized extensively throughout the eigh-
teenth century, in spite of its eventual decline in use. Historians who
have studied the issue have offered a variety of reasons for its use.
Dorothy Marshall emphasized the fact that "society was singularly ill-
equipped to defend itself against the criminal and the vicious elements
in its midst."[11] Radzinowicz suggested the "liberal criminal procedure,
the lack of an adequate police force and the unsatisfactory state of
secondary punishments" as causes.[12] J. M. Beattie maintained that it
was because the offences that people complained were increasing, were

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[8]Anon., "Remarks on the Convict Act," London Magazine, vol. 46,
1777, pp. 264-5.

[9]Anon., "Bad Consequences of Annexing Death to Petty Theft," The
Gentleman's Magazine, vol. 56, 1786, p. 206.

[10]Radzinowicz, op. cit., vol. 1, pp. 115-16.

[11]Marshall, Dr. Johnson's London, p. 239.

[12]Radzinowicz, op. cit., pp. 33-4.

against property.[13] Recently, Peter Linebaugh implied that public executions served as a public show of authority.[14] And, Douglas Hay supported Linebaugh's contention when he argued that it served to protect the property interests of the English ruling class.[15]

The Lockeian rationale for the purpose of government appeared in all of these reasons either implicitly or explicitly. When Locke wrote the Two Treatises of Government in 1690, he was not developing an hypothesis as to how or why government should operate. Rather, he was offering an apologia for the political events that had transpired during the past two years; he was offering an eloquent rationale for the status quo. This explanation was maintained throughout the eighteenth century. Therefore, this chapter will briefly examine the structure of the English government and political process, both of which explain the limited success of the Enlightenment police theorists. Moreover, they suggest areas where change would be necessary prior to any meaningful improvements in the art of law enforcement.

National Government

When Elizabeth I died in 1603, leaving no direct heirs, the English Crown passed to the Scottish House of Stuart. The Stuarts view of monarchy was very medieval and very French. The Stuarts were unable to rule effectively in England because of this. At one point, their refusal to cooperate with the English Parliament led to civil war. For his

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[13]Beattie, "The Pattern of Crime," p. 72.

[14]Peter Linebaugh, "The Tyburn Riot Against the Surgeons," in Douglas Hay et al. Albion's Fatal Tree (New York, 1975), pp. 65-117.

[15]Douglas Hay, "Property, Authority and Criminal Law," in Albion's Fatal Tree, pp. 17-63.

leadership in the war, Charles I was tried before an illegal tribunal.
He was found guilty and was executed in 1649. Following the Interregnum
period (1649-1660) when England was without a monarch, the Stuarts were
returned to the throne. One of Charles I's sons, Charles II, learned
from his father's mistakes and cooperated with Parliament. James II, an-
other son of Charles I, succeeded Charles II upon his death in 1685. Un-
like Charles, James was an uncompromising person. He refused to cooperate
with Parliament which led to his exile on December 21, 1688. This event,
the Glorious Revolution, was glorious because it was bloodless. James
was allowed a pleasure that his father, Charles I had been denied. That
was to leave England with his head intact.

Whig Supremacy: During this politically unsettling time in English
history, there emerged two political factions that would eventually form
the nucleus of two political parties. One group was referred to as the
Tories. They were people who were conservatively inclined to the preroga-
tives of the Crown and the ancient conventions of the constitution. It
was from this group that the Stuarts gained their more ardent supporters.

The second group was referred to as the Whigs. These people op-
posed the Tory outlook and favored severely curtailing the ancient preroga-
tives of the Crown. They were not democrats in the sense of putting
power in the hands of the people, but an oligarchy from their beginning.
They wanted to limit the powers of the Crown and increase governmental
power in their hands.

With James II in exile, William and Mary assumed the throne. Par-
liament proceeded to pass legislation limiting the power of the monarch
and enhancing the power of Parliament.[16] From Parliament's perspective,

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[16]The most significant statutes were the Bill of Rights (1689) and
the Act of Settlement (1701). See Statutes-of-the-Realm: 1 Wm. III &
Mary, st. 2, c. 2 and 12 & 13 Wm. III, c. 2 respectively.

these statutes also made the Revolution a glorious one. This legislation

provided for annual parliaments; increased financial control by the House

of Commons; curbed the prerogative powers of the Crown; and was largely

orchestrated by the Whigs.

When Queen Anne died in 1714, without heirs, the Crown was trans-

ferred to the House of Hanover. This had already been provided for by the

Act of Settlement. Because the Whigs had supported the House of Hanover,

they benefitted the most from their accession. As a result, they would

dominate the political world throughout much of the eighteenth century.

The Whigs political power rested in the hands of the great Whig

families -- the Russells, Bentincks, Cavendishes, and others. Their power

was derived not so much by their significant aristocratic position, but

rather from their wealth. They controlled large tracts of arable land

that became increasingly important with the agricultural revolution, and

large blocks of real estate in the ever-expanding urban centers. At

times, they intermarried with the more prominent families of the mercan-

tile class, thus, expanding their source of wealth and power further.

Lastly, they speculated on the prosperous London market which increased

· their holdings in the banks and trading companies.

The heads of these families were members of the titled aristo-

cracy, who by right, sat in the House of Lords (the upper chamber of the

British Parliament). These aristocrats believed they had a duty to main-

tain the political system established by the Glorious Revolution as well

as to prevent the Crown from increasing its power. Douglas Hay succinctly

explained their purpose when he said:

> However much they believed in justice (and they did); however
> sacred they held property (and they worshipped it); however mer-
> ciful they were to the poor (and many were); the gentlemen of
> England knew that their duty was, above all, to rule. On that

depended everything. They acted accordingly.[17]

Their sense of duty and their vast wealth also enabled these magnates to

control the House of Commons. Many of the men elected to the lower House

followed the dictates of a small group of political managers having direct

ties with the great Whig families.

The King: In spite of the power and wealth of the Whigs, the

eighteenth-century kings of England still retained and exercised a good

deal of power. "The supreme executive power of these kingdoms," Blackstone

had said, "is vested by our laws in a single person, the king or queen."[18]

The Whigs would not quarrel with that fact, for they recognized that "the

principle duty of the king is, to govern his people according to law."[19]

They also realized that due to the king's preeminent position as executive

in the realm that he was entitled to certain prerogative powers, such as:

sending ambassadors, creating peers, and making war and peace.[20] The

Whigs were not opposed to the King's executive authority within the gov-

ernment; however, they disliked and mistrusted any attempt to augment that

power by enhancing the authority of the executive.

The Parliament: With the priviledge of Parliament to make in-

quiries, punish, and even impeach the king's counsellors, the Whigs were

able to check the growth of the king's executive power.[21] Parliament con-

sisted of two houses: the House of Lords and the House of Commons. The

House of Lords included the two archbishops and the twenty-four bishops of

the Church of England. They were called the spiritual lords and many were

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[17]Hay, Albion's Fatal Tree, p. 53.

[18]Blackstone, Commentaries, vol. 1, p. 183.

[19]Ibid., p. 226.   [20]Ibid., pp. 232-33.

[21]Ibid., pp. 150-51.

connected by birth to the great Whig families. The temporal lords were all the peers of the realm--the titled aristocracy. The other chamber, the House of Commons, was described by Blackstone to consist "of all such men of any property in the kingdom as have not seats in the house of lords; everyone of which has a voice in parliament, either personally, or by his representatives."[22] These men of property in the Commons were connected politically with the Whig aristocracy.

The English Parliament represented the interests of only a small minority, and its purpose was considerably different from that of most representative assemblies today. Eighteenth-century English politicians thought their constitution was perfect. The role of Parliament and the parliamentary process were steeped in ancient tradition. With the exception of the obstinent Stuarts, the system and the process had worked well. In fact, it was the constitution that saved the English from the Stuart abuses. Because of this, the members of Parliament opposed innovation of any kind. From their perspective, change represented a change for the worse, as it generally signified increasing the power of the Crown.

Another characteristic of the English Parliament was in its not having a legislative program. The foreign policy of the Crown was discussed, but because there was no domestic policy, domestic issues were rarely debated. Domestic policy centered on winning at the next general election to assure the same majority in power and thus, maintain the status quo. Therefore, the major role of Parliament was to act as a critic of the Crown's foreign policy. Moreover, because the House of Commons had the constitutional power to determine all money bills, it was able to control that policy.

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[22]Ibid., p. 154.

Parliament's ability to prevent change is illustrated by the House of Commons' procedural rules for bills introduced as potential pieces of legislation. All public bills, that is those affecting the public-at-large, had to pass through a thirteen point process. At each of these points, debatable questions would have to be resolved. These thirteen points were:

1. A motion for leave to bring in a bill.
2. A motion to put the Bill on the Table
3. The first reading of the Bill.
4. That there be a second reading at some time in the future.
5. That there be a second reading now.
6. That the Bill be committed, that is, a committee formed to examine its merits.
7. That the report of the committee be received at some time in the future.
8. That the report of the committee be received not.
9. That the Bill be engrossed.
10. That the Bill be read a third time.
11. That the Bill be passed.
12. That the title of the Bill be agreed to.
13. That the Bill be sent to the House of Lords.[23]

This lengthy process was enough to discourage people from both government and private sectors from introducing innovative pieces of legislation.

The role of Parliament will be discussed further when the parliamentary committees that studied the problems of law enforcement are examined. But first, it is imperative to explain briefly the structure of government at the local level, specifically greater metropolitan London. This is necessary, because the fate of most eighteenth-century domestic legislation was often determined by the political traditions, attitudes, and beliefs at the local level.

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[23]J. Steven Watson, "Parliamentary Procedure as a Key to the Understanding of Eighteenth Century Politics," The Burke Newsletter, vol. 3, 1961-62, p. 118.

Local Government

The City of London derived its authority from ancient charters, statutes, and acts enacted by the corporate governing bodies.[24] These liberties prevented the Crown from interfering in the affairs of local government, but during the Stuart period, the Crown did interfere. With the Glorious Revolution, these abuses were abated, however, and for almost one hundred years, "the King and Parliament adopted a policy of indifference as to what the various local governing authorities did or abstained from doing."[25]

It had been an ancient tradition in England that those who owned property possessed the necessary qualifications to govern. Sidney and Beatrice Webb said that this principle ran "like a red thread through all the local institutions of the eighteenth century."[26] In the City of London, the two governing bodies (the Court of Aldermen and the Court of Common Council) were composed of middle-class businessmen who controlled the banking and commercial interests of the City. The County of Middlesex was governed by the justices of the peace and the leaders of the individual parish vestries. They were also largely middle-class landowners. The same pattern was true for the City of Westminster and its Court of Burgesses.

One of the major responsibilities of local government was to

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[24]For samples of these ancient charters and statutes see William I's Charter to London, Henry I's Charter to London, and the Statute of Winchester (1285) in Sources of English Constitutional History, ed. Carl Stephenson and Frederick George Marcham, (New York, 1937).

[25]Sidney and Beatrice Webb, The Development of English Local Government, 1689-1835, (London, 1963), p. 3.

[26]Ibid., p. 53.

provide policing for the community. As early as 1242, this duty was pro-

claimed in Henry III's Ordinance for the Preservation of the Peace. It

said in part:

> Know that, for the strict maintenance of our peace, it has been
> provided by our council that watches shall be kept in the vari-
> ous cities and boroughs and in all the other vills of you
> county . . . : namely, in every city by six armed men at each
> gate; in every borough by twelve men in every vill by six men
> similarly armed, or four or less according to the number of in-
> habitants. And they shall keep continuous watch throughout the
> whole night from sunset to dawn. . . . Besides, in each hundred
> there shall be established a chief constable, at whose command
> all men sworn to arms in his hundred shall be assembled; and to
> him they shall be obedient in carrying out necessary measures
> for the conservation of our peace.[27]

Not only was the emphasis on individual citizens taking turns as consta-

bles, but also on the older concept that it was every citizens responsi-

bility to participate in the hue and cry, the pursuit and capture of the

felon.

Any householder in the City of London could be asked to serve as

a constable in his parish for one year without pay. Because of the un-

pleasant nature of the task, people often paid others to serve as their

deputies. Also, citizens were supposed to serve as watchmen, but again

many paid people of humbler origins to serve in their place. Outside the

City, the justices of the peace administered the law enforcement system.

And like the City, their men were selected from the individual parishes.

By the sixteenth century, the parish was recognized as the normal

government unit for local administration. Not only were the citizens of

the parish responsible for policing the parish, but for lighting, paving,

and cleaning the streets as well. Of particular importance, was the fact

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[27]Stephenson and Marcham, op. cit., pp. 139-40. The State of
Winchester (1285) elaborates these duties further. See pp. 173-74 of
Stephenson and Marcham.

that the tax payers were also responsible for caring for the poor of their parish.[28]

Towards the end of the seventeenth and throughout the eighteenth centuries, the principle of self-help and the parish as the local unit of government broke down in London. The growth in trade and the development of industry caused large numbers of people to move to London in seach of employment. When they failed to find jobs, they became a burden on the parish. The parishes could not meet the needs of so many people or the problems of poverty and crime that accompanied them. The parish tax base was too small to begin with, and with the demographic changes that were occurring in the metropolitan area, the problems of taxation grew to intolerable limits.

The dissolution of the parish as an effective unit of government was especially pronounced in the field of law enforcement, though it was not so much a problem of numbers. For example, the City of Westminster passed a Constables Act in 1756, assuring the appointment of eighty constables yearly.[29] The Watching Act of 1774, also left the task of determining the number of watchmen needed to the individual parishes.[30] The numbers ranged from as few as twelve to as many as forty. The problem, however, centered on the quality of the constables and watchmen. People were paying men who were old, infirm, or unable to secure other employment to serve in their places. Consequently, the quality of law enforcement and the security of the metropolitan area declined considerably.

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[28]See Statutes-of-the-Realm: 39 Eliz. I, c. 3.

[29]See Statutes-at-large: 29 Geo. II, c. 25.

[30]See Statutes-at-large: 14 Geo. III, c. 90.

As previously mentioned, the national government refrained from meddling in the affairs of local government following the Glorious Revolution. Nevertheless, due to the parliamentary process of introducing private bills, their involvement was not totally negligible. Private bills differed from public bills because they were introduced by a House member representing a small interest group. In order to have the bill submitted, this group had to pay a fee. Although the purpose of the bill was designed to protect or foster legally interests of a particular group, they could occasionally affect the interests outside the group. The movement to enclose land during the agricultural revolution was made possible by this method of introducing private bills.[31] Moreover, the Constables Act and the Watching Act, were also introduced by this process. In their extensive examination of local government in the eighteenth century, the Webbs discovered that:

> . . . the whole field of Local Government came gradually to be dominated by Acts of Parliament. The active control of the structure and function of local governing bodies by the National Legislature was one of the new principles gradually evolved in the course of the eighteenth century.[32]

It must be emphasized that the King and his government were not systematically developing a domestic policy through these acts, rather, the initiative for these bills came from private interests--property owners who were usually connected politically with the Whigs.

Committees of Inquiry

The relationship between the national government and the various city governments was based on ancient charters and statutes of the realm

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[31]Supra., p. 13.

[32]Webb, op. cit., pp. 66-7.

which established certain specific privileges for the cities. The Glorious Revolution and Locke's explanation of it, further enhanced the notion of the separation of governmental powers. Therefore, the King and the Parliament were limited in their ability to improve the social conditions of London and to come to grips with the problems of crime and law enforcement.

In spite of this relationship, Parliament investigated the problem of policing in the metropolitan area through a series of parliamentary committees appointed in 1750, 1770, and 1772. Parliament was legally justified in forming these committees, because the parliamentary orders explicitly suggested that the problem was a national issue. Members of Parliament, who served for the metropolitan area, were always represented on these committees, thus, implicitly recognizing that the issue was also a local problem.

The Committee of 1750 was formed following King George II's speech before Parliament on January 17, 1750. He said:

> Let me exhort you, in general, to make the best Use of the present State of Tranquillity, for improving the Trace and Commerce of my Kingdom; for enforcing the Execution of the Laws; and for suppressing those Outrages and Violences, which are inconsistent with all good Order and Government; and endanger the Lives and Properties of my Subjects; whose Happiness, and flourishing Condition, I have entirely at Heart.[33]

By February 1 of the same year, the Committee was appointed to investigate the issues that the King had identified. A little over a month later the Committee was also given the responsibility to "revise and consider the Laws relating to the Poor."[34] The Committee met and collected information for over one year. There is no doubt Henry Fielding's treatise,

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[33] *Journals of the House of Commons*, vol. 26, p. 3.

[34] *Ibid.*, p. 124.

An Enquiry Into the Causes of the late Increase of Robbers, &c., (1751) influenced some of the Committee members thinking and recommendations.

The Committee offered resolutions to the full House dealing with three areas of concern. The first involved the constables and watchmen for the City of Westminster and the surrounding parishes. The Committee discovered that their numbers were defective, that the tax base to support the force was too small, and that the quality of people employed for the watch was deficient.[35] They recommended that the tax rates be increased, that people should be encouraged to report crimes immediately if crime was to be prevented, and that provisions should be made to punish law enforcement officials who were derilict in their duty.[36]

The next report to the House indicated that the Committee possessed a fairly comprehensive understanding of the justice system, as they realized that defects existed throughout the entire system and not just with the police. The following are among the causes they cited for the increase in thefts and robberies: the amount of idle time that confronted the poor, the variety of places of entertainment that tempted people, the security that existed for the receivers of stolen goods, the problem of suppressing disorderly houses, and the failure to license pawnbrokers.[37] These problems had all been identified by Fielding in his treatise.

Regarding the trial process, the Committee thought the trial proceedings should be improved because there had been too much delay. They also advocated the development of alternative forms of punishment in order to reduce the number of people sentenced to death. Finally, they pointed out that a number of reforms should be undertaken to correct the

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[35] Ibid., p. 159.   [36] Ibid., pp. 159-60.

[37] Ibid., p. 190.

the abuses in the Houses of Correction.[38]

The last set of recommendations involved the state of the poor laws. The Committee recognized that the cost of maintaining the poor was increasing significantly, but was unable to identify any positive benefits. By and large, they were critical of how the money was used. It was their opinion that it should be used to provide employment for the adults and to educate the children, not simply to maintain them. They also questioned the use of these funds to transport the poor back to the parish of their origin.[39] They concluded by recommending that "some Method should be agreed on to maintain and employ the Poor by One common Fund in every County."[40]

In spite of the many recommendations put forward by the Committee of 1750, only one significant piece of legislation was passed to rectify the problem of law enforcement. The Constables Act, passed in 1756, increased the number of constables serving the City of Westminster to eighty.[41] The limited success of the Committee suggests a variety of things about the political process and the politicians attitude toward law enforcement. As pointed out earlier, members of Parliament opposed innovation of any kind. They felt innovation implied that change represented an increase in the power of the Crown at the expense of Parliament. As a result, the owners (or their representatives) of the nation's wealth viewed Parliament and its intricate procedures as a constitutionally valid tool to block innovation. In addition to the lengthy process for getting a bill passed, Parliament often utilized parliamentary committees to block or stall attempts that might change the status quo. This was precisely

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[38]Ibid.   [39]Ibid., p. 289.   [40]Ibid.

[41]See Statutes-at-large: 29 Geo. II, c. 25.

what happened with the Committee of 1750. They dutifully obliged the King
to investigate the issue and even performed admirably in identifying the
problems and offering solutions. Even so, they had no intention of allow-
ing the King the slightest leeway in establishing the precedent enabling
the Crown to conduct a comprehensive domestic policy. As a result, there
was almost a total absence of reform legislation. The one significant
piece of legislation that did pass due to the Committee's findings was
almost five years in the making.

In 1770, another Parliamentary Committee was formed to investi-
gate the increase in burglaries and robberies in the City of Westminster.
This time the Committee heard testimony from Sir John Fielding, Chief
Magistrate at Bow Street, James Sayer, Deputy High Steward for Westminster,
and a Mr. S. Rainsforth, High Constable of Westminster.

Fielding cited for the Committee the number of houses burglarized
between 1766 and 1770 and the value of the articles stolen. He also indi-
cated that many of the housebreakers were under twenty years of age and
"that the evil increases amazingly."[42] Sayer and Rainsforth joined
Fielding in identifying specific problems associated with the law enforce-
ment personnel. They pointed out that many of the watchmen were too old,[43]
that the eighty constables allowed by law were insufficient,[44] that the
qualifications for justice of the peace should be improved, and the jus-
tices paid for their services.[45] They also advocated that the authority
which would direct the law enforcement efforts should be placed under one
commission. This would replace the current fragmented approach, which was

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[42]Parliamentary History, vol. 16, 1765-1771, p. 930.

[43]Ibid., p. 932.   [44]Ibid., p. 934.

[45]Ibid., p. 938.

centered in each parish.[46]

The Committee of 1770 did make some recommendations. Specifically, they favored increasing the number of constables and watchmen, and placing the watchmen under the direction of a centralized authority,[47] but none of these suggestions were adopted.

In 1772, another Committee was established whose task was specifically "to enquire into the state of the Nightly Watch within the City and Liberty of Westminster."[48] Apparently, this Committee was designed to investigate further the state of the watchmen, a particular concern of the Committee of 1770. The Committee was directed to find out: the cost encumbered by the individual parishes for maintaining watchmen, the number of men employed, their ages, and their pay scale.[49] The Committee found the method of watching and the pay to be "very irregular."[50] They recommended that more uniform rules be established and that each parish establish a Director of the Watch.

The recommendations of the Watch Committee of 1772 became law by 1774.[52] Although it had come under some criticism from the Committee of 1770, the parish retained its position as the normal government unit for local administration. The other suggestions from the Committee of 1770 however, were not adopted. Once again the Committees of 1770 and 1772 illustrated Parliament's willingness to investigate the problems of law enforcement, but also their apprehension to pass significant legislation

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[46]Ibid., p. 932.   [47]Ibid., pp. 940-42.

[48]British Sessional Papers, 1731-1800, vol. 1, no. 10-13, p. 3.

[49]Ibid.   [50]Ibid., p. 6.   [51]Ibid., p. 7.

[52]See Statutes-at-large: 14 Geo. III, c. 90.

to cope with the issues.

J. H. Plumb, a leading authority on eighteenth-century England, has suggested that "obstincy, stupidity, and ignorance are common human failings, and so is aversion to change."[53] "Aversion to change" aptly described the reason why the Whigs refused to reform their system of law enforcement. These politicians thought their constitution and form of government were perfect; therefore, they opposed innovation of any kind. Because this attitude prevailed, the recommendations from the Committees of 1750, 1770, and 1772 lacked creativity. Their suggestions were similar to those of the Fieldings and Hanway in that they did not critically question the status quo. They merely patched-up the traditional institutions without attempting seriously to reform them. Yet, by the end of the eighteenth century, the political world of the Whigs was changing. A number of factors were transforming the traditional structure of politics at both the national and local level. The attitude of the King, George III, the re-emergence of the Tories as a viable party, and the war with America were significant factors; with one of the most important developments being the emergence of a new intellectual climate of opinion.

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[53] J. H. Plumb, England in the Eighteenth Century (Baltimore, 1963), p. 83.

CHAPTER IV

POLICE THEORISTS AND THE "NEW" ENLIGHTENMENT

The stream of opinion took a different direction in the last cen-
tury. A shallow and self-sufficient generation had then arisen,
who proclaimed themselves to be the only philosophers; their
metaphysical, moral, and political discoveries were offered to
the world with all the impudence of quackery, and like a quack's
nostrums they were received for a season with fatal confidence.
That season is gone by; bitter disappoinment has brought with
it humility; we are not but too feelingly convinced that no vio-
lent and sudden amelioration in society is possible, and that
great and sudden changes are evils in themselves and in their
consequences: but it is not the less certain that the general
condition of the world may be improved, and especially that part
of it in the improvement of which we are most nearly concerned:
it is not the less certain that of the moral and physical evils
which afflict mankind, many, very many, are remediable.

Report of the Society for Bettering
the Condition of the Poor, 1816

"A social system in its decline," wrote Auguste Comte in 1822, "a

new system arrived at maturity and approaching its completion--such is the

fundamental character that the general progress of civilization has assign-

ed to the present epoch."[1] This explanation fittingly described the period

between 1780 and 1840. It was an age marked by the dissolution of the En-

lightenment philosophy and the emergence of two new schools of thought.

The dissolution of the Enlightenment was the result of three revo-

lutions. One was an internal revolution which questioned much of the logic

of Enlightenment thinkers. David Hume in England, Jean Jacques Rousseau in

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[1] Auguste Comte, "Plan of the Scientific Operations Necessary for
Reorganizing Society," in Auguste Comte and Positivism, ed. Gertrud Lenzer,
(New York, 1975), p. 9.

France, and Immanuel Kant in Germany led this movement. They were products of Enlightenment thought, yet they questioned its basic assumptions about nature, law, and reason. Their goal was to save the Enlightenment philosophy, but in actuality, their criticisms aided in its demise.

In addition to this internal intellectual revolution, there were two external revolutions acting as stimuli to discredit the Enlightenment philosophy. One was the French Revolution. This was a traumatic experience for many Europeans, who saw the monarchy and Christianity attacked. People realized that the Revolution had uprooted the past, but they were not certain what benefits it had produced. Thus, a debate developed and continued throughout the nineteenth century in an attempt to determine what the Revolution was about, and to determine its impact.

The other external stimuli was the Industrial Revolution, which by this time, had become firmly entrenched in England and was spreading to the Continent. It was marked by widespread technological changes, the emergence of powerful capitalistic institutions, the development of the factory system, and significant change in the population of large urban centers. Additionally, the middle class emerged as the dominant class, displacing the aristocracy. At the same time, the working class was recognized as a group that had to be reckoned with both socially and politically.

Enlightenment thinkers had adopted the scientific thought of the seventeenth century. They applied Newtonian physics and Lockeian political theory to politics, sociology, and economics. Their goal was to transfer people from the corrupt life that they were presently living, to a virtuous one. And once this was realized, all men could achieve the ideals of life, liberty, and the pursuit of happiness. Because they

believed in a static reality, these intellectuals contended that this transformation could be accomplished. Ultimately, the world did not change. It had an absolute objective standard in which it functioned, which was based on the natural rational laws of the universe that had been discovered by Newton.

The goals and the assumptions of these thinkers became suspect by Hume, Rousseau, and Kant. They rejected the feasibility of an absolute objective standard, because the world was not a mechanical static reality. From their perspective, it was an evolutionary phenomena. They also questioned the theorists assumptions about rationalism and empiricism. They maintained that because nature was neither moral nor immoral, man could not depend on rationalism to make man moral. Furthermore, they said that the scientific method that the theorists relied on, was not dependable. Criticism centered on the fact that the method had not been perfected to the point that it provided objectivity. Rather, it was based on casual subjective observation.

Finally, the Enlightenment theorists had been sloppy and inconsistent in their political thinking. They believed that government would be the tool that would lead the masses to an enlightened existence. Even so, some maintained that it was the government and other social institutions that had created the corrupt existence people were living. These theorists argued that the government had to become enlightened first. The events surrounding the Revolution in France prevented the French philosophes from achieving that goal in France; along with the Whig supremacy in England, which raised serious doubts as to whether it could be achieved in England. Under the current political conditions, the feasibility of achieving the ideals of life, liberty, and the pursuit of happiness for all was doubtful.

Two New Schools of Thought

Whereas the eighteenth century was dominated by one intellectual movement, the period between 1780 and 1840 was influenced by two. One was the Romantic world view, commonly referred to as the antithesis to Enlightenment thought. The universal image of man, which the eighteenth century had adopted, the romantics rejected. Instead, their common purpose was to disprove the Enlightenment's static mechanistic view of man and his universe, and to argue that nature is constantly in a state of flux. This goal was the common factor that united the Romantic thinkers as a group.

The romantics were as concerned about nature as the Enlightenment thinkers had been, but concerned about one of a different kind. It was a biological nature that involved evolution, resulting in their rejection of the mechanical universe, natural law, and the rationality of man. They were in fact rejecting what had been the central components of the previous intellectual climate of opinion. By utilizing history, they concluded that truth was not always rational and that man had both an irrational and an emotional side. Having placed limitations on one's ability to reason, they revived an interest in mythical thinking. It was their opinion that people could discover and understand truth through poetry and aesthetics and not just through rational thinking.

Their most important contribution was the emphasis they placed on man's individuality. They stressed the differences rather than the similarities among men. Because of this perspective, their most significant impact on the realm of social and political thought, was developing a rationale for the nation state. The nation was viewed symbolically as an individual that would have characteristics unique unto itself, because its history was distinct from other nations. Therefore, they argued, the

French Revolution should not be viewed with trepidation. Rather it was an event that was both unique and necessary to the evolution of France's social and political history.

The intellectual world of the romantics did not have a direct impact on the police theorists of England. But the other intellectual movement of this period made a profound impression. Recently, Franklin L. Baumer described this movement as the "New Enlightenment." Baumer chose this term "because this [intellectual] world seems to me to have been a continuation, in spirit if not always in doctrine, of the eighteenth-century Enlightenment."[2] Baumer's observation is confirmed in John Stuart Mill's Autobiography. Mill said, "the French philosophes of the eighteenth century were the example we sought to imitate, and we hoped to accomplish no less results."[3]

Like the Old Enlightenment, the New Enlightenment was a transnational movement. It consisted of the English Utilitarians, the French Positivists, and Germany's Young Hegelians. Due to the individual differences in each group, these intellectuals cannot be considered as one united school of thought as the Enlightenment philosophes were. Yet, they all had one thing in common--to continue the Enlightenment spirit.

The New Enlightenment was also similar to the Old in that it opposed mythical thinking based on revelation and advocated empirical scientific investigation. Its members were deeply concerned about social problems and were active in resolving them. Baumer pointed out that they

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[2] Franklin L. Baumer, Modern European Thought Continuity and Change in Ideas, 1600-1950 (New York, 1977), p. 262.

[3] John Stuart Mill, "Autobiography," in Autobiography and Other Writings, ed. Jack Stillinger, (New York, 1969), p. 66.

shared an optimistic view of human nature and history, with their prede-

cessors.[4] This was evident because their philosophy of history was based

on their idea of progress. Therefore, in spite of the negative consequen-

ces of the French Revolution and the Industrial Revolution, human nature,

from their perspective, was improving. This was made possible by new and

improved methods of thinking and in a new awareness of social justice.

Utilitarianism

The year 1776, was a remarkable one in the intellectual history

of England. Edward Gibbon published his first volume on The Decline and

Fall of the Roman Empire, which suggested a new approach to the writing

of history. Adam Smith's Wealth of Nations appeared and had a profound

influence on man's view of economics. And Jeremy Bentham's Fragment on

Government was published anonymously. The appearance of Bentham's work

marked the beginning of the New Enlightenment in England. The group of

intellectuals that came to adopt Bentham's philosophy were known as

utilitarians. They were also referred to as Philosophical Radicals and

Benthamites. Bentham, along with James Mill, developed a philosophy

which had a significant impact on the legal, political, social and eco-

nomic policies of nineteenth-century England. The central tenent of the

philosophy was a belief that society should be organized to promote "the

greatest happiness for the greatest number." This principle was adopted

from Adam Smith's laissez-faire doctrine in economics.[5]

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[4]Baumer, op. cit., p. 304.

[5]Adam Smith was not alone in developing "the greatest happiness" principle. Others included David Hume, Claude Helvetius, Cesare Beccaria, and Joseph Priestley. In various works, Bentham expressed his debt to each of them.

Among Bentham's voluminous writings, the Fragment was his first. It was a polemical treatise designed to reject the Enlightenment's belief in the rights of man. He contended that the theory was too abstract, and advocated the vigorous application of the scientific method to the study of government. Moreover, Bentham was particularly critical of William Blackstone's Commentaries, which was a lengthy explanation of the English Constitution. Bentham viewed Blackstone's work as an apologia for the status quo. Therefore, he considered Blackstone an opponent of any attempts at reforming the political and legislative process.

The clearest statement of Bentham's utilitarian philosophy is found in his An Introduction to the Principles of Morals and Legislation. This was completed in 1780, but was not published until 1789. In the first chapter, he stated:

> Nature has placed mankind under the governance of two sovereign masters, pain and pleasure. It is for them alone to point out what we ought to do, as well as to determine what we shall do. On the one hand the standard of right and wrong, on the other the chain of causes and effects, are fastened to their throne. They govern us in all we do, in all we say, in all we think: every effort we can make to throw off our subjection, will serve but to demonstrate and confirm it. In words a man may pretend to abjure their empire: but in reality he will remain subject to it all the while.[6]

Bentham went on to explain the principle of utility as,

> That principle which approves or disapproves of every action whatsoever, according to the tendency which it appears to have to augment or diminish the happiness of the party whose interest is in question: or, what is the same thing in other words, to promote or to oppose that happiness. I say of every action whatsoever; and therefore not only of every action of a private individual, but of every measure of government.[7]

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[6] Jeremy Bentham, "An Introduction to the Principles of Morals and Legislation," in The Works of Jeremy Bentham, ed. John Bowring, (New York, 1962), vol. 1, p. 1.

[7] Ibid.

Bentham's philosophy was strikingly similar to the Enlightenment thinkers in that he retained a belief in a mechanistic view of man. Man's actions were based on the pleasure and pain concept. This assumption was true of all men, in all countries, and for all time. Yet his philosophy was also distinct from the philosophes in that his "greatest happiness" principle was based on an individualistic view of man. Here Bentham differed from Adam Smith on the "greatest happiness" principle. Bentham did not believe that individuals, while pursuing their own self-interest, would automatically assure the "greatest happiness for the greatest number." According to Bentham, this was the purpose of government and the aim of legislation.

Bentham's rejection of the status quo led him to suggest a total reformation of government. He maintained that the most significant changes should come at the national level, because it was there that the effectiveness of the "greatest happiness" principle would be most assured. He favored augmenting and centralizing the power of government at the national level, but also advocated enacting new statutes and revising and codifying the law, to assure that the government was rigidly controlled by fixed rules.

Bentham's reform of the government also included the criminal justice system. He was particularly interested in amending the rules of criminal procedure, rules of evidence, and the penal code. He also offered a plan to reform the English prison system. Many of these ideas were supported by a number of notable English politicians, including: Lord Shelburne, William Pitt, Sir Samuel Romilly, and Sir Francis Burdett. Thus, the utilitarian philosophy had its proponents in Parliament.

For our purposes, Bentham's views on police are of particular

interest. In his Principles of Penal Law, he explained the role of law

enforcement in his utilitarian society. He argued that there were two

approaches to combating crime: one was by punishment and the other was

by prevention.[8] "The first method of combating offences, by punishments,

constitutes direct legislation. . . . Thus the sovereign acts directly

against offences, when he prohibits each one separately, under pain of

special punishment."[9] Bentham cited two rationales for punishment:

"the one by correcting the will; the other by taking away the power to

injure."[10] He elaborated on these two reasons by suggesting:

> The will is influenced by fear. Power is taken away by physical
> restraint. To take away from an offender the will to offend
> again, is to reform him: to take away the power of offending is
> to incapacitate him.[11]

He concluded his explanation of the rationale for punishment by stating,

> The principal end of punishments is to prevent like offences.
> The past offence is only as one point; the future is infinite.
> The past offence concerns only one individual; similar offences
> may affect every one. In many cases, the evil committed is
> irreparable; but the will to do evil may always be taken away,
> because, how great soever the advantage of the offence may be,
> the evil of the punishment may be made to surpass it.[12]

The other method of combating crime was by prevention. Prevention,

he said, "constitutes what may be called the indirect branch of legisla-

tion."[13] Here he was specifically referring to the role of the police.[14]

He pointed out that:

> The greater number of offences would not be committed, if the
> delinquents did not hope to remain unknown. Every thing which
> increases the facility of recognising and finding individuals,

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[8] Jeremy Bentham, "Principles of Penal Law," in Works, vol. 1,
p. 553.

[9] Ibid.   [10] Ibid., p. 367.   [11] Ibid.

[12] Ibid.   [13] Ibid., p. 533.   [14] Ibid., p. 367.

adds to the general security.[15]

Therefore, the purpose and reason for the police was to aid in the recognition and discovery of the criminal elements of society; a concept already suggested by the Fieldings and Hanway.

In another work, A General View of a Complete Code of Laws, Bentham outlined how the police should be organized. He divided them into eight departments which corresponded with their particular duties. They included: police for the prevention of offences, police for the prevention of calamities, police for the prevention of endemic diseases, police of charity, police of interior communications, police of public amusements, police for recent intelligence, and police for registration and recording of facts of public interest.[16] Like so many of Bentham's plans to reform the government and society, his plans for police were elaborate. Moreover, they were strikingly similar to the duties delegated to the French police.

Because Bentham's approach was such a drastic departure from England's traditional approach to law enforcement, and because he was adopting a French model (for a country that was almost perpetually anti-French), most people opposed his specific plans of police reform. His opponents included some of his more ardent supporters for reforming the criminal law, among them Sir Samuel Romilly. In spite of this difference of opinion, Sir Leon Radzinowicz has suggested that:

> The Utilitarians were pre-eminently qualified to construct and to propagate a new system of police, they were unhampered by what they regarded as the dead weight of traditional thinking, firmly convinced that it was not necessary for institutions to

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[15]Ibid., p. 557.

[16]Jeremy Bentham, "A General View of a Complete Code of Laws," in Works, vol. 3, p. 169.

be rooted in national custom, and bent upon eradicating from social life imperfection and irrationality. It was in harmony with their philosophical and political doctrine that institutions and laws should be primarily intended to make the 'greatest happiness' principle a living reality, and that if necessary the field of official intervention should be extended to further this noble aim.[17]

Police Theorists

Bentham was not the only utilitarian who addressed himself to the development of an effective police force. Patrick Colquhoun and Edwin Chadwick were two followers of the Benthamite philosophy who made important contributions to improving the art of law enforcement during the late-eighteenth and early-nineteenth centuries. Like the Fieldings and Hanway, these two men were products of their intellectual milieu--the New Enlightenment--and their assumptions, concerns, and priorities reflected that fact.

Patrick Colquhoun was possibly the most important, yet underrated, police theorist of the eighteenth and early-nineteenth centuries. Like Jeremy Bentham, he grew to manhood when the Old Enlightenment was in its ascendancy, but his writings indicated his adoption of the utilitarian philosophy of the New Enlightenment. In his most famous work, A Treatise on the Police of the Metropolis, he said:

> In the Machine of Government there are many component parts where responsibility attaches;--but with respect to objects of Police, it would seem at present to rest no where, and hence is explained at once, the want of energy in the execution of our laws, and why so many excellent Statutes remain a dead letter.--To live encircled by fears arising from uncontrolled excesses of the human passions, either leading to turpitude or terminating in the commission of crimes, is to live in misery.--Police is an improved state of Society, which counteracts these excesses by giving energy and effect to the law. It is like the Mechanical power

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[17]Radzinowicz, A History of English Criminal Law, vol. 3, pp. 431-32.

applied to an useful Machine, devoid of which, it remains without motion, or action, and without benefit.[18]

The importance of the central government--the need to reform both the government and the law--and the significant role that the police could play in improving society, were clearly evident here and characteristic of the Benthamite philosophy.

Colquhoun was born on March 14, 1745, at Dumbarton, Scotland. His formal education had apparently been limited to grammar school, as by the age of sixteen, he was in Virginia pursuing a career in commerce. He returned to Scotland in 1766 and settled in Glasgow. For the next twenty-three years, he continued his commercial ventures and was quite active in local politics, as well as making several trips to London to lobby for measures favorable to Scottish industries. Colquhoun was also active in planning and improving the structure of Glasgow's government. Because of his efforts, he was elected Lord Provost of Glasgow in 1782, and re-elected in 1783. He was also instrumental in founding the Glasgow Chamber of Commerce.

In 1789, for some unknown reason, Colquhoun moved to London. What he did between 1789 and 1792 is a mystery. He may have amassed enough money in his commercial ventures to retire, or may have been pursuing a new venture in the world's leading center for trade. For whatever reason, he abruptly changed careers in 1792. In that year, a Justice of the Peace Act passed in Parliament which increased the number of police offices to seven for the metropolitan area.[19] Through Henry Dundas, a friend and

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[18]Patrick Colquhoun, A Treatise on the Police of the Metropolis (London, 1800), pp. 349-50. This work first appeared in 1795 and went through six additional editions.

[19]See Statutes-at-large: 32 Geo. III, c. 53.

the Home Secretary, Colquhoun was appointed to one of these new offices.

No doubt, through Dundas, Colquhoun was introduced to Jeremy Bentham. Of the first generation of utilitarians, Colquhoun distinquished himself as the leading advocate for police reform, just as Romilly was the group's most effective proponent for reforming the criminal law. Although Colquhoun was a member of the utilitarian movement, he was unlike Bentham in that he was not an 'ivory tower' theoretician. He had an extensive background as a businessman, and was now gaining the practical experience of a magistrate. His pragmatic approach to the problems of law enforcement gained for him the respect of Bentham and others who supported his views on improving the police of the metropolis. In this sense, Colquhoun resembled Henry Fielding, and his ideas and approach to crime and law enforcement reflect that first-hand knowledge of the problem.

Although Colquhoun addressed himself to the problem of crime and law enforcement in a number of treatises, the success of his endeavors was limited in his lifetime. His most significant contribution came with the passage of the Thames River Police Act of 1800.[20] Throughout the eighteenth-century, as London became the center of the world's trade, it was necessary to expand the port facilities. Warehouses were erected to store the excessive amount of goods, but were left largely unprotected. This resulted in the port areas becoming ideal targets for London's criminals. The customs and excise authorities (and later the West India Company) attempted to police the area, but with little success.

Colquhoun and John Harriot offered a plan to prevent the criminal elements from disrupting the docks. They introduced the Marine Police,

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[20]See Statutes-at-large: 39 and 40 Geo. III, c. 87.

whose duty it was to patrol the docks and river, in June of 1798. This force consisted of sixty constables under the command of Harriot, while Colquhoun served as their magistrate. Four-fifths of the cost of this venture was assumed by the West India Company, and the remainder was paid by the government. The success of the Marine Police led to Parliament's passage of the Thames River Police Act. Colquhoun, with the assistance of Bentham, drafted the bill.[21] The bill established the Thames Police Office, which was the nineth police office of the metropolitan area. The first was the famous Bow Street Office and the other seven had been created by the Justices Act of 1792. In the same year that the bill became law, Colquhoun published his Treatise on the Commerce and Police of the River Thames describing the problem and duties of the Thames Police Office.[22]

Three years after the appearance of his work on the River Police, Colquhoun published A Treatise on The Functions and Duties of A Constable.[23] This work was similar to John Fielding's treatise on the office of the constable that had appeared in 1762.[24] Like Fielding, Colquhoun wrote the tract for the benefit of the practicing constable, but was quick to point out that it was also "offered to the attention of the Public."[25] In the preface, he impressed upon the reader his view that the laws were sufficient in quality and quantity. With this view he appeared to depart from

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[21]Bentham, Works, vol. 10, pp. 329-36.

[22]Patrick Colquhoun, Treatise on the Commerce and Police of the River Thames (London, 1800).

[23]Patrick Colquhoun, A Treatise on The Functions and Duties of A Constable (London, 1803).

[24]Supra., p. 45.

[25]Colquhoun, Duties of a Constable, p. i.

Bentham and Romilly, who favored extensive reforms of the criminal law.

It was Colquhoun's opinion that the real problems in curbing crime "are

chiefly to be traced to the imperfection of the general system of Police,

as it relates to their due and proper execution."[26]

Colquhoun proceeded to offer a lengthy explanation of the duties

of the high constable and of constables. He cited the specific statute

that provided the constitutional power to enforce the law as it correspond-

ed to each duty. He also outlined the monetary penalties imposed for com-

mon offences that the constable would be enforcing and that portion of the

penalty that would be given to the constable as a reward for performing his

duty.[27] Having explained the rewards, Colquhoun then outlined the monetary

penalties that would be inflicted for neglect of duty.[28]

Colquhoun concluded the work with a plea to the public. He stated

that the duties of a constable are more important and complex than most

people imagine. Moreover, Parliament has continued to impose additional

duties on this office. He argued:

> It is therefore not an office, as has been erroneously supposed,
> which can be executed by ignorant and unletted persons; nor is
> it an occupation which can be slighted, or a duty that can be
> carelessly or inefficiently performed without a manifest injury
> to the best interests of society, whether it regards the safety
> of the State, the protection of the subject, or the security of
> the Public Revenue.[29]

Colquhoun also attempted to impress upon the public, particularly those

students of the Lockeian view of government, that:

> When it is considered that (comparatively speaking) none but
> men of substance and estate, having property, require that pro-
> tection which Constables are assigned to afford, it would seem

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[26] Ibid., pp. i-ii. [27] Ibid., pp. 58-68.

[28] Ibid., pp. 69-73. [29] Ibid., pp. 75.

reasonable to look to this resource for the means of finding re-
spectable, able, and intelligent men as substitutes in large com-
munities, because through no other medium can they be sufficient-
ly remunerated.--It is the interest of all men of property that
such a state of things should take place; and to those to whom
the power of choosing Peace Officers is committed, it is equally
important that every means should be pursued, consistent with
law and usage, to prevent the extensive duties assigned to Con-
stables to perform from being placed in unfit hands.[30]

Therefore, he was suggesting to men of property (as the Fieldings and

Hanway had done earlier) the pragmatic need to reform the office of con-

stable.

The fact that Colquhoun was instrumental in establishing the River

Police and published a manual for the lowly constable, was reason enough

to consider him a leader in police reform. Especially, at a time when few

people were supportive of such endeavors. Moreover, Colquhoun's most signi-

ficant contribution to law enforcement was his Treatise on the Police of the

Metropolis. This work first appeared in 1795, and was expanded in six sub-

sequent editions. In a letter to Charles Abbot--who was to become Speaker

of the House of Commons--Jeremy Bentham praised Colquhoun for his work and

loaned Abbot his copy of the treatise.[31] The work also received praise in

The Monthly Review, where the reviewer said:

> We therefore strongly recommend this book to general perusal; and
> we shall take leave of the worthy author with observing that the
> prevention of crimes, by a sensible and well-regulated Police,
> would contribute much more to the real glory of the nation, than
> any conquests which can possibly be made by the sword, or any
> wealth which may be acquired by the extension of commerce.[32]

The treatise was positively received because it was the first serious

attempt to survey extensively the crime problem in London.

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[30]Ibid., p. 78.

[31]Bentham, op. cit., p. 330.

[32]Monthly Review Enlarged, vol. XX, August, 1796, p. 415.

In addition, the author indicated that he was embarking on a new view of police. In the preface, he said:

> Police in this Country may be considered as a new Science; the properties of which consist not in the Judicial Powers which lead to Punishment, and which belong to Magistrates alone; but in the Prevention and Detection of Crimes, and in those other Functions which relate to Internal Regulations for the well ordering and comfort of Civil Society.[33]

And pointed out "It is by the general influence of good Laws, aided by the regulations of an energetic Police, that the blessings of true Liberty, and the undisturbed enjoyment of Property are secured."[34] Colquhoun recognized that criminal justice was a system of independent parts that were simultaneously dependent on one another. Thus, the work was not only strikingly modern in its perception of the crime problem, but also how best to organize institutions to combat it.

Much of the work was a discussion of the types of crime and causes committed in the metropolis. In light of the Fieldings and Hanway, this approach may not appear particularly innovative, but the difference was in Colquhoun's extensive use of statistics to explain the crime problem. He quantified the kinds of crimes committed and presented summaries of the numbers of people committed, tried, punished, or discharged.[35] Still, as a businessman, he knew the value of the goods entering the port of London, and took great pains to estimate the value of these goods.[36] He also estimated the value and kinds of public and private property stolen.[37]

Although most police historians have questioned the accuracy of Colquhoun's data, in a sense, this criticism is immaterial. The data

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[33]Colquhoun, Police of the Metropolis, from the preface, unpaginated.

[34]Ibid.

[35]Ibid., pp. 394-95 and 431.

[36]Ibid., pp. 214-15.

[37]Ibid., pp. 609-13.

whether correct or incorrect, was accepted at the time. His extensive

use of data illustrated his belief in the importance of empirical re-

search, which was a basic tenent of the New Enlightenment philosophy.

The treatise was more than just a reiteration of the causes of

crime, however. The author's primary concern was with the inefficiency

of the police in crime prevention. And, early in the work, he outlined

the major reasons for their ineptness. They included:

1. The imperfections in the Criminal Code; and in many instances, its deficiency with respect to the mode of punishment.
2. The want of an active principle, calculated to concentrate and connect the whole Police of the Metropolis and the Nation; and to reduce the general management to system and method.
3. The want of an Institution of Police Magistrates in the Dock Yards.
4. The want of a Public Prosecutor for the Crown, in all criminal cases.
5. The want of a more correct and regular System, for the purpose of obtaining the fullest and most authentic information.
6. The deficiency of the System of the Hulks.
7. The want of an improved System with regard to the arrangements and disposal of Convicts - destined for hard labour or for transportation.
8. The want of national Penitentiary Houses.
9. The want of a more solemn mode of conducting Executions; whenever such dreadful examples are necessary for the furtherance of Public Justice.[38]

Colquhoun displayed a keen sense for the breadth of the problem. His re-

cognition of what we now call the systemic qualities of criminal justice,

led to his suggesting a rather radical departure from the status quo (at

least for the police). In fact, some of his more innovative ideas were

implied or cited in the outline above.

By far, Colquhoun's most radical suggestion was to develop a police

force along the lines of the French police. That being, one that existed

before the Revolution. He argues, as Bentham did in his A General View

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[38] Ibid., pp. 24-27.

of a Complete Code of Laws, for a police force modeled after the French system.[39]   He said:

> In France, under the Old Government, how much soever many parts
> of the System of the Country were justly reprobated, by all who
> were acquainted with the blessings of Freedom, yet, in the man-
> agement and regulation of what was denominated The Police, there
> existed that kind of Establishment, with regard to personal
> security, and protection against the depredations of the most
> depraved part of the community, which Englishmen have certainly
> never enjoyed; who, on the contrary, have suffered manifold in-
> conveniences from an idea, (surely a very erroneous one,) 'that
> we must endure these public wrongs, and expose our property and
> lives to the attack of murderers, robbers, and highwaymen, as
> the price of Liberty.'[40]

Colquhoun obviously disagreed with this ancient prejudice, and with the
attitude one would expect of a disinterested, scientific reformer, he
suggested:

> When difficulties are felt, it is our duty to look at them dis-
> passionately; to face them with fortitude, and to discuss them
> with intelligence--divested of all prejudices generated merely
> by habit and education. By pursuing this mode of investigation,
> it will be discovered that in other Governments there may be
> come Establishments worthy of imitation; and which, perhaps,
> might in part be adopted, not only in perfect consistency with
> the Freedom of the Subject; but with the advantage of extending
> to the mass of the People, who are not in a course of delin-
> quency, more real liberty than they at present enjoy.[41]

True to the utilitarian philosophy, Colquhoun favored abandoning the
centuries-old-tradition of policing at the parish level. In the name of
utility, that is "the greatest happiness for the greatest number," he
advocated centralizing the police of the metropolis.

Colquhoun's proposal called for the establishment of a Board of
Police Revenue, consisting of five Commissioners appointed by the central
Government. The Board would be responsible for regulating the police of
the City of London and the metropolitan area. The fees and fines collected

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[39]Supra., p. 84.   [40]Ibid., p. 523.

[41]Ibid., p. 524.

at the Police Offices would be used to pay the salaries of those in the
employ of the Board. A Receiver would be responsible for dispersing
these funds, and he would be audited by the Treasury Department. Further-
more, two Police Offices would be established in the City of London, thus
raising the number to eleven for the entire metropolitan area.[42]

Indeed, Colquhoun's proposal was revolutionary and innovative for
the time. Although he was not establishing a national police force, his
centralization of the metropolitan forces implied that this was the direc-
tion that should be taken. Yet, in spite of its popularity--seven edi-
tions--Colquhoun's plan was not adopted in his lifetime. The overwhelming
majority of people in authority continued to cling to the past although
intellectually, the philosophy and methodology of the New Enlightenment
had arrived and was attractive to a number of national leaders. The fear
of placing too much power, like the regulation of the police, in the hands
of the central Government remained a significant barried to reforming the
police.

Patrick Colquhoun resigned his position as magistrate of the Queen
Square Office, Westminster, in 1818. Two years later, on April 25, he
died. The memory of his contributions to police reform was apparently
short-lived. When Robert Peel spoke before the House of Commons in 1825
on the subject of police magistrates, he failed to credit Colquhoun with
some of the improvements that had occurred. Recognizing this fact and
irritated by it, Jeremy Bentham proceeded to write a glowing testimonial
of Colquhoun's many contributions.[43]

Colquhoun was among that first generation of utilitarians who had

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[42]Ibid., pp. 535-64.

[43]Bentham, Works, vol. 5, pp. 335.

published most of their works between 1780 and 1825. This movement did not cease to exist with the death of Bentham, Colquhoun, and Mill.[44] Rather, it was continued by a second generation of men who were proponents of the Benthamite philosophy. The most notable of this group was John Stuart Mill and Edwin Chadwick. Through their writings and active participation in the reform movement of nineteenth-century England, they further developed the utilitarian philosophy. They made it pliable enough so that the principles of centralization could be promoted and adopted in the world of English politics. Both men lived long enough to see the fruits of their labors become a part of the policies of both the Liberal and Conservative parties.[45]

Of the second generation Benthamites, Edwin Chadwick was the person who made the most significant and lasting contribution to a new theory of police. Born in Manchester on January 24, 1800, Edwin was the son of James Chadwick; a teacher, editor, and journalist. Edwin was educated at a local school until his father moved the family to London in 1810. Hereafter, he was educated at home by his father and private tutors. In 1816, James Chadwick applied for the position of editor of The Western Times. He was subsequently offered the job which required moving the family to Devon. Edwin, however, decided to stay in London and study law. He entered the Inner Temple, and on November 26, 1830, he was called to the bar.

During his years of study, Edwin supported himself by writing for various newspapers. In this period, he also associated with members of the

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[44]The dates of these men are: Bentham (1748-1832), Colquhoun (1745-1820) and Mill (1773-1836).

[45]John Stuart Mill's dates are (1806-1873) and Chadwick's are (1800-1890).

"Utilitarian Society" and the "London Debating Society." Among the people

he met were James Mill, John Stuart Mill, and John Austin. Chadwick's

father had undoubtably instilled in him an interest in the utilitarian

philosophy, for in his own day, James Chadwick had been associated with

liberal politicians and had himself advanced liberal causes.

Edwin had apparently been interested in the state of policing in

metropolitan London for some time. His biographer pointed out that Edwin

"claimed to have read everything published on the subject, in English and

French, and he found all works equally unsatisfactory. 'There is no sys-

tematizing or any approach to system,' he complained."[46] While Sir Robert

Peel's Select Committee on the Police of the Metropolis met in 1828,

Chadwick conveyed to them some of his ideas on reform. The Committee

thought his perspective of the problem was worth pursuing further and re-

quested that he expand upon his ideas in a manuscript. Radzinowicz rela-

ted that "his [Chadwick's] copying clerk . . . lost the manuscript and by

the time it was recovered the Committee had published its Report."[47] In

spite of this fact, young Chadwick's ideas were known to the Committee.

Furthermore, Nassau Senior, a Benthamite, who was to become a life-long

friend of Chadwick, suggested that Edwin publish his manuscript as an arti-

cle in a new journal that Senior had recently founded entitled the London

Review.

In February,1829, the first edition of the London Review appeared.

Chadwick's article, "Preventive Police," was among the first installments.

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[46]S. E. Finer, The Life and Times of Sir Edwin Chadwick (New York, 1970), pp. 29-30.

[47]Radzinowicz, A History of English Criminal Law, vol. 3, p. 448.

Within five months of its appearance, Parliament passed the now famous "Act for improving the Police in and near the Metropolis."[48]   And in September of that year, Peel's new police appeared on the streets of metropolitan London. It is not meant to suggest that the article caused these events to occur; after all, it was not part of the official Report of the Select Committee which Parliament used to draft the statute. Nevertheless, it did appear in time to serve as an unofficial addendum to the Committee's Report.

Chadwick's central thesis was based on the Benthamite principle of utility.[49]   He argued that under the current conditions, there was a greater assurance of receiving pleasure rather than pain from the commission of most crimes. Chadwick implied that if the general public was aware of this relative ease to steal, more might be persuaded to do so. The major thrust of his argument was to counteract the attitude that persisted among the criminal elements: that the relative ease of committing crimes produced greater pleasures than the rather unlikely possibility of being caught, which would produce pain.

According to one scholar, Chadwick's contribution to a new theory of police consisted of: "(1) an economic-based theory of criminal behavior, and (2) analysis of the deterrent effect of reducing the expected gains from crime, through institutional and administrative change."[50]   With regard to the first point, Chadwick cited an example of the cost-benefits derived from committing crimes. He noted:

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[48]See Statutes-at-large: 10 Geo. IV, c. 44.

[49]Supra., p. 81.

[50]Robert F. Hebert, "Edwin Chadwick and the Economics of Crime," Economic Inquiry, vol. XV, 1977, p. 541.

In the court was seen a man on trial for picking a pocket. The
public saw no farther than one offence. The influence was that
it might have been committed from want of employment or from
sheer proverty. The fact was that it was one of a long series
of offences committed for a double profit, over that derivable
from regular industry. At that time the wages for rude labour
in the Metropolis did not exceed three shillings a day, but the
pickpocket's earnings did not average less than six shillings a
day; six silk handkerchiefs, which he sold at a shilling apiece,
with the chances of other prizes, such as pocket-books, with
cash in them; and with the exception of being once or twice
'policed,' his average chances of being at large were five years.[51]

To arrest these circumstances, certain barriers must be erected. He

argued that this could be achieved by recognizing three fundamental

axioms that would curb criminal behavior. These included:

First. That every arrangement which renders increased exertion
necessary to obtain property illegally, is so much gained to
the prevention of crime . . .
Secondly. That every arrangement which increases the difficulty
of converting to the use of the depredator, property dishonestly
acquired, is so much gained in diminution of the motives to com-
mit crime . . .
Thirdly. That every arrangement which diminishes the chances of
the personal escape of the depradator, is so much gained in di-
minution of the motive to commit crime.[52]

Keeping these axioms in mind and regarding Hebert's second point

about "reducing the expected gains from crime, through institutional and

administrative change," Chadwick maintained that " a preventive police

would to the utmost extent carry into practice what may be stated as its

fundamental axioms."[53] He further elaborated on this point by stating:

A preventive police would act more immediately by placing dif-
ficulties in the way of obtaining the objects of temptation.
If to obtain a given object of desire, as much mental or phy-
sical exertion be requisite as would suffice to obtain it hon-
estly, the honest course will undoubtedly be preferred.[54]

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[51]Edwin Chadwick, "Prevention of Crime," from The Health of
Nations (London, 1887), vol. 2, pp. 390-91.

[52]Edwin Chadwick, "Preventive Police," London Review, no. 1, 1829,
pp. 272-74.

[53]Ibid., p. 272.   [54]Ibid., p. 271.

As Chadwick saw it, the problem was that a truly preventive police force was non-existent in England, and was as critical of the existing forces as the Fieldings, Hanway, and Colquhoun had been. He argued, that because of "the changed condition of society" and that the duties of the constable were more "complicated and burdensome," a new police was impera-tive.[55] Chadwick advocated that the various law enforcement agencies must be consolidated "into one uniform body."[56] He was quick to point out, however, that England did not have to adopt a French model as Bentham and Colquhoun had suggested. Of the French police, Chadwick said it "has ob-tained the reputation of being a prevention police, and is generally con-sidered to be the most efficient system in Europe."[57] Chadwick disagreed with this assessment, and argued, "the great defect of the French Police Judiciare, is in some measure the same as the main defect of ours: that it does not use the adequate means either to obtain full information from the public, or to conciliate their aid."[58]

Chadwick considered the lack of intelligence used in coping with the crime problem was a significant factor in assessing the public's failure to come to grips with the problem. He pointed out that:

> The present police establishments do receive and will receive no information respecting depredations, where the value of the pro-perty stolen, and the chances of its being recovered, appear not likely to compensate for all that trouble and expense of pursuit and prosecution, which the present state of the law and of penal procedures imposes on the party injured.[59]

Chadwick favored expanding the coverage of the crime problem in the Police Gazette in order to improve the public's perception of it. This could be

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[55]Ibid., p. 253.   [56]Ibid., p. 258.

[57]Ibid., p. 304.   [58]Ibid., p. 307.

[59]Ibid., p. 276.

accomplished by including:

> Summaries of the proceedings before magistrates, and of the pro-
> ceedings at quarter-sessions, and sessions of oyer and terminer;
> new regulations, and other information, by which a general in-
> terest in the document might be excited, and a habit of general
> reference to it created.[60]

Through this approach, the public would have specific information explain-
ing how criminals operate and under what circumstances. This would enable
the public to protect not only themselves, but also to assist the police
in their investigations. Chadwick firmly believed that: "a preventive
police, . . . , or any police, can only be sustained in complete action by
complete information; in other words, by the entire support of the public,
on whose good opinion the most considerable portion of all information
must depend."[61]

Jeremy Bentham read Chadwick's article and was so impressed with
its substance, that he invited Chadwick to assist him in the completion of
his administrative code. Until Bentham's death in 1832, Chadwick lived
with the master, whose philosophy he had accepted as his own. Chadwick
also made the acquaintance of Col. Charles Rowan, who was one of the
Commissioners of Peel's new police. This friendship was to last until
Rowan's death in 1852.

Throughout the remainder of his life, Chadwick continued his inter-
est in police. But for our purposes, his significance must end where he
began, with the publication of his article on "Preventive Police." This
was the classic utilitarian statement on the need to centralize the admin-
istration of the police of England. The fact that he was not a practition-
er, as Colquhoun had been, may have influenced his approach to the topic.

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[60]Ibid., p. 282.   [61]Ibid., p. 285.

He did not make specific recommendations as to how the police should be organized. In fact, he made it a point to stress that it was not necessary to adopt the French model, which, at that time, was the classic example of a centralized police force. Instead, his approach was that of a disinterested observer who could capture the essence of the problem and discuss it in a manner that the people in authority could appreciate and identify with. His logic was utilitarian in nature and based on an economic point of view. For the landowners and merchants who sat in Parliament, they found this kind of reasoning much more agreeable to their senses.

In a period that was questioning the meaning of some of the major events of the eighteenth century--the Enlightenment, the French Revolution, and the Industrial Revolution--the theorists of the New Enlightenment retained an optimistic attitude toward the future of man and his institutions. These men salvaged some of the basic beliefs of the Old Enlightenment, such as a commitment to empirical scientific investigation, a concern for social problems, and a willingness to reform the status quo; and then blended these notions with their idea of progress.

Jeremy Bentham and his utilitarian philosophy continued this Enlightenment spirit in England. The central tenent of the utilitarians was a belief that society should be organized to promote "the greatest happiness for the greatest number." They argued that the most effective manner of achieving this end was by augmenting and centralizing the power of government. This would require extensive reforms at the national level.

This belief in the need to reform government included the criminal justice system. Bentham was active in recommending changes in all aspects of the justice system. Throughout his voluminous writings, he offered a comprehensive plan to improve the law, police, and corrections.

Bentham was assisted in his project by a number of his followers; among them, Patrick Colquhoun and Edwin Chadwick, who devoted considerable attention to the problems of law enforcement. Colquhoun (the businessman and magistrate) took great pains to collect empirical data that would prove the need to reform the current system of policing, and went so far as to offer a plan on which to develop a new police. Although it was not adopted in his lifetime, Colquhoun's plan closely resembled the scheme that was eventually approved by Peel in 1829. Chadwick's contribution, was his classic utilitarian statement on the need to centralize the administration of the police. His logic, which emphasized an economic point of view, captured the essence of the problem. Indeed, it was a timely statement which influenced the thinking of a number of members of Parliament as they debated whether or not to reform the antiquated system of policing.

It was obvious that the utilitarians could not reform the police alone. They needed the support of politicians, who could express the utilitarian view during the debates in Parliament. Only Parliament could change the system of policing (which was based on statute law), however, Parliament had been unresponsive to making any significant changes through-out the eighteenth century. This was due to the fact that the Whig-domina-ted-parliaments viewed change with a good deal of suspicion.

Even so, in 1829, Parliament passed an act which drastically trans-formed the organization and process of policing the metropolitan area of London. The acceptance of some of the utilitarian assumptions about government influenced this shift. Moreover, the politicians and their attitudes toward reform had also changed.

CHAPTER V

POLITICS AND REFORM

The first of the leading peculiarities of the present age is,
that it is an age of transition. Mankind have outgrown old
institutions and old doctrines, and have not yet acquired new
ones. When we say outgrown, we intend to pre-judge nothing.
A man may not be either better or happier at six-and-twenty,
then he was at six years of age: but the same jacket which
fitted him then, will not fit him now.

John Stuart Mill,
from The Spirit of the Age, 1831

In 1828, E. E. Wilmot, a London barrister, offered his assessment

of why the magistrates of England had failed to control the problem of

crime. He argued that the source of the problem was in "an indiscrimi-

nate adherence to ancient forms and institutions, not as they were, in

their origin, vigorous, and even more then adequate to their occasion, but

as they now are, in their decay, and when they have become the mere sha-

dows of antiquity."[1] Such was the case with the parish constables and

watchmen. The Industrial Revolution, the rise in population, and the geo-

graphical expansion of London had contributed to their decay. Thus, the

purpose of these ancient institutions--which had been developed over a

five-hundred-year period--was proven ineffective. The accuracy of

Wilmot's observation was not limited, however, to the magistrates or to

other criminal justice agencies. His views were applicable to the organ-

ization and process of the entire English government. The intellectuals

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[1] E. E. Wilmot, "Letter to the Magistrates of England on the In-
crease of Crime," Quarterly Review, vol. 37, 1828, p. 495.

of the New Enlightenment recognized the need to transform government into something better. And from approximately 1780, and throughout much of the nineteenth century, a number of English politicians joined the utilitarians in an extensive movement to reform the political, social, and economic conditions of their society.

The King and His Ministers

Throughout much of the period (1780-1829), England was ruled by one King, George III (1760-1820). At twenty-two, George III had succeeded his grandfather, George II. The young King had been brought up to believe--especially by his mother, Princess Augusta of Saxe-Gotha--that his grandfather was a helpless prisoner of the Whig politicians, who cared little for the nation as a whole. This view of the Whigs led to many political clashes during the King's long reign. For example, the Whigs opposed the King's appointment of the Earl of Bute as the First Lord of the Treasury in 1762, because Bute lacked the ability and experience for the position.[2] They condemned Bute's negotiation of the 1763 Peace of Paris with France, because it gave France fishing rights off the coast of Newfoundland; thus, threatening England's commercial stability in the area. Many Whigs were also opposed to Lord North's handling of the war with America.[3] North, like George III, had been totally uncompromising with the colonists.

George III also found it difficult to believe that his regal

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[2]Although they were not called Prime Ministers at the time, the person who was appointed to the position of First Lord of the Treasury would soon be referred to as the Prime Minister. This is still true today.

[3]Lord North served as First Lord of the Treasury from 1770-82.

inheritance differed in various ways from that of his grandfather and great grandfather. Yet, it was different. By the 1760s, the merchants had become a separate political entity—a strong and powerful group, who controlled so much capital that they had to be reckoned with politically. Towards the end of his reign, the industrialists would also form a separate group. Moreover, the ideas of the Enlightenment and the New Enlightenment were transforming man's perception of himself, his government and his society.

Furthermore, George III had not been tutored well in the art of politics. He would frequently appoint men to positions of power who did not possess strong ties with the leaders in Parliament. Men, like Bute and North, even lacked the requisite skills necessary to manage the government's administrative and financial interests.

Because of the King's attitude and the changing nature of the time, the stable and calm world of English politics began to erode with the accession of George III. With the collapse of Lord North's ministry in 1782, even the Whigs were divided amongst themselves. Charles James Fox, a friend of the Prince of Wales (the future George IV), was the leader of the young Whigs in opposition to the Crown. The Earl of Shelburne, who was a friend of Bentham and members of the utilitarian movement, led the radical reformist elements of the party. Edmund Burke was the philosophical leader of the Rockingham Whigs, who viewed themselves as centralists and the true representatives of the Whig principles. There was also William Pitt, who did not lead a Whig faction, but who believed that it was his destiny to govern England. Due to the number of political factions, the governments formed to represent the

King's interests were often unstable.[4] This was the case until William

Pitt was asked to form his first government in 1783.

William Pitt and Police Reform

William Pitt was the second son of William Pitt (first Earl of

Chatham), who had dominated English politics from 1742-1760. When the

younger Pitt entered Parliament in 1781, he associated himself with the

political faction of Lord Shelburne. It was through Shelburne that Pitt

made the acquaintance of Bentham and the other philosophical radicals.

By this time, Bentham's Fragment had been published. The precocious Pitt,

who planned to follow in his father's footsteps as a national leader, was

undoubtedly interested in hearing of Bentham's plans for reforming the

English government and society. Although Bentham's An Introduction to the

Principles of Morals and Legislation was completed, it had not as yet been

published. The contents of the treatise, however, were obviously topics

of conversation at Bowood, the Earl's country estate that was frequented

by Bentham and Pitt.

In 1782, Pitt was asked to serve in the Shelburne government as

Chancellor of the Exchequer. He accepted, but the Shelburne government

collapsed in 1783. Before the year was out, Pitt's desire to become a

national leader was realized. On December 19, 1783, the King asked him to

form a government. At the age of twenty-four, William Pitt had become the

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[4]Holders of the Office of First Lord of the Treasury from the
accession of George III to the formation of the first government under
William Pitt in 1783 were: the Duke of Newcastle, 1760-62; the Earl of
Bute, 1762-63; George Grenville, 1763-65; the Marquis of Rockingham,
1765-66; the Duke of Grafton, 1766-70; Lord North, 1770-82; the Marquis
of Rockingham, 1782; the Earl of Shelburne, 1782-83; and the Duke of
Portland, 1783.

King's chief minister. The young Pitt, however, had a difficult time

forming his government. This may have been attributed to his age, to

his supercilious attitude, to politicians who were vindictive toward the

King through Pitt, or a combination of these. In any event, none of his

seven-man cabinet were members of the House of Commons. This was highly

unusual and meant that Pitt alone, would have to defend his policies in

the Commons.

From December to March, Charles James Fox--who was one of Pitt's

leading opponents and who commanded a majority in the House of Commons--

tried to have Parliament dissolved because of Pitt's weak position. The

King, who was supported by the House of Lords, refused. In March, a

general election was called, and Pitt won a resounding victory when over

one hundred and sixty supporters of Charles James Fox lost their seats

in the Commons. Pitt was now in a position to govern.

According to Asa Briggs, between 1784 and the outbreak of war with

France in 1793, Pitt was successful at improving four broad areas of

English government. These areas included: "the restoration of the na-

tional finances, the carrying out of important administrative reforms,

the reorganization of British imperial commitments, and the rehabilitation

of Britain in Europe."[5] Among the administrative improvements that Pitt

did not achieve, however, was his plan to reform the police.

Reforming the police was apparently an item of priority in Pitt's

plan to improve the government; for on June 23, 1785, his Solicitor-

General, Sir Archibald Macdonald, introduced the Westminster Police Bill

into the Commons. According to Macdonald, the Bill was designed "for the

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[5]Briggs, _The Age of Improvement_, pp. 117-18.

better securing the peace in the cities of London and Westminster and the borough of Southwark."[6] The Government was concerned that "robbery and villany were become so daring, that they were no longer accompanied by cunning and caution : but were perpetrated openly, and with undisguised violence, in the most populace places."[7] And they were particularly alarmed to find that of the number of robbers executed "eighteen out of every twenty were under the age of 21."[8]

To rectify these problems, Macdonald advocated a total reform of the police. The major goal of the Bill was to assure efficiency by developing a centralized police force. In turn, it would eliminate the local differences that had been granted the cities in their ancient charters. The plan called for dividing the cities of Westminster and London and the Borough of Southwark, into nine police districts; with three magistrates assigned to each district office.[9] This would assure the public that a magistrate would be on duty twenty-four hours a day, a reform Henry Fielding had advocated. Above the justices of the peace would be three commissioners who would administer "the whole power of the police."[10] Thus, in the area of law enforcement, the individual cities and parishes would be subordinate to the commissioners.

Macdonald pointed out that this plan would cost £20,000 a year, roughly double what it was currently costing the public.[11] He explained "that public business of any sort, would never be adequately and effectively performed unless those to whom the performance was committed

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[6] Parliamentary History, vol. 25, col. 888.   [7] Ibid.

[8] Ibid., col. 889.   [9] Ibid., cols. 890-91.

[10] Ibid., col. 891.   [11] Ibid., col. 893.

paid for their trouble."[12] Furthermore, he said that under this plan law

enforcement personnel could be held accountable for their actions in

office, because they would be paid for their services. In spite of the

Fieldings commitment to the job, on a full-time basis, this had not been

the case with the other magistrates. Under this Bill, however, the

Fieldings ideal would become law.

The City of London was particularly concerned about the Bill. On

June 29, the sheriffs of London presented a petition to the House of

Commons from the Lord Mayor and Aldermen of the City, renouncing the Bill.

They said that the Bill :

> . . . under colour of correction abuses, overturns the forms
> established by the wisdom of our ancestors for the regular ad-
> ministration of justice, and goes to the entire subversion of
> the chartered rights of the greatest city in the world, and
> the destruction of the constitutional liberties of above a
> million of his Majesty's subjects.[13]

They also feared that the new police offices would bestow "extra-ordinary

and dangerous powers" that would not be checked by the existing law.[14]

The Whig concern over a strong centralized monarchy was implicit in the

City's argument, and their opposition to the Bill in the Commons, was

strong. Pitt was wise enough to realize that he could not win every

battle for reform. As a result, the Bill was withdrawn which possibly

avoided an embarrassing vote.

The Bill was the most innovative piece of police legislation since

the Statute of Winchester's passage in 1285. It was a unique approach

for keeping the peace, and was a radical attempt to alter the independent

status of the municipal authorities. In spite of its failure to pass in

the Commons, the Bill was not totally abandoned. In 1792, another Bill

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[12]Ibid., col. 889.   [13]Ibid., col. 900.

[14]Ibid., cols. 900-01.

presented in the Commons did become law.[15] Although this new piece of legislation abandoned the idea of a centralized police force, it did incorporate some of the ideas from Pitt's 1784 Bill. This Middlesex Justice of the Peace Act called for the creation of seven police offices in the greater metropolitan area, excluding the City of London. Moreover, it provided that three magistrates would be assigned to each office; with the magistrates receiving a salary of £400 a year. This act vested more power in the justices, but it did not take the control from the local parishes. Therefore, it had no major significance in reforming the police.

Before the passage of the Middlesex Justice of the Peace Act, elements of the 1784 Bill were used to establish a police force in Dublin, Ireland. Throughout the eighteenth century, Ireland's relationship with England was similar in many ways to that relationship which existed between America and England before 1776. Ireland had a parliament, but it was subordinate to the English parliament at Westminster. The Irish executive was appointed by the English King on the advice of his ministers. The executive was referred to as the lord-lieutenant of Ireland, and during Pitt's administration, this post was held by the Duke of Rutland. It was the Duke's task to see that the Irish remained pro-English in both their foreign and domestic policy. He was assisted in this endeavor by the great landlords, who were usually absentee English landowners living in England. Undoubtedly, the Dublin Police Act was designed to assure that Ireland's largest city would remain stable.[16] The past experiences

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[15]See Statutes-at-large: 32 Geo. III, col. 53.

[16]See Ireland Statutes-at-large: 26 Geo. III, c. 24. The title of the act indicates that it involved more than just changes in the Irish police. The act was called "An Act for the better Execution of the Law within the City of Dublin, and certain Parts adjacent thereto; and for

in America and the problems that were developing in France, were ample

warning that the British should take some kind of precautions against

the threat of mob disorder.

The act divided the City into four sectors. Three commissioners

were assigned to each of these divisions. They would direct the work of

the police, and would be given the title and rank of justices of the

peace. Each district was policed during the day by one chief constable

and ten petty constables. At night, the districts were policed by con-

stables of the nightly watch for each district and up to four hundred

nightly watchmen per district.

The Dublin Police Act was similar to the bill Pitt tried to pass

through Parliament in 1784, and provided for a centralized force that was

administratively above the local municipal authority. With the exception

of a few amendments in 1788, the act served well the needs of the Dublin

community.[17] Moreover, Robert Peel would become familiar with this

model of a centralized police force while serving as chief secretary for

Ireland between 1812-1818.

After 1793, much of Pitt's time was spent managing the war effort

against Napoleon. There was one final attempt to suggest changes in the

organization and management of the police of London, however. This re-

sulted in the "Twenty-eighth Report from the Select Committee on Finance -

Police, Including Convict Establishments." The Committee was chaired by

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the more expeditions Transportation of Felons; for reviving, continuin g,
and amending certain Statutes therein mentioned; and for repealing an
Act passed in the Seventeenth and Eighteenth Years of the Reign of His
present Majesty, Entitled, An Act for improving the Police of the City
of Dublin."

[17]See Ireland Statutes-at-large: 28 Geo. III, c. 45.

Charles Abbot, a friend of Jeremy Bentham. The Report extensively examined a number of issues that pertained to police and prisons as of 1798. Bentham was called to discuss the state of the prisons; while Patrick Colquhoun offered proposals for improving the police.[18] The Committee was impressed with Colquhoun's testimony and recommended the acceptance of a number of his proposals.[19] For the most part, the Committee was accepting the ideas that Colquhoun had previously introduced in his Treatise on the Police of the Metropolis, which had been published in 1795.[20] Enough members of the Committee apparently were not familiar with the work, because they enthusiastically endorsed his proposals that would have centralized the police authority. Again, as in 1784, the full House rejected any attempt to change the status quo.[21] Despite this setback, a number of members of Parliament were beginning to accept the application of utilitarian principles to the organization and administration of the police.

Although Pitt was unsuccessful at introducing a new approach toward the policing of London, he succeeded in giving a new perspective to members of Parliament on the issue. Until 1784, suggestions to reform the police merely involved altering the status quo. For the first time,

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[18]It is possible that Bentham was instrumental in having Colquhoun discuss the police. See Supra., CHAPTER IV, ft. 31.

[19]Reports from Committees of the House of Commons, "Twenty-eighth Report from the Select Committee on Finance, Police, Including Convict Establishments," vol. XIII, 1803, p. 352.

[20]Supra., pp. 90-4.

[21]As was suggested in the previous chapter, Colquhoun's ideas were popular, for his Treatise on the Police of the Metropolis went through seven editions.

however, Pitt's legislative plan offered a bold and innovative approach

to a problem that had been stagnant throughout the eighteenth century.

When this failed in the House of Commons, he was able to introduce the

plan of centralization in Ireland. And, despite the fact that he was pre-

occupied with the Napoleonic Wars, he re-affirmed his support of the util-

itarian philosophy in 1798 by endorsing the investigation of the Finance

Committee on the state of the art of law enforcement.

Police Committees

With the advent of the nineteenth century, two factors changed the

course of police reform from piecemeal alterations in the status quo, to

a total reorganization of the management, purpose, and process of the

police of London. The first was the emergence of the Tory party as a

strong and viable alternative to government under the Whigs. The Whigs

remained a badly splintered party into the early-nineteenth century,

while on the other hand, the Tories were led by some of the great landed

families. They also had a good deal of support from the country gentry--

the middle-class landowners who dominated the House of Commons with their

numbers. The Tories continued to support the traditional English insti-

tutions, such as: the church, the military services, the universities,

and the municipal corporations. And they generally opposed reforms that

would threaten their position of power, which was based on the land.

For years, the Tories had dominated local politics. They realized

however, that the social and economic conditions necessitated making

changes, but feared a loss of their own status and power. Following

Waterloo, the Tories began to change their attitude into what was to

become the philosophy of the Conservative party. That philosophy was to

support a slow and deliberate move toward reform, as long as it did not

affect their own position in society. The Tories, or Conservatives, were
to dominate the political scene between 1815 and 1846; and among the able
leaders in their party ranks were: the Duke of Wellington, Viscount
Castlereagh, George Canning, William Huskisson, Viscount Palmerston, and
Robert Peel.

The other factor that changed the course of police reform was what
the Webbs called the "tendency for Parliament to prescribe, by statute,
general rules in supersession of Local Custom and the Common Law for all
the Local Authorities from one end of England to the other."[22] This
social philosophy--that favored national uniformity--became quite popular
during the first half of the nineteenth century. It consisted of the
"gradual and tentative development of the authority of the National
Executive, with regard to one function after another."[23] As a result,
Parliament passed a number of acts involving poor relief, health, roads,
and prisons that applied to all local authorities. What had transpired,
was the acceptance of the Benthamite philosophy by a sizeable number of
politicians (both Whig and Tory), at least in some qualified degree.
They now believed that government and society should be reformed and
the agent that could lead such a reformation was a reformed national gov-
ernment.

Parliament was also beginning to reassess their position on police
reform. The industrial revolution continued to affect the growth in
towns, thus, producing problems of crime and poverty.[24] The aftermath
of the wars only disrupted peoples lives further. The fact that food

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[22]Webb, English Local Government, p. 152.

[23]Ibid., p. 153.   [24]Supra., pp. 15-9.

prices rose and jobs were scarce, led to a number of riots and demon-
strations. Various leaders of these mobs were no longer talking about
reform--as they had done in the eighteenth century--they were advocating
revolution. For the politicians and great landowners, the memory of the
French Revolution was still fresh in their minds.

Some officials, like the Duke of Wellington, believed that mob
disorders could be effectively controlled by the army. Others, like
Viscount Sidmouth (Home Secretary from 1812-1822), doubted both the suit-
ability and possible repercussions of using the army. For years, English-
men had prided themselves on living in a country that did not utilize a
standing army during peace time. Despite these differences of opinion,
the public was beginning to realize that the responsibility for maintain-
ing a police force could no longer be the individual parishes responsi-
bility. The quality of law enforcement was becoming a concern of the
general public.[25] Therefore, the national government was justified in
investigating the police and recommending changes.

The House of Commons' Committee on the State of the Police of the
Metropolis, conducted a series of investigations between 1815-1818. In
their first report (published in 1816), they presented a good deal of
evidence--that was brought before the Committee but failed to offer any
proposals. The report was a curious document, which was illustrated by
some of the comments that appeared in the preface. The Committee members
pointed out that the facts collected from their investigation, indicated
"some instances of flagrant abuse" on the part of the justice of the
peace. They went on to "call loudly for the interposition of legislative

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[25]Radzinowicz, A History of English Criminal Law, vol. 3, p. 63.

authority, and to exhibit some defects in the existing laws, that require

the application of a speedy remedy."[26] The abuses consisted of the

magistrates failure to control the licensing of public houses and the

sale of liquor. The committee indicated that "it has long been acknow-

ledged, by men of observation and reflection, that the Middlesex Commis-

sion stands in great need of purification, and it is a grievous pity, that

a need so imperative should still be suffered to remain unsupplied."[27]

Having more or less castigated the Middlesex justice of the peace, the

Committee concluded its remarks with this inconsequential statement.

"On the whole, the public will be gratified to find, that the Committee

(with the few exceptions adverted to above) have found cause for satis-

faction with the general body of the Magistracy."[28]

The Committee continued their investigation, and in the following

year they published a second report, which addressed two issues.[29] One

involved the feasibility of establishing a penitentiary system for the

delinquent juveniles of London; and the other involved the use of parlia-

mentary rewards. Since the late-seventeenth century, Parliament had

passed a series of acts which would reward a person for apprehending and

prosecuting people who were subsequently found guilty of a crime.

Because of the serious abuses that this produced, the Committee favored

abolishing such rewards.

The Committee issued its third and final report in 1818. The first

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[26]British Sessional Papers, "Report From the Committee on the State of the Police of the Metropolis," 1816, vol. V, p. vi.

[27]Ibid., pp. viii-ix.   [28]Ibid., p. x.

[29]British Sessional Papers, "Report From the Committee on the State of the Police of the Metropolis," 1817, vol. VII.

half of the report consisted of a summary of the Committee's investiga-

tion into the state of the prisons at Tothill Fields, Clerkenwell, and

Cold Bath Fields.[30] The second half was directed at the different

police establishments found in the metropolitan area. After examining

the police offices and the parish constables and watchmen; the Committee

offered one minor, but significant, recommendation. They suggested that

a new approach be devised for the selection of parish officers, which

would include a "certificate of character."[31]

Although the members were aware of the utilitarians desire to

centralize the police force, the Committee rejected the idea. They did

not doubt that such a system would prevent crime, but questioned the

means used to achieve the end. They said:

> Your Committee could imagine a system of police that might
> arrive at the object sought for [prevention of crime]; yet in
> a free country, or even in one where any unrestrained inter-
> course of society is admitted, such a system would of neces-
> sity be odious and repulsive, and one which no government
> could be able to carry into execution. In despotic countries
> it has never yet succeeded to the extent aimed at by those
> theorists; and among a free people, the very proposal would
> be rejected with abhorrence: it would be a plan which would
> make every servant of every house a spy on the actions of
> his master, and all classes of society spies on each other.[32]

The Committee, on the other hand, was determined to believe that an

efficient police could be assured through "rational and humane laws,--

in an effective and enlightened magistracy,--and in the judicious and

proper selection of those officers of justice, in whose hands as con-

servators of the peace, executive duties are legall placed."[33] It was

their opinion, that the government was attempting to achieve these

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[30]British Sessional Papers, "Third Report From the Committee on
the State of the Police of the Metropolis," 1818, vol. VIII, pp. 3-20.

[31]Ibid., p. 27.   [32]Ibid., p. 32.   [33]Ibid., p. 33.

conditions. Moreover, the Committee was convinced that "the general manners and morals of the people . . . had been in a course of gradual improvement."[34] Therefore, the Committee was content to delay any serious attempts at reforming the police and to wait for the gradual improvement in the law, the criminal justice personnel, and the habits and attention of the people.

From this Third Report of the Committee on the State of the Police of the Metropolis, it was obvious that members of the Commons realized that there was a need to reform the police. They acknowledged the fact that a centralized force would be more efficient than the numerous local agencies--that had existed since the middle ages--but feared centralization for a couple of reasons: they equated it with the French style of policing which had received a good deal of criticism before and after the Revolution (because of its extensive use of spies), and they also viewed it as a serious threat to their own rights and special privileges as landowners. Both Tory and Whig politicians feared these prospects. As a result, they were unwilling to support a plan to reform an institution that would in some way deprive them of their own vested rights and interests. In 1818, the Lockeian rationale for the existence of government was still strong.

Robert Peel and Police Reform

During the winter of 1804, a young man sat in the gallery of the House of Commons and watched the proceedings. At an early age, his father had decided that he should pursue a career in government. These outings afforded the young man an opportunity to watch the issues debated by some

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[34]Ibid., p. 32.

of the more famous politicians of the day, notably William Pitt and
Charles James Fox. The young man was Robert Peel. Peel had been brought
up in a Tory home and educated at Christ Church, Oxford, a Tory university.
Therefore, no one was surprised to see him join the ranks of the Tory par-
ty at the age of twenty-one, when he entered Parliament in 1809.

Robert Peel had an illustrious career in the House of Commons, and
at times he had dominated it, as William Pitt had done. Peel is noted for
his efforts in reforming the currency, assuring Catholic emancipation,
and for improving the criminal justice system. In the area of criminal
justice, he was active in the reform of the penal code, the prisons, and
the police. For our purposes, his contribution to the improvement of
policing in the greater metropolitan area of London was most significant.

Undoubtedly, Peel epitomized the politician who began his career
as a proponent of the Tory principles, but who was gradually transformed
into a conservative. As a young Tory, Peel had an almost blind veneration
for traditional institutions. His first political appointment in a gov-
ernment, however, was to alter that perspective. Furthermore, this
appointment provided Peel with some first-hand observations of the organ-
ization and process of police.

Peel's appointment, which came in 1812, was to the post of Chief
Secretary for Ireland. The position called for a member of Parliament
to work closely with the British Cabinet and the Lord Lieutenant of
Ireland in formulating Irish policy. This was a significant position, in
light of the fact that in 1800 the Irish voted in favor of a union with
England. This meant that the Irish peasants were controlled by a protes-
tant minority, which viewed the Irish as people clearly inferior to the
English. The problems of administering the policy on Irish affairs was,

indeed, difficult. Galen Broeker has argued that "if Peel can be said to

have had an Irish policy during his years as chief secretary, beyond a de-

sire for good, resolute government, it was founded on the belief that in

Ireland the traditional system of local leadership had broken down."[35]

Peel was particularly concerned by the failure of the Irish gentry

to maintain law and order at the local level. With regard to policing, the

Irish had long used the army for such purposes. Unfortunately, the army

was in disarray. As a temporary arrangement, Peel found it necessary to

call on troops from England. This prevented the criminal elements from

taking over the countryside.[36] Peel was also disturbed at the state of the

Irish magistrates. An investigation into the magistrates uncovered to what

degree this institution was neglected. In 1815, the lists indicated that

there were 4,175 magistrates in Ireland. The investigation, however, dis-

covered that of these: 1,355 were no longer living in Ireland, 557 were

dead, and 311 were not serving as magistrates. This revelation reduced

the list to 1,952 magistrates for all of Ireland.[37]

Distressed over the state of the police and magistrates in

Ireland's rural districts, Peel attempted to reform them by creating a

disciplined police force--under the direction of a stipendiary magistrate.

This person would have the power of a magistrate, be salaried, and be a

full-time police official. He would command a special group of constables

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[35]Galen Broeker, Rural Disorder and Police in Ireland, 1812-36
(London, 1970), p. 22.

[36]For a closer examination of Peel's attitude on this issue, see
Sir Robert Peel From His Private Papers Charles S. Parker, ed., (London,
1899), vol. 1, pp. 132-56.

[37]Broeker, op. cit., p. 42.

and be responsible to the Irish government. Peel's force (which was known as the Peace Preservation Force) was utilized throughout Ireland when local disturbances became unmanageable. The Force resolved two of Ireland's more pressing problems regarding law enforcement. It reduced the state's dependance on the local magistrates to maintain law and order, and eliminated the need to call upon the army for the maintenance of peace.

Although Peel's Peace Preservation Force was received with a good deal of caution, English and Irish alike soon realized the benefits to be gained from the force. Peel remained in his post until 1818. He was offered other positions within the government but declined them, preferring the life of a private member of Parliament. On January 17, 1822, however, Peel rejoined Lord Liverpool's cabinet as Home Secretary.

As Home Secretary, Peel continued his interest in police and in improved techniques of law enforcement. By this time, he had not only overcome his blind faith in traditional institutions--recognizing the need to consider the possible benefits of change--but he was also willing to work to reform some institutions. In the area of police, he was active in two such projects.

In 1822, Peel sent the Lord Lieutenant of Ireland, the Marquess of Wellesley, a plan for the establishment of a general police system for Ireland. The plan had apparently developed while Peel was still Chief Secretary, but it was never implemented.[38] The plan called for separate county police forces under the command of chief constables; with local magistrates directing the operations of their forces and appointing the constables.

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[38] Ibid., pp. 142-3.

[39] See Statutes-at-large: 3 Geo. IV, c. 103.

Although there were claims that the act was unconstitutional, Peel's plan was proven effective, and attributed him with being known as a significant figure in Irish police history. He had come to Ireland and found the justice system, along with many other institutions, in disarray. He was convinced that an efficient and centralized police force--restoring rule by law--was one of the first steps that had to be taken to remedy the situation.

The similarities that are drawn between Pitt and Peel are indeed numerous. Both were excellent statesmen. Both were able administrators. Both were important leaders of their parties. Both were impressive orators. And both were involved in attempts at reforming the police. Pitt had reorganized the Dublin force in Ireland, and Peel developed a new plan for the rest of the Irish countryside. In England, Pitt had attempted to centralize the London police, but ran into considerable opposition. In 1822, Peel was about to commence another attempt at reforming the police of the metropolis.

Within two months of having assumed the office of Home Secretary, Peel appeared before the House of Commons and moved that a committee be formed to investigate the state of the police of the metropolis. He pointed out that:

> In 1816, 1817, and 1818, committees had sat upon the state of our police: those committees had collected much valuable information but they had concluded their reports by a recommendation of further inquiry; and, in compliance with the recommendation, and of a promise given by ministers last session, he brought forward his present motion.[40]

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[40] The Speeches of the Late Right Honourable Sir Robert Peel (New York, 1872), vol. 1, p. 180.

It was his hope that the committee would direct their attention to "obtain-
ing for the metropolis as perfect a system of police as was consistent with
the character of a free country."[41] The motion passed and the Select
Committee on Police was formed.

Peel had apparently requested that the Committee examine the organ-
ization and process of the various police agencies in the metropolitan
area. One of their purposes was to collect as many facts on organization
and administration as were available. Because Peel was deeply involved in
reforming the criminal law, he would not be taking as active a role in the
Committee's work. He requested, therefore, that they make specific recom-
mendations for improving the organization of the police for the entire
metropolis.

The Report was an important document, for it graphically illustra-
ted how disjointed the police of the metropolis were. The one-square-mile
City of London, for example, employed: marshals, who attended the Mayor
and Aldermen; marshalmen, who served warrants; a day patrol, who were
supervised by magistrates; a night patrol; and the Smithfield Patrol,
who patrolled the Smithfield markets on market days.[42] Moreover, the in-
dividual wards of the City utilized the services of a number of additional
offices. Among these were the beadles, constables, patrol, watchmen,
watchhouse-keepers, and street-keepers.[45] The City of Westminster and
the Borough of Southwark also suffered from decentralized forces, and

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[41]Ibid.

[42]British Sessional Papers, "Report from the Select Committee on
the Police of the Metropolis," 1822, vol, IV, pp. 4-5.

[43]Ibid., pp. 5-6.

they were even less efficient than the City's various forces.

The Committee's ability to gather significant facts about the police of the metropolis was admirable. It was this kind of data that an able administrator, like Peel, could use to develop both an argument and a plan for a new police. Despite the Committee's findings, however, they refused to make any recommendations to alter the current forces. They admitted that "the system is open to one obvious objection, that the parts of which it is composed are disunited, and under the control of different and unconnected authorities."[44] But they were quick to point out that,

> . . . constituted as the present system is, the obstruction to public justice and to the maintenance of the peace exists prac- tically in a much less degree than might have been apprehended, and certainly not to that degree which would warrant them in recommending any fundamental change in it.[45]

The Committee concluded their report by arguing that a more centralized and efficient system of police was too great a threat to their individual liberties. They said:

> It is difficult to reconcile an effective system of police, with that perfect freedom of action and exemption from inter- ference, which are the great privileges and blessing of soci- ety in this country; and Your Committee think that the forfei- ture or curtailment of such advantages would be too great a sacrifice for improvements in police; or facilities in detec- tion of crime, however, desirable in themselves if abstract- edly considered.[46]

In 1822, the Lockeian argument continued to maintain its ascendancy over the Benthamite rationale, at least in Parliament.

Peel continued in office until 1827. In February of that year, Lord Liverpool suffered a stroke. When it was determined that he would not be continuing in office, George Canning was asked to form a government.

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[44]Ibid., p. 8. [45]Ibid., p. 9.

[46]Ibid., p. 11.

In opposition to Canning on the issue of Catholic emancipation, Peel re-
signed his position. In August, Canning died. Lord Goderich was then
asked to form a government, but this lasted only until the first of the
new year. In January of 1828, the Duke of Wellington formed a government
and his Home Secretary was Robert Peel.

Peel had no sooner assumed office then he went to the Commons re-
questing that a committee be formed to inquire into the state of the police.
This time, however, the Home Secretary planned to direct his complete at-
tention to the issue. He persuasively offered the Whig and Tory members of
Parliament a reason for establishing a new police that they could identify
with. He said:

> Any person who has the least information with respect to the
> state of many parts of the districts which border on the metro-
> polis, must be perfectly satisfied that the security for pro-
> perty, and even for person -- but particularly the security for
> property, is not what it ought to be in every well-regulated
> society; it is not the protection which every subject who gives
> allegiance to the state has a right to expect.[47]

Peel continued his argument by offering the members statistical proof of

the increase. He pointed out that:

> It is some satisfaction, in looking at this part of the ques-
> tion to be able to inform the House, that the increase of the
> number of offences is not an increase of those crimes which are
> of a more aggravated nature; there is no increase in the number
> of cases of personal violence, of murder, of assaults upon the
> person; the increase is solely in the number of those offences
> connected with property. If we compare the total number of
> commitments in 1826 with the number in 1820, we shall find the
> increase to be 684; for in 1820 the numbers were 2773, and in
> 1826 they were 2457.[48]

Based on the reports of the previous police committees and the available

statistical data, Peel maintained that "the country has outgrown her police

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[47]*Parliamentary Debates*, new series, vol. 18, col. 786.

[48]*Ibid*., col. 787.

institutions, and that the cheapest and safest course will be found to be the introduction of a new mode of protection."[49]

A Select Committee on the Police of the Metropolis was formed, and for the next six months they gathered information. In July, the Committee presented its Report to the full House where they concluded that the police "system as a whole is defective; and in the opinion of Your Committee the time is now come when determined efforts ought to be made to effect a decisive change in it."[50] The Committee recognized that they were suggesting the dissolution of ancient privileges and methods of policing and that many difficulties would be encountered in attempting to dismantle the old system. Nevertheless, "those difficulties must be encountered if it be intended to institutute an efficient system of Police in this great Metropolis, for the adequate protection of property, and for the prevention and detection of crime."[51] Besides, the Committee was convinced that "a better system can be adopted, probably at a less expense, and with no new restraint on the liberty of the subjects."[52]

The Committee recommended that an Office of Police be established under the supervision of the Home Secretary. They refrained from presenting any detailed regulations for the organization and management of the new force. They did, however, suggest that specific rules should be developed to: establish qualifications for the candidates, a system of intermediate grades, and a plan for promotion. Moreover, the Committee

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[49]Ibid., col. 795.

[50]British Sessional Papers, "Report from the Select Committee on the Police of the Metropolis," 1828, vol. VI, p. 21.

[51]Ibid.   [52]Ibid.

was "not prepared to recommend any interference with the powers at present exercised by the municipal authorities of the City of London over the Police and Watch Establishments of the City."[53] After years of upholding its ancient charter privileges, the City of London was by-passed by the Committee of 1828. The City had often been instrumental in preventing other parliamentary committees from developing and implementing change. For the first time, this Committee decided to avoid the controversy by excluding the City from their general recommendations.

On April 15, 1829, Peel rose in the House of Commons to offer his Bill for the improvement of the police of the metropolis. He argued forcefully that:

> He was satisfied, that so long as the present night-watch system was persisted in, there would be no efficient police prevention of crime, nor any satisfactory protection for property or the person. This was the conclusion which the police committee had come to, and which the evidence of persons most interested in the subject made manifest. In fact, it was the conclusion which every one who inquired into our present watchhouse system must arrive at. The chief requisites of an efficient police were unity of design and responsibility of its agents--both of which were not ensured by the present parochial watchhouse system, but were actually prevented by it.[54]

Peel's plan would provide both a centralized organization with a unity of purpose. Surprisingly, there was only a minimal amount of discussion on the matter. The Duke of Wellington presented the Bill to the House of Lords on June 5. There was no objection in that House, and on June 19, King George IV gave his royal assent.[55] Without opposition, Peel's "Act for improving the Police in and near the Metropolis" became law.

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[53]Ibid., p. 32.

[54]Parliamentary Debates, new series, vol. 21, col. 872.

[55]See Statutes-at-large: 10 Geo. IV, c. 44.

By the early-nineteenth century, the power of the British monarchy had been reduced considerably. George III's uncompromising attitude had alienated many politicians, and in old age, he suffered from long and frequent fits of madness. His son, George IV, cared little for the obligations that accompanied royalty. He was more interested in the perquisites. The power that the monarchy lost was transferred to Parliament and the Prime Ministers, who would be responsible for running the government.

At the same time, some members of Parliament had come to the realization that some of the ancient institutions and ideas were no longer effective for their age. They initiated efforts to study the problems created by industrialization and urbanization. These problems had been largely left in abeyance during the Napoleonic Wars. Now they were being examined with a new urgency. Increasingly, the central government assumed the responsibility for solving these problems. Peel's act for improving the police was just one of a number of acts passed during the second and third decades of the nineteenth century that attempted to reform the social, economic, and political institutions of England.

CHAPTER VI

CONCLUSION: PEEL'S POLICE

Whereas Offences against Property have of late increased in and
near the Metropolis; and the local Establishments of Nightly
Watch and Nightly Police have been found inadequate to the Pre-
vention and Detection of Crime, by reason of the frequent Un-
fitness of the Individuals employed, the Insufficiency of their
Number, the limited Sphere of their Authority, and their Want
of Connection and Co-operation with each other: And Whereas
it is expedient to substitute a new and more efficient System
of Police in lieu of such Establishments of Nightly Watch and
Nightly Police, within the Limits herein-after mentioned, and
to constitute an Office of Police, which, acting under the
immediate Authority of One of His Majesty's Principal Secretar-
ies of State, shall direct and controul the Whole of such new
System of Police within those Limits: Be it therefore enacted
by the King's most Excellent Majesty, by and with the Advice
and Consent of the Lords Spiritual and Temporal, and Commons,
in this present Parliament assembled, and by the Authority of
the same, That it shall be lawful for His Majesty to cause a
new Police Office to be established.

                                              10 Geo. IV, c. 44
                                                 19th June 1829

In this thesis, the intellectual and political climates of opinion
that influenced the establishment of the Metropolitan Police of London
were analyzed. The first intellectual movement was the Enlightenment, and
it had an important influence on attempts at police reform. The Enligh-
tenment advocated resolving social, economic, and political problems
through rational principles found in natural law and by utilizing the
empirical scientific method. It was the goal of the Enlightenment theor-
ists to lead man from what they thought was a corrupt world to an ideal
state--where life, liberty, and the pursuit of happiness could be realized
by all. Henry Fielding and Jonas Hanway were products of this

intellectual milieu. Having discovered that most institutions of law en-
forcement were also corrupt, they addressed themselves to this problem.
Fielding's commitment to the philosophy of reform was in the form of at-
tempting to change one specific institution that had been a corrupting
influence on society. That institution was the magistrate's court. Hanway
viewed the problem on a broader scale. He advocated returning to a society
that was based on a strict discipline through the adherence to religious
principles and the law. Although their philosophical intentions were good,
the Enlightenment theorists failed to achieve their goal of reforming
society. This was due in part to their faulty perception of the empirical
method. Furthermore, they were victims of the predominant political views
of the time.

Throughout the eighteenth century, English politics was marked by
the king ruling and the Whigs controlling Parliament. The Whigs purpose
was to retain their position in society at all costs. From their perspec-
tive, their political system was perfect. Therefore, why change it? They
disliked and mistrusted any attempts to change the status quo, for this
usually meant augmenting the power of the Crown. Throughout the century,
they rejected any attempts to reform the police, because of a possible
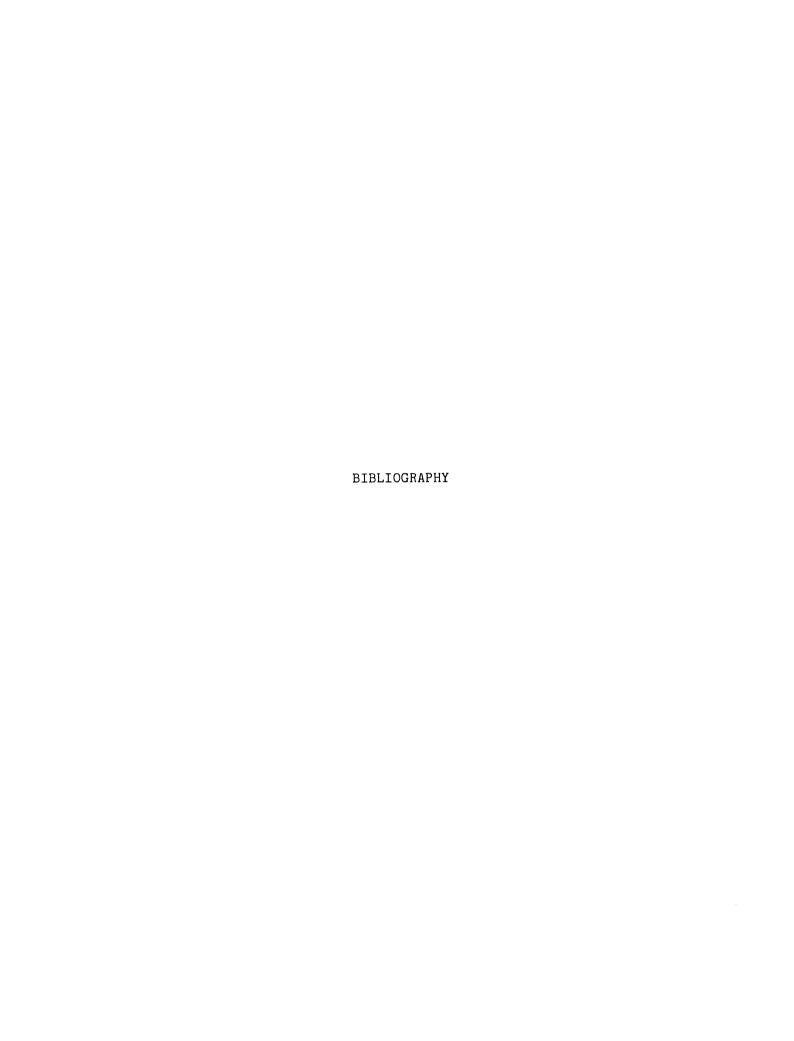increase in the power of the Crown.

Following the dissolution of the Enlightenment philosophy, another
intellectual movement emerged that attempted to continue the optimistic
view of human nature that had been prevalent in the Enlightenment philoso-
phy. These were the utilitarians, and they advocated a more rigorous ap-
plication of the scientific method into the problems of society. Their
philosophy was based on the tenent that society should be organized to
promote "the greatest happiness for the greatest number." From their point

of view, this was a more realistic view of human nature. They believed
that only a reformed national government and a legislative program could
assure the realization of "the greatest happiness" principle. They advo-
cated reform and a move toward centralization of government. Patrick
Colquhoun and Edwin Chadwick were the leading utilitarian police theorists
of the time. Colquhoun offered an elaborate plan to reform and centralize
the police of London. At the time that he made the suggestion, the plan
was rejected. Yet, most of Colquhoun's ideas were incorporated into the
new Metropolitan Police of London. Chadwick's approach was considerably
different. He did not offer a blue print for reform. Instead, he pre-
sented to the wealthy landowners, industrialists, and merchants who sat in
Parliament a cost-benefit analysis of how a centralized police force could
reduce the problem of crime in London. Chadwick's argument and Colquhoun's
plan were profoundly instrumental in the passage of the Metropolitan Police
Act.

It was not simply the utilitarian philosophy that brought about a
reform in the police, however. By the beginning of the nineteenth cen-
tury, English politics had also changed. The stable and calm world of the
Whigs had eroded. Segments of the commercial and industrial interests of
England were becoming politically powerful. The authority of the Crown
was declining and that power was transferred to the parliamentary leaders.
The more astute leaders of Parliament realized that many traditional insti-
tutions were in serious need of reform. Their approach, whether implicit
or explicit, was to adopt and promote in varying degrees the utilitarian
belief in centralization. The degree to which that belief had been ac-
cepted was evident in the Parliament during the month of June, 1829.
There was hardly a protest at the acceptance of an idea--a centralized

police force--that had been continuously and vehemently rejected for
almost sixty years.

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