CLIO AND THE SOCIAL SCIENTISTS: THE USE OF SOCIAL SCIENCE METHODOLOGIES IN HISTORICAL RESEARCH--THE CASE OF AUSTRALIAN TRANSPORTATION

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ABSTRACT

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The history of crime, criminology, and the criminal justice system was largely neglected until the 1970s. This neglect can be primarily attributed to methodological problems encountered by historians when applying social science techniques to historical data.

This study is an attempt to describe these methodological problems and to relate how the historian has endeavored to use the techniques of the social scientist to understand the history of society's criminal population, and to trace the evolution of the criminal justice system apparatus.

The recommendation of this thesis is for an eclectic approach to the study of the history of criminology and the criminal justice system by historians and social scientists.

Dedicated to the Memory of Dr. Gene E. Carte who had a promising career, and to Rick Entrikin whose friendship and encouragement of many years has provided me a promising career.

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At this point, I would like to dedicate this thesis to the memory of Dr. Gene E. Carte, and to my alter ego: Rick Entrikin. These two men, each in very special ways, have made it possible for me to reach this point in my career.

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INTRODUCTION

Until the 1970s, the study of the historical roots of crime and its control was largely neglected by American criminologists and social historians. John Conley believes that this lack of historical research is surprising considering the amount of historical research conducted on criminal justice during the 1920s by scholars such as Thorsten Sellin, Harry E. Barnes, Negley K. Teeters, Roscoe Pound, and Jerome Hall.[1]

Conley points out that the succeeding generations of the above scholars have failed to follow the lead of their "forefathers" who believed that in order "to better understand law, crime, and justice, researchers had to study the historical interrelationship between these abstract notions and their implementation in society.[2]

One of the objectives of this thesis is to describe why the history of crime has been either overlooked, or purposely ignored by scholars in both the fields of history and social sciences. There are three inter-related reasons for this phenomenon.

First, this oversight can be attributed to the analysis of criminal statistics and their relation to

the actual incidence of crimes. Both social scientists and historians view the accuracy of criminal statistics as a difficult methodological problem and argue that since most published sources of criminal statistics have been drawn from court or judicial records, that only "legal crime," i.e., those crimes that managed to reach the stage of official adjudication, has been recorded. Historian Robert Nye believes that these type of data are not representative of the society's population.[3]

Historian Barbara Hanawalt, however, disagrees. She states that:

> Many modern criminologists and those studying the history of crime refuse to use trial records because of the incompleteness of the sample. John Bellamy dismissed the whole body of gaol delivery evidence with the statement that "an accurate assessment of incidence of criminal misdeeds . . . may never be possible.[4]

Hanawalt relates that in her own study she used the gaol delivery rolls, in spite of their problems, believing that otherwise she would only be making impressionistic statements about crime that would be full of value judgments. Furthermore, she believes that "the failure of the subjective method in the study of crime is depicted in the work of both Bellamy and Tobias. She writes that a comparison of Bellamy's and Tobias' work with the studies of L.L. Robson and Eric H. Monkkonen

can reveal the advantages of making an effort to cope with criminal court records.[5]

Hanawalt also introduces the second reason why little historical research has been conducted concerning crime: quantification. She believes that a quantitative approach is the only viable way to deal with a large body of evidence. She points out that although there are errors and gaps in the records, there are also ways to compensate for them. She states that her own study concerning the participation of ordinary people in criminal activities was benefitted by the quantitative approach since

> . . . the sample for the study (was) sufficiently large that minor information losses would not be crucial. Since the sample (was) drawn from eight very different counties, local variations can be detected in the trends being discussed. Used together with information from literary sources and outstanding individual cases, it is possible to discuss crime in both its quantitative and qualitative aspects.[6]

The third, and perhaps the genesis for the study of crime, was the growth of the field of social history, or "the study of society from the bottom up." This subdiscipline of history is concerned with the study of the family, of immigrants, and of criminals. It began in the 1950s with the Annales School of Lucien Febvre and Marc Bloch. Journals specializing in social

history began to appear at the end of the 1950s--the first journal being Comparative Studies in Society and History (1958).[7]

The rapid growth of social history since the 1950s can be attributed to several developments:

(1) the technical and institutional changes within the academic disciplines of social science;

(2) the deliberate specialization of economic history to fit in with the requirements of the rapidly developing economic theory and analysis, of which the "new economic history" is an example; and

(3) the remarkable and world wide growth of sociology as an academic subject.[8]

Consequently, as a result of the above three developments, historian E.J. Hobsbawm believes that the most common definition of social history is that it can be used in combination with economic history. He states that economic and social history can be bracketed together since historians, interested in the "evolution of the economy have subsequently developed an interest concerned with the structure and changes in society, and more especially on the relationships between classes and social groups. . . ."[9]

Hobsbawm's definition of social history is directly applicable to the scope of this thesis. A discussion of

Robert Fogel's and Stanley Engerman's Time on the Cross: The Economics of American Negro Slavery depicts the interaction between social and economic history.

Chapter One describes how and why historians began experimenting with the methods of social scientists. Chapter Two is a case study of the controversial Time on the Cross written by the two previously named economic historians who applied quantitative techniques to their analysis of the traditional interpretation of slavery in America's South. Fogel and Engerman's research culminated in a two-volume work which created quite a reaction primarily from historians alarmed by how quantification had been used to reinterpret this traditional historical subject. Time on the Cross illustrates the problems quantification presents when the data are incomplete and fragmentary. It also depicts the methodological problems encountered by historians applying social scientific techniques to historical data.

Chapter Three is a description of transportation as punishment in eighteenth and nineteenth century England. This chapter is to familiarize the reader with the historical background necessary to understand the content of Chapter Four which is an analysis of the quantitative data of two scholars who individually

implemented social scientific methods to interpret an historical question concerning who was transported and for what offenses.

Realizing that the reader may be unfamiliar with the terminology used in this interdisciplinary thesis, I have defined the terminology used in this thesis in the following pages of this chapter.

Cliometrics or cliometricians: These terms refer to economic historians or historical economists trained in econometrics and the application of quantitative analysis to historical problems.

Content Analysis: This is a research technique necessary for the objective, systematic, and quantitative description of the content of communication.

Econometrics: The application of statistical methods to the study of economic data and problems.

Generalization: A statement of a relationship between two or more events which can be used in prediction.

History: According to historian Leslie Stephens, history is a mental construct of the past based on evidence which has been carefully subjected to tests of validity and then critically and systematically ordered and interpreted to present a story of man's interaction with other men in society.[10]

Historical Method: For purposes of this thesis, historian Robert Shafer's definition will be used. He distinguishes the methods of historians as not "uniquely their own in most instances. They include methods developed over several centuries by humanistic scholars and others which have led to the great growth of the social and behavioral sciences during the last century. Insofar as historical study and literature are concerned with men, events, developments, and institutions for their own sakes as examples of human activity, they are humanistic; insofar as they seek regularities, generalizations, and even tentative predictability, they approach the social sciences.[11]

Quantification: This term refers to improved methods of measurement and more sophisticated methods of statistical analysis. In this thesis, quantification is discussed jointly with the computer which is a technical device for the manipulation of evidence.

Quantitative History: A subdiscipline of history in which computers and statistics are applied by historians to interpret their data.

Social Scientists: Scholars trained in bodies of knowledge dealing with man and society: anthropology, economics, geography, political science, and sociology. They have developed useful theories and valuable concepts

as they have expanded our understanding of man in his social setting--some have been applied to historical study. In this thesis, these are: economics and sociology.

Scientific Method: The basic components of this step-by-step procedure for the solution of problems are:

1. Recognition of the problem.
2. Definition of the problem in clear, specific terms.
3. Development of hypotheses.
4. Development of techniques and measuring instruments that will provide objective data pertinent to the hypotheses.
5. Collection of data.
6. Analysis of data.
7. Drawing conclusions relative to the hypothesis based upon the data.

Social Scientific Methods: These include opinion polls, questionnaire studies, and experimental research. Methods include certain tests of sampling and statistical inference.

To conclude this chapter, it is the hope of the author of this thesis that the material which will be presented and discussed will reflect that the cross-fertilization of history and the social sciences can indeed provide insights into the field of criminology and criminal justice. In addition, it is anticipated by the author that the thesis will depict that the study of the history of crime will reveal the

humanistic side of the past. As historian Leslie Stephens has reflected:

> . . . . History links us inexorably to the men and women of the past--to their art, literature, and thoughts, to the unmeasurable collective experience of mankind. Without disparaging the value of the natural and the social sciences, we can state unreservedly that those branches of human knowledge cannot sufficiently satisfy all of man's needs. . . . History makes us aware of life and its bond with all men in every culture and in every time--in short, of the human-ness of man.[12]

The study of history as it applies to the study of crime can make us aware of the problems in past society, and perhaps allow us to better understand the present criminal justice system, and the reasons for criminality.

INTRODUCTION: FOOTNOTES

1. John A. Conley, A History of the Oklahoma Penal System, 1907-1967, A Dissertation for the Degree of Ph.D., Michigan State University, 1977, 1.

2. Ibid., 1-2.

3. Robert A. Nye, "Crime in Modern Societies: Some Research Strategies for Historians," Journal of Social History, Volume 11, Number 4, Summer 1978, 492.

4. Barbara A. Hanawalt, Crime and Conflict in English Communities 1300-1348, Cambridge, Massachusetts: Harvard University Press, 1979, 17.

5. Ibid.
(I mention Hanawalt's opinion of the studies of Robson and Monkkonen, since I have examined their works in this thesis in order to reflect upon the development of the historical approach to criminology and criminal justice.)

6. Ibid., 17-18.

7. E.J. Hobsbawm, "From Social History to the History of Society," Daedalus, Volume 100, Number 1, (Winter 1971), 22.

8. Ibid., 23.

9. Ibid., 21-22.

10. Leslie Stephens, Probing the Past: A Guide to the Study and Teaching of History, Boston: Allyn and Bacon, Inc., 1974, 8.

11. Robert Jones Shafer, ed., A Guide to Historical Method, Revised Edition, Homewood, Illinois: The Dorsey Press, 1974, 3.

12. Stephens, op. cit., 13-14.

CHAPTER I

THE USE OF SOCIAL SCIENCE METHODS IN HISTORICAL ANALYSIS

> In a modern and increasingly troubled world, the importance of history and the development of the American criminal justice system may be difficult to see. The problems of our age--particularly those that control our police, our courts, and our prisons seem to be too immediate. The study of these problems as academic subjects in a classroom appears to be a decided contrast to the world of day-by-day action. But there is a clear relationship between the classroom and the "real" world. Everything that goes on inside the criminal justice system, for example, depends on a tradition that is older than this country. . . .
>
> Only by understanding the workings of this system--the police, the courts, and the prisons--and how they developed, can a modern student fully appreciate the complexities and interrelationships of the system.[1]

This introductory passage from a recently published volume of historical articles describing the American criminal justice system illustrates the concern of criminal justice scholars on the state of historical research in criminal justice.

The purpose of this chapter is to discuss historical research in criminal justice by describing the differences and subsequent problems existent in the respective fields

of history and the social sciences particularly as related to social science methodologies adopted and applied by historians.[2]

Historical research in criminal justice has not been at the forefront of criminal justice research. The reason for this lack of scholarly work can be attributed to two characteristic problems: (1) the denigration of nineteenth-century crime statistics resulting primarily from the desire to establish rates of offense for entire populations; and, (2) the general lack of interest in systematically describing the criminals, or the arrested themselves including their social origins, demographic characteristics, offenses, and treatment by the judiciary. Consequently, the result has been an incomplete history which is largely dependent upon commission reports and anecdotal evidence, with an overall emphasis on the development of police departments, bureaucracies, and institutions with criminals only appearing in the aggregate when reports and newspapers provide summary data.[3] Therefore, historian Harvey Graff concludes

> it is now time to focus our questions and inquiries directly on the affected population--to center on the criminals and their treatment. The history of social reform and of the creation of institutional society is in many ways dependent upon this information, as is the study of social development and differentiation, and modernization.[4]

However, the subsequent interface between history and the social sciences (particularly sociology) has contributed to the rapid growth of the history of crime as a specific field of academic study. In addition, this merger has been further evidenced by the publication of a journal Comparative Studies in Society and History, and extensively developed by national and international meetings convening to specifically address problems inherent to the interdisciplinary approach to the study of the history of crime. Consequently, this merger has culminated with historians adopting many of the conceptual and technical methodologies of the social scientists; and similarly, the social scientists are leaning toward the discipline of history to provide insights to the historical development of crime and punishment.

Criminal Justice History as an Area of Research

Criminal justice history has been cited as an area in need of research.[5] The criminal justice literature produced in the last decade has been described as ahistorical in structure, content, and perspective. Furthermore, recent introductory criminal justice textbooks completely lack historical depth. When historical material is present, it is concentrated in two areas: theories of crime causation

and police development.[6] Therefore, unless criminal justice faculty are providing historical lecture material to supplement the basic texts, or unless undergraduate programs offer specific criminal justice history courses, the students are receiving a narrow, contemporary view of criminal justice.[7] "It is safe to assume," according to John Conley, "that little more than cursory exposure is the norm."[8]

There are several reasons why little attention has been given to the history of criminal justice and criminology. First, and importantly, criminal justice studies have been described by George Felkenes as an American contribution to the university scene offering "one of the greatest opportunities for the growth of a viable, necessary, society-oriented educational experience."[9] However, Felkenes sees changes occurring in the field of criminal justice education and describes the movement away from the emphasis on early criminal justice programs on vocational or technical training to a more scholarly approach to the study of criminal justice. He writes:

> . . . . The training approach era was characterized during the 1960s by a great expansion in the number of criminal justice programs and graduates, coupled with a generally low level of sophistication and knowledge. It was a period of inadequate quality control and even less concern with standards

> of education. There was little in the way of scientific investigation of the problem of crime. The period after 1970 is generally considered to be the time of rapid growth of criminal justice programs, with the availability of LEEP (Law Enforcement Education Program) funds providing the major stimulus.[10]

It was also during this period after 1970 that research into the history of criminal justice and criminology began to grow and develop. Prior to this date, the only works existent were those describing the history of police, of prisons, and of course, legal history.

Legal history has been an established scholarly area for some time. However, it is important to note that legal historians, because of their professional training have for the most part approached their studies from a constitutional perspective, resulting in a focus on appellate courts, especially the federal Supreme Court. Records of these courts are more accessible and better organized. Consequently, they are much easier to work with than having to search through the scattered files of a clerk of a lower court or the unorganized records of an urban police department.[11]

John Conley indicates that the diverse cultural heritage of the United States has also served as a barrier to any synthesis of criminal law or criminal justice history.[12] While there may be an element of truth to this phenomenon, it is important to indicate that since the early nineteenth century, the statutory and common law influence has been very strong.

The classic example of scholarly English criminal justice history, Sir Leon Radzinowicz' History of Criminal Law, typifies the concern traditionally associated with English scholars who, due to their concern with history, have researched the development of law in England including the areas of crime and crime control institutions.[13]

Consequently, it is evident that the study of historical criminal justice and criminology is a field that began to emerge as a discipline of study around 1970. Findings generated by specialized meetings on the history of crime are proving to be of great interest to all scholars in the areas of crime, criminal law, and corrections. Why this interest has occurred is not clear. Michael Hindus in "The History of Crime: Not Robbed of Its Potential, But Still on Probation," speculates that perhaps as a result of the data being generated, the criminological myths are being shattered; or, perhaps, historians are contributing

new theoretical and methodological insights which social scientists can apply.[14] Therefore, in the next section of this chapter, the disciplines of history and the social sciences will be discussed in order to ascertain methodological techniques shared and not shared by each academic area.

The Historical Method vs. the Social Scientific Method

When discussing the historian's craft, it is important to stress that the historian, unlike the archaeologist, is not simply interested in dating and describing events, but in understanding them. In order to understand events, it is necessary for the historian to interpret, classify, and assess these events by attempting to grasp the relationship of causal and conceptual interrelation among the chronological particulars. Therefore, the historian is interested in generalizations. He concerns himself with them, not because generalizations constitute the aim and objective of his discipline, but because they help to illuminate the particular facts of history. In addition, the historian can use the generalizations provided by anthropology, sociology, psychology, etc. to facilitate in his mission of understanding the past.[15]

The next question, then, is: What methods do historians use?

According to Michael Hindus, "as a discipline, history has no special rules, methodologies, or theoretical assumptions."[16] In agreement, James Inicardi, states:

> . . . historical inquiry is characterized by no unique methodological frame of reference; or stated more directly, there is no specific research or investigative strategy we might call an historical method; historical endeavors simply follow the prescriptions and proscriptions of scholarly common sense.[17]

In "The Problem of Uniqueness in History" two historians, Joynt and Rescher, discuss the differences between history and what are called the "historical sciences," i.e., biology, anthropology, sociology, and philology. The authors initially suggest that history "has no monopoly on the study of the past," since representatives of the historical sciences also study the past. Furthermore, (and counter to opinions of Hindus and Inicardi), Joynt and Rescher emphasize that there are no actual distinctions between history and the historical sciences in research methodologies. The essential difference appears only in the interplay of data and theory.[18]

Consequently, once the perception of some historical problem (which may emerge in the form of something that is unknown about the past, an interpretation that can be seriously questioned, or an incomplete or perhaps unsatisfactory explanation of some historical event) has been discerned,[19] the historian locates his source documents, and substantiates the accuracy of his evidence. The steps by which he makes his assessment constitute historical verification which is

> required of the researcher on a multitude of points--from getting an author's first name correct to proving that a document is both genuine and authentic. Verification is accordingly conducted on many planes, and its technique is not fixed. It relies on attention to detail, on common-sense reasoning, on a developed "feel" for history and chronology, on familiarity with human behavior and on ever enlarging stores of information.[20]

The historical researcher must discriminate between what may be valid or false, and truth is reached through probability--that the balance of changes, given certain evidence and document records, did happen in a specific way. The indicators of the accuracy of a document and the reliability of data as fact reinforce one another to increase probability. And in cases where direct signs may not be available, "a concurrence of indirect signs will establish proof."[21]

The pursuit of increased probability leads the historical researcher to any variety of inquiries regarding each source:

- What is the source?
- What does it state?
- Who is its author?
- What do we know about the author?
- What is his credibility?
- How do his statements compare with others on the same point?
- Is what he says both logical and possible?
- What is the relationship in time and space between the author and his statements?[22]

It is important to indicate that there are three types of historical sources: (1) primary or original sources; (2) secondary sources based on primary sources which are derivative and interpretive; and, (3) tertiary sources which are exemplified by most history textbooks, and are sources which are based on secondary sources.

History differs from the social sciences in that it is essentially a study of change over time, while social science is a study of man and his activities in a limited and usually fairly current situation.[23] The greatest difference between the social sciences and history, however, lies with the goals of their investigations. The social sciences, generally speaking, seek to abstract from their investigations generalizations regarding the behavior of men in social, economic, geographic, psychological, political and religious situations. The resultant generalizations,

though they are not laws of behavior, are useful in understanding man, and for some social scientists, they are potentially useful in learning to control man's behavior. The historian, is searching for unique, nonrecurring events in man's past. Thus he is concerned with the particular rather than with the general. . . . His generalizations, however, tend to be applicable only to the particular time and events under study. Those of the social scientists are held to be applicable to the present and to the future. But contrary to the charge of some historians, generalizations from the social sciences are just that--generalizations. They are not held to be universal, applicable for all times and in all situations in the future. In other words, social scientists in general do not claim to have discovered absolute, immutable laws.[24]

After the historian has identified the sources which provide evidence on his topic, he then must raise questions concerning their validity. Essentially, he asks two major questions about each source: (1) is the source authentic? (2) Is it reliable?

Once the authenticity of the source has been established by making sure that it meets the stipulations discussed on the preceding page pertaining to reliability

of data, the historian raises the second question: How reliable is the source? To ascertain this, the historian must apply tests of internal criticism. Since each source has been produced by a human being, the historian attempts first to identify the author of the source. He needs to have information about two basic criteria concerning the author: (1) his ability to report accurately, and (2) his willingness to report truthfully.

In addition to the questions about an author of a source, the historian criticizes his sources internally by checking on the logical consistency of the author's presentation, and, if possible, how well it can be corroborated by other evidence. It is also important for the historian to understand the spirit of the age and the language of the time if his inquiry into the reliability of a source is to aid him in his search for evidence. For these reasons, the historian sometimes must make his case for the reliability of a source on intuitive grounds.

As mentioned above, the historian readily acknowledges the role of intuition in the methodology of his investigations. The social scientist, however, is prone to reject intuition as a fruitful mode of research. Even though it may be useful in the formulation of hypotheses, intuition has no place in the actual conduct of social research. Since intuition is

necessary to historical research, it runs counter to the methodological canons of research in the social sciences. The problem is that historians sometimes overplay the contributions of intuitive insight to their studies when more rigorous social science methods might be applied. At the same time, it must be recognized that many facets of the past simply will not yield to social science methods.[25]

What is becoming apparent to an increasing number of historians is that the social sciences, properly applied, offer some new possibilities for probing the past. In spite of the misgivings of some historians, a new approach to analytical history which employs methods, concepts, and theories from the social sciences promises to enhance our knowledge of man in the past--and hence our understanding of man in the present.[26]

History and the Social Sciences: A Merger?

In this section of the chapter, a discussion of why historians are beginning to adopt many of the conceptual models of the social sciences will be presented.

Michael Hindus believes that though the reasons for this development are unclear, the trend of historians implementing social science methodologies

has evolved in three distinct stages.

The first involved the overshadowing of institutional/political history which had dominated postwar scholarship, and to begin exploring--in the past--some of the staple fields of sociological inquiry, particularly the history of the family, of social and geographical mobility, and of crime and justice. In so doing, the historian concentrated more on social processes, and less on finite events. Historians soon discovered, however, that they were often ill-equipped for this enterprise. As a result, many obtained skills in quantitative methods.[27]

Consequently, the second and more significant stage developed in which historians were using more social scientific sources and data. Historians, in effect, found that in order to understand the social processes, rather than finite events, they needed to employ different kinds of data which required new skills to analyze properly. Rather than drawing impressionistic conclusions from a sample of literary evidence, historians now collected large amounts of mundane data. It became possible for the first time to measure a social phenomenon in the past and compare and contrast it with contemporary observations. This alone may be the most significant single contribution of recent historiography.[28]

The third and last stage, and according to Hindus, the inevitable result of the first two, was that historians adopted a more explicit concern with the theoretical implications of their findings. Like the social scientists, they began to weave their data into hypotheses. At this point, many historians became social scientists by rigorously testing theory against data.[29]

Due to the merger of history with the social sciences and the subsequent concentration on social processes, the usage of different data sources, and a concern with theoretical implications of their findings, historians have encountered several problems.

The first problem concerns crime statistics and the second problem (which Hindus attributes as a direct result of crime statistics) is the general lack of interest in systematically describing the criminals, or the arrested themselves.[30] (As stated earlier in this chapter, these same two problems were cited by another author as an explanation as to why historical research in criminal justice has been neglected.) In the next section of this chapter, these concerns will be addressed.

Historians and Statistical Analysis

Beginning in the early twentieth century (approximately 1910), because of the general development of the social sciences along with the development of subdisciplines of history, e.g., political history, economic history, and social history, the intellectual climate became conducive for historians to seek greater precision through expanded usage of quantitative data and techniques. The culmination of this period was reached in 1945 when a project which involved social scientists, statisticians, and historians resulted in a publication entitled Historical Statistics of the the United States (U.S. Bureau of Census, 1949). Following this publication, the techniques within the historical profession for statistical rigor and the systematic investigation of statistical data became much more pronounced.[31]

Availability of Statistical Data

From the eighteenth century, bureaucrats and publicists have been collecting and publishing quantitative data; and, since the early nineteenth century, statistical societies and individual scientists have been developing the principles of their proper compilation and interpretation, all without much effect upon the main stream of historical

writing.[32]

However, to do quantitative work on a topic in the past, it is not enough to know a little about modern data and the general principles of statistical procedure; it is also necessary to know a good bit about the quantified and quantifiable data of the period and the place on which one is working: how was such data prepared, by whom, and for what purpose; and with what confidence can it be used for various calculations?[33]

Sources of crime statistics traditionally used have been either police arrest records or (particularly for the nineteenth century and before) case records from the lower criminal courts. However, the problem with this type of data pertains to whether official statistics can provide useful information for the study of crime? It has been pointed out by one historian that court case records can clearly provide useful data for the study of court functions. He also states that arrest statistics can be useful to the extent that they, if accurate, can be an important data for a study of what the police actually did. However, he stresses that it is much less clear that such data can be of much help for statistical studies of criminals for two reasons.[34]

First of all, the records are not likely to be a good sample of the population of criminals, since those arrested would not be a random sampling of those actually engaged in criminal activity. The second weakness of studies based primarily on statistics is that the statistical analysis of court and arrest data cannot answer the most interesting questions about crime--questions about criminal careers, the economics of crime, the influence of crime on political power and criminal justice, or the relationship of crime to urban geography. A primarily statistical approach to crime history may often greatly limit the range of questions that can be asked.[35]

However, historian Barbara Hanawalt in her recently published (1979) book Crime and Conflict in English Communities 1300-1348 believes that it is possible to present a broad criminological study which, is both descriptive and analytic, by combining a statistical approach to ". . . criminal court data with an analysis of individual cases and contemporary literary references to crime, . . ."[36]

Hanawalt states that this methodology is applicable to both the investigator of medieval England (her study), and to the investigator studying crime in modern society due to the shared similarities including the legal

mechanisms for detection, arrest, and trial, the ecological setting of the crimes which would encompass the living conditions of the participants, their kinship and community ties, their means of livelihood, their power relationships, and the tensions they might resolve through criminal means. Hanawalt contends:

> . . . . With this background one may inquire what the crimes were; how, where, and when they were committed; and who committed them. The relationship between the two participants in the criminal data tells much about crime and about social interactions in general. Furthermore, the historian of medieval England and the modern criminologist, are not content to describe the phenomenon of crime but want to know as well what motivated criminal actions and what the impact of crime was on the society.[37]

Another important source of information which has been ignored in the past and can answer important quantitative questions pertaining to crime patterns in general and the criminal specifically are jail (or gaol) registers. These jail registers for the nineteenth and early twentieth centuries are surprisingly detailed and complete documents and are widely available for large regions of Canada, much of the United States, and parts of Great Britain as well.[38]

These jail registers provide a wealth of direct information on both the individual criminal and on the offense for which he or she had been detained. In most cases the register information is complete with the following data recorded for each inmate: birthplace, religion, place of residence, occupation, age, sex, marital status, moral habits (temperate or intemperate), and level of literacy or education. These variables help to form a collective portrait of the accused members of the population and are essential, when joined with names, in tracing criminals to other sources through methods of nominal record-linkage. Additionally, jail registers provide full data on the alleged crime and judicial treatment: date of committal, offense, authorities' adjudication, sentence (guilty/ innocent, fine, place and period of incarceration, and date of discharge). Importantly, a cross-reference number corresponding to the relevant court docket may be included in each entry. Therefore, if these court dockets are joined with the registry information, much information can be derived pertaining to how the law was manipulated in society.[39]

Through the use of jail registers, a collective portrait of those accused of a crime can be compiled based on enthno-religious, class or occupational, residential, and demographic information provided for

each listing on the jail register. This "composite" will allow historians to make new statements regarding the accused, and comparisons can be made by relating religion, birthplace, sex, age, or occupation to the type of crime committed, to the rates of acquittal or conviction, and to the forms and magnitude of punishment. Insights into the mechanisms of social differentiation, social visibility, social distance, and community prejudice on varying units of analysis can be determined by comparison of the subpopulations represented with comparable tabulations of the entire population.[40]

Jail registers can answer theoretical questions concerning urban-rural disparities by examining place-of-residence data. These data are useful for analysis of urban-rural disparities concerning apprehended criminals, types of crimes committed, and a number of offenses. The feasibility of this type of research is a consequence of the jail registers being organized on the county level, encompassing towns and countryside, as well as urban centers.[41]

Proponents for the usage of jail records believe that this type of data is helpful in determining the lifestyles and experiences of different groups of individuals, e.g., youths, prostitutes, drunkards and vagrants. Jail records offer statistics of

recidivism and the frequency of certain individuals' reappearances; therefore, our understanding of lifestyles, economic insecurity, and the possible uses of jail are broadened. Researchers have discovered that jails may often have functioned as quasi-welfare institutions, providing care for the elderly, the indigent, and those without family or voluntary associations to protect them.[42]

It must be stressed, however, that the employment of jail registers is not a simple process. One technical problem encountered is nominal record-linkage which occurs when a researcher is tracing criminals either through the registers from year to year, place to place, or to other sources. There are also methodological and interpretative questions to consider, since it is evident that all of those who committed a criminal offense will not be located in the registers, or for that matter even apprehended.[43]

Jacob Price indicates that even imperfect data can tell us a lot, if handled prudently. But, over ambitious use can create problems. When comparing data over time or space, biases or inadequacies in recording must not shift significantly. If this is not considered, contrasts may appear which reflect not underlying social realities, but mechanical

differences in the data collection process.[44]

Another reason suggested for ignoring crime statistics is that most historians have not been trained in social history techniques, i.e., statistical analysis and computer usage. These techniques have assisted in the development of social history, or what has been described as "history from the bottom up."

Historians and the Computer

Historians have borrowed statistical techniques from the social scientists, and, concurrently, they have borrowed the tool for simplifying quantification: the computer. Historian Lawrence Stone indicates that there are benefits for computer usage since large amounts of data can be processed at rapid speed. However, the data which the computer can process has to be necessarily limited in order to allow a rapid processing time. Stone states that the data has to be in strict categories, and the questions presented to the computer must be addressed in extremely clear, precise, and logical format. While it is true that the computer can answer more questions and test more multiple correlations than any human mind could handle in a life time, the data must be given to the computer in precise package form arranged in clearly defined

categories, which, according to Stone, may well distort the complexity and uncertainty of the reality. Additionally, the preparation of the material for the computer is immensely time-consuming, so that while the computer may allow for the use of larger and more complex analysis of variables, it may slow down research rather than speed it up. Lastly, and perhaps most importantly, computer usage precludes the iterative process with sources by which the historian normally thinks, since the historian must now wait until the print-out is available before testing hunches.[45] Lawrence Stone recommends that the computer is:

> a machine in the elementary use of which most professional research historians should henceforth be trained--a six-week course is ample for that purpose--but it is one which should only be employed as the choice of last resort. Wherever possible, quantitative historians are well advised to work with smaller samples and to use a hand calculator. Despite its undeniable and unique virtues, the computer is by no means the answer to the social historian's prayer that once it was hoped it might be.[46]

However, since the mid-1960s, many historians have completed cram courses in machine languages and a growing minority are undertaking comprehensive instructional programs to acquire a basic understanding

of computers. Beginning with the summer of 1965, pre-and postdoctoral historians have taken courses in computerized historical data analysis offered annually by the Inter-University Consortium at the University of Michigan.[47]

The computer can be applied to history as an aid in the interpretation of voting and legislative roll-call data, economic statistics, social characteristics, manuscript, and census materials. It can also be used to find answers to important problems which are not otherwise amenable to conventional methods of research.

Quantification

Since historians have turned more to statistical techniques and the computer, or as one historian has described it as "history turning to quantification and its handmaiden, the computer,"[48] the impact on the field of history has been so pervasive that within the past few years a fascinating field has developed known as quantitative history.

Quantification in history has stimulated studies of social and geographic mobility, urban history, economic history, and the history of the family. Computer techniques have contributed to the continued development of the field by facilitating linkage of

data from such varied sources as census returns, tax assessments, deeds, county histories, parish registers, city directories, and similar documents.

The quantitative methods applied to historical research are no different from other social science methods: they possess certain advantages and suffer certain limitations. Among the former are their ability to render increased precision to the treatments of numerical data, their capacity to yield a more complete analysis of certain historical evidence, and their efficiency in imparting greater insights into actions of large groups, e.g., voting patterns, social mobility, demographic factors, and conduct of legislative bodies. The foremost limitation of quantitative methods (as indicated by Lawrence Stone) is their inapplicability to a considerable amount of historical evidence, since classificatory schemes are frequently necessary to apply statistical procedures, and this operation requires forcing of data into categories. At best quantification is simply "a convenient arrangement of the evidence,"[49] and for that reason it is not superior to some other arrangement.

Moreover, statistical techniques often require the use of a population of data samples, and thus certitude about such results can never be guaranteed.

This, however, is equally true of the traditional sampling of manuscript sources, for while the historian ideally exhausts all sources pertinent to his topic, in practice, he often falls short of his goal. Reasons as the restrictions on release of certain government documents, the overwhelming number of sources available on some topics, and the paucity of sources on others, and the sheer limitations on time, prevent the attainment of ideals. Hence, he is compelled to use a "sample" though he generally prefers not to use that term. Finally, the findings of a quantitative study no more speak for themselves than do the facts in conventional historical research; they must also be interpreted if they are to convey any meaning.[50]

Content Analysis

One effective use of quantification is content analysis. This method may be described as the counting of the frequency of appearance of words, phrases, and symbols in a given body of literature. The purpose of content analysis is not merely to count, however, but to explore attitudes and patterns of thought. Based on the assumption that the frequent recurrence of certain expressions is indicative of inward feelings, content analysis often provides clues which may not be

verified through impressionistic analysis.

All content analysis involves some of the same principles. After a working hypothesis has been chosen, the sources to be studied are also selected, if there is a choice. (Some research may involve a hypothesis so closely connected to a specific source that no choice is possible.) If the body of material to be studied is large, there may be the additional problem of selecting a sample. Procedures are specified, including the implications, words, or (in more complex procedures) contexts to be identified. A measurement device is then adopted and applied to the text in order to establish the frequency of occurrence for certain communications--words, situations, attitudes, issues, etc. The investigator then infers the appropriate conclusions from the resulting measurement.[51]

Content analysis has been used in a number of academic disciplines including law, art, music, literature, marketing, journalism, and psychology. In history, content analysis has been used to test, for example, the commonly accepted thesis that between 1825 and 1870 Americans thought of the western interior as a great desert. Another example is the work of Richard Merritt (which was primarily a frequency count) in which he ascertained when the English colonies began

to consider themselves Americans. The possibility of the application of content analysis to the field of criminal justice and criminology is highly feasible by usage of newspaper accounts to measure public reactions to the various societal and criminal events that have occurred in American history.

Since the rapid growth of computer technology in the 1950s, more complex systems of content analysis have been developed to permit more categories of ideas to be analyzed and larger sets of data to be used. However, it is usually necessary to reduce similar ideas, expressed in various words, to some sort of common denominator.

Furthermore, the technique of content analysis demands an understanding of word symbols as they were used in the past, capturing significant nuances and understanding the favorable and unfavorable contents in which an otherwise neutral word may have been placed.[52]

Despite the great potential of content analysis, the method must be used with great care. Like most quantitative techniques, it is a helpful tool, but is unlikely to be of much use if other methods are not used to supplement it. Neither is it a substitute for a thorough knowledge of the sources and of the general

historical context of the era that produced them. Failure to understand that point can lead to serious difficulty, especially because there are limits to the meanings that codes and categories can convey.[53]

The Case Study Method

Another method of historical research is the case study method. Wilbur R. Miller uses this technique in his Cops and Bobbies: Police Authority in New York and London, 1830-1870. In his study Miller has kept quantitative information at a minimum, and relies primarily on various textual materials based upon published and unpublished records of the two police departments, as well as other conventional sources as newspapers, pamphlets, and popular literature to construct his narrative. The focus of Cops and Bobbies is on the evolutionary differences in organizational structure, cultural patterns, and contrasting styles of police authority. Miller compares the two different strategies of legitimation pursued by the police forces interacted with legal and judicial institutions. He also discusses police recruitment patterns in each society. The result is a study which combines abundant factual detail with various sociological analyses, and suggests new directions and research

possibilities in the study of policing functions in Western societies.

Another historian, Douglas Greenberg, skillfully combined literary and manuscript sources, quotations, anecdotes, and secondary material with a "computer assisted" analysis of 5,297 colonial New York criminal cases for which records did exist.

Greenberg's book Crime and Law Enforcement in the Colony of New York, 1691-1776 has been described as ahistorical since he had accounted for geography, demography, and sociology, but had neglected history. The historical events that were either "glossed over or completely ignored" were events such as changes in royal governors, major slave conspiracies, the Zenger case, or the French and Indian War. A critic firmly states that "history does not happen in a vacuum. Dates, internal events, and changes, and even external factors are important for understanding what did happen."[54]

CHAPTER I: FOOTNOTES

1. Joseph M. Hawes, ed., Law and Order in American History, Port Washington, New York: Kennikat Press, 1979, 3.

2. I would like to inform the reader that in this thesis I am not even touching the area of psychohistory; what I am concerned with is primarily law and sociology, or law and social science quantitative research methods, since these are the kinds of methods which tend to be used by sociologists, political scientists, and criminal justice scholars.

3. Harvey J. Graff, "Crime and Punishment in the Nineteenth Century: A New Look at the Criminal," Journal of Interdisciplinary History, Volume 7, Number 3, (Winter 1977), 477-478.

4. Ibid., 478.

5. John A. Conley, "Criminal Justice History as a Field of Research: A Review of the Literature, 1960-1975," Journal of Criminal Justice, Volume 5, Number 1, 1977, 13.

6. Ibid., 14.

7. Ibid.

8. Ibid.
As Conley discusses in this article there are other indicators that support the contention that history is not a priority in criminal justice education and research. Conley cites as one example a 1975 publication in which E. Viano had stressed that more applied research should be done in criminal justice stating that "what matters is how future generations will judge our contribution in solving major social problems." But, Conley writes that while Viano obviously appreciated the role of history, his book did not have any model for or thrust toward historical analysis.

9. George T. Felkenes, "The Criminal Justice Component in an Educational Institution," Journal of Criminal Justice, Volume 7, Number 2, (Summer 1979), 101-102.

10. Ibid.

11. Conley, op. cit., 15.

12. Ibid.

13. Ibid., 15-17.

14. Michael S. Hindus, "The History of Crime: Not Robbed of Its Potential, but Still on Probation," Criminology Review Yearbook, eds., Messinger, Sheldon L., and Bittner, Egon, Beverly Hills: Sage Publications, 1979, 217.

15. Carey B. Joynt, and Nicholas Rescher, "The Problem of Uniqueness in History," in George H. Nadel, ed., Selected Essays from History and Theory, New York: Harper and Row, Publishers, 1965, 6-7.

16. Hindus, op. cit., 217.

17. James A. Inciardi, Block, Alan A., and Hallowell, Lyle A., Historical Approaches to Crime, Beverly Hills, California: Sage Publications, 1977, 8.

18. Carey B. Joynt, and Rescher, Nicholas, op. cit., 4.

19. Lester D. Stephens, Probing the Past: A Guide to the Study and Teaching of History, Boston: Allyn and Bacon, Inc., 1974, 22.

20. Jacques Barzun, and Henry F. Graff, The Modern Researcher, New York: Harcourt, Brace and World, 1957, 90-91.

21. Ibid.

22. Ibid.

23. Lester D. Stephens, op. cit., 96.

24. Ibid., 96-97.

25. Ibid., 97.

26. Ibid.

27. Hindus, op. cit., 217.

28. Ibid., 218.

29. Ibid.

30. Henry J. Graff, op. cit., 478.

31. Jacob M. Price, "Recent Quantitative Work in History: A Survey of the Main Trends," in History and Theory, Volume 8, Number 3, 1969, 3.

32. Ibid., 1.

33. Ibid., 1.

34. Mark Haller, "Historians and the History of American Urban Crime," A Paper Presented at the 1979 Annual Meeting of the Academy of Criminal Justice Sciences, 1.

35. Ibid., 1-2.

36. Barbara A. Hanawalt, Crime and Conflict in English Communities 1300-1348, Cambridge, Massachusetts: Harvard University Press, 1979, 2.

37. Ibid.

38. Harvey J. Graff, op. cit., 478.

39. Ibid., 479.

40. Ibid., 481.

41. Ibid., 481-482.

42. Ibid., 482-483.

43. Ibid., 490.

44. Jacob M. Price, "Quantifying Colonial America: A Comment on Nash and Warden," Journal of Interdisciplinary History, Volume 6, Number 4, Spring 1976, 701.

45. It is important to state that many social scientists who use on-line computers "iterate" with results analogous to those ways that historians do while reading sources.

46. Lawrence Stone, "History and Social Sciences in the Twentieth Century," in The Future of History, edited by Charles F. Delzell, Nashville, Tennessee: Vanderbilt University Press, 1977, 27.

47. Robert P. Swierenga, "Computers and American History: The Impact of the "New" Generation," The Journal of American History, Volume 60, Number 4, March 1974, 1050.

48. Richard E. Beringer, Historical Analysis: Contemporary Approaches to Clio's Craft, New York: John Wiley and Sons, 1978, 193.

49. Stone, op. cit., 27.

50. Richard E. Beringer, op. cit., 194.

51. Ibid.

52. Ibid.

53. Ibid.

54. Ibid.

CHAPTER II

A CASE STUDY OF QUANTIFICATION IN HISTORICAL ANALYSIS

In this chapter the findings and methodologies of a study conducted by two economic historians applying quantitative techniques to the "traditional interpretation" of the American slavery system will be presented and discussed. It is important to examine this study for several reasons:

(1) It was the first major research completed illustrating the role of mathematics and statistics (quantification) in historical analysis. Furthermore, the methods used are very important to the historical approach to criminology and criminal justice also relying on quantifiable data.

(2) It supports Hindus' statement that the findings of the history of crime may be shattering myths concerning the topic and that new theoretical and methodological insights have provided new findings.[1] Hindus' statement can also be extended to

Fogel and Engerman's findings, since these authors acknowledge that there

> exists an absolute truth concerning social reality, that this truth is apprehensible, and that once discovered the truth will replace previously held "myths" more or less automatically, with socially beneficial results.[2]

(3) It illustrates (as discussed in Chapter I) how the historian locates source documents and substantiates the accuracy of evidence. The study also depicts how historical interpretation is dependent upon the reliability and validity of the historian's source materials.

The discussion of this chapter relies on critical reviews of Time on the Cross. These reviews indicate how the authors of the book differ interpretatively from the traditional historian of American slavery; and these critiques shed a great deal of light onto the methodologies that the authors used which are very apropos to the scope of this thesis.

One critic has view Time on the Cross as

> not . . . a full theoretical development nor an empirically profound, focused operation. Rather, (the critic continues) it is a set of closely related essays criticizing and "correcting" what the authors see as some

> traditional myths of slavery. They concern themselves with both myths and methods, and their work becomes somewhat difficult to review in any concise manner precisely because it is vulnerable to as many myth-charges and methodological criticisms, on more levels of abstraction and operation than the works on which it is critical.[3]

Quantitative History and Economic History

Before proceeding to discuss Time on the Cross, it is necessary to describe quantitative history as it applies to economic history.

Since the 1930s historical research has been making rapidly increasing use of quantitative sources and of calculative and quantitative procedures. However, it is important to emphasize from the genesis of this discussion that quantitative history, as Francois Furet indicates,

> has come to be used so sweepingly that it covers almost everything, from critical use of the simple enumerations of seventeenth-century political arithmeticians, to systematic application of mathematical models in the reconstruction of the past. Sometimes quantitative history refers to a type of source, sometimes to a type of procedure; always in some way or other, explicit or not, to a type of conceptualization of the past.[4]

In this thesis quantitative history will be defined as referring to the aims and researches of economic historians, who advocate total and systematic quantification which they view as indispensable both for the elimination of arbitrariness in selecting data and for the use of mathematical models in their processing.[5]

Economic history, being at the intersection of two disciplines, has often been involved in debates about methods and techniques. Before the 1960s, however, these debates were generally between economic historians and economists, and were concerned with the relative usefulness of abstract theory and of detailed institutional knowledge in understanding the past world and in prescribing policies for the contemporary situation.[6] One historian comments that

> it seems safe to say that prior to World War II most economic historians fought their interdisciplinary battles mainly against economic theorists, and, in their own work, more often followed the style and methods of historians rather than those of economists.[7]

In the period after World War II, most particularly in the late 1950s and 1960s, there occurred a significant shift in the training and interests of economic historians. A group of economic historians trained primarily as economists began to engage in methodological debates

the historians who dominated the field.[8]

The work of the post-1950s generation of economic historians was initially called the "new economic history," but is also known as "econometric history," and "cliometrics."[9] This level of quantification was introduced when statistical procedures were applied to incomplete or otherwise inadequate data in order to develop series that could be subjected to the application of economic theory. Importantly, quantitative work greatly expanded throughout the 1960s because of the use of the computer.[10]

Consequently, economic history is both an historical and empirical subject, concerned with using documentary records of the past to understand what happened, no matter how much economics and economic theory intrude and shape it.[11]

For purposes of this thesis the work by two historians trained in economics, who in their book Time on the Cross applied the methods of cliometrics; and, subsequently created much controversy primarily within the history profession, will be the focus of this chapter.

Focus and Content of Time on the Cross

Robert Fogel and Stanley Engerman proposed to correct what they identify as a commonly accepted "traditional interpretation" of the American slave system, first propagated by the abolitionists, which Fogel and Engerman assert emerged from an "economic indictment of slavery." The "traditional interpretation" consists of the following five propositions:

1. that slavery was generally an unprofitable investment, or depended on a trade in slaves to be profitable, except on new, highly fertile land;

2. that slavery was economically moribund;

3. that slave labor, and agricultural production based on slave labor, was economically inefficient;

4. that slavery caused the economy of the South to stagnate, or at least retarded its growth, during the antebellum era; and,

5. that slavery provided extremely harsh material conditions of life for the typical slave.[12]

Fogel and Engerman believe that a racist "myth of black incompetence" has drawn sustenance from this view of slavery which incorrectly emphasizes the oppressiveness and brutality of the system, leading to the unjustified inference that slavery left a lasting negative imprint on black personality, family structure, and culture.[13]

Fogel and Engerman attempted to negate the "traditional interpretation" by presenting a more optimistic picture of the slave system and its impact, emphasizing the system's rationality and beneficience. They hypothesized that:

1. slave women were not exploited sexually, nor was the slave family undermined by sales;

2. planters gave their slaves ample food, clothing, shelter, and medical attention, and offered them opportunities to improve their lot within the system; and,

3. rational management and a responsive labor force produced substantial profits and contributed to rapid economic development in the south.[14]

Methodology of Time on the Cross

It is important to reiterate the furor that this book created in the academic milieu. The tremendous outcry by historians and social scientists resulting in special conferences convening to discuss the book and its methodologies depicts the concern of professional academicians. Their primary concern was with the application of the statistical methods to the traditional interpretation of slavery which historians had established in the century and a half before when slavery had been the object of intense

scrutiny by the historical profession.

The authors of Time on the Cross are representatives of cliometrics, which refers to economic historians or historical economists trained in econometrics and the application of quantitative analysis to historical problems. Cliometricians believe that they can better evaluate events and social conditions than the traditional historian since they can apply computer usage to large amounts of information which has never been interpreted by the traditional historians. Therefore, through the use of these new techniques, new discoveries can be provided.[15]

By using statistical analysis (which most historians are unfamiliar), Fogel and Engerman have attacked many of the assumptions antislavery advocates have cherished for two hundred years. In addition, the authors devised an ingenious stylistic method to present their findings to the general reader. They divided their work into two short volumes, the first of which contains the basic argument and the second which presents the technical documentation. The most disconcerting aspect of this type of presentation is that all the documentation - including footnotes and technical explanations - is in the second volume. Consequently, the reader of the first volume is compelled

to accept what he reads on blind faith; since he has no way of checking the evidence, or even discerning what the evidence is without having the second volume, or "handbook," to substantiate the statements of the first volume. Even more alarming, as one critic has commented is that:

> Information on the existence of a supplement is located only in two obscure places not likely to be read by the average reader--the publisher's note and the back page of the cover jacket.[16]

Problems with Fogel and Engerman's Data Sources

There are several apparent difficulties with the data sources examined by the authors. First of all, they base their statement that the typical slave was not poorly fed on the manuscript census data of 1860 which specified food crop calculations for an unspecified number of large rural plantations for the year 1860. However, critics of Time on the Cross have indicated that food crops were not usually produced for market, so accurate records were often not kept, and enumerators and planters together made a rough estimate of food actually produced. In addition, Fogel and Engerman base their estimates of meat production on national (or northern) averages of crops fed to meat animals, slaughter ratios, and dressed weight of animals for

years in the later nineteenth or even twentieth centuries since the necessary figures do not exist for the antebellum south. They consistently substitute assumptions which raise slave consumption of the higher quality foods.[17]

Another serious issue is that a number of potential weaknesses of the figures cannot be discussed, since not enough data was provided. Additionally, the size of the sample, its geographical distribution, potential biases resulting from the failure to stratify the original sample along the dimensions of size or proximity to urban centers, and the representativeness of the year chosen all pose potential problems.[18]

Furthermore, when Fogel and Engerman discuss the sick days for slaves, the mortality rates for slaves, their conclusions rest on scanty data. The estimate of days lost through illness is based on the experiences of only 545 field workers on 15 plantations, not on a representative sample. (The authors do not state how many plantations their sample contains.) Census data and plantation records give only incomplete and unreliable returns on mortality, especially of slaves and most especially of infants, and therefore, should have been subjected to the same sort of criticisms addressed to the reports of observers.[19]

Fogel and Engerman argue that the sexual exploitation of female slaves was quite rare, that in fact "the share of Negro children fathered by whites on slave plantations probably averaged between 1 and 2 percent.[20]

Critics Frank Tipton and Clarence Walker note that Fogel and Engerman have proposed several arguments in the source volume to support the statement above cited. The critics indicate:

> . . . First, though the census data are inconclusive, they can give the range within which the true ratio might lie. The censuses report that the share of mulattoes in the slave population rose from 7.7 per cent in 1850 to 10.4 per cent in 1860. The definition of "mulatto" used by the enumerators is unknown, so the proportion of mulattoes who might have had mulatto children even if the other parent had been black is also unknown. But if the enumerators' perceptions are assumed to have remained constant, the lower limit of the percentage of slave children fathered by whites should lie between 0.61 and 6.05 per cent, and the upper limit between 8.89 and 13.87 per cent. (II, 103-107). Second, an intergenerational model with the percentage of slave children fathered by whites set arbitrarily at one per cent yields fluctuations in the mulatto population roughly corresponding to the 1850 and 1860 census results (II, 107-111). Third, the percentage of Caucasian genes found in present American black populations indicate rates of miscegenation of about one per cent in the rural south and five per cent in the urban north (II, 110-113). Fourth, only 4.5 per cent of the ex-slaves interviewed in the 1930s indicated that one of their parents had been white (I, 133; II, 113).[21]

However, Tipton and Walker believe the above arguments to be tenuous and the data biased and unreliable. Furthermore, the slave narratives are the most suspect source, primarily since the interviews were conducted by southern whites in whom ex-slaves were unlikely to repose much confidence. Genetic evidence is highly inferential and in fact leads only to the trivial conclusion that "miscegenation was inversely correlated with the degree to which masters were able to keep their slaves isolated from whites" (II, 112). The intergenerational model assumes knowledge of the definition of a mulatto, but no definition was given in either the 1850 or 1860 census.[22]

Two other critics support Tipton and Walker's statements concerning the number of mulattoes in the American population, and the complex genetic equation used to estimate the percentage of slave children fathered by a white father.[23] However, the awareness that black women were legally helpless against white sexual exploitation and that such exploitation went on must have affected black psychology far more than the figure of one in fifty can suggest.[24]

On the basis of incomplete and biased data, Fogel and Engerman argue that relatively few slaves were

sold across state lines and that relatively few slave families were destroyed by sales. The total of all slave sales is based on a study of slave sales in a single state (Maryland) in the decade of the 1830s, expanded to the entire south from 1820 to 1860.[25]

The authors also base their estimate of the proportion of slave families broken by sale from data on slaves sold in New Orleans, which contain no listings of marital status, and which were subject to the unusual Louisiana law forbidding the destruction of slave families.[26]

Although Fogel and Engerman made many bold assertions regarding the structure of the black family, they present little or no information pertaining to this to support their arguments. One example, is the authors' statement that planters generally "promoted family formation through exhortation and through family inducements";[27] this is based on one piece of evidence - a letter from a plantation owner to his overseer. The authors had previously criticized another historian for making a similar conclusion on the basis "of little more than a score of isolated transactions," that slave children were often separated from their parents.[28] This type of impressionistic evidence is detrimental to Fogel and Engerman's argument since it

represents a danger that perhaps some of their other conclusions are based on similar scanty evidence of which the reader is not familiar since the evidence is presented in volume two.

Reaction to Time on the Cross

Within a month of its appearance, Time on the Cross had been reviewed in the New York Times Book Review, the New York Review of Books, and Newsweek, and one of the authors had appeared on a television talk show. The broad argument has been well projected to reach the general public, but the specific details of the authors' historical research are presented in a way that precludes comprehension by that readership.[29]

One critic asks:

> Why has Time on the Cross caused such a furor in the scholarly world and its environs? Why have critics all over the nation picked up their pens to write page after ponderous page to praise or condemn it? Slavery and the Civil War have been the climactic phenomena in American history; they are not to be viewed lightly. The book's findings have serious implications not only for academic theories but also for contemporary interest groups. And it is the first attempt to subject what is known about slavery to a rigorous cliometric model. These three reasons alone will cause many persons to plow through the two volumes.[30]

After reading Time on the Cross and the critical reviews commenting on the style and methodology of the authors, it is evident that the scholars were primarily concerned with the book's methodology. Fogel and Engerman had used a different methodology to interpret traditional history, and consequently, had developed a new approach to the issue of slavery. Scholars were upset with the manner in which statistical methods had been applied to fragmentary and impressionistic data. Therefore, it is evident that while Fogel and Engerman did use quantification in their study, they did not "control" for the biases as discussed in this chapter. As one critic has suggested the authors of Time on the Cross tend to use traditional methods where their findings confirm traditional interpretation, and when their findings differ, they tend either to base their conclusions on biased evidence or make assumptions which bias the results of their statistical and econometric calculations. . . . Their failure to consider evidence which contradicts their thesis and reluctance to examine the assumptions embedded in their own approach have led the authors to a particularly unbalanced evaluation of slavery. In addition, the book's weaknesses illustrate some of the difficulties

of an attempt to apply systematic quantitative methods to historical data.[31]

For many historians the question of whether quantitative methods have a place in historical research continues as one of the major controversies in the field today. Generally historians believe that quantitative methods:

1. are merely mechanical procedures that imply no unique theoretical assumptions;
2. can only be used with evidence that has the capacity to be measured, and a lot of important historical questions are not susceptible to quantitative answers
3. are tedious percentages and detailed footnotes, and consequently, are "quite boring and quite meaningless![32]

However, sociologist Philip Hauser believes that whether or not historians are aware of it, by avoiding numbers they are not eluding problems of measurement. He indicates that the humanist-historian in seeking to explain an event is dealing with a dependent variable and a series of independent variables. His explanation, like that of statisticians, is also affected by questions of sampling, reliability, validity, and precision.[33]

As historian Herbert Gutman indicates, Time on the Cross was the first major social history study to rely primarily on quantitative data. However, Gutman believes that while the authors of the book did "celebrate the value of social history methods and quantitative data, they did not use those data carefully. . . ."[34] Due to this misuse, it is inevitable (Gutman surmises) that after reading Time on the Cross, a number of scholars will denigrate the quantitative techniques that can be useful to the social historian who wishes to begin reconstructing neglected or misinterpreted aspects of society. Gutman's final reaction to Time on the Cross will serve as a conclusion to this section of the chapter.

> . . . . Whatever the book's importance as economic history, detailed examination of Time on the Cross -- its major arguments and the evidence supporting them -- shows convincingly that it is poor social history, that its analysis of the beliefs and behavior of "ordinary" enslaved Afro-Americans is entirely misleading, that it uses a thoroughly inadequate model of slave socialization, and that it contains frequent and important errors of all kinds in its use of quantitative (not to mention literary) evidence essential to its major arguments.[35]

History, Quantification, and the Social Sciences

It is evident from the last section of this chapter how important Time on the Cross has been to the development of economic and social history. It is also equally evident that while the quantitative method (as used by authors Fogel and Engerman) has been severely criticized in reviews and publically harangued at conferences, that the technique is indeed necessary, if the social history tenet of studying society from the bottom up is to be accomplished.

This requirement is supported by Robert Fogel in his article "The Limits of Quantitative Methods in History." He indicates that quantitative methods are essential if the historian is to succeed in shifting the attention of his discipline from a preoccupation with exceptional individuals to concentration on the life and time of common people. He believes that the application of quantitative methods in history has opened up the possibility that with respect to such concerns as the evolution of the family, the determinants of occupational mobility, and the effect of religion on political and social behavior, the historian/social scientist may soon be able to say more about the experiences of ordinary people than of exceptional individuals.[36]

As has been stated in an earlier chapter of this thesis, church records, probate records, tax rolls, and similar sources containing detailed information on a wide variety of human activities have been in existence for quite some time. However, with the approach of quantification in history, the long ignored society at the bottom no longer has to remain forgotten. Importantly, for the field of criminology and criminal justice, these same sources can be examined to describe crime and the society which produced criminals in order to discover what circumstances precipitated or contributed to the criminality in society.

In the next section of this chapter, Eric Monkkonen's The Dangerous Class: Crime and Poverty in Columbus, Ohio 1860-1885 (described by one critic as "the most ambitious and systematic attempt to use social science methodology to identify the criminal and dangerous classes and to describe the interaction of these groups with the social welfare and criminal justice apparatus")[37] will be discussed to illustrate how another historian has used quantitative methods to research a social history phenomenon.

In his book, Monkkonen quantifies aggregate socio-economic data obtained from court and poorhouse records from 1860 to 1885 to make inferences about the relationship of crime and poverty to urbanization and

industrialization without relying upon the conscious explanation given at the time by the dominant class. However, he acknowledges (unlike Fogel and Engerman) that his data, consisting of a hodge-podge of state and local records (including court records, census data, city directories, and economic statistics), is fragmentary. He also indicates that the poorhouse records were insufficient data to use as an index of pauperism. He does use matching where possible to discern the social characteristics of paupers and criminal defendants, but as Michael Hindus notes Monkkonen's usage of matching is weak in picking up members of the marginal and mobile populations.[38]

Consequently, from examining the methodology conducted by these authors, i.e., Engerman, Fogel, and Monkkonen, several recommendations can be made pertaining to the usage of fragmentary data and sampling and measurement.

Recommendations

Sampling and measurement (as have been discussed in Time on the Cross and The Dangerous Class) have been cited as two social science techniques which present problems to the historian due to the fragmentary nature and erratic distribution of his data.[39] Random sampling of a population is possible only if the sample

is drawn from data about the complete population; if the data are incomplete, the kinds of omissions may affect the representative character of the sample which is drawn. As Cynthia Hay has indicated in her article "Historical Theory and Historical Confirmation," historians have worked with biased samples of data when they have known something about the total population from which the sample was drawn and could make assumptions to try to counter the effect of the biases.[40]

Fragmentary data affects historical measurement just as much as they do historical sampling. Social scientists have developed various formal models of measurement, e.g., Guttman scales which have also been used in historical analysis to analyze the political complexions of nineteenth century British members of parliament. However, most historians have incomplete data for which they have no reason to believe a random sample can be derived. Consequently, the conditions for applying the social scientist's formal models of measurement are not fulfilled. Hay indicates that in some simple cases assumptions can be made to overcome the gaps in historical data and apply a formal model of measurement which allows inferences to be drawn; for the most part, however, historians cannot overcome the limits of their data

and cannot make use of these models of measurement.[41]

Therefore, Hay believes, historians cannot reach the standards of confirmation of their hypotheses which are considered acceptable in the social sciences. Historians, Hay concludes, only rarely have complete data on individuals in a population (with aggregate or incomplete data on a population) and they can make inferences only if certain conditions are fulfilled; and they may not be fulfilled because of the vagaries of historical data.[42]

Responses to Hay's remarks will be made in the next section of this chapter addressing the problems encountered when quantification is applied to historical interpretations.

Conclusions and Recommendations

This chapter discusses the problems historians have had when applying quantification to historical interpretations. One of the limitations has been attributed to fragmentary or incomplete data. Both studies reviewed (Time on the Cross and The Dangerous Class) had this type of data.

What is important to stress in this thesis is that imperfect data can tell us much; but, it must be handled prudently, since over ambitious use (as

exemplified by Time on the Cross) can create problems. A researcher must be conscious of the comparability of his data over time or space, and, if he fails to do so, biases or inadequacies will result.

At this point, in order to discuss Hay's statement that unless historians have complete data on individuals in a population, inferences cannot be made, several of Eric Monkkonen's recommendations for systematic research (especially as applicable to criminal justice history) will be presented to illustrate that even though the data may be fragmentary and incomplete, if handled properly, much can be learned about a particular population.

Monkkonen states that the researcher must avoid the temptations of indictment rolls, court dockets, police blotters, and jail and prison records because of the incompleteness that may be existent.[43] However, it is important to remember that this data can be helpful in avoiding strictly impressionistic interpretations.

Monkkonen also emphasizes that when examining manuscript documents (as did Fogel and Engerman, and Monkkonen himself), the researcher must know a great deal about the locality, how these documents were prepared, and their total context.[44]

In addition, when dealing with rates, whether arrest, jailing, conviction, or imprisonment, the researcher must consider the region or the country from which the rates were taken. The research must also ascertain the base figures from where rates were taken, and must also have some notion of the processes which generated these sources.[45]

Monkkonen emphatically recommends that when dealing with data produced by the criminal justice system, that the historian should conceive of the data as a biased sample of all criminal behavior; and, therefore, recognize that although the biases cannot be precisely estimated, some logical aspects of their nature and direction can be determined. Rather, than conceiving of the data as a sample, Monkkonen suggests that it be considered as a specific universe of formal interactions between the criminal justice system and the larger society; (for) Monkkonen continues, if it is a sample, it is a sample of all such interactions, not of all criminal behavior. Such an approach has both logical and methodological appeal--isomorphism is a given.[46]

Concerning measurement, Monkkonen stresses that:

> There certainly are measurement problems in criminal justice system produced data. But careful thinking about the nature and direction of the

> biases can make the data useful and powerful. To reject the use of recent theory, models, and statistical methods . . . is both naive and irresponsible; . . . The use of individual level records to produce data has a rich potential, but the data must be used with sophistication, embedded in social theory, and be examined for its typicality by comparison with previous work and the available but under-utilized aggregate data. Until this happens, there can be no growth or dialogue in social history of crime and criminal justice.[47]

Monkkonen's advice should be heeded. The history of crime is rapidly becoming one of the important new branches of social history. It is a field which is an exciting one; and as historian Barbara Hanawalt indicates, it is a field that historians of crime will have much in common with each other regardless of the century they study due to the similarity that they are all trying to answer the same key questions, to integrate modern criminology and anthropology with historical materials, and to develop methodologies for dealing with massive court and police records which are often incomplete and fragmentary.[48]

CHAPTER II: FOOTNOTES

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3. Roy Simon Bryce-Laporte, "Review Symposium: Time on the Cross: The Economics of American Negro Slavery, and Time on the Cross: Evidence and Methods," Contemporary Sociology, Volume 4, Number 4, July 1975, 353.

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11. Ibid., 85.

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17. Frank B. Tipton, Jr., and Clarence E. Walker, op. cit., 93.

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37. Michael Hindus, op. cit., 232.

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CHAPTER III

A HISTORICAL DESCRIPTION OF GREAT BRITAIN'S POLICY AND PRACTICE OF THE TRANSPORTATION OF CRIMINALS

In Chapter One a discussion of the methodological problems encountered by historians when applying social science research techniques was presented. The second chapter of this thesis is primarily a case study specifically focusing on how quantitative methodologies had been used by historians to interpret a traditional theory of slave history in America. In addition, the subsequent reactions of other historians to the quantitative methodology as applied to this particular theory was discussed.

The purpose of Chapter III is twofold. First, historical background on transportation as punishment and reasons why the English government decided to implement the ancient practice of transportation to mitigate their criminal code will be provided. The second purpose is to explain the historical development of transportation itself to prepare the reader for Chapter IV which is an analysis of quantitative data describing the characteristics of convicts transported to Australia.

What becomes apparent from both Chapter III and IV is the effect that transportation as punishment had on the development and growth of the British colonies. One of the striking aspects of British imperialism is the similarity exerted on her colonies (America, Australia, and Cape Town, South Africa) by using them as "dumping grounds" for an unwanted population at home. Authorities believed that the transportation system would be both a humanitarian and economical means of crime control. Therefore, the social and economical reasons for why it was believed necessary to employ transportation as punishment will be addressed briefly in this chapter.

Ultimately, this chapter depicts that through the study of history, scholars of criminology and the criminal justice system will become aware of phenomena which will enlighten their understanding of the operations of the criminal justice system. Therefore, history is a viable academic disciple applicable to the enrichment of education in the field of criminal justice and criminology.

An Overview of Transportation as Punishment in England

During the sixteenth and seventeenth centuries, three important economic changes occurred in England

contributing to the demise of the old status of English society. These catalysts (1) the enclosure policy; (2) the growth of commerce; and (3) the increase of population size of towns[1] will be briefly discussed to illustrate how these three interrelated factors led to the eventual increase in the crime rate which necessitated transportation as a measure to relieve the economical and societal problems of the country.

The enclosure policy, beginning during the latter half of the fifteenth century and effective during most of the sixteenth century, was a direct result of the increased demand for wool both for export and domestic purposes. Since sheep must be raised in fenced boundaries, the old manorial system of open fields was not conducive to sheep production. Therefore, in order to obtain a sufficient amount of land to enclose for sheep grazing purposes, the rich landholders evicted not only the poor but the tenants as well. This eviction led to an increase in the size of towns' population, since many of the displaced and impoverished people sought employment in the towns. The economic crisis occurring as a result of this migration culminated with much suffering and criminality among the people. The number of criminals multiplied so extensively that the old jails were

inadequate to house the debtors and those detained for trial.[2] To further complicate the already precarious situation, the old methods of punishment, i.e., multilations, whipping, the pillory, stocks and other secondary methods of punishment were found to be inadequate and ineffective in coping with with the growing crime problem.[3]

However, at this time labor was needed to establish new colonies in America and the question arose as to whether England could supply the needed labor and at the same time be rid of law-breakers by transporting them beyond the seas.[4] Indeed, historian George Rude believes that one of the reasons why the transportation system was suggested was to provide labor for the colonial government and settlers.[5]

Important to point out is that transportation could be easily adapted to the Bloody Code (as the criminal law was popularly known) since in practice the application of penalties was flexible and allowed a large measure of play for judicial discretion.[6]

Furthermore, the code was also modified in practice by the traditional privilege of benefit of clergy. Until 1705, benefit of clergy had been a privilege enjoyed only by clerics. However, after this date, offenders convicted of a range of minor capital crimes could plead benefit of clergy to save themselves from the gallows.

The use of benefit of clergy, or pardoning, contributed to the rapid growth of transportation as a punishment, but it is important to indicate that beginning in 1716 acts changing the punishment for petty larceny from whipping to transportation, acts substituting transportation for whipping as a penalty for robbery, minor kinds of coining, and the receipt of stolen goods also can be perceived as an indication of the judicial habit of using transportation as punishment.[7]

It has been stated by historian J.J. Tobias that while the Bloody Code was severe, in fact

> . . . . [o]nly a small proportion of offenders were sentenced to death, and only a small proportion of those on whom sentence was passed were in fact hanged. Figures have been collected for the years 1761-5. In those five years almost half of those sentenced to death in London were reprieved, together with two-thirds of those sentenced in the Midlands. It does not seem that at any time in the eighteenth century, in any part of the country, more than sixty per cent of those sentenced to death were actually executed, and over much of the century and in many places a figure of one-third is more typical.[8]

Tobias continues that while this amount seems a "horrifyingly large number of executions to modern ideas, the eighteenth century relied more on the threat of execution than execution itself."[9] Tobias further indicates that the reprieve was readily

available as an important part of the philosophy of the system and served to reinforce the authority of the ruling classes.[10]

Therefore, it is evident that the practice of transportation was considered to be a means of alleviating the overpopulation at home by serving as a means to populate the colonies as well as providing a labor force to the settler. Transportation was also a panacea for decreasing the overcrowding in the jails and the prisons at home. It is important, however, to stress that transportation was a practice of ancient origins, and this will be discussed in the next section of this chapter.

Historical Origins of the Development of Transportation as Punishment

The idea of transporting criminals or political offenders to the American colonies was not new, when England decided to implement the practice in the early seventeenth century. Transportation had evolved from the practice of banishment which had been used as a punishment in primitive society. Banishment developed into exile, a practice of outlawry. However, banishment was different from exile because it carried with it certain religious and ritualistic accompaniments while outlawry had a political motive.[11] The first European nation which employed transportation and penal labor in

the colonies as a mode of punishment appears to have been the Portugese.[12]

However, transportation as a modern method of punishment had its origins in England[13] and its development can be attributed to two different factors. The first of these determining factors was the decline of the galleyship as an effective warship and its replacement by sailing vessels. During the Middle Ages and down to the time of Elizabeth many criminals sentenced to death and many captured outlaws had been sent to sea as galley slaves. By the close of the sixteenth century the galley-ship had been replaced by the sailing vessel making it mandatory that a substitute be found as a means of punishment for those who had formerly been consigned to sea. Furthermore, as discussed in an earlier section of this chapter, England was experiencing a marked increase in crime as a result of the confusion and misery accompanying the breakdown of the manorial system.[14]

The origins of the English system of transportation are found at the turn of the sixteenth and seventeenth centuries in legislation and proclamations permitting the transportation from the country of vagrants and rogues. The first law authorizing transportation was passed in 1597 and listed the punishments for these "rogues, vagabonds and sturdy beggars." As a consequence of the breakdown of the manorial system, many laws were

promulgated as an attempt to control the landless men ("sturdy beggars") who had become a disturbing element in the population.[15] The Act of 1597 reads as follows:

> If any of the said Rogues shall appear to be dangerous. . . or otherwyse be such as will not be reformed, That in every such case it shall and may be Lawfull to commit that rogue to the Howse of Correccion or otherwyse to the Gaole. . . there to remain untill the next Quarter Sessions. . . and then such of the Rogues so committed as . . . shalbe thought fitt not to be delivered, shall . . . be banyshed out of this Realme and all the domynions thereof . . . and shall be conveied unto such partes beyond the seas as shalbe at any tyme hereafter for that purpose assigned by the Privie Counsell. . . And if any such Rogue so banyshed as aforesaid shall return agayne into any part of the Realme. . . without lawfull Lycence or Warrant so to do, that in every such case the offence shalbe Fellony and the Party offending therein Suffer Death as in case of Felony.[16]

Additional legislation was passed in an attempt to improve the conditions, i.e., compulsory apprentice laws (5 Elizabeth, cap. 4) and forced contributions for the poor (43 Elizabeth, cap. 2). Work was to be provided for those who were able to do it, and relief for those who were not. Poor children were to be trained for some trade and the idle were to be punished. But statutory remedies failed to afford adequate relief, and, in spite of the general prosperity during

Elizabeth's reign, the condition of the poor classes was deplorable.

However, the use of the 1597 Act permitted the American colonies to be used as a dumping ground for England's surplus or idle population, and this proviso was implemented to legitimize transportation.

The prevalence of the practice of transporting unwanted population during the seventeenth century under the Act of 1597 can be deduced only from hints in state papers and occasional mention in private correspondence, but we know that judges and town councils adopted transportation as a remedy for dire conditions at home. In 1621 the Virginia Company unsuccessfully sought parliamentary legislation requiring city corporations to send their poor to Virginia and in a petition to parliament in 1624 the Company gave as one of its objectives the removal of destitute persons, thereby leaving improved opportunities for those who remained.[17]

Although the surplus population theory predominated during most of the seventeenth century, it contained within it the first formulations of the transportation idea.[18] While benevolence perhaps played some part in it, the principal motive was clearly one of convenience in enabling England to rid herself of persons she did not want.[19] A. G. L. Shaw in his book Convicts and

the Colonies writes:

> Execution is a simple punishment, quick, effective, economical, but not merciful. Hence perhaps the resort to what seemed to many to be the next best thing--banishment. This at least satisfied the society from which the criminals were expelled, if no one else. There was no need to worry about their behaviour in the future; the process was cheap; the receiving society could usually be ignored. . .[20]

Penal transportation first received legislative sanction during the reign of Charles II. The Act 18, Charles II, Chapter 3, authorized transportation to northern America of felons under the sentence of death: they were given their choice between hanging and transportation, so the latter was in effect a conditional pardon.[21] Transportation proper was established by an Act of Parliament in 1717 (4 George I, Chapter 2), which noted the need for servants in America, and provided for the transportation to America of persons convicted of certain felonies.[22] The preamble to this Transportation Act stated that its purpose was both to deter criminals and to supply the colonies with labor.[23]

A further extension came with the statutes of 1718 and 1720. Transportation now became the regular sentence for larceny and felonious stealing and not merely a commutation at the discretion of the judge. The

reason given for the change was the great need for servants to develop the colonial plantations. Transportation cost the government little. Until 1772, the contractors received a grant of five pounds per convict. Later, they did not charge anything because, having become owners of the convicts, they were able to derive enough profit by disposing of their labor.[24]

Under the legislation of the early Georges, prisoners were turned over to contractors who agreed to transport them to America without cost to the government on condition that the contractor had the right to sell their services for from seven to fourteen years to planters in America. For a time, four or five hundred convicts were shipped to Maryland annually; others were sent to Virginia.[25] The planters bought them. In effect, they were slaves, for a term of years; and the traffic in convicts was a form of competition with the African slave-trade. Actually since there was a demand in the American colonies for cheap labor, negro slavery eventually was established in the United States.[26]

In the course of the eighteenth century, a number of Acts made transportation to America common under the provision of the cornerstone Transportation Act of 1717, Robson states

> Calculations have been made concerning the total number of persons transported and it appears that certainly 30,000 prisoners were conveyed from Britain during the eighteenth century.[27]

Transportation to America ceased when the American colonies revolted in 1775. The outbreak of war between the colonies and Great Britain and the subsequent American Declaration of Independence of 1776 had far-reaching consequences for all English prisoners.[28]

The Hulks

After the American Revolutionary War, the English government tried to resume transportation. The English government felt that the old system of convict transportation could be resumed, and after the peace was signed in 1783, they immediately started arrangements for shipping more convicts to America. One cargo of eight felons was landed in Maryland, but Abbott Smith states in his book Convicts in Bondage that there is no certain evidence of further successful shipments.[29] In 1788 the Continental Congress of the United States recommended to several states that they pass proper laws to prevent transportation of convicted malefactors from foreign countries into the United States. This advice was taken and a permanent end was put to transportation, obliging England to seek other outlets for her criminal population. The increasing crime rate and the end of

transportation to America forced England to find another means of confining criminals.

In 1776 the English county authorities had been ordered by 16 George III, Chapter 43, Section XIII to prepare and enlarge their jails to meet new conditions. However, they did not pay much attention. Therefore, since there was not enough room in the jails and the American colonies were no longer receiving convicts, the hulks were used as jails.[30] (Hulks were old sailing vessels, generally men-of-war, permanently made fast in rivers or harbors.) The conditions in the hulks were even worse than the local prisons, "being crowded, dirty, and verminous, with men and boys all in irons, often in double irons, for greater security."[31] The hulk system was established only as a temporary expedient for dealing with the large number of criminals.

The permanent system intended for implementation was the establishment of penitentiaries. It had been authorized by Parliament in the preamble to an Act of 1779 that government-run penitentiaries should be built for the purpose of deterrence of crime and reformation of criminals. This authorization was deemed necessary, since the loss of the American colonies meant that there was no suitable place left for criminals in large numbers.[32]

However, it was easier to use the existing hulks than to build penitentiaries and the more expedient alternative was chosen. DuCane states that it is impossible to tell the amount of crime and corruption that would have been avoided, or the benefit that might have resulted both to England and her colonies had these penitentiaries been built.[33]

Charles Dickens considered the hulks to be the most brutal and degrading form of prison. In his novel Great Expectations it is evident that Dickens was in favor, as many humanitarians were, of the transportation system. Magwitch, who had been transported to Australia, returns to England at the end of the novel a very prosperous man. The humanitarians in England thought the conditions in prisons abhorrent and considered transportation to be a lesser evil. In the beginning of Great Expectations, a discourse occurs between the protagonist Pip and his sister Mrs. Joe concerning the hulks which were anchored near their home. Pip asks, "And please what's hulks?" to which Mrs. Joe, exasperately explains that, "Hulks are prison-ships, right across the marshes." Pip ventures another question to his sister, "I wonder who's put into prison-ships, and why they're put there?" She replies that "People are put in hulks because they murder, and because they rob, and forge, and do all sorts of bad. . . ."[34]

In this novel, Dickens is protesting against a system that first neglected an abandoned child like Magwitch and then, when the boy had drifted into crime, proceeded against him under a legal apparatus whose rigors were intensified by class fears and prejudices. The humanitarians in England felt transportation less harsh when compared to the detestable conditions in both the prisons and in the hulks. Sir John Fielding, writing in 1773, summed up the English opinion concerning transportation:

> . . . The wisest, because it is most humane and effectual, punishment we have, viz., transportation--which immediately removes the evil, separates the individual from the abandoned connextions, and gives him a fresh opportunity of being an useful member of society, thereby answering the great ends of punishment, viz., example, humanity, and reformation . . .[35]

Attempts in Founding New Penal Colonies

England's dilemma of not having adequate places of confinement for prisoners resulted in her attempt to locate penal colonies in other regions. One was in Sierra Leone, but due to the high mortality rate resulting from the intense heat, this venture was unsuccessful and was abandoned.[36] The next site considered as a future penal colony was the eastern

coast of Australia. (Australia had attracted the attention of the English government, due to the voyages of Captain Cook in 1770, 1773, and 1777.)[37] Lord Sydney in August 1786 advised the King to select New South Wales for his penal settlement, and an Order in Council in agreement with the terms of the Act was made.[38]

In addition, the same Order in Council appointed Commodore Alfred Phillip Governor of New South Wales, and on May 13, 1787 the first expedition, consisting of 11 vessels, left for Australia with approximately seven hundred and eighty convicts sailing in the First Fleet to New South Wales. The majority of these convicts were under sentence for seven years, which indicates that under the prevailing laws, their crimes were not very serious. The paper accompanying the convicts gave only name, age, place of trial and length of sentence, but many times the crime committed was not recorded. Consequently, it was impossible to segregate them; but, there were some governors like Macquarie who thought it a circumstance in the convict's favor. He (the convict) left his crime behind him and worked out his sentence.[39]

Commodore Phillip's expedition arrived at Botany Bay after a voyage of eight months. The settlement was actually formed at Port Jackson (now Sydney) about five

miles from Botany Bay, on January 26, 1788. Phillip established the colony at Port Jackson, after he discovered the ground of Botany Bay to be low and unfertile; he recorded that "there was a small run of water there, but it appeared to be only a drain from a marsh."[40]

The beginnings of the convict colony at Port Jackson were disastrous. None of the transports had had any experience with farming, or any expertise with building shelters. Moreover, insufficient guards had been provided for the prisoners, and it was almost impossible to get them to work, unfitted as they were for the tasks set them. Additionally, many of the convicts were suffering from scurvy and other diseases generated during the voyage. Consequently the labor force, originally fixed at just over six hundred, was reduced to little more than two hundred.[41]

Commordore Phillip, according to one historian appeared "to have been a man of high character, and for those times, not devoid of humanity." He tried to teach his men to become self-supporting and to a degree self-governing. His authority was greatly augmented by the bestowal upon him by the Crown of the right of conditional pardon.[42]

However, when the convicts' terms of sentence began to expire, Phillip had no alternatives to offer

them in the colony. The majority of the convicts refused his offers of concessions of land, employment, government aid and even though Phillip warned them of the alternative if they (the convicts) returned to England, they completely ignored his offer and his advice. By the end of 1792, Commodore Phillip was exhausted, and applied to be relieved of his responsibility.[43]

Resistance to Transportation in Australia

The penal colonies were managed by governors appointed by the British government. From the appointment of Commodore Phillip through the appointment of General Brisbane in the early 1800s, the free settlers did not object to convict presence in the colony. However, under the administration of General Brisbane, the division of "emancipist" and the "exclusionist": (the former wished to give the convicts a voice in the Government, but the latter were radically opposed to convict colonists) became very evident. This division was the first symptom of the ultimate failure of the entire system. The adaptation of Australia to sheep husbandry and the growing of wool attracted the English free settler. Brisbane, by concessions in land, induced them to assume the charge and maintenance of convicts,

and this gave rise to the troublesome and dangerous system of assignments. The parties assigned to a planter were known as a "clearing gang." The money paid for their labor was paid to the Government. Since a higher price could be obtained for the better class of convicts as mechanics, only the worst of them went to the clearings and sheep farms.[44]

As the number of emancipists, as those convicts were called who had served their time and had been freed, increased, a problem arose in Australia which had not appeared in America. In America the convicts being few were absorbed in the population. In Australia, on the other hand, because of the danger of the settler being outnumbered by the emancipists, a strong hostility arose among the free emigrants against the discharged convicts. They refused to fraternize with the convicts who had served their time. The distance between the two classes continued to grow wider and a movement arose in Australia to stop transportation. By 1835 this movement was rampant.[45]

The opposition became so violent that the government decided in 1837 to cease assigning convicts to private persons, and in 1840 prohibited the sending of convicts to Australia. Consequently, the convicts were diverted to Van Diemen's Land (now Tasmania).

Even though there was much opposition to transportation, the Imperial Government did not wish to abandon this method of ridding the mother country of her prisoners. Lord Stanley, Secretary of State in 1844, believed that Australia should be maintained for this purpose. Lord Grey also agreed with this and said, "The country is perfectly justified in continuing the practice of transportation in Australia, the colonies being only entitled to ask that, in arrangements in conducting it, their interests and welfare should be consulted as far as possible."[46]

It was at this same time that the home government decided to extend transportation to South Africa. The idea had first been suggested in 1842, but the English and Dutch settlers in the Cape had made it clear that they would not welcome transportation of convicts [47] The Cape inhabitants considered it an insult to the loyalty of the colonists that their "country should be made 'a receptacle' for criminals of any description . . . ."[48] In addition, it was believed that due to the vastness of the land and the sparse population that it would be difficult to maintain an effective police force, and consequently there would be danger to the population.

Nevertheless, the English Government, in September 1848 passed an Order-in-Council declaring the Cape of Good Hope as a place to which convicts could be shipped. However, an anti-convict association had been formed in the Cape, (similar to the one formed in Australia) and when the convict ship "Neptune" arrived, the ship was not allowed to unload the prisoners.[49] The situation was corrected when Lord Grey sent a dispatch directing the prisoners to be sent on to Van Diemen's Land. The "Neptune" sailed to Van Diemen's Land in February 1850. The Order-in-Council was later revoked.[50]

The End of Transportation

Under the Bloody Code, transportation to the colonies had been the main substitute for the death penalty. The Select Committee of 1837 strongly criticized the practice of transportation. Consequently, the system was modified in the following years, but the refusal of one colony after another to accept any more transports brought about the virtual end of transportation by 1852; the last convict ship left England in 1867, and the Gibraltar convict prison, the last refuge of the system, was closed in 1874.[51]

One historian writes:

> Penal history might have taken a different course, if transportation had remained a practical possibility. This was a punishment with a morally less objectionable look to it than hanging, for it had originated as a measure of executive clemency for capital offenders and even after it had developed into a punishment at the disposal of the criminal courts it was still represented as merciful. Though a sentence to exile and force labor, which was what transportation meant, might be for life, it was ordinarily for a fixed term of either fourteen or seven years, so that in most cases the punishment was theoretically no more exterminatory than imprisonment. In practice, however, transported criminals very rarely returned home to plague the community anew, and this was so for two very divergent reasons. On the one hand, there was better than an outside chance that they would not live long enough to complete their sentence. On the other hand, if they did survive the horrors of the long voyage in a convict ship and the likely brutalities of their subsequent servitude, they were eventually given every encouragement to stay put as free settlers and none at all to repatriate themselves.[52]

Transportation in Retrospect

Transportation to the American colonies and plantations was in many ways like the later Australian system. It was economical to the government. The prisoner had to work for the public good; his services were assigned--in America to a settler, later, in

Australia, to the governor. His master had a "property and interest" in his services for the term of his sentence, and had to be compensated if the convict was pardoned earlier, though the latter could buy his freedom if he could afford it. This process was supposed to be a punishment; even so, any persons over fifteen, including minors, who desired employment and were inclined to be transported and enter into services in some of His Majesty's colonies and plantations in America, were specifically allowed to make a contract for their transportation for any period up to eight years. Thus, in America, convict transportation can be considered only as a particular type of indentured labor.[53]

Phillipson states that the result upon the criminals transported to America appears to have been beneficial:

> The system seems to have met, in certain respects, with some success. The new associations, the salutary agricultural labour, the strict supervision exercised, rendering impossible the continuance of vicious, nefarious practices, combined to effect a reformation in the case of even some of those who had before been the most abandoned criminals. Many of them, after the expiration of their term, became farmers and planters on their own account, and came to lead respectable lives, and in some cases even rose to wealth. The natural abilities of thieves, burglars, forgers, false coiners and other clever enemies of society' were

> diverted to simple and more useful purposes; and their labour, especially in Maryland, was found to be such a valuable asset that arrangements were made to convey them without any cost to the government, which had before allowed five pounds a head.[54]

In Australia, the system of transportation economically aided Australian development through the provision of a labor force. Transportation made private investment more profitable and caused very substantial government expenditure in the colonies. A. G. L. Shaw writes:

> For the United Kingdom, transportation at first had seemed a merciful means of getting rid of part of its criminal population; but as crime became a more serious social problem, penal reformers came to stress the need for a severe deterrent punishment. Here transporation failed, partly because it was misunderstood at home, partly because it is hopeless to rely solely on deterrence to get rid of crime. Because of this failure, government opinion slowly turned against it.[55]

Finally, it is important to point out that the practice of transportation served as an essential means of punishment at a time when the unreformed gaols made long terms of imprisonment virtually impossible.[56] Until the outbreak of the Revolutionary War the American colonies had received the banished criminals of England; but, after 1776 America was superseded by Australia. It is apparent that there was little need for a prison system during the period of active transportation when

England had colonies willing to receive convict labor. During the years of transportation, the jails in England were used chiefly for the detention of those accused of crimes who were awaiting their trial. Consequently, the majority of those confined in the prisons were primarily debtors and political and religious offenders.[57]

Rusche and Kirchheimer in their book Punishment and Social Structure give an excellent summation of the English system of transportation. They write:

> The history of English transportation gives us a clear and straightforward picture of the effects of changing social and economic conditions on criminal policy. The starting point was the impossibility of accommodating the increasing number of criminals in the existing prisons at a time when the labor market was oversupplied. If they were not to be executed, a policy opposed by prevailing population theories even before humanitarian principles made themselves felt, the only way to dispose of them was to banish them from the country. For a time, this solution coincided with the need for labor power in the colonies. But American conditions had already demonstrated the limited possibilities of absorbing convict labor. The colonial economic system made its continuance impossible long before political conditions finally put an end to transportation. In New South Wales and Van Diemen's Land it was shown that convict labor with financial assistance from the mother country was a possible foundation for further development, but that convict labor could not compete with free labor the moment the latter began to assume appreciable proportions.[58]

To conclude this chapter, I would like to quote Leonard Orland who states in his book Prisons: Houses of Darkness what effect transportation had upon the American criminal justice system as it specifically relates to the correctional system. As I have said this is just a concluding remark, for in order to discuss this outgrowth further, another paper would have to be written. Mr. Orland writes that just

> . . . as the early English law had sent its lawbreakers into the forest to live as outlaws, later, seafaring English merchants banished their felons to new and larger wildernesses. Ironically, it was from this innovation, the practical economic notion of populating colonies with society's outcasts, that the modern penitentiary grew. For, in fact, it was the American descendants of those transported pariahs who created still another place to which society could sent its rejects, what we now call the prison and what they called "the penitentiary."[59]

CHAPTER III: FOOTNOTES

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3. Ibid.

4. Ibid.

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9. Ibid., 140-141.

10. Ibid.

11. Harry E. Barnes, The Study of Punishment: A Record of Man's Inhumanity to Man, Montclair, New Jersey: Patterson Smith, 1972, 68.

12. L.L. Robson, The Convict Settler of Australia: An Enquiry into the Origin and Character of the Convicts Transported to New South Wales and Van Diemen's Land 1787-1852, Melbourne: Melbourne University Press, 1965, 5.

13. Gillin, op. cit., 366.

14. Barnes, op. cit., 68-69.

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26. Gillin, op. cit., 371.

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28. Ibid., 5-6.

29. Abbott E. Smith, Convicts in Bondage: White Servitude and Convict Labor in America, 1607-1776, Gloucester, Massachusetts: Peter Smith, 1965, 123-124.

30. George Ives, A History of Penal Methods: Criminals, Witches, Lunatics, London: Stanley Paul and Company, 1914, 124.

31. Gillin, op. cit., 371.

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CHAPTER IV

SAMPLING IN HISTORICAL RESEARCH: AN ANALYSIS OF TWO STUDIES

In the preceding chapter a brief overview of transportation as punishment in England was presented. The purpose of this chapter is to examine two studies pertaining to transportation and the convicts transported to Australia. The first is for the entire period of transportation and the second study discusses only the first four year period (1788-1792). The first, L.L. Robson's The Convict Settlers of Australia: An Enquiry into the Origin and Character of the Convicts transported to New South Wales and Van Diemen's Land 1787-1852 is important to the field of social history since it employs quantitative techniques to provide answers to important historical questions. The second study to be examined, John Cobley's The Convicts: 1788-1792, is important to the social historian because it is an example of how sampling techniques can be misunderstood. Both these studies are important because they reflect the historian using social scientific techniques to historical questions.

R.S. Schofield in "Sampling in Historical Research," indicates that in some fields of history, e.g., family history, migration studies, and studies necessitating the interpretation of criminal statistics, "the quantity of evidence is so overwhelming that it would take an unacceptably long time to assess every item fully."[1] Therefore, he continues, "the usual strategy adopted in the face of an unmanageable quantity of evidence is a narrowing of the scope of the enquiry, in time, in space, or in subject matter."[2] But, he cautions that while in many instances narrowing the scope of inquiry may be an acceptable solution,

> . . . there are occasions when it is an unwelcome one. For example, interest may be precisely in the development of a large area over a long span of time, or the evidence may be quite manageable except for one vital series of documents of gargantuan size which alone would swallow up the time available for research.[3]

However, Schofield reassures the historian that there is an alternative strategy available: sampling. Through sampling, the historian can discover all that is needed to be known by examining only part of the evidence; furthermore, sampling can radically reduce the amount of time required to complete the research. Importantly, sampling allows the historian to conduct research projects which would otherwise have been

impossible, and the range of historical research can be extended by considering further evidence, or the depth by reflecting longer on the evidence of the research.[4] The feasibility of sampling in any particular instance, Schofield maintains, clearly depends on how evenly information which is relevant to the research is spread amongst the documents to be sampled, and if relevant information occurs in only a few documents, sampling is clearly inappropriate. On the other hand, if every document contains relevant information, and interest is centered on the typical rather than on the bizarre, then sampling will provide an acceptable summary of the evidence with an expenditure of only a fraction of the time and effort that a full perusal would entail.[5]

In this chapter, a discussion of two historical studies both using sampling techniques to describe characteristics of the convict population transported to Australia will be presented to illustrate how sampling can be applied to history.

The two studies are based on the same evidence. L.L. Robson researcher and author of the first study to be discussed relates the following information pertaining to the records he examined, and how he derived his sampling method for his study entitled

The Convict Settlers of Australia: An Enquiry Into the Origin and Character of the Convicts transported to New South Wales and Van Diemen's Land 1787-1852.

> Australia is possibly the only nation in the world for which there exists a comprehensive record of a large proportion of the first settlers, both free and bond, because New South Wales and Van Diemen's Land were administered as virtual police states in the first years of their settlement, and thus it is not surprising that dossiers of one sort or another formed a large proportion of records, and that convict administration occupied much of the attention of the early governors.[6]

Robson's data was sampled from complete population lists, consequently his sampling could be effectively conducted. Regarding his documents, Robson states:

> The principal relevant documents are in the Public Record Office, London, among the Home Office papers. These records, which are the transportation registers, list the name of the convict, place and date of conviction, and period for which transported, and are apparently complete except in the case of the felons on the first Fleet, which left England in 1787. Fortunately there is in the public records a list of prisoners on that fleet, and although it has been claimed that this is not complete the numbers reckoned to be missing are no more than twenty.[7]

Robson further checked the completeness of these registers by primarily noting the despatches of the various governors of the colonies, since the chief executives recorded the arrival of convict vessels, and

the number on board. These records, allowing for deaths on the way out, agree with the Home Office lists very closely in general, and exactly in the great majority of cases. Secondly, examination of the Blue Books disclosed a high degree of agreement, and thirdly, a publication listing all the convict vessels from Britain, with the details of numbers, also agrees very closely with Home Office documents.[8]

Robson's population was very large (147,580) and consequently it was very difficult to draw a random sample, since it is necessary at some stage to assign a number to each item in order to have a random sample. Therefore, in order to simplify sampling, a systematic sample of every twentieth convict was taken from a total list based on Home Office 11 documents and the indentures and associated documents.[9] Consequently, Robson's sample was comprised of 6,131 male convicts and 1,248 female convicts for a total sample of 7,379. It is important to remember that the sample is one of 5 per cent, and therefore an indication of the true totals would be obtained by multiplying by twenty.[10]

After drawing his sample, Robson recorded the data on punched cards, and he reassures us that "from various sources, the variables in the survey were completed as far as possible, and then coded on to the punched cards,

which were counted, and totals drawn up for the categories distinguished.[11]

Robson's findings in general are:

> Approximately 123,000 men and 25,000 women were transported to New South Wales and Van Diemen's Land, and 1.8 per cent died on the voyage out.
>
> Most of them (130,000) came after 1815, half were sent out for seven years, and a quarter for life.
>
> Two convicts out of every three were tried in England, about one in three in Ireland, and a few in Scotland and abroad.
>
> The average age was twenty-six years, approximately 75 per cent of the prisoners were single, and nearly all were from the labouring classes.
>
> Certainly one-half, and probably two-thirds, had formerly been punished, usually for forms of theft.
>
> Eight out of every ten were transported for larceny of various kinds.
>
> Two-thirds were Protestants, and one-third Roman Catholic.[12]

John Cobley's study The Convicts: 1788-1792 was limited to convicts transported to New South Wales which embarked from England and Ireland between 1787 and 1792 in order "to annotate the available details of the lives of the "First Colonists."[13]

Cobley's methodology was to use Robson's sample of the convicts embarking in England and Ireland and

arriving in New South Wales between the years 1788 and 1792 inclusive. Cobley states that he used Dr. Robson's sample deliberately, "so that a comparison of his results for the whole of transportation and of the more restricted study of a five year period would be possible."[14]

Cobley checked each name in Dr. Robson's series from the source used and a card was made for each convict. On this card, basic data, such as name (with aliases), sex, age, the place and date of trial, the sentence and the name of the ship in which the convict embarked, were recorded. Cobly added some names (approximately 92),[15] as it was found that Dr. Robson had not sampled the part of the complement of the Lady Juliana which appears only in the Colonial Office Records.[16]

On the cards, in addition, was written any fact recorded about each person up to and including 1792.

Cobley emulated Robson who had systematically sampled every twentieth name from a list of 147,580. Robson's subsequent sample was a total of 7,379. Cobley's population of convicts comprised of those transported beginning with the First Fleet in 1788 to the Fourth Fleet in 1792 totalling 4,973 was sampled by selecting every twentieth name resulting in a sample of 248.

This presents a methodological problem. Cobley states that he used Robson's sample (my emphasis)

of convicts embarking in England and Ireland and arriving in New South Wales between the years 1788-1792 inclusively. Cobley then systematically selected every twentieth person from this sample. Consequently, Cobley is sampling a sample. As stated in an earlier section of this chapter, Robson had systematically selected his sample from the entire convict population of New South Wales and Van Diemen's Land for the entire period of transportation (1787-1852) totalling 147,580 men and women inclusively. Robson believed that by systematically selecting every twentieth name from the lists his sample would be random. In Cobley's project, by sampling Robson's sample, even though he checks the source of each convict's data with the original source, he increases the sampling error by using Robson's sample.

It is important to stress that Robson analyzed a sample of 7,379 from a population of 147,580; Cobley is only analyzing a sample of 248 which he had selected from another sample of 4,973 which he states he derived from Robson's sample. It is not clear whether Cobley selected the 4,973 from Robson's sample of 7,379 or from his population of 147,580. If Cobley selected his sample from Robson's sample of 7,379 by choosing every twentieth name he would

have had a sample of approximately 369. If Cobley selected every twentieth name from Robson's population of 147,580, he would have derived the same sample as Robson had for his study of the entire period of Australian transportation.

It may be speculated, since Cobley does not clearly describe how he actually derived a total number of 4,973, that he used Robson's population of 147,580. By systematically selecting every twentieth name (after first locating the beginning convict that met the characteristics of being in the 1788-1792 period), Cobley could have preceded in this manner until he had a sample number of 4,973. However, his sample would not have been likely to be a strictly one in twenty study, since it is unlikely that every twentieth name that occurred in the sequence would have been a convict that met the requirements for inclusion in Cobley's study.

Finally, after Cobley analyzed his sample, he concluded that the small number of data items due to the incompleteness of the earlier records (i.e., the period 1788-1792) made comparison with Robson's more detailed sample impossible. Perhaps, Cobley could have eliminated this problem by increasing the size of his own sample, or indeed, by analyzing the entire

population of 4,973 (remembering that Robson had interpreted a sample of 7,379).

It is important, however, to note Cobley for the additional descriptive material provided in the appendix of his study including especially the description of the records used and the transcript of a trial from the Old Bailey Sessions papers.

It is unfortunate that Cobley could not compare his findings with the general findings of Robson. Other historians have made assessments concerning the characteristics of the Australian convict population. One historian, A.G.L. Shaw has argued that most convicts, were not innocent victims of an unjust criminal justice system, but instead were unjust victims of urban overcrowding and unemployment, or as Shaw has described them "the ne'er-do-wells from the city slums."[17]

L.L. Robson concludes from his study that the majority of the convicts were young urban thieves. However, his study is more extensive than Shaw's, and he bases his conclusions on a far wider range of descriptive questions, such as: where did the convicts come from? what crimes had they committed, including the one that led to transportation? how many were men and how many were women? how many were English? to which colonies

were they sent? what happened to them when they got there? what further offenses were committed in the colony? how old were they? what were their occupations, their marital status, the length of their sentence, their religion and place of birth? and why did they commit the crime that brought them to Australia?[18] By using quantitative methods, Robson could analyze these questions and provide insights as to why the convicts committed crimes and subsequently were sentenced to transportation.

George Rude has indicated that historians such as the Hammonds (who have also studied the convict population) view the

> convicts as more sinned against than sinning and as victims of a harsh and vindictive criminal code which made little distinction between a murderer and a man convicted of resisting enclosure, stealing a loaf of bread, or taking the elementary precautions to protect himself against the grosser evils of an industrial revolution.[19]

From this chapter, it is evident that the transportation phenomenon has been studied from both the qualitative method and the quantitative method. It is apparent that the quantitative method can provide additional insights to the problem, if the study is conducted in both a reliable and valid manner with the data being selected and coded correctly. The

eclectic approach, therefore, can provide relevant answers that will not only describe the criminal but the society and the criminal justice system of the period as well.

CHAPTER FOUR: FOOTNOTES

1. R. S. Schofield, "Sampling in Historical Research," in Nineteenth-Century Society: Essays in the Use of Quantitative Methods for the Study of Social Data, edited by E.A. Wrigley, Cambridge: Cambridge University Press, 1972, 146.

2. Ibid.

3. Ibid.

4. Ibid.

5. Ibid.

6. L.L. Robson, The Convict Settlers of Australia: An Enquiry into the Origin and Character of the Convicts transported to New South Wales and Van Diemen's Land 1787-1852, Melbourne: Melbourne University Press, 1965, 162.

7. Ibid.

8. Ibid.

9. Ibid., 164.
It is important to state that many estimates have been made of the number of convicts transported to Australia, e.g., the 1812 committee on transportation and the 1837 committee listed totals, as well as Charles Bateson in his study The Convict Ships 1787-1868 (Glasgow, 1959).

10. Ibid., 176.

11. Ibid., 164-165.

12. Ibid., 9.

13. John Cobley, The Convicts: 1788-1792, Surry Hills: The Wentworth Press, 1965, 1.

14. Ibid., 4.

15. Ibid., 55.

16. Ibid., 2

17. A.G.L. Shaw, in Sydney Morning Herald, 29 June 1953, cited in George Rude, Protest and Punishment: The Story of the Social and Political Protesters Transported to Australia 1788-1868, Oxford: Oxford University Press, 1978, 239.

18. George Rude, op. cit., 239-240.

19. Ibid., 238.

CONCLUSIONS

It has been the intent of this thesis to address the three interrelated reasons why little research has been conducted in the fields of criminology and criminal justice: (1) the gargantuan amount of criminal statistics, (2) quantification, and (3) the growth of social history as a subdiscipline of history.

In order to understand these three components, the dilemmas of quantification and computer usage in the field of history were presented in Chapter One. Chapter Two was a description of the subsequent fervor which resulted when the findings of two economic historians who had applied quantification to a traditional interpretation of slavery in America's South were presented in their book Time on the Cross: The Economics of American Negro Slavery. In Chapter Three background information on transportation as punishment in eighteenth and nineteenth century England was presented to serve as an introduction to Chapter Four an analysis of two historical studies which had applied quantification to interpret data describing men and women transported to Australia.

From these four chapters, it is evident that past difficulties experienced by historians concerning

quantitative interpretation of historical questions are beginning to lessen. Consequently, more studies in the fields of criminology and criminal justice are beginning to appear. It is evident that the growth and development of social history has contributed to the interest of historians in the areas of criminology and criminal justice.

Of course, historians have no foolproof solutions to the methodological problems encountered when implementing the techniques of the social scientists. Historians attempt to become familiar with all aspects of the culture of the period they are studying. From this type of investigation, the historian derives "hunches" or intuition pertaining to certain events, ideas, and structures of relationships. The historian tests these "hunches" by further reading and checking the primary sources of the period. (It is important to state that social scientists also follow "hunches" or intuition in their research and follow these "leads" by further reading in the area.) It is important for the criminologist to employ this type of research tool in combination with the quantitative data to permit his study to be more historical in content. As Monkkonen has recommended, researchers conducting studies in criminology and the criminal justice system

must be aware of the period they are studying, careful in their selection of data (being aware of the biases that Monkkonen discusses) and willing to work with colleagues in understanding theoretical and technical problems.[1]

E.J. Hobsbawm has raised the question concerning how much historians, particularly social historians, can derive from social scientists. He writes:

> It is clear that social history has since 1950 been powerfully shaped and stimulated not only by the professional structure of other social sciences, and by their methods and techniques, but also by their questions.[2]

Furthermore, Hobsbawm chides the historians and tells them that social scientists are attempting to do historical research because the historians have failed to provide answers to the questions of the social scientists.[3] As a consequence, he continues, there are now a few social scientists who have made themselves "sufficiently expert in our field to command respect, there are more who have merely applied a few crude mechanical concepts and models."[4] Hobsbawm recommends, therefore, a combined effort by historians and social scientists. He credits the techniques and methods of the social scientists:

> . . . . Given the nature of our sources, we can hardly advance much beyond a combination of the suggestive hypothesis and the apt anecdotal illustration without the techniques for the discovery, the statistical grouping, and handling of large quantities of data, where necessary with the aid of division of research, labor and technological devices, which other social sciences have long developed.[5]

To conclude, it is the recommendation of the author of this present thesis that an eclectic approach be adopted by the historian and the social scientist. This approach would assist in alleviating the serious lack of historical perspective in the fields of criminology and criminal justice. As criminal justice student Jay Berman indicates in his masters thesis:

> There is a serious lack of historical perspective in the field of criminal justice. In a field where new advancements have occurred so rapidly that few of us can forsee where we are going, it would do well for us to consider where we have been. In order to fully understand and appreciate the implications of current conditions and problems, as well as to effectively plan for the future, it is essential to gain a clear insight into the past.[6]

CONCLUSIONS: FOOTNOTES

1. Eric H. Monkkonen, "Systematic Criminal Justice History: Some Suggestions," Journal of Interdisciplinary History, Volume 9, Number 3, Winter 1979, 453-455.

2. E.J. Hobsbawm, "From Social History to the History of Society," Daedalus, Volume 100, Number 1, (Winter 1971), 25.

3. Ibid., 26.

4. Ibid.

5. Ibid., 26-27.

6. Jay S. Berman, Prophets Without Honor: The Wickersham Commission and the Development of American Law Enforcement, A Masters Thesis, Michigan State University, 1973, 6.

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