

Nineteenth-Century Crime and Punishment

4 Volume Set

Edited by
Victor Bailey



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Volume I: Crime and Criminals

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ROUTLEDGE


NINETEENTH-CENTURY
CRIME AND PUNISHMENT



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Volume I
Crime and Criminals

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ABOUT THE EDITOR

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The history of English criminal justice has been my research focus for over forty years, yet a documentary history of the ‘long’ nineteenth century, covering the years from 1776 to 1914, was always likely to be a mite challenging for a single author. It is at such times that one is reminded of the value of the community of historians, whose scholarship is invaluable when ‘quick study’ is required. I have relied heavily on the research of historians Doug Hay and John Beattie, as well as the scholarship of those they so effectively supervised: Simon Devereaux, Allyson May, and Greg Smith. By the same token, this four-volume edifice rests heavily on the research of Peter King, Randy McGowen, David Philips, Marty Wiener, Sean McConville, and Vic Gatrell. Finally, we are all in debt to Robert Shoemaker, Tim Hitchcock, and Clive Emsley for their scholarly direction of the *Old Bailey Proceedings Online*.

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Lecompton, May 2021

GENERAL INTRODUCTION

The administration of criminal justice is the commonest, the most striking, and the most interesting shape, in which the sovereign power of the state manifests itself to the great bulk of its subjects.

James Fitzjames Stephen, 1863¹

Between 1776 and 1914 considerable change occurred in the ways of handling criminality. Eighteenth-century penal theory stressed the need to deter the mass of potential offenders by making a deterrent example of the few; nineteenth-century penal theory talked about ‘reforming’ individual offenders by making them ‘penitent.’ As a result, a ‘Bloody Code’ of capital convictions and executions, the use of the public punishments of whipping and the pillory, and the banishment of criminals to outposts of the British empire were gradually replaced by the silent, sanitary, and disciplinary regime of the penitentiary. This evolution was neither linear nor uncontested. As the present volumes illustrate, there were long-running disagreements, of both a philosophical and practical nature, concerning the rise and fall of the crime rate, the prerogative of mercy, the abolition of the death penalty, the value of the hulks and transportation, and the different regimes of prison discipline. Historical scholarship has explored these contemporary disagreements, assessing what principles of punishment lay behind them, and which principles and practices won out and why.

Why have scholars cared so much about the history of English criminal justice? In part, this is because the records of the criminal courts are one of the few sources which bring to light the mundane activities of ordinary men, women, and children. They are a window into the lives of the poor and marginalized. The trials for theft or infanticide reveal the plight of the domestic servant. Proceedings against food rioters uncover the customary code of popular expectations around food, prices, and markets. Prosecutions for drunkenness or assault illuminate popular habits and leisure activities. Scholars have cared, too, because the criminal justice process is the most explicitly coercive apparatus of the state, as jurist J.F. Stephen declared in the quotation that began this section. The measures used by the state to define, investigate, prosecute, adjudicate, and punish criminals provide important

insight into the jurisprudence of the judiciary, the scope and status of legal discretion, the way criminals have been perceived, and popular attitudes to the law and its enforcement.

The four volumes in this series present introductory essays which embody the latest scholarship on the history of crime and punishment.² These essays illuminate some of the key issues in the field that historians have explored, viz.: How reliable a guide to the trends in crime are the official statistics? How did crime come to be identified exclusively with certain sections of the lower social orders? To what extent did the official statistics, by defining the burden of crime Victorians thought they confronted, determine penal policy? Did criminal law facilitate the exercise of authority by those at the apex of the social hierarchy? Why did conservatives hold on to a personalized orchestration of discretion and mercy and reject the reform vision of visiting every offence with a certain but less severe penalty? Did the late-eighteenth- and early-nineteenth-century reform campaigns mark a decisive watershed in criminal justice policy, or had important changes taken place before the ‘age of reform’? What role was assumed, and with what effect, by those private and official ‘influencers’ or ‘moral entrepreneurs,’ who campaigned to restrict the death penalty, or to introduce the penitentiary? What part was played in penal change by the ‘moral panics’ surrounding the interruption of American transportation in the 1780s, or the end of transportation in the mid-nineteenth century? In the analysis of the rise of the penitentiary, have historians neglected the enduring role of transportation? What impact did the economic transformation we know as the Industrial Revolution have upon changes in the administration and enforcement of criminal law, and in the nature of punishments imposed? How important in the chronology of penal change was the development of state capacities to fund, build, and administer new penal structures?³

It goes without saying that historians have not always seen eye to eye in the answers they provide to these questions. The first historians of crime and punishment offered a narrative of progressive, humanitarian reform. Familiarly known as the Whig view of history, historians of this persuasion explored the archival record for the first traces of those policing, prosecutorial, and penal mechanisms which became the essential structures of the modern system of criminal justice. Whig historians ascribed the campaign that gradually swept away the ‘Bloody Code’ to reformers who were convinced that the threat of capital punishment for crimes short of murder deterred prosecutors from going to law, juries from convicting, and judges from sentencing. Whig historians ascribed the campaign that got rid of the squalid, unreformed gaols to penologists of an evangelical or Utilitarian bent, who argued that prisons should be hygienic places of hard work, spiritual reflection, and adequate diet. Influenced by Italian jurist and philosopher Cesare Beccaria, the reformers sought a system of law that was humane, predictable, and proportionate to the gravity of the crimes committed. The reformers were men of the Enlightenment project, using human reasoning to improve human lives.⁴

Historians of a different persuasion have complicated if not entirely abandoned this Whig narrative.⁵ Where Whigs see humanitarianism as the motive force of change, revisionists see authoritarianism. Where Whigs see hygienic, reforming prisons, revisionists see disciplinary spaces of soul-searching. Where Whigs see the application of rational principles of punishment, revisionists see a class-infused project of bringing order to bear upon the criminal propensities of an industrial and urban workforce. Influenced by modern philosopher Michel Foucault, the scourge of the Enlightenment project, revisionist historians insist that the penitentiary arose due to a retreat from inefficient punishments like torture and public executions, and a shift towards an *idée fixe* of control and surveillance. Between 1780 and 1840, the penitentiary developed in harness with a new compulsion for inspection, expert knowledge, and mechanical discipline – the consuming passion of headstrong prison reformers and practitioners.⁶

What themes are explored in this series of four volumes? To begin with, we need to emphasize that policing is not a principal theme of these volumes. That subject has been treated at length in the six published volumes edited by Paul Lawrence.⁷ Inevitably, there are times when policing impinges upon the themes we do treat, but it is not a subject in its own right. The first volume of the present series is devoted to the subject of crime and criminals. It begins with the official statistics of crime, which saw substantial development over the nineteenth century in scope and content. The Victorians were as aware as we are that there are ‘lies, damned lies, and statistics.’ Indeed, the phrase is mistakenly attributed to Victorian prime minister Benjamin Disraeli. Accordingly, not all the early ‘criminologists’ were convinced that the official statistics were a reliable guide to the trends in crime. Benthamite ‘fixer’ Edwin Chadwick was unwilling to accept the official returns of the number of persons prosecuted or convicted as correct indications of the state of crime. For want of a police force, and given the reluctance of victims to prosecute, a large proportion of the crimes committed were not brought to book. Of course, Chadwick wanted to reveal as much crime as possible, since he wished to scare the public and government into establishing a national police force to combat crime. Other commentators were content to take the official statistics at face value yet still found enough for alarm, linking increased crime and unrest to the concentration of populations in urban and industrial centres. At the collapse of Chartism in the late 1840s and the onset of mid-Victorian prosperity, the incidence of crime and disorder began to abate. By the 1890s, there was overwhelming evidence of a dramatic fall in the crime rate. Historian Vic Gatrell’s survey of this evidence has compellingly revealed how the rates of violent and property crime were declining in the later Victorian years.⁸ At the time, not all agreed that crime was decreasing. Prison chaplain W.D. Morrison was convinced that crime was increasing.⁹ His statistical work left much to be desired, and he had an axe to grind. So determined was he to prove that the prison system was failing, he wished to use an increasing crime rate as a stick with which to beat the prison commission. What cannot be denied, however, is that the official statistics informed the popular and professional judgment that crime was increasing by

leaps and bounds in the first half of the nineteenth century, and in steep decline from the 1870s onwards. In turn, these perceptions influenced much that was proposed and implemented in the realm of criminal justice.

The statistics were an aggregate of many different types of crime and criminal, which attracted their own criminology. These are the years in which the problem of juvenile delinquency was first ‘discovered.’ The chronology of discovery has changed in recent years, from one that focused on the mid-Victorian years, corresponding with the launch of the reformatory school movement, to one that emphasizes a ‘moral panic’ of the late 1810s and early 1820s. Historian Peter King unearthed evidence of a new determination in these years to prosecute children and adolescents and to send them to refuges for the destitute, doubling as early juvenile reformatories.¹⁰ A case in point is the evidence given by judge Stephen Lushington to the 1819 Select Committee on the State of the Gaols, in which he estimated that 8,000 delinquents, many in gangs, supported themselves by “being upon the cross.” Radical author John Wade borrowed evidence from the 1828 Report on the Police of the Metropolis to proclaim that young thieves “form a *caste* of themselves, having their peculiar slang, mode of thinking, habits, and arts of living,”¹¹ an image reinforced not only by Dickens’s ‘artful dodger’ but also by W.A. Miles’s interviews of delinquents, which informed the proposals of more than one parliamentary enquiry into crime, police, and prisons. Female criminals were distinguished by their increasing absence from the nineteenth-century crime figures. In the early nineteenth century, 22 per cent of defendants were women, but this fell to a mere 9 per cent a century later, leading historians Feeley and Little to talk of ‘The Vanishing Female.’¹² The numerical trend briefly reversed itself in mid-century, however, a change of pattern recognized by the *Economist* and Henry Mayhew.¹³ While women participated in the full range of property crime – as the Old Bailey Sessions Papers reveal – discussion tended to focus on the more exclusively female crimes of infanticide and prostitution. Prostitution attracted the most consistent level of attention, from Mayhew’s vivid testimony of a young prostitute at mid-century to the Rev. Merrick’s data on the prostitutes who fetched up in Millbank prison. For a subject mired in heavy moral censure, it is a relief to listen to the personal testimony of Mayhew’s prostitute, and to read Merrick’s comment that the notes he took “represent the statements of the women themselves, and not what I think or have thought about them.”¹⁴

‘Social crime’ is a category created by the modern historian to embrace those criminal acts such as smuggling or wrecking that had the character of collective endeavour or protest and typically enjoyed community support. W.A. Miles wrote of the wrecking that occurred off the Western coast of Cheshire as “that general system of plunder which by custom has been almost considered as a prescriptive right among the dwellers on the coast.”¹⁵ This form of crime was statistically slight and episodic, except in certain regions, yet it has the virtue of raising the important issue of where and how the official rule of law ran. Ethnic crime was less a subject of consistent inquest, with the exception of the contribution of Irish immigrants, than a component of the occasional ‘moral

panic' over the level of crime or a specific category of criminal. London Jews were renowned for fencing stolen goods, embodied for all time in Dickens's Fagin; and in the late 1880s, the 'moral panic' surrounding the Whitechapel murders led to the targeting of the Jew as 'Jack the Ripper,' so much so that the Metropolitan police feared a local pogrom would be the result. Yet the Board of Trade's report on alien immigration in 1894 gave foreign Jews a clean bill of health when it came to crime.¹⁶

The subject which engaged most 'criminologists' was the cause of crime. If in the 'pre-modern' era, 'crime' was defined as a form of personal depravity, from the 1780s onwards it developed a social, aggregative character. For writers like William Mainwaring, chairman of Middlesex Quarter Sessions, and Patrick Colquhoun, metropolitan magistrate, crime was the product of an indigent underclass to be found in London's low neighbourhoods, led astray by alehouses and gaming. Colquhoun's stabs in the dark – for accurate social observation they were not – postulated the existence of a criminal class in London containing 115,000 people (50,000 of whom were living by prostitution) out of a metropolitan population of less than one million. Colquhoun did not carry all before him, however. A 'Citizen of London' thought he had wildly exaggerated the numbers supported by crime, especially the number of prostitutes, and could not accept that the lower orders were more vicious and immoral than other social groups.¹⁷ Yet it proved impossible to shake the association of crime and the urban underclass; once it was axiomatic, it became second nature to talk in terms of a 'criminal class' or subculture.

Sheriff Archibald Alison, from Scottish experience, ascribed crime to a number of different factors: high wages leading to drinking and profligacy; strikes that kept the poor idle; and child labour that emancipated the young from parental control.¹⁸ Crime was linked by other commentators to illiteracy; indeed, one of the longest-running debates having to do with the causes of crime involved the link between crime and education. If a single theme could be said to encompass the differing views on the causes of crime in the early Victorian years, however, it is that of 'moralism,' or the view that crime was the result of the weakness of moral character. This theme had the significant side effect that "blameless poverty or destitution" was relieved of any responsibility for criminality. The 1839 Constabulary Commissioners Report stated that few criminals alleged even temporary distress as a cause of their crime. Yet not all commentators rejected the connection between poverty and crime, and modern historians have confirmed, at least for the first half of the nineteenth century, a close correlation between times of distress and times of high crime rates.¹⁹ If the first half of the nineteenth century was characterized by the belief that crime was rooted in the moral consciousness of the criminal, the second half was characterized by the belief that crime was rooted in the criminal's social environment or in his physical and mental constitution. Influenced by the 'positivist' nostrums of European criminology, English investigators like W.D. Morrison were convinced that "crime is but the offspring of degeneracy and disease."²⁰

We have seen already how the assumption that crime was endemic among the poor had become generally accepted by the 1830s. In earlier decades, under the influence of the French Revolution, the more alarmist of commentators feared that the criminal, pauper, and working poor might well combine to form what the French called “les classes dangereuses.” Our Scottish informant, Sheriff Alison, wrote about “this prodigious and unrestrained increase of crime and depravity among the working classes in the manufacturing districts,” which, he alleged, would so multiply “les classes dangereuses” . . . as, on the first serious political convulsion, may come to endanger the state.”²¹ In fact, fears of a combination of the criminal and labouring poor quickly subsided in English writings, to be replaced by the narrower notion of ‘the criminal classes.’ This notion was firmly in place by mid-century. Thomas Plint in an 1851 publication posited the “theory of a criminal class” in the following terms: “May it not be said of the class that it is *in* the community, but neither *of* it, nor *from* it?”²² For Plint, criminals were members of a pariah tribe, distinct from the working population. Henry Mayhew contributed to the construction of a criminal class both in his evidence to the 1856 Select Committee on Transportation – in which he claimed, “there is a large class, so to speak, which belongs to a criminal race, living in particular districts of society” – and in the life histories of transported convicts who he included in *London Labour and the London Poor*.²³

Historians have generally insisted that ‘the criminal class’ was an artificial construct, serving the interests of those who wanted to believe that habitual criminals were sealed up within the districts they inhabited, known and surveilled by the police force. The reality was probably very different. Few Victorians appreciated this fact, but social investigator Charles Booth did. He portrayed the district of Hoxton as “the leading criminal quarter of London, and indeed of all England . . . ‘Wall off Hoxton,’ it is said, ‘and nine-tenths of the criminals of London would be walled off.’” Booth thought this proportion was exaggerated, but more importantly, he began his social classification of London’s population with the lowest category, Class A, consisting of a mix of “some occasional labourers, street-sellers, loafers, criminals and semi-criminals.” In his house-by-house survey of the blackest streets, moreover, felons, delinquents, and prostitutes lived cheek-by-jowl with the urban working poor.²⁴ This reminds us of Vic Gatrell’s review of Arthur Harding’s *East End Underworld* (1981), in which Gatrell wrote:

The boundaries between the ‘criminal’ and the respectable were as hazy as were the boundaries between Booth’s classes. . . . There was, in short, no sub-cultural boundary in this world between the rough, the criminal, and the rest, which was not a hundred times fudged by ties of neighbourhood, kinship, and occupation.²⁵

Finally, under the influence of a new ‘positivist’ or ‘determinist’ criminology in the later Victorian years, the focus on the ‘criminal classes’ tapered down to that of the ‘born criminal,’ the emblem of the Italian criminologist Cesare Lombroso,

or to a hereditary class of physical and mental degenerates. As early as the mid-1870s, Edmund Du Cane, chairman of the directors of convict prisons, began exploring, with the help of eugenist and psychologist Francis Galton, the hereditary disposition of the criminal class, and the notion of the born criminal. As with the concept of “*les classes dangereuses*,” however, English ‘criminologists’ ultimately rejected the theory of the ‘criminal-ne,’ preferring the construct of a ‘residuum’ of weak-minded and defective individuals, not dissimilar in some ways from Charles Booth’s Class A.

Volume II in the series reveals the contest between the two images and practices of justice at stake in this period. The first was a ‘pre-modern’ justice that focused on the selective targeting of those deemed to be the worst offenders, through a discretionary application of the death penalty. The most striking feature of this judicial system was its reliance upon popular participation. It was the victim of crime, not a public prosecutor, who had to present the case to the magistrate, gather evidence, recompense witnesses, and pay prosecution fees. It was the trial jury that had the latitude to manipulate the verdict and to recommend mercy. It was the crowd standing before pillory or gallows that made public punishments effective or not. The second image was a ‘modern’ justice that sought a less discretionary, more predictable system of sentencing, and a fairer ‘measure for measure’ between crime and punishment. Reformers wished to reduce the degree of discretion in the hands of prosecutors, juries, and judges, above all by pruning if not felling the ‘fatal tree.’ Once the criminal code was shorn of its ‘bloody’ characteristics, it would be possible to introduce a code that provided clear and consistent guidance to the judiciary in their sentencing capacity.

The way in which the English criminal courts managed crime in the late eighteenth and early nineteenth centuries was a function of the ‘pre-modern’ style of justice. French jurist Charles Cottu was fascinated by a number of its features, including the reliance on victims to prosecute criminal cases. Indeed, the early-modern trial was staged as a personal contest between victim and accused, and a chance in particular for jury and judge to gain an overall impression of the character of the accused – for which legal counsel were not required. Over time, however, counsel for both sides were increasingly hired, as the 1799 case of the murder of a Bow Street patrolman illustrates. As for the person who was found guilty, they were looked upon, claimed Cottu, “as singled out by a sort of fatality, to serve as an example to the people, and inspire them with a wholesome terror of the vengeance of the law.”²⁶ In the manipulation that produced these desired effects, the pardon was the crucial instrument.

Cottu was not alone in suggesting that were the death penalty to be rigorously inflicted, “a place of execution in England would become a vast charnel-house, and the whole nation would rise up with one general exclamation of horror.” In the wake of the Gordon Riots in 1780, politician Edmund Burke advised the government to display “firmness and delicacy” by selecting only six for execution: “The sense of justice in men is overloaded and fatigued with a long series of executions, or with such a carnage at once, as rather resembles a massacre, than

a sober execution of the laws.”²⁷ Burke also offered what he considered to be ‘circumstances for mercy,’ including youth, sex, and want of ‘deliberative purpose.’ Historians have added a good deal to Burke’s list by examining the judges’ ‘circuit letters,’ listing the felons they recommended for mercy, and the Judges’ Reports, in response to petitions from family, friends, or employers asking for mercy on behalf of convicts left for execution. In addition to age and sex, as Burke mentioned, pardoning decisions were influenced by the character of the crime (its prevalence or not in the county), the character of the criminal (whether a first offender or recidivist), and the level of remorse. For Lords Greville and Ellenborough, who participated in the Recorder’s Report, where mercy was dispensed in Old Bailey cases, the exercise of the prerogative of mercy suggested a cruel lottery. Yet it would be nearer the truth to say that clemency flowed in ‘principled’ channels – juries and judges leaving to hang only certain kinds of offender: violent criminals (including murderers), recidivists, gang members, and forgers.²⁸

Here, then, was the ‘pre-modern’ judicial system in essence: an extensive body of capital laws, threatening a vast number of offences with the death penalty, alongside an extensive use of the prerogative of mercy. What has become known as ‘the doctrine of maximum severity’ had its theoreticians and defenders, none more so than the Rev. Martin Madan and philosopher William Paley. Madan wanted judges to execute all they convicted, with few exceptions. The severity of the laws, he argued, “is the only *security* we have left us.” Paley had the subtler defence: while capital punishment was assigned to many kinds of different offences, it need be inflicted only upon a few examples of each kind. Capital punishment was the Damocles sword hanging on a thin thread over a large number of offenders; it need fall on only a small number for deterrent efficacy. Paley’s defence was the starting point of Sir Samuel Romilly’s attack on the ‘Bloody Code’ in the first decade of the new century. Romilly underlined the widening disparity between the large numbers of people capitally convicted and the small numbers actually executed, thanks to a pardoning rate of 90 per cent or more, which was nothing more than a judicial lottery. Whoever drew the short straw had every right to feel aggrieved. Romilly pleaded for a reduction of the fat sheath of capital laws, and for rules to direct the exercise of judicial discretion.²⁹

The exercise of the prerogative of mercy, and the conservative resistance to the reform vision of certain and proportionate punishment, were the prompts to one of the most significant discussions among historians about the ‘pre-modern’ system of justice. The first historians in the field accepted contemporary opinion that the lack of an effective police force, alongside the ineffective secondary punishments of imprisonment and transportation, left only the death penalty, in tandem with the prerogative of mercy, to deter criminality. Conservatives clung to capital punishment in default of an effective replacement. This pragmatic interpretation was challenged by a more ideological one, in Douglas Hay’s thesis that England’s social elite relied upon the death penalty and the discretionary trappings of the pardon to reaffirm its class rule.³⁰ An unreformed criminal law, allowing the gentry to manipulate the levels of terror and mercy, was too

valuable to get rid of. This explanation was exactly what the study of crime and justice needed in the 1970s to bring attention to itself. As with all bold theses, of course, the evidence on which it is based has been found wanting in some regards. Above all, elite influence over the pardon process had narrow limits, mercy being distributed less for class benefit than for reasons that had long been thought to guarantee justice.

'Pre-modern' justice was a very public form of justice, and purposely so. The aim was not to respond to each and every legal infraction, but to make memorable examples of a select few, whether by whipping, the pillory, or hanging. Public presence, not to say participation, was at the core of these punishments. An important dimension of the history of these years, however, is the gradual abandonment of bodily punishment, as its deterrent efficacy came into doubt, and its brutalizing effect came under challenge from the likes of Charles Dickens and Henry Mayhew. If the challenge to public execution peaked in the 1840s, its end was not conceded until the 1860s. For long, conservatives saw the condemnation of the public execution as a stalking horse for total abolition. Only when they saw it as a way to save the death penalty were they willing to accept the Capital Punishment within Prisons Act, 1868. Explaining the end of public punishment has stimulated good copy from historians, who have assessed the force of the 'civilizing process,' to use Norbert Elias's term, or the state's desire to exert power over more than a few select offenders, in Michel Foucault's formulation, or the need of the 'squeamish' to hide the horrors of the execution and deprive the crowd of its day of misrule, in Vic Gatrell's assessment.³¹ Whichever explanation satisfies, the fact is that the last expression of corporal punishment was removed from public sight.

By this date, the 'fatal tree' had been heavily pruned; the death penalty was effectively restricted to murder. For its parliamentary leaders, Samuel Romilly and James Mackintosh, the campaign to reform the 'Bloody Code' was a long and arduous one. They were aided by no less a figure than Lord Byron, who in 1812 launched a blistering attack on the government of the day for imposing the death penalty on persons (Luddites) destroying stocking machines in Nottinghamshire:

Is there not blood enough upon your penal code, that more must be poured forth to ascend to Heaven and testify against you? How will you carry the Bill into effect? Can you commit a whole county to their own prisons? Will you erect a gibbet in every field and hang up men like scarecrows?³²

Yet suddenly in the 1830s, the walls came tumbling down. The death penalty was restricted to the crimes of murder, sodomy, burglary with violence, robbery with wounding, and arson of houses with people inside – while executions were carried out only for murder. In 1838–1840, the number sentenced to death was down to 249, from 4,000 a decade earlier; while the number hanged was down to 26, from 178 a decade earlier. The final abolitionist blow failed to win public or parliamentary assent, however; indeed, the mid-century years witnessed a renewed

resistance to abolition via the advocacy of John Stuart Mill and James Fitzjames Stephen.³³

Historians have rightly wondered how Europe's bloodiest code was dismantled in a couple of decades without any marked political fallout. Vic Gatrell believed the capital code simply collapsed under the weight of numbers, of both felony crimes and capital convictions. Only by pardoning over 90 per cent of those sentenced to death could a bloodbath be avoided, but that only underlined the unequal fate of those who drew the short straw in what had become a judicial lottery.³⁴ This explanation contests the notion that humanitarian sensibility was the primary reason for the reduction in penal violence. Yet, we should not lightly disregard the change in public sensibility, nor the impact of the reformers' rhetoric, pitting an aristocratic, personalized, haphazard justice against an impersonal justice of 'certainty and humanity.' The discursive freight of this distinction was especially evident in the parliamentary exchange between Sir James Mackintosh and Sir Robert Peel in 1823.³⁵

Volume II closes with a more wide-ranging attention to the principles of sentencing. The Victorian years were distinguished by a vigorous debate on the disparity in sentences: disparity in the way that crimes of property and crimes of violence were treated by the courts; disparity in the way that the cumulative principle (or longer sentences for prior convictions) was used; and disparity in the sentencing standards of different judges. This all should make us pause before claiming that the nineteenth century saw a smooth transition from a discretionary to a uniform and graduated system of justice. Prison Commissioner Edmund Du Cane, for one, was unconvinced by the way that judges were doling out penal servitude sentences, influenced still by the lengths of transportation sentences, or the 7 times table. Of course, the justices themselves insisted that there was method in their multiplication, claiming, as did Fitzjames Stephen, that there existed among judges "an approach to a customary scale of punishments," or what would in time be called 'the tariff' of punishment.³⁶

Volume III traces the role that the two main secondary penalties, transportation and imprisonment, played in the English penal system. Before 1775 and the outbreak of war with America, the authorities were content to transport the more serious offenders who did not fetch up on the gallows. Some 36,000 men and women were transported to America from England between 1718 and 1775, along with 13,000 from Ireland and 700 from Scotland. Sentencing patterns also suggest, however, that even before the disruption to transportation caused by America, judges were returning with renewed interest to confinement as a form of punishment, especially for non-capital offences against property. However, if the development of imprisonment owed something to the belief that the punishment was valuable in its own right, it owed more to the disruption of the system of transportation. The latter accounted for two-thirds of all sentences at the Old Bailey between 1770 and 1774. This fell sharply to one-third of all sentences in 1775–1779; and to 24 per cent. in 1780–1784. The death penalty took up some of the slack. The percentage of those sentenced to death at the Old Bailey jumped

from 17 in 1770–1774 to 25.8 in 1780–1784. But it was the hulks or floating prisons moored on the river Thames, plus imprisonment, that took up the most slack. Imprisonment at the Old Bailey rose from 2.3 per cent of all sentences in 1770–1774, to 28.6 per cent in 1775–1779, and 34.6 per cent in 1780–1784. In the space of a decade, the entire strategy of eighteenth-century punishment was thrown into question. This was the starting point of a 75-year debate on the merits and demerits of the hulks, the penitentiary, the county and borough prisons, and transportation to Australia, which would ultimately transform the entire penal system. It is this debate which impelled the documents in Volume III, culminating in the opening of Pentonville prison in 1842, the prison that launched the age of the ‘separate system’ of imprisonment.

The crisis of punishment induced by the American war led to the Penitentiary Act of 1779, which allowed the building of two hard labour houses or – the term recommended by jurist Sir William Blackstone – ‘penitentiaries.’ They were to supplement the hulks or floating prisons on the river Thames, and transportation, once the latter resumed. In fact, a site could never be agreed upon, so no national penitentiaries were built. Already, the London and county prisons were full to overflowing, a situation only aggravated by the Gordon Riots in 1780, which destroyed many of the metropolitan gaols, including Newgate. Historians have suggested that the Gordon Riots were only one part of a popular movement of resistance to the structures of criminal justice in the 1780s. As more and more offenders were tried and imprisoned in these years, a confidence arose within prisoner ranks sufficient to challenge the Old Bailey judges, especially when they started transporting offenders to Australia after 1787.³⁷

Those sentenced to transportation were first sent to the hulks. Few of those sentenced to seven years’ transportation or less ever saw Australia. They served their entire sentence, or the portion that was deemed necessary, in the hulks. The hulks became renowned for escapes, mutinies, and death from diseases and were subject to a constant stream of critical reports. For want of an alternative, however, they survived until mid-century. As for the 163,000 men and women transported between 1787 and 1868, they have been assessed differently by different generations of historians. The first historians described them as confirmed prostitutes, ‘artful dodgers,’ and habitual thieves. More recently, historians have described a much less hardened group of offenders, more akin to an urban proletariat than a *lumpenproletariat*.³⁸ For the entire half century of transportation to the Antipodes, one parliamentary enquiry after the next found little to say in support of the penalty, and much to lambast. Often in the same report, if drawing upon the evidence of different witnesses, transportation was described as a form of slavery, as a deterrent to hardened criminals, as insufficiently deterrent, and as an inducement to crime for the fresh start it provided. Yet however insistent the criticism, transportation was a secondary penalty of central and enduring importance in the penal armoury of the English state. It is regrettable that it has been given such short shrift by historians in their account of the transformation of punishment between 1780 and 1850. The rise of the penitentiary was an important feature of

this transformation, but its history is incomplete without reference to transportation's parallel presence as a secondary penal sanction.³⁹

If there is one penal institution that has stolen the show, at least among historians, despite the fact that it was never built, it is Jeremy Bentham's design for the Panopticon. This is because it was exhibit A in Foucault's indictment of penitential discipline. The architecture said it all. Prisoners in their cells lined the walls of the prison rotunda; the inspector in the centre, with a sightline to every cell, was invisible to the prisoners. What better design could one have for the 'all seeing' penitentiary, and for marking a new epoch in human discipline. Except, Bentham's prison was not the silent sanctuary for penitents that Foucault evokes; it was an industrial prison, run on profit-making lines, with the gaoler taking his cut of the profits. For that reason, it never commanded the support of reformers who wished to make prisons sepulchres of silence. By now, so much intellectual capital has been staked on the Panopticon, it is never likely to lose its central, though purely symbolic, position in the rise of the penitentiary. What was actually built was the hybrid penitentiary at Millbank – part cellular confinement, part industrial prison. It turned into a nightmare, plagued by prisoner riots, suicides, and disease. The best that could be done was to convert it into a cog of the transportation machine.

The significant debate took place elsewhere, around the design and construction of the county and borough prisons from the 1820s onwards. There were a number of different reform ideas, each with its champion: the industrial prison (Rev. John Clay), the treadwheel prison (Sydney Smith), the Christian reformatory (Elizabeth Fry), the 'moral hospital' (Matthew Davenport Hill), and the 'mark system' prison (Alexander Maconochie). The main polemical battle took place, however, in the 1830s and 1840s over the 'silent' and 'separate' systems of prison discipline. The 'silent' or 'silent associated' system sought to prohibit all intercourse by word of mouth among prisoners, as they sat together picking oakum or treading the wheel, or as they bunked down in the dormitory. A large body of staff was required to prevent prisoners from communicating with each other. The 'separate system' confined each prisoner in a cell, which became his workshop by day, his bedroom by night. The object was to prevent intercourse with other prisoners, but to compel each prisoner to hold communion with himself, since such self-reflection was the precursor of moral amendment. Both prison systems were open to scrutiny in the United States. Prison inspector and evangelical William Crawford visited the New York prisons of Auburn and Sing Sing, where the silent system prevailed, and the Eastern Penitentiary in Philadelphia, which had installed the separate system. He returned singing the praises of solitary confinement as a powerful agent in the reformation of morals, preparing the mind for receiving the truths of Christianity.⁴⁰ As prison inspector, Crawford was well placed to translate the separate system of prison discipline into government policy. Not even the blistering attack on solitary confinement by Charles Dickens, who also visited the Eastern Penitentiary, could stem the tide of the separate system.⁴¹

Pentonville, the so-called Model Prison, opened in 1842. It wasn't the Panopticon, but it had features in common. Four wings of tiered cells radiated out from a central point, from which, it was claimed, each cell could be observed. Each prisoner was held in cellular confinement for 18 months, "driven to reflection," as Joseph Kingsmill, Pentonville's first assistant chaplain, explained, "while their hitherto dormant or untaught conscience is aroused and enlightened by the Word of God."⁴² Crawford had come across a few insane prisoners in Philadelphia, but he insisted they were so afflicted before entering the penitentiary. It took only a few years, however, for Pentonville to be accused of causing greater insanity in their prisoners than in the national prison population. Even Joshua Jebb, surveyor-general of prisons, who was instrumental in the Model Prison's design, began to worry about the toxic influence of long periods of separate confinement. By 1849, 'separation' was down to 12 months (in 1853 it was reduced to 9 months). Historians have declared Pentonville to be the acme of penitential discipline, the template for penal change throughout the country. In fact, few prisons were closely modelled on Pentonville, despite official claims to the contrary. The declaration that Pentonville was the new secondary penalty incarnate is less than ringing, in view of the fact that the prison was always intended as the first stage of the convict transportation system. Finally, the messianic phase of 'separation' was short lived. It soon lost its lustre and was eventually downgraded to the deterrent opening to penal servitude or imprisonment with hard labour.

Volume IV takes the assessment of penal policy and practice from the mid-Victorian years, when the end of transportation and the release of convicts on 'tickets-of-leave' at home sent the country into panic, to the first serious scrutiny in the late Victorian years of the regime and results of what was by then a national prison system. By the 1850s, colonial opposition to the transportation of convicts, plus the widespread loss of faith in banishment, meant the country's 'dirty laundry' had to be washed at home. Many were the articles, such as the one by W.R. Greg, exploring how best to dispose of those hardened criminals who had long been out of sight and out of mind.⁴³ A revolt of convicts at Chatham prison in 1861, and an outbreak of robbery with violence in London in 1862, fuelled the incipient fears of releasing ticket-of-leave convicts into domestic society, leading some in positions of influence, like Lord Carnarvon, to call for a revival of transportation. In these panic-stricken circumstances, Joshua Jebb, chairman of the directors of convict prisons, set about shaping a convict regime for those sentenced to penal servitude, composed of separate confinement, public works, and release on licence.

Jebb had a hard time initially keeping the public and press onside, while at the same time pacifying convicts with different kinds of sentence (some to transportation, some to penal servitude) and different kinds of sentence remission. Some convicts, especially the women in Brixton, even felt cheated out of transportation to a new life in Australia. It was not long before government fell back on the usual resort, the parliamentary enquiry. The 1863 Report of the Commissioners appointed to enquire into the Operation of the Acts relating to Transportation and Penal Servitude concluded that penal servitude was dreaded neither by those who

had served it nor by the criminal classes. Legislation a year later increased the minimum penal servitude sentence to five years, and to seven years for those with a prior felony conviction. The Act of 1864 also provided for tighter police supervision of ticket-of-leave men. During these years, Jebb found himself at odds with Walter Crofton, the former chairman of the board of directors of Irish convict prisons, over the stages of convict discipline. In truth, little separated the two prison systems, but Crofton played up the merits of Irish example, notably the mark system of progressive stages, and the intermediate stage in which convicts were prepared for release. Crofton also pulled strings in the Social Science Association on behalf of laws to surveil habitual criminals after release.⁴⁴

The reformatory spirit, having departed the convict and local prisons, sought to inhabit institutions for juvenile delinquents. Inspector of prisons William Crawford, in his report on American prisons, had recommended a penitentiary for juveniles. In 1838, Parkhurst boys' prison opened. It received boys sentenced to transportation, who were in Parkhurst for two to three years before being sent to Australia. Parkhurst was little advance on a convict prison, renowned for harsh discipline, poor diet, and inadequate training. A more influential model was the *Colonie Agricole* at Mettray, opened in 1840, whose reformatory principles a number of English philanthropists extolled. In the 1850s, finally, legislation underwrote the creation of privately run, government-supervised reformatory and industrial schools, the one for convicted, the other for potential delinquents. These institutions were lauded as a progressive step, diverting juveniles from the prisons to reformatory schools on semi-indeterminate sentences for moral and industrial training. Yet, a period of imprisonment before transfer to a reformatory school was enforced, and the proportion of delinquents sent to these schools was always small.

Meanwhile, the convict prisons, and after 1878 the local prisons, under the suzerainty of prison czar Edmund Du Cane, hardened into rigidly uniform and highly deterrent institutions, increasingly walled off from public scrutiny. Apart from those inmates who occasionally challenged the regime and remission regulations of the prisons, the only part-way effective protest against prison conditions came from prisoners who were incarcerated for 'political' offences. The Radicals in the 1790s and 1820s, the Chartists in the 1840s, the Irish Fenians in the 1860s, and the Suffragettes in the 1910s all raised the issue of the status and treatment of political prisoners and publicized, in limited ways, the degrading lot of the ordinary prisoner. Their influence enlarged through the Victorian years, for whatever reason. The Chartists, hundreds of whom were imprisoned, were interviewed at length by the prison inspectors, but none thought to include prison reform in their manifesto. The Irish Fenians were more effective as prison reformers, notably Michael Davitt and Wilfred Scawen Blunt, and the Suffragettes brought attention to ordinary prison conditions as well as their own politics. The most influential political prisoners, though beyond our time frame, were those who refused military service during the First World War, whose evidence and advocacy led to material changes in prison conditions in the 1920s. There is perhaps no more

vivid condemnation of the prison regime than the one penned by socialist Arthur Creech Jones in Wandsworth prison during the war.⁴⁵

In the last decade of the century, in the context of a decline in crime and prison populations, a more serious challenge to the prisons emerged from within and without the penal system. This culminated in the Departmental (or Gladstone) Committee on Prisons of 1894, which to this day, despite its mundane report and recommendations, is seen as a watershed document in penal policy. Two new paths were marked out by Gladstone: one was the use of longer, even indeterminate, sentences for habitual-cum-professional and young adult offenders; the second was the removal of certain categories of prisoner – inebriates, vagrants, prostitutes, and the ‘weakminded’ – from the orbit of what Home Secretary Winston Churchill called in 1910, “the general mixed prison.” The turn to long or indeterminate custodial sentences was in line with the credo of the ‘positivists’ or European criminologists, who had less interest in the crime than in the criminal. The extra time allowed by such sentences would make it possible to examine the physical and mental constitution of the criminal, without which no reform would succeed, and also to promote the social defence of the community by long if not permanent incarceration of the inveterate criminal.

The other wing of the positivist manifesto was to remove from the prison those categories of offender who were unfitted for, or unchanged by, the regime of ‘hard labour, hard fare and a hard bed.’ For inebriates, there was the inebriate reformatory; for vagrants, the idea of the labour camp; for prostitutes, the refuge for domestic training and moral education; for the ‘weakminded,’ the mentally deficient asylum. If these new institutions were intended as the foundation of a ‘modern penal complex,’ they failed miserably. They all withered on the vine. A much more promising reform initiative came from Winston Churchill, who as Home Secretary in 1910–1911 prodded his officers to think through a set of measures he had in mind that, if installed, would have resulted in a vast abatement of the number of short prison sentences. It would have emptied the prisons of fine defaulters, drunks, vagrants, and prostitutes, a transformation that did not occur until the war and post-war years.⁴⁶

Another legacy of the challenge to the Victorian prison system was the reduction, if not yet demise, of the solitary or separate confinement phase of a sentence both of penal servitude and imprisonment. Playwright John Galsworthy used his literary reputation to persuade Liberal Home Secretaries Gladstone and Churchill to abandon separate confinement altogether. Galsworthy failed to get their agreement to complete abolition, but he achieved a reduction in the length of separate confinement, thereby striking a further telling blow at what had been the initial *raison d’être* of the penitentiary: separate, cellular confinement.

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It remains only to say that the selection of documents is determined by an approach which emphasizes change in penal policy and practice across the long nineteenth

century. The English equivalent of Rip Van Winkle – nodding off in 1776, waking up a century later – would have been surprised to learn that no crowds watched public whippings or hangings, that no thieves were shipped off to America, and that those sentenced to imprisonment, very few of whom were now sent for debt, were held in stone behemoths on the outskirts of the city. The documents serve a number of purposes: to revisit the contemporary debates concerning crime and punishment; to reveal the responses to moments of rupture such as the cessation of transportation; to uncover the agency on the part of transportees and convicts too often ignored by incessant talk of Panopticon discipline.

The documents were also chosen for their relative scarcity in modern print form. Texts that are easier to access are often referenced within the introductory essays and headnotes but are not included in the volumes. We have included a few texts that are less difficult to find, such as William Paley’s chapter “Of Crimes and Punishments” in *The Principles of Moral and Political Philosophy*, or Charles Dickens’s chapter on the Philadelphia Penitentiary in *American Notes*, because either they are important to understanding other documents in the collection, or they are vital to maintaining the storyline of the volume. In addition, we have included a number of articles from periodicals of the time, even though some of these are available in digitized collections. The latter are often available, however, only in major research libraries, and the individual articles are not always easy to locate in the vast digital collection of which they are part. Occasionally, we illustrate the point we wish to make by the inclusion of a small number of shorter extracts. Local as well as national sources have been used, as regional variation is an important theme in penal policy, and an attempt should always be made to escape the focus upon London that so much source material has. Every effort has been made to reproduce these texts, whether in print or manuscript form, as closely as possible to the originals. Original spelling, capitalization and punctuation have been retained, except where, in pre-1800 texts, the long ‘s’ was used. We have invariably replaced the long ‘s’ with a short ‘s.’ Original pagination is indicated by the inclusion of (/) within the text at the exact point of the original page break. Any sections omitted from the text are indicated by ellipses (. . .). Any other editorial interventions are contained within square brackets.

The authors of the documents were the penal philosophers who defended the ‘pre-modern’ regime of justice or promoted a reformed version; the Lord Chancellors and Lord Chief Justices who bestrode the legal system; the magistrates and judges who actively enforced the law; the Home Secretaries and mandarins responsible for national law and order; the prison inspectors and directors of the national prison estate who shaped policy and practice; the reformers and ‘moral entrepreneurs’ who sought to steer the direction of penal policy; the maiden ‘criminologists’ who discovered ‘delinquency,’ the ‘criminal classes,’ and the ‘born criminal’; the political prisoners who pulled back the curtain on prison conditions; and literary figures who crusaded for penal change or burst the bubble of penal innovation. Many, if not most, of these authors either had an axe to grind or

brought a reform agenda to their assessment of particular penal initiatives, which is made clear in the headnote to each document.

Notes

- 1 J.F. Stephen, *A General View of the Criminal Law of England* (1863), in which he sought to provide the layman with a general account of the workings and principles of English criminal law. (Throughout the Notes and Bibliography in these volumes, the place of publication is London unless otherwise given.)
- 2 Since the publication of my own bibliographical essay, "Crime, Criminal Justice and Authority in England," *Bulletin of the Society for the Study of Labour History*, vol. 40 (1980), pp. 36–46, there have been many more surveys of the historiography of criminal justice history. See D. Hay, "Crime and Justice in Eighteenth- and Nineteenth-Century England," in N. Morris and M. Tonry (eds.), *Crime and Justice: an Annual Review of Research*, vol. 2 (Chicago, 1980); J. Innes and J. Styles, "The Crime Wave: Recent Writings on Crime and Criminal Justice in the Eighteenth Century," *Journal of British Studies*, vol. 25 (1986), pp. 380–435; P. King, "Locating Histories of Crime: Bibliographical Study," *British Journal of Criminology*, vol. 39 (1999), pp. 161–174; C. Emsley, "Filling In, Adding Up, Moving On: Criminal Justice History," *Crime, History and Societies*, vol. 9 (2005), pp. 117–138; B.P. Smith, "English Criminal Justice Administration, 1650–1850: A Historiographic Essay," *Law and History Review*, vol. 25 (2007).
- 3 In addition to the historiographical essays cited, a number of general histories have appeared which also examine the key issues in criminal justice history. See C. Emsley, *Crime and Society in England 1750–1900* (1987, 3rd ed. 2005); J.A. Sharpe, *Judicial Punishment in England* (1990); D. Taylor, *Crime, Policing and Punishment in England, 1750–1914* (1998); P. Rawlings, *Crime and Power: A History of Criminal Justice 1688–1998* (1999); H. Johnston, *Crime in England 1815–1880* (2015); B.S. Godfrey and P. Lawrence, *Crime and Justice since 1750* (2015); D.D. Gray, *Crime, Policing and Punishment in England, 1660–1914* (2016).
- 4 The prime example of the Whig view of criminal justice history has become Sir Leon Radzinowicz's *A History of English Criminal Law and Its Administration from 1750*, 5 vols. (1948–1986). The first sentence of the preface to the first volume, 'The Movement for Reform,' rather ensured its Whig designation: "Lord Macaulay's generalization that the history of England is the history of progress is as true of the criminal law of this country as of the other social institutions of which it is a part." Yet Radzinowicz's volumes are far from being an uncomplicated march to the present system of criminal justice; they are a judicious, shrewd, and ironic assessment of developments in policing and punishment. For a more balanced appraisal of the first four volumes (if critical of the fourth), see E.P. Thompson, "Law as Part of a Culture," *Times Literary Supplement*, April 24, 1969. Full disclosure requires me to say that I worked as a research officer on the fifth volume of the series, "The Emergence of Penal Policy."
- 5 See D. Philips, "'A Just Measure of Crime, Authority, Hunters and Blue Locusts': The 'Revisionist' Social History of Crime and the Law in Britain, 1780–1850," in S. Cohen and A. Scull (eds.), *Social Control and the State* (Oxford, 1985), pp. 50–74.
- 6 M. Foucault, *Discipline and Punish: The Birth of the Prison* (1977); M. Ignatieff, *A Just Measure of Pain: The Penitentiary in the Industrial Revolution 1750–1850* (1978). For a robust auto-critique, and an important contribution to the origins of the penitentiary, see M. Ignatieff, "State, Civil Society and Total Institutions: A Critique of Recent Social Histories of Punishment," in N. Morris and M. Tonry (eds.), *Crime and Justice: An Annual Review of Research*, vol. 3 (Chicago, 1980), pp. 153–191. For a revision of the revisionists, or at least a critique of the assumption of both Whig and revisionist

- historians that the state ineluctably assumed dominion over criminal justice, see D. Churchill, "Rethinking the State Monopolisation Thesis: The Historiography of Policing and Criminal Justice in Nineteenth-Century England," *Crime, History and Societies*, vol. 18 (2014), pp. 131–152.
- 7 P. Lawrence, *The Making of the Modern Police, 1780–1914*, 6 vols. (2014).
 - 8 V.A.C. Gatrell, "The Decline of Theft and Violence in Victorian and Edwardian England," in V.A.C. Gatrell et al. (eds.), *Crime and the Law: The Social History of Crime in Western Europe since 1500* (1980), pp. 238–364.
 - 9 W.D. Morrison, "The Increase of Crime," *Nineteenth Century*, vol. 31 (1892), pp. 950–957.
 - 10 P. King, "The Rise of Juvenile Delinquency in England 1780–1840: Changing Patterns of Perception and Prosecution," *Past & Present*, vol. 160 (1998), pp. 116–166.
 - 11 J. Wade, *Treatise on the Police and Crimes of the Metropolis* (1829), pp. 158–163, emphasis in original
 - 12 M.M. Feeley and D.L. Little, "The Vanishing Female: The Decline of Women in the Criminal Process, 1687–1912," *Law and Society Review*, vol. 25 (1991), pp. 719–758.
 - 13 Anon., "The Statistics of Female Crime," *Economist*, 11 Sept. 1858, pp. 1010–1011; H. Mayhew and J. Binny, *The Criminal Prisons of London* (1862), pp. 457–459.
 - 14 G.P. Merrick (chaplain, Millbank Prison), *Work Among the Fallen as Seen in the Prison Cell* (1890), pp. 19–20, 25–33, 38–40.
 - 15 W.A. Miles's letter to the Commissioners of the Constabulary Force, c. 1837, in H. Brandon (ed.), *Poverty, Mendicity and Crime* (1839), pp. 74–79.
 - 16 Board of Trade (Alien Immigration), "Reports on the Volume and Effects of Recent Immigration from Eastern Europe Into the U.K.," 1894 [C.-7406], pp. 60–62.
 - 17 *An Address to the Grand Jury of the County of Middlesex, at the General Session of the Peace holden at the County Session-House, on Monday the 12th of September, 1785 by William Mainwaring, Chairman of the Sessions* (1785); P. Colquhoun, *A Treatise on the Police of the Metropolis*, 5th ed. (1797), pp. 32–41; *Observations on a Late Publication: Intituled A Treatise on the Police of the Metropolis, By P. Colquhoun, By a Citizen of London: But No Magistrate* (1800).
 - 18 A. Alison, "Causes of the Increase of Crime," *Blackwood's Edinburgh Magazine*, vol. 56 (1844), pp. 1–14.
 - 19 V.A.C. Gatrell and T.B. Hadden, "Criminal Statistics and Their Interpretation," in E.A. Wrigley (ed.), *Nineteenth-Century Society* (Cambridge, 1972), p. 368.
 - 20 W.D. Morrison, "The Study of Crime," *Mind*, vol. 1 (1892), pp. 503–515.
 - 21 Alison, "Causes of the Increase of Crime," pp. 2, 12.
 - 22 T. Plint, *Crime in England, Its Relation, Character, and Extent* (1851), pp. 144–154, emphasis in original.
 - 23 "Select Committee on Transportation" [17], *Parliamentary Papers*, 1856, vol. 17, qq. 3488–3489; 3531–3538.
 - 24 C. Booth, *Life and Labour of the People in London* (1902), 1st series, *Poverty*, vol. 1, pp. 7–13.
 - 25 *Criminal Justice History* (1982), pp. 166–167.
 - 26 C. Cottu, *On the Administration of Criminal Justice in England* (1822), pp. 24–27; 29–30; 33–35; 37–39.
 - 27 E. Burke, "Some Thoughts on the Approaching Executions", *Works*, vol. 5 (Boston, 1839), pp. 197–203.
 - 28 See P. King, *Crime, Justice, and Discretion in England 1740–1820* (Oxford, 2003), p. 332.
 - 29 M. Madan, *Appendix to "Thoughts on Executive Justice" Occasioned by a Charge to the Grand Jury for the County of Surrey, at the Lent Assizes, 1785, by the Hon. Sir Richard Perryn* (emphasis in original); W. Paley, "Of Crimes and Punishments," in *The*

- Principles of Moral and Political Philosophy* (1785), pp. 373–393; S. Romilly, *Observations on the Criminal Law of England as It Relates to Capital Punishments* (1810).
- 30 D. Hay, “Property, Authority and the Criminal Law,” in D. Hay, et al. (eds.), *Albion’s Fatal Tree* (1975).
- 31 N. Elias, *The Civilizing Process: The History of Manners and State Formation and Civilization* (Oxford, 1997); Foucault, *Discipline and Punish*; V.A.C. Gattrell, *The Hanging Tree: Execution and the English People 1770–1868* (Oxford, 1994).
- 32 *Hansard* (Lords), 27 Feb. 1812, cols. 966–972.
- 33 J.F. Stephen, “Capital Punishments,” *Fraser’s Magazine*, vol. 69 (1864), pp. 753–764. For Mill, see G. Ezorsky (ed.), *Philosophical Perspectives on Punishment* (Albany, 2015), pp. 208–215.
- 34 Gattrell, *The Hanging Tree*.
- 35 *Hansard*, vol. 9, 21 May 1823, cols. 408–411; 421–424.
- 36 For Du Cane, see TNA, HO45/18479/565861; J. F. Stephen, “Variations in the Punishment of Crime,” *Nineteenth Century*, vol. XVII (1885), pp. 755–776.
- 37 T. Hitchcock and R. Shoemaker, *London Lives: Poverty, Crime and the Making of a Modern City, 1690–1800* (Cambridge, 2015), ch. 7.
- 38 See L.L. Robson, *The Convict Settlers of Australia, 1787–1852* (Melbourne, 1965), ch. 4; S. Nicholas (ed.), *Convict Workers: Reinterpreting Australia’s Past* (Cambridge, 1988), chs. 1 and 6.
- 39 See the important article by J.J. Willis, “Transportation versus Imprisonment in Eighteenth- and Nineteenth-Century Britain: Penal Power, Liberty, and the State,” *Law and Society Review*, vol. 39 (2005), 171–203.
- 40 “Report of William Crawford, on the Penitentiaries of the United States,” *Parliamentary Papers*, 1834 (593), vol. 46, pp. 10–16; 27–40.
- 41 Charles Dickens, *American Notes* (1842).
- 42 Quoted in Henriques, “The Rise and Decline of the Separate System of Prison Discipline,” *Past & Present*, vol. 54 (1972), p. 79.
- 43 W.R. Greg, “The Management and Disposal of our Criminal Population,” *Edinburgh Review*, vol. C (1854).
- 44 W. Crofton, “Criminal Treatment – Its Principles,” *Trans NAPSS*, 1868, pp. 306–311; idem., *The Criminal Classes and Their Control* (1868).
- 45 “Manuscript Account of His Thoughts on Prison,” in *Arthur Creech Jones Papers*, Bodleian Library, Box 1, file 2, fols. 194–197, n.d.
- 46 See V. Bailey, “Churchill as Home Secretary: Prison Reform,” *History Today*, vol. 35 (1985), pp. 10–13.



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INTRODUCTION TO VOLUME I: CRIME AND CRIMINALS

Criminal numbers

Historians have expended considerable energy on the collection and analysis of criminal numbers. For anything before 1805, they are reliant on the committals for *trial on indictment* at the courts of quarter sessions and assizes. Indictable offences were those for which an offender had to be tried before a professional judge or bench of magistrates, assisted by a jury, the latter handing down the verdict, the judge or magistrates pronouncing sentence. By and large, all the more serious offences – homicides, sexual offences, robberies, housebreaking and burglary, forgery, fraud, aggravated assaults, and larcenies – were tried on indictment. Excluded were the minor categories of offence, such as vagrancy, drunkenness, breaches of the licensing and game laws, and the less serious assaults and breaches of the peace. These latter offences were tried *summarily* by magistrates sitting without a jury at petty sessions. Records of petty sessions have not usually survived, except occasionally in the estate papers of gentlemen justices. Quarter sessions, held in the county town four times a year (or more in some counties where crime was common), tried more of the indictable offences than assizes did, especially larcenies, housebreaking, assaults, and robberies without serious violence.¹ The numbers derived from these legal documents have been combined into statistical time series for a number of counties and correlated with various indices of social and economic life. Whether such time series advance our understanding of criminality, as distinct from patterns of prosecution, remains in dispute to this day.²

In 1805, Parliament ordered the national collection of information on those people committed for trial for indictable offences. Annual statistical returns of crime in England and Wales were published in parliamentary papers, the returns including the number committed for trial, discharged (on ‘no true bill’ being found), acquitted, or convicted, and the numbers of sentences imposed for each offence. The figures, which were closely scrutinized by contemporary commentators, revealed a steady increase in indictable committals to trial for England and Wales: from 4,605 in 1805 (3,267 males, 1,338 females) to 13,710 in 1820, 18,107 in 1830, and 31,309 in 1842 (25,740 males, 5,569 females), a rate far in excess of population growth.³ While the figures of the number of persons tried for

indictable offences increased to seven times their original amount between 1805 and 1842, population increased by only 80 per cent. While some contemporaries sounded the tocsin to warn of moral ruin, others recognized that much of the increase came from changes in the level of prosecution. No figures for those tried summarily were yet included in the official papers, but from 1836, returns of those sent to prison for summary offences partly filled the gap. There had been a considerable extension of the magistrates' powers of summary jurisdiction in the 1820s, and this jurisdiction was further increased by the Juvenile Offenders Acts of 1847 and 1850, and the Criminal Justice Act of 1855, which allowed minor larcenies, while remaining indictable offences, to be tried by magistrates courts. Finally, from 1857, the enlarged series known as the *Judicial Statistics* carried information on the number of indictable offences known to the police (the closest one can get to the incidence of 'actual' crime), the number of people committed to trial for indictable *and summary* offences, and the number and personal characteristics of those imprisoned on conviction.⁴

It should be noted that official data was also provided on capital convictions and executions over a more extended time frame than ever before. The 1819 Commons Select Committee on Criminal Laws published a statement of the number of persons who were capitally convicted, and of those who were executed, in London and Middlesex from 1749 to 1818, together with the offences for which the executions took place.⁵ This statement gave a depth of history to capital punishment it had not previously enjoyed.

Most historians agree that the official returns provide no consistently accurate picture of levels of crime in the past. The 'dark figure' of unrecorded crime is known to be large. Historian Peter King estimated that no more than 1 in 20, or 5 per cent, of thefts led to a prosecution.⁶ Victims of crime might resort instead to rewards to recover their stolen goods. Even cases that went before an examining magistrate were typically diverted from legal channels by persuading the parties to 'compound' the felony or make up their quarrel.⁷ Nor can we assume that criminal indictments represented a constant fraction of actual crime. The justice system created no mirror image of 'actual' crime; it dipped into the reservoir of unreported crime, and it plucked out a selective number of offenders. For most of the period under examination, it was the responsibility of the victim who had been burgled or assaulted to bring a prosecution, gather the evidence, and plead his or her case before the court.⁸ Many victims chose not to prosecute: they were unwilling to incur the loss of time and expense that mounting a prosecution involved; they were reluctant to inflict the severe penalties, notably capital punishment, prescribed by law for crimes of property. As King points out, even small changes in victims' willingness to prosecute, stimulated by alarmist newspaper reporting, or repressed by the availability in wartime of diverting offenders into military service, would leave a marked impression on the statistical record.⁹ And it was not just prosecutors who could make a difference. When a region seemed engulfed by crime, grand juries sent more defendants to take their trial, petty juries acquitted fewer defendants (and judges sentenced more severely).

Changes in the law could also have an appreciable effect on the statistical record. The Juvenile Offenders Act, 1850, and the Criminal Justice Act, 1855, which allowed previously indictable larcenies to be tried summarily by magistrates, revealed how many potential prosecutors had been deterred from prosecuting. As David Philips showed, the effect of the Acts was not alone to transfer the larcenies which had previously been dealt with in quarter sessions to petty sessions, but also to “*increase by a vast extent the number of such larcenies which were tried at all.*”¹⁰ At the national level, trials on indictment fell in the mid-1850s from 21,000 to fewer than 10,000, while summary trials rose from 3,000 to 35,000. On the other side of the ledger, however, is the fact that thousands of workingmen were clearly not deterred by the expense from prosecuting other workingmen for small thefts, suggesting that one can also exaggerate the size of the dark figure of crime.¹¹

Handling criminal numbers

There is a general consensus among historians that there are three different ways of handling these aggregate data sets, which they categorize as ‘positivist,’ ‘interactionist,’ and ‘pessimist.’¹² The first approach was pioneered by Douglas Hay, among other early-modern historians, who used indictment-based time series; and by Vic Gatrell and Tom Hadden, who used official nineteenth-century statistics.¹³ They examined fluctuations in crime, particularly in crimes against property in the short term, over, say, 2 to 10 years; and plotted the connections between measurements of crime and movements in the price of food or business cycle – to determine if crimes against property were a response to material deprivation. They proceeded on the assumption (which others find questionable) that changes in the number of indictments are a reliable guide to changes in the far larger number of offences which went unsolved or unprosecuted. They do not argue that the *numbers* of committals represent directly the *numbers* of illegal acts, only that the *movements* in the numbers of committals reflected the same *movements* in the numbers of illegal acts. The second and more widespread approach taken to the official statistics, first employed by David Philips on court data drawn from the Black Country between 1835 and 1860 (some 20,000 criminal cases), has been to eschew judgments about crime rates and focus instead upon what the statistics of crime reveal about the changes in law and law enforcement.¹⁴ ‘Control waves’ were as likely to affect the criminal statistics as ‘crime waves.’¹⁵ This is to use crime figures as an index of the activity of the criminal justice system; to uncover the interaction between the number of offences, on one hand, and the willingness of the public to report and prosecute crime, or police willingness to record and act upon public information, on the other hand.

The third and final approach is the pessimistic position, taken by Rob Sindall among others, that the official figures are so distorted, they are no more than a guide to what Victorians *believed* was the state of crime, and to what ‘moral entrepreneurs’ employed in their alarmist quest for police or prison reform. The most

extreme version of the pessimist position appeared in Howard Taylor's argument that the crime statistics were knowingly fabricated by the police by the under-recording of crimes or by manipulating prosecution practice, a premeditated conspiracy of over one hundred separate police forces, under the pressure of fiscal and manpower constraints, and the desire to improve clear-up rates (or the proportion of reported crimes detected by the police).¹⁶

Thus, positivists believe that crime statistics can unravel the time trends in crime rates; interactionists believe that the statistics can uncover the workings of the criminal justice system; and pessimists insist that the statistics are too flawed to be useful – apart, that is, from defining the burden of crime that Victorians believed they confronted, and the role such public perceptions played in shaping responses to crime. The latter is a vital consideration. A number of the documents in this volume testify to the importance, in John Beattie's phrase, of "what contemporaries *thought* changes in the levels of indicted crime actually meant."¹⁷

Public perceptions

The systematic collection of statistics promised for the first time the possibility of quantifying crime and criminals and allowed crime to be presented as a distinct social issue that could be judged to be improving or deteriorating. Figures of the long-term movement in the rates for all serious crimes were especially important in fashioning public perceptions of the amount of crime and the efficiency of criminal justice. They were enlisted in controversies over the death penalty and other forms of punishment. What, then, did the numbers suggest to those concerned with this social issue between 1776 and 1914?¹⁸ Between 1776 and 1783, during the American War, prosecuted crime rates were relatively low (though not in London, where crime did not markedly decline). The return of peace in 1783 brought the release from active service of 130,000 young men into a depressed labour market, and a serious increase of crime. Between 1782 and 1784, the number of offences at the Old Bailey grew by 72 per cent, reaching a century-high total of 1,104 cases in 1784. The percentage of those found guilty and sentenced to death also jumped, as did the number of persons executed. Prior to 1780, historians have argued, 'crime' did not really exist as a subject of public discussion; the 'criminal' was not yet a symbol of the country's moral sickness.¹⁹ From 1780 onwards, in the wake of the destructive Gordon Riots and the post-war crime wave, magistrates and other law enforcement officers were more willing to believe that crime was endemic among the poor – though less because of their poverty, and more because of their lax personal morality.

The arrival of the national criminal statistics only added to contemporary anxieties. High rates of indictable crime from 1815 – as demobilization, economic hardship, and political tensions sent the level of property offences soaring – persisted through the 1840s. Indeed, some contemporaries thought the official statistics severely *under*-estimated the increase in criminal activity. Police magistrate Patrick Colquhoun correctly observed that the official statistics recorded only

the number of criminals appearing before the superior courts, entirely omitting those coming before magistrates in petty sessions. Colquhoun sought to change the entire approach to crime by insisting that all property offences were *public wrongs*, and should be presented in the *aggregate*, not as individual acts. The want of police in rural areas, and the reluctance of victims of crime to prosecute, also led police and poor law reformer Edwin Chadwick to discount the official crime statistics (doc. 1). Delinquents had long and active careers, he maintained; such careers “would only be marked in the ordinary statistical returns of crime, by one or two items; the interruption by one or two prosecutions.”²⁰ Of course, both Colquhoun and Chadwick had an axe to grind; both can be described as ‘moral entrepreneurs’ for their excessive advocacy on behalf of a professional police service. As for the early Victorian statisticians, they faced both ways: finding fault with the reliability of the official crime statistics, yet using them in extended analyses in the *Journal of the Statistical Society* in the 1830s and beyond.²¹ This early locus for statistical discussion was important also for the exploration of connections between rising levels of crime and the emergence of an urban and industrial society. Scottish magistrate Archibald Alison, writing in 1844, described “the *constant and uninterrupted increase of crime*” and ascribed it to the concentration of population in manufacturing towns (doc. 2).²²

Yet some took a more sanguine view of the figures. Dr. William Cooke Taylor inventively argued that crime had declined in relation to the amount of property or social wealth, that is “proportionally to the progressive increase of occasions to offend.” This led him to conclude: “There never was a period when persons and properties were more secure in England. Who now sleeps with pistols beneath his pillow, or hangs a blunderbuss within reach of his bolster?”²³

Crime decline

The dramatic increase in recorded crime in the first half of the nineteenth century gave way in the last third of the century to sustained decline, albeit punctuated by periodic ‘moral panics’ around sensational offences, such as garotting or violent robbery, in the 1860s, and the murder of women by ‘Jack the Ripper’ in the 1880s. As historians Gatrell and Hadden revealed, the rate for male committals to trial for all indictable offences, plus committals to trial for summary larcenies, declined from 459 per 100,000 in 1857 to 329 per 100,000 in 1891, reflecting, in their view, a real decline in criminal activity.²⁴ The turning point in female crime occurred between 1857 and 1865, slightly later than it did for males, though why this was so is not clear. Yet, not all contemporaries accepted this downward trend in crime rates. A controversy broke out in the 1890s between W.D. Morrison, prison chaplain and critic of the prison system, and Edmund Du Cane, the administrative architect of the prison system (docs 5 & 6).²⁵ Morrison had an agenda. He was intent on impugning the prison system. A drop in the level of crime would be an obstacle to that intent, since it would suggest that prison was working to reduce crime. From the evidence of cases tried, both summarily and on indictment, from

1860 to 1889, Morrison insisted that crime was increasing, both absolutely and in relation to population. Du Cane rightly objected to Morrison's inclusion of offences that were not 'crimes' at all, such as offences against the Education Acts, or against the Vagrant Acts. Du Cane also called in aid a paper by George Grosvenor, who had formerly prepared the annual judicial statistics, which showed the undeniable abatement of crime for the 20 years prior to 1888. Two years later, the Report of the Departmental Committee on Prisons effectively closed the debate by highlighting the evidence of Charles Troup, senior clerk in the Home Office, who edited the judicial statistics of England and Wales (doc. 7). His figures showed a small but steady decrease in indictable (or serious) crime during the last 20 years, and this had occurred while the general population had increased by 25 per cent. The proportion of persons tried for indictable offences at all courts per 100,000 inhabitants fell from 217 in the five years from 1874 to 1878, to 194 in the five years from 1889 to 1893. Troup concluded that both crimes of violence and all classes of crimes against property had decidedly decreased. The decrease in crime, "though not at all proportionate to the decrease in the prison population, is real and substantial."²⁶

This long-running decline in the statistics for theft and violence aroused considerable optimism among late Victorian commentators (and the press). They believed that the 'war on crime' was being won. They were less certain how to explain this satisfactory state of affairs. Was it the deterrent effect of a policed society, improved living standards, reformatory schools for young criminals, or the identification, registration, and supervision of habitual offenders? No one knew for sure.

Criminal offences and offenders

The official statistics also provided information on specific criminal offences and offenders. For a start, they revealed that all forms of theft (from burglary, housebreaking, and robbery to simple larceny) made up the bulk of all serious offences committed. Until 1857, 80 per cent of all indictable committals were for non-violent offences against property.²⁷ A search of the criminal calendars, moreover, showed that most crimes were prosaic, undramatic, and unplanned: small larcenies of clothing, food, coal, or personal possessions; assaults; or small-time burglaries. As for the ages of offenders, most recorded crimes were committed by juveniles and young adults. The key criminal decade was from 16 to 25 (or the period between the age of leaving home and the age at marriage), providing 50 per cent of committals in each decade from the 1780s to the 1830s. 'Juvenile delinquents' were at the heart of the crime problem: while a tenth of the nation's population was aged 15 to 20 years old, this group produced a quarter of known offenders.²⁸

The figures also suggested a marked decline in the proportion of female defendants tried. For much of the eighteenth century, women made up a substantial proportion, over 45 per cent at times, of all those indicted for felony offences. They

were most prominent in theft (pickpocketing, shoplifting, theft from masters, and receiving stolen goods), in coining, and in offences surrounding childbirth (infanticide, concealing a birth). The proportion of female defendants declined over the eighteenth century, however, so that by the early nineteenth century only 22 per cent of defendants were women; and this declined further to 9 per cent by the early twentieth century. This is not the place to evaluate the discussion among historians of what Feeley and Little have called ‘The Vanishing Female’; what Martin Wiener has termed the “masculinisation” of crime.²⁹ Their claims are based on evidence of *indictable* crimes tried by jury, which leaves the authors open to the objection that the nineteenth-century decline in female offending was, to an appreciable degree, an artifact of the transfer of minor theft cases, disproportionately female, to the summary courts.³⁰ What *is* worth dwelling upon is that the second quarter of the nineteenth century was a period of *rising* female involvement in recorded crime – and contemporary analysts were aware of the fact (docs. 3 & 4).

Juvenile delinquency

Juvenile crime attracted the attention of philanthropists and penal reformers at the time, and of historians since. Indeed, delinquency was seen by the mid-nineteenth century as a distinct social problem, confirmed by the establishment in 1847 and 1850 of separate trial procedures, giving magistrates the power to try children summarily for petty larceny, and a separate form of punishment in the shape of the reformatory school.³¹ A flood of unofficial inquiries in the 1830s and 1840s, including the ‘moral statisticians’ of the statistical societies, had drawn attention to the ages of offenders, and to the early onset of crime. Recently, however, historians have pushed back the date of the ‘discovery’ of the problem of juvenile delinquency. No longer is it seen as a Victorian creation (*pace* Radzino-wicz and Hood), but as the outcome of a ‘moral panic’ of the late 1810s and early 1820s. Peter King has compellingly argued that in the years following the end of the Napoleonic Wars, a new desire to discipline juvenile offenders emerged, increasing the proportion of victims and magistrates willing to prosecute children and adolescents. By 1820–1822, the proportion of property offenders under 20 was 38 per cent in London and Middlesex; and a staggering 48 per cent in Manchester: in all, a deluge of recorded juvenile crime in the big cities, and a predominantly *male* phenomenon. As King says, this age group and this gender “had grown to dominate the age structure of indicted property offenders.”³² As only one example of the new attitudes towards young offenders, the 1816 *Report of the Committee for Investigating the Causes of the Alarming Increase of Juvenile Delinquency in the Metropolis* concluded that “some thousands of boys in the Metropolis were daily engaged in the commission of crime,” and this “alarming depravity” was “hourly extending its influence over the youth of the poor.” London was one focal point of anxiety about juvenile crime, and Judge Stephen Lushington expressed this fact in his 1819 remarks about gangs of juvenile thieves (docs. 8 & 9).³³

This image of juvenile delinquents as ‘artful dodgers,’ immersed in the criminal networks of the capital city, was reinforced by William Augustus Miles, a self-proclaimed expert on crime and policing, who supplied the 1835 House of Lords Select Committee on Gaols, and the 1839 Constabulary Commissioners Report, with information from his interviews of juvenile offenders in London prisons and on board the *Euryalus*, a prison hulk berthed at Chatham (docs 10 & 11).³⁴ In a report to the Select Committee, Miles claimed:

London thieves . . . are in a State of predatory Existence, without any knowledge of social Duty . . . There is a youthful Population in the Metropolis devoted to Crime, trained to it from Infancy . . . whose Connexions prevent the Possibility of Reformation, and whom no punishment can deter; a Race ‘sui generis’, different from the rest of Society, not only in Thoughts, Habits, and Manners, but even in Appearance; possessing, moreover, a Language exclusively their own.³⁵

The spawning grounds of criminals, where old thieves corrupted the young, were, said Miles, the ‘rookeries’ of London, such as St. Giles, the criminal slum that Dickens in the same year immortalized in *Oliver Twist*. It is difficult to say how valid was Miles’s evidence of widespread criminal organization, yet it was taken at face value by the official committees to which it was presented, and it influenced their recommendations for police and prison reform.³⁶

Criminal women

Historians have also scrutinized the role of women offenders. They tend to agree that female offending was characterized by three features. First, as we noticed earlier, women accounted for a relatively small proportion of indicted property offenders. Second, petty larceny (especially theft from a dwelling house and picking pockets), receiving stolen goods, and shoplifting attracted above-average proportions of females (doc. 13). Third, women were much less likely than men to be accused of capital crimes or of property crimes involving violence. In addition, Peter King has revealed that women were vulnerable to prosecution for theft at particular points in their life cycle.³⁷ In late eighteenth-century London, most female offenders were young migrants (many Irish- or Scottish-born), in their late teens to mid-twenties, typically poorly paid domestic servants, with no family or friends to fall back on. Moreover, as King observed, “the fluid, seasonal and insecure world of female service often overlapped with the world of prostitution”; and “a very significant proportion of London female offenders was clearly involved in some form of prostitution.”³⁸ The male prosecutor would allege he was lured into the alley or taken back to a lodging house, and there robbed, as in the 1828 case of violent theft and robbery within (doc. 12). One crime was exclusively female, that of infanticide, though cases usually ended in an acquittal or discharge. In the 1860s, however, infanticide emerged as an issue of national importance. The

leading role in the agitation was taken by Edwin Lankester, the coroner for Central Middlesex. He believed child-murder was rampant, and offered some alarmist figures of the number of child-murders each year (docs. 14–16).³⁹

Female prostitution, however, continued to attract the lion's share of social and criminological attention. The 1840s witnessed considerable exploration of the causes and extent of prostitution, in the wake of A.J.B. Parent-Duchatelet's *De la prostitution dans la ville de Paris* (1836), a study remarkable for its application of field observation and personal interview to social research. Yet, while Parent-Duchatelet was willing to examine the economic bases of prostitution, describing the conduct as a transitional occupation for young, working-class women, a stage in life they would pass through before reintegration into lower-class society, English surveys represented prostitution as rooted in individual moral frailty.⁴⁰ Even the sympathetic social investigator Henry Mayhew described the prostitute as a sexual deviant without economic rationale, and prostitution as proto-criminality, the portal to more serious forms of crime. It was left to the chaplain of Millbank Prison to return the discussion of prostitution to that of an alternative to 'proletarianization' (docs. 17 & 18).⁴¹ Working-class women, employed as domestics or working in such dead-end jobs as laundering or charring, were thought to have been tempted by the understandable desire for money and social independence.

Social crime

The earliest historical research on crime proposed a distinction between 'social crime' – denoting activity such as poaching, smuggling, wrecking, and coining or counterfeiting, which, while illegal, was carried out collectively and enjoyed a modicum of community support – and 'ordinary crime,' or acquisitive crime committed by individuals, with no larger social purpose to their activity.⁴² According to Arthur Young, the social and political observer, the practice of smuggling was an important source of employment for southern coastal communities, paying better than manual labour in the Sussex towns of Rye and Hastings (doc. 19).⁴³ W.A. Miles's 1837 letter to the Constabulary Force Commissioners, concerning wreckers on the Cheshire coast, referred to "that general system of plunder which by custom has been almost considered as a prescriptive right among the dwellers on the coast" (doc. 21).⁴⁴ Social crime often came together with *protest crime*, such as the Swing riots in the southern and eastern counties of England between 1830 and 1832, when hayricks and barns were burnt, mechanical threshers destroyed, and anonymous threatening letters sent to offending farmers; and with *workplace theft*, as employers used the embezzlement laws to end the 'usages of the trade' and enforce an exclusively wage payment.⁴⁵ The statistical evidence suggests that social crimes accounted for only a small proportion of all crimes prosecuted (though crimes enjoying communal sanction were difficult to prosecute and probably under-represented in the court records). And there seems little doubt that some forms of poaching and smuggling were profit- and market-oriented activities, rather than mere forms of survival. Smuggling gangs were well organized,

outgunning the excise officers sent to quell them in Dorset in 1787 (doc. 20).⁴⁶ Even so, by their work on ‘social criminals,’ historians have enlarged our knowledge of popular attitudes towards crime and the law, suggesting the existence of an unwritten popular code distinct from the formal legal code, and have uncovered important links between crime and economic change.

Ethnic crime

The Irish were the largest migrant group in nineteenth-century England. They created their own urban enclaves, namely the ‘Little Ireland’ rookeries in St. Giles, London, and in Angel Meadow, Manchester. If Colquhoun’s criminology made little play of the Irish, the Constabulary Force Commissioners called attention to ‘a New and Peculiar Population,’ strangers who had emigrated from other parts of the United Kingdom. In Manchester alone, there were 30,000 Irish, renowned by the 1830s for drunken street rows and violence (doc. 22). A decade later, Henry Mayhew was convinced that 90 per cent of habitual criminals were ‘Irish Cockneys.’⁴⁷ This was an exaggeration, but historians have confirmed an over-representation of the Irish among Old Bailey indictments (especially for violent crimes), among London’s prostitutes, and among lesser offenders imprisoned after summary trial. By the 1870s, the Irish-born constituted 14 per cent of the prison population, yet they never exceeded 2 to 3 per cent of the national population.⁴⁸ The only other ethnic group accused of being crime-prone were the Jews. In the 1830s, social investigator W.A. Miles indulged his anti-Jewish prejudices by claiming that all stolen property ‘finds its way through many hands to the rich Jew.’⁴⁹ In the 1880s, impoverished Jews flooded into the East End of London. A small number of notorious cases led to the public association between Jews and crime.⁵⁰ In 1887, a 22-year old Polish Jew, Israel Lipski, was found guilty of murdering a fellow immigrant, Miriam Angel. This was preface to the murders by Jack the Ripper, whom many East Enders believed to be Jewish.⁵¹ In fact, Jews made only a small contribution to the national crime figures, as shown by the Board of Trade enquiry in 1894, which concluded that “foreign Jews . . . are on the whole a peaceful and law-abiding community” (doc. 23).

Causes of crime

A search for the causes of crime dominated criminological literature in the nineteenth century. Many different explanations were canvassed: drunkenness, vagrancy, laziness, ignorance, parental neglect, bad housing, poverty, bad literature, cheap theatres, and the rapid growth of towns. The common denominator was what educationalist Jelinger Symons called the relaxation of “moral restraint”; what historian Martin Wiener encapsulated as “character defect.”⁵² The early penal reformers, Samuel Denne, John Howard, Jonas Hanway, and Jeremy Bentham, all believed that crime, especially theft, was caused by luxury, drink, gaming, and self-indulgence. The revival of interest in the reformation of manners

in the 1780s reinvigorated this tradition of thought.⁵³ County magistrates in their ‘charges,’ like the one voiced by William Mainwaring to a Middlesex grand jury in 1785, linked vice and immorality to crime and poverty, especially amongst the lower orders. Likewise, Colquhoun, in his treatise on police, insisted that “crimes of every description have their origins in the vicious and immoral habits of the people,” to combat which he proposed a massive assault on pubs, pawnbrokers, and unregulated gambling (docs. 24–26).⁵⁴

This explanatory paradigm incorporated the improper conduct of parents, seen by the *Report of the Committee for Investigating the Causes of the Alarming Increase of Juvenile Delinquency in the Metropolis* (1816) as the principal cause of crime. (The other primary causes were said to be lack of education, lack of employment, and gambling).⁵⁵ So, too, W.A. Miles attributed delinquency to the contamination of children in the criminal slums, where old thieves corrupted them, and to the “vicious education” of parents (doc. 27).⁵⁶ Indeed, defective education became a favoured cause of crime. The new statistical societies eagerly received papers proving the connection between crime and ignorance. Crime was shown to be most prevalent in districts which posted the highest rates of illiteracy and the greatest paucity of God-fearing education.⁵⁷

Victorian criminologists rarely suggested that poverty or unemployment was a source of crime. One who did, Joseph Fletcher, compared the pattern of economic change (using the price of grain as an index) to the annual number of criminal commitments for the years 1810 to 1847, revealing a coincidence between economic distress and rising crime. This prospect was alarming to an industrial society periodically afflicted by economic downturns (doc. 28). Indeed, the coupling of want and crime was too disturbing to be accepted; subsequent articles in the *Journal of the Statistical Society* condemned the notion. The Constabulary Commissioners Report of 1839 was especially emphatic: “The notion that any considerable proportion of the crimes against property are caused by blameless poverty or destitution we find disproved at every step.”⁵⁸ Crime, it was asserted, was not an occasional act caused by temporary distress, but a regular occupation, even a profession (doc. 29).

To the argument that crime arose from idle habits and not the pressure of want, Rev. John Clay, chaplain of Preston prison, added the rider that economic *prosperity* produced more crime than depression. Crime increased in good economic years when liquor consumption was high. Intemperate habits learned during such affluence further weakened the influence of moral training (docs. 30 & 31).⁵⁹ We should note that modern historians accept that rates for drunkenness and assault rose in times of prosperity, especially in the second half of the nineteenth century, but they are also firmly of the view that in the *first* half of the century, the number of property offences grew during times of economic depression and shrank during times of prosperity. An inverse correlation of economic activity and crime committals was especially marked between 1837 and 1848, with peaks in both male and female crime in 1842 and 1848, years of unemployment and subsistence crises.⁶⁰

In the mid-Victorian years, social investigator Henry Mayhew added his own distinctive take on the causes of crime. He agreed with the Constabulary Commissioners that crime was not due to poverty. He was also not convinced that ignorance caused crime, citing statistics that showed a correlation between the growth of juvenile crime and the increase of schools, teachers, and school attendees. Nor did he think sheer density of population caused crime. As he concluded:

Crime, then, it may be safely asserted, is *not* due, as some say, to an inordinate density of the population, nor to a love of intoxicating liquors, nor to an inability to read and write, nor to unwholesome dwellings, nor to a non-observance of the Sabbath; but simply to that innate love of a life of ease, and aversion to hard work, which is common to *all* natures.⁶¹

An aversion to work led to theft among men, to prostitution among women. In *The Criminal Prisons of London*, Mayhew spoke of “our criminal tribes,” who preferred to plunder than submit to the discipline of steady work. In all, he believed that professional crime was the heart of the problem; a profession into which children were born and bred in low neighbourhoods. We should note, however, that Mayhew’s vivid life stories of juvenile delinquents, convicts, and prostitutes still included the possibility of moral choice.⁶²

Mayhew was working on the cusp of a major transition in the appreciation of crime. From the 1860s, explanations moved away from a focus on the moral failings of individuals to concern over the degenerating effects of city life on physical and mental health. This is best represented in small compass by Wiener’s contrasting images of ‘criminal man’: a Victorian image of a wilful savage in need of control; an Edwardian image of a debilitated, unfit offender in need of revitalization.⁶³ Crime was increasingly seen as more deeply rooted in the offender’s nature than in his moral consciousness. W.D. Morrison, the late-Victorian criminologist, sought to bypass the usual catalogue of moral failings to locate the real sources of crime, which for him were *cosmical* (climate, temperature), *social* (political, economic, and moral conditions), and *individual* (descent, sex, bodily and mental characteristics). The latter especially attracted Morrison’s attention. He wrote: “crime is but the offspring of degeneracy and disease.” Always eager to point to inherited degeneracy as the cause of habitual crime, when his attention turned to the juvenile delinquent, the emphasis shifted from individual to social or environmental sources of crime, such as lack of parental control leading to bad habits and associations. Yet by his commitment to the deterministic sources of crime, Morrison freed himself from the restraints of moralistic categories (doc. 32).⁶⁴

If explanations of crime in terms of individual moral failure were no longer supreme, it would be misleading to leave the impression that all were convinced by the new image of degenerate, criminal man. Old notions died hard. The criminal statistics for 1913 led prison commissioner Evelyn Ruggles-Brise to highlight again the role of drink, whether as a direct source of offences of drunkenness, or as an indirect cause of other crimes: “It is a reasonable inference that alcohol

enters, as a contributing factor, into about 50 per cent of offences committed in this country in any given year.”⁶⁵ Nor were all persuaded that crime and poverty were unconnected. Cardinal Manning famously wrote:

Those who live among statistics, and have seldom, if ever, lived among the poor, little know how poverty brings temptation, and temptations both vice and crime . . . It would be an affectation of scepticism to say this close relation is not by way of cause and effect.

And the Report from the Departmental Committee on Prisons traced the “head-springs of Recidivism” to “the social conditions of the general population.”⁶⁶

Dangerous and criminal classes

In the first half of the nineteenth century, rising levels of crime coincided with the emergence of an urban, industrial society, which produced a workforce thought to be criminal and revolutionary. It was increasingly assumed that crime was endemic among the poor, and that the categories of criminal, pauper, and labouring poor were part of an interlocking social continuum, or ‘dangerous class.’ Patrick Colquhoun’s *Treatise on Indigence* (or the state of extreme poverty) and his *Treatise on the Police of the Metropolis* went to great lengths to enumerate the indigent and criminal classes of the country, and the persons who supported themselves “In and Near the Metropolis by Pursuits Either Criminal – Illegal – or Immoral.” As well as “common and professed thieves,” his figures included servants, domestics, porters, journeymen, and apprentices. He claimed that in London in the 1790s, no fewer than 115,000 persons, or one-eighth of its population, were regularly engaged in criminal pursuits, half of them (a wildly exaggerated figure) prostitutes or “lewd and immoral women.”⁶⁷ Along the same lines, in the charged political atmosphere surrounding the passage of the 1832 Reform Act, Edward Gibbon Wakefield penned the alarmist tract, *Householders in Danger from the Populace*. By ‘populace,’ he meant the following three groups: *common thieves, the rabble* (costermongers, brickmakers and slaughtermen, “whose extreme poverty . . . render them as dishonest as thieves”), and *desperadoes* (“principally work-people,” and political radicals) – in all, 90,000 anarchists “bent on mischief.”⁶⁸

English thinking was conceivably influenced by H.A. Fregier’s *Des Classes Dangereuses de la Population dans les Grandes Villes* (Paris, 1840), reviewed in the *London Quarterly Review* in 1842, which claimed that one-eighth of the working classes were criminals, and implied a close connection between the labouring and the dangerous classes.⁶⁹ The articles in *Blackwood’s Edinburgh Magazine* in 1844 by the sheriff of Lanarkshire, Archibald Alison, represent the high-water mark of British attention to the political consequences of what Alison called “this prodigious and unrestrained increase of crime and depravity among the working classes in the manufacturing districts,” which, he alleged, would so multiply “les

classes dangereuses' . . . as, on the first serious political convulsion, may come to endanger the state" (docs. 33 & 34). He added:

Meanwhile, destitution, profligacy, sensuality, and crime, advance with unheard-of rapidity in the manufacturing districts, and the dangerous classes there massed together combine every three or four years in some general strike or alarming insurrection.

The concept influenced the occasional practitioner. Captain W.J. Williams, inspector of prisons for the Northern and Eastern District, told the Select Committee on the Execution of the Criminal Law in 1847:

So far as my Experience goes I certainly do think it would be very unsafe that Transportation should cease in this Country. . . . I certainly consider that the State of this Metropolis and of other large Towns would have been similar to that of Paris; for we know that a criminal Population collected together in Hordes are always the ready Instruments of popular Violence.⁷⁰

I have argued elsewhere, however, that the threatening image of the 'dangerous classes' gained only limited purchase in England.⁷¹ Few English observers saw a close connection between the 'dangerous' and labouring classes; few depicted a 'dangerous class' of subversive significance. In fact, the construct of the 'dangerous classes' was gradually reduced by social classification (as well as by police and penal routines) to the slimmer notion of the 'criminal classes,' no longer associated with political subversion and social breakdown. This notion of inveterate criminality, a group of offenders drawn to crime because of moral degeneration rather than being driven to it by their material circumstances, came to assume a central place in the spectrum of explanations for crime.

It took some time for the social construction of a 'criminal class' to become established. Writing in the 1830s, the political radical Francis Place opined that in the late eighteenth century,

[p]ilfering and thieving especially were not then, as now, almost wholly confined to the very lowest of the people, but were practiced by tradesmen's sons, by youths and young men who would now no more commit such [an] act than would the sons of a well-bred gentleman. Thieving had not as yet [become] a trade to be followed by those who lived by it, as it has now become.⁷²

Place's brother-in-law, Matthew Stinson, was a case in point, sentenced to death for highway robbery in 1799. The jury recommended him to mercy on grounds of distress; Place himself ensured that Stinson was transported (see doc. 14 in vol. II). Place's view has been echoed by Peter Linebaugh in *The London Hanged*

(1991), where he insists that those punished for crimes in eighteenth-century London were not members of a distinct ‘criminal class.’ We cannot, Linebaugh wrote, “distinguish between a “criminal” population of London and the poor population as a whole.”⁷³ In the writings of the Utilitarian and evangelical prison reformers, criminals were also seen not as a separate class, but as individual lawbreakers. Yet, slowly, the ground was being prepared. Criminal trial reporting in metropolitan and provincial newspapers strengthened a growing tendency to see crime as the preserve of a distinctively ‘criminal’ class of persons.⁷⁴ From around 1820, the notion, though not yet the phrase, of a ‘criminal class’ began to emerge. The radical journalist John Wade, in his 1829 *Treatise on the Police and Crimes of the Metropolis*, claimed that thieves “are born such, having their peculiar slang, mode of thinking, habits, and arts of living” (doc. 9). Charles Dickens’s *Oliver Twist* (1837–1838) reinforced the image of a criminal milieu, separate from the labouring poor, separate even from the workhouse pauper. Around the same time, Edwin Chadwick reported that most crime was committed by a class of “habitual depredators,” migratory in habit, issuing forth from the larger towns, where there were police forces, into the countryside, where there were none. He estimated at least 200,000 able-bodied depredators were at large in the country (though he rejected Colquhoun’s claims about the high number of prostitutes in London). Chadwick’s myrmidon, W.A. Miles, also did much to promote the image of criminals as a race apart.⁷⁵

By mid-century, the term ‘criminal class’ was entering common parlance. Leeds reformer Thomas Plint claimed that over one-third of the crime of large towns could be traced to this class (doc. 35). The latter was not a product of the factory system; it was not recruited from the ranks of industrial workers.

May it not be said of the class that it is *in* the community, but neither *of* it, nor *from* it? Is it not the fact that a large majority of the class is so by descent, and stands as completely isolated from the other classes, in blood, in sympathies, in its domestic and social organization . . . as it is hostile to them in the whole ‘*ways and means*’ of its temporal existence?

The question marks betray a residual uncertainty surrounding the identity of the criminal population, but Plint could also sound categorical. The ‘criminal class’ was a “*pariah* and exotic tribe,” morally distinct from the ‘operative classes.’⁷⁶ Henry Mayhew helped to consolidate the Victorian image of the criminal class. Criminals were divisible, he said, into two classes, the habitual and the casual. Habituals committed burglary and robbery, which were “regular crafts requiring almost the same apprenticeships as any other mode of life.” He constructed an image of

[a] large class . . . which belongs to a criminal race, living in particular districts of society . . . these people have bred, until at last you have

persons who come into the world as criminals, and go out as criminals, and they know nothing else.

Mayhew's life histories of offenders described their inevitable evolution from juvenile delinquent to professional criminal (docs. 36 & 37).⁷⁷ In the 1860s, too, periodical articles described night trips into the haunts of the criminal classes, guided by the police, the supreme 'knowers' of the class.⁷⁸ At the Birmingham meeting of the National Association for the Promotion of Social Science in 1868, Lord Houghton stated:

Was it possible for any person to go about with the police through the criminal portions of London without saying that these dangerous classes were as completely in the hands of the police – as completely watched every hour of their life as they could be in any way whatever, except by placing them absolutely in prison? Going into one of these houses, the policeman was received by all the inhabitants, who ranged themselves at once in order. . . . the authority of the police was as complete and as full as it could be in Australia or any other place. The very fact of these dangerous classes living so much together, and of their being consolidated in certain districts, gave the police absolute power over them. The certainty of detection was as great as could be obtained short of absolute incarceration.⁷⁹

Through such representations Victorians came to believe the criminal class was real. From 1857, police returns reported the number of 'known thieves and depredators,' along with their haunts, figures that lent credibility to the contention that there was an identifiable class of offenders, irredeemably 'criminal.' The Social Science Association inspired laws that inscribed heavier sentences for repeat offenders and police supervision of released convicts; and gave power to magistrates to imprison previous offenders on suspicion alone. These laws were known as 'the fly paper' in poor districts, since once caught, it was hard to break free – though in practice the laws and police fell down on the job.⁸⁰ The prison was perhaps more effective. Indeed, philosopher Michel Foucault has argued that the prison's sole achievement was to fabricate a criminal class, and to persuade the working class to shun it.⁸¹ Prison chaplain W.D. Morrison gave voice to this view, writing of released prisoners:

These men hang upon the skirts of labour and seek shelter under its banner, but it is only for short and irregular intervals that they march in the ranks of actual workers. The real working man knows such people well, and heartily despises them.

As if this were insufficient, a series of 'moral panics' – the end of transportation in the 1850s; the garotte robbery panic of 1862; and the spate of armed burglaries

in London between 1877 and 1886 – focused further attention on the habitual criminal.

At the end of the 1880s, the ‘criminal class’ was further reduced in size and menace by the opening volume of Charles Booth’s leviathan social survey, *Life and Labour of the People in London* (docs. 38–40). Booth’s first category of social classification, Class A, was described as “[t]he lowest class, which consists of some occasional labourers, street-sellers, loafers, criminals and semi-criminals.” Booth put their numbers at roughly 11,000, or 1.2 per cent of East End inhabitants, the numerical foundation for Booth’s legendary statement:

The hordes of barbarians of whom we have heard, who, issuing from their slums, will one day overwhelm modern civilization, do not exist. There are barbarians, but they are a handful, a small and decreasing percentage: a disgrace but not a danger.

While Booth’s evidence portrayed distinct criminal quarters, like the one in Hoxton, it also made another point, which historian J.J. Tobias revealed many years ago, but which has been lost sight of.⁸² Booth’s house-by-house plot of individual streets in the East End indicated that criminals, some of whom had done time, were more frequently living in ordinary poor streets, not in isolated ‘rookeries.’ Henrietta Barnett, social reformer and East End resident, seems to have been of the same opinion (doc. 41).⁸³ These documents remind us of Gatrell’s description of the bottom third of the urban population – criminals, casual workers, and the law-abiding –

“all of them yoked within the same neighbourhoods, the same kinship networks, the same flux in life-cycle and employment-cycle,” the boundaries between them “crossed again and again by the vast generality of the poor, as the exigencies of urban life dictated.”⁸⁴

The born criminal

If the mid-Victorian literature on the ‘criminal class’ portrayed a group of rational, calculating, habitual criminals, late-century literature presented an image of a degenerate ‘race,’ marked by distinct physical and mental traits. This shift in imagery was in keeping with the rise of criminology as a ‘science of the criminal.’ Between 1865 and 1875, a number of prison doctors claimed to have distinguished an hereditary ‘criminal-type.’ Dr. Bruce Thomson, resident surgeon at Perth prison in Scotland, described “a set of demi-civilized savages, who in hordes prey upon society . . . and, only connecting themselves with those of their own nature and habits, . . . must beget a depraved and criminal class hereditarily disposed to crime” (doc. 43). Lieut.-Col. Edmund Du Cane, chairman of the

prison commission (doc. 42), described the characteristics of the class of habitual criminals as,

entirely those of the inferior races of mankind – wandering habits, utter laziness, absence of forethought or provision, want of moral sense, cunning, dirt, and instances may be found in which their physical characteristics approach those of the lower animals so that they seem to be going back to the type of what Professor Darwin calls ‘our arboreal ancestors.’

Criminology gave coherence and legitimacy to the notion that habitual criminality was biologically determined – an atavistic throwback to an earlier type in the chain of evolution.

This medical and biological discourse came to fruition in Cesare Lombroso’s theory of the ‘born criminal,’ which appeared in 1876 in the Italian edition of *Criminal Man*. Lombroso claimed that his work confirmed the existence of a criminal type, distinguishable from non-criminals by observable physical anomalies of a degenerative nature.⁸⁵ The notion of the ‘born criminal’ enjoyed attention in England between 1890, when Havelock Ellis introduced it to English readers in *The Criminal*, and 1913, when Dr. Goring, medical officer at Parkhurst Prison, rejected it (docs. 44 & 45). Ellis preferred the term ‘instinctive criminal.’ He accepted that only 10 to 20 per cent of all prisoners were mentally defective, but around this core was to be found a larger number of ‘moral imbeciles,’ a group in whom “the absence of guiding or inhibiting social instinct is accompanied by unusual development of the sensual and self-seeking impulses.”⁸⁶ Discovering the pathological characteristics of the offender was deemed to be especially useful in the understanding of female crime. *The Female Offender*, by Lombroso and William Ferrero, appearing in English in 1895, claimed that ‘criminal woman,’ the epitome of whom was the prostitute, was even more biologically primitive than ‘criminal man.’ So pervasive had Lombroso’s ideas become by 1910 that the entry for ‘Criminology’ in the *Encyclopedia Britannica*, written by former prison inspector Major Arthur Griffiths, associated the discipline exclusively with the idea of the ‘born-criminal.’⁸⁷

Yet the theory *qua* theory gained few adherents in Britain. As Prison Commission chairman Sir Evelyn Ruggles-Brise declared in an internal minute:

In my opinion, crime is neither degeneracy nor disease. The Lombrosian theories of the criminal-ne are exploded. Our own investigations now being conducted into the physiology of crime will, I think, fire the last shot at this deserted ship.⁸⁸

The investigation in question was Dr. Goring’s examination of 3,000 convicts undergoing penal servitude. It finally disposed of Lombroso’s belief that there was a ‘criminal type’ presenting a pathological condition. No evidence emerged confirming the existence of a physical criminal type such as Lombroso had described (doc. 46).⁸⁹ The image that replaced the born criminal was that of a ‘residuum’

of weak-minded, defective individuals at the base of society. As Ruggles-Brise concluded:

It is to weakness of will, resulting in unadaptability to social standards of conduct, that the great roll of Recidivism is mainly due, but it is the opinion of most thinkers, both at home and abroad (where the roll of Recidivism is equally great) that the fact of Recidivism growing rapidly and regularly, is not a bad sign, but, on the contrary, it shows that ‘la criminalite se localize en devenant une carriere,’ i.e. that the gulf between the ‘probi’ [honest] and the ‘improbi’ [dishonest] is gradually becoming wider and deeper. The former are increasing in numbers, while the latter dwindle into a smaller class of hopelessly irreclaimable men. I am afraid that we must make up our minds that there is this irreducible minimum as a sort of hopeless residuum in all civilized communities.⁹⁰

Notes

- 1 As for the distinction between ‘felony’ and ‘misdemeanour,’ all felonies were indictable offences and could only be tried on indictment. Felonies included most forms of serious crime.
- 2 D. Philips, *Crime and Authority in Victorian England* (1977), Appendix II.
- 3 D. Philips, “‘A New Engine of Power and Authority’: The Institutionalization of Law-Enforcement in England 1780–1830,” in V.A.C. Gatrell et al. (eds.), *Crime and the Law* (1980), p. 180.
- 4 V.A.C. Gatrell and T.B. Hadden, “Criminal Statistics and Their Interpretation,” in E.A. Wrigley (ed.), *Nineteenth-Century Society* (Cambridge, 1972), pp. 336, 367; J. Wallis, “Lies, Damned Lies and Statistics? Nineteenth Century Crime Statistics for England and Wales as a Historical Source,” *History Compass*, vol. 10 (2012), p. 575; K. Smith, *The Oxford History of the Laws of England*, vol. 13 (Oxford, 2010), pp. 115–117.
- 5 Select Committee on Criminal Laws, 1819, Appendix 2.
- 6 P. King, *Crime, Justice, and Discretion in England 1740–1820* (Oxford, 2003); R.S. Sindall, “The Criminal Statistics of Nineteenth-Century Cities: A New Approach,” *Urban History Yearbook* (Leicester, 1986), p. 32.
- 7 R. Paley (ed.), *Justice in Eighteenth-Century Hackney: The Justicing Notebook of Henry Norris and the Hackney Petty Sessions Book* (1991), p. xxxi.
- 8 B.P. Smith, “English Criminal Justice Administration, 1650–1850: A Historiographic Essay,” *Law and History Review*, vol. 25 (2007), p. 620. Smith, however, seeks to query the portrait of criminal prosecution as overwhelmingly ‘private.’
- 9 P. King, “Newspaper Reporting and Attitudes to Crime and Justice in Late-Eighteenth- and Early-Nineteenth-Century London,” *Continuity and Change*, vol. 22 (2007), pp. 73–76; M. Neale, “Research in Urban History: Recent Theses on Crime in the City, 1750–1900,” *Urban History*, vol. 40 (2013), pp. 567–569. For a discussion of the impact of war and its aftermath on eighteenth-century crime levels, see King, *Crime, Justice and Discretion*, pp. 153–168; idem., “War as a Judicial Resource: Press Gangs and Prosecution Rates, 1740–1830,” in N. Landau (ed.), *Law, Crime and English Society, 1660–1830* (Cambridge, 2002), pp. 97–116.
- 10 Philips, *Crime and Authority*, p. 133, emphasis in original.
- 11 Ibid., p. 127.

- 12 C. Williams, "Writing the History of British Criminal Justice," *Revue Francaise de Civilisation Britannique*, vol. 14 (2008), pp. 69–71; B.S. Godfrey, P. Lawrence, and C.A. Williams, *History and Crime: Key Approaches to Criminology* (2008), pp. 27, 36–38; P. Lawrence, "The Historiography of Crime and Criminal Justice," in P. Knepper and A. Johansen (eds.), *The Oxford Handbook of the History of Crime and Criminal Justice* (Oxford, 2016), p. 21.
- 13 D. Hay, "War, Dearth and Theft in the Eighteenth Century: The Record of the English Courts," *Past and Present*, vol. 95 (1982), pp. 117–160; Gatrell and Hadden, "Criminal Statistics," *passim*.
- 14 Philips, *Crime and Authority*, *passim*.
- 15 T. Curtis and J.A. Sharpe, "Crime in Tudor and Stuart England," *History Today*, vol. 38 (1988), p. 28.
- 16 R.S. Sindall, *Street Violence in the Nineteenth Century* (Leicester, 1990), ch. 2; Wallis, "Lies, Damned Lies," pp. 577–578; H. Taylor, "Rationing Crime: The Political Economy of Criminal Statistics since the 1850s," *Economic History Review*, vol. 51 (1998), pp. 569–590. For a riposte to Taylor, see R.M. Morris, "'Lies, Damned Lies and Criminal Statistics': Reinterpreting the Criminal Statistics in England and Wales," *Crime, History & Societies*, vol. 5 (2001), p. 124.
- 17 K. Smith, *The Oxford History of the Laws of England*, vol. 13 (Oxford, 2010), note 7, pp. 139–140.
- 18 E. Carrabine, P. Cox, M. Lee, and N. South, *Crime in Modern Britain* (Oxford, 2002), pp. 5–8; R. Shoemaker and R. Ward, "Understanding the Criminal: Record-Keeping, Statistics and the Early History of Criminology in England," *British Journal of Criminology*, vol. 57 (2017), pp. 1442–1461.
- 19 V.A.C. Gatrell, "Crime, Authority and the Policeman State," in F.M.L. Thompson (ed.), *The Cambridge Social History of Britain, 1750–1950* (Cambridge, 1988–1990), vol. 3, pp. 250, 254. For a slightly different dating, see A. Atkinson, "The Free-Born Englishman Transported: Convict Rights as a Measure of Eighteenth-Century Empire," *Past & Present*, vol. 144 (1994), p. 92.
- 20 See D. Philips, "Three 'Moral Entrepreneurs' and the Creation of a 'Criminal Class,'" *Crime, History & Societies*, vol. 7 (2003), p. 98.
- 21 M.J. Cullen, *The Statistical Movement in Early Victorian Britain* (Hassocks, 1975), p. 73.
- 22 See Maurice Milne, "Archibald Alison: Conservative Controversialist," *Albion*, vol. 27 (1995), pp. 419–443, emphasis in original.
- 23 William Cooke Taylor, "Moral Economy of Large Towns: Crime and Punishment," *Bentley's Miscellany*, vol. 6, 1839, pp. 476–482. Taylor was an Irish historian and journalist.
- 24 Gatrell and Hadden, "Criminal Statistics," p. 374.
- 25 See G.D. Robin, "Pioneers in Criminology: William Douglas Morrison (1852–1943)," *Journal of Criminal Law, Criminology, & Police Science*, vol. 55 (1964), pp. 55–56; C. Harding, "'The Inevitable End of a Discredited System'? The Origins of the Gladstone Committee Report on Prisons, 1895," *Historical Journal*, vol. 31 (1988), pp. 594–597.
- 26 See also C.E. Troup, 'Introduction to the Statistics for 1898,' *Parliamentary Papers*, vol. 103 [Cd. 123], Judicial Statistics (England and Wales) Part I, Criminal statistics, 1898, pp. 22–25 for the decrease of crime, 1858–1898.
- 27 Gatrell and Hadden, "Criminal statistics," p. 36; Philips, *Crime and Authority*, p. 141.
- 28 Philips, *Crime and Authority*, pp. 161–163.
- 29 M.M. Feeley and D.L. Little, "The Vanishing Female: The Decline of Women in the Criminal Process, 1687–1912," *Law & Society Review*, vol. 25 (1991), pp. 719–758; M.J. Wiener, "The Victorian Criminalization of Men," in P. Spierenburg (ed.), *Men and Violence* (Columbus, 1998), pp. 209–212; *idem.*, *Men of Blood: Violence, Manliness*

- and *Criminal Justice in Victorian England* (Cambridge, 2004). See also L. Zedner, *Women, Crime, and Custody* (Oxford, 1991), p. 36.
- 30 For a rebuttal of Feeley and Little's argument, see P. King, *Crime and Law in England, 1750–1840. Remaking Justice from the Margins* (Cambridge, 2006), ch. 6. See also B.S. Godfrey, S. Farrall, and S. Karstedt, "Explaining Gendered Sentencing Patterns for Violent Men and Women in the Late-Victorian and Edwardian Period," *British Journal of Criminology*, vol. 45 (2005), pp. 697–698; R. Crone, "Reappraising Victorian Literacy through Prison Records," *Journal of Victorian Culture*, vol. 15 (2010), pp. 14–15; A. August, "'A Horrible Looking Woman': Female Violence in Late-Victorian East London," *Journal of British Studies*, vol. 54 (2015), p. 845.
- 31 See M. May, "Innocence and Experience: The Evolution of the Concept of Juvenile Delinquency in the Mid-Nineteenth Century," *Victorian Studies*, vol. 18 (1973), pp. 14, 16–23; H. Shore, "Transportation, Penal Ideology and the Experience of Juvenile Offenders in England and Australia in the Early Nineteenth Century," *Crime, History & Societies*, vol. 6 (2002), p. 83; H. Shore, "'Inventing' the Juvenile Delinquent in Nineteenth-Century Europe," in B.S. Godfrey, C. Emsley, and G. Dunstall (eds.), *Comparative Histories of Crime* (Cullompton, 2003), pp. 110–113.
- 32 L. Radzinowicz and R. Hood, *A History of English Criminal Law*, vol. 5 (1986), ch. 6; P. King, "The Rise of Juvenile Delinquency in England 1780–1840: Changing Patterns of Perception and Prosecution," *Past & Present*, vol. 160 (1998), pp. 116–166, at p. 124; idem., *Crime and Law in England, 1750–1840* (2006), pp. 213–214.
- 33 The changing age structure of the population was also influential in the 'discovery' of delinquency. The proportion aged 0–14 years in the national population reached its peak in the 1820s. By 1821, almost half the population was under 20 years of age; one quarter was aged 5 to 14.
- 34 See D. Philips, "Three 'Moral Entrepreneurs' and the Creation of a 'Criminal Class,'" pp. 88–89. Boys considered too young to be transported were held in the *Euryalus*, sewing prison clothes and awaiting a ship to Australia when they reached 15 years of age.
- 35 Quoted in D. Philips, *William Augustus Miles (1796–1851): Crime, Policing and Moral Entrepreneurship in England and Australia* (Melbourne, 2001), p. 68.
- 36 Miles's interviews were one of Heather Shore's sources in *Artful Dodgers: Youth and Crime in Early Nineteenth-Century London* (Woodbridge, 1999), Appendix 1. Shore saw Miles as a reliable interviewer of convicted juveniles; David Philips did not: *William Augustus Miles, 1796–1851* (Melbourne, 2001), p. 70. Shore makes the useful point that Miles's evidence on delinquents was recycled among many commentators and practitioners: *London's Criminal Underworlds, c. 1720–c. 1930* (Basingstoke, 2015), p. 13.
- 37 King, "Female Offenders, Work and Life-Cycle Change in Late-Eighteenth-Century London," *Continuity and Change*, vol. 11 (1996), pp. 64–66.
- 38 Ibid., p. 78. See also D. Palk, *Gender, Crime and Judicial Discretion, 1780–1830* (Woodbridge, 2006), p. 167.
- 39 See G.K. Behlmer, "Deadly Motherhood: Infanticide and Medical Opinion in Mid-Victorian England," *Journal of the History of Medicine and Allied Sciences*, vol. 34 (1979), pp. 410–425; L. Zedner, *Women, Crime, and Custody* (Oxford, 1991), p. 30.
- 40 See Anon., "Moral and Physical Evils of Large Towns," *Foreign Quarterly Review*, vol. 19 (1837), pp. 181–191; M. Poovey, *Making a Social Body: British Cultural Formation, 1830–1864* (Chicago, 1995), pp. 88–93. See also J.R. Walkowitz, *Prostitution and Victorian Society: Women, Class, and the State* (Cambridge, 1980), ch. 2; F. Finnegan, *Poverty and Prostitution: A Study of Victorian Prostitutes in York* (Cambridge, 1979), ch. 1.

- 41 See H. Mayhew and J. Binny, *The Criminal Prisons of London* (1862), p. 455. See also Zedner, *Women, Crime, and Custody*, p. 33.
- 42 E.P. Thompson, "Law as Part of a Culture," *Times Literary Supplement*, April 24, 1969, pp. 425–427; D. Hay et al. (eds.), *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England* (1975).
- 43 A. Young, *General View of the Agriculture of the County of Sussex* (1813), pp. 404–405. See also Cal Winslow, "Sussex Smugglers," in D. Hay et al. (eds.), *Albion's Fatal Tree*.
- 44 See John Rule, "Wrecking and Coastal Plunder," in D. Hay et al. (eds.), *Albion's Fatal Tree*.
- 45 See G. Rude, *Criminal and Victim* (Oxford, 1985), pp. 85–86. For an example of an anonymous threatening letter, see report of the Winter Assizes for Sussex at Lewes in *The Times*, 22 Dec. 1830.
- 46 See G. Daly, "English Smugglers, the Channel, and the Napoleonic Wars, 1800–1814," *Journal of British Studies*, vol. 46 (2007), pp. 32–45; P. King, "Rethinking the Bloody Code in Eighteenth-Century Britain: Capital Punishment at the Centre and on the Periphery," *Past & Present*, vol. 228 (2015), pp. 204–205.
- 47 See J.M. Feheny, "Delinquency among Irish Catholic Children in Victorian London," *Irish Historical Studies*, vol. 23 (1983), pp. 320–322; R. Swift, "The Outcast Irish in the British Victorian City: Problems and Perspectives," *Irish Historical Studies*, vol. 25 (1987), p. 268; idem., "Heroes or Villains?: The Irish, Crime, and Disorder in Victorian England," *Albion*, vol. 29 (1997), pp. 399–410.
- 48 P. King, "Ethnicity, Prejudice, and Justice: The Treatment of the Irish at the Old Bailey, 1750–1825," *Journal of British Studies*, vol. 52 (2013), pp. 390–414; idem., "The Impact of Urbanization on Murder Rates and on the Geography of Homicide in England and Wales, 1780–1850," *Historical Journal*, vol. 53 (2010), pp. 694–696; P. King and J.C. Wood, "Black People and the Criminal Justice System: Prejudice and Practice in Later Eighteenth- and Early Nineteenth-Century London," *Historical Research*, vol. 88 (2015), p. 123.
- 49 Philips, *William Augustus Miles (1796–1851)*, pp. 78, 91.
- 50 See C. Holmes, "East End Crime and the Jewish Community, 1887–1911," in A. Newman (ed.), *The Jewish East End 1840–1939* (1981); D. Englander, "Policing the Ghetto. Jewish East London, 1880–1920," *Crime, History & Societies*, vol. 14 (2010), pp. 29–50.
- 51 W.J. Fishman, *East End 1888* (Nottingham, 2005), pp. 268–269; M.L. Friedland, *The Trials of Israel Lipski* (New York, 1984), pp. 200–202. See also J.R. Walkowitz, *City of Dreadful Delight: Narratives of Sexual Danger in Late-Victorian London* (Chicago, 1992), pp. 203–204; C. Frayling, "The House that Jack Built: Some Stereotypes of the Rapist in the History of Popular Culture," in S. Tomaselli and Roy Porter (eds.), *Rape* (Oxford, 1986), p. 199.
- 52 M. Wiener, *Reconstructing the Criminal: Culture, Law, and Policy in England, 1830–1914* (Cambridge, 1990), pp. 16, 46.
- 53 See J. Semple, *Bentham's Prison: A Study of the Panopticon Penitentiary* (Oxford, 1993), pp. 62, 85, 154–155; J. Innes, "Politics and Morals. The Reformation of Manners Movement in Later Eighteenth-Century England," in H. Eckhart (ed.), *The Transformation of Political Culture in Late Eighteenth Century England and Germany* (Oxford, 1990), pp. 58–65, 105–108; J. Beattie, "The Criminality of Women in Eighteenth Century England," *Journal of Social History*, vol. 8 (1975), p. 99.
- 54 See Innes, "Politics and Morals," p. 70.
- 55 Shore, "'Inventing' the Juvenile Delinquent," p. 119.
- 56 See Philips, *William Augustus Miles (1796–1851)*, pp. 67, 88–95.

- 57 M.J. Cullen, *The Statistical Movement in Early Victorian Britain* (Hassocks, 1975), pp. 139–144; R. Crone, “Reappraising Victorian Literacy,” pp. 8–9.
- 58 See G. Himmelfarb, *The Idea of Poverty* (New York, 1985), p. 384.
- 59 See also John Clay, “On the Effect of Good or Bad Times on Committals to Prison,” *Journal of the Statistical Society of London*, vol. 20 (1857), pp. 378–388.
- 60 As Gatrell and Hadden concluded: “more people stole in hard times than in good.” See “Criminal Statistics and Their Interpretation,” in Wrigley, *Nineteenth-Century Society*, p. 368. See also Philips, *Crime and Authority*, p. 145.
- 61 H. Mayhew and J. Binny, *The Criminal Prisons of London* (1862), pp. 385–386, emphasis in original. See also Mayhew, *London Labour and the London Poor*, vol. IV (1861–1862), pp. 459–464; A. Lindesmith and Y. Levin, “The Lombrosian Myth in Criminology,” *American Journal of Sociology*, vol. 42 (1937), p. 662; Himmelfarb, *The Idea of Poverty*, p. 377.
- 62 Wiener, *Reconstructing the Criminal*, pp. 24, 31–33.
- 63 Wiener, *Reconstructing the Criminal*, pp. 11–12.
- 64 See G.D. Robin, “Pioneers in Criminology,” pp. 49–53.
- 65 E. Ruggles-Brise, *The English Prison System* (1921), p. 160.
- 66 ‘Report from the Departmental Committee on Prisons,’ [c.-7702], *Parliamentary Papers*, 1895, vol. 56, p. 15.
- 67 P. Colquhoun, *A Treatise on the Police of the Metropolis* (6th ed., 1800), pp. 532–533. See V. Bailey, “The Fabrication of Deviance: ‘Dangerous Classes’ and ‘Criminal Classes’ in Victorian England,” in J. Rule and R. Malcolmson (eds.), *Protest and Survival: Essays for E.P. Thompson* (1993), pp. 225–227. See also L. Radzinowicz, *A History of English Criminal Law*, vol. 3 (1956), pp. 211–219, 243–246, Appendix 5.
- 68 E.G. Wakefield, *Householders in Danger from the Populace* (n.d., 1831?), pp. 3–5.
- 69 H. Milton, *London Quarterly Review*, vol. 70 (1842), pp. 1–44. Fregier was a bureau chief in the headquarters of the Paris police. In a study which had the dangerous classes as its brief, Fregier found himself unable to delineate clearly the labouring from the dangerous classes. See also G. Rude, “The Growth of Cities and Popular Revolt, 1750–1850: with Particular Reference to Paris,” in H. Kaye (ed.), *The Face of the Crowd. Studies in Revolution, Ideology and Popular Protest* (Atlantic Highlands, 1988), p. 222.
- 70 “Second Report from the Select Committee of the House of Lords Appointed to Inquire into the Execution of the Criminal Law,” *Parliamentary Papers*, 1847, vol. 7 (534), q. 2720, p. 286.
- 71 V. Bailey, “The Fabrication of Deviance: ‘Dangerous Classes’ and ‘Criminal Classes’ in Victorian England,” pp. 221–256.
- 72 Mary Thrale (ed.), *The Autobiography of Francis Place, 1771–1854* (Cambridge, 1972), p. 57.
- 73 P. Linebaugh, *The London Hanged: Crime and Civil Society in the Eighteenth Century* (1992). See also J.H. Langbein, “Culprits and Victims,” *Times Literary Supplement*, Oct. 11, 1991, p. 27.
- 74 S. Devereaux, “From Sessions to Newspaper? Criminal Trial Reporting, the Nature of Crime, and the London Press, 1770–1800,” *The London Journal*, vol. 32 (2007), pp. 18–19. See also P. Lawrence, “The Historiography of Crime and Criminal Justice,” in P. Knepper and A. Johansen (eds.), *The Oxford Handbook of the History of Crime and Criminal Justice* (Oxford, 2016), p. 29.
- 75 ‘Report of the Commissioners appointed to Inquire as to the best means of establishing an efficient Constabulary Force in the Counties of England and Wales,’ [169], *Parliamentary Papers*, 1839, vol. 19, pp. 19–22, 36–38. See also L. Radzinowicz and R.

- Hood, "Incapacitating the Habitual Criminal: The English Experience," *Michigan Law Review*, vol. 78 (1980), pp. 1308–1309. Edwin Chadwick devoted a large part of his catalogue to crimes of organized workers, using strike violence as another reason for police reform, but he never describes any threat from a *combination* of the labouring and criminal classes.
- 76 See Himmelfarb, *The Idea of Poverty*, pp. 384–387.
- 77 See F.B. Smith, "Mayhew's Convict," *Victorian Studies*, vol. 22 (1979), pp. 431–448; R. Sales, "Platform, Performance and Payment in Henry Mayhew's *London Labour and the London Poor*," in K. Campbell, *Journalism, Literature and Modernity* (Edinburgh, 2000), pp. 54–69; D. Englander, "Henry Mayhew and the Criminal Classes of Victorian England: The Case Reopened," *Criminal Justice History*, vol. 17 (2002), pp. 87–108; A.L. Beier, "Identity, Language, and Resistance in the Making of the Victorian 'Criminal Class': Mayhew's Convict Revisited," *Journal of British Studies*, vol. 44 (2005), pp. 499–515.
- 78 R. McGowen, "Getting to Know the Criminal Class in Nineteenth-Century England," *Nineteenth-Century Contexts*, vol. 14 (1990), pp. 33–51. For two examples of police 'knowing,' see H.W. Holland, "Professional Thieves," *Cornhill Magazine*, vol. 6 (1862), pp. 640–653; B. Hemyng, "Prostitution in London," in H. Mayhew, *London Labour and the London Poor* (1861–1862), vol. 4, pp. 236–237.
- 79 *Transactions of the National Association for the Promotion of Social Science*, 1868, p. 350. See also G.W. Hastings, "Address on the Repression of Crime," *Trans NAPSS*, 1874, pp. 120–122.
- 80 See V. Bailey, *Charles Booth's Policemen* (2014), pp. 41–45; Radzinowicz and Hood, "Incapacitating the Habitual Criminal," pp. 1336–1354; J. Davis, "Prosecutions and Their Context. The Use of the Criminal Law in Later Nineteenth-Century London," in D. Hay and F. Snyder (eds.), *Policing and Prosecution in Britain 1750–1850* (Oxford, 1989), p. 398. See also J. Monro, 'Convict Supervision Office' (1886) in TNA, HO144/184/A45507/1.
- 81 V. Bailey, "The Fabrication of Deviance: 'Dangerous Classes' and 'Criminal Classes' in Victorian England," p. 248; J. Semple, "Foucault and Bentham: A Defence of Panopticism," *Utilitas*, vol. 4 (1992), p. 109.
- 82 J.J. Tobias, *Crime and Industrial Society in the Nineteenth Century* (Harmondsworth, 1972), p. 143.
- 83 See Seth Koven, "Henrietta Barnett: The (Auto) Biography of a Late Victorian Marriage," in S. Pederson and P. Mandler (eds.), *After the Victorians: Private Conscience and Public Duty in Modern Britain* (1994).
- 84 V.A.C. Gatrell, "Crime, Authority and the Policeman-State," in F.M.L. Thompson (ed.), *The Cambridge Social History of Britain 1750–1950* (Cambridge, 1990), vol. 3, p. 303.
- 85 See A. Lindesmith and Y. Levin, "The Lombrosian Myth in Criminology," *American Journal of Sociology*, vol. 42 (1937), pp. 664–666; N. Davie, "Criminal Man Revisited? Continuity and Change in British Criminology, c. 1865–1918," *Journal of Victorian Culture*, vol. 8 (2003), pp. 1–25.
- 86 Quoted in R. McGowen, "Rethinking Crime: Changing Attitudes Towards Law-Breakers in Eighteenth and Nineteenth-Century England," Ph.D. thesis, University of Illinois at Urbana-Champaign, 1979, p. 312.
- 87 A.G.F. Griffiths, "Criminology," *Encyclopedia Britannica*, 11th ed. (1910), vol. 7 (Cambridge, 1910), pp. 464–465.
- 88 E. Ruggles-Brise to C.E. Troup, Permanent Under-Secretary of State, Home Office, 18 April 1910, in TNA, HO45/13658/185668/6.
- 89 See E.D. Driver, "Charles Buckman Goring 1870–1919," in H. Mannheim (ed.), *Pioneers in Criminology* (Chicago, 1960), pp. 335–348; P. Beirne, "Heredity versus

- Environment: A Reconsideration of Charles Goring's *The English Convict* (1913)," *British Journal of Criminology*, vol. 28 (1988), pp. 315–336.
- 90 E. Ruggles-Brise to C.E. Troup, 18 April 1910, in TNA, HO45/13658/185668/6. See also Jose Harris, "Between Civic Virtue and Social Darwinism: The Concept of the Residuum," in D. Englander and R. O'Day (eds.), *Retrieved Riches: Social Investigation in Britain 1840–1914* (Aldershot, 1995), pp. 67–83.

IMAGES


Form X. 3

Wandsworth Gaol,
County of Surrey
4 Jan^y 1873

PARTICULARS of a Person convicted of a Crime specified in the 20th Section of
the Prevention of Crimes Act, 1871.

Name Joseph Channon 2969
and
Aliases.....

Description when liberated.	Age (on discharge)	<u>12</u>	Photograph of Prisoner.
	Height.....	<u>4 ft 5 1/2</u>	
	Hair.....	<u>Brown</u>	
	Eyes.....	<u>Blue</u>	
	Complexion.....	<u>Flesh</u>	
	Where born.....	<u>Surrey</u>	
	Married or single	<u>Single</u>	
	Trade or occupation	<u>None</u>	
	Any other distinguishing mark	<u>Scar</u>	
		<u>upper lip + over left eye</u>	



[17198.] E. & S.—25,000.—272.

Image 1 Joseph Channon, age 12, born Surrey, simple larceny, stealing a fowl, 6 weeks' hard labour. Previous conviction for simple larceny, 14 days' imprisonment and whipped.


Source: Prisoners held in Wandsworth Prison, 1873: TNA, PCOM2/290. With permission of The National Archives.

17 Mar 73. Name, No Margaret Ede 2499 164
4

and Aliases Emma Johnson

Descriptions.

Age (on discharge) 59
 Height 5 ft 4 in
 Hair Grey
 Eyes Blue
 Complexion Fair
 Where born Ireland
 Married or single Married
 Trade or occupation Hawker
 Distinguishing marks Scar on neck & right eyebrow.



Address at time of apprehension 15 Linden Rd. Croydon.

Place and date of conviction Croydon 29 March 73.

Offence for which convicted Simple Larceny - Ste a pair of trousers & a shirt.

Sentence 2 Cal Mos. H. L.

Date to be liberated 28 May 73.

Intended residence after liberation As above.

Previous Convictions

Summary

11 Sep 69. Unltd pos of a teapot, 2 Cal Mos Conviction

8 Oct 70. Drunk bc 14 days or 2 wks Southwark

10 Dec 70. Drunk bc 7 days N.H.L. --

23 Dec 70. Drunk bc 7 days N.H.L. or 4 --

13 Jan 71. do do --

By Jury

Remarks, antecedents &c.

Catalogue Reference: pcom/2/291/88 Image Reference: 1

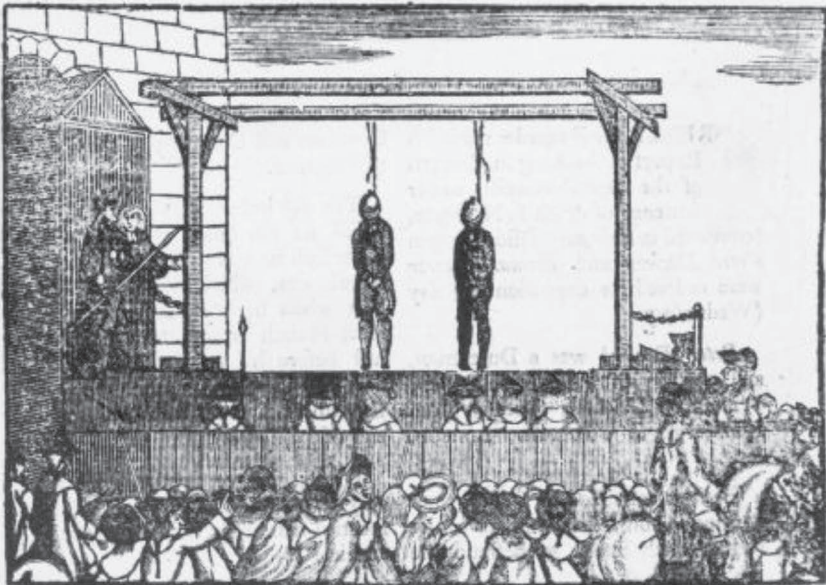
Image 2 Margaret Ede, age 59, born Ireland, hawker, simple larceny, stealing pair of trousers and shirt, 2 months' hard labour. Previous convictions for drunkenness and vagrancy.

Source: Prisoners held in Wandsworth Prison, 1873: TNA, PCOM2/290. With permission of The National Archives.

The last Dying Speech and Confession, Parentage and Behaviour, of the
TWO UNFORTUNATE
MALEFACTORS,

Executed this Day before the Debtor's Door, Newgate.

To which is added, The Copy of a most excellent Prayer, written and used by *Thomas Hunter*, during his Confinement, and is recommended to the Use of every Person.



Printed and Sold in London.

Image 3 Two Unfortunate Malefactors, executed before the Debtor's Door, Newgate

Source: Getty Images

Part 1

CRIME NUMBERS



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“FIRST REPORT OF THE
COMMISSIONERS APPOINTED TO
INQUIRE AS TO THE BEST MEANS
OF ESTABLISHING AN EFFICIENT
CONSTABULARY FORCE,” 1839,
EXCERPTS

“First Report of the Commissioners Appointed to Inquire as to the Best Means of Establishing an Efficient Constabulary Force” [169], *Parliamentary Papers*, 1839, vol. 19, pp. 8–10; 13–16.

Edwin Chadwick (1800–1890) was a lawyer, administrator, and chief exponent of Jeremy Bentham’s Utilitarian philosophy on government and society. He wrote most of the *Poor Law Report* (1834), which inspired the New Poor Law, embodying the two basic principles of the *Report* – the workhouse test and ‘less eligibility’ – and the *Report on the Sanitary Condition of the Labouring Population* (1842), an investigation of housing and public health. Chadwick also wrote the *Constabulary Commissioners Report* (1839), which recommended a professional police force for the counties of England and Wales, in order to deter crime and bring strike disorder to heel. The Report resulted in the Rural Police Act 1839 (2 & 3 Vict c 93), which enabled magistrates to establish police forces in their counties. Chadwick is known for his unashamed manipulation of evidence collected on behalf of these committees of enquiry. In this guise, he was the archetypal ‘moral entrepreneur,’ inflating public alarm on troubling social issues, prescribing the reforms required, and putting himself forward as the person to implement the reforms.

The model of ‘preventive policing’ presented in the 1839 *Report* rested on a number of assumptions about crime, one of which was that the ‘dark figure’ of crime in the countryside was enormous. Chadwick was determined to reveal this gap between reported and unreported crime, and to show that many county magistrates shared his opinion that a large proportion of the offences committed were never brought before them. A related assumption was that ‘habitual depredators’ were responsible for the bulk of crime. Chadwick

estimated that at least 200,000 young, able-bodied depredators were at large in the country. Each of these 200,000 could expect to enjoy a criminal career of two and a half years in towns, five years in the unpoliced countryside, before arrest and prosecution. To support these careers, society was robbed of a vast quantity of property.

In the following extract, Chadwick seeks to prove that the number of persons prosecuted or convicted were not correct indications of the state of crime. For want of police, and the unwillingness of victims of crime to prosecute, only a small proportion of the hundreds of offences committed found their way into the official crime statistics. Hence, the reality of crime was far worse than the official statistics revealed. Chadwick was not always concerned with *under*-counting, however. He took Thames police magistrate Patrick Colquhoun to task for his inflated estimate of prostitutes in the Metropolis at 50,000, which “gave one prostitute for every three or four males, and alleged that every third or fourth female was a professed prostitute.”

Some commentators took a more sanguine view of the figures. Dr. William Cooke Taylor inventively argued in the same year that crime had declined in relation to the amount of property or social wealth, that is “proportionally to the progressive increase of occasions to offend.” This led him to conclude:

There never was a period when persons and properties were more secure in England. Who now sleeps with pistols beneath his pillow, or hangs a blunderbuss within reach of his bolster? How many Londoners deem it necessary to spend a mortal half hour every night in bolting, barring, and chaining doors and windows?

(“Moral Economy of Large Towns: Crime and Punishment,” *Bentley’s Miscellany*, vol. VI, 1839)

At the beginning of the Inquiry it became evident to us that the returns of the number of persons prosecuted or convicted, which, in the reasonings in Parliament are usually assumed as correct indications of the state of crime within any given district, cannot be relied upon for that purpose. In several districts where it was concluded, from the absence of any returns of prosecution, that there was an absence of crime, we found on examination that this fact resulted only from the impunity of depredators. In two instances where crime was remarkably frequent, where the only real security of the subject consisted in his own power of self-defence, and where, as we have good reason to believe, from the defective state of the Constabulary Force, there was no pursuit or apprehension, the gaols being empty, the judges were, according to custom, presented at the Assizes with white gloves as emblems of the purity of the districts. In other instances where, from the increased efficiency of the constables, or from increased facilities of prosecution, there has been an increased number of cases on the Calendar, it is common to hear this increase of prosecutions seriously treated as an increase of crime, and as the ground of alarm. The answers to the questions put by us to ascertain the state of the information possessed, as well as

the state of the fact, show that there is in general no recorded information upon the subject on which any reliance for exactitude can be placed. So habitually is the Calendar of prosecutions regarded (/) as the index of the state of Crime, that a large proportion of the Magistrates' answers to our queries, as to the number of crimes committed within their districts, either give, in answer, the number of prosecutions, or refer us to the Clerk of the Peace as the proper source of information. Many of the Magistrates, however, at once stated their utter want of any better information than that supplied by common rumour. In most other cases the answers are to the following tenour; thus: the Magistrates of the Upper Division of Lewes Rape (Sussex) state:—

“There being every reason to believe that a very small proportion of the offences committed (especially the minor ones) come in any shape within the knowledge of the Magistrates, it is not possible to give satisfactory information to these questions.”

The Magistrates of the Division of Mutford and Lothingland (Suffolk) state:—

“There is no doubt but a very large proportion of offences are committed which are not brought officially before the Magistrates; and in very many cases there is reason to believe that felonies are compounded.”

The Magistrates of the Teasdale Division (Derby) state:—

“Many felonies and misdemeanors are committed in this district which never come to the knowledge of the Magistrates except by accident.”

Other answers elicit the wide and strong connexions of the causes of this absence of information, with the whole train of penal administration; thus, General Marriott, one of the Magistrates of the Division of Pershore, and Chairman of the Pershore Union, Worcestershire, states in his answer:

“From the Magistrates' answers to questions third and fourth, it might be doubted whether any police was required or not in this division, there appearing only *one* conviction for felony (stealing a loaf), and one for misdemeanor (night poaching), in a district extending from north to south about sixteen miles, and from east to west nearly twenty miles, in the course of a whole year. I fear, however, this is very deceptive, and that there is a great deal of crime (not heinous, perhaps) which is not brought to light, from the want of police, and the unwillingness, under such circumstances, of the injured to prosecute. The River Avon winds through the whole extent of the district (eighteen miles), and the number

of barges employed upon it gives great facility to plunder in the night time, and to escape detection, many of the bargemen being of the worst character. Since the Magistrates have been engaged in answering these queries, the skin and entrails of a fresh-killed sheep were taken out of the river in an eel-net, close to the town of Pershore, and although notice has been sent to all the neighbouring farmers, not one will own to having lost a sheep, for fear of being obliged to prosecute. They call it, "throwing away good money after bad." If reluctance to prosecute prevailed so much before, it has now been strengthened in this neighbourhood by the late Act of Parliament allowing counsel to prisoners. Mr. Tidmarsh, a large farmer, having at different times lost four fat sheep, succeeded at last in discovering the offenders, and the evidence was so strong against two persons charged, that they made a confession before the committing Magistrate, and implored the mercy of the prosecutor. The ingenuity of counsel, however, at the last quarter sessions prevailed, and the prisoners were acquitted. The farmers say, "After this, what use is there in prosecuting?"

The Magistrates of Shepton Mallet, in Somerset, state:—

"Numerous complaints have been made by persons on account of the trouble and expense which they have sustained in pursuing and apprehending felons, for the ordering of the payment of which the Magistrates have no power, and we are convinced that this is a considerable inducement to persons to withhold information relative to the prosecution of offenders."

In other answers the motives to withhold information are thus stated. In the answer from the Borough of Newcastle-under-Line, it is stated:—

"In thefts of a trifling character (as to the amount taken), a great disinclination to take the trouble of prosecuting exists. In the rural districts the constables are mostly farmers, who are often deterred from interfering with old offenders, or with beer-houses, or other resorts of the dissolute, by an apprehension of injury to themselves or property."

From the Borough of Gateshead it is stated that—

"Parties making complaints for offences which are summarily punishable by the (/) Magistrates, have to bear the expense of apprehension of the offenders, the Magistrates having no power to award a remuneration

to the officers or to the parties for their trouble, which has a tendency to prevent persons from lodging information of misdemeanors and petty offences.”

From the Borough of Portsmouth, the motives to withhold information, or abstain from prosecution, are thus stated:—

“Expense, trouble, and loss of time, in cases of misdemeanors, are frequently more mischievous than some felonies; and where the expenses must be paid by the prosecutor after the police have been fortunate enough to arrest the delinquent, he is frequently liberated, to pursue his depredations, for want of a prosecution.”

From the Borough of Lymington it is stated:—

“The individuals generally are indisposed to incur the expense, risk, and uncertainty of a conviction. In some cases a fear of personal violence or damage to property from combination amongst the thieves deters parties from investigating robberies.”

From the city of Lincoln and other places, the answers concur in assigning to “the fear of vengeance,” and injury from the depredators, a large proportion of the motives to withhold information. We shall revert to the several important and distinct topics indicated by the answers of the tenor of those quoted.

To judge of the extent to which the motives to withhold information operate as above stated, as well as for the other objects (§ 1), we considered it desirable to obtain more satisfactory information as to the probable amount of crime committed than was derivable from the parties injured. With this view we sought information through the confessions of convicts themselves. Nearly all of these confessions on which reliance could be placed were confirmatory of the impression of the extreme inadequacy of the existing knowledge on the subject. When requested to enumerate the crimes they had committed, it was only those convicts who had been engaged in burglaries or the larger depredations, who could enumerate the offences committed by them during any other than short periods. The common answers of those who had been engaged in petty depredations were, “Impossible to state,” “Could not remember a tenth of them,” “Hundreds,” “Many hundreds,” “Sometimes more, sometimes less,” “Too many to remember.” One states, “If I was to recollect I could not tell them all between now and to-morrow.” On a careful inquiry made amongst the habitual depredators confined in one of the wards of the Cold Bath Fields’ prison by the Governor, Mr. Chesterton, it was

estimated by the class of pickpockets, that "one day with another" they must steal about six pocket-handkerchiefs or things of the same value, "to live," meaning, to obtain the means of livelihood, in such sort as to render a career of depredation more eligible to them than a livelihood by honest industry. It was satisfactorily established by independent evidence, that the average duration of the career of delinquents of this class, would be five or six years before permanent removal from the town by transportation or otherwise. Independently of the confessions of the delinquents, it was well known, that the money to sustain their habits of enjoyment could only be derived from some such an average produce of depredation. Such a career comprehending many hundred offences, would only be marked in the ordinary statistical returns of crime, by one or two items; the interruption by one or two prosecutions, previous to ultimate conviction or removal; yet the greater proportion of the prevalent reasoning as to the state of crime in this and other countries, is founded on such statistics.

...
 (7) Having been unable to obtain equally good evidence with relation to the number of offences committed in any other course of delinquency, we have exerted ourselves to obtain information as to the number of delinquents at large.

We find that the arrangements for the supply of information as to the *persons* and habits of delinquents, as well as the arrangements for obtaining information as to the offences committed, may be taken as primary tests of the efficiency of any police; for whilst, to the extent to which there is no information of the particular *offences* committed, there can be no pursuit, no detection, and no punishment, and crime riots in impunity; so to the extent to which there is no information, with relation to the *persons* of habitual delinquents, there can be no observation and none of that most efficient, economical, and constitutional kind of prevention, which consists in the direct watching and guarding of persons of known or suspected bad character.

One of the queries which we addressed to the Magistrates in the country, and the authorities in the towns, was the following one:—"Are there within your division any persons who have no visible or known means of obtaining their livelihood honestly, and who are believed to live by habitual depredation, or by illegal means? Will you state the numbers and supposed habits of such persons?" The answer, with respect to the characters designated for observation by the law, in general affords conclusive evidence of the absence of any precise information that might serve for any preventive measures. In not only a small proportion of the returns is any attempt made to enumerate such characters; and the ordinary tenor of the greater proportion of answers is, "A few,"—"We cannot ascertain,"—"There may be persons of this description, but we have no means of ascertaining their numbers."

Besides the evidence which appears on the face of the returns, we have, in several instances, obtained other evidence, which shows that the information of the Magistrates, like that of the Judges, is confined to the cases brought before them, and that scarcely in any instance is any case brought to their notice except on the apprehension of the party. Some illustrations of the practical operation of this state of things will be given in a subsequent portion of this Report.

With a view to make some approximation to a tolerably correct estimate of the amount of crime actually committed, as compared with the prosecutions within particular districts, we have directed an enumeration to be made by the Metropolitan Police, of the number and description of persons known to them as being addicted to habitual delinquency or breaches of the law. We have obtained similar enumerations from Liverpool, Bristol, Bath, Hull, and Newcastle-upon-Tyne, where the Police is organized and conducted on the same plan as the Metropolitan Police. Before the means of making such estimates were obtained by the organization of such an agency more or less closely observant of the classes in question, and therefore enabled to give more or less accurate particulars with relation to them, one of the Commissioners who had then paid attention to the subject, endeavoured to determine the number of common thieves who were at large in the metropolis. The course taken was to endeavour to ascertain the following points:—First, the average duration of the career of common thieves or habitual depredators before their permanent removal from the field of depredation, by transportation, death, or other means. Secondly, the numbers of habitual depredators who annually pass through the gaols, and are permanently removed from the field of depredation by such means. Upon the first of these points, it was estimated in 1830, on the information of governors of prisons, attorneys practising in the criminal courts, and other persons conversant with the habits of the criminal population in the metropolis, that the average career of impunity to common thieves was not less than six years. On the second point it was estimated that the total number of habitual depredators annually tried in the Crown courts of the metropolis, was in round numbers 1000: hence it followed that the number of common thieves at large in the metropolis, from which the annual supply of 1000 convicts was made without apparent diminution, could not be less than 6000. In the year 1834 an estimate was made of the number of common thieves in the metropolis known to the Metropolitan Police. (/) The total number then known to them was 5210. Upon a more close enumeration made in the year 1837, the number was returned as 6407.

The following Tables are compiled from the returns alluded to above. In the enumeration of the delinquents at large, classes not usually noticed in any returns connected with penal jurisprudence are included; but they are noticed here to

show the numbers of the persons whose proceedings chiefly occupy the attention of the constables:—

TABLE showing the number of Depredators, Offenders, and Suspected Persons, who have been brought within the cognizance of the Police of the following districts or places in the year 1837, comprehending.—I. Persons who have no visible means of subsistence, and who are believed to live wholly by violation of the law, as by habitual depredation, by fraud, by prostitution, &c. II. Persons following some ostensible and legal occupation, but who are known to have committed an offence, and are believed to augment their gains by habitual or occasional violation of the law. III. Persons not known to have committed any offences, but known as associates of the above Classes, and otherwise deemed to be Suspicious Characters:—

District or Place.	Number of Depredators, Offenders, and Suspected Persons.				Numbers in these Classes Migrant.	Average Length of Career	Proportion of known bad Characters to the Population.
	1st Class.	2nd Class.	3rd Class.	Total.			
Metropolitan Police District	10,444	4,353	2,104	16,901	2,712	4 yrs.	1 in 89
Borough of Liverpool	3,580	916	215	4,711	..	..	1 in 45
City and County of Bristol	1,935	1,190	356	3,481	605	..	1 in 31
City of Bath	284	470	847	1,601	..	..	1 in 37
Town and County of Kingston-on-Hull	487	137	313	937	303	..	1 in 64
Town and County of Newcastle-on-Tyne	1,730	222	62	2,014	454	2¼ yrs.	1 in 27

...

But, after all allowances are made, these Returns tend to establish several important results.

As to the number of the persons found at large, these enumerations serve to show the extent to which the legislature and the public have been misled, by mere hypothetical estimates. For example, Dr. Colquhoun, the magistrate of the Thames police, in his work on the Police of the Metropolis, estimated the number (/) of prostitutes in the Metropolis at 50,000. The whole male population of London, Westminster, and the parishes within the Bills of Mortality was, according to the actual enumeration of 1801, the period to which he referred, only about 400,000. But after deducting the children and the very old, the remainder capable of contributing to the support of the vice of prostitution, would not be more than from 150,000 to 200,000 at the extreme. Allowing that all were licentious in their habits, the learned Magistrate's estimate gave one prostitute for every three or

TABLE showing the Characters of the persons in the above Three Classes, or the mode of depredation or means by which they obtain a livelihood:—

Character and Description of Offenders.	Metropolitan Police District.			City of Bristol.			City of Bath.			Town of Kingston-on-Hull.			Town of Newcastle-on-Tyne.		
	1st Class.	2nd Class.	3rd Class.	1st Class.	2nd Class.	3rd Class.	1st Class.	2nd Class.	3rd Class.	1st Class.	2nd Class.	3rd Class.	1st Class.	2nd Class.	3rd Class.
Burglars	77	22	8	46	..	6	4	5	7	2	..	..	..	..	..
Housebreakers	59	17	34	45	15	18	7	8	20	8	1	..	..	..	..
Highway Robbers	19	8	11	23	13	4	5	3	..	..	2	..	4	..	..
Pickpockets	544	75	154	88	35	65	20	26	40	37	5	7	114	20	..
Common Thieves	1667	1338	652	297	465	188	70	120	138	43	5	3	308	..	..
Forgers . . . . .	..	3	..	2	..	10	..	..	..	..	..	..	1	..	..
Obtainers of Goods by False Pretences	33	108	..	13	57	2	11	19	7	5	3	6	31	..	..
Persons committing Frauds of any other description	23	118	41	5	38	..	..	..	..	12	2	5	90	85	..
Receivers of Stolen Goods	51	158	134	9	90	..	1	2	..	3	4	5	7	2	..
Horse Stealers	7	4	..	19	10	..	..	..	1	..	..	..	1	..	..
Cattle Stealers	45	48	48	2	11	24	..	1	..	3	1	3	5	2	..
Dog Stealers	25	1	2	13	..	35	1	..	1	..	..	..	..	..	..
Coiners	202	54	61	45	33	..	2	2	3	3	2	7	6	2	2
Utterers of Base Coin	723	1866	179	55	141	..	20	215	310	11	17	15	525	..	..
Habitual Disturbers of the Public Peace	1089	186	20	263	..	..	2	45	42	27	7	261	192	92	..
Vagrants	12	17	21	8	..	3	1	..	..	..	..	..	4	2	..
Begging-letter Writers	22	40	24	11	..	..	9	22	18	2	1	..	..	..	..
Bearers of Begging-Letters	813	62	20	85	..	..	1	2	..	95	31	..	45	10	..
Prostitutes, well-dressed, living in brothels	1460	79	73	188	69	..	130	..	..	105	24	..	43	..	..
Prostitutes, well-dressed, walking the streets	3533	147	184	713	212	..	..	..	260	131	32	..	353	..	..
Prostitutes, low, infesting low neighbourhoods	40	2	438	..	..	..	..	..	..	..	..	..	..	..	..
Classes not before enumerated	10,444	4353	2104	1935	1190	356	284	470	847	487	137	313	1730	222	62
Total															

four males, and alleged that every third or fourth female was a professed prostitute. In a recent Address published by a voluntary Association for the suppression of prostitution, the number of prostitutes in the Metropolis was stated to be not less than 80,000. The actual enumeration shows that at this time the number of known prostitutes living amidst nearly a million and a half of the population, does not exceed 7,000. We may observe, that the proportion of this unfortunate class to the population is similar in Paris, the average number during the year 1832 being 3558 according to the Police Registers of that metropolis. The prevalent inaccuracy of statement upon such subjects, is observable in the public writers in France, where writers of credit had estimated the numbers of prostitutes in Paris at fifteen, twenty, and even sixty thousand. On similar grounds the number of common thieves in the metropolis have been estimated, not long ago, at upwards of 80,000.

ARCHIBALD ALISON, “IMPRISONMENT AND TRANSPORTATION: THE INCREASE OF CRIME,” 1844, EXCERPT

Archibald Alison, “Imprisonment and Transportation: The Increase of Crime,” *Blackwood’s Edinburgh Magazine*, vol. 55, May 1844, pp. 533–545.

Archibald Alison (1792–1867) was a lawyer and historian. In 1822, he became advocate-depute, a junior Scottish law officer with the functions of public prosecutor. In 1835, he accepted the post of sheriff of Lanarkshire, a burgeoning industrial region of Scotland. Based in Glasgow, Alison firmly upheld the authority of the state, particularly against the early trade unions, which he sought to strangle at birth. He was again active in 1843–1844 when the miners went on strike. Yet he could also be critical of the callousness of capitalism. Alison wrote at least 100 articles in *Blackwood’s Edinburgh Magazine*, the Conservative rival to the Whig-supporting *Edinburgh Review*, and the voice of ultra-Toryism. By 1830, Blackwood’s circulation was 8,000, with a readership several times that figure. In these articles, Alison countered the ideas associated with the French Revolution, urged the ruling class to stand up to popular intimidation, defended slavery, and opposed most constitutional change.

In 1810, the government began publishing the annual figures of the numbers of persons tried for indictable or more serious offences, taking the series back to 1805. The figures showed that between 1805 and 1842, the number of committals to trial for indictable offences increased from 4,605 in 1805 to 31,309 in 1842, or almost seven times (Alison says sixfold), during a time when the population had increased by only 80 per cent (Alison says 60 per cent). The largest increases coincided with periods of economic depression and political unrest, as in 1815–1819, 1832, and 1842. Writing in 1844, Alison saw the crime figures as a harbinger of violence, political unrest, and social instability. So, too, did an author of a very different political persuasion, Friedrich Engels, whose *The Condition of the Working Class in England* (1845) likewise linked the growth of crime to the concentration of population in urban and industrial centres.

In the following passage, Alison is at his most alarmist, stating, “crime advances with the steps of a giant, sweeping whole classes into its vortex, and threatening to spread corruption and vice, in an incredible manner, through the densest and most dangerous classes of the community.” This was not, he claimed, because crime was being more frequently unearthed by efficient policing. Undetected crime was also on the increase. And more

crimes were now dealt with by courts of *summary* jurisdiction and so never appeared in the official criminal returns. Alison concludes, in typical Jeremiah tones, that the increased leniency of the criminal laws had failed to provide the security the reformers had claimed it would, the spread of education had failed to work its promise, and the new system of imprisonment had proved insufficient to the challenge.

AMONG the many causes of anxiety which the present state of society in the British empire must occasion to every thoughtful or reflecting mind – one of the most extraordinary and alarming is, the *constant and uninterrupted increase of crime*. . . . crime advances with the steps of a giant, sweeping whole classes into its vortex, and threatening to spread corruption and vice, in an incredible manner, through the densest and most dangerous classes of the community.

Authentic and irrefragable evidence of the magnitude of this danger exists in the statistical tables of committals which have now, for a very considerable time, been prepared in all parts of the British empire. Since the year 1805, when regular tables of commitments first began to be kept in England, commitments have increased *sixfold*: they have swelled *from five to thirty-one thousand*. During the same period population has advanced about sixty per cent: in other words, detected crime has advanced FOUR TIMES AS FAST AS THE NUMBERS OF THE PEOPLE. . . . In Scotland and Ireland the returns of commitments have not been kept, until within the last twenty years, with such accuracy as can be relied on; but they exhibit an increase still more alarming. Ireland, as might be expected, exhibits a growth of crime which has fully kept pace with that of England during the same period: but Scotland exhibits a change which fairly outstrips all the others in the race of iniquity. In 1803, Lord Advocate Hope said in Parliament, that more crime was tried at one Quarter Sessions at Manchester than over all Scotland in a whole year; and the proceedings of the criminal courts to the north of the Tweed, at that period, amply demonstrated the truth of his assertion. In the year 1805, eighty-nine criminals were brought before the whole tribunals, supreme and inferior, in Scotland; but in the year 1842, the committals for serious offences were nearly four thousand – in other words, serious crime, in less than forty years, had augmented in Scotland above THIRTY-SIX FOLD. During the same period population has advanced about fifty per cent, viz. from 1,800,000 to 2,660,000; so that in moral, staid, and religious Scotland, serious crime, during the last forty years, has risen TWENTY-FIVE TIMES as fast as the number of the people.

Table showing the progress of crime in the British islands since 1805

Years	England	Scotland	Ireland.
1805	4605	89	3600
1806	4346	101	3781
1807	4446	97	3522
1808	4735	124	3704
1809	5330	Chasm.	3641
1810	5146		3799
1811	5337		4162
1812	6576		4286
1813	7164		Chasm.
1814	6390		
1815	7818		

Years	England	Scotland	Ireland.
1816	9091		
1817	13,932		
1818	13,567		
1819	14,254		
1820	13,710	1486	
1821	13,115	1522	
1822	12,241	1691	13,251
1823	12,263	1733	14,632
1824	13,698	1802	15,258
1825	14,437	1876	15,515
1826	16,164	1999	16,318
1827	17,924	2116	18,031
1828	16,564	2024	14,683
1829	18,675	2063	15,271
1830	18,107	2329	15,794
1831	19,647	2451	16,192
1832	20,829	2431	16,056
1833	20,072	2564	17,819
1834	22,451	2691	24,381
1835	20,731	2867	21,205
1836	20,984	3922	23,891
1837	23,612	3126	24,804
1838	23,094	3418	25,723
1839	24,443	3409	26,392
1840	27,187	3872	23,833
1841	27,760	3562	20,796
1842	31,309	3884	

PORTER'S *Progress of the Nation*, iii. 172, 227.

....

In truth, so far from its being the case that crime is now better looked after, and therefore more frequently brought to light than formerly, and that it is that which swells our criminal returns, the fact is directly the reverse. So weak, feeble, and disjointed, are the efforts of our various multifarious and unconnected police establishments over the country generally, [We except the police of London . . . and also that of Liverpool, Glasgow, Manchester, and Edinburgh, where . . . much has been done in the way to repress crime] that we assert, without the fear of contradiction by any person practically acquainted with the subject, that the amount of undetected and unpunished crime is rapidly on the increase, and is now greater than it was in any former period. . . .

In truth, it has long been known, that in consequence of the relaxation of the severity of our criminal code, and the astonishing increase of serious crimes which cannot be passed over, a vast number of criminals are now disposed of in the police courts, and never appear in the criminal returns at all, who, twenty years ago, were deemed felons of the very highest class, and visited often with death, always with transportation. It was stated in parliament as a subject of complaint against the Lancashire magistrates, that during the insurrection of 1842 in that county, nearly ten thousand persons were imprisoned, and let go after a short confinement, without ever being brought to trial. During the disturbances in the same year,

in Lanarkshire and many other counties of Scotland (especially Ayrshire, Fife, and Mid-Lothian), the accumulation of the prisoners was so great, that not only were none detained for trial but those against whom the evidence was altogether conclusive; but that great numbers were remitted for trial before the summary tribunals, and escaped with a month or two of imprisonment, who had committed capital crimes, and a few years before would infallibly have been transported for fourteen years. We are getting on so fast, that nothing is more common now than to see hardened criminals, both in England and Scotland, disposed of by the police magistrates, and for capital crimes receive a few months' imprisonment. Their names and crimes never appear in the returns at all. . . .

The Liberal Party, in the beginning of the present century, were unanimous in imputing the vast increase of crime to the defects of our criminal law. The nominal severity of that system, it was said, and said justly, with its uncertain punishments and frequent opportunities of escape, afforded in fact a bounty on the commission of crime. Injured parties declined to give information for fear of being bound over to prosecute; witnesses were reluctant to give evidence, judges caught at legal quibbles, juries violated their oaths, in order to save the accused from a punishment which all felt was disproportionate to the offence; and thus the great object of criminal jurisprudence, certainty of punishment, was entirely defeated. There was much truth in these observations, but much fallacy in the hope that their removal would effect any reduction in the number of offences. The object sought for was carried. Humane principles were triumphant. The labours of Sir Samuel Romilly and Sir James Mackintosh, aided by the cautious wisdom and experienced ability of Sir R. Peel, produced a total revolution in our criminal jurisprudence. The old stain has been removed: we need no longer fear a comparison with the laws of Draco. For the last fifteen years so many offences, formerly capital, have had that dreadful penalty removed, that the law in Great Britain, as now practically administered, is probably the mildest in Europe. Death is scarce ever inflicted except for murder; in cases of housebreaking, even when attended with personal violence, it is never thought of. The executions in Great Britain now range from twenty-five to thirty-five only a year, instead of a hundred and fifty or two hundred, which they formerly were. And what has been the result? Has the promised and expected diminution of crime taken place, in consequence of the increased certainty of punishment, and the almost total removal of all reasonable or conscientious scruples at being concerned in a prosecution? Quite the reverse. The whole prophecies and anticipations of the Liberal school have been falsified by the result. Crime, so far from declining, has signally increased; and its progress has never been so rapid as during the last fifteen years, when the lenity of its administration has been at its maximum. An inspection of the returns of serious crimes already given will completely demonstrate this.

Next, it was said, that education would lay the axe to the root of crime; that ignorance was the parent of vice; and, by diffusing the school-master, you would extinguish the greater part of the wickedness which afflicted society; that the providing of cheap, innocent, and elevating amusements for the leisure hours of the working-classes, would prove the best antidote to their degrading propensities; and that then, and then only, would crime really be arrested, when the lamp of knowledge burned in every mechanic's workshop, in every peasant's cottage. . . . and the efforts accordingly made for the instruction of the working-classes during the last twenty-five years, have been unprecedented in any former period of our history. What have been the results? Has crime declined in proportion to the spread of education? Are the best instructed classes the least vicious? Has eating of the fruit of the tree of knowledge diminished the power of the Tempter? So far from it, the consequences, hitherto at least, have been melancholy and foreboding in the extreme.

The criminal returns of Great Britain and Ireland for the last twenty years, demonstrate that the uneducated criminals are about a third of the whole; in other words, the educated criminals are to [the] uneducated as two to one. . . .

But to any one who reflects on the principles of human nature, and the moving powers by which it is impelled, whether towards virtue or vice, such a result must appear not only intelligible but unavoidable. It is our desires that which are our tempters. All the statistical returns prove that the great majority of educated persons, generally at least three-fourths of the whole, have received an *imperfect* education. They have just got knowledge enough to incur its dangers; they have not got enough either to experience its utility or share in its elevation. . . . The great bulk of mankind at all times, and especially in all manufacturing communities, can only receive an imperfect education. It is not in the age of twelve hours' labour at factories, and of the employment of children without restraint in coal and iron mines, that anything approaching to a thorough education can be imparted to the working classes, at least in the manufacturing districts. The conclusion to be drawn from this is, not that education is hopeless and should be abandoned, in relation to the great bulk of men . . . the conclusion is, that it is by the active, not the intellectual powers, the desires, not the understanding, that the great majority of men are governed; that it is the vast addition civilisation and commerce make to the wants and passions of men, which constitutes the real cause of its demoralizing influence . . . Driven from the chimeras of mild punishment and general education as antidotes against the antagonist power of sin, philanthropists have at last taken refuge in the infallible effects of *solitary confinement*. Punishment, it was said, is the real demoralizer of society; it is our jails which are the hot beds and nurseries of crime. Reform them – separate the hardened criminal from the apprentices to crime – let solitary confinement teach its impressive lessons, and confer its regular habits; and vice, with all its concomitant evils, will disappear from the land. At the same time a great impression was made on the legislature by a graphic, and, in some respects, just description of the suffering in the penal colonies of New South Wales; and the result has been a general adoption, over the whole empire, of the system of long imprisonment instead of transportation, to an extent previously unknown since the system of forced convict-labour in the colonies was introduced. All persons practically acquainted with the subject were aware of the result in which their experiment would terminate, and the fearful multiplication of irreclaimable criminals to which it would lead in the heart of empire. But unfortunately the persons practically acquainted with the subject had scarcely a voice in the legislature – the current ran strong in favour of lengthened imprisonment, and the abolition, except in very bad cases, of transportation. The judges gave ample scope to the new system, and it received, in every point of view, a fair experiment. Highway robbers, housebreakers, and habitual thieves, received, in great numbers of cases, sentences of imprisonment, instead of transportation for life or fourteen years. The jails, at the same time, were everywhere improved; a general system of prison discipline was adopted and enforced; and solitary confinement, with hard labour, became almost universal. And what has been the result? Why, that it has been now demonstrated, by experience, that even the longest imprisonments, and the best system of prison discipline, have no effect, or scarce any, in reclaiming offenders; and that the only effect of the new system has been, to crowd the jails with convicts and the streets with thieves; to load the counties with assessments and the calendars with prisoners; to starve New South Wales for want of compulsory labour, and oppress Great Britain by the redundance of hardened idleness. We speak of a matter the subject of universal notoriety: ample proof of it will be furnished in a future Number.

....

Nor let it be said that these dangers affect only a limited portion of the community, and that, provided only society holds together, and property is upon the whole secure, it is of little consequence to the great bulk of the nation whether its criminals are doubling or tripling every ten years, whether its convicts are hanged, imprisoned, or transported. Doubtless that is the view taken by the majority of men, and which ever makes them resist so strenuously any measures calculated to arrest the general evils by a forced contribution from all classes of the state. But is such a view of so very serious a matter either justified by reason, or warranted by a durable regard to self-interest? Considered in reference only to immediate advantage, and with a view to avert the much-dreaded evil of an assessment, is it expedient to allow crime to go on increasing at the fearful rate which it has done in this country during the last forty years? Can we regard without disquietude the appalling facts demonstrated by the Parliamentary returns of population and commitments – that the people are augmenting three times as fast in the manufacturing as the agricultural districts – that detected and punished crime is multiplying in the former three times as fast as the people – and crime really committed three times as much as that which is brought to light? What can be expected from a state in which crime, in the manufacturing districts, is thus increasing TWENTY-SEVEN TIMES *as fast as mankind in the rural*? From what sources does this overflowing stream of recklessness, profligacy, and misery, which overflows our workhouses and fills our jails, mainly spring, but from this prodigious and unrestrained increase of crime and depravity among the working classes in the manufacturing districts? Must not such a state of things lead to a constant augmentation of poor-rates, county rates, and jail assessments? And how short-sighted is the policy which allows these oppressive burdens to go on constantly increasing, merely from terror of incurring additional expense in striving to arrest them, and hopes to avoid danger, like the partridge, by putting its head in the bush, and ceasing to look it in the face?

But most of all, in a public and political view, is this extraordinary increase of crime in our manufacturing districts, a subject of serious and anxious consideration to all classes in the state. It is in vain to seek to conceal, it is folly to attempt to deny, that in the dense masses of the manufacturers the real danger of Great Britain is to be found. Though not amounting, upon the whole, to more than a tenth part of the nation, they are incomparably the most alarming from their close proximity to each other, the fierce passions which the revolutionary press has long nourished among them, and the perfect organization which, under the direction of the leaders of their trades' unions, they have long attained. The insurrection in the manufacturing districts of England, and violent strikes in Scotland in 1842, may warn us of the danger of such an outbreak, especially when combined, as the next will almost certainly be, with a general rebellion of the Irish repealers. Infinite local mischief, incredible destruction of life and property, would inevitably follow and serious and general insurrection among them; even though crushed, as in the end it certainly would be, by an united effort of the other classes in the state. But is the shock to credit, the destruction of capital, the breaking of the bread of hundreds of thousands, nothing in a national point of view? And what can augment the dangers of such local insurrections so much as the acknowledged fact, that crime is making unprecedented progress among them; that so general have the causes of dissoluteness become, that whole masses are brought up in depraved and reckless habits, on the verge of, if not actually committing crime; and that "*les classes dangereuses*" are daily receiving additional accessions from the depraved, the dissolute, and abandoned from all the other ranks in the state.

Let us therefore no longer deceive ourselves, or attempt to deceive others. Crime is making extraordinary and unprecedented progress amongst us; it is advancing with a rapidity unparalleled in any other European state: if not arrested, it will come to render the country unbearable; and will terminate in multiplying to such an extent "*les classes dangereuses*" as they have been well denominated by the French, as, on the first serious political convulsion, may come to endanger the state. It has advanced with undeviating and fearful rapidity through all the successive delusions which have been trusted to in the country to check its progress. With equal ease it has cast aside the visions of Sir Samuel Romilly and the advocates of lenient punishment – the dreams of Lord Brougham and the supporters of general education – the theories of the Archbishop of Dublin and the enemies of transportation – the hopes of Lord John Russell and the partizans of improved prison discipline at home. Even the blessed arm of the gospel has hitherto failed in checking its advance amongst us; and it nowhere appears in more appalling colours than in the districts where the greatest and most strenuous efforts have been made for the moral and religious instruction of the people. "Nous avons donnees a penser," as the French say. Ample subject for serious reflection has been furnished to our readers till a future occasion, when the cause of this general failure, and the means requisite for the diminution of crime, will be considered.

ANON., “THE STATISTICS OF FEMALE CRIME,” 1858

Anon., “The Statistics of Female Crime,” *Economist*, 11 Sept. 1858, pp. 1010–1011.

The proportion of indicted offenders who were women fell dramatically in most parts of the country over the course of the nineteenth century. Some historians have dubbed this phenomenon ‘The Vanishing Female.’ Yet in the middle third of the century, there was a period of *rising* female involvement in recorded crime – and contemporary analysts were aware of the fact. Home Office statistician Samuel Redgrave observed in the *Journal of the Statistical Society*: “The increasing proportion of female offenders . . . continues,” his figures suggesting that the proportion had risen 4 per cent between 1837 and 1845 (“Criminal Tables for the Year 1845,” *Journal of the Statistical Society*, 9, 1846, p. 182). The Home Office’s annotation of the annual crime figures for 1846 also noted: “there appears to be an almost uninterrupted increase in the proportion of female offenders.”

The two following extracts also confirm this trend. The first is from the *Economist* in 1858, which on the strength of the Registrar of Crime’s report for 1857, declared: “The increase in the proportion of female crime, and especially of serious female crime, in our large towns, is a fact of no small moment.” The proportion of female to male offenders had been on the increase since 1848. The magazine realized that the Criminal Justice Act of 1855 had reduced the number of women (as also of men) committed for trial, by dealing with larcenists in courts of summary jurisdiction, so something was clearly counteracting this new law and keeping up the number of female crimes in the official statistics.

The second extract is from one of the most important penal documents of the century, Henry Mayhew’s *The Criminal Prisons of London* (1862). Mayhew (1812–1887), a journalist (founder and editor of *Punch* magazine) and social investigator, was already renowned for his study of the street-folk of the metropolis and ‘those that will not work,’ which appeared in 1861–1862 under the title *London Labour and the London Poor*. Almost nothing is known about his co-author, John Binny. Their assessment of the number of offenders summarily convicted and tried at sessions and assizes between 1841 and 1850 found that “the female offenders are, upon the average, between one-fourth and one-fifth of the male offenders in number.” This figure was larger than at any other time during the century.

It is difficult to explain this increase in the proportion of female crime. The *Economist* surmised that it was the result of the rapid growth of large towns, especially the Irish population in Liverpool, and that women were more prone to being re-committed, since once females became criminal, they remained criminal. Another possible explanation is that there was a rising obsession with crimes of *morality* in the mid-nineteenth century: prostitution, drunkenness, and sexual offences, and a more vigorous policing of the same.

For sure, education reformer Jelinger Symons ascribed the rise in the proportion of female offenders during the 1840s to what he called the "increasing demoralisation" of the country. Yet the trend in question was not restricted to such crimes of morality. Mayhew noted that the most striking feature in the recent history of female crime was "the large and increasing proportion of females annually charged with murder" between 1842 and 1851. An enterprising young historian could do worse than to explore this subject.

THE Registrar of Crime has a valuable report, and some still more valuable statistics, on crime in England and Wales during the year 1857, which well deserve careful study. The most interesting class of results to be deduced from it concerns the distribution of crime between the two sexes. It seems that while crime in England is nearly stationary,—a favourable result when we take into account the rapid increase of population,—the proportion of female to male offenders is on the increase. This will be seen from the following return of the number of persons committed or bailed for trial during the last ten years:—

Males.	Females.	
112,825	27,623	Five years from 1848–1852
94,887	27,207	Five years from 1852–1857

In other words, while the male committals have decreased between one-sixth and one-seventh, the female committals have not decreased by so much as one-sixtieth part. The great decrease in the general number of commitments for trial between the two periods is due to the Criminal Justice Act of 1855, in consequence of which a large class of offences, which had heretofore been only punishable as felony, and were up to 1853 subject to transportation, were transferred to the adjudication of justices. In consequence of the working of this Act, the number of females committed for trial has since 1855 diminished quite as rapidly in proportion as the number of males. In fact, as the female criminals form a greater proportion (namely, 28 per cent.) of those now convicted summarily by justices, than of those (namely, 21 per cent.) committed for trial by jury,—the Act of 1855 ought to have told very much more proportionately on the female committals than on the males. And no doubt this was the case, and that the result is not apparent can only be accounted for on the hypothesis that there is some counteracting cause tending to keep up the number of female crimes at a higher rate than the number of males. Out of the 52 counties of England and Wales, there are 25 in which the number of females committals have actually *increased* in the last five years, as compared with the five previous years, while the number of male committals had considerably diminished. In only three counties indeed have the male committals increased between the two periods, and then only by the most trifling numbers. Indeed, on examination of the table, it is quite obvious that, while the diminution in the numbers of committals caused by the increase of summary processes was a temporary cause, affecting female committals quite as much or even more than the male, there has been some more permanent cause at work to keep up the

amount of female crime. Nor does it seem that this cause, whatever it may be, acts exclusively in the manufacturing counties, though there certainly its influence is most visible. Thus we find in the counties of York and Lancaster, that the committals of males and females are as follow:—

	Five Years 1848–1852.		Five Years 1852–1857.	
	Males.	Females.	Males.	Females.
York	8,339	1,870	7,287	2,061
Lancaster	12,642	4,623	11,641	4,708

Or, in the first period, the female committals were in York between one-fourth and one-fifth of the male, in Lancaster rather more than one-third; in the second period, the female committals were in York between one-third and one-fourth, in Lancaster full two-fifths. And even if we compare the first year of the series (1848) with the last (1857), we shall find that the female committals have actually increased in Lancaster despite the effect of the Act of 1855, while in York they are not perceptibly fewer, though in both counties the male committals have diminished largely in the same period. The numbers are as follows:—

	York.		Lancaster.	
	Males.	Females.	Males.	Females.
1848	1,692	344	2,876	902
1857	1,291	336	2,433	1,157

(/) If now we compare with this result the similar statement for the agricultural counties, we shall find that the tendency to a relative increase of the female, as compared with the male committals, or rather to a much less relative decrease, is not nearly so marked; but that it is still observable. For instance:—

	Buckinghamshire.		Norfolk.	
	Males.	Females.	Males.	Females.
1848	289	21	611	78
1857	138	15	314	57

There can be no doubt whatever that this tendency to a relative increase in female, as compared with male, crime is a result of the rapid growth of large towns. This is proved in many ways. Not only in some of the largest towns is female crime now rapidly approaching a numerical equality with male crime, but also it is remarkable that, in the large towns, a larger proportion of *serious* female crime, as compared with the lighter offences determined summarily, appears to be found. We have said that while female crimes constitute 28 per cent. of those determined summarily, they constitute only 21 per cent. of those committed for trial. But these proportions would by no means hold true of the larger towns. Let us take London, Leeds, Newcastle, Manchester, and Liverpool, and see the result as regards both the summary convictions, and the indictable offences. We shall

find the proportion of female offences much greater as regards the graver indictable crimes than as regards the summary convictions.

Summary Convictions.			Committals for Trial.			
Total.	Male.	Female.		Male.	Female.	Total.
51,924	... 38,115	... 13,809	{ London (Metropolitan) Police District }	2,449	... 727	... 3,176
2,022	... 1,649	... 373	Leeds	180	... 69	... 249
2,683	... 1,895	... 788	Newcastle-on-Tyne	88	... 29	... 117
7,287	... 5,892	... 1,395	Manchester	552	... 206	... 758
23,678	... 18,263	... 5,415	Liverpool	607	... 461	... 1,068

From this we see that, in none of these towns, does the proportion of the female to the total committals for trial fall so low as the average of 21 per cent. In London, it is nearly 23 per cent., while the proportion of summary convictions of women falls somewhat below the average of 28 per cent. In Leeds, the female indictable offences are nearly 28 per cent. of the whole, while the proportion of summary convictions is only about 18 per cent. of the whole. In Newcastle, the committals of women are about 25 per cent. of the whole, while summary convictions are at the same time 29 per cent. In Manchester, women are credited with 27 per cent. of the graver offences, and only 18 or 19 per cent. of the lesser; and in Liverpool, with no less than 43 per cent. of the graver, and with 23 per cent. of the lesser offences. It is obvious, therefore, that the growth of large towns has not only tended to make female crime bear a larger proportion to male, but especially to increase serious female offences more rapidly than the corresponding class of male offences. In other words, such female criminals as there are, are generally of a deeper dye.

Another series of facts illustrates this circumstance still more remarkably. Of the *recommitments* no less than 32 per cent. are females, giving women a higher percentage therefore of the relapses than of either the grave or lighter original offences. Of 42,169 persons imprisoned in 1857, who are known to have been previously committed to prison, no less than 13,767 are females, or very nearly one-third; and the proportion increases rapidly with the number of previous committals. Of those hopeless cases in which the criminal has been more than seven times committed, there are absolutely more amongst females than amongst males; and when we come to the cases known to have been more than ten times previously committed, the number of females is more than double that of the males. And, again, we shall find that the number and proportion of females cases are swelled by the large towns. In Liverpool, there were no less than 2,847 cases of recommittal of women to 2,047 cases of recommittal of men; in other words, an absolutely larger number of women than men recommitted to prison. In Middlesex (including London), there were 4,794 cases of recommittal among women to 6,893 cases among men; in Newcastle-on-Tyne, there were 308 recommittals of women to 317 of men; in Manchester, 359 female to 1,070 male cases. In short, wherever the number of recommittals of women is seen to be proportionately

large, there, we may be sure, there is a large town. At the same time it is worthy of notice that though female crime is much more serious and common in the manufacturing districts, where female labour is in high request, than it is in towns where such labour is not so common, and far more so than in the counties,—yet that it reaches by far its highest point in Liverpool, probably owing to the existence of a very large and miserable Irish population. The birth-place of 2,182 of the female criminals of Liverpool in the past year is assigned to Ireland, while only 1,719 Irishmen are returned.

In connection with the same subject, it is worthy of remark, that, of the 1,349 suicides committed in England in 1857, 389 or about 28 per cent. are female cases, but that here the proportion is pretty equally distributed amongst the counties and towns, so that there is no sufficient reason to suppose, as we should be naturally inclined to do, that the same causes which tend to increase crime tend equally to increase the despair which leads to suicide.

The increase in the proportion of female crime, and especially of serious female crime, in our large towns, is a fact of no small moment. The cause no doubt lies in the inferior strength and greater delicacy of women's natures, which cannot be corrupted at all with as much chance of a pause in the downward career as there is in the case of men. The very measures by which we attempt to check the criminal actions of women have hitherto been found to increase them, and hence the comparatively much greater certainty of the maxim in the case of women, than in that of men, that "once a criminal will be always a criminal." Nothing can prove more remarkably than these statistics that our present system of criminal justice is not as well adapted to the case of women as it is even to that of men.

MAYHEW AND BINNY, *THE CRIMINAL PRISONS OF LONDON,* 1862, EXCERPT

Mayhew and Binny, *The Criminal Prisons of London*, 1862, pp. 457–459.

But not to rely upon fallacious criteria of any one year, the following decennial table has been prepared, showing at once the relative numbers and proportions of males and females of all ages summarily convicted, as well as tried at assizes and sessions throughout England and Wales:—

TABLE SHOWING THE NUMBERS AND PER CENTAGES OF MALE AND FEMALE OFFENDERS SUMMARILY CONVICTED AND TRIED AT SESSIONS AND ASSIZES, FROM 1841 TO 1850, BOTH INCLUSIVE.

Years.	Summarily Convicted.				Tried at Assizes and Sessions.				All Classes.			
	Numbers.		Per Centage.		Numbers.		Per Centage.		Numbers.		Per Centage.	
	Males.	Fem.	Males.	Fem.	Males.	Fem.	Males.	Fem.	Males.	Fem.	Males.	Fem.
1841	47,629	15,667	75·3	24·7	21,873	5,212	80·8	19·2	69,502	24,879	76·9	23·1
1842	54,784	15,723	77·7	22·3	25,523	5,637	81·9	18·1	80,307	21,360	79·0	21·0
1843	57,361	15,835	78·4	21·6	24,516	5,355	82·1	17·9	81,877	21,190	79·5	20·5
1844	55,605	15,693	78·0	22·0	21,710	4,972	81·4	18·6	77,315	20,665	78·9	21·1
1845	50,688	15,354	76·8	23·2	20,117	4,966	80·2	19·8	70,805	20,320	77·7	22·3
1846	48,261	16,638	74·4	25·6	19,701	5,332	78·7	21·3	67,962	21,970	74·5	25·5
1847	50,481	17,000	74·8	25·2	22,312	5,827	79·3	20·7	72,793	22,827	76·2	23·8
1848	64,574	19,697	76·6	23·4	24,199	5,887	80·5	19·5	88,773	25,584	77·6	22·4
1849	69,522	21,441	76·5	23·5	23,271	5,481	80·9	19·1	92,793	26,922	77·5	22·5
1850	61,645	18,963	76·5	23·5	21,164	5,299	80·0	20·0	82,809	24,262	77·3	22·7
Annual Mean	56,055	17,201	76·5	23·5	22,439	5,397	80·6	19·4	78,494	22,598	77·7	22·3

By this it will be seen that the annual average for the last decenniad has been upwards of 100,000 offenders; of whom 78,500, or 77¾ per cent., have been males, and 22,500, or 22⅓ per cent., females. Of this number, it will be further observed, 73,000, or nearly three-fourths, are, upon the average, summarily convicted; of whom 56,000, or 76½ per cent., are males, and 17,000, or 23½ per cent., females; whilst the remaining 27,800 are generally committed for trial, and of these about 22,400, or 80½ per cent., are males, and 5,400, or 19½ per cent., females.

Hence it would appear that the female offenders are, upon the average, between one-fourth and one-fifth of the male offenders in number; and that whilst the

number of females summarily convicted is not quite equal to one-fourth of the males, the number of women committed for trial is not quite one-fifth of the men sent to the sessions. The proportion of males to females, however, throughout England and Wales, according to the last census, is as 100 to 105. Now, as there are upon an average 15·7 persons annually committed for trial out of every 10,000 of the population, it would appear, from the above returns, that 12·7 of the 15·7 are males, and the remaining 3 females.

(/) But though this would appear to speak highly in favour of the honour and virtue of the female portion of our race, nevertheless, according to the returns of Mr. Redgrave, the criminality of women has been annually increasing among us at a considerable rate for many years past. In the returns of 1839 that gentleman said, “with respect to the sexes of criminals, it is worthy of remark that for several years the proportion of females has been increasing. Comparing the number of males and females, the centesimal proportion of the latter was, in 1834, 18·8; in 1835, 20·0; in 1836 and 1837 it was 21·6 (though the fraction, if carried further, still shows a small increase in 1837); in 1838, 22·1; and in 1839, 23·2.”

Again, in 1844, he drew attention to the fact—“It has been stated in former tables, that from 1835 to 1840 there had been a gradual increase in the proportion of females. In 1841 this increase was slightly checked, and in the following year the decrease in the proportion was considerable. But in 1843 an increase again commenced, and was succeeded by a further increase in 1844. These fluctuations will be best shown by the following figures:—

	No. of Females.	Proportion to 100 Males.		No. of Females.	Proportion to 100 Males.
1834 ...	3,571 ...	18·8	|	1840 ...	5,212 ... 23·7
1835 ...	3,456 ...	20·0	|	1841 ...	5,200 ... 23·0
1836 ...	3,736 ...	21·6	|	1842 ...	5,569 ... 21·6
1837 ...	4,205 ...	21·6	|	1843 ...	5,340 ... 22·0
1838 ...	4,189 ...	22·1	|	1844 ...	4,993 ... 23·1.”
1839 ...	4,612 ...	23·2	|		

Whilst in 1852, he added, “the numbers still prove a continuance of the proportional increase of females which has been uninterrupted since 1848,” when, as stated above, there was a slight decrease.

	No. of Females.	Proportion to 100 Males.		No. of Females.	Proportion to 100 Males.
1845 ...	4,962 ...	25·6	|	1849 ...	5,401 ... 24·1
1846 ...	5,257 ...	26·5	|	1850 ...	5,265 ... 24·4
1847 ...	5,930 ...	25·9	|	1851 ...	55,69 ... 24·8
1848 ...	5,763 ...	23·4	|	1852 ...	5,625 ... 25·7

The same eminent authority concluded, in 1853, by remarking that “the increase has been unusually large this year, the proportion having risen from 25·7 to 29·5

females in 100 males; while twenty years since it was only 18·8 females to the 100 males.¹

Next, as regards the offences with which the females sent for trial are mostly charged, we find that these generally consist of what are termed, in the Government returns, "Offences against property committed without violence"—particularly simple larceny, larceny by servants, and receiving stolen goods (the offences of this class including, in the year 1846, 88 per cent. of the females committed, and only 77 per cent. of the males). In indictments for perjury, and for keeping disorderly houses, the females also form a large proportion. In murder, and attempts to murder, they constitute above one-fourth the commitments; in arson, above one-sixth; but for robbery, burglary, and housebreaking, one-twelfth only.

Some two or three years ago the following proportions were given by Mr. Redgrave as regards the per centage of females included in the different classes of crime:—

(/) In offences against the person, such as murder, and attempts at murder, manslaughter, concealing birth, bigamy, assaults, &c., the proportion of females was, in 1851,	13·4 to 100 males.
In offences against property, committed with violence, such as burglary, housebreaking, and highway robbery, the proportion was	7·7 "
In the same class of crimes, however, committed without violence, including the offences of simple larceny, embezzlement, and receiving stolen goods, &c., the proportion was as high as	28·6 "
In the malicious offences against property, such as arson, incendiarism, destruction of machinery, &c., and maiming cattle, the proportion was at its lowest ebb, or	5·1 "
In forgery, and offences against the currency, such as attempting to pass bad money, or forged notes, it rose again to	23·1 "
Whilst in the miscellaneous offences of high treason, smuggling, poaching, prison-breaking, perjury, riot, and keeping disorderly houses, it was not quite	20·2 "

But the most remarkable feature in the recent history of female crime is the large and increasing proportion of females annually charged with murder. During the last fifteen years the numbers and proportions of females accused of this crime have been as follows:—

In the Five Years.	Males.	Females.
1835–39	223	92 or 42 females to 100 males.
1840–44	221	126 " 57 " "
1845–49	205	160 " 78 " "

In the subjoined table, however, we have a still clearer view of the enormous increase of the grave crime of murder among women, and by which it will be seen that though the proportion of female murderers was, in 1835–39, only 42 in every 100 male murderers, in 1847 the per centage was not less than 89·4; and,

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in 1851, it had risen to 124·2; so that whilst the crime of murder among men has been comparatively decreasing, among women it has been proportionably on the increase:—

	Males accused of murder.	Females accused of murder.		
1842	39	28	or 71·8	females to 100 males.
1843	52	33	” 63·4	” ”
1844	46	29	” 63·0	” ”
1845	41	24	” 58·5	” ”
1846	42	26	” 61·9	” ”
1847	38	34	” 89·4	” ”
1848	42	34	” 80·9	” ”
1849	42	42	” 100·0	” ”
1850	28	24	” 85·7	” ”
1851	33	41	” 124·2	” ”

Notes

- 1 It will be observed that there is a slight difference between the numbers last quoted and those given in the previous table, concerning the females committed for trial. The numbers in the former instance are cited from Captain Williams’ report, bearing date, 1856; whilst those in the latter case are after Mr. Redgrave’s returns. Moreover, the proportions of females to males differ slightly, the female ratios having been calculated to 100 prisoners of both sexes; whilst in Mr. Redgrave’s returns they are calculated to 100 males.
- 2 In the year 1841 the following was the proportion of females in the different classes of offences:—

1st class (offences against the person)	10·9	per 100 males.
2nd ” (ditto against property, with violence)	6·3	” ”
3rd ” (ditto ditto, without violence)	26·4	” ”
4th ” (malicious offences against property)	8·0	” ”
5th ” (offences against the currency)	23·1	” ”
6th ” (miscellaneous offences)	19·5	” ”

W.D. MORRISON, “THE INCREASE OF CRIME,” 1892

W.D. Morrison, “The Increase of Crime,” *Nineteenth Century*, vol. 31, June 1892, pp. 950–957.

W.D. Morrison (1852–1943) was chaplain at Wandsworth prison from 1883 to 1898, a Christian socialist, criminologist, and penal reformer. He was also a major critic of the English prison system under the leadership of Edmund Du Cane, chairman of the prison commission.

By the 1890s, it was evident that the prison population had declined over the past few decades. A daily average population of just over 10,000 convicts in 1877–1878 fell to 4,383 in 1893–1894; a daily average population of 21,000 local prisoners in 1877–1878 dropped to 13,850 in 1893–1894. The question that now presented itself, and which provoked controversy, was whether the decline in prison numbers reflected a decline in the crime rate. The prison commissioners thought it did; Morrison did not agree. A decrease in prison population, he argued, was the result of shorter sentences of imprisonment and the substitution of fines for imprisonment. Only if sentences were of the same length in the present as they were 20 years earlier would the prison population be an index on the movement of crime – but sentences were not as long in the present as 20 years ago. In this, Morrison was on strong ground. He lost his way, however, when he sought to prove that crime was increasing in England and Wales.

In the following extract, Morrison shows his deep concern with the interpretation and meaning of criminal statistics. He begins by explaining that the reason why the public mind is so confused about trends in crime “is in the main to be attributed to the erratic and haphazard manner in which criminal statistics are so frequently handled.” Unless great care is exercised in interpreting the figures, he writes, “the unwary investigator is certain to arrive at false conclusions.” Alas, he failed to take his own advice. His article in *Nineteenth Century*, one of the foremost Victorian periodicals, was an investigation of the statistics of cases tried, both summarily and on indictment, during the three decades, 1860 through 1890. The yearly average of cases tried in the decade 1860–1869 was 466,687; in 1870–1879 it was 628,027; and in 1880–1889 the figure reached 701,060. Morrison also insisted this was a relative as well as absolute increase: in 1860–1869 one case was tried annually for every 44 people; in 1880–1889 one case was tried for every 38 inhabitants. Instantly, we see that Morrison has defined crime with a very broad brush, lumping together cases tried on indictment and *summarily*. The latter, as Morrison himself recognized, included such minor offences as those against the Elementary Education Acts.

Even Morrison had to acknowledge that the yearly average of indictable offences tried had declined between 1860 and 1890, suggesting a decrease in *serious* crime. Unwilling to accept this conclusion, however, he selected murder as representative of a serious offence,

unaffected by changes in public feeling or judicial procedure. He found that in 1860–1869, the yearly average of murders reported to the police was 126, as compared with 160 in 1880–1889. Voila, serious crime had *not* decreased. Yet, note that he switches the criterion of movement of crime from *indictable cases tried* to murders *reported to the police*. This is to compare apples and oranges. In other ways, too, Morrison's statistical manipulations are highly questionable. He 'proves' an upward movement of juvenile crime by citing the increase in the annual average number of juveniles in reformatory and industrial schools from 6,834 in the 1860s to 25,505 in the 1880s, entirely disregarding the possibility that the rising number of school admissions reflects more a changing social consciousness, expressed in concern for the young, than an increase in juvenile crime *per se*. And he completely loses the plot when he argues that the augmentation of police numbers arises from "an increase of crime and the criminally disposed."

It remains only to point out that Morrison wished to cast doubt on the evidence of reduced levels of crime, in large part because a purported drop in crime would have been an obstacle to his drive to impugn the prison system. An increase in crime was a much better stick with which to beat the Du Cane prison system.

WHETHER crime is increasing or decreasing in England and Wales, or what modifications it is passing through, is at present occasioning an incertitude and diversity of opinion which it is most desirable should be cleared away. This perplexed condition of the public mind upon a matter so closely identified with the highest interests of the community, is in the main to be attributed to the erratic and haphazard manner in which criminal statistics are so frequently handled. These statistics are contained in a number of official returns annually laid before Parliament, and unless the greatest care is exercised in the interpretation of them the unwary investigator is certain to arrive at false conclusions. One of the most obvious mistakes, and yet a mistake which is frequently committed in dealing with questions of crime, is to draw sweeping inferences from the criminal statistics of a single year, or even of a short series of years. It has to be remembered that criminal returns are largely affected by the fluctuating conditions of social existence, some of the more important of these being the rise or decay of political or industrial agitation, the ebb and flow of commercial prosperity, and, more rarely, the emotions aroused among the population by a state of war. In order as much as possible to neutralise the disturbing effect of these inconstant social factors, it is essential that all statistics relating to crime on which it is proposed to build any general conclusions should cover a decade at the least, and unless this principle is adhered to misleading ideas are almost certain to arise.

An illustration of the practical mischief emanating from a neglect of this precaution was recently pointed out by Lord Norton, in the House of Lords, when the new Penal Servitude Bill came on for discussion. For the last twenty-seven years there has been no intermediate sentence between a term of two years' imprisonment and a term of five years' penal servitude, the intermediate sentences of three and four years' penal servitude having been abolished in 1864. It was stated by Lord Norton, in the course of his speech on the second reading of a Bill intended

to restore the three years' sentence, that this term of penal servitude was abolished in consequence of a panic created in great part by the official reports upon the growth of (/) crime in 1863. In that year, as well as in the year immediately preceding it, there had been a considerable increase in the number of indictable offences, and also in the number of sentences to penal servitude. But this increase had come immediately after an abnormal decrease, and was in reality little more than a return to a previous condition of things. This decisive fact, however, was largely overlooked, and the temporary increase was mistakenly attributed to the passing of such brief periods of penal servitude as three and four years. These sentences were accordingly abolished, and it is calculated by the present directors of convict prisons that this legislative mistake has cost the country more than a quarter of a million of money, besides keeping many thousands of men and women in penal servitude who would otherwise have been free. This practical example of the injustice and expense arising from an imperfect method of handling criminal statistics ought to operate as a permanent warning against the danger of taking too short a period as a criterion for measuring the condition of the country with respect to the growth or decay of crime. In the remarks about to follow we shall accordingly test the movement of crime in England and Wales by the statistics of the last three decades for which criminal statistics have so far been issued, that is to say, for the period between 1860 and 1889.

In directing our attention to the official returns there are three methods of treatment which present themselves for consideration. In the first place, the total number of offences, so far as they are reported to the police, may be taken as a criterion; or, in the next place, we may take the number of cases tried, both summarily and on indictment; or, lastly, we may take the total number of convictions. In order to appreciate the movement of crime in all its various aspects, each of these three methods is more or less necessary, but for our present purpose it will be sufficient to take the number of cases tried both summarily and on indictment during the last three decades. Putting summary and indictable offences together, the following table exhibits the yearly average of offences tried:

Yearly average tried in the decade

1860-69	466,687
1870-79	628,027
1880-89	701,060

The most superficial glance at these figures is enough to show that the total volume of crime has increased very materially within the period to which they refer. Among the various causes which have fostered the growth of crime within the last two decades, an important place must be assigned to the development of social legislation; offences against the Elementary Education Acts alone have (/) furnished considerably more than half a million cases, and other acts of a

like character have produced similar results. But the growth of offences arising from a continuous widening of the sphere of legislative effort is to some extent counterbalanced by the abolition in recent years of several old penal laws, as well as by the greater reluctance of the public and the police to set the law in motion against trivial offenders. In any case, whatever may have been tending to increase offences on the one hand or to diminish them on the other, the very unwelcome fact remains that in the last three decades they have been steadily rising in multitude.

Offences may be growing but the population may be increasing still faster; the question therefore requires to be considered, to what extent the total number of cases tried is keeping pace with the general growth of the community. Basing our calculations upon the estimated population at the middle of each decade, it comes out that in 1860–69 one case was tried annually for every forty-four of the inhabitants of England and Wales; in 1870–79 one case was tried for every thirty-seven inhabitants; in 1880–89 one case was tried for every thirty-eight inhabitants. According to these statistics the proportion of crime to the population has remained almost the same for the last two decades, but if the last two decades are compared with the first, the growth of crime has outstripped the growth of population.

Another important matter now comes forward for consideration, Is crime increasing in seriousness along with its expansion in absolute volume? This inquiry can be best answered by an analysis of the number and nature of the indictable offences brought up for trial in the last three decades:

Yearly average of indictable offences tried

1860–69	19,149
1870–79	15,817
1880–89	14,058

These figures disclose a continuous decrease in the number of indictable offences for trial, but, before deducing any conclusions from them as they stand, a few preliminary explanations are indispensable. In the first decade no less than 13,189 of the indictable cases for trial consisted of offences against property without violence; in the two succeeding decades a very large proportion of these cases would have been dealt with summarily, the tendency to enlarge the functions of courts of summary jurisdiction being at work for some years before it culminated in the Summary Jurisdiction Act of 1879. In these circumstances probably the best way of arriving at an accurate estimate of the serious crime committed in the first decade, as compared with the decades which follow, is to select some description of offence which has not been materially affected by changes of public (/) feeling or judicial procedure within the last thirty years. The kind of crime which most closely corresponds

to these requirements are murders reported to the police. In the decade 1860–69 the yearly average of murders reported to the police was 126; in 1870–79 the yearly average was 153; in 1880–89 the yearly average was 160. According to these statistics the most serious of all crimes has steadily increased within the last three decades, while in proportion to the growth of population it was nearly as common in the last decade as in the first. It would therefore appear, if we take the increase of murder as a criterion, that the decrease in the number of indictable offences since 1860–69 is to a very notable extent to be attributed to a change of criminal procedure rather than to an actual decrease of serious crime.

Another matter must now be noticed which has had an important effect in diminishing the number of indictable offences in the decade 1880–89. In the year 1879 the Summary Jurisdiction Act was passed, the immediate result being that about three thousand cases which had formerly been classed as indictable were transferred to courts of Summary Jurisdiction. Had this great alteration in judicial procedure not taken place, the last decade, instead of showing a decrease of serious offences, would on the contrary have exhibited a considerable increase. But even taking the figures as they stand it will be found that, in spite of the operation of the Summary Jurisdiction Act, almost every form of serious crime has increased in the last decade as compared with the preceding one. The following table of indictable offences for trial will show this:

<i>Annual average of indictable offences against the person</i>	
1870–79	2,315
1880–89	2,562
<i>Annual average of offences against property with violence</i>	
1870–79	1,483
1880–89	1,850
<i>Annual average of offences against property without violence</i>	
1870–79	10,701
1880–89	8,049
<i>Annual average of malicious offences against property</i>	
1870–79	199
1880–89	272
<i>Annual average of forgery and offences against the currency</i>	
1870–79	421
1880–89	499
<i>Annual average of other offences not included in the above classes</i>	
1870–79	698
1880–89	824

(/) According to this table there is, with the single exception of offences against property without violence, a decided increase in indictable offences of every other description, an increase which has in almost every instance more than kept pace with the growth of population. The decrease in the number of offences against property without violence must be set down to the operation of the Summary Jurisdiction Act, for it is crimes of this comparatively light character which have come most extensively within its scope. On the other hand, the growth of indictable offences against the person is in some degree owing to the Criminal Law Amendment Act of 1885; several of the offences included in the provisions of this Act were new to the criminal law, but this arose in great part because they were a set of crimes which had recently begun to assume alarming proportions in the heart of the community. In short, the Criminal Law Amendment Act, owing chiefly to the rise of new crimes, has slightly increased the total number of indictable offences, whilst the Summary Jurisdiction Act has enormously diminished them; and, after due weight has been given to the effects of both these Acts of Parliament, the conclusion cannot be avoided that serious crime has unmistakably increased within the last decade.

Our inquiry into the movement of crime in England and Wales as tested by the statistics of cases tried both summarily and on indictment is hostile to the idea that this country has recently entered upon a career of sudden and unexampled moral renovation. General considerations based upon an ordinary knowledge of mankind are in harmony with statistics in giving no sort of sanction to such an idea. The old and well-worn saw, '*Natura non facit saltum*,' [Nature does not make a jump] contains the gist of all sound reasoning on human affairs, and is especially applicable in the sphere of moral progress, which is indubitably one of the slowest of social growths. But the immense advance made by the present century in dominating the forces of inanimate nature, besides obscuring this fundamental truth, has also imperceptibly developed the belief that a corresponding power has been acquired over the darker passions of mankind. It has therefore come to be taken for granted that an intimate connection must somehow exist between the expansion of material and of moral well-being. The truth of this consoling assumption may possibly be demonstrated in the far-off future when the discordant elements at present raging in society are brought into harmonious concert, but, as the dayspring of that glorious time is not yet perceptible on the horizon, Rousseau's contention that a high civilisation makes men worse instead of better may be just as near the mark. In any case the evidence of criminal statistics is decisively on Rousseau's side. The great centres of modern civilisation are large cities, but it is a melancholy fact that splendid capitals like London, Paris, and Berlin contain in proportion to their population by far the largest number of criminals and the criminally (/) disposed. Police returns alone afford ample proof of this fact. According to the English returns for 1889 one policeman was required in the City of London and in the Metropolitan Police District for every 312 of the population as

enumerated in 1881; in the English boroughs one policeman was required for every 697 of the population; in the counties, only one policeman was required for every 1,150 of the population. These figures alone are enough to show that the assumed affinity between material and moral advance is destitute of foundation; on the contrary, they lend enormous support to the theory that where there is most civilisation there is also most crime.

The general considerations which have just been brought forward are very far, we can see, from favouring the opinion that crime is materially diminishing in England and Wales, and one or two special considerations remain to be mentioned which point in the same direction. Within the last three decades there has been an enormous increase in philanthropic enterprise, in the shape of homes for the young and assistance for the destitute and fallen. But, notwithstanding the good achieved by this vast expenditure of benevolent effort, there has been a continuous increase in the number of cases committed to prison and to reformatory and industrial schools. The following table represents the growth of the prison population:

Yearly average committed to prison in the decade

1860-69	127,690
1870-79	154,145
1880-89	170,827

These figures not only disclose an absolute increase in the number of commitments to prison on criminal charges (civil and military cases being excluded), but if the last decade is compared with the first, they also show a decided increase of commitments in proportion to the growth of population; and the full extent of this increase is not realised by looking at the prison population alone. Before the reformatory and industrial school movement came into full operation, juvenile delinquents formed a very large percentage of the prison population, but at the present time this class of youthful offenders is mostly to be found in juvenile institutions. In order, therefore, to arrive at an exact comparison between the prison population of the last three decades, it is necessary to take an account of the extension of reformatory and industrial schools. When this is done, it will be seen that, whatever the prisons have lost, these establishments have more than gained.

Annual average of juveniles in reformatory and industrial schools

1860-64-69	6,834
1870-79	17,394
1880-89	25,505

(/) In order to complete this inquiry, some account ought to be taken of the extent to which fines and bail have been substituted for imprisonment within the last few years; but, even if this growing practice is left entirely out of consideration, the fact still remains that crime, as judged by the growth of the prison and the reformatory and industrial school population, has become more prevalent in the last two decades.

The rapid and uninterrupted augmentation of the police force is in harmony with this view. At the present time the police force does not grow, as might be expected if crime were stationary or decreasing, with the normal growth of the population; it grows by leaps and bounds, and it never was so costly nor so numerous as it is now. In the twenty years preceding 1889–90 the police force increased more than 44 per cent., and in the ten years preceding 1889–90 it increased more than 23 per cent.; but according to the recent census returns the general population of England and Wales has only increased a little over 11 per cent. in the last decennium, thus showing that the police force has grown at double the rate of the ordinary population. Even after admitting that the police have now a larger number of duties of a purely civil character to perform than in previous times, the startling rapidity with which this force is being augmented must largely arise from an increase of crime and the criminally disposed. At the present moment the police system in all its branches costs the country close upon four millions a year, and it is incredible to suppose that constant additions should be made to this grievous financial burden without imperative need. In short, police statistics are a striking confirmation of prison statistics, and the statistics of trials; and all of them point with singular unanimity to the conclusion that crime during the last thirty years, for which we possess official returns, has not decreased in gravity, and has been steadily developing in magnitude.

The true explanation of this unsatisfactory state of things is not far to seek. It is almost entirely to be attributed to the growing tendency of the community to become concentrated in large cities. A highly concentrated population fosters lawless and immoral instincts in such a multitude of ways that it is only an expression of literal exactitude to call the great cities of to-day the nurseries of modern crime. Statistics of all kinds show this, but it can easily be ascertained without the aid of any figures. The aggregation of large multitudes within a very limited area must increase the chances of conflict, and consequently multiply the occasions for crime. A population in this crowded condition has also to be restrained and regulated at every turn by a huge network of laws, and as every new law forbids something which was permitted before, a multiplication of laws is inevitably followed by an increase of crime. In addition to these evils, which are inherent in the constitution (/) of large cities, the immense concentration of property within them generates a host of temptations, and a thieving class is developed possessing boundless opportunities for plunder and for the comparatively safe disposal of it. A highly concentrated population also augments the volume of crime by the creation of a large degenerate caste. It is principally owing to the rapid growth of this caste that grave offences against women and children have almost doubled

within the last thirty years. Such are some of the materials for crime which large cities produce so abundantly. In recent years these anarchic elements have been partially held in check by the combined operation of a number of new coercive and philanthropic agencies, but so long as each successive census shows that the population of England and Wales is becoming more and more densely packed together in a few great industrial centres, these agencies will have their hands full in keeping things from getting worse, and it will be vain to hope for a genuine decrease in the volume of crime. These are the conclusions forced upon us after a careful scrutiny, which has been conducted neither in the spirit of optimism nor of pessimism, but solely with the desire to accept and abide by the testimony of facts as recorded in the criminal statistics of the last three decades.

E.F. DU CANE, “THE DECREASE OF CRIME,” 1893

E.F. Du Cane, “The Decrease of Crime,” *Nineteenth Century*, vol. 33, March 1893, pp. 480–492.

Edmund Frederick Du Cane (1830–1903) was an army officer and prison administrator. In 1863, he was appointed one of the directors of convict prisons and became involved in the implementation of penal servitude, the system that replaced the transportation of criminals overseas. In 1869 he became chairman of the convict prison directors and served until his retirement in 1895. The 1877 Prisons Act placed control of all 116 local prisons in the hands of a new Prison Commission, of which Du Cane was also chairman.

In the following article, also published in *Nineteenth Century*, Du Cane struck back against W.D. Morrison. He correctly objected to Morrison’s inclusion of offences that were not ‘crimes’ at all, such as offences against the Education Acts, or against the Vagrant Acts. He objected to the way Morrison relied upon murder as representative of serious crime in general. And he charged that Morrison confused the prevention of crime with crime itself. The very means adopted to diminish crime were cited as corroborations of the view that crime had increased – as in the number of juveniles committed to industrial schools, which were preventive institutions for children not yet convicted; and in an expansion of the police force as an index of a growth in the criminal class. Police numbers had increased, Du Cane rightly insisted, because the duties of the police had increased. Du Cane also highlighted a paper by George Grosvenor, who had formerly prepared the annual judicial statistics, showing the undoubted abatement of crime in nearly all classes of crime for the 20 years before 1887–1888; and cited the testimony of the Commissioner of Police of the Metropolis and the Chief Constable of Liverpool to the same effect.

While there is little doubt that Du Cane had the better of the argument in the two *Nineteenth Century* articles, it is worth mentioning that a good deal of the crime in the poorer districts of London and the larger cities – domestic abuse, pilfering from shopkeepers and employers, receiving stolen goods – never made the criminal returns, the police not being trusted to record the crime or pursue the criminal. For this reason, it ought not to be entirely taken for granted that crime was decreasing.

In June of the past year, an article appeared in this Review entitled ‘The Increase of Crime.’ That article was somewhat of a surprise to me, for more reasons than one. The subject is one which I have had under consideration for some years past,

not merely because of the interest it naturally has for a person in my position, but because it is a necessity for me and my colleagues to watch the result of executive and legislative measures for checking crime, and to try as far as we can to forecast the future, so that we may make our arrangements accordingly.

It is, therefore, of consequence to form a reliable and sound opinion, founded on substantial fact, as to the tendency of crime to increase or decrease, and not to be misled by prepossessions, or hopes, or fears, or delusions of any kind. The best opinion we have been able to form on a review of all the facts, and from the opinions of persons whose practical connection with the subject gives weight to their opinion, is that crime is decreasing.

There is no doubt that the returns of the prison population since 1877 have shown an almost continuous annual decrease. The average number in local prisons in 1876-7 was 20,361; in 1891-2 it was 12,663. The sentences to penal servitude have also continuously diminished during many years, and in a notable degree. In 1869 there were 2,006 such sentences. In 1891 there were 751. At the end of the former year the convict population in prison numbered 9,726, and rose for some years afterwards. On the 31st of March, 1892, it was 4,701. What are the causes of these phenomena? They have been explained by some people as due to a shortening of sentences; but, even if there is some foundation for the fact, there is no evidence of the consensus of such a large number of independent sentencing courts as would justify the assertion as a general rule. Moreover, it was not possible to show, and no attempt was made to show, that it would account for the whole of the decrease; and it would not account at all for the continuance of the fall year after year, for the sentences have certainly not been proportionately shortened year after year.

Others suggested that they were due to the practice of fining instead of committing to prison, which would account for some part (/) of the decrease, but again not for the continuous fall. Some said they were due to the depression of trade, which furnished less money for drinking with, and others that a certain class of criminals found the prisons less comfortable than they had been, and kept out of them. In whatever degree these two latter were the causes, they both amounted to saying that there was a decrease of crime. But, as the view that there has been such a decrease is impugned, and it is even asserted that there has been an increase, it is desirable to examine the grounds on which the latter view is held, and to show, as I believe, that they will not stand examination.

The 'text' of the article I refer to may, I think, be found on the fifth page, which seems to me like a jeremiad on the incurable and unimprovable immorality of human nature:—'General considerations based upon an ordinary knowledge of mankind are in harmony with statistics in giving no sort of sanction to an idea' that 'this country has recently entered upon a career of sudden and unexampled moral renovation.' The 'expansion of moral well-being . . . may possibly be demonstrated in the far-off future, when the discordant elements at present raging in society are brought into harmonious concert, but as the day-spring of that glorious

time is not yet perceptible on the horizon, Rousseau's contention, that a high civilisation makes men worse instead of better, may be just as near the mark.'

The Gospel according to Rousseau is largely responsible for the development of a certain breed of sentimental tiger, to whom the atrocities of the French Revolution were principally due, and it has been a good deal discredited since the end of the last century. This doctrine of the evil inflicted by civilisation may, however, probably still be held in Anarchist circles, and if it were true would perhaps almost justify their existence. But many people, even philosophers and others not professionally bound to uphold the older Gospel which was preached some nineteen hundred years ago, hold that it has profoundly affected our civilisation, and has introduced into it elements by force of which it decidedly does make men better and not worse. The very matter we are discussing furnishes a case in point. It will not, I imagine, be contested that philanthropy is a distinguishing characteristic of that Gospel of Love which is the essence of the Christian religion, and philanthropy has never attained a higher development than now, when it is perhaps one of the principal features of the present stage of civilisation. Philanthropy has led to an entirely new way of dealing with crime, namely, by prevention instead of by punishment, and one of the principal results of this philanthropic idea is the establishment of Industrial Schools, in which young persons who seem likely to fall into crime and to develop into adult criminals may be trained in a better way and made into useful members of society.

It has led to those movements for providing better dwellings, (/) and otherwise raising the condition of those who are called sometimes 'the disinherited,' sometimes 'the submerged,' which help to remove temptations to crime, and purify the atmosphere in which those who may develop into criminals have been compelled to live.

It is perhaps one of the most curious features in the proof offered of the increase of crime that the adoption and development of the very means by which it is diminished are cited as corroborations of the doctrine that it has increased—among them being the increase in the number of juveniles committed to Industrial Schools. To show this, we are given the number of those committed to 'Reformatories and Industrial Schools' added together. The Reformatories are penal and reformatory institutions for young persons convicted of crime, and correspond therefore to prisons. The Industrial Schools, on the other hand, are preventive institutions for children who have not been convicted, but might fall into crime for want of proper care and training. To mix the two together obviously obscures the facts, and the more thoroughly, because the committals to Reformatories have decreased during the last ten years, so that the increase in the united numbers is solely due to the development of the distinctively preventive institutions, to which there is little doubt the decrease in crime and criminals is largely due, and which are the product of the Christian civilisation of which Rousseau thought so little. In fact, mixing the two together is as if an increased prevalence of small-pox was proved by adding together the number of people who developed the disease and the number who were vaccinated to guard against it.

Further than this, the figures given in the article compare the three decades beginning in 1860, 1870, and 1880, and show what is true enough, that the number of inmates of these two classes of institutions has increased in each ten years; but this does not show an increase of convicted or even of potential criminals, but only reminds us that there were comparatively few such schools until the great development of these institutions took place after the Reformatory and Industrial Schools Acts were passed, in 1866, for the purpose of encouraging them, and that advantage has been taken of them with still greater vigour in connection with the Education Acts passed in and since 1870.

In a similar way the increase in the police force is cited as a proof of the increase of crime. If this view were sound we should expect to find that when there was no police force at all it was because there was no crime—a paradox which, perhaps, it is not necessary to spend time in refuting. Many years ago no traveller could cross Hounslow Heath, Wimbledon Common, or similar desolate approaches to the Metropolis, without a good chance of being robbed. Hanging those who were caught did not check this inconvenience, but at last Sir John Fielding hit upon the idea that it might be prevented, and established the armed horse patrol which soon put a check on the (/) highwaymen. Their appointment was no sign that highway robbery had increased; it was only the adoption of a better mode of preventing it. Another most potent mode of preventing crime is by making detection more certain. In 1869 there were only fifteen detectives in the metropolitan police; there are now 434, an increase which we may assume adds to the convictions but cannot increase the crimes committed. An increase in the police force, with a view to their greater preventive efficiency, is no more a sign that crime has increased than an increase in the amount spent in drainage and water supply, when towns or localities become alive to their advantage, is a proof of increased unhealthiness in places which have adopted such preventive precautions. If an inquiry into the health of a town was to assume that the increased activity of drainage was a sign of increasing bad health, and was altogether to ignore and pass over the evidence afforded by the improved death-rate and the opinion of the medical men of the town, it would be precisely similar to taking the increased activity in progressive development of these preventive institutions as a sign of increase of crime, omitting altogether any investigation into their effect on the number of the criminal classes or disorderly houses, and ignoring the direct testimony of the police, who must know how these matters stand, as well as an army can tell whether it is advancing or retreating, victorious or defeated.

It has to be remembered, too, that the maintenance of a police force was not compulsory until 1856, and these establishments do not at once attain maturity, but take time to develop into their proper size. This, no doubt, depends too in part on the value of the property to be protected as well as on the population, both of which have risen very much, and the mere collection of large numbers of people together makes a police force necessary, without any reference to the crime they actually commit. Anybody can see that a very large part of the duties of the police

in London, or any large town, have no more to do with crime than those of the gentlemen-at-arms who regulate the movements of the gentlemen and ladies who attend Her Majesty's *levées* and drawing-rooms.

What then is the testimony of the police as to the increase or decrease of crime and criminals? Every year they furnish a return of the number of the criminal classes, and a comparison of the numbers in successive years furnishes what seems to be irresistible testimony of an immense improvement in this matter. Since the year 1867-8 the decrease in their number has been practically continuous, so that they have fallen from 87,668 to 51,095. Is it conceivable that, while the criminal classes have thus diminished in number, crime has increased? Would it not be more reasonable to say that the increase in the efficiency of the preventive measures and preventive institutions, and of the means for bringing offenders to justice, have produced the effect (/) expected of them? Is it not at least noteworthy that this diminution tallies in point of time with the establishment of the preventive institutions, and seems to gather additional force as their effect might be expected to mature? for the fall has been greatest and most rapid from 1882 onwards, just when the children for whose care the Industrial Schools Act and the Education Act were intended to provide would probably, but for them, have developed into full-blown adult criminals.

And what do the police themselves say as to crime?

The Commissioner of Police of the Metropolis in a recent report observes:—

The criminal returns for 1890 disclose a most satisfactory record for the year. The felonies relating to property numbered 17,491, or 2,053 fewer than in 1889, though the figures for 1889 were a marked improvement on those for the preceding year. A reference to Table No. 13 in the Appendix (p. 32) will show that there were fewer offences of this kind committed in the Metropolis during 1890 than in any year since 1875. But in 1875 the felonies of this class were, relatively to the population, in the ratio of 4·182 per thousand, whereas last year the proportion per thousand was only 3·002, or less than half the number considered normal twenty years ago. And if the reference be extended to Table No. 13A, it will be seen that serious crimes against the person were also, relatively to population, fewer than ever before. It thus appears that there was greater security for person and property in the Metropolis during 1890 than in any previous year included in the statistical returns. It should be remembered that in relation to police work the difficulties of dealing with crime, as each decade adds a million to the population of the Metropolis, are augmented in a ratio far greater than that of the arithmetical increase. The facilities for the commission of crime, and the chances of immunity relied on by professional criminals, are very much greater in a population bordering on 6,000,000 than they were in 1875, when the population of London was only about 4,000,000.

The Chief Constable of Liverpool says:—

Never, since the first publication of returns of crime in Liverpool (*i.e.* since 1857) have the statistics disclosed so small an amount of crime or so large a success in making criminals amenable to justice as those for the year ended the 29th of September, 1891.

The number of indictable offences committed during the year was 3,320, being 907 less than last year, and 967 less than the year previous.

Each class of serious crime shares in the general improvement.

The books kept at the Detective Office show that the total number of offences against property (whether indictable or summary) have been 6,397 during the year, as against 6,797 last year, and 6,789 the year previous.

Turning now to the offences dealt with summarily during the year, improvement is again exhibited.

Minor offences of violence have fallen from 1,952 to 1,546. Offences committed by juveniles have fallen from 1,331 to 1,019.

His report, quite recently issued for the year just concluded, is to the same effect, except that crimes of violence have slightly increased in the year.

I will now turn to the testimony of an experienced observer, who necessarily looks at the question in the dry manner of a professional (/) statistician, and who has the additional qualification that he knows the precise meaning of the figures given in the annual volumes of the judicial statistics, because he, for many years, prepared them himself. I refer to Mr. Grosvenor, who, just before leaving the Home Office, read to the Statistical Society in 1890 a paper on the subject we are now considering, entitled, 'The Abatement of Crime' during the twenty years to 1887-8. He summed up the matter thus:—

It is obvious that these combined causes have materially assisted in securing the abatement shown to have taken place in nearly all classes of crime during the last twenty years; while the great reduction in the number of known thieves and other suspected persons at large, as well as in the houses of bad character which they frequent, and more especially the extraordinary diminution in the number of *receivers of stolen goods*, has made manifest the increasing efficiency of the police. When to this is added the fact that during the period in question the population of England and Wales has increased by nearly *six millions and a half* (6,463,957), we must admit that the many agencies enlisted for the purpose of diminishing the number of criminals have been most successfully applied, and the result cannot fail to afford the utmost satisfaction and encouragement to all who are anxious for the improved moral and physical advancement of our nation.

Of all the competent people present at the meeting, including the then Commissioner of Police of the Metropolis, not one expressed any doubt that the 'abatement of crime' was a substantial fact.

In referring to the very large decrease in the number of the criminal classes, Mr. Grosvenor calls particular attention to the 'extraordinary decrease' in the number of receivers of stolen goods, and of crimes of this class reported to the police, pointing, as he says, to 'the successful action of the police'; and perhaps no more effective blow than this could be delivered at crime, for it has been truly said that if there were no receivers there would be no thieves.

Concurrently with this decrease in the number of criminals is the decrease in the number of houses of bad character, 'the resort of thieves and depredators,' which, for reasons very clearly set forth, fell, by means of the action of the police, from 8,743 in 1869 to 2,978 in 1888, and numbered only 2,429 in 1891, or, in proportion to the population, one-fourth of the number they were.

The figures in these last returns are not of course accurate in the sense that the muster rolls of a regiment are, but they can be taken as substantially representing the facts, and the continuous and uniform decrease they show could not arise from a conspiracy among all the police forces to misrepresent or be inaccurate.

I think I have said enough to show that to reckon the increase in the Police and Industrial Schools as indirect proofs of an increase in crime is to confuse the prevention of crime with crime itself, and that to leave out of consideration the evidence afforded by the large and continuous diminution in the number of habitual criminals, receivers, and bad houses, is to ignore the most valuable indirect evidence that can be obtained.

(/) It is necessary now to consider the figures which measure the fluctuation in the actual crimes themselves; and, first, to explain what material it is proposed to make use of, and to define what is meant by the word 'crime' as used in this connection.

I propose to make use of the returns given in the judicial statistics of the number of crimes committed, so far as they can be ascertained. In these tables the various offences which come under the notice of the police are set forth in two divisions. One relates to the indictable offences, and gives 'the number of crimes committed, so far as known to the police, and not summarily dealt with'; the other relates to the offences disposed of summarily, and gives 'the number of offences for which persons were proceeded against summarily.' These two tables obviously do not treat the offences in quite the same way, but they form the best material we have for arriving at the number of offences committed, and used for purposes of comparison of one year with another they afford ample means of arriving at a correct result.

Next, as to the word 'crime.' Any person who studies these tables, and, with a view to ascertaining the fluctuations in crime, looks merely at the total number at the foot of them, would very probably conclude, as do apparently some writers, that 'the total volume of crime has increased very materially,' for the numbers

rose from 578,841 in 1869–70 to 770,392 in 1890–1, if, for the sake of illustration, we compare those years; but if we look a little more closely at the figures of which these totals are made up, we see that a very large proportion of these offences are not 'crimes' at all, as the word is ordinarily understood. For instance, offences against the Education Acts could not be committed before 1870, but they count for 96,601 in the latter year. Few people, however, would say that 'crime' was increasing and civilisation demoralising us because we now compel parents to send their children to school, and hale before the magistrates those who fail to do so, not having yet been accustomed to accept the new law. Offences against Local Acts and Borough Bye-Laws, which are not 'crimes,' have, in the same time, increased from 35,681 to 59,108; begging and other offences against the Vagrant Acts, from 41,780 to 46,019; offences against the Highway and similar Acts, from 29,837 to 32,889. If the efforts that are being made to make it a penal offence to work more than eight hours a day are successful, we might expect to find several hundred thousands added to the number of offences brought before the magistrates, but nobody would consider this a proof of an increase of 'crime.'

The article maintaining the increase of crime refers to the Education Act as having 'fostered the growth of crime' (the first time I have ever seen it spoken of in such terms) by increasing the number of offences, but states that it is 'counter-balanced to some extent by the abolition of several old penal laws, as well as by the (/) greater reluctance of the police and public to set the law in motion against trivial offenders.' No information is given as to the 'several old penal laws' which have been enforced till lately, but are no longer, nor of the number of offences by which the total is thus diminished. Some Acts may have been abolished, but, if they had become obsolete before they were abolished, the repeal would make no difference, and, in any case, the 'some extent' must be minute in comparison with the effect of the Education Act alone. Nor is any authority or statistical information given to show that the reluctance to prosecute has increased, while certainly the appointment in 1879 of a Public Prosecutor (which is not referred to) tends in the opposite direction, as do the Habitual Criminals and Prevention of Crimes Acts, 1871 and 1879; and the large increase made in the detective force of the Metropolitan Police, which, as before stated, numbered only fifteen in 1869 and now numbers 434, has helped to increase prosecutions.

To find out, therefore, whether 'crime' has increased or decreased, it is necessary to extract from the mass of figures those which really illustrate the point we are considering; and the first step in this is not difficult, for the judicial statistics have provided an excellent classified analysis of the offences, in which those which consist of breaches of the laws for the protection of the person or of property are set forth in five classes, which constitute substantially what people have in their minds when they speak of an increase or decrease of 'crime.'

This classification is, in the judicial statistics, applied only to the tables of 'indictable offences not summarily dealt with.' Those which were summarily dealt with are not so classified. The former tables afford clear evidence of a continuous decrease in the number of crimes committed which is fatal to the theory

of an inevitable increase. It is assumed, therefore, but with no attempt at proof, that this decrease is only apparent, and that it must arise from the effect of the Summary Jurisdiction Act, 1879, by the operation of which certain crimes were made triable summarily, and so have been taken out of the classified set of tables and put out of sight in the unclassified mass which composes the other set. This Act is, therefore, credited with a principal share in the diminution in Class III. (the offences against property without violence), which comprises about two-thirds of the whole of the crimes tried on indictment. But this Act only carried somewhat further a reform of procedure which had been initiated many years before (1855), and whatever effect it may have had in decreasing the number, as between 1879 and 1880 or 1881, it clearly could not account for the further continuous fall which has been going on ever since.

The tables of offences summarily dealt with, however, though not classified, set out those offences in detail, so that, with a certain amount of labour, it is quite possible for an inquirer to classify them (/) for himself, and so give a substantially complete and correct view of the fluctuation of crime independent of any disturbing cause arising from a change in the mode of trial.

A different method is, however, adopted in the article on 'The Increase of Crime.' It is to select from among the various classes of crime one which is 'the most serious of crimes, and which' is free from any ambiguity in the above sense, and adopt it as a 'criterion' of the fluctuations of crime in general, and of the effect which the change of procedure has had on the figures in the other classes. The typical crime thus selected is one which forms so small a proportion of the whole, and is of so special a character as murder. Out of a total of crimes in the five classes triable on indictment, which amounts in round numbers to 200,000, a crime which, by stretching its number to the utmost, accounts for less than one in 1,000, is taken as a type or criterion of the whole. It is as if the increase or decrease of imports was judged by the value of some peculiar and rare article, such as diamonds or works of art, brought into the country. Mr. Grosvenor's paper, moreover, gives a further caution on the meaning to be attributed to the returns of 'murder,' for he points out that 'a considerable proportion of these crimes, reported as murder from verdicts given by coroner's juries, resolve themselves into the lesser offences of manslaughter and concealment of birth,' which certainly ought to be distinguished in an inquiry of this sort from 'the most serious of crimes,' as they have always been by common consent in practice. It is clear, therefore, that this crime cannot be taken as typical of crime in general, nor should the numbers be quoted without a caution as to their real force and meaning.

I must also point out that the method adopted of comparing the average number for any decade with the average for the preceding or succeeding decade does not bring out the essential facts of the situation. We want to know whether the barometer is rising or falling—if it is steadily rising we anticipate good weather; if it is falling we may expect bad. It is of very little consequence whether the average height this week is higher or lower than the average height last week; and, similarly, if the number of crimes, after rising for say ten years, has been

continuously falling during the next ten years or more, this goes to show that something has happened which ten years or more ago converted a rise into a continuous fall, and we need not be uncomfortable if the average number of the last ten years is, nevertheless, on the whole greater than in the ten years preceding.

If, for example, in the earlier decade the number of cases of a certain crime rose regularly from 1,000 to 2,000, and in the succeeding decade fell from 2,000 to 1,200, the average in the latter period would be higher than in the former; but to say, therefore, that crime was increasing would obscure the important fact that it had been falling in a marked manner for so long a period as ten years, and any (/) action founded on the supposition that it was increasing would clearly be entirely mistaken.

I propose, therefore, to accept no crime as typical of all the rest, but to take the absolute number of crimes reported, both those which represent indictable crimes not dealt with summarily and those which represent such as were dealt with summarily, as accurately as the judicial statistics enable them to be arrived at. I will endeavour to put the case as fully and fairly as I can without flooding this paper with masses of figures, and I will, therefore, give the figures for the year (if any) in which a decided and continuous tendency seems to have set in, and for the last year for which the figures are known. For fuller information I will refer those who want it to the judicial statistics themselves, and to the diagrams published with the Report of the Commissioners of Prisons for 1891-2. And here I must call attention to a method of comparison which is likely to, and does, lead to a false inference, and which I propose to avoid. The comparison of fluctuations of crimes in the different classes, made by taking the figures which give the number of persons *tried* on indictment, gives no correct measure of the fluctuations in the number of *crimes committed*. It would omit, for instance, all notice of those Whitechapel murders for which nobody was tried. Clearly then it would give an imperfect gauge of the crime in the country, for it mixes together and confuses an increase or decrease of crime with an increase or decrease in success in bringing crime to justice.

This point was fully discussed in the Report of the Constabulary Commission, 1839, who entirely rejected this mode of comparison, saying:—

How little the convictions can be trusted as evidence of the increase and diminution of crime will be perceived on reference to the return of crimes known to have been actually committed. It would have been inferred from comparison of the year 1817 with the year 1820 that crime increased threefold, though, in fact, it had somewhat diminished. The comparison of convictions for 1806 with 1826 would be received as proving that up to the latter period crimes had doubled in number, whereas, in fact, they had been reduced more than one-half; as between 1812 and 1820 . . . that crime had increased sevenfold, whereas it had scarcely doubled.

‘Crimes,’ as I have above defined them, are set forth in the judicial statistics in five classes:—

Class I. Offences against the person, including assaults.

Class II. Offences against property, with violence.

Class III. Offences against property, without violence, including stealing, embezzlement, offences against the Game Acts, &c.

Class IV. Malicious offences against property, destroying fences, fruit, trees, &c.

Class V. Forgery and offences against the currency.

These classes contain substantially all the offences against person and property ordinarily understood by the word ‘crime.’ To save (/) space and for conciseness I shall use the word ‘indictable’ as meaning only those which were not summarily dealt with, and ‘summary’ those crimes which would fall into the same five classes, but which were summarily dealt with.

I believe that an examination of the figures will show that there has been substantially for many years past until the latest recorded year a continuous fall in the number of crimes committed; that only one class of crime has fallen during so few as six years; that most of them have fallen during ten to fourteen years, and one class during twenty-five years. And it must be noted also that this fall has occurred during a time when the population and wealth of the country has been largely increasing.

Indictable offences in these five classes have fallen, as a whole, since 1867–8, when the number was 57,812, and the fall has been almost continuous since 1877–8, when the number was 52,397, till in 1890–1 the number was 35,335. Summary offences in the same five classes have been falling since 1873–4, when the number was 192,440. In 1890–1 the number was 159,534.

It is clear at once from these figures that if the Summary Jurisdiction Act, 1879, diminished the indictable offences by 3,000, it accounts only for about one-third of the total decrease; that it does not account for the fall in summary offences for six years previous; also, that the addition of the above number to the summary has not prevented a net fall in these offences by 32,906.

Now as to the fluctuations in the crimes of each class separately.

CLASS I. OFFENCES AGAINST THE PERSON, INCLUDING ASSAULTS

The *indictable offences* fluctuated very much before 1884–5, displaying no marked continuous tendency either to rise or fall, but in that year they suddenly rose from 3,073, and stood in 1885–6 at 3,626. They have since fallen somewhat, standing in 1890–1 at 3,352.

The *summary offences* of this class have fallen almost continuously since 1875–6, when they numbered 100,422. In 1890–1 they numbered 77,857.

CLASS II. OFFENCES AGAINST PROPERTY, WITH VIOLENCE

Indictable.—It is difficult to give a clear and brief account of the fluctuations in this class, and changes in the mode of classifying offences increased them by an unknown amount at one time, and diminished them at another. All that can be said is that since 1881–2 the tendency has been to fall. There were in 1881–2 7,112; in 1890–1, 5,938 cases. The number of *summary offences* in this class is too small to take into consideration, as they never have exceeded 87, and have been as low as 1.

(1) CLASS III. OFFENCES AGAINST PROPERTY, WITHOUT VIOLENCE, INCLUDING STEALING, EMBEZZLEMENT, OFFENCES AGAINST THE GAME ACTS, &C.

Indictable.—These have fallen almost continuously since 1877–8, when the number was 41,341; in 1890–1 it was 25,086. This is the class which is said to have fallen notably by the operations of the Summary Jurisdiction Act, 1879, which, however, only accounts for a diminution of about 3,000 out of a net fall of 16,000.

Summary.—The number of these offences was not apparently increased by the number by which the indictable had diminished, for it substantially remained the same from 1879–80 to 1881–2, when there were 72,434. Since that date it has continuously fallen, and in 1890–1 was 62,990.

CLASS IV. MALICIOUS OFFENCES AGAINST PROPERTY, DESTROYING FENCES, FRUIT, TREES, &C.

Indictable.—The number has not risen or fallen in any marked way, keeping a little on one side or the other of 600 during the last ten years, in which it has been higher than in the decade immediately preceding, but lower than in the decade preceding that.

Summary offences of this class have fallen almost continuously since 1873–4, when there were 25,800, and in 1890–1 numbered 18,675.

CLASS V. FORGERY AND OFFENCES AGAINST THE CURRENCY

Indictable.—The number of these offences has fallen with short interruptions since 1856–7, when there were 2,839; in 1890–1 there were 446. This class affords further illustration of the fallacy of measuring the state of crime by the convictions, for, in the article which upheld the view that crime has increased, it is said that these offences have increased on the average of the two last periods of ten years from 421 to 499 per annum, whereas the crimes themselves, in the same periods of ten years, fell on the average from 853 to 841, showing, of course, that these offences decreased, but that a larger proportion was brought to justice. I have previously pointed out how the large increase in the detective force is calculated to produce these effects. It exemplifies further the erroneous deduction

which may follow from selecting certain particular periods for comparison, for, if the decades selected had been those commencing 1871 and 1881, the average number of crimes would have shown a large decrease from 861 to 742, instead of the small decrease from 853 to 841.

I have already expressed my opinion that these results should be no matter of surprise, as they have, to all appearances, followed the (/) preventive measures taken in order to effect them, and I especially specified the establishment of institutions to guard young people from falling into crime. This is further corroborated by the decrease in the number of first convictions, which have fallen gradually from 109,916 in 1883 to 93,390 in 1892, and the diminution in the number of young persons (under 16 years of age) committed to prison (which includes all those sent to reformatories), which in 1869–70 was 9,998, in 1880–1, 5,579; and in 1891–2, 3,855.

I am inclined to suppose that the doctrine that crime is decreasing is to some people less acceptable than the reverse, for it is duller and affords less scope for sensation, and particularly if the doctrine of increase can be accompanied by announcing an ‘appalling’ increase of murders or something which curdles the blood. This advantage, however, I must forego.

I know that anyone who does not resolutely take a gloomy view of human affairs, and finds himself compelled to believe and say that they are not so bad as they are sometimes represented, is liable to be answered by being called an ‘optimist,’ and if he happens to be in the Government service and discussing public interests his crime is considered to be still heavier, and he is styled an ‘official optimist.’ But calling names, after all, proves nothing. I have, at all events, given the grounds for my opinion, and I can only repeat what I once heard Sir William Harcourt say to a person who made a similar charge against him, ‘It is better to be an optimist after full inquiry than a pessimist without.’

Further, though I have set forth the grounds of my belief that crime has decreased, and have shown that this belief is shared by those whose evidence, from their being practically in constant contact with the facts, is almost more valuable evidence than statistics, I think it may be as well that I should try to remove the suspicion which the suspicious will entertain, that I have special interest in proving it for the glorification of the particular department of the Government service with which I am connected. I have, it will be seen, not referred most distantly to punishment as in any degree the cause of the decrease, though I well remember that, when crime was increasing, it was at once set down to the prison system. I will not endeavour to appraise the share which punishment has in the decrease of crime, but will repeat that, in my opinion, prevention is far and away better than any possible cure, and that next to prevention stands certainty of detection and of bringing to justice. Punishment then naturally comes into operation to serve as a warning and a deterrent to the wavering, and to the detected culprit a chastening experience, which should always be accompanied by influences calculated to reform.

“REPORT FROM THE DEPARTMENTAL
COMMITTEE ON PRISONS,”
1895, EXCERPT

“Report from the Departmental Committee on Prisons” [c.-7702: Report], *Parliamentary Papers*, 1895, vol. 56, pp. 7–8.

Charles Edward Troup (1857–1941), a barrister and a “rather silent, heavy Scot, with little sense of humour,” according to Harold Scott (*Your Obedient Servant*, 1959, p. 28), joined the Home Office in 1880 as a junior clerk. He edited the annual judicial statistics of England and Wales from 1893 to 1904. In 1903, Troup became Assistant Under-Secretary of State; in 1908, on the recommendation of Herbert Gladstone, he was promoted to Permanent Under-Secretary of State.

In this extract from the Report of the Departmental Committee on Prisons, the decrease in the prison population between 1876–1877 and 1893–1894 is documented, showing the considerable fall in the daily average number of convicts and local prisoners over these years. The Report acknowledges, however, that this decrease “cannot be taken as a correct indication of a corresponding decrease in crime.” Adverting to the evidence given by C.E. Troup, the Report says that the most important reason for the drop in prison population is the decrease in the average length of sentences. Troup demonstrated that there was a decrease of only 3.5 per cent in the number of committals to prison between 1883 and 1893. In other words, not many fewer offenders were being given prison sentences. What was crucial to the fall in prison population, therefore, was the less frequent resort to penal servitude, and the preference for shorter terms of imprisonment.

The Report of the Departmental Committee adds, however, that Troup also demonstrated that the number of persons tried for indictable offences at all courts declined from 217 per 100,000 inhabitants in 1874–1878 to 194 per 100,000 in 1889–1893. Crimes of violence against the person showed a decided decrease, as did all classes of crimes against property. “Mr. Troup therefore considers that the decrease in crime, though not at all proportionate to the decrease in the prison population, is real and substantial.” Troup’s evidence can be found in Report from the Departmental Committee on Prisons, Evidence [c.-7702–1], *Parliamentary Papers*, 1895, vol. 56, pp. 465–469 (report, pp. 407–411), and Appendix A & B, pp. 611–612, 617 (report pp. 539–541).

In his Introduction to the Judicial Statistics (England and Wales) for 1898 [Cd. 123], *Parliamentary Papers*, vol. 103, 1898, pp. 22–25, Troup again addressed the issue of the decrease in crime. Adding to the figures of indictable crimes, the more serious of the non-indictable offences (such as assaults, cruelty to children, unlawful possession, and

CRIME NUMBERS

malicious damage), for the 40-year period, 1858–1898, and relating these figures to population change, Troup concluded as follows:

That the actual number of crimes brought into the courts has diminished appreciably during the last 30 years, that, if the increase of population is taken into account, the decrease of crime becomes very marked (viz: 1858, 887.9 offences per 100,000 population; 1898, 505.9 offences per 100,000); that, if we take into account the increase of the police forces and the greater efficiency in the means of investigating and punishing crime, we may conclude that the decrease in crime is even greater than the figures show; and finally, if we take into account the fact that habitual criminals are now for the most part imprisoned only for short periods and have much more frequent opportunities than formerly of committing offences, we must hold that the number of criminals has diminished in an even greater ratio than the number of crimes.

It has . . . been frequently urged that the satisfactory condition of the prison system is proved by the decrease which during recent years has taken place in the prison population. We do not think that the contention is necessarily well founded, but these figures show that the prison population has fallen to a remarkable extent, an actual as well as a relative decrease having taken place.

RETURN showing the DAILY AVERAGE NUMBER OF CONVICTS
and LOCAL PRISONERS in each Year since 1876–7 inclusive

Year	Convicts	Local Prisoners	Population of England and Wales
1876–7	9,936	20,361	24,367,247
1877–8	10,139	20,833	24,695,894
1878–9	10,208	19,818	25,028,973
1879–80	10,299	19,835	25,366,544
1880–81	10,297	18,027	25,708,666
1881–2	10,245	17,798	25,974,439
1882–3	10,192	17,876	26,334,776
1883–4	9,946	17,194	26,626,639
1884–5	9,247	16,619	26,921,737
1885–6	8,339	15,375	27,220,105
1886–7	7,717	14,822	27,521,780
1887–8	7,263	14,536	27,826,798
1888–9	6,492	14,758	28,135,197
1889–90	5,871	13,877	28,447,014
1890–1	5,289	13,076	28,762,287
1891–2	4,762	12,663	29,002,525
1892–3	4,475	13,178	29,403,346
1893–4	4,383	13,850	29,731,100

The decrease of the prison population cannot be taken as a correct indication of a corresponding decrease in crime. The causes which contribute to the fluctuations of crime are frequently subtle, complex, and undefinable. Changes in criminal statistics are often the direct result of changes in the law or its procedure, which have nothing to do with prison treatment. The Reformatory and Industrial Schools Acts, the Summary Jurisdiction Act, and the shortening of sentences have relieved the prisons to a large extent. On the other hand, under the Education Act and numerous local Acts, many persons have been imprisoned for offences which are in their nature non-criminal. . . .

Mr. Troup shows that taking the decrease of 33 per cent. in the prison population as between 1883 and 1893, the number of committals to prison on conviction or on failure to find sureties only accounts for 3.5 per cent. of the decrease; and that the fair inference is that the diminution in the average length of sentences during the last 10 years approximately accounts for no less than 29.5 per cent.

Mr. Troup adopts as the safest test of the amount of serious crime in the country the number not of crimes tried on indictment, but of indictable crimes. The following figures show that during the last 20 years there has been a small but steady decrease, and this has occurred while the general population has increased by 25 per cent.

NUMBER of PERSONS tried for INDICTABLE OFFENCES at ASSIZES and QUARTER SESSIONS or summarily, during the period 1874-93

	Annual Average for each Period of Five Years	Proportion to 100,000 Inhabitants
1874-8	53,044	217
1879-83	66,080	230
1884-88	57,385	208
1889-93	56,472	194

The general conclusions at which Mr. Troup arrived are that crimes of violence against the person show a decided decrease; offences against morality appear to have increased, probably following new and stringent legislation; all classes of crimes against property show an actual diminution, which, considered relatively to population, is specially noteworthy. Larceny, embezzlement, and receiving stolen goods constitute five-sixths of the total of crime, and the diminution in this class of offences is decided, though it is complicated by the changes which have taken place in procedure. Miscellaneous offences, with the exception of attempts to commit suicide, have also diminished. Mr. Troup therefore considers that the decrease in crime, though not at all proportionate to the decrease in the prison population, is real and substantial.



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Part 2

TYPES OF CRIME



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2.1

JUVENILE CRIME



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STEPHEN LUSHINGTON, EVIDENCE TO “REPORT FROM THE SELECT COMMITTEE ON THE STATE OF THE GAOLS,” 1819, EXCERPT

Stephen Lushington (judge), evidence to “Report from the Select Committee on the State of the Gaols and Other Places of Confinement” [579], *Parliamentary Papers*, 1819, vol. 7, pp. 162–165.

Stephen Lushington (1782–1873) was a judge and Member of Parliament. He had been called to the bar in 1806. He was a Whig in politics and anti-slavery in sentiment, active in securing the Slavery Abolition Act, or Emancipation Act of 1833, which abolished slavery in parts of the British Empire. He also supported reform of the criminal law. Lushington was on the committee of the Refuge for the Destitute from 1805, the institution that performed the role of an early reformatory for juvenile offenders. He also served on the committee of the Prison Discipline Society.

The ‘discovery’ of juvenile delinquency as a separate social issue was for long traced to the mid-Victorian years, when a group of reformers, including Sydney Turner and Mary Carpenter, campaigned for reformatory schools for young offenders, instead of sending them to prison. Recently, historians have backdated the ‘discovery’ of delinquency to the post-1815 years. The title of a document of 1816 says it all: *Report of the Committee for Investigating the Causes of the Alarming Increase of Juvenile Delinquency in the Metropolis*. This report, which identified improper parental conduct as the principal cause of crime, concluded that “some thousands of boys in the Metropolis were daily engaged in the commission of crime” and that this “alarming depravity” was “hourly extending its influence over the youth of the poor.” The ‘moral panic’ over delinquency that pervaded these years increased the willingness of victims to prosecute, and of magistrates to indict, creating a ‘feedback loop’ of recorded juvenile crime in London and the larger cities.

London was the focal point of anxiety about juvenile crime, and Lushington expressed this concern in his 1819 remarks about gangs of young thieves. He estimated there were 8,000 delinquents under 17 in London, Westminster, and Southwark, in no fewer than 30 gangs. Most had been in prison, the majority were uneducated, and their delinquency was caused by bad company and distress. It is unclear how Lushington garnered this evidence, except through his work with the Refuge for the Destitute and the occasional visit to prisons and public houses, the locales of juvenile thieves. The Select Committee to which he gave evidence was tasked with considering the state of prisons with reference to the state of crime, in order to ascertain how far the existing system of punishment served to halt or diminish crime.

HAVE you from your observation any means of informing the Committee of the number of juvenile offenders likely to exist in the metropolis?—Of course it is impossible to do that with any accuracy; but I have formed my estimate from observations for a good many years past: I have been one of the committee of the Refuge for the Destitute since 1805, excepting one year, and I have also been on the committee of the Prison Discipline Society, and I have had occasion during that time, to direct my attention repeatedly to the subject; I have made an estimate in my own mind, of the number, without reference to any of the accounts laid before parliament; my sources of information are various, arising from innumerable little items which compose the whole sum. I estimate the number of juvenile delinquents under seventeen, in London, Westminster and Southwark, and the immediate environs, at about eight thousand. I would beg to add, that I know of the existence of gangs in various places; for instance, there is a gang near Paddington; there is another gang near Covent Garden; there is another gang, which I very lately met with, and by mere accident, which, I believe, chiefly meet in the lower part of Gray's-Inn-Lane; I know there are several gangs in Spitalfields: judging from all these circumstances, and supposing that the numbers in the Borough, in the lower part of Westminster, and Whitechapel, would bear something of the same proportion, I have made my calculation upon that basis. I would beg leave to add, when the committee for inquiring into juvenile delinquency first commenced their labours, inquiries were made of boys, about the number of thirty, and those thirty alone gave the names of eight hundred of their accomplices: the committee afterwards proceeded to investigate as far as two thousand cases, or very nearly that amount; they then stopped, conceiving they had carried the investigation as far as was necessary under the circumstances.

In speaking of those eight thousand, do you speak of persons who you suppose are actually engaged in the commission of felonies of different descriptions?—Of felonies, I will not specifically say; but I believe, out of the eight thousand, many of those support themselves by what they call being upon the cross.

Were the gangs you speak of, composed entirely of boys?—I think very few, if any, above the age of seventeen.

In what numbers generally?—Very various; it is impossible to say, the gangs separate themselves so much: of course when they go out on their depredations they cannot go in large bodies.

Have the gangs any communication with each other?—No, I do not think that the gangs in the different parts of the town have any general communication.

Have you any means of knowing how they dispose of the stolen property?—No, not to give the Committee any accurate information: I have, in a particular instance, been enabled to obtain it back, but I could not trace it.

Do these two thousand cases extend over any particular district, or over the whole of London?—The information relating to these cases came chiefly from Newgate, Coldbathfields, and the Borough compter.

Has each gang a leader, or any particular bond of union?—In some cases they may have, but I do not think generally.

Do you not find they are connected with men generally?—Certainly there is a connection, because they dispose of the property they have purloined by means of men; but that connection is not to be ascertained, unless one were to extort the information from them by means of promises.

Have you not ascertained by their confession that they have adult accomplices?—Yes, they have adult accomplices; from their confession, they have receiving accomplices, who receive and dispose of their property: but I understood the question to be whether I could trace receiving houses; that I cannot do.

Do the same individuals continue long to form the same gang?—I should say, certainly.

Do you generally find the same gangs meeting together at the same place?—They (/) are found generally resorting to the same houses, and connected together in their depredations.

Did you ever happen to get any accurate information with respect to any individual gang?—With respect to the Spitalfields gang, an occasion arose very lately, when I was at the house where they met; upon that occasion I saw a very considerable number of them myself.

Of what ages?—I should say from fifteen to twenty, but there were two or three men among them.

At a public house?—Yes, at a public house.

Will you name the public house?—The Virginia Planters, in Spitalfields.

Will you be good enough to relate the circumstances that led you to have intercourse with this gang, and what you observed among them?—The circumstances were in consequence of what occurred respecting Knight, who was executed about ten weeks ago. It happened about two days before his execution, that Mr. Bedford, one of the society of friends, who is secretary to the committee, called upon me, and requested me to go into Newgate; I accompanied him: Knight had been convicted of robbing a man in Whitechapel of his watch; upon seeing him, he protested his innocence, and said there was a person in Newgate who well knew the person who had taken the watch, and could inform us: when Knight was withdrawn, we had this other boy down; and upon examining him, I found he belonged to another gang in Spitalfields, and that he had been there informed of the fact. In the course of the evening Mr. Bedford requested me to go with him to follow up the inquiry, which I did; went to the house where the gang were assembled between nine and ten o'clock at night; no previous intimation had been given of an intention to go; we passed the rooms, where twenty to thirty were met together. I, on entering the house, spoke to the landlord, and desired that I might speak to some of those boys; they came in to me, and upon my mentioning the subject I came upon, one came forward, and said, he knew perfectly well the individual who had committed the offence, also the person who had received the watch, and where the watch was. I had in vain attempted to see the prosecutor; but early in the next morning I did see him, and ascertained from him whether the evidence, as taken down in the Newgate calendar, was correct; and according to his belief, it certainly was: so the next morning the boys were produced; one of

them came forward, and said that he was the person who actually did commit the robbery; the other boy stated that he had received the watch, and it was produced. I would go on to state, that I had occasion to go to this house, two or three times afterwards, and I ascertained there were several gangs in the neighbourhood of Spitalfields, amounting to a very considerable number; their principal resort was at the house I mentioned.

Will you proceed to state to the Committee all the information you derived at that meeting, with respect to the conduct of all the individuals there, and any others to whom their information directed you?—I made many inquiries as to the number of the gangs, the manner in which they carried on their depredations: they told me that that particular robbery had been committed by four of them, who had gone out for the express purpose; two of whom were present, the other two I did not learn who they were; I afterwards took great pains to find whether those persons had any means of employment, any means by which they might have been saved from the consequences of their present situation; and a very large sum of money was raised by certain individuals, for the express purpose of giving those boys an opportunity of leaving their course of life.

That applies to the whole number assembled there?—Yes; a certain sum of money was raised to be paid to the Refuge, if the boys would consent to remain there for one year; enough was raised to pay for ten or fifteen. In consequence of this being done, upon a subsequent occasion I went down and stated it to them; there were not many assembled in the room at that time: they made an application that I would come again; and upon going a second time, a certain number volunteered to come into the Refuge; the majority declined, stating, they could not submit to the confinement in the Refuge: some did come, but I am sorry to add that only two consented to remain; one is doing very well indeed.

Did you understand that this was a house in which boys engaged in those habits were accustomed to meet?—It was.

Exclusively, or nearly so?—Not quite so; there were some persons there at one of the meetings above the age of twenty considerably, perhaps four or five and twenty. I would beg leave to add, upon one occasion, when I was going down, there (/) was a great riot, so much so as to make it a question whether it was prudent to enter; but I did enter, and was received with great civility: at that time a great many assembled on the outside of the house, as well as in.

How many?—I cannot tell; it was a dark night, dark place, dark passages all round; and they were collected all round.

Are you not aware that there are public houses in the metropolis where juvenile offenders particularly assemble?—I believe so.

Is the Virginia Planters a licensed public house?—It was; but I believe the licence has been taken away.

Do you know whether any persons, after your visit, were taken up in that house?—Certainly.

How many?—I cannot state; a considerable number, I know.

What is the age of the youngest of the gang, which you say consisted of twenty or thirty?—I should say, sixteen.

Are not the landlords of public houses of this description generally known by the name, which is technically called "Fencers," or receivers of stolen goods?—I have heard so, but I do not know of my own knowledge.

When you went into those houses, did the boys freely communicate to you upon the nature of their offences?—Perfectly; with perfect freedom.

Not only in respect of the one transaction alluded to, but also to their general conduct?—Yes. I told them that I was well aware that every individual in that room maintained himself by dishonesty, and none of them attempted to deny it; some lamented it; some were very much affected; and some stated, that they had not a friend in the world.

Did you trace any of them to their parents?—Some of them.

Do you suppose they were connected with them?—No.

Then apparently they were carrying on those depredations on their own account?—Yes.

Did they state the reason for living this life?—The two reasons given were, bad company and distress; those are the reasons universally given; if you ask the question, it is universally given, I believe, by them all.

Had their parents expelled them, or turned them adrift?—No; some of them were living partly with their parents.

Did they appear to be connected with any women?—They all are.

Had they the women with them?—No.

Did you obtain any information as to the course of their proceedings; whether they met at stated hours, or what were their plans?—I do not think they met at stated hours, but according to the circumstances of the individual; if they have no employment at the time. Some of them have employment; and when they have not, they go there, or to a ground where they gamble, close by.

Have they any rule for the introduction of strange boys?—I do not know.

Would it be easy to obtain from those boys a list of the places where they generally harbour?—I do not think it would.

Could you trace those boys to any other house?—There is another house which they had been in the habit of frequenting, but they had had some quarrel at that time with that house.

Do you happen to know whether that is a licensed house?—Yes.

Does it exist as such at present?—Yes, I believe so.

What refreshment were they in the habit of having in the house at all?—As I passed by the room where they met, they were drinking and smoking; but I can't tell what it was they were drinking.

Were they gambling?—I am nearly positive upon one occasion they were playing at cards.

Could you ascertain whether they carried any part of the stolen goods to their parents?—I do not believe that any of those boys did.

What do they do with them?—They dispose of them to the receivers of stolen goods.

Is the money received distributed amongst the whole gang, or does each take his own share?—As far as I learned, among the number who go out to commit the individual robbery.

Had they any leader or president there?—No, I did not understand they had.

Do you know whether any of those had been long in Newgate or in any other gaols?—Most of them have been in gaol.

(/)The Committee will apply the question to the whole two thousand cases which you state to have been collected; how many do you think of those had been in gaol?—That investigation took place very soon after the formation of the society. By this time I should guess, all, except two or three hundred, had been in some place of confinement or other.

The Committee would be glad to know, what proportion of those juvenile delinquents have been at school?—I think the majority are persons uneducated, the great majority of them are.

Has any large number of them been at any public or national school?—Certainly not. I can speak to my own opinion from facts.

Has any individual come to your knowledge as a delinquent, who has been at a public school?—To my own knowledge, one, and one only: he had been in a great establishment, the Borough school.

Did any of those boys state that they had learnt their evil habits in gaols?—I did not ask the fact, whether they had been taught their evil habits in gaols or not.

After having collected the two thousand cases, upon what ground did you form the calculation with respect to the additional six thousand?—I stated that mine was an estimate, it ought not to be called a calculation; it was an estimate from knowing that there were certain gangs in one part of the town, and having some guess of the number of those gangs in that part of the town, and then finding out that there were different gangs almost every where, where I extended my discoveries.

What is the number of those ascertained cases of gangs and others, upon which you build the calculation?—I cannot state at all what is the number, because the gangs are so various in number; they vary at different times: I believe in 1817 that they were more numerous than in any other year. When I speak of gangs, I should mention perhaps about a hundred and fifty, there may be a hundred and fifty in one gang, and others partly connected with it, which consisted of thirty or forty, and another of a hundred or a hundred and twenty; my opinion of the actual numbers of each gang must be very loose; I am quite satisfied, however, there are not less than eight thousand juvenile offenders.

How many gangs have you ascertained to exist?—I cannot state the number; I should suppose it to be not less than thirty.

Of the two thousand cases which you have ascertained, did they lodge at their parents, or were they wholly without friends?—I cannot answer that without looking to the books; the cases are all taken down.

Do you know of their hiring a room and living independent of their relatives and friends?—Certainly, some of them do; so they have stated.

Independent of those meetings you have spoken of at the public houses?—Yes.

Have you not heard from the parties themselves, of the age of thirteen or fourteen, that it is a practice to live with girls, and to support them at lodgings?—I have no doubt that all of them have girls of some description or other, even the youngest offenders. I have seen a boy whose age did not exceed twelve, who had his girl.

Of what age was the girl?—That I do not know; I did not see the girl.

Are you acquainted with any gangs consisting of boys under the age of fifteen entirely?—Not entirely; but certainly there is one gang where there are boys of the youngest age, nine and ten years of age; it is a mixed gang of boys and girls, that to which I am alluding.

JOHN WADE, *TREATISE ON THE
POLICE AND CRIMES OF THE
METROPOLIS*, 1829, EXCERPT

John Wade, *Treatise on the Police and Crimes of the Metropolis* (1829), pp. 158–163.

John Wade (1788–1875) started working life as a journeyman wool-sorter. Encouraged by metropolitan radicals, like Francis Place, Wade embarked on a career in journalism. He was a leader-writer on the *Spectator* from the 1820s onwards. He became renowned for his influential compilation of *The Black Book, or; Corruption Unmasked!* (1820–1823), in which Parliament is depicted as a tax-plundering instrument, feeding pensions and sinecures to aristocrats. Wade was a committed Benthamite, constitutional reformer, and an advocate of an alliance of the ‘productive’ classes against aristocratic parasitism in the cause of parliamentary reform. He also published *The Cabinet Lawyer: A Popular Digest of the Laws of England* (1826), the 25th edition of which appeared in 1829, and *History of the Middle and Working Classes* (1833).

Drawing on evidence from the 1828 Report on the Police of the Metropolis, and the 1828 Report on Criminal Commitments and Convictions in England and Wales, Wade declared that the total committals for offences in London and Middlesex, from 1811 to 1817, amounted to 13,415; and from 1821 to 1827, to 19,883 – an annual average increase of 924, or 48 per cent. Even when population increase was factored in, the percentage increase was still 29 per cent. The causes of this increase were many: the cheapness of liquor, parental neglect of children, the paying of prosecutors for their expenses in misdemeanour cases, the enormous increase of wealth and commodities, and poverty due to lower wages.

Turning specifically to delinquency, thieves, wrote Wade, “form a *caste* of themselves, having their peculiar slang, mode of thinking, habits, and arts of living,” which is one of the earlier references to the notion of a separate ‘criminal class.’ Wade claimed that 70,000 regularly lived by theft and fraud in the metropolis, and “their offspring, as a matter of course, follow the example of their parents, and recruit the general mass of mendicancy, prostitution, and delinquency. This is the chief source of juvenile delinquents.” Many of them belonged to “organized gangs of depredators.” It is a fact, Wade went on, “that half the number of persons convicted of crime have not attained the age of discretion.” Taking the last seven years, out of 16,427 commitments in the county of Surrey, 7,292 were under 20 years of age. These juvenile delinquents were not, however, without education or parents, to judge from the keeper of Newgate, who told the Police Committee (1828) that 60 per cent of the boys committed to the prison could read and write, and from Mr. Capper (in charge of the hulks) who said that of the 300 boys on board the *Euryalus* hulk,

two-thirds had fathers living, and only 35 had neither parent living. When it came to punishment, Wade's radical pretensions did not dispose him to leniency; he was of the view that transportation held out the best chance of criminal reform, and he could not see why exile should not be applied to all offences, except those requiring execution. Exile, said Wade the good Malthusian, "would tend to reduce the redundant population, by removing some of the worst members of society."

Though we are strangers to the institution of *castes*, yet children, in the ordinary course, mostly follow the vocation of their parents. This is observable in the legal profession, in the army and navy, as well as among players and show-people, mendicants, gypsies, and other vagrants. In like manner there can be little doubt that the stock of thieves is chiefly kept up by propagation among themselves, and that most of those engaged in the trade are only following the path of their progenitors.

Sir Richard Birnie was asked by the late Police Committee, "Are the thieves in general low artizans (/) employed in any trade or business, or are they a class distinct by themselves, who do nothing but thieve?—Generally speaking, I think they are trained up from what I may call juvenile delinquents; they go on, step by step, and have no trade at all; certainly a great portion of them have had trades, and very likely by their own fault they are out of employ."—Report, page 45.—This, no doubt, is the true generation of the majority of thieves; they are born such, and it is their inheritance: they form a *caste* of themselves, having their peculiar slang, mode of thinking, habits, and arts of living. Indeed, it is obvious that picking pockets, picking locks, *starring* windows, and breaking into houses, are not such easy operations that any uninitiated from the ranks of honesty could pursue them with advantage without much previous training, example, and discipline.

There are, probably, 70,000 persons in the metropolis who regularly live by theft and fraud; most of these have women, with whom they cohabit, and their offspring, as a matter of course, follow the example of their parents, and recruit the general mass of mendicancy, prostitution, and delinquency. This is the chief source of juvenile delinquents, who are also augmented by children, abandoned by the profligate among the working classes, by those of poor debtors confined, of paupers without settlement, and by a few wayward spirits from reputable families, who leave their homes without cause, either from the neglect or misfortune of their natural protectors. Children of this description are found in every part of the metropolis, especially in the vicinity of the theatres, the market-places, the parks, fields, and outskirts of the town.¹ Many of them belong to organized gangs of depredators, and are in the regular (/) employ and training of older thieves; others obtain a precarious subsistence by begging, running errands, selling play-bills, picking pockets, and pilfering from shops and stalls. Some of them never knew what it is to be in a bed, taking refuge in sheds, under stalls, piazzas, and about brick-kilns; they have no homes; others have homes, either with their parents, or

in obscure lodging-houses, but to which they cannot return unless the day's industry or crime has produced a stipulated sum.

It is from the thousands of children so situated that the chief mass of criminals is derived, who fill our prisons, the hulks, and convict-settlements. It is a most extraordinary fact, that half the number of persons convicted of crime have not attained the age of discretion. During the last seven years, out of 16,427 commitments in the county of Surrey, 7292 were under twenty years of age, and 370 under twelve years of age, and several of these not more than eight or ten years of age.²

Now, the origin of criminality being ascertained, it is afflictive to humanity, and a reproach to preventive justice, that more effective measures are not employed to assail the evil at the source. In the present state of the law, the magistrates have little power, and the punishments that are inflicted mostly tend to harden the offenders and return them upon society with additional aptitude for mischief.

We are constantly reading in the newspapers of the painful situation in which the civil authorities are placed by this part of their duty; crowds of destitute beings are brought before them, by the officers, from eight to fourteen years of age; they have been found gambling, sleeping in the open air, or committing some other (/) act of vagrancy; they are known to be in the first stages of delinquency, obtaining a livelihood dishonestly, yet the magistrate has no means of disposing of them in such way as may break up their guilty connexions, and prevent them being returned on society to complete their career of crime.

In the *Morning Chronicle*, September 27, 1828, it is stated, that 120 miserable creatures were brought up at one of the public offices; they had been found sleeping in a brick-field, and twenty-eight were sent to the *House of Correction*. In the same journal, September 17, is the following occurrence:—

Middlesex Sessions.—John Murray, a little hungry looking boy, about twelve years of age, was indicted for stealing two buns and eight biscuits. The Chairman, in passing sentence, said “That it was a melancholy thing to see the crowd of children then in the dock. Here are nearly twenty children, all of them, I fear, belonging to organized gangs, in which every member has a peculiar department. The only effectual mode of putting down this system is, to send every one of them out of the country for life. Whipping used to make some impression upon them, but now they quite disregard it. However, I’ll give these boys another chance—let them be confined for *three months, and be twice well whipped*.”

Now, this mode of proceeding is both cruel and absurd. It is certain these poor creatures, at the expiration of their punishment, will and must return to their old courses; they have no other means of living, and perhaps have never been taught

any other; the punishment awarded is a gratuitous aggravation of the hardships of their lot, and neither reforms them nor benefits society. Even boys sentenced for a short period to transportation, or to confinement on board the hulks, mostly return to their old courses. Mr. Capper stated to the Police Committee that eight out of ten so returned.³ And this must always be the case till such (/) provision is made as shall for ever remove them from the scene of old habits, connexions, and associates.

It might be thought these juvenile delinquents consisted of boys without education, or parents to take care of them, but it is not the fact. Mr. Wontner, the keeper of Newgate, informed the Police Committee⁴ that four out of five of the boys committed to him could read, and three-fifths of them could read and write. Mr. Rawlinson,⁵ one of the magistrates at Marylebone office, also stated that nineteen-twentieths of the boys had been taught reading and writing.

In the evidence of Mr. Capper we have a good account of the previous character and condition of this class of offenders. Out of 4000 convicts on board the hulks, 300 boys under sixteen years of age were taken and placed on board the *Euryalus*, at Chatham. Of these boys,

199	had fathers living.
66	had only mothers living.
35	had neither fathers nor mothers.
133	had been in custody more than once.
66	could read and write on their arrival.
64	could read only.
170	could neither read nor write.
2	were eight years of age.
5	were nine years of age.
13	ten years of age.
23	eleven years of age.
59	twelve years of age.
69	thirteen years of age.
82	fourteen years of age.
42	fifteen years of age.
5	sixteen years of age.

All the suggestions of modern philanthropy for the reform of these offenders have been adopted on board the hulks; they are separated from older criminals, the (/) ignorant are instructed, useful trades are taught them, and they have nothing before them but examples of industry, sobriety, and religion. Yet such is the force of early impressions, that they no sooner return to their native element, as it may be termed, in the purlieu of Covent-garden, Tothill-fields, Bethnal-green, or Saffronhill, than, like ducks at the sight of water, or a wild Indian who has been temporarily clothed in the habiliments of civilization, they rush into their former scenes of iniquity and crime.

The methods now employed to dispose of delinquent children failing either to reform them or relieve society from their presence, it is certainly expedient a new experiment should be tried. Crimes which mostly bring this class of offenders before the tribunals, are either acts of vagrancy, or petty thefts; in the former case they may be imprisoned and whipped, in the latter transported for a limited term. Neither of these punishments serve any salutary end, and, when applied, the magistrates generally take occasion to remark, at the time, that they have resorted to them merely because they have no other way of disposing of the objects before them.

Notes

- 1 Police Report, 1828, pages 38, 46, 48, 54, 57, and 81.
- 2 Report to the Magistrates of the County of Surrey, 1828, page 5.
- 3 Report on the Police of the Metropolis, 1828, page 105.
- 4 Report on the Police of the Metropolis, 1828, p. 54.
- 5 Ibid. p. 57.

W.A. MILES, EVIDENCE OF THIEVES, C. 1835

Evidence of thieves collected by W.A. Miles: The National Archives (hereafter TNA), HO 73/16. Papers for 1839 Report of Constabulary Force: Interviews of juvenile offenders.

William Augustus Miles (1796–1851) was a self-proclaimed expert on crime and policing, what historians have called a ‘moral entrepreneur,’ who helped to define the social problem of crime, proposed solutions for it, and offered his services to install the prescribed remedies. Above all, Miles supplied the 1835 House of Lords Select Committee on Gaols, and the 1839 Constabulary Commissioners Report, with information that was based on his interviews of juvenile offenders who were confined to London prisons or the *Euryalus*, the juvenile hulk moored at Chatham. Inevitably, the interviews were skewed to Miles’s own viewpoint, and to the purpose of the parliamentary investigation. The confessions of the thieves was meant to convey the impression that property was in danger from ‘artful dodgers’ living in the criminal areas, and immersed in the criminal networks, of the metropolis. Criminals were predatory, preferring thievery to honest work. By documenting the immunity of career criminals, the interviews sought to build the case for police reform.

Miles’s evidence to the 1835 Select Committee on Gaols made it clear that he thought the source of crime was “early Contamination and vicious Education from Parents”:

The young Thief is a Nucleus of Mischief. A young Pickpocket named Stuart, aged Thirteen, informed me that his Parents daily sent him into the Streets to ‘look about,’ that is, to plunder whatever he could lay his Hands upon . . . that he had committed many Robberies because he was made to do it; and that he lived entirely by Plunder.

His evidence continued:

I am informed that Captain Brenton considers the total Number of juvenile Offenders within the Bills of Mortality to be 12,000; Dr. Lushington, I believe, computes the Number still higher . . . There is a youthful Population in the Metropolis devoted to Crime, trained to it from Infancy, adhering to it from Education and Circumstances, whose Connexions prevent the Possibility of Reformation, and whom no Punishment can deter; a Race ‘sui generis,’ different from the rest of Society, not only in Thoughts, Habits, and Manners, but even in Appearance; possessing, moreover, a Language exclusively their own.

(pp. 394–395)

Miles, like the radical John Wade, assisted in the construction of an image of a distinct 'criminal class.'

The questions that Miles (and Lieutenant Tracey, governor of Tothill Fields prison, who interviewed some of the inmates) put to the delinquents included the circumstances in which they began offending; the areas where, and the means by which, they committed crime; the amount of money they made; and whether they knew of police corruption. As Miles told the 1835 Select Committee, he had doubts about the evidence of thieves: "they are a Race so artful, and habitually inclined to Deception, that I place but little Credence in their Statements, unless confirmed by other Information." But he did at least write down the evidence as he heard it from those he interviewed. It is rare to come across verbatim evidence from thieves themselves. These interviews are the nearest one gets to criminal autobiography, to offending from the offender's point of view, to the content of a criminal 'career.'

Caroline Gadberry, aged 17, from Shoreditch, resided in Whitechapel. She started to visit penny theatres with other girls, who induced her to start shoplifting. They sold their plunder to Jews in Field Lane and Petticoat Lane, earning about £4 a week. She was convicted four times, serving prison sentences of 3 months and 12 months. She had committed 40 or 50 robberies in a two-month period without detection. She paid the police to look the other way. There are also moments in the interviews when the speaker comes alive, as when Thompson, alias Wade, from the neighbourhood of Hungerford Market, says: "'It is these 'fences' who do us Boys the most harm. We are only their workmen after all, and unless they are stopped you cannot stop thieving.'" Or when Mary Mause, aged 18, from Whitechapel suggests some kind of symbiotic relationship between thief and policeman: "She was once out with a distant relation of a policeman called 'The boy policeman,' and although he took them he would not prevent them from dropping some of the things, & thus the capital part of the charge was prevented."

J.O'Donnell from Somers town is 13 years old. has been a thief for two years, and has been five times in prison. He has neither Brother nor Sister. His father is a Blacksmith. His mother is a Charwoman – they are both Irish. Has been to a National School but cannot read or write. Seven years transportation.

Men asked him to go out thieving with them – took to it afterwards on his own account – frequented Fairs and races – ran away from home and lodged for three pence a night at No. 4 Compton Place? Street, and used to fence his stolen goods to his Landlady. The House is full of thieves of all sorts & all ages – none but thieves are in it.

Went to Epsom races in company with another boy (named & now at liberty). On their way down the road they watched a Baker leave his shop and they contrived to steal the till, it contained £40. They spent a portion of it in fruit & cakes – they also bought some cloathes (sic) but when they were on the race course they commenced gambling and soon lost it all to the men with whom they played – Some boys average about £2 a day till stealing.

Afraid of going to the Bay – would prefer the House of Correction.

Thompson alias Wade comes from the neighbourhood of Hungerford Market. He is 16 years of age and has been twice before in Prison. He has lost his Mother and his father (an Irishman) is a Musician on board a Margate Steam Boat – rather given to drinking. The Boy has been to a National School can read and write – Has two sisters but no Brothers – one of them is at home, the other is on the town - & lives with a celebrated maker of bad money. Sentence 7 years transportation.

Prefers Tothill fields prison to the House of Correction Cold Bath fields, because the food is better and the work is less. His sister who is now 17 went upon the town when she was fourteen years of age. She became acquainted with some young prostitutes and they persuaded her to accompany them during their evening walks. She soon adopted their line of life and having ran away from home she lodged at Mrs. Mendoza's in Coventry Court, Haymarket. This Jewess keeps what is termed a Dress House – the girls are all very young, they are cloathed, fed and lodged- in return for which they give to the woman of the House all the wages of their prostitution. The father of this girl having heard where his daughter was concealed obtained a search warrant and went to the House. He found her. took her home, beat her and locked her up, but she soon found an opportunity to escape and having robbed her parent of seventeen shillings, she ran away again and now defies her father whenever she may meet him. She is known by the name of "Fair Mary Anne" and her "fancy man" is a well known maker of bad money in Union Court Westminster. He was formerly a bricklayer's labourer . . .

This boy has got into different services but could not keep himself honest – used to get dismissed for pilferings and at last gave himself up entirely to the bent of his disposition. When a young thief comes out of prison, some of his old companions are waiting for him at the gate, and they take him away with them – if he refuses, or if his friends have got hold of him they watch the house in the evenings to entice him out and beat him if he adheres to his resolution of being honest.

As for transportation it is looked upon by each thief as an event which must 'occur' some time or another, and the only point is to keep from it as long as they can.

"It is these 'fences' who do us Boys the most harm. We are only their workmen after all, and unless they are stopped you cannot stop thieving."

Used to fence handkerchiefs at night in the neighbourhood of the Theatres to a waterman of a Hackney Coach Stand. He collects from the boys at night & sells to the Jews next morning.

Newgate is very bad. Boys tell one another how to thieve there, & a boy is sure to learn there more than he ought to learn.

Thinks no boy who has ever been a thief would turn honest – might get into a place but it would only be to wait for a good opportunity to rob his master. there is a fellow (named) whose father is a Gypsey Knife Grinder, who gets into places in different shops. He is generally an errand boy, sweeps out the shop in the mornings etc. He is however closely connected with a gang of young thieves, and he hands out to them early in the morning any property he may have secreted the day before. His father can always get him a character to any place . . .

Another fence is a girl of the town who has lately come out of the Penitentiary. She was in there four years. There is no reformation about her.

Bad money is made in Plaster of Paris moulds. There is a Public House in Orchard Street Westminster (named) where it can be had to any amount. Men who make bad money are just as bad as fences for they always look out for little fellows & others to work for them.

Kennedy is a very clever young pickpocket – used to shew Thompson how much money he always had & asked him to go out with him. (companions named). Kennedy makes a great deal of money – Thompson continues to have from ten to fourteen shillings a day. A great portion of it is spent in gambling.

J. Phillips, Paddington. 16 years old – once before in prison – father & mother drunkards – father is a “Guinea Man” (a lower sort of House agent) – mother too crippled to work tho’ not to drink – has been to a National School, can read & write. Has two sisters – one at home the other on the town. Sentence 7 years transportation.

Going to plays led this boy into crime. He met bad acquaintances – got stopping out late at night and ultimately was induced to thief in order to have money to go to the plays. Sometimes to the large theatres sometimes to the penny ones.

His usual place for plunder was in Morris House Repository St. Martin’s Lane – here he stole halters or harness – never touched pockets – used to sell the halters etc to omnibus owners . . . they did not think them to be stolen – used to dress as a stable boy. Made 5/- a day.

W.A. MILES, TWO FEMALE CASES, C. 1837

Two female cases, aged 17 and 18, from August 1837, TNA, HO 73/2, pt. 2, Aug. 1837.

Mary Mause aged 18 years has been here once before. Reputed Thief. She lived with her mother till she was 13 years old, and then she went to a weekly place and had 6d a week & her food & she was raised by 6d per week until she had half a crown. Left her place in Easter 1836, in consequence of meeting a young girl when she went to fetch water & accompanied her to dance at the Catherine Wheel in Essex Street Whitechapel, she staid (sic) out all night and next morning sent for her clothes. They would not give her her clothes but sent to her mother: her mother met her the same day, gave her in charge to a Policeman, who took her to Lambeth Street, and the magistrate recommended her being sent to the Workhouse at Shadwell, & she was sent there. She staid a month, & coming out to go to a Sunday School she ran away. She went then to lodge in Wynfield (?) Whitechapel at Mr. Brown's: there she lived 3 months, and went shop-lifting with the girl above mentioned named Charlotte Stevens who is now transported. She was for 3 months shoplifting and occasionally picking gentlemen's pockets of a night, and she committed an immense number of robberies. On one occasion she and Caroline Gadberry got £7 consisting of 3 shawls & a snuff box from a gentleman's pocket, and at night they got several handkerchiefs & the whole fetched £7. The shawls were taken from the City. She was never afraid of the police, but of the shopmen, she would take a handkerchief without fear within a few yards of a policeman. She was intimate with one policeman, whom they called George and she used to give him money 3s or 4s at a time & brandy to drink. Parish or Policeman she has treated to drink. She was once out with a distant relation of a policeman called "The boy policeman", and although he took them he would not prevent them from dropping some of the things, & thus the capital part of the charge was prevented and they ultimately turned up. She principally sold the things she stole to two women called the two sisters in Field Lane, jewesses. They will only give 6/- for a thing worth 35/-. She has also sold things to Sheen; she has earned as much as £4 a day, between three, but the money was always spent freely, she hardly knows how. When she was here last about 8 months ago, she was again apprehended before she had been out 2½ hours, for a gown piece, but the shopkeeper wd. not hurt her & she was set at liberty.

Caroline Gadberry, aged 17 years
31 August 1837

Shoreditch – Nichols Street – Father a city officer; mother does needle-work. About 2 years and three months ago she first was induced to steal. She used to go out and work at Harness making in Mile End New Town at Mr. Howard's where she earned 4/6d per week, and had a quarter of a mile to walk home. She had never been to any other but a Sunday School, and has been taught to read & write here. She used to go home with other girls, and was induced to go with them to penny theatres, telling her parents that she worked later. There she got acquainted with girls who used to go shop-lifting and who advised her to do the same saying "Oh I would not if I were you work for so little money" and then advised her to go with them; this was about six weeks after her acquaintance with them. For about three months she went on without detection, deceiving both her parents and employers by false statements and going stealing instead of to work. She has at one time stolen property worth £7 in silk: she generally went with one, and sometimes two others, and they sold their plunder to Jews in Field Lane, and Petticoat Lane, who would give them 30/- or 35/- for goods worth £7. Would go every day & sometimes frequently in the day stealing, and has made as much as £3 or £4 on some days which was divided amongst them equally; and they would go to plays and dances, buy smart clothes, treat others to various things, and subscribe to pay counsel to defend acquaintances; their general gains were about £4 a week. She has been 7 or 8 times apprehended, and has been 4 times convicted twice at the Old Bailey & twice at Worship Street summarily. During this time she would sometimes visit her parents who would take her clothes from her to endeavour to keep her at home; but she has a great many times run away from them. She principally resides in Wynford Street Whitechapel. She was first taken up for stealing a shawl in Shoreditch: discharged; the 2nd time for a pair of shoes from Shoreditch: sent here for 3 mos; . . . for three pair of shoes she was sent here for 3 mos. – once at Newgate for 4 gown pieces, she was acquitted: again this time she was sent for a shawl stolen in Mile End Road & she was sentenced to 12 mos. instead of 7 years transportation to which she was first sentenced. She was afraid of the police, but many were treated & paid by them & would not take them: she has frequently given them 3/- & 5/- and to more than one. She has never been detected by the police, but always by the parties robbed. She was at large about two months the last time, before she was taken up again, and during that time committed at least 40 or 50 robberies without detection going out shop-lifting two or three times a day. They were very expert at robbing and used to practice at it: she has been taught by old people to steal adroitly. They used to encourage their own children to do it & entice her to their houses also. The girls usually went alone, and lads alone; but sometimes a young man & young woman wd. go together passing off as man and wife. One receiver a Jew of Field Lane is now gone to America, his name is Alexander, she used to sell a great deal to them.

2.2

FEMALE CRIME



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VIOLENT THEFT

Robbery, 29 May 1828, Mary Young, aged 22

Old Bailey Sessions Papers: Mary Young, aged 22, et al.; 29 May 1828.

The following extracts are taken from the Old Bailey ‘Sessions Papers,’ now available in the collection *Old Bailey Proceedings Online*. ‘Old Bailey’ was a vernacular expression for the Sessions House, located adjacent to Newgate prison. The *Proceedings* are the accounts of felony trials held at London’s central criminal court, published and sold following each meeting of the court. Each trial account starts with the name of the defendant and the offence they were charged with. There follows an account of the testimony of the prosecutor (the victim of the crime) and prosecution witnesses, guided by questions from legal counsel, if appointed, and the judge. Testimonies by defendants were often severely truncated. Interventions by judges, where reported, are referred to in the *Proceedings* as ‘The Court.’ The judicial role was slowly shifting to one of arbitrating the adversarial contest between barristers, settling any arguments over the law and summing up for the jury. Infrequently included in the *Proceedings* was the judge’s summing up. From 1778, the length of the trial accounts increased, but even the longer accounts include only a portion of what was said at the trial. Little information was ever provided about trials for the sexual offences of rape and sodomy. The jury’s verdict and the judge’s sentence bring the transcript to a close. The punishment listed is only the original sentence; it was subject to change as a result of the royal prerogative of mercy.

This is as good a place as any to mention the parallel series of pamphlet reports, the *Ordinary of Newgate’s Account*, written by the chaplain who ministered to the inmates of the prison, where Old Bailey prisoners awaited trial and execution. Written in a moralizing tone to instruct the reader by example not to follow the same path (‘for the wages of sin is death’), and to prepare the condemned for a Christian departure, the accounts dwell on the criminal careers of the convict, and his or her behaviour in prison awaiting execution. The accounts included the ‘last dying speeches’ of the condemned, allowing convicts to tell their own life story.

The following transcripts are reasonably typical examples of female crime, the first an 1828 robbery of Thomas Johnson who went to the home of “a woman of the town,” where he was attacked and robbed by Mary Young and two men. All three were found guilty and sentenced to death, though Young’s sentence was respited on 28 June 1828, and she was freed on 16 June 1830. The two men also petitioned, and they were eventually transported. The second and third transcripts are cases of pickpocketing and theft from a master by teenage thieves, from the 1840s. Both women (one aged 18, the other 14) were found guilty and transported, the pickpocket for ten years, the other for seven years. The second

case contains the common defence on the part of a domestic servant that the goods she was accused of having stolen were loaned to her by the mistress of the home.

These cases bear out the modern historian's findings that in London, many female offenders were poorly paid domestic servants in their teens to mid-twenties, that female service often overlapped with making a living from prostitution, and that most women pickpockets were prostitutes, carrying out their thieving as an adjunct to the offer of sexual activity.

JAMES ANDERSON, MARY YOUNG, GEORGE MORRIS.

Violent Theft: robbery.

29th May 1828

1130. JAMES ANDERSON, MARY YOUNG, and GEORGE MORRIS were indicted for feloniously assaulting Thomas Johnson, on the 10th of May, at St. John, Westminster, putting him in fear, and taking from his person, and against his will, 2 handkerchiefs, value 1s., and 1 sovereign, his property. THOMAS JOHNSON. I live in Cooper's-court, Knightsbridge, and am a labourer; I do not work for anybody in particular. On the 10th of May I was going from home - it was about half-past ten o'clock at night when I was going down Grosvenor-place; I met a girl there, and went home with her - she was a woman of the town; that woman is not here; I went home with her to a court in Pye-street, Westminster; I had a sovereign, four shillings, and 10 ½d. in my pocket at the time, and two handkerchiefs - they were in my pocket; I got to Pye-street about eleven o'clock; I went into a room with her - she asked what I was going to give her; I told her I had not much change - I had bought a bunch of raddishes and onions and a candle, and when I entered the room I had 4s. 7 ½d.; she asked what I was going to give her; I said I had not much change; I gave her 4s. in silver, and 6d. in copper; I sat down in a chair, and the girl went to bed - I had only had one pint of beer, and was quite sober; she said in about a quarter of an hour, "Are you coming to bed?" I said I was in no hurry, I would sit there a little; I went to the bedside, and began to undo my shoes; she then got up, went out of the room, and said, "I will return in a few minutes; don't you go away;" then in came a man and woman - that was the prisoners Anderson and Young; I did not see the girl again till she was in custody - there was only one bed in the room; Young said, "What are you doing here?" I said I came there with a girl: she said, "You must go out of here; this room belongs to me - you must go and look for the girl:" I said I should not go out of the room - I had paid for the room; I refused to go out; the man and woman went out, and returned; while I was putting on my shoes Young returned into the room, and two men with her, Anderson and the other prisoner - she had both the male prisoners with her; they said, "Now we will see whether you will go out or not;" with that they seized hold of me, Anderson on my right, and Morris on my left - one held each arm, and they began to kick me; after they began kicking me, Anderson put his right hand into my right-hand

breeches pocket, where the sovereign was, wrapped up in a bit of paper; while his hand was in my pocket, the woman struck me across the shoulder with a stick which I had brought into the room, and which belonged to an umbrella - the stick broke in two; the other man kicked me, and Anderson had his right hand in my breeches pocket - he turned my pocket inside out; they dragged me out into the court - my knee-cap was put out by their kicks, and my ribs were very much hurt; I called out Watch! and Murder! and received another kick on my left ribs - that was given to me by Morris.

Q. Did anybody come to your assistance? A. Not at that time; after that Anderson said, "Let me kill the b-g-r out of the way;" Morris said, "We will serve him out;" I then received another kick in the ribs; they then dragged me out of the court into the street, and left me.

Q. How far was it from the spot where you were in the street? A. It is not a very long court, about the length of this Court; Dempsey, (the watchman) and another man, came up to my assistance; I had then been laying in the street nearly a quarter of an hour - I could not get up in consequence of the injury I had received; they asked me what was the matter; I told them I had been ill-used: they asked me where the house was; I said if they would assist me I would take them to the room where it happened; they carried me there; when we got there the door was locked outside with a padlock; the watchman said he would break it open; I said, "Before you break it open I will give you a description of the room, so that you may know I tell you of the right room:" they broke the door open, and found nobody there; they then carried me to the watch-house, and from there to the Westminster Infirmary - I was bled there, examined, and dressed; all the beds in the Infirmary were occupied - there was no coach, and the men carried me home; my knee-pan was set.

Q. When did you next see either of the prisoners? A. This happened on Saturday, and on the next Monday I was fetched to the office, and saw Anderson, Young, and the girl who had taken me there; the girl was discharged; I have found one handkerchief and one shoe - my shoe was left in the room; I did not see it found - it had come off with their pulling me about; I have found one handkerchief which was stolen from me - it was produced at the office.

Q. When you saw the girl whom you had met, and Anderson and Young, were you quite certain of their persons? A. I was, and spoke positively to them; I am quite certain I cannot be mistaken in their persons: the Magistrate asked if I should know the other man - Morris was fetched into the office, as he was waiting outside; he was fetched in, and I was certain of him, and spoke positively to him - I am quite certain of him.

Cross-examined by MR. PHILLIPS. Q. Pray, are you a married man? A. No; I met the girl at half-past ten o'clock - it commenced about eleven; I was not in anybody's employ at the time.

Q. I do not mean were you going to work at the time, but had you got a master? A. Yes; I get 2s. 4d. a day; nobody here saw me with the sovereign, that I know of; I told the girl I had a sovereign, but not much change; I had taken a pint of beer

at the White Horse public-house, Knightsbridge - this happened at Westminster; I went all the way, from home to Westminster - the woman met me in Grosvenor-place; I had drank nothing but the porter all day, except a pint of table-beer; I did not go into any public-house with the girl I met - she asked me to go, but I did not; that girl is here, but not in Court; I drank no gin with her - I did not taste gin that day; I would swear I drank no gin that night if I were on my death-bed; the stick had been taken out of an umbrella.

Q. When these men came into the room, did you strike either of them with your stick, in the first instance? A. I did not; I had never seen Anderson before, to my knowledge.

Q. When was the row over altogether? A. About twelve o'clock, or it might be a little after; I had been in the room about twenty minutes before the men came in; they might be in the room knocking and scuffling together a quarter of an hour - I will swear it was five minutes and more; they had their hats on. I received my wages on Saturday morning, from Mr. Howell, the watch-house-keeper of Mary-le-bone; he was my employer - he had given me a sovereign and 9s. 4d.; he is not here.

Q. Are you in the habit of going to places with women who pick you up, when you are quite sober? A. No - I had never seen her before, to my knowledge; I did not tell her I had a sister who kept a house of accommodation, nor anything of the kind. I told her I had a sister who followed that business, the same as she was.

Q. That kept a b-w-y-house? A. Yes, who had kept one; I have not seen her for a long time, and know nothing about her. I have been a porter at Mr. Vin's oil-shop, at Knightsbridge, for twelve months, and have worked in the Park twelve months; Howell paid me the money because I have been a watchman there this last two months; I was not on duty on this night, but I was a watchman; when I want to miss a night I have leave - I had been a watchman about three months.

Prisoner MORRIS. Q. Did I offer to meddle with you when I came into the room? A. Yes, when they both came in together.

Q. You said I had another coat on - I have none but this? A. I observed his coat; he had a different loose coat on over the one he has now, a light coloured loose coat, and I could see the same coat he has on now under it, and the same waistcoat; I looked strictly at him when he came in, for I thought I was going to suffer.

Prisoner YOUNG. Q. Did I not come into the room a second time, and take some gin off the mantelpiece, which you had sent for? A. No; I had not sent for any gin.

Prisoner YOUNG. You sent into us on Sunday morning, by this man (Morris), that if we would give you 11. you would make it up. *Witness*. I never saw that man on Sunday morning.

Prisoner MORRIS. I am that man; he sent me into them. *Witness*. I sent no such message whatever; I did not know they were taken till the officer came up to my room to see how I was.

COURT. Q. Did you send any message by anybody to these people, that if they gave you 11. you would not go on with the prosecution? A. No; Morris' brother came to me.

Prisoner YOUNG. Q. Can you swear you saw me the second time in the room?

A. Yes; I am certain that she hit me with a stick.

JOHN DEMPSEY. I am a watchman. I saw the prosecutor some time after twelve o'clock on Saturday night, in Old Pye-street; he was sitting down on the ground, with his legs stretched out: he was about ten yards from the corner of the court where the robbery happened; I had heard a faint call of Watch! before I saw him - when I came up he was not able to stand; he appeared in great pain, as if he had been hurt - he complained of his loins, and that he thought his thigh was broken; I asked him how it happened - he gave the same account he has now, and said he had lost a sovereign, the handkerchiefs, and one shoe, and if we would assist him to the room he would show us where it was; the witness, I, and another man carried him to the room - he was quite unable to walk; the room was padlocked outside; he said there were raddishes and onions on the table, and a pot of water at the foot of the bed; we broke the door open, and found the raddishes, onions, and water as he had described - his description was accurate.

Q. When did you next see either of the prisoners? A. I came from the Infirmary, after seeing him bled; in an hour and three quarters or two hours; I called Phillips, and we went into the court, and found the door which we had broken open was bolted inside; I went for a light, leaving Phillips at the door; they opened the door when we knocked, and we found Morris and a woman, who stated that she was his wife - she answered the description of the woman the prosecutor had said took him there, and there was a boy in the room with them; Johnson saw the woman on Monday, and said she was the woman who took him there - they declared their innocence. About half an hour after I took Morris, I found Anderson and Young in the second house from where I found the others; we found Anderson and Young in bed in the parlour, and there was another woman also in the bed; Anderson had all his clothes on but his coat. The prosecutor saw them on Monday morning, before the Magistrate, and identified them directly he got into the lobby; Morris pleaded his innocence so strongly at the watch-house, when we took him there, and not having a white coat on, like a coachman, as Johnson had described him; I was rather doubtful of him - when he dressed himself he put on the same coat as he has now, but the side of his waistcoat was torn down; I never could find a white coat, and on that account the constable did not think right to detain him. When we gave evidence before the Magistrate he was about the office, and was fetched in; the prosecutor said, "That is the man, but he had a white upper coat on;" I was present when Phillips found a handkerchief on the bed where Anderson was laying; the prosecutor identified it, and said it had never been hemmed on one side, and I found it so; we found three or four handkerchiefs - Phillips kept them; Johnson claimed this one - it has not been hemmed on one side.

Cross-examined. Q. Did you smell the prosecutor's breath that night? A. I did not exactly smell his breath - I was near enough to him to smell if he had been in liquor; he did not smell of liquor in the least; I never said so - I could not say so.

Q. Did the other watchman, in your presence, say so? A. Never, to my recollection; Phillips never was with the prosecutor; Wakefield helped to carry him - I do not recollect Anderson being searched - I did not search him - I think Phillips did.

COURT. Q. In your judgement had the prosecutor any appearance of being intoxicated? A. Not at all.

Prisoner MORRIS. I asked the watchman what Hospital the man was at when I was discharged; I at first asked him to have something to drink; he said he did not mind; it was about four o'clock in the morning - we went and had half a pint of gin.

DAVID PHILLIPS. I am a watchman. I did not see the prosecutor to speak to him - I saw him going to the watch-house on a man's back; Dempsey came from the Infirmary; I went with him to the room and found the door bolted inside - we knocked; nobody answered - I sent Dempsey for a light; he brought one - I said, "There is somebody inside, for the door is bolted, and if they don't open it we will break it open;" Morris then got up and opened it - I found him and young woman, and a boy in bed; the prosecutor saw the woman before the Magistrate, and said, she was the woman he had gone to the room with - I was present on Monday morning when he saw Morris; he swore positively to him directly he came into the office, and never expressed a doubt of him - he had not described his dress to me; we found the raddishes and onions in the room; a little before three o'clock the same night, I apprehended Anderson, Young, and another woman in bed together - Anderson had his clothes on, except his coat; Young and another woman were in bed - the prosecutor saw Anderson and Young before the Magistrate, on Monday morning, and spoke to them with confidence; I found three handkerchiefs in the room - this one which was on the bed, the prosecutor spoke to; he described it as being only hemmed on one side - there are no letters on it, but it is not hemmed on one side; Dempsey picked up a shoe in the room where I found Anderson; it was outside the window.

Cross-examined. Q. You searched Anderson? A. The constable searched him in the watch-house; I saw him being searched - no sovereign was found on him; I searched the room minutely - but found no sovereign.

JOHN DEMPSEY. The shoe produced by Phillips is the one I found outside the window of the room Anderson was taken in; it was just on the window.

THOMAS JOHNSON. This is my handkerchief; I described it - it was taken from me when I was ill-used; here is a place in it which I had sewn up myself; I have not the least doubt about it - I lost it that night with another silk handkerchief; this shoe is mine - it came off my foot in the room where the woman took me; I saw the woman who was taken up with Morris - she is the woman I went with; I lost the handkerchief in the same room.

Prisoner YOUNG. I can take an oath to that handkerchief being mine.

THOMAS JOHNSON. I am quite positive of it being mine.

THOMAS WAKEFIELD. I am a labourer, and live at No. 17, Old Pye-street, within one hundred and fifty yards of the court - I was returning home between eleven and twelve o'clock, and heard the cry of Murder! I went to the spot and found Johnson lying at the front door of a house in Pye-street - he appeared to be in pain, as if he was hurt; but not at all affected by liquor - I assisted in taking him

to the door of a house where he directed us; the door was padlocked outside - I afterwards carried him to the watch-house; he was not able to walk.

ANDERSON'S *Defence*. When I came down I met Morris, who said, "There is a man in my house who has bolted the door;" I said, "Let us go and see who it is;" we went and found the door bolted - I asked them to open it; no answer was given; I asked them to open the door - no answer was made; but a man was inside - I pushed against the door; it went open and I entered - the man immediately hit me over the head with a stick; I directly laid hold of the stick, and twisted it out of his hands - he kicked at me; I laid hold of him, and pulled him out - that is all I did to him.

YOUNG'S *Defence*. I have nothing more to say; I never saw the man after I went out of the room the first time.

MORRIS' *Defence*. When I came home from work I met Anderson, and said to him, "You can come to work with me in the morning if you like;" he said, he had been working at the Haymarket all day; I said, "There is a man in my room;" he said, "Let us go and see who it is;" he knocked at the door, no answer was given - he knocked again; and there was no answer - he pushed the door open and the man struck him with a stick; as to my laying hand on him or touching him I did not - I had no coat but this one on.

HANNAH MORRIS. I am not related to the prisoner Morris. I live at No. 53, Old Pye-street; at the time this matter happened I lived in the court in Old Pye-street.

Q. Did you live in the room the officer found padlocked? A. Yes.

Q. Do you know Johnson? are you the person who picked him up and asked him to come to your room?

A. I never asked him, he asked me to take him there; I have come to speak the truth, and nothing but the truth - I am not Morris' wife; I was living with George Morris.

Q. And took another man to the same room? A. Yes; he did not wish me to take him to an accommodation house, as he said, his sister kept a house - I said, he could not stop; he said, he did not want to stop - I am an unfortunate girl - I left him in the room.

Q. What! leave a perfect stranger in the room? A. Yes; he was tipsy; I told him when I went in, that he could not stop but for a few minutes; he said, he did not want to stop - he gave me 2s.

Q. Why did you not stay to see him leave the room? A. Because he would not go out; I asked him to go out - he said, he should not; he was very tipsy.

Q. Attend to what you are saying; though you are in a state of prostitution, do not add perjury to prostitution - three witnesses who saw him, swear positively he was quite sober? A. I do not know whether he was shamming it, but he appeared to me to be tipsy.

Q. Take care what you say, for you are liable to be committed for perjury; and to be transported if found guilty; now, tell me what you mean to say on this occasion - mind, your words will be taken down, and if you speak false, I shall certainly commit you for perjury? A. I met the prosecutor in Grosvenor-place, about half-past nine o'clock; he at first had a kind of white stick in his hand - he hit me with

the stick; I turned to him and said, "What do you mean by hitting me?" he said, "Will you have any gin;" I was talking to a groom at the time - I turned round and asked, what he meant by hitting me; he said nothing; he said, "Will you have any gin?" I said, "I don't mind;" we went to the Feathers public-house, and had a quarter of gin; he drank two glasses, and I drank one, and as we came out, a man was standing with radishes and onions; a watchman was passing - he said, "I say, ask the watchman for a light;" the watchman said, "There is one, you may get it" - well, he got a light, and he bought some radishes and onions; he asked if I would take him home - I said, I could not take him home, but would take him to an accommodation house - he said he could not go to an accommodation house; for his sister kept an accommodation house.

Q. And you took him to the room you and this man lived in? A. Yes; and he said he would give me 3s. to stop a few minutes - he gave me 2s. 4 ½d., and when he gave me the 2s. he said he would stop all night. I said, "I told you, you could not stop;" he said, he would - I said, he could not; I left the room a short time - and while I was gone, the door was bolted; I came back and said, "Let me in;" he said, he would let nobody in - I said, "It is me;" he said, "You shall not come in" - I left the room, and did not go again till two o'clock; when I went at two o'clock, the man was gone, and my bed was turned upside down, and the bed in the middle of the room - I did not speak to anybody.

Q. Did you see either of the three prisoners after you left the room? A. No; I did not tell them the man was there - I do not know how they found it out.

Q. How came you to stay away two hours? A. I was engaged with a gentleman at another house; a blue handkerchief was claimed on Mary Young's bed; and I saw that handkerchief on Young's bed on the Friday morning - I had only known Young two days.

Q. Look at that handkerchief; is that the handkerchief you mean to speak to? A. That is the handkerchief I saw Young have on Friday morning - I was not intimate with her; I did not examine the handkerchief - she was tossing it about in this way, and she tore it by hanging it on a nail; I cannot say who mended it.

THOMAS JOHNSON. On my oath I mended that handkerchief myself about a fortnight before. *Witness.* I only know it by the handkerchief being sewn in the middle; that is all I know it by - it is not exactly in the middle.

Q. Did you examine it? A. No; I merely saw it in her hand - I swear to it only by its being torn in the middle; I do not know whether it was hemmed - but it was torn in the middle.

ANDERSON - GUILTY - DEATH. Aged 23.

YOUNG - GUILTY - DEATH. Aged 22.

MORRIS - GUILTY - DEATH. Aged 25.

The witness Harriet Morris was committed.

THEFT

Pocketpicking, Oct. 1840, Mary Bailey,
aged 18; theft: stealing from master, May 1842,
Elizabeth Jones, aged 14

Old Bailey Sessions Papers: two cases of female thieves, sentenced to transportation, 1840 and 1842, aged 18 and 14.

MARY BAILEY.**Theft: pocketpicking.****19th October 1840**

2641. MARY BAILEY was indicted for stealing, on the 17th of October, 1 purse, value 1s.; 3 half-crown, 3 shillings, and 1 sixpence, the property of Robert Parminster Knill, from the person of Harriet Knill; and that she had been before convicted of felony.

HARRIET KNILL. I am the wife of Robert Parminster Knill; he is a printer. On the 17th of October, about ten o'clock at night, I went to Mr. Taylor's, a pork-butcher, to market—the shop was pretty full—the prisoner stood on my right-hand, close to me—there was no one on my left, but another person was behind me—I took a half-crown piece from my purse, which was in my right-hand pocket, and contained three half-crowns, three shillings, and a sixpence—I did not take the purse out of my pocket—I know this money was in my purse secure, and am quite confident I snapped the purse in my pocket—I was leaning over the counter to speak to the person who was serving, and felt a hand at my pocket on my right-side—I felt a hand pressing against my pocket, and one on my shoulder—the prisoner was at this time at my right-side—I felt immediately in my pocket and missed my purse—my pocket-hole is rather behind me—the person who was behind me was shorter than me, and appeared to be stretching up to look over my shoulder, and she was pressing against me—I immediately declared that I had lost my purse, and some one had taken it—the prisoner then said to her companion, “You had better go outside and point out to the lady which rabbit we will have,” and the woman who had been leaning over my shoulder left the shop immediately—she had been near enough to the prisoner to have carried away the purse—they had both been as near to me as they could possibly stand—Mrs. Taylor detained the prisoner in the shop—I have lost my purse and money altogether.

MARGARET TAYLOR. I keep the shop where the prosecutrix was purchasing some articles. The prisoner came in with another person—they asked the price of a rabbit which was in the window—the prosecutrix stood near the door—the prisoner and her companion stood next her—I had suspicion and watched her—I saw the prisoner whisper to the other, who immediately went behind the prosecutrix and took something out of the prisoner's hand, and then she popped away in a moment—I am quite sure the prisoner and her were companions and came in together—they bought nothing.

GEORGE BALL. I am a policeman. I was sent for, and went to the shop—the prisoner was accused of robbing the prosecutrix—she said she knew nothing of it—Mrs. Taylor accused her of having another person with her, who had run out of the shop.

Prisoner's Defence. I went and asked the price of a rabbit in the window—Mrs. Taylor asked me which it was—I said, “The small one”—I waited about five minutes—another young woman came in and a lady—the young woman said, “What is the price of the rabbit in the window?” and I said as she was going out, perhaps she would show her the one I wanted—the prosecutrix then missed her purse—she had a bunch of greens in her hand—I persuaded her to shake them, which she did, but did not find it—Mrs. Taylor then said, a young woman had left the shop, and she thought I was with her—she took my arm—I said she need not hold me, I would wait, and I went up the shop—I know nothing of it—I hope you will have mercy on me for the sake of my poor child, only eight weeks old.

CHARLES BEAUMONT (*police-sergeant G 11.*) I produce a certificate of the prisoner's former conviction, which I got from Mr. Clark's office—(*read*)—the prisoner is the person.

GUILTY.* Aged 18.—Transported for Ten Years.

ELIZABETH JONES.

Theft: stealing from master.

9th May 1842

1604. ELIZABETH JONES was indicted for stealing, on the 1st of January, 1 shawl, value 2s. 6d.; 1 bonnet, value 6d.; 2 shillings, two pence, and 2 halfpence; the property of James Gorman, her master, since deceased.

MARY GORMAN. I was the wife of James Gorman—he is deceased. We took the prisoner into our house out of charity, and on the 1st of January I sent her out for some little things—she took my bonnet and shawl without my consent—she did not return.

Prisoner. You gave me the bonnet to wear, and lent me the shawl—you took me into your service at 1s. a week and my victuals—you never gave me a farthing of money, and scarcely any victuals. *Witness.* I gave her 2s. 2d. to buy some sugar and other things.

GUILTY.* Aged 14.—Transported for Seven years.

KILLING

Infanticide, 9 April 1829, Martha Barrett, aged 36

Old Bailey Sessions Papers: Martha Barrett; 9 April 1829, Infanticide case.

Infanticide, the one crime that was exclusively female, was the killing of a newborn child. Most cases before 1803 were prosecuted under a 1624 statute which dictated that if the death of the baby was concealed, the mother was presumed guilty of infanticide, unless she could prove the baby was born dead. The requirement that the defendant had to prove her innocence was, of course, a reversal of the normal practice of requiring the prosecution to prove guilt. Women tended to be acquitted of this charge, however, if they could demonstrate that they had prepared for the birth of the baby.

This statute was repealed by Lord Ellenborough's Act of 1803, when proof of murder became a requirement of conviction. To prove the intentional killing of a child at its birth or soon afterwards, it was necessary to demonstrate that the baby was born alive. The prosecution had to show that the infant had achieved an existence wholly distinct from its mother before a trial for infanticide could proceed. Verification of live birth, especially where the only witness to the act was the mother suspected of murder, was extremely difficult for forensic medicine. The 1803 statute also empowered juries to return the lesser verdict of concealment of birth, punishable by a maximum of two years' imprisonment. This alternative conviction was at first limited to mothers of illegitimate children, but the Offences Against the Person Act, 1828, extended the concealment provision to all mothers. Given a choice between the conviction of a woman for a capital offence, or for a misdemeanour, all-male juries typically chose the latter.

In the first extract, which follows, Martha Barrett, aged 36, was charged in April 1829 on the Coroner's Inquisition with the wilful murder of a newborn infant. The surgeon of Mile-end Road testified that the accused had recently given birth, though she continued to deny it, and added "it is impossible, from what I saw, to state whether it was born alive or not." Barrett was found guilty of the lesser offence of concealing the birth and sentenced to 18 months' imprisonment. The sentence outcome is unknown.

The other two extracts involve Dr. Edwin Lankester (1814–1874). Strangely, the report in *The Times* gets his name correct in the first sentence, but spells it as 'Lancaster' in the title. In 1862, Lankester won the contest to replace Thomas Wakely as (medical) coroner for Central Middlesex. He used the coronership in a highly unorthodox manner, along with the annals of the Social Science Association, to publicize workhouse deaths, a large infant death rate, and infanticides. Violent death played a small part in overall infant mortality in mid-Victorian London, yet the 203 verdicts of wilful murder of children aged one year and under returned by coroners' juries in 1864 yield a rate of 27.4 murders per 100,000 infants in their first year, which is no small rate. A disproportionately large number of these murder

verdicts were returned by juries in Lankester's Division, containing about one-third of the metropolitan population. In 1863, this district recorded 40 verdicts of murder of infants aged one year and under, or 24 per cent of all recorded infanticides in England and Wales.

Lankester believed child-murder was rampant and offered some alarmist figures of the number of child-murders each year. In his 1866 article in the *Transactions of the National Association for the Promotion of Social Science*, he announced that if the ratio of inquests to infanticides was the same elsewhere as in his district, there must be no fewer than 1,000 child-murders annually in the country. He also came up with the startling deduction that 16,000 women living in London had destroyed their offspring. Were juries in Lankester's district unduly influenced by the coroner's thinking on the issue, or were their verdicts bringing the law closer to the true extent of child-murder?

MARTHA BARRETT.

Killing: infanticide.

9th April 1829

Before Mr. Justice Park.

793. MARTHA BARRETT was charged on the Coroner's Inquisition only, with the wilful murder of a new-born infant.

MR. PHILLIPS *conducted the prosecution.*

ANN SAUNDERS. I am the wife of William Saunders, of Three Colt-lane, Bethnal-green, I have known the prisoner two or three years; my daughter lived in the same house with her: I went to the house a fortnight ago, and saw the prisoner - I asked her how she did; she appeared very ill indeed: she said she was very ill, and had taken a great deal of physic; I called next day to see her, and asked how she did - she said she was very poorly indeed - I said, "Mrs. Barrett, I am an old woman, if you will tell me the truth, I will certainly keep it secret."

COURT. Then we cannot hear what she said after that.

JAMES STONE. I am beadle of Mile-end Old-town. -In consequence of information, on the 26th of March, I went to the prisoner's house; (before that the after-birth of a child had been produced to me) - she was lying on the bed- I asked her if she had not had a child; she denied having been in the family way at all; I questioned her for nearly half an hour - she still denied it; I said I was sure a child had been born - she then admitted having been in the family way, and said she had taken a quantity of savin for the purpose of causing abortion: I told her I was confident it was a full grown child - she still denied having had a child. I made a search, but found nothing; I went on the next morning, Friday, and found Mr. Carruthers there, and made a further search - I searched some garden-pots on the ledge of the window, and in the mould I found a portion of a child's skull in one, and another portion of a skull in another; I searched the fire-place, and found a number of bones, which were materially burnt - Mr. Carruthers was present: I saw the prisoner again next day - I neither threatened nor promised her any thing; I sat down by the side of the bed, and asked her how she could be guilty of so enormous a crime - she said in order that no one should have a knowledge of it; I asked

her if she had cut the child into pieces - she seemed to shudder at the idea of that, and said No, she had cut the child's head off and the body was burnt - I could not tell whether it was born alive, nor did I ask her; she mentioned who was the father of the child; I then asked if he had influenced her in any way to make away with the child - she said No, no one had any knowledge of her being in the family-way, exclusive of herself. On Monday evening she was removed to the poor-house.

GEORGE EDWARD CARRUTHERS. I am a surgeon of Mile-end-road. On the 26th or 27th of March I was in the prisoner's presence with Stone; she was in a very weak state - I asked her if she had not been recently delivered; her reply was she had not; I gave her to understand that I was a medical man, and pressed her not to conceal it from me: she continued to deny it - I saw the after-birth, and her still denying it led me to apply my hand on the abdomen, and the *uterus* had not contracted, which satisfied me there had been a recent delivery; she persisted in not having had a child, and I left her - I went again; I had not entered the room two minutes before Stone, the beadle, came: I saw him find in the flower-pots something, which I washed - it was the greater portion of the head of a child - it had the appearance of having been burnt; Stone afterwards searched the fire-place; I took the bones from him - there was one human infant rib: a portion of the bones of an infant thigh, and some small bones which I could not distinguish - I am positive those were the bones of an infant; she no longer denied having a child, and I asked her if the child cried - she said that it did not, and that it fell from her; she then said she had laid the child in a box, and it remained there till the Wednesday night (she was delivered on the Tuesday morning), when she took it out of the box, and burnt it; she said no person knew of her being in the family-way but herself; it is impossible, from what I saw, to state whether it was born alive or not.

GUILTY (of concealing the birth.) Aged 36.

Confined Eighteen Months.

EDWIN LANKESTER, “INFANTICIDE,” 1866

Edwin Lankester (Coroner), “Infanticide,” *Transactions of the National Association for the Promotion of Social Science*, 1866, pp. 216–224.

I APPREHEND it was the object of the framers of the question to be discussed in this section this morning to confine the term infanticide to the wilful and violent destruction of the lives of newly-born children, whose bodies were afterwards exposed or concealed. At the same time it should be remembered that the crime of murdering children, and exposing or concealing them, is not confined to those newly born, and that a large number of children are annually found dead in our streets, or otherwise exposed or concealed, who have lived for some weeks, months, or even years. Within the last three months, I have held inquests on three children, one aged two months, another six months, and a third eighteen months, who were found dead in the streets of London, and bearing marks upon their bodies of having been deprived of life by violence. In the last four years I have held inquests on not less than twelve children who were above two weeks of age, and who were exposed or concealed in various ways. I wish to draw attention to this fact in order to raise the inquiry as to whether our indifference to the destruction of newly-born infant life may not be paving the way to an increasing disregard of infant life, and a disposition to destroy it whenever it stands in the way of the selfishness of those whose sacred duty it is to secure its protection and welfare.

Confining myself then to the inquiry as to what is the probable extent of the crime of infanticide, in relation to new-born children, (I) I would call your attention to the results of my own experience in the central district of Middlesex. This district contained, according to the census of 1861, a population of 805,000 persons. Allowing for increase of population since then, it probably now contains about 900,000 persons. In this district I held, in 1863, 84 inquests on newly-born children; in 1864, 100 inquests; and in 1865, 114 inquests. This includes all cases of death, whether accounted for by natural causes or otherwise. During the same years verdicts of wilful murder were returned; in 1863, in 53 cases; in 1864, in 56 cases; and in 1865, in 61 cases. Thus, in three years, there were 170 cases in which verdicts of wilful murder were returned. As there has been some doubt expressed as to whether, in all these cases, there has been sufficient evidence brought forward to justify the belief that murder has been committed, I would call

attention here to the general circumstances which have been brought before the coroner's court.

1. In all these cases the children have been found exposed in the streets, or found in ponds, canals, and other places, and under circumstances which leave no doubt that they have been cast away to conceal the fact of their death.
2. In all these cases, children are newly born; they are unwashed, and present no indications of the ordinary care having been taken of them, which is bestowed on children which are born dead, when women are surrounded with the assistance which they ought to have, and which they need in the season of child-bearing. They all of them have borne the indications of having been born alive.
3. With two or, perhaps, three exceptions, there has been no attempt made to tie the cord of the child, which is an operation which is always performed where women are assisted by others, and which is regarded by all civilised nations as a necessary operation for the protection alike of the life of the mother as of the child. This fact alone clearly indicates that the child has not been still-born, and cast away on that account, or that its birth has been regular, and thrown into the street to save exposure or expense. The significance of this fact is, that the child has been borne by its mother without assistance, and that she has been ignorant of, or neglected the ordinary precaution of, the art of midwifery of tying the cord.
4. A certain proportion of the children have died from this neglect. Hæmorrhage from the untied cord takes place, and the child faints. This is shown by the empty state of the heart and the ex-sanguineous state of the organs of the body. In these cases it is sometimes urged that the woman might be taken with the pangs of labour before she was aware of it, and, being too feeble to call assistance, the child has died in consequence. It is, however, quite as easy to kill a person by neglect as by violence; and it is always presumable in these cases that the neglect was intentional, and that should the suspected persons be found out, they must prove their innocence when tried on the coroner's inquisition. It is in this class of cases that coroners' juries are always inclined to give the benefit of the doubt to the (/) unknown mother, lest she should be found out, and tried and suffer capitally for the offence. It seems to me, however, that these are cases in which the suspicion of wilful murder is very great, and that women thus neglecting their offspring should take their trial for the offence.
5. Another class of these cases present all the appearances of suffocation. There are no marks of injury on the body. The face is livid; the tongue protrudes; the brain, lungs, and right side of the heart are congested. These are children who have been suffocated by neglect. They are not removed from their mother, and are either suffocated in the discharges of their mother, or for want of fresh air under the bed-clothes. The same excuses are made for not delivering a verdict of wilful murder in these cases as in the last.

6. In a large proportion of cases the dead body bears marks of violence. In one class of these cases the child has evidently been suffocated by violence. The features of the face show marks of compression by violence, or finger-marks are plainly seen on each side of the nose or on the throat. Frequently ligatures are found tied tight round the throats of children, or foreign substances are stuffed into the mouth and down the throat. There can be little doubt that in these cases the child has been wilfully murdered. It not unfrequently happens that a child presents the appearance of having been washed. This appearance, in connection with the signs of suffocation, clearly points to drowning as the means by which the child was killed. In another class of cases, the child presents marks of blows and severe injuries. The skull is fractured, the throat is cut; it has been stabbed or otherwise subjected to destructive violence. These cases, when fully investigated, cannot fail to produce the impression that the child has been brutally and cruelly murdered. At the same time, in both these groups of cases coroners' juries are occasionally influenced by what they hear about cases where women are tried for the murder of their children, on whom marks of violence are found. The most preposterous theories are offered to account for ligatures around the throats of children, and for fractured skulls; and juries deliver verdicts against the conclusions of common sense and reason.

That violence should be had recourse to at all in these cases, when life may so easily be destroyed by neglect, has sometimes excited surprise. But when it is remembered that probably the whole of these children are born in houses where there are numbers of residents, and that frequently the first efforts at respiration of the newborn child are attended with crying, it can be easily imagined that violence is at once inflicted on the child to prevent its cries from calling the attention of others in the house to its existence. Now I apprehend it is not necessary for our purpose here to inquire whether, in each individual case before us, there was such a special intention of destroying the lives of these children as would lead society to demand that the perpetrators of this crime should be (/) punished. What we are anxious to know is what are the best means by which this infant death and concealment of the birth may be prevented. The question of murder or not murder may be left, but here is the fact of 170 children found dead in three years, amongst 900,000 people, under circumstances which at least exposes a certain number of persons to the suspicion of having been guilty of murder. Nor can we regard the verdict of wilful murder as pointing to all suspicious cases. In the three years 1863–4–5, there have been verdicts of "found dead" in thirty-two cases, thus making 202 cases. These open verdicts have been returned because the bodies were in too advanced a state of decomposition, when found, to enable the medical witness to give an opinion as to the cause of death. To suppose that these cases are less suspicious than those in which verdicts of wilful murder are returned would be an absurdity. But this does not give the whole amount of suspicious new-born infant

death. There are still fifty-eight cases of death in which verdicts of still-born, accidental, and natural death have been returned, in the history of which, to say the least, there is much to lead to the presumption that human wilfulness has led to the destruction of life.

Now I quite allow that in these cases there is a large margin for difference of opinion as to the cause of death of these children, but as the result of a close personal investigation of those cases, I am impressed with the fact that in the great majority the destruction of the life of the infant was intended; and I am so, not only on the ground of the evidence adduced at the inquests on these children, but in the deficiency of evidence to show that there was any other cause of the death of these children than the wilful intention of their parents to destroy them. In the course of my experience a large number of the unhappy mothers of these children have been detected, and in none of these cases do I remember satisfactory proof being given that the child came to its death otherwise than by the wilful neglect or violence of its mother. That few or none of these women have been punished arises from the fact that we have no efficient law against the murder of children at the time of their birth. A woman, against whom the capital charge of murder is not sustained, may be tried for the concealment of the birth of her child; but, at the present day, a woman might enter a court of justice and say to the judge, I have brought my dead child, which I murdered before it was born, and now I have cleared myself from all charges that can be brought against me by the laws of my country. Nay, further, she may deny having given birth to the child; but, producing it dead, it has been held she has not concealed the birth of her child. I have selected such a case in my third annual report.

But to return to the question of numbers, because it is most important in adopting remedial measures that we should have some idea of the extent of the crime we wish to prevent. Supposing all the deaths of new-born children were wilful, this would give us the high proportion of eighty-six, as an average of the last three years, in (/) central Middlesex; but, allowing for cases of still-birth, and what may be accidental death in these cases, I do not think that the number, seventy, is too high to express the real number of cases of infanticide occurring in central Middlesex annually. Taking, then, this reduced number, the question comes as to whether this includes all cases of infanticide that occur in the district. Now, when it is remembered that the cases which come before the coroner's court are only those which have been clumsily put away, thrown into some neighbouring street, or pond, it has always appeared to me that a large number of bodies of infants have been successfully put away, which never come to light, and on which no inquiry is held. The facts on which such a supposition is founded I will only briefly refer to.

1. A number of the bodies of infants, on which inquests are held, are in such a state of decomposition, that it is reasonable to suppose that, had they remained concealed where they were found only a few weeks longer, no remains of