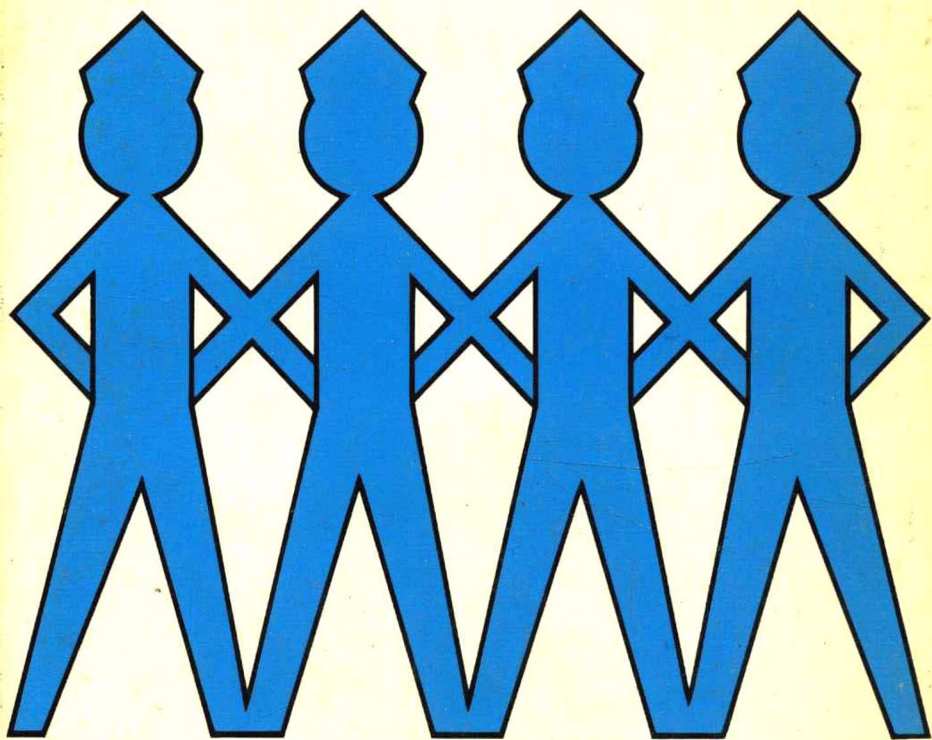John Avery

POLICE

—Force or Service?

POLICE
Force or Service?

By

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Preface

The writer is an Inspector in the New South Wales Police Force with 32 years of operational and administrative experience. From time to time general statements emerge in the material about the way things are in the police force, and on other issues, and these flow from the experience of the writer.

While readily acknowledging that there are alternative points of view, this writer could not undertake a work of this nature without some of the values and attitudes of a policeman.

The reader will find references at the end of each chapter to the resource material used by the writer and will thus be enabled to further pursue points of particular interest.

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Part V   Achieving Social Control with the People

Introduction

The criminal justice process in Australia is not working as effectively as it should. This judgment probably applies to the whole of western civilisation. Reassurances from police public relations groups, judicial dicta upon the merits of the rule of law, and the often equivocal statements of parliamentarians tend to conceal this critical situation. The criminal justice process continues to lose ground wherever urbanisation intensifies. There is a need for immediate action to save the larger Australian cities from the condition of violence and fear which is evident in some of the larger American cities.

Writing in 1970, the former Attorney-General of the United States, Ramsey Clark, stated that the American system of criminal justice has failed in relation to crime. He suggested that, since most crime is not reported to the police, the agencies of criminal justice are ignorant of most of the conduct they are designed to control and of the several million serious crimes reported annually to the police, barely one in nine results in a conviction.[1]

There is a need for a comprehensive Commonwealth-wide survey of the effectiveness of the Australian criminal justice system in similar terms. In the view of this writer political action should be directed towards a reduction in legislative control and increased efforts should be made to bring the people into the functions of social control. We should treat non-criminally those activities which are essentially non-criminal. Let us try to resurrect the ancient yet useful weapon of community odium and use it to assist in controlling harmful behaviour. Why not make the family of a vandal responsible for reparations and thus push the family to take more interest in the behaviour of its members? This may be a more effective way to reduce vandalism than criminal sanctions. Why not send letters to neighbours of a person convicted of drunken driving, advising that this person is disqualified from driving and has demonstrated a disregard for the safety of others? This suggestion may offend those jealous of the rights to privacy of individuals, but an involved community would applaud sensible efforts to limit the irresponsible and dangerous activities of a minority. Suggestions of this type involve members of the local community and reduce indifference to the processes of social control.

We should be endeavouring to reduce the rates of incarceration in this country. Despite the best endeavours of responsible officers in the corrective services field, forcing an impressionable individual into the prison milieu will generally do little to develop a sense of social responsibility and may have quite the reverse effect. Prison should be reserved for those who cause or seriously threaten harm. Only when

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community action fails to curb unacceptable behaviour should the penal processes be invoked for the purpose of preventing harm to the community.

Dahl[2] suggests that the case for democracy, political equality and majority rule are strongest where competence is widely diffused and there is a substantial consensus. Bachrach[3] reinforces this when he opines that the crucial issue for democracy is not the composition of the elite (since for the man at the bottom it makes little difference who is on top) but whether democracy can diffuse power sufficiently throughout society to inculcate among people of all walks of life a justifiable feeling that they have the power to participate in decisions that will affect them. The involvement of the population in the process of social control is one method of diffusing power. While it may be idealistic to expect politically apathetic people to involve themselves in the political processes of social control, the growing fear among people that they may become the victims of crime may stimulate participation if they are convinced that their involvement could reduce the level of crime in the community. The best deterrent to crime is the fear of prompt apprehension, conviction and punishment, and a higher level of public co-operation would mean a greater probability of swift detection and apprehension.

Any attempt to democratise the criminal justice processes will be resisted both by the powerful and by the dissidents. Berkley[4] quotes Boorstin as suggesting that "dissent is now in the hands of men who cannot bear to be embraced by authority, who are unhappiest when their ideas, as in the case of civil rights, are accepted by the authority they have railed against". The powerful resist change as they have a vested interest in the existing social structures, including the criminal justice processes. While there are many contributory causes, there seems to be a disproportionate representation of the lower socio-economic groups in the prison population at a time of increase of corporate or "white collar" crime.

The undeniable need for the recognition by authorities of the importance of community participation in the process of social control was demonstrated by Banton.[5] He showed that the relative tranquility of a community was related to the kinds of social relationships that exist in that society and their effectiveness in getting people to follow prescribed patterns of behaviour. He compared Edinburgh with cities of a similar size in the United States and noted that the incidence of violent crime in Edinburgh was only a fraction of the rates of crime experienced in the American cities. This is not indicative, in his view, of the comparative superiority of the Scottish police, but has to do with the power of social norms and humanity's methods of getting people to observe them. He suggests that the efforts of law enforcement agencies are puny compared with the extensiveness and intricacy of these other behaviour regulators. If Banton is right, it follows that policies aimed at achieving social control by increasing legislation and coercive forces are an expensive political mistake. The ailing society must be involved in its own recuperation.

The law enforcement philosophy of the United States and the United Kingdom has centred upon the localising of law enforcement processes,

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regarding it as a municipal or county concern and keeping it closer to the communities involved. Mass communication and fast transport in modern life have limited the value of this approach. Police forces must be large enough to warrant the huge capital investment required for modern equipment. Yet there is a real need to avoid monolithic paramilitary police forces on a national scale which could pose a real threat if the growing inequalities in our social system were to beget an oligarchy, as Dahl suggested has occurred. The current Australian system of State police forces treads a middle path which allows State forces large enough to justify heavy capital expenditure on technical resources, yet not large enough to constitute a challenging power bloc. We should avoid the federalising of police forces and confine federal police activities to enforcing Commonwealth laws which are not drafted for policing by the State forces, with no reduction in the autonomy of those separate forces.

For What Purpose do Police Exist?

Police have traditionally been associated with the tasks of protecting life and property, preventing crime, detecting offenders and preserving peace and good order. This is a digest of a function of considerable complexity. While within the wide spectrum of police operations there are the rather more dramatic operations against criminals, by far the largest area of police function lies in routine peace-keeping activities. The latter involve police in interaction with members of the public in their times of personal crisis and need.

The broad functional role of police in a modern society was outlined by the New Zealand police in a report to their government. It can be summarised as follows:

(i) To protect life and property by guarding and patrolling and anticipating danger not only from criminal acts, but also from those which are accidental and unintentional and from calamities on a community or a national scale:

(ii) To safeguard the liberties of the individual and preserve the public peace by seeking to create and maintain conditions under which people may go about their lawful affairs protected from harmful and dangerous conduct.

(iii) To prevent crime and to endeavour to identify and eliminate the causes of crime.

(vi) To detect offenders following the commission of crime.

(y) To encourage and advise the community on how to protect their persons and their property from criminal behaviour.

(vi) To provide guidance and assistance to help young people achieve maturity.

(vii) To provide guidance and assistance in cases of tragedy or in family or personal crises.

It is the police function to assist the public with social control. The Report of the English Royal Commission on the Police[6] of 1967 concluded:

> The prevention of crime and the detection and punishment of offenders, the protection of life and property and the preservation of public tranquility

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are the direct responsibilities of ordinary citizens. The police are given certain functions to assist the public to do its work but it simply cannot be left to the police. It is destructive both of police and public social health to attempt to pass over to the police the obligations and duties associated with the prevention of crime and the preservation of public tranquility. *These are obligations and duties of the public, aided by the police and not the police, occasionally aided by some public spirited citizens.* [The emphases are those of this writer.]

Wettenhall[7] suggests that if people are dissatisfied with the law enforcement service it is not really sufficient nor altogether fair to blame the police. He says that while the police may at times appear to be their own worst enemies, they are victims of a social setting which clouds and confuses their role and which makes impossible demands upon them. People in modern society want it both ways: they want their police force strong and effective and yet weak and innocuous. The police seem in an essential paradox because of the all too general attitude of citizens who want ruthless and vigorous administration of the law against those who offend them, and leniency for themselves.

Skolnick[8] identifies another social quandary for police:

The police in a democratic society are required to maintain order and do so under the rule of law. As functionaries charged with maintaining order, they are part of the bureaucracy. The ideology of democratic bureaucracy emphasises initiative rather than disciplined adherence to rules and regulations. By contrast, the rule of law emphasises the rights of individuals and places constraints upon the initiative of officials. This tension between the operational consequences of ideas of order, efficiency and initiative on the one hand, and legality on the other, constitutes the principal problem of police as a democratic legal organisation.

Police Force or Police Service?

In modern society it is critical that police should have greater regard for the role which brings them into closest contact with the members of the community. Murphy[9] suggests that what the police chief must do is to focus the entire institutional effort around one job, that of the police officer closest to the community. Everything else should be secondary. Police management should look at causes of crime and assist the government by providing information about criminal and social welfare problems. It is the police officer closest to the people who can best provide this kind of information and thus become a significant cog in social programmes.

This is not to reduce the significance of the police task of protecting the public from harm. The law must be enforced implacably against those who would cause harm to others.

Ramsay Clark[10] lamented the lack of philosophical thinking about civil police. He asked:

Are ideas only manageable for things remote? Are police activities too close to us, too pervasive in our lives to be encompassed by a concept? Is the subject too complex, too much like the totality of human conduct to yield to the constraint of an idea? Or does it involve an inherent variance between form and function that frustrates all attempts at definition? But if we begin without some notion of what we intend how can we know where we want to end?

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INTRODUCTION

In these pages it is intended to offer some modest notions about what should be the intentions and ends for the police in this country. It is contended that if law enforcement is the role of the citizen assisted by well-trained police then the emphasis should be on the police officer closest to the community, the one that provides the services as well as endeavours to protect from harm.

One means of identifying the true role of the organisation would be to change its name to "The New South Wales Police Service" or "Victoria Police Service" or perhaps the "Australian Federal Police Service".

The following chapters provide some historical perspectives on the citizen role in law enforcement and how the complexities of modern life have created specialists in occupational roles, such as law enforcement. Accompanying the process of the industrialisation of western society has been the phenomenon of urbanisation and some chapters relate to its dysfunctional effects.

The current role of the Australian police is analysed and there is discussion on the source of their authority. As a major thrust of this book is the need for individual citizens to have some responsibility for and participation in the social control processes, some propositions are offered concerning ways in which people may be involved in the prevention of any further erosion of calm and security in their cities.

Notes

1 The remarks by Clark were made at a time when American Supreme Court judgments were tightening controls on police practice. R Clark, "Criminal Justice in Times of Turbulence", *The Police,* G Leinwand (ed), Pocket Books, New York, 1972.

2 Dahl's notions on democracy can be found in *After the Revolution,* Yale University Press, 1972.

3 The police are a factor in the power structure of society and Peter Bachrach looks at this power structure in *The Theory of Democratic Elitism,* University of London Press, 1967.

4 G E Berkley provides a comparative study of policing in western countries in *The Democratic Policeman,* Beacon Press, Boston, 1969.

5 Professor Banton wrote one of the earlier classical sociological studies on the police in *The Policeman in the Community,* Tavistock Press, London, 1966.

6 *The Report of the Royal Commission on the Police,* HMSO London, 1967, had a profound effect on thinking about police function.

7 R Wettenhall, "Two Cheers for the Police", a perspective article on the police, *Quadrant,* Vol 14, 1970.

8 *Justice without Trial,* an American classic on the police by Jerome Skolnick, Wiley and Sons, New York, 1967.

9 The experiences of one of the best known and most highly respected of American policemen can be read in *The Commissioner,* P V Murphy, Simon and Schuster, New York, 1977.

10 "The Police that Serve Society" is another essay by the former US Attorney-General Ramsey Clark, *The Great Ideas of Today,* Encyclopaedia Britannica, 1972.

In Earlier Days

Chapter 1
The Erosion of the Citizen Role

> No man is an island, entire of itself;
> every man is a piece of the continent, a
> part of the main...

Anthropologists have suggested that primitive man was less individual and more completely moulded by his society than is civilised man. Earlier societies provided a far smaller diversity of individual skills and occupations than the later more complex or advanced societies. Increasing individualisation in this sense is a necessary product of modern advanced society. Carr[1] states that there is no conflict between this process of individualisation and the growing strength and cohesion of society. The development of society and of the individual go hand in hand and condition each other. Modern advanced societies are those in which the interdependence of individuals on one another has assumed advanced and complex forms. This process of development has led to an acceptance of a situation in which individuals have gradually evolved as specialists in particular occupations and skills without recognising some of the implications which could be detrimental to social well-being.

The importance of the concept of the division of labour was accepted as far back as Aristotle. The citizen in a primitive society was relatively self-sufficient but as populations expanded, social function became more complex and the variety of activities to be performed increased. It was no longer possible for one man to perform all tasks so people began to specialise in particular areas of work. Durkheim[2] contended that specialisation grew in association with the size and density of the population and he felt that the division of labour functioned to keep societies from breaking apart under these conditions.

Individual specialisation contributes to the formation of the internal organisation of the community into residential patterns and social groups. The occupation of a person often defines his social status, his standard of living and his consorts.

The division of labour increases the need for co-ordination, and so a hierarchy of authority is developed. Blau[3] noted that the structure of a society is somewhat analogous to that of a corporation. Many employees in a corporation are grouped to perform quite different functions and these are integrated by the management to achieve a purposeful result. While society is made up of an enormous variety of occupational categories which generally manage to come together in a purposeful way it is not always easy for the individual members of particular com-

ponents of the social structure to identify their own group's notional purpose.

While the social phenomenon of the division of labour is essential to social development, it has created some problems which should be discussed. As the process of specialisation has evolved, the citizen has shed some of the roles which were expected of him in earlier days. This has developed both through the apathy of the individual citizen and through the aggression of the specialist in his attempts to carve out his social niche.

In the nineteenth century for example, most parliamentarians were eminent citizens who were landowners, or worked for part of their time as tradesmen, businessmen or professional persons. The complexities of modern government have demanded that politicians become almost totally involved in the processes of government or opposition. This probably has contributed to their being regarded as a quite separate species, a species which is regarded with some cynicism, derision and suspicion in Australia. Misdemeanants in politics gain swift notoriety while conscientious legislators are relatively unnoticed by the media and find that being largely ignored is a little discomforting. The division of labour which created a largely separate unit of society as members of parliament has set these people apart from the ordinary citizen, and if things go awry in the political sphere the public are critical of their performance as parliamentarians. The problem which this particular division of labour creates is that people have seldom felt repentant or even aware that their apathy may contribute to any political dysfunction.

Although the era abounded with social iniquities, such as children working in mine shafts, the nineteenth century citizen had many roles as a parent, a teacher, a friend, a neighbour, concerned with the vulnerability of childhood and the frailty of age, with moral standards and with law and order. The complexities of twentieth century living have created specialists of what were once the normal activities of the citizen. A high and expensive living standard has often caused both parents to work, leaving their children with professional or related proxy parents for most of the day. The citizen/parents of earlier days educated their children in many ways to enable them to cope with life but many modern parents leave even sex instruction to the professional teacher. In the anonymity and insularity of modern life there is a greater than ever need for friendship, warmth and understanding. A new specialisation has arisen to meet this need: the social worker. This occupational group cannot hope to meet the total social need but its very existence can cause citizens to withdraw sympathetic support from those who are not coping fully with life because they feel that support is a matter for the experts, and thus the problem is compounded. With the disintegration of the extended family and the proliferation of experts, especially on the mass media, the aged are no longer regarded as the honorary consultants to their clan but tend to be relegated to the elegant scrapheaps of the "senior citizens' villages".

One of the fundamental problems for society is that the increasing tendency to specialise and consequently to grant autonomy to specialists in a particular field brings with it a diminished responsibility felt by one

for another. Many people have all too readily abdicated what would once have been considered their social responsibilities, adopting the attitude that experts are available to cope with most problems. The limitations of this development include, firstly, the insufficiency of experts and, secondly, an apathetic disregard for the process of referring those in need to the specialists. In modern cities "priests" and "levites" abound and the "good samaritans" are specialists. But people are not inherently callously unconcerned. In modern urban society the factors which inhibit generous and warmhearted interaction are compounded of fear and uncertainty.

A notion implicit in the work of Durkheim is that deviance will increase concomitantly with the increasing division of labour. Social theorists have suggested that there are two basic types of social integration. Normative integration is linked with communal societies which cohere through a universal consensus of the people on a fairly consistent set of norms and values. The other type of integration is functional integration, based on a division of labour among members of society which makes them mutually interdependent. It is this interdependence which integrates the society or organisation. Durkheim felt that the functional model of social integration dominates when a community grows in size and density. Webb[4], following Durkheim, suggests that this development would mean that the collective conscience would become more abstract with a more rational attitude to law and morality. There would be a decrease in the normative consensus and an increase in deviant behaviour.

The authority of the common conscience is based largely on the authority of tradition and Webb considers that in communal societies this provides a high degree of control over the individual. This is evident in country towns where the effect of the community conscience and the collective disdain for deviants has an inhibiting effect on the local hoodlums. Their propensity for petty criminality, vandalism and offensiveness is generally muted in their own town but their mobility allows them to sow their wild oats with considerably greater enthusiasm in nearby towns, where they are less likely to be known and their conduct is unlikely to come to the notice of those people in their own town whose approval they value.

According to Durkheim, the division of labour binds the social aggregates together, particularly the higher types and this fills the role of the common conscience. While this binding together of individuals in their groups may be significant in the processes of social control in the urban situation, it is not as effective as the conscience of the small community. The fact that crime rates increase as urbanisation intensifies has been established and will be discussed later. It is difficult to ascribe the cause of this increase to any particular social phenomenon but we are aware of an increasing division of labour as society has become more complex and that this greater variability has involved greater specialisation. This has meant that we have come to feel less responsibility for each other in urban society, that there is more loneliness in the crowded cities, more anxiety rooted in an assessment of being inefficacious in one's affairs, and that those having less physical strength or less political

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or economic power are more vulnerable. The corollary of the situation of vulnerability is fear.

To reduce the level of uncertainty and fear there is a need to develop a stronger sense of community, a wider knowledge of our dependence upon each other because of the complexities of modern urban life. It is mutually beneficial to be our brother's keepers, to develop a greater feeling of responsibility for each other. Sociologists have recognised the social and cultural heterogeneity of urban life when compared to the lifestyle of a small community but recent decades have demonstrated that we must do more than casually acknowledge this difference, for we must concern ourselves with the socially catastrophic consequences of unordered intensified urbanisation. We must move into an era when city dwellers feel a deep and purposeful sense of responsibility for each other.

Notes

1 E H Carr, *What is History?* Pelican, London, 1976.
2 One of the important works on the division of labour and occupational specialisation is that of Emil Durkheim, *The Division of Labour in Society,* Collier McMillan, London, 1964.
3 P Blau, *Democracy in a Modern Society,* examines structure in society in his appraisal of the notion of democracy.
4 The effects of the division of labour on crime in society is considered by S C Webb, "Crime and the Division of Labour, Testing a Durkheimian Model", *American Journal of Sociology,* Vol 78, No 3.

The Police: Specialists in Order Maintenance

In primitive communities there were no formal law enforcement agencies or personnel, for their tribal mores and customs provided a workable system of social control. All of the people were involved in the processes of supervision, enforcement and punishment and miscreants were shamed by community disapproval, thrust out of the society, coped with or killed. This system functioned because of this involvement of all of the people and there was no need for specialists in law enforcement. There was little division of labour.

As civilisations developed, codified systems of law began to appear. Examples of these can be found in the Babylonian Code of Hammurabi and the Pentateuch of the Jews. Mendenhall[1] analyses the ancient biblical legal processes wherein religious law reposed in the decalogues held by the people of the tribes while civil law was the responsibility of the tribal elders, who judged publicly at the city gate. When the monarchy was established the King tended to assume a judicial responsibility for both religious and civil law and delegated some of that responsibility to specialists, the judges, the lawyers and the scribes.

The enforcement of these laws was generally the function of the army, although citizens were involved. There are biblical references to watchmen and under the Roman system, while there were government officials responsible for law enforcement, there were *vigiles* who patrolled the streets, *stationarii* who were responsible for residents within a block, and *lictores* who put into effect the law enforcement procedures ordered by the *praefectus urbis*,[2] probably the Roman equivalent of the "chief constable" of England or the "commissioner" of the United States of America or Australia.

Local government and ordered social control systems commenced in England in Anglo-Saxon times. King Alfred may have had a lamentable culinary reputation but he had a great and scholarly talent for administration. In those times the smallest unit of local government was the tun, or town, while on a larger scale the country was divided into shires which were subdivided into smaller areas called the hundreds.

The King assumed the responsibility for keeping the peace throughout his domain but, as Sullivan[3] pointed out, he had to delegate that responsibility. Originally King Alfred appointed an ealdorman to represent him in the shire but as time passed the ealdorman gained administrative control over several shires and control within the shire passed to the shire-reeve, or sheriff, who presided over the shire court while at the lower level the bailiff of the sheriff presided over the hundred court.

Shires were also divided into tithings for the purpose of maintaining public order and the proletariat of those days had to be enrolled in a tithing, or ten, headed by a tithingman. All the members of the tithing were responsible for the conduct of each individual member of that tithing and if a member of a tithing committed a crime then that tithing had to bring him to the hundred court or be jointly responsible for any fine levied on the member. This principle of making the tithing and also the hundred responsible for crimes committed and for some measures of compensation was continued for several centuries and did cause these citizens to have some sense of responsibility for each other. In modern urban societies people cannot be satisfactorily grouped into identifiable communal units with a similar kind of responsibility for each other. As suggested earlier, serious thought should be given to having the family of offenders accept some responsibility for their harmful acts. Milte noted that the practice of making the hundred liable was legitimised by the Statute of Winchester of 1285.

Two other practices of those days were indicative of the involvement of the citizens in the enforcement of the law and the maintenance of the peace. The first was the practice of raising a "hue and cry" whereby, if a person was seen to be committing a crime, all members of the tithing had to pursue the criminal immediately. A criminal whose identity was known but who eluded capture could be declared an outlaw. The second practice was the watch and ward system which Sullivan suggested was the basis of the modern American policing system. The tithingmen were responsible for maintaining a watch during the night, while the ward was the day guard. Any person over sixteen years of age could be called upon by the tithingman to serve without pay on the watch or the ward and this was accepted as part of the normal role of the lower class citizens of those days. The size and activities of the watches and wards varied from place to place and the use and disposition of these resources was the responsibility of the sheriff. This responsibility devolves upon present-day police commissioners and chief constables.

There was a significant development when various knights were commissioned as keepers of the peace and had that position later ratified by the Justices of the Peace Act of 1361. Peace in those areas was maintained by the citizens acting under their direction and while performing this duty the citizens were known as "constables" but they still operated under the watch and ward system. These systems provided the basis for order maintenance for several centuries. There were no scholarly studies done of the effectiveness of these procedures and this rather loosely organised method of social control depended upon coherence within these small communities and by the consensus of the people upon a set of norms and values. Another important contributing factor would have been the almost passionate desire of the male population to see that peace and harmony reigned, especially when it came their turn to be watchmen or wardsmen. The constables of modern times have a similar yearning for an acceptable level of tranquillity on their "patch".

The traditional watch and ward system revealed inadequacies in the 1500s when the grazing industry began to have an important demogra-

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