

ACCOUNTABILITY : A STUDY OF POLICE  
AND GOVERNMENT IN THE UNITED KINGDOM

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ABSTRACT

For over twenty-five years there has been a debate on the control of the police in the United Kingdom which has increased in intensity such that "law and order" and "police accountability" have become political issues which have a significant place in party manifestos and conference agenda.

During the 1980s severe public disorder occurred in Great Britain, either in the form of alleged racial disturbances provoked by insensitive policing or as a result of "picketing" during the Miners' Strike of 1984/85, both of which resulted in the deployment of large numbers of police using new and expensive techniques. As a result, Chief Constables were seen by some to be both operationally and financially unaccountable to their Police Authorities and political control was thought to be the remedy against arbitrary and largely uncontrollable law enforcement by powerful and unacceptably independent men.

On the other hand, examples of irresponsible Police Authorities attempting political manipulation of the police, particularly during the Miners' Strike, were highlighted by those who saw danger in allowing party politics to intrude upon impartial and politically independent policing.

Academic examination of the activities of Police Authorities tended to indicate that they had not functioned as satisfactorily as it was envisaged by a Royal Commission Report (Cmnd 1728) of 1962 and the Police Acts 1964 and 1967. Additionally, persistent and unresolved conflict remains between some Chief Constables and their Authorities.

An examination of this debate and some suggested remedies has been undertaken. In particular the situation in Northern Ireland has been considered because its peculiar political difficulties have evinced a system of control of the police which may commend itself to the mainland. Also the special position of the Metropolitan Police has been examined.

Recommendations for resolving the perceived difficulties are offered in conclusion.

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ACCOUNTABILITY : A STUDY OF POLICE  
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I. THE CONSTITUTIONAL POSITION OF THE POLICE  
IN GREAT BRITAIN

1. INTRODUCTION

If a dozen people were stopped in any High-Street in Great Britain and asked to give a definition of policing, it is likely that most of them would describe the police service as a law enforcement agency, and there the definition would stop. What is also likely is that those people would not be able to give an accurate account of the role of police in society and that most of them would not have given the matter any serious consideration. To many people the word 'police' is synonymous with 'trouble' and most would rather not be closely associated with the police, although it is still true that opinion polls consistently show the police service to be held in high esteem (1).

Nevertheless, the events that occurred in mainland Britain in the 1980s in particular have prompted a significant debate in some quarters, particularly within some police authorities and political parties, about the "accountability" of the police. Even the ordinary man in the street, as a member of the 'silent majority' which is thought to be generally supportive of the police, must have some misgivings and concerns about who controls/

controls them when he reads of massive mutual aid between police forces (see later), mistaken shootings of innocent people by police officers and rioting, looting and killing alleged to be in retaliation against policing policies (2).

Traditionally, police officers have described the British system of policing as being one that exists by virtue of the consent of the community rather than by coercion. This statement has been expanded to show that without the co-operation, sympathy and support of the public at large, then policing as it operates in Britain would not be possible (see later). Put simply, the police need the public to be supportive in terms of being willing, for example:

- a) to act as informants by telling the police about matters which it may be their duty to investigate - in other words, to report their suspicions to the police;
- b) to act as witnesses and to give evidence in court on a whole range of matters, from simple traffic offences to the identification of those who have committed serious crimes;
- c) to act as informed and understanding members of juries when police officers present a case before the courts; and
- d) generally to be sympathetic and understanding of the role of the police and to give whatever assistance is possible, in accordance with their legal obligations, to enable police officers to do their job properly.

Policing has no precise, statutory definition and this may be why so few people are fully aware of what it entails. To some, police officers are merely law enforcers, to others, they exist to 'persecute' motorists, when in reality the police service fulfils and is expected to undertake, an all-embracing social role. Whilst it is true that traditional police thinking has encouraged their public image to be more in keeping with "Dixon of Dock Green" rather than "The Sweeney" or "Hill Street Blues", and that friendly neighbourhood policemen are to be preferred to the aggressive image of a riot squad, nevertheless, events in recent history have enabled some to portray modern policing as authoritarian and uncontrollable with Chief Constables, in some instances, described as latter day warlords in charge of potentially vast armies of occupation, unfettered by financial restrictions.

The words "community policing" are used frequently as an accolade for a desirable style of police presence in the various communities throughout Britain, and the benevolent role of such methods is often applauded; however, people also expect the police service to be firm with criminals, to combat terrorism and severe disorder effectively and to attend to the thousand and one social tasks that are not undertaken by other organisations.

The confusion about this imagery and expectation surrounding the police service is one that affects both police and the public alike. The Chief Constable of Merseyside, Kenneth Oxford, has demonstrated that, in his experience, community policing is regarded by some as the panacea for all the problems facing society/

society, and yet there is no clear definition either of 'community policing' or 'society'. Oxford and others have said that society comprises many and varied groups often with conflicting interests, and that 'community policing' seems to mean all things to all men (3). John Alderson, a former Chief Constable of Devon and Cornwall, commonly but erroneously described as the founder of 'community policing', has made similar observations as have many other police officers (4).

The truth may be that policing - undefined, like so much of the British Constitution - is so complex that it is too simplistic to attach single epithets and labels to it and expect them to satisfy an increasingly inquisitive and challenging public. 'Policing by consent' and 'community policing' are too imprecise properly to describe the subject and it would be wrong for the service to rest its case for continued public support on such insecure foundations. It is fair to say that several eminent police officers have expanded the imprecise definitions in attempts to explain what is referred to as 'traditional policing' (5). Kenneth Newman, a Commissioner of Police of the Metropolis, regards 'policing by consent' as part of a social contract aligned to a moral obligation on society to obey the Rule of Law in compliance with the decisions taken by elected representatives in Parliament or established by common law. Whereas John Alderson in his theory of "Communitarianism" envisages such consent being forthcoming through consultation, both formal and informal, through community forums which he sees as 'platforms to generate local initiative, action and concern', about policing and other social matters, and through more formally established institutions such as police authorities. Kenneth Oxford takes a slightly different tack by deploring coercive tactics and denying that/

that police should ever be an arm of the State but servants of the community "whose confidence they must secure" by good and acceptable policing. This line has been followed generally by most chief constables, and in reality what those theoretical definitions have attempted to do is to describe the underlying ethos of British Policing as it is understood by most police officers.

None of these three concede that the community should ever assume the power of 'direction' of policing and all assert that an independent and non-partisan position for the police is vital in a democratic state. Nevertheless, there are many people who see 'policing by consent' as the velvet glove which conceals the iron fist and that for all the claims of public support, the police service is more properly described as a police force because it has an enormous amount of power to coerce where persuasion fails and that it would be easy for the police service to become, overnight, the arm of an authoritarian state. Indeed, John Alderson made this very point, to the consternation of some Chief Constables, in a lecture given in Edinburgh in 1984 (6), and the view taken of police co-ordination during the Miners' Strike of 1984/5 by some politicians was that the National Reporting Centre (see later) at New Scotland Yard was a manifestation of policing by coercion, whereby the 43 forces in England and Wales combined together under the direction of Central Government to control the striking miners. Of course, the police assert that the real reason for their action was to protect the rights of those who were behaving lawfully, whether or not they were on strike, and not to act partially. However, the fact that such police activity is possible and that some people feel that Chief Constables are unaccountable to the public whom they are there to serve, has generated much debate on the control of the police.

The purpose of this thesis is to examine the position of the police with regard to their accountability to the elected and appointed representatives of society in the United Kingdom and to consider whether or not it is operating satisfactorily in accordance with the recommendations of the Royal Commission on the Police 1962 (7) and the ensuing Police Acts. No account will be taken of two other aspects of police accountability in this thesis, namely the accountability to the law and the accountability through the system of public complaints against the police. Each of those subjects is, in itself, worthy of a separate thesis and in the case of complaints, the matter is so vexed and has become so complicated that a new White Paper or a further proposal for dealing with the subject seems to occur regularly, the most recent of which appeared in Part IX of the Police and Criminal Evidence Act 1984.

The debate on control of the police in the 1980s appears to follow very closely the arguments that were rehearsed in the 1960s, but the significant difference is that in the last twenty years, there have been instances of public disorder that have projected the role of police into constant focus and consideration and policing has become a live political issue that is worthy both of discussion and partisan exploitation.

The main issue that is considered throughout this thesis may be reduced to quite simple terms which, nevertheless, generate much political argument. Over the years, the debate on 'control of' or 'influence over' policing has turned on the distinction between 'operational' matters and 'administration'. The line/

line taken and developed by successive police chiefs (and many others), particularly since the Royal Commission Report in 1962 is, that with regard to the question of law enforcement, deployment of manpower, policy and what the Police Act 1964 refers to as "direction and control" of the force, those are matters solely the responsibility of the Chief Constable. The reason for this being that independent and impartial policing is so important that it should not be governed on a day to day basis by partisan politicians. With regard to the 'administration' of the force, that is the payment, housing and equipping of officers, this is clearly a matter for political control at both Central and Local Government level. Described simply in 1964 terms, the Police Authority acts as paymaster and adviser and not as operational controller. It was never the intention that politicians and members of the public should be denied the opportunity of influencing the Chief Constable in his policy making and in his operational decisions, but equally it was not intended that after 1964 they should control and formulate these matters as had been the case in some instances before the Royal Commission.

The 1980s have seen stronger developments along the lines of advice to the Chief Constable but also there have been misunderstandings of the law and challenges of the solely advisory role of Police Authorities that have led some to demand a much greater control over Chief Constables and a transference of that professional and political independence away from the police and into the hands of politicians. It is this issue which is considered in detail throughout this thesis.

NOTES:

1. For example, the public's view of various groups is described in "The Police in Society" by Ben Whitacker (Sinclair Browne, 1982, p.212) and the police top the poll with 71% of the people expressing a great deal of confidence in the management of the police: and an opinion poll published in The Times in September 1980 showed 71% rating police as good, 26% as reasonable, and only 3% rated them as bad.

See also Brogden "The Police : Autonomy and Consent", opp.cit, pp.199-202, for a view of public opinion surveys.

2. A review of the national press throughout 1985 will give an account of all of these events: but see in particular The Times 28.9.85 and 30.9.85, Police Review 4.10.85 "Riots in Brixton After Police Shoot Woman". The Sunday Times 6.10.85, "Plan to Weed Out Hair-Trigger Cops". The Times 8.10.85 "CS Gas and Plastic Bullet Pledge by Newman".

3. "Policing by Consent", Kenneth Oxford, in "Scarman and After", edited by John Bunyan, Pergamon Press 1984.

4. See "Managing the Police : The Challenge", by Bradley, Walker and Wilkie, Wheatsheaf 1985, at page 143, where the authors point out that many police managers have shown resentment at what they regard as embezzlement of ideas which they believe belong to Alderson's colleagues and predecessors.



- "Policing Freedom", John Alderson, Macdonald and Evans 1979.
5. In particular see "Policing by Consent", by Sir Kenneth Newman, in 1984 James Smart Lecture given on 28. 9.84 at Strathclyde Police Headquarters; "Policing by Consent" by Kenneth Oxford, supra note 3; and "Policing Freedom", by John Alderson, supra.
  6. "Police and the Social Order", the Encyclopaedia Britannica Lecture 1984, 8.4.84 at the University of Edinburgh.
  7. Cmnd 1728.

2. THE ROYAL COMMISSION ON THE POLICE 1962

The most convenient point of reference for a discussion of the accountability of the police service is 1962 with the Final Report of the Royal Commission on the Police (1) which examined the constitutional position of the police in some detail and finally set a definition to a legally ill-defined office which had given rise to some heated arguments before 1962 and which has continued to be discussed in great detail in the nineteen eighties.

i) Reasons for Setting Up the Royal Commission

According to the Commissioners there were a number of unrelated and sometimes trivial incidents that "engendered misgivings about the state of the police" (2). The cumulative effect of these incidents, no doubt fanned by excessive press reporting and certainly exacerbated by the inability of Members of Parliament to raise questions in the House of Commons about matters affecting the police outside the Metropolitan Police District (3), was to give rise to the impression that the police service was not properly accountable, that complaints by members of the public were not properly handled and that the constitutional position of police officers within the State was ill-defined.

The incidents which attracted much publicity and "engendered misgivings" in the public mind were primarily concerned with Chief Constables. In 1956 the Chief Constable of Cardiganshire/

Cardiganshire was the subject of disciplinary proceedings arising from allegations that the force was not being administered in a proper manner, the result of which was the eventual amalgamation of the Cardiganshire Constabulary with that of Carmarthenshire in order to bring about greater efficiency. In 1957 the Chief Constable of Brighton and other senior officers of the force were charged with corruption; the Chief Constable was acquitted but two officers were sentenced to imprisonment and the Chief Constable was criticised by the Court for which he was subsequently discharged by the Watch Committee although his appeal against dismissal was upheld by the House of Lords on the grounds of a breach of the rules of natural justice by the Committee (4). This case was followed in the same year by the prosecution of the Chief Constable of Worcester, who was convicted of fraud and imprisoned.

In December 1957 a youth was assaulted by one of two police officers on duty in Thurso and because of the general atmosphere of dissatisfaction with police conduct and two Parliamentary Debates on the matter, a tribunal of inquiry was appointed under the Tribunals of Inquiry (Evidence) Act 1921. The members of the tribunal found that the boy had been subjected to a minor assault by one of the officers but that he had been guilty of provocative conduct and that had the matter been the subject of prosecution under Scottish law it was not likely that a conviction would have ensued from the evidence available (5).

In/

In July 1959 there was a dispute between the Watch Committee of Nottingham City and the then Chief Constable, Captain Athelstan Popkess, resulting in the latter's suspension from duty. There had been a prolonged disagreement between the two parties, stemming from an investigation by the Chief Constable, advised by the Director of Public Prosecutions, into certain matters concerned with the claiming of expenses and the carrying out of some work by the Corporation. The Town Clerk and the Watch Committee asked the Chief Constable to supply them with details of the police investigation and the Chief Constable refused to do so. As a result of this refusal, the Watch Committee suspended the Chief Constable from duty pending further consideration of the matter. The Town Clerk had considered that the Chief Constable may have been biased in his inquiries, whereas the Chief Constable considered the request for information about the investigation of an alleged criminal matter to be interference in the course of justice and with his independent right to enforce the law. The Home Secretary intervened and took the view that the circumstances did not justify suspension from duty and commented that the Chief Constable would have been in breach of his duty had he complied with the instruction. Captain Popkess was reinstated by the Watch Committee and he retired that year.

Although not typical of the difficulties experienced by Police Authorities and Chief Constables, this case more than the others, raised constitutional problems for detailed consideration because it highlighted the areas in which the true relationship between Police Authorities, Chief Constables and to a certain extent, the Home Secretary, were unclear. Marshall took the view (6) that even after the report of the Royal Commission, the position was not clearly stated, and certainly public debate in the early 1980s lends force to that view (see later).

Another case in December 1958 resulted in the House of Commons debating a Motion censuring the Home Secretary, as Police Authority for the Metropolitan Police, for allowing £300 of public money to be used as an out-of-court settlement following an alleged assault and false imprisonment against a Mr Garrett by PC Eastmond. The case never came to court and the officer involved was not disciplined. As in the Thurso case, allegations were made in the House that the methods of dealing with public complaints against the police were unsatisfactory (7).

All of these cases came at a time when there was public alarm at the apparent increases in crime, when police morale was low, partly because of pay and conditions of service, and partly because of public criticism, and when manpower within the service was very low and resulted in the Home Secretary of the day announcing in Parliament during the censure debate on the Garrett and Eastmond case, that provision would be made by Her Majesty's Government for an independent review of police problems (8).

The basic reason for the setting up of the Royal Commission was the perceived need to redefine the constitutional position of the police and to satisfy the growing demand that police should be properly accountable in a way that would not interfere with their public duties.

ii) Terms of Reference and Declared Objectives of the Royal Commission

The Royal Commission was appointed on 28 January 1960 to:

"..... review the constitutional position of the police throughout Great Britain, the arrangements for their control and administration and, in particular, to consider:-

- (1) the constitution and functions of local Police Authorities;
- (2) the status and accountability of members of police forces, including chief officers of police;
- (3) the relationship of the police with the public and the means of ensuring that complaints by the public against the police are effectively dealt with; and
- (4) the broad principles which should govern the remuneration of the constable, having regard to the nature and extent of police duties and responsibilities and the need to attract and retain an adequate number of recruits with the proper qualifications" (9).

The Commissioners set themselves three objectives in framing their recommendations; to secure:-

- "(i) a system of control over the police, and a basic organisation which, while enabling them to perform their duties impartially, will achieve the maximum efficiency and the best use of manpower.
- (ii) adequate means within this system of bringing the police to account, and so of keeping a proper constitutional check upon mistakes and errors of judgment.
- (iii)/

(iii) arrangements for ensuring that complaints against police are effectively dealt with" (10).

The existing system was seen by the Commissioners to be founded upon a partially obsolete legal basis and therefore failing adequately to secure the first two objectives; whereas there was a publicly declared concern with regard to the third. Consideration had to be given to effective ways of either modifying the existing system or, alternatively, of setting up an entirely different system under Central Government control, in effect creating a National Police Force. Clearly, too, the Commissioners needed to judge the effect of any proposals upon the operational efficiency of the service, and this they did, deciding that in the absence of any substantial evidence that local forces either had, or would in the future, fail to meet their obligations, that no substantial change of the existing system was necessary. The Commissioners considered that the purpose of their recommendations was:

"to bring the police under more effective control by making them more fully accountable, while securing that they are no longer hampered in carrying out their tasks by the remnants of a system designed many years ago in different conditions for different purposes" (11).

Also/

Also the Commissioners were concerned to recognise the responsibilities of Central Government for the efficiency of the police throughout Great Britain and to give Government Ministers powers in this respect. Emphasis was always placed on the 'local' connections of the police service based in large measure on history and tradition and the recognition of the interest and contribution that local citizens had made and could make to the wellbeing and effectiveness of the forces. Thus developed the idea of a "partnership between Central and Local Government in the administration of the police service" but with a tilting of the balance towards firmer control by Central Government.

The Commissioners realised that they were dealing with a delicate and sometimes not very rational arrangement that had worked reasonably well and with a little fine-tuning, for all its illogicalities, should continue to work satisfactorily. The administration of the forces was to be a tri-partite arrangement between Central and Local Government and the Chief Constable, whereas operational and law enforcement matters were the responsibility of the Chief Constable, answerable to the law and subject always to the need to be efficient.



iii) The Evolution of the Modern Police Service

It is not intended to provide a comprehensive history of the police service, which task has been excellently fulfilled by others (12), however, it is necessary to know something of the connection between present-day policing and "the ancient office of constable". The Royal Commission Report identified the following principles in the system of policing that evolved over the years:-

- (i) The local character of the office of constable.
- (ii) The common law origin of the office and powers of the constable.
- (iii) The subordination of the constable to justices. (The above originate in England from pre-Tudor times; the following two were the result of 19th century legislation).
- (iv) The embodiment of constables into forces.
- (v) The subjection of police forces to a degree of local democratic supervision.

In England and Wales the office of constable goes back for centuries and has always had a local association on the basis that each community was required to deal with its own law enforcement under specific and severe penalties for failure. In many ways the constable of earlier times was a general factotum of community administration, assuming responsibility for the maintenance of highways and bridges, drainage and other ancillary matters/

matters as well as maintaining the King's Peace. In most of these duties the constable was answerable to the Justices of the Peace.

The office in Scotland did not have such an ancient pedigree, inheriting a similar system to that which obtained in England and Wales only after the Union of the Crowns in 1603. However, the Scottish constables were also responsible for a catalogue of local duties and by an Act of 1617, were placed under the supervision of the Justices until this influence tended to wane after the Police (Scotland) Act 1857 when the Sheriffs gained ascendancy over the former until by 1956 the power of the Justices seems to have lapsed altogether.

The ancient origins of the office of constable have given rise to some interesting constitutional arguments about the precise legal status of a constable in modern times. Certainly the development of police forces gave cause for public concern which was some time in the passing, largely because of fears about the potential for official interference with personal freedom of action. Thus, as forces developed from the Metropolitan Police embryo in 1829, so too came a confusion of various types of local supervision giving rise to a different status for County as opposed to Borough Chief Constables, whereas the Metropolitan Police was under the direct control of the Home Secretary. Gradually, a large number of small and localised forces of varying degrees of efficiency was coerced into some form of order by the influence of the Home Secretary so that at least there was a semblance of common thinking and aims, with forces moving towards a professionally, integrated system. There developed, /

developed, in effect, a national force with a common purpose but still with a substantial element of local influence. It was the confusion that the Royal Commission attempted to clarify but not without a great deal of argument and counter-argument.

In 1962 the number of forces outside London was 156, ranging in size from only 18 in Shetland to over 3,000 in Lancashire.

iv) The Purposes of the Police and  
their Constitutional Position

For the sake of an accurate record of the matters that the Royal Commission considered, it is convenient to follow the chapters of the final report in discussing the problems that faced the Commissioners. Many of the problems identified in this part of the thesis are dealt with at length later in the text.

The Royal Commissioners saw the basic role of the police service to be the maintenance of the Queen's Peace, i.e. the preservation of law and order. When the first Commissioners of the Metropolitan Police were appointed by Robert Peel in 1829, they saw their primary task as being "crime prevention", by which they meant that society would be so carefully policed that the actual commission of a crime would be very difficult, whereas the term crime prevention has today taken on a rather more technical meaning (13). In England and Wales there is no real statutory definition of the role or function of police, but in Scotland there is. At the time of the Royal Commission a statutory obligation existed under Section 4, Police (Scotland) Act 1956, to perform the following duties under the direction of the Chief Constable:-

"to guard, patrol and watch, so as -

- (i) to prevent the commission of offences against the law;
- (ii) to preserve order; and
- (iii) to protect life and property."

and/

and the section went on to describe other specific duties associated with law enforcement. This section was replaced in identical terms by Section 17, Police (Scotland) Act 1967.

Whilst the lack of a statutory definition of what policing is all about may be seen by some as a disadvantage, the Report makes the point that society is changing constantly and that the range of duties carried out by the police service is infinitely variable. Crime patterns change from year to year as do circumstances relating, for example, to public order, industrial unrest traffic movement and international terrorism. Oftentimes both Central and Local Government, as well as members of society, look to the police service to be not only a law enforcement agency but also an all-embracing social service that acts as a permanent crutch to prop up the deficiencies of many other social organisations. In recent years, for example, the police service has been required to co-ordinate military personnel in maintaining a fire service during a strike by members of the Fire Brigades; to maintain an ambulance service during strikes by ambulance personnel and to bear the burden of securing prisoners during industrial unrest within the prison service, as well as giving local support during strikes by members of the Social Services/Social Work Departments of the local authorities. These and many other extraneous duties have either been assumed by or placed upon the police service. The Royal Commission summarised the functions of the police in 1962 thus:-

1. The maintenance of law and order and the protection of persons and property.
2. The prevention of crime.

3. The detection of criminals and associated functions with: in the judicial process.
4. In England and Wales, the decision to bring prosecutions, (14) but not in Scotland.
5. The conduct of prosecutions in many minor cases (but not in Scotland).
6. The control of traffic and advice to the Local Authority on such matters.
7. Certain duties on behalf of Central Government, for example, some immigration enquiries.
8. By long tradition, to befriend people who need help, and to cope with minor or major emergencies.

It was apparent that the opinions of the Commissioners in 1962 had changed from the views expressed by previous Royal Commissioners in 1929 when they described the police officer as really no more than an ordinary citizen, clad in the uniform of a police officer:-

"the police of this country have never been recognised, either in law or by tradition, as a force distinct from the general body of citizens. Despite the imposition of many extraneous duties on the police by legislation and administrative action, the principle remains that a policeman, in the view of the common law, is only 'a person paid to perform, as a matter of duty, acts which if he were so minded he might have done voluntarily'" (15).

The 1929 report went on to emphasise that the police had few powers not possessed by the ordinary citizen and stressed the lengths to which Parliament had gone in order to strengthen the principle of policing by the consent and co-operation of all law-abiding citizens. This latter point is a common theme which runs through all discussion on the system of policing in the UK, and there is no doubt that the modern police service depends in large measure on public co-operation, sympathy and support but the argument that police officers are nothing more than citizens in uniform was inaccurate in 1962 and is even more so in the 1980s because of the vastly increased number of extraneous duties and because of the highly technical nature of policing generally. This is not to undervalue the significance of contact with the public and the very real need to be seen to be professionally accountable.

v) The Traditional status of the Police

Traditionally, the office of constable is defined along the lines of the judgment of Viscount Simmonds when he said of a policeman that he is an officer "whose authority is original, not delegated, and exercised at his own discretion by virtue of his office" (16).

The Royal Commission received a great deal of evidence based on 'judicial pronouncements' which was used to demonstrate that there was no "master and servant" relationship between the Police Authority and the constable or between the Crown and the constable and emphasising the point that the courts within the United Kingdom and the Commonwealth had always asserted the independent character of the office. In any case in which the status of the constable was at issue, reference was always made to the now famous cases of Fisher -v- The Mayor and Corporation of Oldham 1930 (17), and Attorney General for New South Wales -v- Perpetual Trustee Company Limited 1955 (18).

The Fisher case involved a claim against the Oldham Corporation as the local Police Authority, for damages for a wrongful arrest by police officers, and the New South Wales case involved a claim on behalf of the Crown for the loss of the services of a police officer injured in a road traffic accident. Both cases considered the point as to whether or not there was a "master and servant" relationship between the Police Authority/Crown and the police officers involved. In his judgment McCardie J. cited, with approval, the following passage from Enever -v- The King (1903) (19).



"Now the powers of a constable, qua peace officer whether conferred by common law or statute law, are exercised by him by virtue of his office and cannot be exercised on the responsibility of any person but himself ..... A constable, therefore, when acting as a peace officer, is not exercising a delegated authority, but an original authority .....

In his judgment McCardie J. went on to say:

"Prima facie ..... a police constable is not the servant of the Borough. He is a servant of the State, a ministerial officer of the central power, though subject in some respects to local supervision and local regulation".

The New South Wales case has also been used as a justification for the view that a constable is not subordinate in his office; but although Viscount Simmonds approved the observations of McCardie J., neither case should be taken as establishing anything other than a statement of the law as it then stood regarding the relationship of a constable with his appointing authority and the Crown for the purpose of defining liability for wrongful acts (20).

In Scotland the courts appear to have been more cautious in their judgments but they have placed equal emphasis on the freedom from direction by the Police Authority in the discharge of police duties. Lord Salveson in Muir -v- Magistrates of Hamilton (1910) (21) said of the Police Authority that it was:

"merely the administrative body appointed by statute to levy the necessary funds at the expense of the ratepayers"

and this seems to have been the generally accepted view in Scotland. In his memorandum on the 'Constitutional Position of the Police in Scotland' Professor JB Mitchell of the University of Edinburgh, submitted to the Royal Commission the following views:

"The regulation of the constitutional position of any body or organisation within the State is always the result of the conflict of a variety of ideals or principals.

"The neutrality of the force, and thus its insulation from political bodies, is clearly desirable, but complete autonomy, while aiding neutrality and possibly leading to greater efficiency, is inconceivable in a society which expects those who yield power to be ultimately responsible to the community".

With regard to the duties of Police Authorities in the broad sense, Professor Mitchell saw them as being limited to the function of "paymasters" and his general conclusion on the constitutional position was:-

"Nevertheless the role of police is peculiar, any clarification of lines of responsibility and any increase in answerability are likely to entail other risks and perhaps some losses. With minor amendments, particularly in regard to delictual matters, it seems that the present situation does not afford many grounds for criticism" (22).

And the evidence submitted by the Association of County Councils in Scotland seemed to put the matter beyond any real dispute as far as the position North of the Border was concerned:-

"It is essential if justice is to be done that the policeman in a given situation should be able to act speedily on his own initiative without reference to a superior authority or without waiting for a committee decision. It is also essential, from the point of view of the policeman's own peace of mind, that he should know that he has complete freedom of decision when executing his duties and that he is answerable to the law alone for his actions" (23).

Neither was this particular point challenged in the Memorandum of Evidence submitted by the Scottish Home Department (24).

Thus far the constitutional position of the police constable seems to have been well established by the courts and well accepted by both Central and Local Government alike.

Indeed, the Royal Commission recommended that there should be no change in the legal status of the constable, although it did find it necessary to comment thus -

"..... traditional thinking has tended to invest the constable's position with a character which in some ways has little to do with modern conditions .....

"It appears odd that a constable enjoys a traditional status which implies a degree of independence belied by his subordinate rank in the force".

vi) The Control of the Police

Where the difficulty arose for the Royal Commission, and for others, was the apparently logical step taken by the Association of Chief Police Officers in its evidence on this point, where it argued that a Chief Constable was, in law, of exactly the same status as a constable and, therefore, as far as police duty was concerned, the Police Authority, and anybody else for that matter, could not tell him how to go about performing it (25).

"Quite clearly a Police Authority cannot direct a Chief Constable as to the manner in which he should carry out the enforcement of the law or the maintenance of the Queen's Peace, any more than they could direct any other constable on the exercise of his individual authority".

This assessment of the position had been made in 1949 in a Report (26) to which the ACPO representatives made reference:-

"The Police Authority have no right to give the Chief Constable orders about the disposition of the force or the way in which police duties should be carried out and he cannot divest himself of the responsibility by turning to them for guidance or instructions on matters of police duty".

and immediately before the setting up of the Royal Commission in 1959, that seems to have been the position accepted by Central Government (27), if not by certain members of Local Government acting as Police Authority members. Indeed, the Association of Municipal Corporations asserted that the Police Authority was empowered to do whatever was necessary within the law to/

to ensure that its area was efficiently policed (28), including giving directions to the Chief Constable on how to police the area.

It was this "curious theory" (Marshall) upon which much of the debate about "accountability" and control of the police centred in the period 1959 - 1962 and which has again raised its head in the 1980s. There was an enormous amount of discussion about the position, in particular, of Chief Constables with regard to the enforcement of law and where their actions could be questioned if people were dissatisfied. Members of Parliament were frustrated that they were prevented from discussing provincial police matters in the House and local councillors, particularly some of those on the Police Authorities, experienced the same frustrations in some cases at Local Government level (29).

Accountability of Chief Constables in the whole range of their activities was the running sore that needed some attention.

The Royal Commission acknowledged the need for Chief Constables to be unhampered by any kind of external control in their law enforcement duties, particularly in England and Wales, but pointed out that there was a wide range of other duties for which the Chief Constable was responsible and over which nobody appeared to have any formally recognised powers of control (30), for example, the disposition of his force, the concentration of resources, and his general policy for policing his area.

The Commission accepted that there was a need to satisfy the public demand for having some influence over how they were policed but the dilemma was in discovering a way in which a Chief Constable could become 'accountable' without becoming 'subordinate' in a way that might affect his operational 'impartiality'.

Various options were considered. One was to introduce a formal system of the Chief Constable being required to submit reports to both Central and Local Government on questions of police policies, as was the practise in Scotland. This would give a Chief Constable immunity from orders but would expose him to "advice and guidance", persistent disregard of which would call into question his fitness for office on the grounds of 'efficiency'. The argument put forward by ACPO in its evidence to the Royal Commission (31) and other police officers, was to the effect that "advice and guidance" was a two-way thing in that it was the duty of a Chief Constable to give the Police Authority the best professional advice that he could in assisting them to arrive at proper decisions on how they could provide and equip an efficient force and it would be an unwise Chief Constable who would not listen to the advice and opinions of his Police Authority even though the ultimate decisions and responsibility for policing were his.

The difference between a Chief Constable and a Local Government official was seen to be that in the case of the official it was his professional duty to advise the appropriate committee who would arrive at its decision based on that advice, whereas in the case of the Chief Constable, the position was reversed; /

reversed; the committee could offer advice and opinion to him and he would arrive at an independent decision, taking account of that advice.

A second way of improving the control over the Chief Constable without affecting his legal status, was seen as strengthening the links between forces and by superimposing a more effective Government inspection. In this way it was seen as being possible to produce a police service with national characteristics without necessarily going all the way to creating a National Police Force under Central Government control. There was also perceived the additional benefit of widening the loyalties, not only of Chief Constables, but also other officers, to the service as a whole rather than being parochially loyal.

The third consideration, which in itself sparked off a great deal of dissension and debate, not to mention a dissenting memorandum as an appendix to the Royal Commission Final Report (32), was to place Chief Constables under the direct control of either Central or Local Government, thus converting their status to that of Local Authority or Crown servants. No evidence was offered in support of the idea of Chief Constables becoming Local Authority servants and the Royal Commission did not see this as desirable on the grounds that it would prejudice police impartiality in law enforcement. However, there was a large body of evidence favouring Central control despite the apparently similar prejudice to impartiality but parallels were seen in the case of the Law Officers of the Crown who were both accountable to Parliament and yet impartial and independent with regard/



regard to the administration of justice (33). Ultimately, the total 'nationalisation' of the service was rejected, but as will be seen, there was a general move towards greater Central Government influence and a service with 'national' characteristics as well as local influence.

The Royal Commission examined the position of the police in some detail and thought that any problem associated with the control of the police could really be resolved insofar as the Chief Constable was properly 'controlled'. This discipline code and the system of public complaint combined with the rank structure of modern forces led the Commissioners to state that they saw no need to recommend any new form of control over officers below the rank of Chief Constable. Effectively, what was required was a form of redress against the inefficient or biased Chief Constable.

The overwhelming weight of evidence placed before the Royal Commission by representatives of both Central and Local Government and by the police was that the existing 'ill-defined' arrangements worked well, and the Commissioners conceded that the apparent paradox had much to commend it but also stated that this was not to say that an ill-defined system was constitutionally proper.

Tied in with this assessment of the control of Chief Constables was the consideration of the relative roles to be played by Central and Local Government members. None of the defined purposes of police supported the need for a local control and, indeed, both ACPO and Colonel St Johnstone (then Chief Constable of Lancashire who submitted his own evidence to the Commission) argued against any form of local control. According to their views, which coincided with evidence submitted by the County Councils' Association, what was necessary as far as Local Government was concerned was the recognition that:-

"No one can tell the Chief Constable what he is to do but he is responsible to the Standing Joint Committee for what he has done" (34).

Colonel St Johnstone favoured "local association but not local control" (35).

The conclusion reached by the majority of members of the Royal Commission was that the system of 'partnership' between Central and Local Government together with the Chief Constable, the so called tri-partite arrangement, was far better than opting for a 'national' service and that with some adaptation, the existing system was more advantageous than any other that had been considered.

The Commissioners made an assessment of the controls that existed over Chief Constables and found them to be divisible into direct and indirect legal controls.

The direct legal controls were seen to be -

- a) the Police Authority as the disciplinary authority for Chief Constables, with punishment capabilities of a reprimand, requirement to resign or dismissal;
- b) other than by way of discipline, a Chief Constable in England and Wales could be dismissed by the Police Authority at its discretion (36). In boroughs the power of dismissal was applicable to all constables where the decision of the Watch Committee was that the officer had been "negligent in the discharge of his duty or otherwise unfit for the same";
- c) in the Metropolis the Commissioner was and is still required to submit all orders and regulations concerned with the general government of the force to the Home Secretary for his approval (37);
- d) elsewhere in England and Wales, the Chief Constables were required to obey all lawful commands of the justices (38);
- e) in Scotland the Chief Constable was required to obey all lawful instructions of a public prosecutor, of the magistrates in a burgh and of the sheriff elsewhere (39);

- f) in Scotland a Chief Constable had the obligation on request from the Secretary of State, the sheriff, the magistrates of a burgh in his area, or the Police Authority, to submit a report on any matter concerned with the policing of his area (40).

In reality, the powers of the justices in England and Wales were seldom used and the Royal Commission recommended that they should be reviewed. The remainder of the powers were seen to be useful but they did not demonstrate to the Commissioners that they were effective means of influencing the formation of police policies. To a certain extent these weaknesses were seen to be balanced by the indirect and non-statutory controls.

The indirect legal controls were -

- a) the Police Authority had the duty of raising and maintaining a police force (41) which gave a significant 'financial' influence over the Chief Constable;
- b) other than in the Metropolitan Police, the Police Authority either appointed or approved the appointment of the Deputy Chief Constable (42) and, except in county and combined forces in England and Wales, acted as disciplinary authority for the other chief officers (43);
- c) in borough forces in England and Wales the Police Authority appointed, promoted and acted as disciplinary authority for all members of the force (44);

- d) the Secretaries of State had power to make regulations as to "the government and administration" of all police forces and this power had been used, for example, to regulate conditions of appointment, promotion, discipline and hours of duty;
- e) before defraying the 50% grant of the approved expenditure by the Police Authority, the Secretaries of State had to be satisfied i) that the area was efficiently policed; ii) that there was adequate co-operation between forces; and iii) that the police service was properly maintained, equipped and administered and that the rates of pay and allowances were as prescribed by the Secretary of State (45);
- f) Secretaries of State had power to appoint Inspectors of Constabulary with a duty to inquire into and report on the state of the force and its efficiency. General reports had to be laid annually before Parliament;
- g) the Secretaries of State had power to authorise and incur expenditure on "common services" for such purposes as training and technical assistance to forces.

These direct and indirect legal controls formed a system of "checks and balances" which served to influence the activities of the Chief Constable very much without resorting to direction and command. In fact, the control of Chief Constables had not been a real so much as an imagined problem and the public interest that was provoked came about as a result of serious incidents/

incidents which were all handled in a reasonably satisfactory manner within the existing system. What was more at issue was the uncertainty that was generated once the Royal Commission began its enquiry. Certainly the public interest in the police force has been maintained since 1962 but it is likely that this would have come about regardless of the incidents that led to the setting up of the Commission, as a normal part of the development of a better educated and better informed society.

In addition to the legal controls the influence of Central Government over police forces was apparent in other ways. Effectively the government had established a system of supervision over both police forces and Police Authorities without actual legislation. As far as the police service was concerned the influence could be seen through common approaches to training; district and central conferences for senior police officers and officials from Central Government where uniform procedures were discussed and encouraged; and the issue of advisory "circulars" to Police Authorities and Chief Constables on the best practices and procedures and general administration.

While all of the above took the form of influence and advice, persistent failure by a Chief Constable to heed them could have resulted in his fitness for office being called into question. Clearly it was undesirable to have over 150 "efficient" units that did not dovetail into a recognised system and the obvious intention of Central Government was to create a police service with uniform standards, procedures and techniques, whilst maintaining their 'local' character.

The evidence submitted by the Scottish Home Department indicated that the view of the police in Scotland was that they were "guardians of the common interests of the citizens" and that the arrangements for control of the police were broadly similar to those that obtained in England and Wales. There was also expressed the opinion that, as Central Government had an overall responsibility for the maintenance of law and order, then stemming from this constitutional concept came the right of the Secretary of State for Scotland to act as the co-ordinating authority for the Scottish police. In addition to the statutory authorities that had been given to him, the Secretary of State had an interest in, and influence upon, police activities even outside these powers.

Although the powers of the Secretary of State for Scotland were like those of the Home Secretary, he was not statutorily responsible for the police in the same way as the Home Secretary was for the Metropolitan Police. Nevertheless, he had answered questions in Parliament on information that he had supplied about the police, for example, statistics and circulars, and he accepted that he would answer questions about actions that he had taken in connection with the police, for example, a refusal to increase establishments or the appointment of a Chief Constable. The Scottish Home Department stated that Central Government influence over the police had increased over the years and suggested that this was proper in view of the payment of the exchequer grant and the government's overriding responsibility for law and order.

"..... it/

"..... it is in the interests of the Chief Constable to maintain good relations with the department and, through it, the Secretary of State. This does not mean, nor does it in practice happen that Chief Constables accept the views of the Department in every matter which arises: what should exist is a relationship of mutual respect and good faith in which both sides give fair and proper consideration to the views of the other. It is clearly desirable in the general interest that Chief Constables should have regard to the general responsibility of the Secretary of State for the preservation of law and order. In practice this relationship is firmly established" (46).

It is interesting to note that reference is made in the Scottish Home Department memorandum of an attempt to make Chief Constables directly responsible to the Secretary of State for Scotland or to the Lord Advocate. This attempt was made in a draft of the Police (Scotland) Bill 1953 and the memorandum acknowledges that the proposal was very strongly criticised by Local Authorities, the police associations and the press on the grounds that it interfered with the local autonomy of the police force. This provision was omitted when the bill was tabled in Parliament. Reith comments that this was an attempt to place the Scottish police service under direct political control (47) and the dangers of that were obviously apparent to those who objected so strongly to the clause.

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Had such a clause become law, the position of the police would have been totally different from that in England and Wales and it is likely that this would have led to the formation of a 'national' police force in Scotland. Dr Goodhart favoured the formation of a separate 'Royal Scottish Police' which he asserted would have been in accordance with the wishes of the Scottish people, although it is not certain where he obtained his evidence for this observation; and he justified it on the grounds of the marked difference between the English and Scottish legal systems. Goodhart thought that it would be convenient that all questions relating to the Scottish police should be answered in Parliament by the Secretary of State for Scotland. Bearing in mind that there are now (1985) fewer than 14,000 police officers in Scotland, compared with approximately 27,000 in the Metropolitan Police in London, it is a realistic proposition to consider, not only the responsibility for the Scottish police service resting with the Secretary of State, but also the 'nationalisation' of the Scottish police service where the objections recorded in the Royal Commission Report would not be so great in a relatively small country. Nonetheless, there are objections and these are considered later. The review of the controls over Chief Constables in the Final Report of the Royal Commission was followed by a consideration of the arguments for and against a national police force but it is not intended to reproduce them here (48).

vii) The Police Authority

For the sake of clarity it is necessary to include a description of the various types of Police Authority that existed at the time of the Royal Commission, but a separate section is included later on the present role of the Police Authority and the various discussion papers that have appeared in abundance in recent years.

The Royal Commission Report was critical of the diversity of authorities and the lack of clearly defined functions; it identified the following types of Police Authority:-

- a) Metropolitan Police Force = Home Secretary.
- b) City of London Police = Common Council of the City.
- c) English and Welsh Counties = A Standing Committee comprising equal numbers of elected councillors nominated by the county council and justices of the peace elected by quarter sessions.
- d) Cities and Boroughs in England and Wales = A Watch Committee composed of not more than one-third of the Council.
- e) Scotland = The county or burgh council.
- f) Combined police forces in England and Wales = An ad hoc body generally comprising members of the local authorities whose forces have been combined.

The Commissioners were of the opinion that Police Authorities ought to have four main duties -

- a) to provide and equip an adequate police force (but not to be responsible for the efficient policing of the area (49));
- b) to constitute a body of citizens concerned with the local standing and wellbeing of the police, interested in the maintenance of law and order, and able to give advice and guidance to a Chief Constable about local problems;
- c) to appoint, discipline or remove senior officers from the force;
- d) to play an active role in fostering good relations between the police and the public.

It has been seen already that the arrangements for financing a police force are that Central Government pays 50% of an approved police budget and that the Local Authority/Police Authority provides the other 50%. In practice, Central Government makes other provisions through the Rate Support Grant, but financing is discussed more fully later on.

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The Royal Commission was in favour of that arrangement, saying that it took the view that it was "entirely appropriate that locally elected people should be responsible for setting the amount to be raised locally and that, subject to any requirements of the Secretary of State, they should have a voice in determining the size of the force, and the scale on which it is equipped and the manner in which it is housed" (50).

Nevertheless, it has been seen that the role of the Secretary of State is a very significant one of 'control by influence' and the activities of the Police Authority with regard to establishments, equipment, buildings, are all subject to the approval of the Secretary of State. Colonel St Johnstone said of the relationship between Central and Local Government -

"..... the administrative responsibility for each provincial force lies in a partnership between Central and Local Government. In theory it is an equal partnership between Central and Local Government but in practice the predominant party is the Local Authority" (51).

It is doubtful whether Colonel St Johnstone's observations conveyed the reality of the situation in 1961 and certainly that is not a true picture in 1985, although, as the Royal Commission pointed out, there was plenty of scope for an "enlightened Police Authority" to exercise a great deal of influence over the type of force that was required locally.

The Home Office listed the following functions for the Police Authorities in 1961:-

"Their primary function might be said to be the establishment, maintenance and supply of an efficient police force ..... This would include the provision of the necessary equipment and buildings to enable the force to perform its duties effectively".

Reference was then made to a number of statutory requirements in fulfilling the tasks:

- a) the determination of the numbers in each rank of the force and the appointment of the Chief Constable of the force are subject to the approval of the Secretary of State;
- b) the rate of pay and allowances for the ..... force must be in accordance with regulations;
- c) pensions must be at the rates prescribed ..... ;
- d) in particular, every member of the force must be provided with residential accommodation or an allowance in lieu.

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The memorandum also pointed out certain differences in the functions of the different authorities, for example, that in a county force the power to appoint and promote officers lay with the Chief Constable who was also the disciplinary authority, whereas in city and borough forces these powers rested with the Watch Committee which was also the disciplinary authority. There were also differences with the financial arrangements between different types of Police Authority. Under the Local Government Act 1888, all police expenditure incurred by a standing joint committee was paid out of the county fund (Section 30(3)) and "the county council must provide for such payment", it had no power to alter the budget of the committee. Under the Municipal Corporations Act 1882, payments for expenditure by a city or borough force were made out of the borough fund subject to the order of the city or borough council; the Watch Committee could not incur expenditure without the authority from the council (Section 140). The expenses of a combined force were met from a fund constituted under an amalgamation scheme to which contributions were made by the constituent authorities. The Metropolitan Police has a separate fund administered by the Receiver who raises money under a precepting power from all of the rating authorities within the Metropolitan Police District.

viii) The Secretaries of State

The Royal Commission recommended that both the Home Secretary and the Secretary of State for Scotland should be made statutorily responsible for the efficiency of the police in England and Wales and in Scotland respectively, but commented that it would be inappropriate for them to have powers of direction on the grounds that it was seen to be the responsibility of the police, themselves, for the enforcement of law. The Commission also identified four matters for which it thought that Ministers should be responsible:-

- a) the effective execution by Police Authorities of the Authorities' duties;
- b) for the efficiency of each police force;
- c) for collaboration between forces to promote efficiency;
- d) for the provision of ancillary services.

The existing powers of Ministers which the Commissioners supported were:-

- a) the power to make regulations as to the government, mutual aid, pay, allowances, clothing, expenses and conditions of service (52);
- b) under the Police Pensions Act 1948, power to make regulations concerning pensions to be paid to or in respect of police officers;

- c) approval of voluntary amalgamation schemes and power to compel amalgamations of forces under the Police Act 1946 and the Police (Scotland) Act 1956;
- d) under the Metropolitan Police Acts 1829 and 1839, the Home Secretary is the Police Authority for the Metropolitan Police District and has powers with regard to the Commissioner;
- e) under the Police (Appeals) Acts 1927 and 1943, the Secretary of State is the appellate authority in respect of punishments awarded to police officers under the discipline regulations.

Additionally, the Secretaries of State exercise a degree of control by virtue of their power to withhold the exchequer grant on the grounds of efficiency or for a specific purpose which does not meet with approval. Her Majesty's Inspectors of Constabulary have a duty to inspect police forces and advise the Secretaries of State as to their efficiency (53).

In practice, there was described to be a system of close co-operation between chief officers of police, Central Government officials and members of the Police Authorities who understood the respective positions of the others (54). However, the view of the Inns of Court Conservative and Unionist Society was not so sanguine and it asserted that the police were controlled "by anonymous Home Office officials whose conduct cannot be examined or questioned" (55), as far as Central Government involvement/



involvement was concerned. These lawyers favoured the development of regional forces with the appropriate Secretary of State being answerable in Parliament; they discounted fears of a 'Police State' arising from such a situation and argued that it would make for greater "accountability".

In order to bring about a situation which the Commissioners thought would enable the Secretaries of State fully to discharge their new responsibilities for the efficiency of the police services, the Royal Commission recommended the following additional powers:-

- a) the appointment by the Secretaries of State of a Chief Inspector of Constabulary to act jointly for England and Wales and for Scotland;
- b) they should have power to make schemes to promote the efficient policing of an area through the collaboration of groups of forces for specified purposes;
- c) they should be given wider powers to consider the amalgamation of forces and their powers should not be restricted to any prescribed size of population;
- d) they should possess additional powers to secure the appointment of suitable persons to all chief officer ranks (Chief Constable, Deputy Chief Constable and Assistant Chief Constable);

e)/

- e) they should be given new powers to secure the removal of Chief Constables on the grounds of inefficiency; and they should have power to confirm or reject a proposal by a Police Authority to retire a Chief Constable or any other officer in the interests of the efficiency of the force;
- f) the Home Secretary should have a like power to the Secretary of State for Scotland to call for reports from Chief Constables. Both Secretaries of State should have power to determine, on the submissions of a Chief Constable, the propriety of a request by a Police Authority for a report on police matters.

In order to aid the Secretaries of State in carrying out their powers, the Royal Commission also recommended significant changes in the purpose and organisation of Her Majesty's Inspectorate of Constabulary.

Certain other matters affecting the way in which an efficient and co-ordinated police service could be developed were considered, for example, the size of police areas, minimum sizes of forces, recruitment of suitable officers and the training of future senior officers. Many of these matters are now of historical interest and are the subject of constant review.

ix) The Chief Constable

The position of the Chief Constable has been mentioned and forms a major part of the text in connection with accountability generally; his position is mentioned on many occasions but for the sake of historical accuracy, the situation existing at the time of the Royal Commission should be recorded. According to the Home Office Memorandum, it was as follows:-

"The responsibilities of all chief officers are broadly the same. They are to enforce the law and to direct the disposition of the force and control its operations ..... the Chief Constable of a county force is responsible for making all appointments and promotions and he is the disciplinary authority; in a city or borough force these responsibilities are by law vested in the Watch Committee."

The position of the Chief Constable in Scotland was broadly the same as the county Chief Constable south of the border but with certain obligations placed upon him because of the different legal systems (57).

The view taken by ACPO was the the position of the Chief Constable was not easy to define but they thought it important that it should be realised that:-

"A Chief Constable is not merely a figure in local affairs but one who plays a much wider part in the general life and security of the country".

Additionally, ACPO divided the responsibilities of this office into three categories:-

- a) responsibilities under the law and to the public for the maintenance of the Queen's Peace, the protection of life and property, the prevention and detection of crime and the general enforcement of the law;
- b) responsibilities to the Police Authority for carrying out the day to day administration of the force and for advising the Police Authority in matters of policy within their jurisdiction;
- c) responsibilities to the force itself, the contentment, welfare, efficiency and discipline of all branches, including the civilians under his command; (58)

The Chief Constables' (Scotland) Association concurred with the views expressed by ACPO on this point.

The Royal Commission Final Report ranged over a great many matters which have not been considered in this short assessment of the constitutional position of police in relation to Central and Local Government at that time. The Commission made 111 recommendations in all but the main thrust of the report was designed to bring order to what was nothing more than a 'hotch-potch' of forces of every shape and size, over which there was a variety of influences and controls which were the accident of history rather than the result of organisation and development.

It has been seen already that the Commission favoured the 'partnership' theory of control but this was weighted very heavily in favour of Central Government without taking the final step of giving control over the nation's police to one man. Although the indications were that Central Government was in favour of this move to a greater Central influence and control, it is only fair to point out that the Home Secretary at the time that the report was published - Mr RA Butler - made it clear that the government did not favour a national police force and that he personally did not share the Commission's views that there was little danger in a national force. He said to a Summer Conference of ACPO:-

"I am quite convinced that it would be wrong for one man or one government to be in charge directly of the whole police of this country.

Our constitution is based on checks and balances. This has kept our liberty through the generations" (59).

Naturally, the Royal Commission Report was the subject of consultation and then debate in Parliament and the result was The Police Act 1964 for England and Wales, followed later by The Police (Scotland) Act 1967.

Not all of the recommendations of the Royal Commission were accepted and the Police Acts were used as an opportunity to revise and in some cases, to re-enact law on the police. In England and Wales over sixty Acts were either wholly or partially repealed. However, the major recommendations of the Commission were followed, particularly with regard to the functions of the three/

three parties involved with the police, whose functions were defined in general terms. The Home Secretary was given responsibility for promoting the efficiency of the force in England and Wales (but the same general power was not given to the Secretary of State for Scotland) and he was given the means to bring about this improved efficiency along the lines recommended by the Commission. In particular the powers with regard to amalgamations were to be used significantly, eventually reducing the number of forces in England and Wales to 43 and those in Scotland from 33 to 8. The functions of Police Authorities were brought into line and were defined as the maintenance of an efficient police force (in England and Wales but not in Scotland), the equipping and housing of the force and the appointment, removal and discipline of chief officers. Chief Constables were given equal status and uniform powers of appointment, promotion and discipline of police officers below the rank of Assistant Chief Constable and they were made specifically responsible for the direction and control of their forces in England and Wales.

In Scotland the Chief Constable became responsible for the "direction" of the force; it would not appear that there is any difference between this and the English and Welsh "direction and control". Provision was also made in the Acts for the alteration of the duties of the Inspectorate although the recommendation of the Royal Commission that a Chief Inspector of Constabulary for England, Wales and Scotland be appointed was not followed, presumably on the grounds that Scotland was unable to accept such an appointment which would be seen by some as contrary to the interests of the Scottish Police Service.

Formal/

Formal recognition was given to certain initiatives and developments which had taken place over the years, particularly with regard to common police services, for example, training, forensic science laboratories, wireless depots and the negotiating systems. Police advisory boards were set up to advise the Secretaries of State on police matters and the Police Council for Great Britain was appointed as the negotiating body over pay and conditions of service (60).

A significant step taken in the legislation was the setting up of formal arrangements for dealing with complaints against the police by members of the public. Measures were taken to secure the fair and impartial examination of such complaints and a duty was placed on the Police Authorities and Inspectors of Constabulary to keep themselves informed as to the manner in which complaints were dealt with.

3. SUMMARY

The section has considered the circumstances surrounding the debate on the control of the police as they existed in the late 1950s and early 1960s. It has outlined some of the recommendations made in the Royal Commission Report on the Police in 1962, together with the development of the Police Acts which were designed to remedy the perceived defects that existed at that time.

There is too an outline of the tri-partite system of control that exists in the partnership between Central and Local Government and the Chief Constables and a statement of the responsibilities of the partners. The constitutional position of the police, which is a fundamental issue in any debate on the control of the police, is stated.

The next section considers these matters in much greater detail and traces the developments leading to the current debate on the accountability of the police in the 1980s.



NOTES: (Section I)

1. Cmnd 1728, sometimes referred to as "The Willinck Report" after the name of the chairman, Sir Henry Willinck.

It is not intended to provide a detailed police history in this thesis but full details may be found by reference to: "A History of English Law", Volume 1, Holdsworth W, published by Methuen 1903; "A History of Police in England and Wales", Critchley TA, revised edition published by Constable 1978; "A New Study of Police History", Reith C, published by Oliver and Boyd 1956.

There is a useful summary of the development of police forces in the Final Report of the Royal Commission on the Police 1962 (Cmnd 1728), paras 24 - et seq.

2. Cmnd 1728, para 9.
3. For a detailed discussion on this point see "Police and Government", Geoffrey Marshall, published by Methuen 1965, at page 46 et seq, and "A History of Police in England and Wales", Critchley, page 268.
4. See Ridge -v- Baldwin (1964) AC 40.
5. "The Allegation of Assault on John Waters", HMSO April 1959 (Cmnd 718).
6. See "Police and Government", Geoffrey Marshall, Methuen 1965, at page 14.
7. See Report of the Royal Commission on Police 1962, Chapter 2.

8. 613 HC Deb 5s, Col. 1239-1303.
9. An interim report on the remuneration aspect of consideration (4) was submitted in November 1960 (Cmnd 1222).
10. Cmnd 1728, para 19.
11. Cmnd 1728, para 22.
12. See note "(1)".
13. See Reith "A New Study of Police History".
14. But see now Cmnd 9074 White Paper by Home Office Law Officers Department entitled "An Independent Prosecution Service for England and Wales", presented to Parliament in October 1983; the Conservative Manifesto 1983, at page 34, and "The Prosecution of Offences Bill 1984". See also Cmnd 9411 - "Proposed Crown Prosecution Service", published December 1984.
15. "Report of the Royal Commission on Police Powers and Procedure", dated 16 March 1929 (Cmnd 3297); see also "The Metropolitan Police Approach to the Prosecution of Juvenile Offenders", Chapter 1, IT Oliver, Peel Press 1978.
16. Attorney General for New South Wales -v- Perpetual Trustee Co Ltd 1955, AC 477.
17. 1930 2 KB 364.
- 18./

18. See note "(16)" above.
19. 1903 3 CLR 969.
20. See now Section 48 of Police Act 1964 and Section 39 Police (Scotland) Act 1967.
21. 1910 1 SLT 164.
22. Royal Commission Minutes of Evidence 11 - 27, Appendix II, pp 92 - 101.
23. Royal Commission Minutes of Evidence pp 1330 - 1362.
24. Appendix II, pp 39 - 87.
25. Minutes of Evidence 15, pages 847 - 9.
26. Report of the Committee on Police Conditions of Service, Part II, para 185 (Cmnd 7831) 1949.
27. See Royal Commission Report at pages 26 and 27; also Marshall "Police and Government", Chapter 4, and B Keith-Lucas and DN Chester "The Independence of Chief Constables", Public Administration 1960, page 1.  
  
See also "Can Police Authorities Give Orders to Chief Constables", by Richard Clayton and Hugh Tomlinson, New Law Journal 12.10.84.
28. Minutes of Evidence 11 - 12, pages 629 - 631.
- 29./

29. See "A History of Police in England and Wales", Critchley, at page 274, and Marshall "Police and Government", Chapter 4. It is important to point out that Marshall challenged only the legal justification for constabulary independence in what he saw as the strained interpretation of the Fisher and the New South Wales cases, he did not deny its value conceptionally.
30. Cmnd 1728, para 89.
- See also criticism by Chairperson of Greater Manchester Police Authority in Guardian article "The Dictatorship of the 43 Chief Constables", 11. 8.1984.
31. Minutes of Evidence 15, pages 853 - 4.
32. See Memorandum of Dissent by Dr AL Goodhart, Cmnd 1728, page 157 et seq.
33. See in particular the evidence offered by the Inns of Court Conservative and Unionist Society. Minutes of Evidence 11-27, page 683 et seq, and the Memorandum by Dr Goodhart.
34. Minutes of Evidence 16, Question 3203, page 985.
35. Minutes of Evidence 11-27, at page 932.
36. County Police Act 1839, S.4, as read with the Local Government Act 1888, S.9(1); Municipal Corporations Act 1882, S.191(4) - it was this section used by the Nottingham Watch Committee when they suspended Captain Popkess; Ridge & Baldwin and others 1964 AC 40.

37. Metropolitan Police Act 1829, S.5
38. County and Borough Police Act 1856, S.6, and Municipal Corporations Act 1882, S.191(2).
39. Police (Scotland) Act 1956, S.4(3).
40. Police (Scotland) Act 1956, S.34.
41. Metropolitan Police Act 1829, S.4 - County Police Act 1839, S.2; County and Borough Police Act 1856, S.1; Municipal Corporations Act 1882, S.191; Police (Scotland) Act 1956, Ss 3 and 14.
42. County Police Act 1839, S.7; Municipal Corporations Act 1882, S.191(1); Police (Scotland) Act 1956, S.10.
43. Municipal Corporations Act 1882, S.191(3) and (4); Police (Appeals) Act 1927, S.1(3) and Schedule; Police (Scotland) Act 1956, S.10(5). In the Metropolitan Police the appointment and removal of senior officers is a matter for the Crown on the advice of the Home Secretary.
44. Municipal Corporations Act 1882, S.191(1) and (4).
45. Police (Grant) (Scotland) Order 1967, and Police (Grant) Order 1951.
46. Evidence of Scottish Home Department (submitted by Memorandum and not heard publicly) Memo pp 39 - 87.
47. Reith "A New Study of Police History", page 274.
- 48./

48. Cmnd 1728 at pages 40 - 49 and Memorandum of Dissent from Dr Goodhart. Also see in particular the evidence submitted by the Inns of Court Conservative and Unionist Society Minutes of Evidence 11 - 12, pages 684-692.

See final section of this thesis for a discussion on the proposals for a national/regional police service.

49. Cmnd 1728, para 154.
50. Cmnd 1728, para 161.
51. Memo of Evidence submitted by Colonel TE St Johnstone, CBE, etc, para 74, Volume of Minutes of Evidence 11 - 27, page 932.
52. Section 4, Police Act 1919, and Section 11, Police (Scotland) Act 1956.
53. A separate section on HM Inspectorate appears later in the text.
54. Memorandum of Evidence submitted by the Home Office. Minutes of Evidence, Appendix II, para 17.
55. Minutes of Evidence, page 691, para 39.
56. The Inspectorate is considered later in the text.
57. These are listed in Section 3 of the Memorandum submitted by the Scottish Home Department.
58. Minutes of Evidence, pp 842 - 920.

59. The Times, 27 June 1962.

60. See Police Act 1964, Police (Scotland) Act 1967, and summary in Critchley at page 294-5.

II - THE ACCOUNTABILITY OF POLICE TO LOCAL AND CENTRAL GOVERNMENT

1. Local Government

- i) Introduction.
- ii) Responsibilities of the Police Authority.
- iii) The Role of the Chief Constable in Relation to Local Government.
- iv) The Functions of Police Authorities Since 1964.
- v) The Bains Report.
- vi) The Effect of Party Politics on the Police Authority and on the Chief Constable's Position.
- vii) The Financial Influence of Councils Over Police Authorities.
- viii) Post-Bains Development in the Role of the Police Authorities.
- ix) The Police Authorities (Powers) Bills.
- x) The Police and the Public.
- xi) Consultation and Accountability.
- xii) The Emergence of Policing as a Political Issue.
- xiii) One Man's View of the Future.

2. Central Government

- i) Introduction - Government by Influence.
- ii) The Exercise of Powers and Responsibilities by the Secretaries of State:
  - a) Consultation.
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  - f) Common Police Services.
- iii) Conclusion.

3. Summary



## II THE ACCOUNTABILITY OF POLICE TO LOCAL AND CENTRAL GOVERNMENT

### 1. LOCAL GOVERNMENT

"Consultation and accountability are the mechanisms - in part administrative and in part legal - upon which we rely to ensure that police in their policies and operation keep in touch with and are responsible to the community they police. Accountability is, I have no doubt, the key to successful consultation and socially responsive policing" (1).

#### i) Introduction

The serious social disorder which was evident in parts of England and Wales during 1980 and 1981 and throughout the United Kingdom during the Miners' Strike of 1984/85, was perhaps the catalyst which jolted public attention and which focussed it again on the matter of accountability of police in general, but Chief Constables in particular, to the communities that they serve. Certainly, the issue had been debated in learned and political journals before that time and although the debate received some attention in legal publications after the Royal Commission Report in 1962, it was not until the middle years of the 1970s that serious suggestions began to be expressed about changing the structure and the operation of Police Authorities.

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It may be recalled that the Royal Commission Report in 1962 listed four main duties which it considered the Police Authority ought to have (2), and the Police Act 1964 and the Police (Scotland) Act 1967 were intended to bring order to a previously confused situation and establish the basis for present-day Authorities (3).

Outside London, the English and Welsh forces are based on counties (31 forces) or combined areas (10 forces) and the appropriate Police Authority is, in the counties a committee of the county council, and in the combined areas a separate corporate body which precepts for its finance on the local councils which comprise the combined area.

The Police Authority comprises two-thirds of its members elected county councillors appointed by the county council(s) and one-third magistrates appointed by the relevant magistrates courts committee(s) (4). Terms and conditions of appointment for the councillors are determined by the county council(s) making the appointment and it is usual for members to be selected in proportion to the major party representation on the full council. The Secretary of State makes rules for the appointment of magistrates to the Police Authority.

In Scotland there are six regional and two combined forces and they are the responsibility of the full regional council with only regional councillors being members of the Police Authority; the/

the regional councils may delegate their functions (but not their responsibility) to a committee of the full council; in the combined areas the Police Authority is a joint police board (5).

Historically, the police in England and Wales were accountable to the Justices of the Peace and when recognisable forces were established in the boroughs and counties, there was a difference between the two (6). Whereas the existing borough councils were able to take on the 'new' police responsibility and elected members formed the Watch Committees, county councils were not created until the passing of the Local Government Act 1888 and so the JPs took on the responsibility of the borough councillors. When the elected county councils were created the JPs were reluctant to surrender their influence and control and by way of compromise, county forces after 1888 were run by a joint committee of county councillors and JPs. After the Police Act 1964, JPs were appointed to all police committees in England and Wales but their representation was only one-third of the committee. The introduction of JPs onto those committees where formerly they had not been represented was a cause of grave concern to the elected members and the matter is still the subject of debate.

In London, the Home Secretary is the Police Authority for the Metropolitan Police and in the City of London the Police Authority is the Common Council of the City (7).

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It is important to realise that the powers and functions of the Police Authorities are stipulated in the various statutes which have been mentioned and in the case of the county councils, it is the police committee which is the Police Authority and not the county council. The Police Authority is not subordinate to the county council except in certain matters of finance, and it has defined responsibilities which it is required to fulfil in conjunction with the Chief Constable and the Central Government as part of the tri-partite arrangement for controlling the police.

ii) Responsibilities of the Police Authority

There is a formal difference between Police Authorities in England and Wales and those in Scotland. The Royal Commission recommended that the Police Authority should not be held responsible for the efficient policing of the area; in England and Wales the Police Act 1964 made provision under Section 4(1) that it is the duty of the Authority to secure the maintenance of an "adequate and efficient" police force for the area; the Police (Scotland) Act 1967 made no such provision for Authorities in Scotland. Apart from the major difference, the functions of Police Authorities both north and south of the border are very similar and may be described as follows:-

1. to appoint the Chief Constable and after consultation with him, appoint the Deputy and Assistant Chief Constables; and to determine the number of persons of each rank in the force which is to constitute the establishment (all subject to the approval of the appropriate Secretary of State) (8).
2. subject to the consent of the Secretary of State, the Police Authority may provide and maintain such buildings, structures and premises, and make such alterations as may be necessary; it may also (subject to regulations) provide and maintain such vehicles, apparatus, clothing and other equipment as may be required for police purposes (9).
3. the Police Authority shall pay to the constables of the force, pay and allowances in accordance with regulations and reimburse any expenses reasonably incurred by them in the performance of their duty (10).

4. the Police Authority shall keep itself informed as to the manner in which complaints made by members of the public against constables are dealt with by the Chief Constable (11).
5. the Police Authority is the discipline authority for the Chief Constable and his Deputy and Assistant Chief Constables and it may, in accordance with regulations and with the approval of the Secretary of State, call upon any of those officers to retire in the interests of efficiency, or it may dismiss any of them by way of discipline or call upon them to resign their appointments. The Secretary of State may require the Police Authority to exercise its powers to secure the retirement of any of the chief officers on the grounds of efficiency (12).
6. the Police Authority is entitled to receive an annual report in writing from the Chief Constable, on the policing of the area for which the force is maintained and it may, subject to the agreement of the Chief Constable that a report is necessary for the discharge of the Authority's functions and that the disclosure of the information requested would not be contrary to the public interest, call for a report on such matters as may be required, being matters connected with the policing of the area. In the event of disagreement between the Chief Constable and the Police Authority, the Secretary of State is the final arbiter on the matter (13).

Additionally, the Police Authority may carry out various other functions such as the acquisition of land and the negotiations of contracts concerned with the general policing functions, and the employment of police cadets, traffic wardens and civilian staff. All of its activities are subject to the overall influence or approval of the Secretary of State, and it would be difficult for an Authority to act in a manner contrary to his views; the Secretary of State exercises a powerful centralising force. As will be seen later, there is a difference between the statutory duties of the Secretary of State for the Home Department, who has an obligation to carry out his functions in such a manner and to such an extent as appears to him to be best calculated to promote the efficiency of the police, and the Secretary of State for Scotland who has no such general duty (14).

It is interesting to note that, despite the statutory differences contained in the Police Act 1964 and the Police (Scotland) Act 1967, there have been several occasions when documents emanating from the Scottish Office have failed to recognise the differences, the most recent being the circular on "Consultation Between the Community and the Police" (15), in which it is stated that the Police Authority has a statutory duty under the Police (Scotland) Act 1967 to maintain an "adequate and efficient" police force, when no such duty exists.

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An additional responsibility has been placed upon the Police Authority in England and Wales under Section 106 of the Police and Criminal Evidence Act 1984. This section of the Act requires Police Authorities to make arrangements, after consulting with the Chief Constables of the area, to obtain the views of people in that area about matters concerning policing and for securing their co-operation with the police in the prevention of crime. This came about as a result of a recommendation by Lord Scarman (16) in his report upon the disturbances in Brixton in 1981 and gives legal authority to the circular that was issued to Police Authorities and Chief Constables by the Home Office in 1982. The Scottish Home and Health Department issued a similar circular in 1983 which is not affected by that Act (17). These circulars are discussed later in the text.



iii) The Role of the Chief Constable  
in Relation to Local Government

At this point, it is important to discuss the position of the Chief Constable in his relationship with the Police Authority. The operational independence of the police officer was discussed in an earlier section and events, judgments and political statements since the passing of the Police Acts, have served to reinforce that independence to such an extent that any doubts expressed about its validity have now been overthrown. Indeed, Jefferson and Grimshaw support what they regard as the irrefutable doctrine of 'constabulary independence' (17a).

Section 5 of the Police Act 1964 and Section 17(2) of the Police (Scotland) Act 1967 provide that the police force maintained for an area shall be under the "direction and control" in England and Wales and under the "direction" in Scotland, of the Chief Constable. Although the Acts do not state what is meant by these phrases and do not establish clearly the position of the Chief Constable in relation to the Police Authority in an operational context, Lord Denning's view of the position is that he is operationally independent of everyone and that he is answerable only to the law:-

"No Minister of the Crown can tell him that he must or must not keep observation on this place or that; or that he must or must not prosecute this man or that one. Nor can any Police Authority tell him so. The responsibility of law enforcement lies on him. He is answerable to the law alone" (18).

In Scotland the position is different in that the Chief Constable must comply with all lawful instructions which he may receive from the sheriff having jurisdiction in the place, and in the investigation of offences the Chief Constable must comply with all lawful instructions which he may receive from the appropriate prosecutor. However, none of this affects the relationship which the Chief Constable has with his Police Authority and the doctrine of "operational independence" from the Police Authority is as strong and as accepted in Scotland as it is south of the border. In England and Wales, the proposed introduction of an independent prosecution system (19) does not affect the principle enunciated by Denning in Blackburn.

Writing in 1977, Marshall saw the problem of accountability of the police as being unsolved by the Royal Commission Report and the Police Act of 1964 and he argued that there had been no change in the law after 1962 and that the police did not enjoy any legal immunity from control which had not existed previously:

"It is noticeable that nothing was enacted directly about exclusive control of the Chief Constable or the nature of his powers vis-a-vis the Police Authority. What really happened was that the government avoided the direct issue, in view of the inherent difficulty of framing any precise prescription, and relied upon the Home Secretary's powers to act as a potential buffer and arbitrator between Police Authorities and Chief Constables" (20).

What RA Butler described as the "checks and balances" of the Police Act 1964 (21).

However, despite maintaining something of his position of rejecting the legal foundations of police independence, Marshall accepts that it may be possible to defend it as "a constitutional and administrative convention" (22). Whatever the justification for it, the independence of Chief Constables in operational matters is firmly established and its existence is accepted even by its opponents who seek to amend it by statute (23). The debate is no longer about the existence of the independence but rather as to whether or not it is a desirable thing and whether or not Chief Constables are under a sufficient degree of control. Certainly, many people have expressed doubts about the relationship of Police Authorities with Chief Constables and this seems to have stemmed from the rigid defence of the police position by some Chief Constables on the one hand, and the uncertainty of how far the members of an Authority may go in exercising their functions on the other.

In recent times there have been a number of statements by academics, politicians and others that Police Authorities have failed to carry out their proper functions. Speaking of the Merseyside Police Authority in 1977, Brogden asserted:-

"Most Police Authority members were totally ignorant of their powers and of the nature of their financial control. They had minimal knowledge of either police institution or of the functions of Police Authorities as laid down in the Police Act 1964" (24).

and yet in January 1980 a document by the Merseyside Police Authority concluded:

"We concluded (Councillor Mrs Simey dissenting) that, in general, the Police Committee acting as Police Authority for the Merseyside Force, is capable of fulfilling its duties and obligations as laid down by Parliament. We accept that in the very nature of things and having regard to the "Role of Police in Society" there will inevitably be incidents from time to time involving the police which give rise to local concern. We are satisfied that the Police Authority have the necessary powers as laid down by Parliament and supplemented by their own Standing Orders, to discuss and debate such matters, and in this respect to call upon the Chief Constable for information and where appropriate to be ready to offer advice. We recognise, however, whilst it is our duty to ensure that the policing of the area is both adequate and efficient, we must at all times have regard to the need not to appear to be intervening in the statutory processes which the police must follow in carrying out their duties. As to how effectively the Police Committee carries out its duties must inevitably depend in the final analysis on the manner in which each and every member approaches the task" (25).

The truth would appear to lie somewhere in between these two statements for most Police Authorities (26).

Although it has become accepted, albeit reluctantly in the case of some Local Authority members, that Chief Constables can and do exercise a fair measure of discretion in their operational and law enforcement activities and that the doctrine of constabulary independence has become enshrined within the unwritten British Constitution, there is a degree of uncertainty about the definition of "operational" matters and a degree of discontent that the Chief Constable, in most cases, appears to decide what matters fall within the scope of that definition.

Marshall (27) drew attention to this problem in 1973 when he said that the Police Act of 1964 "is silent on the precise extent to which the chief officer himself is under the superintendence of the Police Authority", and later when discussing the power of the Police Authority to call for reports from the Chief Constable, he states that, in his view, the Police Act 1964 requires the Chief Constable to decide what are the functions of the Police Authority.

"It is a little odd that committees are entitled to ask questions on any matter relating to the policing of an area, but some matters relating to the policing of the area are implicitly held to be no business of the Police Authority Committee whose statutory duty (under Sec 4 of the Act) is to secure the maintenance of an efficient police force".

Marshall makes the point that the Act is silent on what may be excluded by the Chief Constable from the committee, but it is not altogether realistic to expect a statutory definition of "chapter and verse" of what a Police Authority may or may not know and at what time they may be informed about something that for the time being is, but may later cease to be, confidential. Both Police Acts governing this point in England and Wales and in Scotland, reinforce the tri-partite arrangement for control of the police by requiring reference to be made to the appropriate Secretary of State for a decision as to whether or not a Police Committee is entitled to know what it requests and whether it is necessary to it in the performance of its particular duties. In practice, this problem seldom arose before 1984 and matters of dispute were usually resolved locally. No doubt the introduction of the 'disputes' procedure was designed as a remedy/

remedy to avoid a repeat of the Nottingham situation, referred to earlier, when Captain Popkess was suspended over a disagreement with his Watch Committee (28).

An academic discussion of the conflict arising in the Nottingham case took place between Keith-Lucas and DN Chester in 1960 (29) in which Chester queried whether it would be ultra vires for members of a Police Authority to concern themselves (generally as opposed to specific cases) with seeing that the law is adequately and properly enforced. The argument ran that "efficiency" is more than "sufficiency of policemen and equipment" but Chester asserted that the Home Office appeared to place that narrow interpretation upon it. Three sets of circumstances were postulated:

- "1. a town in which organised gangs of youths are fighting among themselves and terrorising peaceful citizens;
- "2. a town in which political demonstrations are taking place and feeling is running high;
- "3. a town in which the citizens are greatly concerned about the number of people killed and injured in the area by motor vehicles".

Chester asked whether it would be out of order if a councillor in a council meeting asked the chairman of the Watch Committee what measures the police were taking and what successes they had achieved in the first example, and would the chairman of the Watch Committee be correct in replying that this was not a/

a matter for the council, but a matter of law enforcement and, therefore, a matter solely for the Chief Constable? The matter is pursued by the further supposition that the council passed a resolution urging the police to take more vigorous and efficient action and then, when subsequently they were not satisfied that the Chief Constable had obeyed, Chester asked if this could be a legitimate ground for dismissal of the Chief Constable which would be upheld by the Home Secretary?

The second example was seen by Chester as possibly turning on how the police dealt with the situation, for example, by excessive violence and the use of truncheons which had aroused public protest. He asked if the chairman of the Watch Committee would be legally helpless and accept that this was a matter of law enforcement for which the Chief Constable alone was responsible, and would it be ultra vires to order the Chief Constable to direct his force to be more moderate in its future responses to such situations?

The third example was seen as a matter of law enforcement and the question again was whether or not it would be ultra vires to instruct the Chief Constable to see that the law in this area was enforced? Viewed in the light of modern developments, particularly in the case of Blackburn, the answers to these questions in the 1980s are more apparent than they were before the Royal Commission. The current position seems to be that the Police Authority may advise the Chief Constable about his policing policies; if the Authority feels that its advice has been ignored to such an extent that the Chief Constable's handling/

handling of certain events is deemed to be inefficient, then the Authority may discipline and/or suspend him pending an investigation into his conduct, which may then result in his dismissal. That appears to be in line with what the Royal Commissioners recommended and what is implicit in the Police Acts of 1964 and 1967. However, doubt exists still in the minds of some elected representatives and it is in this area that much of the debate on accountability has focussed. The real question that Chester was asking was - "In what sense is policing a Local Authority function?" and to what extent does the doctrine of independence conflict with local accountability?

An interesting view of this point was given by Professor Wade in answer to a question put to him by members of the Royal Commission (30). In response to the question - "What degree of independence does a Chief Constable have in the enforcement of law?", Wade distinguished the position by saying that the maintenance of public order is an executive and not a judicial function and therefore he could see nothing exceptional in a local Police Authority requiring a Chief Constable to carry out this duty since each was seen to have an equal responsibility for it. However, this observation does not take the reader very far and it is questionable whether the same answer would be given today; certainly it does not resolve all of the points raised by Chester and it would not appear to have had much influence on recent commentators. Loveday, writing in 1983 (31), commented:

"The authority of the Chief Constable is drawn from the 1964 Police Act which did little to clarify and a great deal to confuse the issue of police accountability".



and one of the conclusions which he shares with other writers, is that it is the individual personality of the Chief Constables which emerges as a key factor in the relationships between the Police Authority and the Chief Constable. Loveday, too, makes the mistaken observation that "the Chief Constable's power of referral might thus enable him to determine the Police Authority's function rather than the reverse". (He is referring to the 'referral' to the Secretary of State in the event of a dispute arising over a request by the Police Authority for a report on policing under Sec 12, Police Act 1964, and Sec 15, Police (Scotland) Act 1967). It would appear that on this point both Marshall and Loveday have failed to enjoy a complete understanding of the tri-partite system of control and it will be seen later that Police Authorities are able to establish and assert a firm policy of their own by active participation and an intelligent use of their statutory powers. In fairness to Marshall, his later writings on the subject acknowledge that any failings in the relationship may have been because the Police Authority had failed to take the initiative (32).

iv      The Functions of Police Authorities  
Since 1964

The rumblings of discontent about the effectiveness of Police Authorities became noticeable in the mid-1970s after the effects of Local Government reorganisation and the second round of compulsory amalgamations of police forces had occurred. This is not to say that contentment had reigned in the world of the Police Authorities after 1964, indeed the reverse would appear to be true, and for many elected representatives there was a degree of wounded pride. After the Local Government Act 1972 had become effective in England and Wales, areas which had once been boroughs enjoying the right to have Watch Committees and to control local forces to a very great degree, now became districts under the two tier system of Local Government and did not have any responsibility for policing, which had become a matter for county councils.

As forces became larger, as a result of at least two rounds of compulsory amalgamations, so it was argued that accountability became more remote from the former localities. Naturally, the former borough councillors who, as members of the Watch Committee had controlled a force of fifty to one hundred men, would resent their loss of power. Despite this resentment, they could argue that a small force was infinitely more accountable than a super-force of nearly seven thousand officers such as the West Midlands or Greater Manchester forces. Indeed, a Chief Constable of the West Midlands Police, Sir Philip Knights, writing in 1982, made this observation from a police point of view:

"There must be grounds for debate whether the county council, with 104 elected representatives, let alone the Police Authority with 16 elected representatives and 8 magistrates, can really claim to voice the wishes of the community at large in policing affairs.

"Personally, I feel that as a police area it is too big and that the police force, unless one works very hard at it, can become very remote and impersonal" (33).

Another point of contention was the introduction of magistrates on all of the Police Authorities after 1964 as this was seen by some elected members to detract from true accountability to elected representatives.

Banton picked up the point of a decline in accountability with the growth in size of police forces and argued that, in addition to this, the Police Authorities themselves did not appear to have used their statutory powers to the extent envisaged by Parliament, particularly with regard to their ability to call for reports. Unfortunately, Banton did not give his evidence for the last observation and failed to acknowledge that merely because a statutory power has not been used, that does not necessarily indicate that a Police Authority is failing in its function and may indeed indicate that the relationship between the Chief Constable and the Police Authority is such that there is no need to resort to 'formal' demands. Nevertheless, the observation is likely to be true in some cases. Banton took the view that:

"The public is entitled to say, through its representatives, how important it considers particular offences. A chief officer's conception of public wishes should be checked against the views of members of the Police Committee" (34).

and he drew a distinction between the asserted independence of Chief Constables in their law enforcement role and their reluctance to explain how they deployed their scarce resources in the exercise of their very wide discretion. As a point of principle he argued that:

"the public must be consulted about how scarce resources intended for its benefit, should be allocated" (35).

The preservation of the Queen's Peace, in his view, is not just a matter of 'law enforcement'.

As a remedy to these perceived deficiencies in the existing framework, Banton argued that the law should be amended by requiring the Police Committee "to advise the Secretary of State and the Local Authorities on the adequacy and effectiveness of existing measures for the preservation of peace" (36). Also, he envisaged a committee in which the participation of magistrates would cease on the grounds that the reformed committees would not be concerned with the judicial aspects of law enforcement and that, as the occasion demanded, there could be "appointees" to the Police Committee when non-budgeting matters were being discussed. The appointees were suggested to come from bodies concerned with crime prevention and, perhaps, football clubs. It was envisaged also that the chief officers of Local Government departments would be involved.

"The committee would then be able to evaluate the whole range of local methods for preventing crime and dealing with offenders.

"Such a change would ease the tensions about the accountability of Chief Constables to the representatives of the public. It would help sharpen the distinction between the Chief Constable's executive independence and his duty to take advice about general policy" (37).

Banton also considered that it would be desirable to have representatives of the Police Federation on such redesigned committees as a means of defusing what he perceived to be potential, militant, police unionism.

As events have turned out in the early 1980s, some of Banton's ideas have taken shape in slightly different ways, but this is not very surprising as Professor Banton gave evidence to the Scarman Inquiry in 1981 from which came the recommendation that consultation with the community should become compulsory (38). But "consultation" with a Police Authority is a very different thing from "operational control" and the then Chief Constable of Lincolnshire, Lawrence Byford (later Sir Lawrence Byford, Her Majesty's Chief Inspector of Constabulary for England and Wales) was quick to point out that it was never the Government's intention that the Chief Constable should be in a position other than as a recipient of advice from the Police Authority on operational matters.

In answer to Banton's suggestions, Byford expressed the views:

"In my experience, Chief Constables not infrequently provide reports for Police Authorities on a wide variety of issues ..... and that in itself is an indication of the effectiveness of the system.

"There have been relatively few instances since the introduction of the Police Act 1964 when either the Home Secretary or Police Authorities have had to ask for reports from Chief Constables in respect of crisis situations. The fact that Chief Constables have, on the other hand, been able to receive the informal advice of Police Authorities and supply reports on aspects of routine policing, without attracting the attention of the press, suggests that the recommendations of the Royal Commission are being followed" (39).

Byford went on to indicate the possible dangers of tampering with Police Authorities and perhaps saw the changes suggested by Banton as being preliminary to giving the Authorities some direction in operational matters, as he states:

"Few ..... operations are suitable for democratic control since situations change very quickly and serious results may only be averted by prompt action by the officer in charge" (40).

Certainly this has been acknowledged by many members of both Central and Local Government, but others have kept up the pressure for a return to the Watch Committees or have sought new legislation to limit the powers of the Chief Constables. Caution and sensitivity amongst the latter has, on occasions, made the conflict appear to demonstrate a major failure in the intentions of the Royal Commission and the Police Acts that followed.

v) The Bains Report (41)

Already it has been indicated that the mid-1970s were a time of turmoil, not only for police but also for Local Government. Prior to the implementation of the Local Government Act 1972, the pattern of Local Government in England and Wales presented a picture of unnecessary complication and confusion; apart from the Greater London area, which had been re-organised in 1963, there were forty-five administrative counties, seventy-nine county boroughs, two hundred and twenty-seven non-county boroughs and four hundred and ten rural districts, each with its own elected council. The rural districts were further divided into parishes and each parish had an elected council or a general parish meeting, or both.

The remedy to all of this tangled web of confusion was a two-tier system of Local Authorities. Under the Local Government Act 1972, England was divided into six metropolitan counties outside London (Greater Manchester, Merseyside, South Yorkshire, Tyne and Weir, West Midlands and West Yorkshire), and thirty-nine non-metropolitan counties. The metropolitan counties had populations of between 1 and 3 millions and the non-metropolitan areas had populations of between 280,000 and 1½ million. The Act divided the metropolitan counties into 36 metropolitan districts and the Local Government Boundary Commission recommended that the non-metropolitan counties be divided into 296 districts. Each county and district had its own council with executive powers and duties, and the total number of Local Authorities in England had been reduced by two-thirds. In Wales, 8 new counties were formed and 37 county districts; also, community councils were formed. In Scotland, a similar two-tier structure of regions and districts and islands councils was formed.

In 1971 a working group was set up to consider the structure of the new Local Government and its report was published in 1972: the report became known as the "Bains Report" (after the chairman, MA Bains, Clerk of Kent County Council). In Scotland, a similar working party published its report in 1973 and it became known as the "Paterson Report" (42) (after the chairman, IV Paterson, CBE, County Clerk of Lanark).

The "Bains Report" became most noteworthy for its promotion of the idea of 'corporate management' and the recommendation that each Authority should appoint a Chief Executive to act as the leader of the officers of the Authority and principal adviser to the council on matters of general policy. The idea of 'corporateness' foresaw that each Authority should have a corporate planning unit involving officers from various departments of the Authority directly in all of the council's planning processes. There should be mutual interest between the various specialist department officers who should each have a say in the planning of various enterprises so that all interests would be involved in the "interest of the community" served by the council. The underlying philosophy of Bains appears to have been to encourage each department of the council to take part in 'management teams' who would plan the development of the whole idea.

It was the original desire of the Bains Committee to include the Chief Constable in the Chief Executive's management team (43), presumably with the intention that there should be much greater involvement between police and Local Government to such an extent that each would have an influence on the other when/



when planning the future activities of the council. Regardless of the theory and the intention behind the recommendation, the reality in the early years after Bains was one in which relationships between some Chief Constables and Chief Executives and their management teams, and in some cases between the Chief Constable and the council and/or the Police Committee, became very strained.

It is not generally known outside police circles that there were two editions of the Bains Report and the circumstances of how this came about were described in some detail by the Chief Constable of Greater Manchester Police, James Anderton, in a paper presented at the Royal Institute of Public Administration in 1981 (44). Anderton was an Assistant to Her Majesty's Chief Inspector of Constabulary at the Home Office in August 1972 when he was asked to read, and assess the implications of the report with regard to the police service. His description of the fundamental error and misunderstanding in that report was:

"..... standing out like sore thumbs were clearly determined but wholly inaccurate diagrams of the local position of the police which, had they remained unaltered, would have denied and effectively prevented the statutory independence and the constitutional relationship which the police necessarily enjoy with the community. In short, Chief Constables were erroneously regarded as chief officers of the Local Authority, which they were not, never have been and never should be, and members of the proposed management teams in ..... counties. Furthermore, paragraph 9.14 of the report ominously pointed out that each chief officer would be "directly responsible to the Chief Executive".

Anderton goes on to describe the "almost total disdain" that the Bains Report, in its interim stage, showed for the proven integrity of Police Committees by the stated opinion that the special constitutional provisions relating to them "will inhibit a free and unfettered approach to management structures".

He continued:

"It was almost as though they knew nothing of the history and development of the police in the United Kingdom, and had never heard of the Report of the Royal Commission on Police in 1962 or the Police Act which followed it in 1964".

As soon as this "monumental gaff" was discovered, a report was made by HMCIC to the Home Office and the report was withdrawn by HMSO, to be followed soon afterwards by a second edition which recognised the special position of the Chief Constables.

The second edition contained a note which Anderton agreed was a most sensible arrangement:

"The Chief Constable ..... is not an officer of the Local Authority but an independent officer of the Crown. However, the Police Authority will have claims upon the total resources of the council and it is therefore essential that he should work in close co-operation with the Chief Executive and the management team for the purposes of corporate planning".

No similar note appears in the Paterson Report but the relationship of the Chief Constable is shown by a dotted line in the diagram of the County Council departments and it is acknowledged that the police are not a department of the council.

Nevertheless, the seeds of the conflict had been sown and the total ignorance or a deliberate ignoring of the constitutional position of the Chief Constable was apparent throughout the United Kingdom. In ACPO and ACPO(S) circles, stories abound of the nature of disagreements mainly between the new "Chief Executives" and Chief Constables and in particular, the insistence that police forces had become a 'department' of the new councils. There was an insistence in some cases of printing common notepaper for all council departments, headed, for example

"Loamshire County Council"

Police Department

Chief Executive:

Chief Constable:

In other cases, the new Chief Executives were doing little to discourage the view that they were in charge of the "police department" and there were minor skirmishes and in some cases open conflicts, between the Chief Constables and the Chief Executives over these points.

In Scotland the experiences of some were little different and in 1980 the Chief Constable of Central Scotland Police was in conflict with the Chief Executive over numerous matters, which resulted in an exchange of letters and several meetings, culminating in a Special Meeting of the Policy and Resources Subcommittee of the Central Regional Council.

The Chief Executive, who had been a member of the Paterson Committee, was insistent that the police force in Central Region was a department of Central Regional Council. In reply to a letter from the Chief Constable, in which the Chief Constable said on 18 March 1980:

"The efficient running of Central Scotland Police is of prime concern to me, as I am sure it is to the management team, and to that end I must direct my attention to the operational exigencies of the service. Whilst I am sure that it was not intended by the way that your letter reads, Central Scotland Police is not a department of the Regional Council and its very special constitutional position is one that should be recognised on all occasions.

"Needless to say, whilst I make every endeavour to give you support in your role as the leader of the management team, I think that you must agree that matters of operational efficiency affecting the police service must take priority over the attendance of a police representative at some meetings, and I must be the final judge of the operational needs of the service".

The Chief Executive said on 20 March 1980:

"I wish to inform you that the Central Scotland Police is a department of the Regional Council. You may be under the impression that there is a separate Police Authority operating in Scotland, this again is not the case. The Regional Council is the Police Authority and your department is a department of the Regional Council and I should like that to be clearly understood.

"So far as your attendance at management team meetings are (sic) concerned, you will note from your conditions of service, and I have certainly noted them from my conditions of service, that I am head of the Council's paid service. I have never, on a reasonable excuse being offered, failed to permit a member of the management team to attend to operational matters. Neither do I interfere with operational matters which are the prerogative of other officers, e.g. bridge design, policing, legal opinions, etc, etc. I do hope that we are not heading for some kind of collision which must be resolved by the Regional Council but I must insist that, as Chief Executive, I am in charge and I shall be obliged if you will acknowledge that".

On 27 March 1980 the Chief Constable replied:

"My position remains as stated in my letter of 18 March, and I can find no authority in law or otherwise which would persuade me to adopt a different approach. I would be interested to discover the source which leads you to make such assertions about the constitutional law of Scotland".

On/

On 15 April 1980 the Chief Executive wrote:

"The remarks which you make about the constitutional law of Scotland are quite irrelevant".

After the sub-committee meeting of the Policy and Resources Committee of the Regional Council, matters were resolved and the constitutional position of the police was recognised. This incident was by no means atypical of similar disputes that had occurred throughout Great Britain and they contributed in no small way to the greater misunderstandings that prompted public debate on the accountability of Chief Constables.

In the early post-Bains days, some Chief Constables were so sensitive to the apparent attack on their positions, that they felt compelled to distance themselves from Local Authorities in a way that was perhaps less constructive to good community relations than might otherwise have been. Sir John Nightingale, the Chief Constable of Essex, seems to have set his face against the idea of too much police involvement in Local Government except insofar as matters could be shown to be of direct concern to police. Writing in the Local Government Chronicle in 1973, Nightingale expressed the view that excessive involvement of police in the management of the affairs of the Local Authority might leave the Chief Constable without the time to discharge his statutory functions. Commenting further on this point in "Police", the magazine of the Police Federation, in 1975, Nightingale/

Nightingale was adamant that the Police Authority should not act as if it were a subordinate committee of the Chief Executive's management team. He made the point that clearly the Police Committee is constitutionally different from other committees and Nightingale was obviously concerned that there might be a gradual erosion of this difference and of the independence of Chief Constables if they were not alert constantly to the problem and failed to remind their Police Authorities about the importance of this point.

vi) The Effect of Party Politics on the Police Authority and on the Chief Constable's Position

A significant factor influencing the attitude of Chief Constables towards the new Local Authorities after 1974 was the apparent subordination of some Police Authorities to the influence of party politics. The traditional position maintained by Chief Constables was that although they recognised the need to be politically aware in their dealings with the councils and the Police Committees, they took up a strong stance of being independent of party political influence in their management of the force and in their dealings with the Police Authority.

In a paper prepared for the Association of Chief Police Officers in 1976, entitled "Police Authorities Since Bains", Ronald Gregory then Chief Constable of West Yorkshire Metropolitan Police, drew attention to the fact that in most county councils:

"the majority party now views itself as the sole custodian of the public interest, in the exercise of the county council's powers. It is not content, for this purpose, to take the chair and the majority of seats in every committee: it also contrives, through the device of the group meeting and the ruthless operation of the whip system, to bring every committee decision under review and to amend it if it does not accord with the party's policy. It brushes aside in this process that the county council is not in law the Police Authority for the county, nor does it accept willingly the different status of the Chief Constable compared with the chief officers of its own departments. His advice, however, is not at its disposal except indirectly through the Police Committee. This political polarisation now indeed goes beyond the county council itself: for a corresponding approach is becoming evident in certain of the committees/



committees charged with administrative responsibilities for district training centres and regional crime squads, as also in joint bodies at national level, in all of which 'party lines' are agreed in advance on major issues and party discipline is tacitly observed. Combined Police Authorities in contrast appear to be immune where they enjoy the status of a corporate body, but such an Authority which functions as a committee of one of the constituent county councils is clearly vulnerable" (45).

It is perhaps a naive hope on the part of Chief Constables to expect Police Committees to put politics to one side when dealing with police affairs and it is perhaps the realisation that this is not possible that makes Chief Constables apprehensive about proposals to alter the structure and power of the Police Authorities. Anthony Judge, the editor of "Police" and a long-time observer of police affairs, wrote in September 1976:

"To chief officers in particular, the idea of decisions affecting the force being influenced by the political make-up of the council is abhorrent. They fear the intrusion of local political influences on operational policies".

He goes on to point out the difficulties involved in "political control" of the forces:

"Of course, supporters of closer involvement of the Police Committee in operational policies would agree that they have no wish to interfere with police operations, merely have some say in the policies behind them. It is almost impossible to discover where the line would be drawn" (46).

Indeed, the fears of Gregory and the last observation of Judge can be demonstrated in an example of 'politics' being used in a dispute between members of Local Government and Central Government with police, and the ultimate efficiency of the service, arguably suffering, to use an appropriate metaphor, as "pigs in the middle".

It has been mentioned already that the Secretary of State has the power under the Police Acts to provide for common services in the interests of the police forces, for example, the maintenance of police colleges, district training centres, forensic science laboratories and wireless depots. In the case of district training centres, the professional staff is made up of police officers on secondment to central service with the approval of the Chief Constable of the parent force and the Police Authority (47). Each district training centre has a controlling committee comprising representatives of the Police Authorities of the constituent forces in the district, the Home Office and the Chief Constables. As far as administrative matters are concerned, the elected members and Home Office are mainly involved and such details as the content of training are agreed nationally.

In 1983 an incident occurred in England and Wales concerning the Dishforth District Training Centre, which could have serious repercussions affecting the ultimate efficiency of the police service, and which illustrates the concerns expressed by Gregory and others.

As a result of Central Government policy with regard to economies in the public sector, the idea of "privatisation" of certain services was mooted for all police training institutions. In the case of the Dishforth Centre, as with all the others, Home Office was anxious to go ahead with contracting out to private firms the catering functions in the centre. The Police Authority members of the district training centre liaison committee were opposed to this idea at Dishforth and registered their objections, only to find that Home Office insisted that it was Government policy and that "privatisation" should go ahead. The elected members considered that, if their opinions were not to be listened to, then they as members of that particular committee were little more than "rubber stamps" to the wishes of Central Government. The clerk to the committee was instructed to write to the clerks of all the constituent Police Authorities to discover what action, if any, should be taken about that perceived position.

Coincidentally, a police sergeant from Derbyshire Constabulary had been seconded to Dishforth by the Chief Constable, who was to seek the Police Authority's retrospective approval at the meeting of the Authority on 16 December 1983; this being the normal and hitherto accepted practice in Derbyshire and in many other forces.

Two items appeared on the agenda of the Derbyshire Police Authority which were linked with this matter. The first was consideration of the letter from the clerk to the district training centre committee and after discussing this, the Police Authority decided that in future it would remove the delegated authority from the Chief Constable in connection with seconded staff to the training centre/

centre and it would consider all applications for secondment. At the very least, the chairman must have been consulted before officers could be sent to Dishforth. No exception could be taken to that decision and there are as many Authorities who operate in this way as to the contrary. However, the real problem arose out of the second item on the agenda related to this incident, which was the homologation of the Chief Constable's action in seconding the sergeant to the training centre some six weeks before the meeting. The Police Authority took the view that it would not approve the secondment of that particular sergeant as an instructor and insisted that he be returned to duty with his force that day.

In reality, secondments cause little inconvenience to the parent force because all salary and expenses are paid out of the funds devoted to central service, and there is no direct cost to the Authority; also the force is entitled to replace the officer seconded during his period of absence - usually three years - and an advantage is that a further promotion may be made within the force.

Despite the fact that the Police Authority was informed that the sergeant/instructor was halfway through a probationer training course at Dishforth, that as a single man he had given up tenancy of his flat and had sold a considerable quantity of furniture in anticipation of his three-year secondment, the decision was confirmed. Quite apart from the personal inconvenience to the individual, the consequences to the police service if every Police/

Police Authority behaved in a way that appears to be retaliating against Central Government over a disagreement, whatever the rights and wrongs of it, would be very serious indeed. Some of the implications of incidents such as this may lead to a greater Central control from national government and are discussed later in the text (48).

vii) The Financial Influence of Councils  
Over Police Authorities

Another concern voiced in Gregory's paper (49) and shared by almost all Chief Constables is the effect that financial control can have over the independent status of some Police Authorities, particularly in times of financial stringency, such as those prevailing in the 1980s.

The Royal Commission recommended that Police Committees, as opposed to combined Police Authorities, should not have the power to precept on the county council and they should submit their revenue and capital estimates to the county council for approval in much the same way as other county committees. The Police Act 1964, Section 8, lessened the effect of this in sub-section iv) in that the following items must be approved:

- a) Any sum required for giving effect to regulations under Part II of the Act.
- b) Any sum required to satisfy any judgment or order of court.
- c) Any sum directed to be paid out of the police fund by any other statutory provision.

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In most forces it is likely that these exceptions would account for 75% or more of the budget. Nevertheless, the scope for "operational" influence is great and Gregory cites by way of example an attempt by the County Council in West Yorkshire to impose a ban on police recruitment without reference to either the Police Committee or the Chief Constable. The direction by the Director of Finance, on behalf of a Policy and Resources Committee, was thought to be ultra-vires by the Home Office. No matter how well intentioned the actions of the Director of Finance in the interests of pursuing government policy to economise, the ignorance of the position of the Chief Constable and the Police Committee may well lead to a weakening of an important constitutional safeguard. Greater difficulties can and do arise when elected members and council officials choose to ignore the position. With the regular turnover of previously inexperienced councillors without a detailed knowledge of Police Committee work, the situation is likely to be perpetuated. Gregory says this:-

"It should also not be forgotten that intervention by a county council, without proper advice, may prove singularly ill-considered simply because influential members of the new county councils often have little or no previous acquaintance with the special requirements of the police service and they may therefore be quite unaware of the practical considerations underlying decisions which the Police Authority, with professional advice, has already taken".

At least one example of raw political power with regard to the financial control of the police was demonstrated and received much publicity in South Yorkshire in 1977. A relatively trivial dispute between the chairman of the Police Authority and the Chief Constable over the placing of a traffic warden resulted/

resulted in the withholding of money intended for the provision or maintenance of police buildings. The dispute was resolved but it was an example of an apparent abuse of power (50).

In the case of Central Government, the only remedy that can be applied by the Secretary of State is the withholding of all or part of the exchequer grant if Her Majesty's Inspectorate report that the force is inefficient. The immediate effect of this on a Police Authority is unknown in modern times since it seems unlikely that Central Government would penalise a community in such a way but it at least raises the question of how wise it is to allow even slight financial control on the lines of party politics to affect the independence and the delicate constitutional position of the police and the independent Police Authority.

Despite his misgivings about the changes introduced after the Local Government Acts, Gregory supported the idea of limited ad hoc attendance at some management team meetings by the Chief Constable. Other Chief Constables have voiced public support for involvement in the teams as a way of avoiding any misunderstanding of the Chief Constable's position. Knights of West Midlands, in particular, and Pain, formerly Chief Constable of Kent, voiced their views that such attendance would serve to break down any latent hostilities that may exist about what appears to be a "favoured" position for the Chief Constable. Speaking at a joint conference on the "Tri-Partite Arrangement", Knights expressed the opinion that the less Chief Constables got involved in political argument the better:



"I see our role as seeking to ensure that those who do argue these matters in the political forum should be properly and fully informed, of all the issues, some of which the police are uniquely qualified to identify and articulate" (51).

vii) Post-Bains Development in the  
Role of the Police Authorities

1974 and 1975 were the beginning years of turmoil and change in Local Government and in recognition of that the annual joint conference of the Association of County Councils, the Association of Metropolitan Authorities and the Association of Chief Police Officers met at Eastbourne in 1975 to consider the implications for both Local Government and the police service. The time was described as being:

"..... especially ripe to review the contribution of the Police Authorities and of Local Government itself to both policing and peacekeeping" (52).

and a prepared discussion paper was considered by the delegates which was intended to "focus upon the paramount need to develop a more fruitful relationship between the Police Authorities and both the police forces and their chief officers". The increasing tendency towards Central control was noted but concern was expressed that this tendency ought not to be allowed to go too far; emphasis was placed on the value of local democracy as a part of the overall government of the country and the stance assumed by the Home Secretary as having a general statutory responsibility for the efficiency of the police in England and Wales was challenged. Acknowledgment was made of the fact that the Police Act 1964 gave the Home Secretary powers which must be exercised by him in a way best calculated to promote the efficiency of the force (53).

The suggestion that stemmed from the joint discussion document was to the effect that, whilst recognising the rights of the Chief Constable and acknowledging the value of Central Government co-ordination, the Police Authorities now had a developing responsibility to the police service. In short, the Local Authority argument was that the Chief Constable should play an active role in the "corporate management" of community affairs and should accept that Local Authorities had to consider the consequences of their acts as they affected the totality of their services and the local community needs. In particular, the paper said:

"Equally, it must be faced that in most areas the resources for policing have to be found in competition with other services".

This point was counterbalanced by an emphasis on the influence that police should have in matters of planning against crime in developments, play facilities, policies for youth and policies for handling a whole range of social problems; to which the police response would have been, no doubt, that they were already extremely active in these areas in co-operation with the various Local Authority departments. The Police Authority was envisaged as "a very lively forum where full and open dialogue can take place".

Twelve particular points were submitted as a starting point for discussion which may be summarised thus:

- 1) In some cases there was seen to be an "arms-length" atmosphere between the Chief Constable and the Police Authority and great efforts needed to be made to overcome that if developments were to take place.
- 2) Police training should stress the value of local democracy and lean against "separatist" attitudes; the statement was also made that policemen should be proud of their own local police force rather than some abstract notion of a national police service.
- 3) The Police Committee should be or become a lively forum for genuine dialogue between laymen and professionals. The police should accept challenge of their policies in committee in a mature fashion and should take into account any advice the committee might offer.
- 4) Police Authority interest in appointments down to and including divisional commanders, should be accepted. This was seen as another way of ensuring community involvement.
- 5) The discussion of the police budget should be a time of joint exploration of priorities within the area and of the policies to be pursued.
- 6) The question of whether or not the composition of membership of Police Authorities should be changed in any way to reflect the suggestion in '5' should be discussed.
- 7) The Police Authority should develop its role in the supervision of complaints against police. (This view had been put to the Home Secretary on a previous occasion: ACPO did not agree with the suggestion).

- 8) There should be a cross-membership of committees within the council and the Police Committee and a willingness on the part of senior police officers to attend other committees whenever necessary.
- 9) The Chief Constable should always be a member of the management board so that police views could be properly heard at the very early stage of policy formulation; this should be on the understanding that the Chief Executive would not thereby have any greater function in police matters than if the Chief Constable were not a member of the board. Equally, senior police officers should be prepared to join in inter-departmental discussions of problems whenever a police view would be relevant.
- 10) The possibility of the integration of police administrative arrangements where appropriate in relation to buildings, transport, computers and other common services and co-operation between authorities.
- 11) Seeking new methods in relation to traffic to ensure a greater inter-play between the public as the regulated element and enforcing elements.
- 12) More publicity to get over the message to the public that the police are not the state police but "your" police and that local democracy has a fundamental role in ensuring that this is so.

It is very interesting to note, with regard to discussion point '9', that the Home Secretary of the day, the Rt Hon Roy Jenkins, expressed the view at the conference that Chief Constables ought not to be members of the management team, although recognition was given to the value of close communications between police and Local Government.

The twelve points were intended to form the basis for an ongoing debate. A working party was set up following the conference, consisting of ACC and AMA representatives, to consider how the role of Police Authorities could be developed, and in furtherance of their efforts, the county secretary to the South Yorkshire County Council carried out a survey during 1976 on Matters of Practice in Police Authorities. The result of that survey formed the basis for a more informed discussion (54).

Early in 1977 the two Local Authority associations held a joint seminar in London on "The Role of the Police Authority". The discussions were wide-ranging and the overall impression that was reported from the proceedings was that there was nothing fundamentally wrong with the then operation of most Police Authorities. There was a general feeling that the role of the Police Authority had been diminished after the 1974 re-organisations had led to different methods of operation and larger administrative units in Local Government, and some Police Committees felt that they were little more than "rubber stamps". The point was made, too, that there was probably a general lack of awareness, both within the police service and by the public, of the functions of the Police Authority and what a useful/

useful service it could perform. Again, the point was made that healthy relationships depended very much upon the attitude and personality of the Chief Constable. The idea of producing guidelines for a model Police Authority was resisted and the diversity of practices and opinions was accepted as being both healthy and desirable. Nonetheless, consideration was given to many of the areas of activity of a Police Authority and comments were given on how best these points should be undertaken. Recognition was given to the feeling of "partnership" that was felt to exist with the police service and the Home Office and it was acknowledged that although the Police Authorities were the junior partners, there was a need to build on this existing partnership.

Five matters were listed at the end of the seminar as being in need of further examination:-

- 1) The feeling of many members that a sense of involvement in police affairs was lacking.
- 2) The constitution of Police Authorities. There was no clear cut agreement about the merits or otherwise of the existing constitution, for example, whether magistrate representation should continue or whether other groups should be taken into account.
- 3) The leading positions of the Local Authority associations and the degree of consultation between the associations and the Police Authorities.

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- 4) Finance and relationships with the county council finance committee.
- 5) The relationship between staff associations and Police Authorities.

Four main points of common agreement were also given:

- 1) full support for the police forces doing a good job under very difficult conditions;
- 2) the need for a firm and open partnership between the Home Office, the Police Authorities (through the Local Authority associations) and the operational service in the interests of policing generally;
- 3) The importance of good and sensitive public relations;
- 4) the continuing need for the support services of the Local Authority associations.

At the same time that the Local Authorities' associations were debating what the role of the Police Authority should be, others were making political and academic comments which were relevant to the debate. Margaret Simey, who was to be the focus of press attention in 1981 at the time of the rioting in Merseyside and elsewhere, felt that -



"Police committees are reduced to being not very effective cogs in the administration system of a public service" (55).

Simey's view of the Police Authority was that it is a piece of political machinery that should operate in the same way as any other council committee. Acknowledging that the Police Committee has a singular degree of autonomy, Simey argued that it should be "much more evidently accountable for the way in which the police carry out their duties" and that it should share more of the responsibility for policing with the Chief Constable. The argument put forward by Mrs Simey was that the Police Committee has a social and political obligation to determine what part the police have to play as a public service in relationship to all the other services that the council has to provide for its electorate, and that:

"Elected members are in an exceptionally favourable position to balance the rival claims of the different services because they see them at ground level" (55).

Certainly, this is an argument that is difficult to counter in times of financial stringency and it is not an easy decision to make a choice between more beds in old peoples' homes in a time of increasing longevity, and more police officers to be deployed in community policing projects designed to combat the fear of crime that prevents so many old people from leaving their homes. But Mrs Simey was really only arguing for a better functioning of the Police Committee and a more active relationship between it and its parent council and between it and the/

the Chief Constable. There is no argument put forward by Simey for any constitutional re-construction but rather an informed and revitalised use of existing facilities in a "political" way. Judge (56) saw this as a vain attempt to apply the kiss of life to a "body beyond resuscitation" because of the centralising influence of what he describes as the "power accumulators in Whitehall". Judge's opinion coincides with that of Simey and others that the effectiveness of the Police Authorities had declined and, in his view, many of them were doing little more than "going through the motions of discharging the duty to maintain an adequate and efficient police force"; his view being that this reduction in influence and the move towards the centre, encouraged by Central Government, had placed the police service on "an inexorable path towards a national force".

Marshall turned his thoughts to the subject of police accountability once more in 1977 and saw the problem as being still unsolved. His academic approach tended to be suspicious of politics - "our instincts suggest that partisan influences should be kept at a distance from law enforcement", and he considered changes in the structure of Police Committees and a move towards the idea of a police "ombudsman":

"Law enforcement policy is made by the exercise of executive discretion but it requires a special style of accountability which our institutions have not as yet fully succeeded in providing" (57).

Marshall was anxious to ensure that the exercise of discretion should be matched by an effective degree of accountability to the public, but he did not see that lying within the Police Authorities as constituted by the Police Act 1964. He pointed out that the dilemma had been aptly described by the Hunt Report (58) on the policing arrangements in Northern Ireland when it said of the proposed police Commissioner, that he "should not be subjected to political pressures ..... there should be some body representative of the community as a whole to which he can be accountable".

Pursuing the line taken by Chester in 1960 (*supra*), Marshall argues that there may be some questions of law enforcement policy (such as the excessive use of force in maintaining order) where it would not be "ultra-vires" for the committee to issue instructions to the Chief Constable; but the intention of the Royal Commissioners was that the committee should only offer advice and guidance which could be followed by discipline if the Chief Constable's methods could be shown to be inefficient. There is no provision for the committee to issue instructions and any move in that direction would be seen by professional policemen as unacceptable. Byford had already indicated the rapid changes in operational situations that depend upon professional judgment and Pain argued that, because the Police Authority has to satisfy itself that the force is "efficient", the Chief Constable then has a duty to account for his operational activities *ex post facto* (59). Speaking at the Joint Summer Conference of AMA/ACC and ACPO in 1982, Pain developed this argument further by saying:

"the Local Authorities, having been party to the selection of the Chief Constable and other chief officers, should be prepared to trust them to get on with the job. Just as Chief Constables should make themselves more accessible so should Police Authority members resist the temptation to interfere in the force. They should remember that the Chief Constable is a qualified and experienced man who has learned from years of actual operational involvement, coupled with a high degree of training and will: ingness to put himself forward in competition with many others for the post he holds. He is as much a qualified man as the doctor, the dentist, the lawyer or any other professional - and no layman would think of interfering with the jobs of those people as they appear to wish to do with the police".

As if anticipating this comment, Marshall called into question the confidence of the public in politicians after the "Watergates, Poulsons and Clay Crosses" and concluded that many "liberal democrats" would be more likely to trust Chief Constables as guardians of civil liberties and impartial justice than elected representatives. Also, he found it difficult to believe that the Police Authorities had fulfilled their role over the years on the evidence that Section 12, Police Act 1964, appeared to have been little used. However, Marshall made the same mistake as Banton in assuming that because a formal power had not been used, then informal and voluntary information had not been forthcoming from the Chief Constable to the Police Authority, and therefore the Police Authority had not been functioning properly. Personal experience and discussion with other Chief Constables indicate that this may have been the case with some Police Authorities, but that, in the majority of cases, there has been a regular system of reports and a regular discussion of events/

events affecting the policing of an area between the Chief Constables and the committees: it would be difficult to understand how else a Chief Constable could operate, particularly at times of budget planning.

However, a useful contribution to the debate was Marshall's distinction between two styles of accountability which goes some way towards the accurate use of terminology. The first style is described as the "the subordinate obedient mode" which is accompanied by administrative control and the ability to direct and veto - presumably favoured by those who wish to seek greater control of the police and which is not catered for in the Police Act 1964; and the "explanatory and co-operative mode" which is not backed by a capacity to issue orders but to require reports and presumably explanations for things to be, or that have been, done. This is the style that appears to have been intended by the Royal Commission and which is implicit in the Police Acts. Indeed, by definition, accountability implies the ex post facto explanation defended by Pain (supra) and some may find Marshall's first definition of accountability unnecessarily confusing because it is really a euphemism for 'absolute control'. Nevertheless, the distinction is thought to be useful because it highlights the absolute difference between 'subordination' and 'explanation'.

The debate on accountability and the correct relationship between Chief Constables and the Police Authority is one that seems to have been beset by misunderstandings and a looseness of terminology. To those who would wish to direct the police, the word/

word accountability is an acceptable euphemism for 'control', for others who are concerned to see that discretion is neither "unfettered" nor "abdicated" the word means being called to account for actions and policies. What has confused many senior police officers has been the call for additional powers to control the police when much of what has been demanded has been in existence since 1964. A problem has been a lack of understanding of the law and the relative positions of the parties.

In answer to a parliamentary question, the then Home Secretary, Merlyn Rees, made the following statement in the House of Commons in June 1978:-

"The duty of a Police Authority in England and Wales is to maintain an adequate and efficient force for its area ..... The Chief Constable has the direction and control of his force; local policing is his responsibility. On the other hand, the Police Act in no way inhibits discussion of operational issues between the Chief Constable and his Police Authority whether in the context of a review of the resources necessary or more generally. The Chief Constable is generally accountable to his Police Authority for his policy".

ix) The Police Authorities (Powers) Bills

On Wednesday, 14 November 1979, Jack Straw, MP (Labour, Blackburn), introduced this Bill in an attempt to amend the Police Act 1964 in order to establish and extend the powers and duties of Police Authorities in respect of the operations and organisation of police forces. It was a small Bill, containing only 10 clauses and it was limited to England and Wales, but according to at least one Chief Constable, James Anderton of Greater Manchester Police -

"It would turn the clock back to the age of "forelock touching" so beloved of pompous power conscious councillors, when too many police officers were inclined to do as they were told rather than what they knew to be right".

For Anderton, its success would have been "the last straw!" (60).

The Bill is described in the explanatory memorandum which preceded it, as follows:

"Clauses 1 and 2 give Police Authorities in England and Wales the power to determine the 'general policing policies' for their area, subject to the safeguards in the hands of the Chief Constable in specified circumstances to delay any such decision for up to six months, or to refer it to the Secretary of State for final decision.

"Clause/

"Clause 3 requires the Chief Constable to exercise his powers in accordance with the general policing policies for the area.

"Clauses 4 and 5 give the power of appointment of Chief Superintendents and Superintendents to Police Authorities, subject to consultation with the Chief Constable and the approval of the Secretary of State.

"Clause 6 extends the circumstances in which a Police Authority may require a Chief Constable to report to it.

"Clause 7 provides for Her Majesty's Inspectorate of Police to report to each Police Authority at least once every two years.

"Clause 8 gives the Police Authority power to request the Secretary of State to appoint an officer of another force to investigate a complaint against a chief officer of police; and provides for a report to be made to the Police Authority whenever an investigation of a complaint is carried out by the officer from another force.

"Clauses 9 and 10 are definitional and entitlement clauses",

Straw produced a memorandum in which he set out to explain the background to the perceived need for such a Bill. Straw's basic assertion was that the Police Act 1964 had failed to bring about the real intention of the Royal Commission, which was to control the power of Chief Constables and to make them accountable to locally elected representatives of the community. In his stated view -

"A Police Authority has effectively no power over the operation and organisation of the police force in its area".



Effectively, Straw was arguing for a return to the type of Police Authority that functioned under the old Watch Committee system, but apparently with more formal powers of control over policing functions - an area which had been recognised by the Royal Commission, the courts, Central Government, the Local Authority associations and others, as being not within the desirable sphere of control by such a body, on the grounds that it would interfere with the ability of the Chief Constable and his force, to operate with a high degree of impartiality. Certainly, some of Straw's proposals had found favour with some Local Authority members and their associations, but after 1964 the constitutional position of police had become firmly established and generally accepted.

Straw was critical of the loss of 'local' control by the scale of the larger amalgamated forces, a view shared by some senior policemen, and he accepted assertions by some Police Authority members and some journalists that "local control is illusory". In particular he drew attention to "most marked" discontent in the Merseyside Police Authority and made particular reference to an extract from a letter that he had received from Councillor Mrs Simey:

"Over the years, the role of the Authority has been consistently redefined in terms favourable to an increase in police power. Democratic scrutiny of this public service has been reduced to an unacceptable minimum ..... Policing has become a purely professional responsibility. Its serious social and political implications are, to an increasing extent, being taken over by the police to the exclusion of the elected member".

It may be recalled that reference has been made already to the meeting of the Merseyside Police Authority on 22. 1.80 which concluded (Mrs Simey dissenting) that it was satisfied that it was capable of fulfilling its role with the existing powers and that much of its success as an Authority necessarily depended on the way in which individual members approached the task.

An additional point of criticism was the "new breed of Chief Constable, assertive of their autonomy and independence, and willing often to engage in explicitly political controversy", and in particular he alluded to James Anderton of Greater Manchester Police, as well as observing that according to an article in "The Guardian" of 19. 2.79, that ACPO had taken a "deliberate policy to come out into the open more ..... attempting to influence public opinion and the courts via the media".

This implied criticism was rejected both by the Local Government Chronicle and later by the Home Secretary, William Whitelaw, when he delivered the 1980 James Smart Lecture in Edinburgh. Whilst acknowledging the potential dangers, Whitelaw went on to say:-

"The voice of the police must always be one of reason and moderation, and it must spring clearly from the natural concerns of the police and not in any circumstances from a particular party political philosophy. But it can only be to the long-term advantage of society in tackling the problems of law and order to have the police view cogently stated as part of the continuing debate .....".

A further justification for the Bill stemmed from Straw's perception of the "Alderson style" of community policing which received faint praise but the observation that -

"the more that police extend their role into other areas of Local Government activity, the greater is the need for local elected members to have proper control in the policing policies".

This observation appears to have been made against the police initiative in "community policing" attributed to Alderson in Devon and Cornwall rather than in favour of the "Bains" concept of corporate involvement of everyone concerned with Local Government. Straw commented that in his view it would be an irony if a result of community policing policies was that "the only council committee not able to discuss those policies - and take decision on them - were the Police Committee".

But Alderson has never argued against the right of a Police Committee to discuss issues and policies, his objection to interference with Police Committees, particularly the removal of magistrates, was the obvious danger of allowing party politics to devalue the constitutional independence of the police; there should be no direct link between politics and day-to-day police operations. In a lecture to a command course at the Police College, Bramshill, in 1976, Alderson has been reported as saying of the "police job" that it is "too professional, the issues too remote and too diverse for the lay committee to grasp all but the occasional" (61). Not surprisingly, this is the line taken/

taken by many senior police officers, and particularly Anderton, who saw in Straw's proposals a return to what he regarded as "the bad old days" of corrupt, political interference.

Straw's stated aim was that the proposals contained in the Bill were designed to establish greater democratic influence over general policing policies and greater accountability of Chief Constables and senior officers. Clause 4 of the Bill was intended to give the Police Authority the power of appointment of Superintendents and Chief Superintendents, as had been the case with the old Watch Committees. This has for long been a demand of the Local Authority associations for reasons which do not appear to have been explained adequately. As recently as 1983, at the Joint AMA/ACC/ACPO Summer Conference at Eastbourne, the chairman of the Association of County Councils stated that it is not an unreasonable demand, without saying why the association wanted that power. Vague expressions of opinion, that larger forces have created larger areas of control for Chief Superintendents and their deputies, have been made and it has been asserted that the power to make such appointments would improve community relations, but no reasons for this view appear to have been presented. In the AMA document "Policies for the Police Service" published in 1982, this "power" is simply stated as being necessary.

John Alderson was, apparently, the only Chief Constable who made a public statement in favour of Local Authorities having such a power (62) but certainly ACPO and ACPO(S) are opposed/

opposed to that level of influence by Police Authorities on the grounds expressed by Sir Philip Knights (63), when he said of the clause:

"I believe (it) to be a misguided notion ..... because it seems to have been suggested on the basis that these officers exercise considerable power over the residents of their areas, in their own right ..... In fact, the only power they have is that which is delegated to them by their Chief Constable - they act for him, they act in his name, and he has to "carry the can" for their mistakes. In that case, should he not appoint them? The shareholders appoint the directors of a company but they do not appoint the managers - they leave the directors to do that and fire them if they appoint bad ones and the company is not efficient. If the Police Authority is going to appoint my managers for me, they must not, in fairness, hold me accountable for what they do wrong, as they can now, and rightly so".

Anderton was an even more outspoken opponent, not only of that particular clause, but of the whole Bill: of the suggestion in clause 4, he said -

"he wishes Police Authorities to have the power to appoint, promote and dismiss Superintendents and Chief Superintendents of police which would effectively strip the Chief Constable of any real authority and control over the most powerful band of senior management at his disposal. Worse still, it would revitalise the discredited practice of lobbying and favouritism in years gone by, and increase the prospect of disloyalties among senior ranks of the police who might feel compelled to show more allegiance and deference to local councillors than to their own Chief Constable" (64).

Straw's argument against those who would see the Bill as bringing police into politics was expressed in four points:

- "(i) law and order is a fundamentally political issue - it is often described as the first duty of the State. If it can be an intensely political issue at a national level - as it was at the last election - there is no good reason for it being excluded from the sphere of local democratic decision-making, particularly as the desire to improve law and order can only be translated into concrete policing policies at a local level.
- (ii) as this Bill recognises, the special nature of police work means that they must have a wide area of independent professional discretion in relation to particular operations or cases. But the argument that this should entitle the police to immunity from any effective democratic accountability is as unconvincing today as it was when the Royal Commission reported. The conflict between professional expertise and lay judgment which exists elsewhere within any democratic system of government is a healthy one - and generally produces a higher quality and more stable series of decisions.
- (iii) in any event, Chief Constables no longer appear content to adopt a quiet professional role. Many members of ACPO are now engaging in matters of general political controversy. The more they become involved in politics the less their case for seeking immunity from the democratic process. The warning by Philip Myers, Chief Constable of North Wales, very recently, that Chief Constables should steer clear of politics and that it was no part of their function -

'to try to influence governments one way or another by public pronouncements' (Sunday Mirror, 11.11.79)

in/

in my view reflects the fears of the more traditional senior officers as to the degree to which some of their colleagues have become drawn into politics.

- (iv) the success of the police depends, ultimately, not on the number of vehicles, firearms, riot shields, or computer terminals available to it, but upon the confidence of the public. Whatever its other achievements, the Police Act and the amalgamation into larger, more remote forces, have not been a success in those terms.

'It is of critical importance that this debate (about the police in a free society) leads to sensible social action if rocketing democracy is not to leave behind an authoritarian police system designed for 19th century England' wrote Mr John Alderson, Chief Constable of Devon and Cornwall, earlier this year (Daily Telegraph 4. 4.79). 'The police have to learn to consult the neighbourhood people about their concerns, their wishes and their co-operation'.

This Bill aims to provide a new framework in which that co-operation can be achieved"

The Bill failed in 1979 as did a further, similar Bill in 1980, and although there was a great deal of opposition by ACPO to the Bill as a whole, there was also a degree of amazement that there was a perceived need for an Act of Parliament to provide much of what already existed if Police Authorities and others had taken the trouble to find out what their powers and functions were under the Police Act 1964. Indeed, Knights pointed out that one of the strongest critics of the inadequacies of Police Authorities, Margaret Simey, was quoted as saying:

"Accountability is essentially a political process, since it is the means whereby a public service submits to the scrutiny of those whom it is designed to serve. The proper safeguard against the exercise of improper political interference is not to ban politics from policing but to ensure that the elaborate system of checks and balances, which already exists but is seldom invoked, is brought into effective operation".

Of course, the principal objection registered by police and by the Central Government was to the proposed constitutional change in clause 1 of the Bill which enabled Police Authorities to determine "general policing policies". The dangers of that have been indicated but additionally such a change would have altered the individual status of the constable and would have changed him from being an independent officer of the Crown into a servant of the Local Authority. Such a change would have far-reaching effects and according to Alan Goodson, Chief Constable of Leicestershire, and at that time, President of ACPO, "..... once you allow the political influence to play any part at all ..... you are changing the complete nature of policing in this country".

The police view was, very much, that neither Jack Straw, nor anyone else, had made out a convincing or even a substantial case for such change. Their attitude coincided with the views expressed by a former senior official at the Home Office, RL Jones, who wrote:



"The Royal Commission tried hard to draw the right lessons from the past; whether they succeeded or not can only be determined by experience. But history shows that we should be very careful of being swayed by a particular incident, or even by a series of incidents over a short period, into rushing into drastic change" (65).

x) The Police and the Public

One of the cornerstones of the philosophy underlying British policing which is frequently expressed in public debate by police officers, is that traditionally the police service has operated by the "consent of the public" and without public sympathy, co-operation and approval, then policing as it is understood in Britain, would fail. There have been numerous examples in police history where that lesson has been learned the hard way but the recognition of the need to maintain public esteem for the service was set down in the primary objects of the Metropolitan Police in 1829 and has been learned by rote by many police recruits:-

"..... much depends on the approval and co-operation of the public and these have always been determined by the degree of esteem and respect in which the police are held. Therefore, every member of the force must remember that it is his duty to help and protect members of the public, no less than to bring offenders to justice. Consequently ..... he must look upon himself as the servant and guardian of the general public ....." (Sir Richard Mayne)

Events of serious public disorder in Bristol in 1980 and then the following year in Brixton and other parts of England and Wales, aroused interest in the way that police behaved in public disorder situations, how they were equipped and what policies were followed. Undoubtedly, the country suffered a severe shock not only that such rioting and disorder could occur, but that such widespread damage could be inflicted whilst an apparently powerless police force stood by, and on one occasion actually withdrew from the streets of Bristol for a period of time./

time. Many hundreds of police officers were injured in the rioting and an urgent rethink had to take place about police tactics, equipment, co-operation and control. In Merseyside a member of the public was killed as a result of police tactics and CS gas was used in the control of crowds for the first time on the mainland. All of these events and the questions that arose from them added fuel to the argument for greater control of Chief Constables and for a greater democratic say in how police should respond to such events.

Although Jack Straw's Bills had been defeated, the arguments contained in them were pursued vigorously and clearly that Government felt a need to go some way towards placating an increasingly vociferous minority whilst at the same time maintaining the independence of Chief Constables in operational matters. Speaking in Edinburgh in September 1980, after Bristol but before the further outbreaks of public disorder in Brixton, Merseyside and elsewhere, the then Home Secretary, William Whitelaw, said of the administration of the police service -

"I do not take the view that there is any case for major changes in the organisation of the police. The present arrangements, resting on a tri-partite division of responsibility ..... achieve on the whole a satisfactory balance between local, operational and central interests. Nor do I see any need to make substantial further reductions in the number of police forces.

"That does not mean, that I see no scope for movement and development within the existing statutory framework. There is, for example, a real need to ensure that the views of the public are adequately taken into account in the development of policing policies. That/

That must never happen to the detriment of the independence of chief officers in operational matters .....

"On the other hand, I think it has become increasingly desirable that Police Authorities should see themselves not just as providers of resources but as a means whereby the Chief Constable can give account of his policing to the democratically elected representatives of the community and, in turn, they can express to him the views of the community on these policies".

Whitelaw went on to say that it was also his belief that many Police Authorities already took that view of their role and he did not think that it was something for which legislation would be appropriate. Many senior officers were also of the opinion that there was nothing new in that concept and that it was as necessary to establish a good and healthy relationship with the Police Authority as it was to have public approval and support. For some Chief Constables, however, this happy state of affairs was, and is, extremely difficult to achieve because of party politics and an apparent desire by some to exploit the "loopholes" in the Police Act to the embarrassment of the Chief Constable and Central Government. Nevertheless, the ACC/AMA Joint Working Party on Police Matters reported in 1980 that it was unanimous "in rejecting the idea of Police Authorities giving instructions on operational decisions, even about general policies as opposed to specific cases".

The/

The Working Party went on to acknowledge what Whitelaw had said about Police Authorities and pointed out that this philosophy had been enunciated by the Royal Commission in 1962. There was also an expressed concern that although the principles underlying the remarks were acknowledged they were sometimes in danger of becoming obscured, and the Working Party alleged that the Home Office tended to obstruct the Local Authority associations in any attempt to discuss a topic which Home Office regarded as operational. Doubt was also cast on the effectiveness of police methods of keeping in touch with public opinion in the ordinary course of their work. These "haphazard soundings" were seen to be inferior to the knowledge possessed by "the democratically representative forum of a body composed of local elected members" (66).

Knights has expressed his doubts on the validity of this view in West Midlands (supra) and another Chief Constable has made some very telling observations about the statistical reality of some local council election results which have placed councillors in positions of great influence in committees without a very substantial mandate from the people of a large metropolitan area (67).

Despite the criticisms, the "official" consensus view that appeared to be formulating in the working parties of Local Government associations and in the declared view of Central Government was that Police Authorities were alive and well if perhaps a little underdeveloped and undernourished in some cases. During/

During a debate, on the effectiveness of Police Authorities, that took place in the House of Lords on 13 April 1981, Lord Belstead, Minister of State, made the following statement:

"The Royal Commission acknowledged the need for Chief Constables to be operationally independent. Neither the Home Secretary nor the Police Authority may instruct them to institute proceedings in a particular case, or direct them in the deployment of their forces. This is one of the key elements of our policing arrangements. There can be no room for political interference from either Central or Local Government. The operational independence of Chief Officers is essential to the confidence of parliament and people in the police in discharging their duty. But this does not mean that the Chief Constable is not accountable. He is accountable ..... to the law ..... in the courts ..... to his Police Authority for the general efficiency of his force.

"I think that a Police Authority which is fully aware, as I am sure Authorities are, of those powers, has only to decide that the Authority ought to use them, for the Authority to feel that it has quite a considerable influence - a proper influence - so far as the policing of its local area is concerned; putting that always ..... in the context of the operational independence of the Chief Constable.

"The government believe that the Police Act 1964 continues to provide the right framework for policing in this country. By its very nature, the constitutional balance of responsibility is a delicate one. The precise way in which it is achieved can be adjusted, as it has been in the past, to suit changing circumstances as well as local needs. But we are convinced that within the basic structure provided by the Act, the role of the three elements which compose it and the relationship between them can develop in a constructive way which enables each police force to discharge its duty".

This confidence in the structure of Police Authorities was maintained despite the public debate that surrounded the disorders of 1980/81, partly because Lord Scarman's Report indicated support of the provincial Police Authority arrangements. In the White Paper entitled "Streamlining the Cities" 1983 (68), Central Government confidence was expressed thus:

"The Government are satisfied that the present general structure of Police Authorities is working well, and that it would not be appropriate now to consider breaking up existing police forces".

xi) Consultation and Accountability

It will be recalled that Banton put forward the idea of co-opted members onto the reformed Police Authorities that he had proposed, and that other observers had favoured the idea of closer consultation with the community. Indeed, community policing and contact with the public were seen by many police officers as being fundamental to their role, although many of these activities and initiatives had not received much public attention before John Alderson's methods in Devon and Cornwall received great media interest. Most police forces in England and Wales either established community relations branches or appointed officers with specific responsibilities for community contact during the 1960s and 1970s, and the idea of the "home beat constable" or "community constable" has an equally good pedigree. In Scotland the importance of good community relations was no more underestimated than it had been south of the border and it would be inaccurate to say that the police service had failed to give proper attention to maintaining good relationships with the public. However, events in the early 1980s showed that certain sections of the community were prepared to resort to extreme violence and severe disorder either because they claimed to be expressing frustration at social conditions or because they were prepared to join in criminal activities for other reasons. Whatever the causes of the social disturbances, and Lord Scarman considered these in great detail, there is no doubt that much of the anger and disorder was directed at the police.



The importance of Lord Scarman's report is that it focussed attention on the important link between consultation with the community and the accountability of the police service for its policies and actions. Scarman expressed general satisfaction that most forces recognised the importance of good community relations and, indeed, he paid tribute to the good work that was done in the community by the police service, but also he identified the fact that many groups saw community relations branches as being "a mere public relations exercise". Indeed, many people, both within and outwith the police service, had questioned the need for a specialist branch to do what was supposed to be a normal part of day-to-day police work, and there is no doubt that the "PR" label was a difficult one to avoid. Nevertheless, the police service maintains its confidence that there is a need for that particular specialism in the same way that other specialist departments can be justified.

Scarman acknowledged both the value of the branches and the need for the kind of expertise that they were able to bring to police/public relations but he also recognised that good relationships depended upon worthwhile consultation between the police and the community:

"Community involvement in the policy and operations of policing is perfectly feasible without undermining the independence of the police or destroying the secrecy of those operations against crime which have to be kept secret".

He went on to acknowledge that certain areas of police work were neither suitable for public knowledge nor debate but he observed that his investigations had convinced him that "the boundary between what may and what may not be disclosed has not been subjected to a close enough scrutiny" and he had become convinced, that if good relationships were to be able to survive, then it had become essential that some means of debate be devised so that the community voice could be heard and police policies could be shaped to take account of that where appropriate, and certainly that policing methods and policies should be explained. Further, Lord Scarman had become convinced that voluntary consultation was not enough "as the Brixton story illustrates" and that it should be based on a statutory requirement.

Clearly, this line of thought went further than traditional police methods of "contact" with the community had gone before in formal terms, although many Chief Constables would have been able to demonstrate how effective their policing methods had been in enabling them to sense "public opinion". Indeed, Sir Philip Knights called into question the efficiency of the Police Committee in being truly representative of the people of West Midlands, and no doubt Lord Scarman took notice of the value or otherwise of the full representation of the Police Committee in making his recommendations about statutory consultation. Certainly, consultation linked with accountability is likely to make for a better informed community which would be more likely to accept policies that it could understand and about which it had been able to express some views.

Scarman took the view that the existing statutory machinery for control of the police was working well but he came to the conclusion that many others had arrived at when he said:

"..... it is also clear that many Police Authorities are somewhat uncertain of themselves and do not always exercise the firmness which the statute envisages as necessary to the discharge of their awesome responsibility to secure the maintenance of an adequate and efficient police force for their respective areas".

He emphasised the duty of the Police Authority to maintain an adequate and efficient force and emphasised his view that a force that failed to consult locally must become inefficient. Of course, the police would argue that for over 150 years before they had not been deemed to be inefficient and the fact that in no force since 1964, had there been the need for Central Government to withhold the 50% grant on the grounds of inefficiency, would favour the view that traditional policing methods had been effective in most cases.

Whilst recognising that Police Authorities held extensive powers to enable them to ensure the establishment of liaison committees or other means to establish local consultation, Scarman favoured compulsion by statute. He made separate observations about the London Metropolitan Police and those are discussed later in the text (69).

John Alderson, then Chief Constable of Devon and Cornwall, submitted evidence to the Scarman Inquiry in September 1981 in which he saw the arrangements for control of the police, as put forward by the Royal Commission and enacted in the Police Act 1964, to be "out of balance" and his view was that the police service had tended to move further away from the people. The restoration of the balance was in "community policing" which, according to Alderson, required the three elements of -

- (i) Community Police Councils;
- (ii) Inter-agency co-operation; and
- (iii) Community constables appointed to localities;

all of which depended upon dedicated leadership and a wide dissemination of information to the public at large - what he called "a truly participatory scheme of things".

All of this required the force of law to bring about radical change and to that extent his views coincided with those of Lord Scarman; his wider involvement of the community in policing affairs embraced the views put forward by Professor Banton in 1975, but his method of presentation and the exploitation of this by the media caused something of a rift between Alderson and the rest of his ACPO colleagues. Nonetheless, few could quarrel with his observation that:

"Policing by consent has to be permanently negotiated since it is the permanence of change that poses the challenge. Policing has to go with many cultures (if legal, of course) not against some and with others. That is one reason why policing has to be community based to be effective. It must be sensitive to religious, racial, class and other differences ....." (70).

After the Scarman Report there was agreement amongst all three of the elements involved in police management that in order for accountability to be effective, there was a need, not only for improved relationships between Police Authorities and Chief Constables, if these did not exist, but also for a high degree of communication between police and the public and that Police Authorities had a duty in co-operation with the Chief Constable to see that the community was more widely and effectively consulted.

On 16 June 1982 the Home Office issued a circular to Police Authorities and Chief Constables on "Local Consultation Arrangements Between the Community and the Police" (71), after the matter had been discussed with Police Authorities, ACPO, AMA, ACC, the Police Federation and the Superintendents' Association and many other national and interested bodies. Acknowledgment was given to the wide range of consultative arrangements that existed throughout the country and there was a recognition that problems varied from area to area as did the methods of resolving them, and so a uniform pattern of consultation throughout England and Wales was not seen to be constructive.

It is interesting to note that the circular also encouraged consultation within the force so that Police Authorities and Chief Constables could take account of the views of the various staff associations (72).

A similar circular was issued in Scotland on 31 March 1983 (73) but it differed from the version south of the border in that it contained a statement of intent by the Secretary of State, based on his view that formal and informal arrangements for consultation in Scotland were so satisfactory, that legislation would not be necessary in Scotland to formalise arrangements for consultation.

It will be remembered that Scarman favoured legislation in England and Wales and that is provided for in Section 106 of the Police and Criminal Evidence Act 1984, subsection (1) of which states:

"Arrangements shall be made in each police area for obtaining the views of people in that area about matters concerning the policing of the area and for obtaining their co-operation with the police in preventing crime in the area".

The clause goes on to provide separate arrangements for London and gives the Secretary of State power to call for a report if he feels that arrangements are not adequate. The Police Authority is required to make the arrangements after consultation with the Chief Constable.

Whether or not there is a need for legislation, and that is not so apparent as it may have been at the time of Scarman, it has to be remembered that policing methods and policies are determined largely by the type of community to be policed and the resources available to undertake the policing (74). As Alderson has pointed out, "the community" is often a chameleon-like group, its views and make-up are changing constantly and it is impossible to provide a system that everyone will find acceptable.

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It has been seen that the general opinion that had been developing over the years was that Police Authorities in some cases had failed to fulfil their role and in many others the degree of exercise of any powers that they possessed had been apparently very slight. Harris in 1976 (supra) indicated an unsatisfactory approach to their duties; Scarman indicated that some Authorities appeared to be reticent about exercising their functions and Regan (75) found from his researches that "there is still great scope for them to improve their effectiveness".

Regan appears not to accept the opinions expressed by others, that the police are not sufficiently accountable and his remedy is not to pursue legislative changes too hastily, but rather to make the existing Police Committee system more effective by the use of its powers under the Police Act 1964. Regan expresses the view that Police Authorities could become more effective:

"By securing an adequate flow of information and by skilful use of sub-committees, Police Authorities could achieve much general influence over the conduct of their forces, whatever the legal niceties".

He recommends too that an increased frequency of meetings could help to increase the communication between Chief Constables and the Committee. No doubt, many hard-pressed local councilors could indicate some difficulty in attending any more meetings than their present busy schedules allow.

Unfortunately, Regan does not present the evidence that he has gathered and so it is difficult to judge from what basis he draws his conclusions, but there is much commonsense in what he writes and he points out that a failure to maintain good relationships between the Chief Constable and Police Authority can have many bad consequences. As others have said, personal: ity, both of the Chief Constable and the Committee members, is an important ingredient in the relationship and Regan is of the opinion that -

"Constabulary independence is too precious to be squandered in needless conflicts with Police Committees".

Also he refers to an observation by Sir Robert Mark, that -



"the greatest challenge for the police of tomorrow ..... is the threat of change in their constitutional position" (76).

and that is certainly the fear that many Chief Constables have, not only because it would affect their own positions, but also because they can see that society would suffer as a result of any change which reduced police independence.

Clearly, Regan argues for great communication between Chief Constables and Police Committees (and we must assume that he has evidence that such "communication" is absent in many forces - although that is not the writer's personal experience) because this can be a counter to ill-informed and partisan criticism.

If a Police Authority is not well informed then who can express surprise if the members make judgments based on rumour, speculation, press reports and complaints? As Dr Waddington says:

"It is far easier for critics to make ill-founded allegations about police policy and behaviour, because whenever they are proven to be wrong, they can always hide behind a defence of not having access to the necessary information" (77).

Obviously, there are advantages to the Chief Constable who is able to show that he has satisfied his elected Authority about matters that he cannot comment about in public.

Regan does make reference to reports of conflict between the Chief Constable of Merseyside and the Chief Constable of Greater Manchester with their Police Authorities at the time of the 'riots' in 1981, and one would expect that he has more evidence than this to support the view that relationships in many police forces are less than satisfactory. ACPO and ACPO(S) would claim that generally they are good and that it is only to be expected that serious situations would provoke criticism from some quarters.

Certainly both the Merseyside and Greater Manchester Police Authorities are on record as having a good relationship with the Chief Constables, but the point made by Alderson about changing communities is also relevant to elected Police Authorities; members come and go, sometimes the political persuasion is "left", "right" or "hung", in which case the relationships between the Committee for the timebeing and the Chief Constable, who tends to be more permanent, may vary. There are many publicly reported examples of some Police Authority members adopting extreme political stances and conflict in some circumstances seems inevitable.

The Chief Constable of Greater Manchester, James Anderton, was obviously impressed by the views of Regan because he submitted a report to his Police Committee in May 1983, proposing the setting up of sub-committees to enable the establishment of more constructive relationships between senior police officers and the Committee. This proposal was seen as developing a theme which Anderton himself had proposed in 1981 at a seminar in London (78) when he commented on the accountability of police:

"Both the general and specific accountability of police could be strengthened by a much greater use of the provisions contained in the Police Act. A county council should invoke more often and more searchingly, its powers to put questions on the discharge of the functions of the Police Authority (see Section II, Police Act 1964 - my brackets) and the Police Authority likewise should call for more reports from the Chief Constable. Accordingly, a much more open exchange of views would be healthier.

"Chief Constables should be deeply conscious at all times of the immensely privileged and enormously responsible position they hold ..... and in this regard should - among other things - promote a welcome and honest improvement in their own accountability by volunteering more information to the Police Committee and the public and seize every practicable initiative and opportunity to communicate with the public at large and to win their genuine confidence and support".

In accordance with the views expressed in the report by Regan, Anderton proposed the setting up of the following committees:

1) Police Establishments and Appointments

to keep the committee informed on a regular basis about the strength, promotions and transfers in the force and of the civilian establishment.

2) Buildings and Equipment

to enable the Committee to scrutinise and evaluate proposals for expenditure on buildings and equipment.

3)/

3) Complaints

to enable the Police Committee to fulfil its statutory role under Section 50, Police Act 1964, to keep itself informed on the manner in which complaints from members of the public against police are dealt with by the Chief Constable and to comment thereon.

4) Reports and Questions

In this area Anderton was careful to draw attention to the position as contained in the Police Act 1964 but was very supportive of the view that the Police Committee should be supplied with as much information as possible and that the Chief Constable should be prepared to answer questions put by the Police Authority, despite the fact that there is no direct statutory power to compel this.

"I hardly need to remind the Police Committee that certain difficulties have arisen in the past over the interpretation of my own statutory duty in this respect, but I have always endeavoured to be true to my position as Chief Constable and have willingly furnished reports, on request or by my own volition, where no legal, technical or constitutional barriers have stood in the way" (79).

The Police Authority for Greater Manchester had set up sub-committees dealing with community liaison, complaints and force catering and had discussed the setting up of a crime committee. Anderton's initiative was an attempt to build on that existing structure and as a preliminary step he proposed the formation of a sub-group of the Police Committee to meet with himself/

himself and selected senior officers, to devise a proper structure to enable the Police Authority "to explore, co-operatively, the various facets of police work and to provide the best possible information base upon which decisions can be taken in the future".

These proposals would surely be unexceptionable to any Police Committee and must prove beneficial to all but those with closed minds or rigid and unshakable hostility towards the police, at the very least, bearing in mind the disagreements between the Chief Constable and a Labour dominated Police Committee, they represented an olive branch.

xii) The Emergence of Policing as a Political Issue

Sir Philip Knights, a chief officer of some 25 years standing, has made the point that politics have always been involved in Police Authority activities:

"Certainly the old Lindsey Standing Joint Committee was not independent of the Lindsey County Council - the financial policy of the county council was faithfully reflected in the way its representatives voted in the standing joint committee .....

"In Birmingham too, where the Watch Committee was a committee of the city council, the "crunch" decisions were apt to be effectively taken at the group meeting of the majority political party on the council, rather than in the meeting of the Watch Committee.

"What was different, however, was the fact that "law and order" as such was not the important, live political issue it is today" (80).

Gregory too has mentioned his concerns about political effects on Police Authority activities (81). And clearly there was evidence in the early 1980s of political interest in policing as an election issue.

In 1982 Roy Hattersley, MP, the Shadow Home Secretary, made an address to the South Gloucestershire Constituency Labour Party on the subject of the Accountability of Police in which he said of Chief Constables:

"Men who enjoy the power and authority of controlling police forces ought to have their rights and responsibilities clearly set out in statute. At the moment they are, as far as most decisions are concerned, answerable to nobody".

Even allowing for "political licence", that statement would not bear much examination by even the most biased, but informed, observer, and it is typical of the sort of thing that is often said in commentary about the police service. Hattersley then continued to say:

"the best chief officers and the bravest committees all agree that by careful examination of the Act's small print, Police Committees can exercise far greater powers than those they were once thought to possess".

That statement contradicted his former assertion and indicated a misunderstanding of the position of the Chief Constable in relation to both Central and Local Government and yet on the strength of it, Hattersley went on to call for a new Police Act that would give "real power to the Police Committees", in the form of being able to be responsible for police policy; he gave as a concession to the Chief Constables the ability to be operationally independent within the policies laid down by the Police Committees. According to Hattersley's plan, the Authorities would comprise solely elected representatives who would determine the nature of policing in their district and this seems to have been designed on the lines proposed in Jack Straw's Bills./

Bills. There is no doubt that such suggestions would be anathema to Chief Constables who could cite examples of where such a plan would lead to imbalance throughout the country in policing methods and standards and who could also show that such an Act (were it ever passed) would have consequences upon the security of the State (82).

The subject of policing was also a major point of discussion at the Labour Party Annual Conference in 1982, when many of the suggestions which appeared in Jack Straw's Bills were discussed and proposed as policy for any future Labour Government. In the election manifesto published in 1983, the Labour Party stated:

"but we also believe that it is as much in the interests of the police, as of their local communities, that they are properly accountable to elected representatives and fully subject to the law".

Additionally, such matters as the introduction of an independent element in police complaints procedures and the creation of community police councils as discussion forums, were proposed. The Conservative Party manifesto was concerned about the "Law and Order" issue generally and no reference was made to increased accountability other than to state that closer co-operation and understanding between the police and the community was necessary.



The "live political issue" often degenerated from an informed debate into barren and thoughtless assertions, depending upon which particular line was supported. What was then, and is now, apparent is that a great deal of ignorance amongst the community at large prevails about the law and administration concerning the police, and this ignorance is often shared by the "Local" and "Central" politicians who are so anxious to bring about reforms in the shape of "control" as opposed to "accountability". According to George Cunningham, MP, (83), control of the police became one of the "litmus paper tests" amongst Labour Party activists for judging loyalty and the cry for "democratic control" became a slogan for the activists. Cunningham felt strongly that "rational, calm and prolonged discussion" was necessary for such an important issue, particularly at a time when "political interference" had led to calls for the removal of councillors from Police Committees by Anderton (84); and there were reports that one county council had used its powers to ensure that its ruling political party had a majority on the Police Committee over the minority party and the magistrates combined. He went on to make the point that had been made by many others, that provincial Police Authorities were uncertain of their powers and that some Chief Constables had become so concerned about possible political interference in operational matters, that they resisted the discussion of policy matters with their Committees in case this might lead to a bid for control of policies. Cunningham was particularly condemnatory of Hattersley's declared aims and observed that if Labour were to win the next election, then there would be no need to think about who would control the police. These thoughts and observations led Cunningham to conclude that a national control of the police was the only remedy:

"The fact is that in modern conditions only the Home Secretary and Parliament have the clout to control the police and only the Home Office has anything like the degree of professionalism to carry it out without exposing law enforcement to petty local politics".

Cunningham went on to express the concerns, that reflected the opinion of many senior police officers, that without Central co-ordination, situations could arise with different Police Authorities which would fly in the face of the requirements of the Secretaries of State concerning the payment of the 50% grant, viz: that there was adequate co-operation between forces and that the police service was properly maintained and equipped (85).

Not surprisingly, the debate on "political control" continued into the Joint Summer Conference of the ACC/AMA/ACPO group held in 1982 at Torquay. Barry Pain, then Chief Constable of Kent, condemned what he referred to as "too much political point scoring" in the debate and drew attention to the fact that the Royal Commission in 1962 had as a major consideration the possibility that "local political pressures might be brought to bear on the police in such a way as to jeopardise impartiality in enforcing the law" - hence the tri-partite arrangement that had been established to counter that possibility.

Nevertheless, Pain went on to say that the growth of partisanship had become more apparent in recent years and he spoke of the way that Police Authorities of a different political persuasion to Central Government had set out to hinder the policies of Central Government, while those with similar politics sometimes "toed the party line" to the detriment of local affairs.

"In such situations is there not the danger that a Chief Constable can find himself in an untenable position when attempting to obtain the necessary resources for the efficient policing of his area?"

Pain raised the question about changing the format of Police Authorities, possibly by increasing the magistrates' representation to 50%, in order to dilute the effect of party politics in the police forum. Clearly as a Chief Constable and President of ACPO, he was voicing the genuine concerns of Chief Constables that the political independence of policing was under serious threat, particularly from a major political party who would, undoubtedly, stand a good chance of forming a future Government. However, his concerns and suggestions for reform seem to have fallen on deaf ears as far as the AMA was concerned as was evident from a policy document issued in November 1982 (86).

The AMA stated that in the same way that Local Authorities were responsible to the local electorate for education, housing and personal social services, so too were they accountable for the police service which was seen to be as much a part of local government as all the other services based upon and provided by the local community.

In particular, the AMA urged the Home Secretary, in consultation with the Police Authorities and Chief Constables, to issue "authoritative guidance" which could form the basis of good practice to be followed by Police Authorities and Chief Constables. Also, and perhaps not surprisingly, since all metropolitan authorities were Labour dominated, the association called for all the reforms in the Police Act 1964 mentioned in Straw's abortive Bills. The role of the magistrates was regarded as being inappropriate in the Police Authority on the clear grounds that there should be separation of the police service from the judiciary and so, implicitly, Pain's proposals were rejected.

Despite the historical association of the magistrates with Police Authorities, it is difficult to resist the logic that requires the "separation of powers" in Police Authorities as elsewhere and if change of structure is thought to be appropriate, then the argument for non-political police boards selected in another way is worthy of consideration (87). Knights doubts whether such calls for change are realistic (88) but makes the plea -

"If we are to have change, please let us do it on the basis of what is best for the efficient policing of the Kingdom, rather than it be blithely accepted that it can simply follow automatically on a re-cast system of Local Government".

The AMA policy document made many proposals which would give the Police Authorities a great deal more influence in matters which hitherto had not been their concern, and to the Chief/

Chief Constables it was, no doubt, something of an irony that the concluding statement of the document underscored what ACPO had been saying for long enough:

"..... a successful outcome to consultations depends upon the goodwill and understanding of all the parties involved. This applies even more so to the tri-partite structure and the balance between the Home Secretary, Police Authorities and police forces. This balance is a delicate one, but a unique feature of our constitution and one which the association is anxious to preserve.

The particular proposals that Police Authorities should be responsible for "general policing policies" and for the appointment of officers of the rank of Superintendent and Chief Superintendent would never be acceptable to ACPO and were seen as being a fundamental attack on the concept of an independent and politically impartial police service.

To the AMA however, the idea of "political interference" was not such an important issue. Speaking at the Joint Summer Conference of AMA/ACC/ACPO in 1983 at Eastbourne, Councillor Edwin Shore, chairman of the AMA police and fire committee, and chairman of the West Midlands Policy Authority, used the occasion to poke a little fun at police fears. Referring to a statement attributed to the newly appointed Chief Constable of Sussex, Mr Roger Birch, who was quoted as saying that he would brook no political interference in operational matters, Councillor Shore asked whether police officers imagined that a Labour controlled Police Authority would prohibit the investigation of /

of burglaries in Tory-owned houses? Amused as they were, the senior police officers present were of the opinion that the implications of political control were too great to be treated casually.

An academic commentary on the debate took the view that:

"It remains, despite police claims to the contrary, an intractable but ever-present fact that policing cannot be taken out of politics in any society that aspires to the notion of democratic control and ultimately public accountability via the ballot box" (89).

But another sociological view of the issue seeks to distinguish between "politics" in the broad sense of the public interest upon which some police decisions are taken, and the "partisanship" concerned with the representation of "interests" which is alien to an organisation which has as its foundation, its independence and dis-interest. Waddington makes the point that the role of the politician is necessarily concerned with interests that are often "sectional" and it is this that is seen to constitute the greatest threat to the neutrality and impartiality of the police (90). Waddington goes on to say that at least some of the events that led up to the Royal Commission in 1962 involved scandals concerned with the workings of some of the old Watch Committees!

"It is no accident that the Royal Commission recommended and the Police Act 1964 enacted a reduction in the powers of Police Committees compared to (sic) their Watch Committee predecessors, nor that they recommended and it was enacted that magistrates should constitute one-third of the membership of such committees, thus reducing the influence of the elected element and increasing the influence of the "judicial" element". . . . . "It is incumbent upon those who advocate increased political accountability and control, to show that this is likely to lead to a more impartial and neutral police force, not less".

It is odd that the arguments put forward in favour of exercising greater control over the police stem from a desire to return to the days before 1964 which the Royal Commission, as Waddington says, set out to change. There is little emphasis on using the powers within the Police Act and what would appear to be necessary is an education of both the public and the elected members as to what Police Committees are for and how they may function to good effect. The Chief Constables can hardly be blamed for an abdication of authority by some Police Committees and many of them would argue that they have operated in the way intended by the Police Act. At the same time that there was this hiatus in the effectiveness of Police Authorities, there was too, as a result of the recommendations of the Royal Commission, an increase in training and a rapid growth in professionalism within the police service, which produced a confidence in Chief Constables which may not have been so pronounced before 1964.

Loveday made the observation:

"In the face of this apparently willing abdication of responsibility by the Police Authority it should occasion little surprise that Chief Constables have readily moved to fill the vacuum created by the inactivity of Police Committee members themselves" (91).

Perhaps it would be more accurate to say that the police have worked at developing and maturing as a professional service in a way that has not been so easy for councillors; there is more continuity within the development of the police service with common training centres and colleges than is possible in Local Government circles made up of part-time councillors who have to face periodic election.

In recognition of the weakness in Local Government training and in an attempt to remedy the defect, the AMA produced a valuable booklet written by Harris of South Yorkshire (supra) entitled "What the Police Committee Member Needs to Know" (92). The booklet sets out the position as it was in 1983 and not as the association would like it to be according to its policy document issued one year earlier, and according to Councillor Edwin Shore, it emphasises the idea of a "constructive partnership" between the elected members as representatives of the community and the Chief Constable:

"What we have under the Police Act 1964 is an example of the system of checks and balances so familiar in the British Constitution. What our document describes is how this system can be operated constructively" (93).



xii) One Man's View of the Future

In a lecture delivered in Edinburgh early in 1984 (94), John Alderson, the former Chief Constable of Devon and Cornwall, expressed a personal view that may have been a more persuasive argument for Local Authority members to follow in their campaign for greater control of the police.

Alderson referred to the British society in economic decline and agreed with the views of Arnold Toynbee reported in "The Observer" ten years earlier.

"The economic deterioration in developed countries indicates the onset of a new way of life, a severely regimented way of life which would have to be imposed by a ruthless authoritarian government" (95).

Arguing that a severe economic decline might be accompanied by equally severe public disorder in a prolonged version of the 1981 experiences in mainland Britain, Alderson posed the question "How stand the proposals for policing by consent?" And then went on to assert that should such a situation produce a "ruthless authoritarian government" to cope then it would be possible and even likely that the police forces in Britain "could quite easily be converted into an effective arm for such a government".

Later in 1984, as a result of extreme violence on some "picket lines" during the Miners' Strike, the Prime Minister found it necessary to make a statement about increased powers for the courts and the police, which could be construed as lending weight to Alderson's opinion:

"If the police and the courts are lacking in the powers necessary to keep the peace in a free society and necessary to protect the weak against the strong, then we shall introduce measures which will give them what they need" (96).

Alderson said of the police:

"It is a highly mobile force with excellent national communications and data banks and an intelligence system. It is well armed, possesses the appropriate riot equipment, including the dreaded and lethal plastic bullet. It has developed highly trained companies of riot police with the best equipment. All of this is quite capable of justification, but it raises the question of control .....".

No doubt the police response would be that there is a world of difference between forces combining together to suppress extreme civil disorder for the time being and all Chief Constables agreeing to act together to behave in a way totally alien to their training and in a way which would negate all of the arguments put forward for maintaining police neutrality and independence (97). Of course, as Alderson points out, Emergency Powers may be taken and therefore it would be possible to create/

create a National Police Force overnight, but whether the police service would be willing to become an arm of Central Government is open to question. Alderson anticipates little objection from "a well disciplined organisation, comparatively highly paid and tightly knit". He does concede, however, that hitherto "the police generally steer clear of political intrigue".

It would be far more logical for local politicians to argue for increased local control of police if the Alderson prospect were to be accepted generally, but in reality the argument relates to an extreme hypothesis which would require extreme and emergency measures. In the normal course of events, it would appear to be sensible to argue for a constructive partnership of service to the community rather than to press for fundamental change for little better reason than a desire to return to the "status quo ante". Any other argument would lend a touch of irony to the AMA call for the Home Secretary to adopt a "vigorous and dynamic" role as a strong central partner (98).

"The exercise of police judgment has to be as independent as the exercise of professional judgment by a doctor or lawyer. If it is not, the way is open to manipulation and abuse of the law, whether for political or private ends". (Lord Scarman)

NB The case for and against a national force is examined later in the text as is the case for a change in the structure of Police Authorities.

2. CENTRAL GOVERNMENT

i) Introduction

It will be remembered that the Royal Commission recommended, amongst other things, that the Secretaries of State should be given a statutory responsibility for the efficiency of the police but that they should not be given powers of direction over operational matters on the grounds that this would be inappropriate and that it was desirable that the police should be seen to be responsible for the enforcement of law (99). Despite this recommendation, the government did not see fit to introduce that statutory responsibility in either the Police Act 1964 or the Police (Scotland) Act 1967; most of the other recommendations in this area were accepted and introduced with the major exception that a Chief Inspector of Constabulary for Great Britain was not appointed but a Chief Inspector for England and Wales and another for Scotland were introduced.

In the same way that policing was seen to be a matter based upon co-operation and consent of the community, so too was it preferred that the Secretaries of State should act by persuasion and goodwill rather than by force and direction. Although no statutory responsibility for efficiency rested with them, the practical effect of the Police Acts has been for it to be accepted that both the Home Secretary and, to a lesser extent, the Secretary of State for Scotland, are required to exercise their powers in such a way as to bring about an efficient police service. The Police Act 1964 gives the Home Secretary certain powers which must be exercised to/

to such an extent as appears to him to be best calculated to promote the efficiency of the police service. In reality, the powers and influence of the Home Secretary are enormous and it would be very difficult for a Police Authority to act in a way which was contrary to his wishes; also, to a slightly lesser extent, a Chief Constable would be unwise to fly in the face of the Secretary of State over matters concerned with the "government and administration" of the police. Clearly there are areas concerned with law enforcement and operational matters which are solely within the province of the Chief Constable and provided that he carries out his duties in an efficient manner then it is unlikely that the Secretary of State would wish to interfere; however, the Chief Constable's freedom of action, whilst being seen to be extensive, is governed by circulars and regulations issued by the Secretary of State which are designed to promote the best practice and a degree of homogeneity amongst forces, as advocated by the Royal Commission.

In Scotland, the Secretary of State does not have the same general duty, with regard to police efficiency, imposed upon him. Nonetheless, the distinction is, in many ways, an academic one and it is inconceivable that the Secretary of State for Scotland would deny his interest in securing an efficient police service in Scotland, or that he would consider acting in a way contrary to achieving that end. Apart from that distinction, the roles of the Home Secretary and the Secretary of State for Scotland are very similar with regard to the police forces other than the Metropolitan Police for which the Home Secretary is the Police Authority (100).

According to Fraser (101) "the basic functions of the State - its *raison d'être* - is the maintenance of law and order. All other functions depend on this", and this gives rise to an apparent paradox in that as well as Central Government being responsible for "law and order", so too are the police, but the police are not agents of the government. The degree to which government is responsible for and answerable for the behaviour of the police, is limited and precise, and that also applies to force organisation, structure and administration. Nevertheless, the Royal Commission was anxious that the Secretary of State should be armed with sufficient powers to enable him properly to discharge his proposed responsibility for efficiency and it made recommendations and expressed the desire that the then fragmented police service should move rapidly towards uniformity and to the situation where mutual aid and co-operative ability were seen to be important factors in efficiency upon which the Central Government grant of 50% depended.

Homogeneity and co-operative ability are exactly as things have developed in police forces in the 1980s and the reality of the situation is that in positive effect, if not strictly in law, the Secretaries of State, both north and south of the border, exercise a very high degree of influence on police efficiency and they in turn frequently are called to account in Parliament for the way in which police forces operate. It has been accepted that the Central Government should be the dominant of the two "Government" parties within the tripartite relationship, and as recently as 1983 the Association of Metropolitan Authorities endorsed the view that the Home Secretary should exercise a strong central role that should/

should be both "dynamic and vigorous in these difficult times" Indeed, in England and Wales, there exists a "Working Party on the Tri-partite Structure" (comprising representatives of the Home Office, HM Inspectorate, Chief Constables, the Association of County Councils and the Association of Metropolitan Authorities), whose discussions are proceeding on ways in which the "partnership" in policing can be improved and how best the Home Secretary can assist Police Authorities and Chief Constables to secure a more efficient police service.

It was not always so, and the future may hold different attitudes, particularly with the threatened dismantling of the Metropolitan Authorities planned for 1986 (102). In 1980 a Joint Working Party on Police Matters, formed by the two Local Authority associations in England and Wales, challenged the Home Office attitude of dominance in all matters of police administration. The working party stated that the Home Office commonly propounded a theory that the Home Secretary was obliged to exercise a greater degree of control over the police than his Ministerial colleagues in other Local Authority services, on the basis that:

- a) Section 28, Police Act 1964, gave the Home Secretary a general duty for efficiency.
- b) The special constitutional position of the police, and
- c) The overall responsibility of the Government through the Home Secretary to maintain law and order.

The working party then proceeded to demolish some of the arguments that it had identified by challenging the Government interpretation of Section 28, Police Act 1964. This section should not be interpreted as giving the Home Secretary any general power or duty to oversee the operation of the police service but merely as requiring him to exercise his other powers under the Act in a way most likely to promote efficiency. It was seen as fallacious to argue that the section justified the Home Secretary in retaining detailed control of the police administration and the working party went on to point out that the Home Secretary, William Whitelaw, had been wrongly advised over the content of his 1980 James Smart Lecture when he said:

"Under the Police Act 1964, which sets the framework for our policing arrangements, I have a general responsibility for securing the effectiveness and efficiency of our policing arrangements and I have a number of powers to help me achieve this."

This was seen to set the situation the wrong way round as the general responsibility in Section 28 explains how the Home Secretary has to exercise his detailed powers and not vice versa (103). Perhaps by 1983 the AMA at least had recognised that whilst that interpretation was technically correct, the reality was that over the twenty years since the passing of the Police Act 1964, practice and effect had come to mean exactly what Whitelaw had said about his powers and duty. Presently, no practical challenge is tenable to the functions of the Secretary of State as interpreted in the 1980s despite claims that police administration is sometimes controlled by "unaccountable civil servants" (104). Certainly, at least one senior and respected Chief Constable, Sir Philip Knights of West Midlands Police, said in 1982:



"..... if the Secretary of State is to be held accountable to Parliament, as he is, for the efficiency of police forces, then it seems quite reasonable that he should have some control over the organisation of those forces and the appointment of those who lead them. In the wider interests of national efficiency, I believe this central involvement and direction to be crucial" (105).

The responsibilities and powers of the Secretaries of State are broadly those described in the first chapter on the constitutional position of the police and they are set out in the Police Act 1964, Part II, and the Police (Scotland) Act 1967, Part II. Broadly, they are powers to make regulations or to supervise and to act as an appellate authority in disciplinary cases, all of which are designed to ensure:

- a) that the Police Authorities are effective in the exercise of their duties;
- b) that the police service is efficient;
- c) that there is interforce collaboration and co-operation in the interests of efficiency, and
- d) the provision of ancillary services to promote efficiency.

ii) The Exercise of Powers and Responsibilities  
by the Secretaries of State

a) Consultation

Consultation within the tri-partite arrangement is essential for all of the participants to be able to fulfil their role satisfactorily. If the Local Authorities could be accused, in some instances, of lethargy and failing, fully, to understand their role, the same could never be said of Central Government; if anything, the criticism would be more likely to be that Central Government had taken to heart too well the message of centralisation passed to it by the 1962 Royal Commission Report.

In reality, there is little day-to-day contact between Central and Local Government as far as individual forces and Police Authorities are concerned. Such contact as exists is limited to an exchange of correspondence, usually from Central to Local Government, concerning such things as amendments to various regulations or answers with regard to applications for increases in establishment or the transfer of personnel to periods of central service. There are a myriad number of matters which involve the exchange of letters, but many of them are formal and do not involve significant discussion and consultation with: in the individual partnership. The real consultation takes place, often through representative bodies and associations, some of which are provided for within the Police Acts; other bodies are voluntary associations which have come to have formal and important recognition.

As events developed in 1984 and increasing friction became apparent between the Chief Constable of Greater Manchester Police and his Police Authority, both parties were reported to have written to the Home Office to clarify their respective powers and positions. However, this type of correspondence is not normal between the Secretary of State and Police Authorities, although it remains to be seen whether it will become more frequent if more conflict is reported between Chief Constables and Police Authorities (see final section for further details).

Section 45, Police Act 1964 provides for the continuance of the Police Council for Great Britain, which existed for the purpose of making recommendations to the Secretary of State on matters concerned with "hours of duty, leave, pay and allowances, pensions or the issue, use and return of police clothing, personal equipment and accoutrements". The Police Council comprised persons representing Police Authorities, police officers and police cadets and before making any regulations affecting any of the mentioned matters, the Secretary of State was obliged to take into consideration recommendations by the Council and he was obliged to furnish the Council with a draft of any proposed regulations. The Police Council was abolished by the Police Negotiating Board Act 1980, which set up the PNB for the United Kingdom, to consider similar matters as the Police Council but which now included the interests of the Royal Ulster Constabulary.

Section 46, Police Act 1964 provides for a Police Advisory Board for England and Wales and one for Scotland, and these exist for the purpose of advising the Secretaries of State on general questions affecting the police in those countries. The constitution and proceedings of each of the Advisory Boards is such as may be determined by the Secretary of State after consultation with the organisations representing the interests of Police Authorities, members of the police forces and police cadets. Similar provisions with regard to regulations apply as under Section 45. In Scotland, the Police Advisory Board comprises representatives of the Scottish Home and Health Department, the Convention of Scottish Local Authorities (CoSLA), the Association of Chief Police Officers (Scotland) (ACPO(S)), the Superintendents' Association, the Police Federation (also representing police cadets) and it meets, usually, once but, perhaps, twice per year. There is a similar constitution of the Board in England and Wales.

Section 44, Police Act 1964, provides for the continuance of the Federation of England and Wales, and a Federation for Scotland, and these exist for the purposes of representing members of police forces, up to and including the rank of Chief Inspector, in all matters affecting their welfare and efficiency, other than questions of discipline and promotion affecting individuals. The Secretary of State must adopt certain procedures of consultation before making regulations under this section affecting the government and administration of the Federation. There is, too, a Police Federation for Northern Ireland.

There are two other organisations within the police service which represent the interests of serving officers and which have formal recognition although they are not established by statute: The Police Superintendents' Association - there is one for England and Wales, and one for Scotland - representing officers of the rank of Superintendent and Chief Superintendent - there is a Superintendents' Association for Northern Ireland; and the Association of Chief Police Officers for England and Wales and Northern Ireland, and a similar Association for Scotland, representing officers of the rank of Assistant Chief Constable (Commander in the Metropolitan Police), Deputy Chief Constable and Chief Constable.

In reality, these associations play a very active part in consultation with both Central and Local Government and their professional expertise is a great source of assistance in matters affecting the police service, as well as in other matters particularly affecting legislation. These bodies are consulted on a regular basis and their contributions are often highly regarded by the Secretaries of State. There are regular meetings between all of these associations and members from each of them will be invited as observers to the annual meetings of the other individual organisations; both nationally and locally, such consultations are regular occurrences and in recent times the Joint Negotiating and Consultative Committees and Joint Liaison Committees involving the Police Authority, have been set up as a result and recommendations following on from the Edmund-Davies Report on Pay and Conditions of Service (supra).

The Local Authority bodies are the Association of County Councils and the Association of Metropolitan Authorities in England and Wales and the Convention of Scottish Local Authorities north of the border; there is much evidence within the text of co-operation and discussions between these bodies and the ACPO organisations. There is also frequent contact and consultation between these associations and the other police representative organisations. Each one of the Local Authority associations and their many specialist committees are likely to have a professional adviser from the police service present at any meetings involving police matters, and all of these bodies consult with and make representations to the Secretary of State.

In addition to these associations and committees mentioned above there are various standing committees, sub-committees and adhoc committees, all concerned to consider certain matters and to advise, or make representations to, the Secretaries of State, in the interests of the efficiency of the police service. All of the police organisations have specialist committees to consider such things as traffic, communications, complaints and discipline, training and all the ancillary matters affecting the day-to-day running and organisation of the police service.

As well as the statutory organisations and meetings, there are others that are essential to the efficient running of the police service. Since 1917 there has been the practice to hold a Central Conference of Chief Constables, usually at the Home/

Home Office, and chaired by a very senior civil servant, on one or two occasions a year, when such things as proposed legislation, regulations or "advisory" Home Office circulars may be discussed. According to Brogden (106): "No circular would be issued from Home Office against ACPO's veto", but that is perhaps overstating the case. In Scotland there is a similar meeting between the Chief Constables and the Secretary of the SHHD on matters of importance to the police service, which is usually an annual event, although requests for additional meetings from either side would be received favourably. Unlike the situation in England and Wales, there is not a joint conference between ACPO(S) and CoSLA, nor is it usual for either the Secretary of State to attend the ACPO(S) Annual General Meeting, as is the practice for the Home Secretary south of the border.

b) Exchequer Grant

The ultimate sanction for the Secretary of State to secure compliance with his wishes is the power to withhold the 50% grant either on general or specific grounds of efficiency, and it may be withheld in whole or in part, but there do not appear to be any occasions which have come to public knowledge when the grant has been withheld since 1964. Additionally, the Secretary of State may call upon the Police Authority to require the Chief Constable to retire in the interests of efficiency (107). It is interesting to note that the Acts are framed in such a way that the Secretary of State does not move against the Chief Constable direct, but through the Police Authority.

c) Enquiries and Reports

A further power which is given to the Secretary of State to secure efficiency is that which enables him to call for reports from the Chief Constable on matters connected with the policing of an area; (108) and finally, the Secretaries of State have wide powers to set up enquiries or to call for a special inspection of a particular force by Her Majesty's Inspectorate of Constabulary.

The enquiries may be statutory (109), as in the case of Lord Scarman's Inquiry in 1981 into the Brixton Disorders (supra), and the Challenor and Red Lion Square Inquiries (110), but such events are rare as is evident by the fact that there have been only three in England and Wales since 1964 and none in Scotland. Speaking during an adjournment debate on the case of Mr Liddle Towers on 12 December 1977, Dr Summerskill, Parliamentary Under-Secretary of State at the Home Office, outlined the circumstances in which successive Home Secretaries had felt that the power (under Section 32, Police Act 1964) might be used:

"To set up such an inquiry, like the more general power to recommend to parliament the use of the 1921 Tribunals of Inquiry (Evidence) Act, is a major step, and not one to be taken lightly. Successive Home Secretaries have taken the view that the power should be rarely exercised. Although no absolute rules can be laid down, the view is taken that it should be reserved, for example, for circumstances in which there is a national scandal concerning a police force, where the whole efficiency of the force is called into question or where there has been serious public disorder.



"It is also relevant to consider whether a particular incident can be or should be dealt with in some other way ..... It would not be right to view a Section 32 inquiry as a substitute for the other statutory investigations and procedures that have already been gone through, which arrived at conclusions that do not satisfy those involved ....."

Sir David McNee, former Commissioner of the Metropolitan Police recorded his objections to the use of Section 32 in the Brixton Inquiry on the grounds that it was intended to examine the riots in the context of the conduct of the police, when he asserted, and it was subsequently agreed by Lord Scarman, that there were many other factors "social, political, economic and racial which needed to be taken into account" (111).

The Waters Tribunal in 1959 (supra) in Scotland was held under the Tribunals and Inquiry (Evidence) Act 1921.

It is also open to the Home Secretary to set up an extra-statutory inquiry as in the case of the inquiry conducted by Sir Henry Fisher into the circumstances leading to the trials of Lattimore, Leighton and Salin, on charges arising out of the death of Maxwell Confait and the fire at 27 Doggett Road, London SE6. Originally, the inquiry was held in private but the report was published in December 1977 (112).

Exceptionally, the Secretary of State may call for a special inspection into a force, as in the case of the former Leeds City Police when, in 1972, the Home Secretary asked Her Majesty's Chief Inspector of Constabulary and an Assistant Commissioner of the Metropolitan Police, to undertake such an inspection following public disquiet about the way in which certain senior officers within that force had conducted themselves, resulting in the prosecution of some of them. The Home Secretary required the Inspectors to examine all aspects of efficiency and morale of the force, but not to investigate the allegations of criminal misconduct. The report of the examination was never published, neither did the inspection serve as a substitute for the normal, annual inspection by Her Majesty's Inspector of Constabulary. Shortly after this examination, the Home Secretary exercised his power to compel the amalgamations of the Leeds City Force with others, to form the West Yorkshire Metropolitan Police, but this amalgamation was likely to have occurred in any event.

d) Her Majesty's Inspectors of Constabulary

The introduction of an Inspectorate occurred in 1856 with the passing of the County and Borough Police Act of that year. This Act was important because through it Parliament acknowledged that Central Government had a responsibility to ensure that a regular law enforcement agency was established in every county and borough throughout the Kingdom and that it had a responsibility to ensure that all police forces were operating in an efficient manner. The Inspectors of Constabulary were introduced to ensure that Local Authorities complied with the statutory requirement to establish police forces and to ensure that those forces were of a minimum standard of/

of efficiency. Also, the Inspectors were introduced to see that the newly introduced Government grant (originally 25% but increased to 50% in 1874) was both deserved and properly applied. It is of interest to know that in 1857 there were 237 forces subject to inspection by the Inspectors and only 110 were found to be efficient, but by 1890 the number of forces had reduced to 193 and none was reported to be inefficient at that time, although there are examples of reported inefficiency thereafter and certainly there were occasions when the grant was either withheld or the threat was made in order to force compliance with the wishes of the Secretary of State.

Constitutionally, the Inspectors are of an independent status - they are Her Majesty's Inspectors not Home Office Inspectors. Normally, the Inspectors are retired Chief Constables of standing in the service, although there have been at least two occasions when non-police officers have been appointed to the post, but not in recent times. However, this practice of appointing ex-Chief Constables has been criticised by Brogden (113):

"As former senior officers in the police service, their interpretation of the activities and effectiveness of local forces are those of the state functionary not those of the consumer or recipient".

The/

The Inspectors are appointed under Section 38, Police Act 1964, and Section 33, Police (Scotland) Act 1967, by the Sovereign, on the advice of the Secretary of State, under the Sign Manual; they cease to be police officers, although they are still subject to Police Pensions Regulations. They are treated as civil servants in some ways but they are independent. In England and Wales they are required to carry out "such other duties for the purpose of furthering police efficiency as the Secretary of State may from time to time direct". This additional function of Inspectors is not provided for in the Police (Scotland) Act 1967. The Inspectors hold office during Her Majesty's pleasure and are paid out of monies provided by Parliament such pay and allowances as the Treasury may determine. One of the Inspectors may be appointed Chief Inspector of Constabulary. The Inspectors do not enjoy executive powers and it is their function to report to and advise the Secretary of State on the state and efficiency of all forces, other than the Metropolitan Police, of the mainland, and by invitation they also inspect the Royal Ulster Constabulary and the three island forces. Occasionally the Inspectorate may advise overseas governments on their police forces and in recent years Inspectors have been involved in police matters in Turkey, Hong Kong, Gibraltar, and the Caymen Islands.

The 1856 Act provided for three Inspectors and an Act in 1857 provided for one in Scotland. The Police (Her Majesty's Inspectors of Constabulary) Act 1945, removed the restriction on the number of Inspectors in Great Britain and made provision for a Chief Inspector for England and Wales and one for Scotland.  
Provision/

Provision also is made for Assistant Inspectors and Staff Officers under the Police Acts, as well as for administrative and secretarial support. In 1985 there were eight Inspectors covering Great Britain, including two Chief Inspectors, with one Inspector serving as the Commandant of the Police College, Bramshill, with a special responsibility for training. England and Wales was divided into five regions with an Inspector having an office in each region. Scotland has not been subdivided into regions but for a period of over four years, until 1984, it found itself in the absurd position of having a Chief Inspector of Constabulary and no Inspectors, only a Deputy Chief Constable seconded to Central Service, acting as an Assistant to the Chief Inspector. Scotland did not go along with the Royal Commission suggestion that a Chief Inspector should be appointed for Great Britain and that there should be two Inspectors in Scotland. It is difficult to understand why apparent national pride was allowed to overcome what would have provided a valuable and independent overview of Scotland, but having said that, it is right to point out that there is a very close relationship between the Inspectors north and south of the border.

It is interesting to note that the then Scottish Home Department shared an equal propensity with its successor, the Scottish Home and Health Department, to misunderstand the constitutional position of both police and the Inspectorate. In its memorandum to the Royal Commission on Police in 1962, it described the Inspector of Constabulary as the senior police officer in Scotland who would take charge of forces in the event of a national emergency!

The Chief Inspector of Constabulary in England and Wales acts as co-ordinator of the Inspectors and it would be unusual for him to carry out a formal inspection. He provides an annual report to the Home Secretary and he acts as professional adviser on police matters to the Secretary of State. There are two Assistants to the Chief Inspector, who have specialist functions:

- a) traffic, training and community relations;
- b) computers, communications, management information systems and research; crime and kindred matters.

These Assistants co-operate with the Inspectors in the field and with the policy divisions of the Home Office.

Each of the Inspectors visits and inspects the forces within his area annually and at the conclusion of each inspection, he submits a report to the Chief Inspector, giving a general assessment of the organisation and management of the force, including comments on its effectiveness and morale. The inspection report would contain detailed information on a very wide range of subjects, including matters relating to establishments and manpower, complaints and discipline, crime and traffic matters, training, buildings and administration, and a large number of other matters concerned with efficiency and effectiveness.

At the conclusion of the Inspection, the Inspector is required to judge whether the force is efficient and as well as reporting to the Chief HMI, he will discuss this inspection with the Chief Constable and he may also give a verbal report to the Police Authority; this is a matter which has been under review and it is likely that future reports to the Police Authority will be in writing (114).

Although the reasons for the setting up of the Inspectorate in 1856 are still broadly valid, forces now have become so professional, their common training has ensured such a high degree of homogeneity and the regular conferences between the professional bodies and both Central and Local Government has meant that:

"the days when they could or were likely to recommend the withholding of the Exchequer Grant on the grounds of inefficiency are over, and they are more concerned with matters of general policy and uniformity between forces than they are with local matters. .... The Inspectorate attempts to maintain a balance between police needs and ideal circumstances and this is done more by goodwill and persuasion than by the threat of a big stick from the Home Secretary" (115).

A Home Office circular issued in November 1983 under the title "Manpower, Effectiveness and Efficiency" has put a slightly different complexion on the way that the Inspectorate may be viewed. There is no doubt that part of Central Government strategy has been to reduce unnecessary expenditure and to secure value for money in the public sector. Home Office/

Office Circular 114/1983 was issued, after due consultation with the Working Party on the Tri-partite Arrangement (supra) and was designed to inform Police Authorities and chief officers of police -

"of the considerations which the Home Secretary will take into account in carrying out his statutory responsibility for approving police establishments: to invite chief officers and Police Authorities to keep their objectives, resources and priorities under review: and to inform Police Authorities and chief officers of the relevant matters on which the Home Secretary has asked HM Inspectors of Constabulary to concentrate their attention".

Under the circular, the Inspectorate are seen as having a key role in enhancing police effectiveness and the inspections are to be specifically directed "towards the way in which chief officers, in consultation with the Police Authority and the local community, identify problems, set realistic objectives and clear priorities, keep those priorities and objectives under review, deploy manpower and other resources in accordance with them, and provide themselves with practical means of assessing the extent to which chief officers are achieving their objectives".

It is not the Government's intention to prescribe identical methods of administration for each force but clearly the Inspectorate has a role to play in ensuring that good practice is passed on to other forces as well as sharing experiences and/



and failures; all of this activity is laudable but some have expressed the fear that it is evidence of a greater "centralisation" of the police service, leading in effect to a National Police Force, whilst others have expressed the view that it is a charter for Police Authorities to become actively involved in operational policing matters to the possible prejudice of the traditional independence. It remains to be seen whether or not that is so but it is as well to register the genuine concern. A similar circular has been issued in Scotland, taking account of the statutory difference in the responsibilities of both the Secretary of State and the Police Authorities.

e) Home Office / Scottish Office Circulars

Reference has been made about circulars issued by Central Government and they cover a whole range of subjects concerning the police. In 1979 the then Home Secretary described circulars thus:

"Circulars or memorandum issued by my department, for the guidance of chief officers of police, do not have the force of law ..... but may, where appropriate, contain advice on the exercise of discretionary powers conferred by Parliament". (Hansard 15.1.79)

Critchley has referred to the fact that over the years, "advice" and "guidance" have become euphemisms for "direction", and certainly it would be a brave or a foolish Chief Constable who/

who ignored the advice contained in such documents on a regular basis; this could be grounds for calling into question his continued efficiency.

Circulars are often used as a way of disseminating previously agreed matters concerning policing policies and as such they are likely to be regarded as having, in effect, the force of law. They are one more example of the way that the Secretary of State may take measures to ensure an efficient police service, and although there are occasions when individual circulars may rankle with some Chief Constables, generally they are welcomed as useful documents.

f) Common Police Services

Both the Police Acts make provision for the Secretary of State either to provide and maintain or contribute towards the provision and maintenance of "a police college, district police training centres, forensic science laboratories, wireless depots and such other organisations and services as he considers necessary or expedient for promoting the efficiency of the police service" (116). Additionally, there are sections which give the Secretary of State power to set up bodies for the purpose of undertaking research into matters affecting the police; this has been done on a formal basis in England and Wales, but not in Scotland (117).

The idea for "common police services" came from the establishment of Home Office wireless depots and forensic science laboratories in the 1930s (118). The services provided by the pooling of resources are those that could not be provided normally by individual forces; they are financed in the same way that police forces are with Central Government providing 50% by way of Exchequer Grant and the Police Authorities providing the other half on a per capita basis. An advisory board was set up comprising representatives of the Local Authority associations and the Home Office and it serves the Secretary of State under the title of "Common Police Services Committee".

Few would quarrel with the principle of providing such services but the Local Authority associations have registered their objections to, and disapproval of, the way in which common police services are controlled and financed. Speaking on the subject at the ACC/AMA/ACPO Joint Summer Conference at Eastbourne in 1983, the chairman of the ACC Police Committee, John Chatfield, questioned the control of such services -

"According to the statute, the Home Secretary is entitled to ignore what we say. We know this and the Home Office must know that we know. And so for years we have operated under a system which Central Government has described as "working well" but which many on the Local Government side felt did not work at all".

Chatfield/

Chatfield went on to call for greater influence within the tri-partite system and clearly felt that the common police services arrangement was an example of Central Government domination in a situation in which only "lip-service" was paid to the Local Authority members. It was pointed out too that the costs of such services had increased over 400% in just ten years and that there was little sign of that increase being abated. In such circumstances the Local Authority associations complained of a "lack of accountability" and claimed that in effect the Common Police Services Committee had no power; no doubt the Home Secretary would reply that it was only an advisory and not an executive body, which existed to help him ensure that the police service was efficient. Others would see this as one more example of an over-weening Central control.

In particular, Chatfield drew attention to the District Training Centre Committees and again complained of a lack of executive power, saying that "if we are consultant partners cannot - indeed - should not we play some part in the executive function?".

Mention has been made of the incident in Derbyshire which was no doubt an attempt to make a reasonable point in an unreasonable way - the long term consequence of that kind of action is likely to precipitate a move by Central Government to secure effective control over Police Authorities in a way that might be seen by some as yet another threat to the delicate constitutional balance. Perhaps in acknowledgment of/

of the dangers of extremism, the Local Authority associations have drawn attention to the unique constitutional position and seem reluctant to take any positive action that might directly affect that, but it is the individual Police Authorities who form part of the "tri-partite arrangement" many times over, and if sufficient numbers of them chose to challenge the Central Government position, then Central Government might feel compelled to act against them and in favour of more Central control.

iii) Conclusion

There are many ways in which the Secretary of State may act to promote the efficiency of the police service while at the same time leaving a fair degree of influence in local matters to Local Government. It was the intention of the Royal Commission that Central Government should be the dominant partner in the tri-partite arrangement and the growth in status of the Chief Constables, together with the centralisation of power and influence by the Secretaries of State, have been off-set by a slowness on the part of some Police Authorities to recognise their legal functions and to respond to them.

In the "unique constitutional arrangement" much has been left to the good sense, or otherwise, of the players involved; no statute can cater for every contingency in such a relationship and others have pointed out already that for the partnership idea to work, then goodwill and commonsense needs to be demonstrated on all sides.

Others have called for an end to the apparent charade of "partnership" and have asserted that in reality it is the Secretary of State who does and should control the police. George Cunningham, MP, said in 1982:

"in a small country like ours, national organisation is essential to effective policing. And national co-ordination calls for national control. We cannot have one local police committee or one Chief Constable deciding to keep a certain kind of records and another not. We cannot have the involvement of one force in a national operation impeded because the local committee . . . . . decides that it does not agree with that particular exercise" (119).

### 3. SUMMARY

This section has described and considered the tri-partite arrangement for the control of the police as it was set up in Great Britain after the Police Acts of 1964 and 1967 came into operation. Apart from national identity, no meaningful distinction between the partnership arrangements that exist north and south of the border has been identified and in reality the separate arrangements operate in a very similar manner.

It was the declared intention of the Royal Commission that Central Government should be the dominant partner and the reasons for this are implicit in the text. It is apparent that some Local Government members of the Police Authorities in England and Wales believe that Central Government has become too dominant and that the Police Acts in practice have paid only lip-service to the idea of local control of the police. It is from some of the Police Committees in England and Wales that the pressure for change has come. Others believe that a National Police Force is preferable to fragmentation and political disputes between different authorities, and this is considered in the final section.

The next section examines the peculiar position of Northern Ireland where a different type of Police Authority was set up in 1970 because of extreme political difficulties. There: after the special arrangement relating to the London Metropolitan Police is described.

NOTES: (Section II)

1. Per Lord Scarman in Report, Cmnd 8427.
2. Cmnd 1728, para 154. See Chapter 1, page 44, of this thesis.
3. The Police Act 1964 was amended by the Local Government Act 1972, and the Police Act 1976 added to the procedure for dealing with complaints against the police under S.49 of the Police Act 1964. The Police (Scotland) Act 1967 was amended by the Local Government Act 1973.
4. Police Act 1964, S.2.
5. Provision is made in Clause 23 of Local Government Bill 1984 for Joint Police Authorities known as Metropolitan County Police Authorities to replace those which exist in the present Metropolitan Counties. It is proposed that in 1986 the GLC and six Metropolitan Counties will be abolished and their functions transferred to the London Borough and Metropolitan District Councils. Outside London the new Police Authorities will consist of:
  - a) members of the constituent councils appointed by them to be members of the Authorities; and
  - b) magistrates for the county appointed by a joint committee of those magistrates (the "Joint Magistrates' Committee").

Clause/



Clause 33 proposes that as far as practicable the "balance" of political parties in the constituent councils is reflected in the joint Police Authority.

6. See note in Section I.
7. Metropolitan Police Acts 1829 and 1839; City of London Police Act 1839.
8. Police Act 1964, Ss 4 and 6, and Police (Scotland) Act 1967, Ss 3, 4 and 5.
9. Police Act 1964, S.4, and Police (Scotland) Act 1967, S.2.
10. Police Act 1964, S.4, and Police (Scotland) Act 1967, S.2.
11. Police Act 1964, S.50, and Police (Scotland) Act 1967, S.40.
12. Police Act 1964, Ss 5, 6 and 29, and Police (Scotland) Act 1967, Ss 4, 5 and 31. See also S.83 and Schedule 4 Police and Criminal Evidence Act 1984, and the Police (Discipline)(Senior Officers) Regulations 1985, Reg.23.
13. Police Act 1964, S.12, and Police (Scotland) Act 1967, S.15.
14. Police Act 1964, S.28.
15. Police Circular No. 2/1983, dated 31.3.83, entitled "Consultation Between the Community and the Police".

16. Scarman Report on the disturbances in Brixton 1981, Cmd 8427, para 5.57.

See also "Called to Account : The Implications of Consultative Groups for Police Accountability", Rod Morgan and Christopher Maggs, Policing Vol. No.2, page 87.

17. Home Office Circular No. 54/1982 "Local Consultation Arrangements Between the Community and the Police" and SHHD Circular No. 2/1983 supra.

- 17a. See "Controlling the Constable : Police Accountability in England and Wales" by Tony Jefferson and Roger Grimshaw. Frederick Muller/The Cobden Trust 1984.

18. See in particular Lord Denning's judgment in R -v- Commissioner of Police Ex parte Blackburn (1968) 1A11 ER 763 and the statement by William Whitelaw, then Home Secretary, in his James Smart Lecture 1980 delivered in Edinburgh entitled "The Police and the Public".

But see also "Can Police Authorities Give Orders to Chief Constables?", by Richard Clayton and Hugh Tomlinson - New Law Journal, 12.10.84.

19. See Cmd 9074 "An Independent Prosecution Service for England and Wales".

See also The Prosecution of Offences Act 1984.

20. "Police Accountability Revisited", by Geoffrey Marshall in "Policy and Politics" edited by David Butler and AH Halsey, MacMillan, 1978.

21. "The Times", 27. 6.62.
22. Supra.
23. See "Controlling the Constable : Police Accountability in England and Wales", Jefferson and Grimshaw, Muller - 1984.
24. "The Police : Autonomy and Consent", Michael Brogden 1982, Academic Press, at page 94.
25. "Role and Responsibilities of the Police Authority", written by CK Wilson, LLB, Clerk to the Police Authority and accepted by the Police Committee at a meeting on 22. 1.80.
26. See "Are the Police Under Control?", David Regan, The Social Affairs Unit, 1982.
27. "The Government of the Police Since 1964", G Marshall. Essay in "The Police We Deserve", edited by Alderson and Stead 1973.
28. During the Miners' Strike 1984/85 this particular problem occurred in Greater Manchester and is discussed later in the text.
29. "The Independence of Chief Constables", Bryan Keith-Lucas, Public Administration, Spring 1960.
- "Some Questions", DN Chester, Public Administration, Spring 1960.

30. Note on the Constitutional Position of the Police by Professor ECS Wade, QC, Cambridge University.
31. "The Role of the Police Committee", Barry Loveday, Local Government Studies, Jan/Feb 1983.
- See also Newlaw Journal, November 1984, article by Richard Clayton and Hugh Tomlinson "Can Police Authorities Give Orders to Chief Constables?".
32. "Police Accountability Revisited", G Marshall, 1973, supra.
33. "Ultimate Command - The Responsibilities of Chief Constables in the 1980s", Sir Philip Knights, Police Journal, Oct/Dec1981, pp 331 et seq.
34. "A New Approach to Police Authorities", Michael Banton, "Police", 1975.
35. do. do. do.
36. do. do. do.
37. do. do. do.
38. Cmnd 8427. See now S.106, Police and Criminal Evidence Act 1984, and Home Office Circular 54/1982 and SHHD Circular 2/83 supra.
39. "Hands Off the Police Authorities", Lawrence Byford, Police 1975.

40. "Hands Off the Police Authorities", Lawrence Byford, Police 1975.
41. Report of the Study Group on Local Authority Management Structures, HMSO 1972.
42. "The New Scottish Local Authorities Organisation and Management Structures", HMSO 1973.
43. See Appendix "A", para 24, of HMSO document 1972 - "The New Local Authorities".
44. "The Art and Economics of Policing", paper presented to the SSRC Public Policy Study Group Seminar on Central and Local Government Relations, 9. 1.81.
45. See also comments on this point by IT Oliver in Security Gazette, February 1981, "Year One".
46. See "Police", September 1976.
47. See Police Act 1964, Ss 41 and 43, and Police (Scotland) Act 1967, Ss 36 and 38.
48. The Association of Metropolitan Authorities have called for a review of the functions of District Training Centre Committees in a document entitled "Policies for the Police Service", issued in November 1982.

It was reported in the Daily Telegraph of 9. 8.84 that two councils, Nottinghamshire and South Yorkshire, had decided to withdraw their officers from the Regional Crime Squad in order to save money because of the/

the high costs involved in policing the Miners' Strike picket lines. Nottinghamshire and South Yorkshire forces, together with Derbyshire, Lincolnshire, West Yorkshire and Humberside, staff No.3 Regional Crime Squad.

49. "Police Authorities Since Bains", 1976 ACPO Paper presented by Ronald Gregory, then Chief Constable of West Yorkshire Police, at the ACPO Autumn Conference.
50. See later for other examples of how South Yorkshire Police Committee attempted to exert financial power during the Miners' Strike 1984/85.
51. ACPO/AMA/ACC Summer Conference 1982, "Police" 7/82.
52. County Councils Gazette, September 1975, pp 156-8.
53. In 1980 a joint AMA/ACC Working Party on Police Matters was to challenge the Home Secretary's position.
54. The results of the survey are included as an appendix to this section.
55. Margaret Simey "All Dressed Up and Nowhere to Go?", "Police", August 1976.
56. Tony Judge "Who Gives the Orders?", "Police", September 1976.
57. Marshall G, "Police Accountability Revisited", in "Policy and Politics", edited by Butler & Halsey 1978, Macmillan.

58. Cmnd 535, 1969.
59. Pain B, "Accountability", Bramshill Paper 1982.
60. See note 44.
61. Quoted in "The Role of the Police Committee", by Barry Loveday in Local Government Studies, January/February 1983.
62. Proof of Evidence of John Alderson for "Concern" at Lord Scarman's Inquiry, Part II, September 1981.
63. Sir Philip Knights "The Tri-Partite Arrangement - A Chief Constable's View", address delivered at the Ditchley Conference in 1982.
64. Supra note 44.
65. "The Administration of the Police", RL Jones, Justice of the Peace, June 26, 1982.
66. ACC/AMA Joint Working Party on Police Matters agenda paper for 3 November 1980.
67. Unpublished and confidential, personal correspondence 1984.
68. Cmnd 9063, October 1983. Re-organisational proposals for Local Government in Greater London and Metropolitan Counties.

See also Local Government Bill 1984, Cl.1.

69. Cmnd 8427, "The Brixton Disorders", 10-12 April 1981, at Section H, paras 5 : 55 to 5 : 71.
70. Supra note 62.
71. Home Office Circular No. 54/1982.
72. See also the recommendations contained in the Edmund-Davies Report (Ref ).
73. Police Circular No. 2/83 "Consultation Between the Community and the Police".
74. See "Policing" magazine, Vol.1, Issue 2, Spring 1985, "Consultative Groups", by Morgan and Maggs.
75. "Are the Police Under Control", David Regan, Francis Hill Professor of Local Government at the University of Nottingham. Published in April 1982 by the social Affairs Unit.
76. A former Commissioner of the Metropolitan Police in his autobiography : "In the Office of Constable", Collins 1978.
77. Dr PA Waddington - "How to Learn to Love your Council: lors Whilst Keeping Your Professional Virginity", "Police", May 1983.
78. Supra see note 44.
79. This is, no doubt, a reference to the fact that Anderton was refused permission by his Police Authority to/



to speak to his report on the Moss Side Riots in 1981 and he in turn refused to give evidence to an inquiry set up by Manchester County Council. Anderton was publicly criticised by some members of the Police Authority, notably, Mrs Gabrielle Cox, then vice-chairman and later, at the time of writing, chairman, of the Greater Manchester Police Committee. Cox had also clashed with Anderton when she called for the dismissal of a Chief Superintendent as divisional commander, during the rioting, and Anderton had refused. Reported in The Times 5, 7 and 12 September 1981, and referred to by Regan.

See later for details of how the extended committee system appears to have been abused in Greater Manchester.

80. Supra note 63.
81. Supra see note 45.
82. Speech made by Roy Hattersley, MP, on 19 February 1982, to the South Gloucestershire Constituency Labour Party.
83. Until November 1981, Cunningham was the Labour Party's Deputy Front Bench Spokesman on Home Affairs under Roy Hattersley; he resigned from the Labour Party and became an Independent Member of Parliament. See "Police", April 1982.
84. See later and "The Reality of Community Policing", by James Anderton in a lecture delivered on 12. 3.82 in Manchester as the 2nd Lord Howlett Memorial Lecture in which the speaker called for the setting up of non-political police boards.

85. The example of the Derbyshire Police Authority has already been given as one which has a potential to affect police efficiency; also, during the disturbances in 1981 when police forces were required to supply mutual aid and the debate about equipment for "riot policing" was in progress, some Authorities, notably Norfolk, were reported to be reluctant to purchase riot gear which would only be used in a force area other than their own. Such a policy decision by a Police Authority would have had a direct effect on the mutual aid capability of that force.
86. "Policies for the Police Service", issued by AMA, November 1982.
87. See later, and "Police Commissions and Boards in Canada" by Phillip C Stenning 1981. Published by the Centre of Criminology, University of Toronto.
88. Supra, see note 63.
89. "The Role of the Police Committee", Barry Loveday, in Local Government Studies, January/February 1983.
90. "The Role of Police Committees : Constitutional Arrangements and Social Realities", Dr PA Waddington, Department of Sociology, Reading University.
91. Supra, see note 89. See also Critchley at page 300.
92. Published by AMA, November 1983.
93. "The Municipal Review", January/February 1984.

94. "The Police and Social Order", The Encyclopaedia Britanica Lecture 1984, 8. 2.84, at Edinburgh University.
95. The Observer, 1974, quoted as at note 94.
96. Prime Minister Margaret Thatcher in a speech at the Lord Mayor's Banquet at the Guildhall, on 12.11.84, "The Times", 13.11.84.
97. See "The Office of Constable in 1975", by IT Oliver, 1975, CLR.
98. "What the Police Committee Member Needs to Know", page 11.
99. See Chapter 1, pages 48 - 51.
100. The Metropolitan Police is dealt with in a separate section.
101. Sir William Fraser, KCB, Permanent Under-Secretary at the Scottish Office - James Smart Lecture 1981, "Post-War Police Developments. Retrospect and Reflections".
102. See "Break Up of the Mets", Stanley Bailey, "Policing", Vol.1, No. 2, Spring 1985.
103. Minutes of ACC/AMA Joint Working Party on Police Matters 3 November 1980.  
Section 28, Police Act 1964, reads:  
"28. The Secretary of State shall exercise General Duty his powers under this Act in such manner of Secretary and to such extent as appears to him to be/ of State

be best calculated to promote the efficiency of the police".

104. See Cain M, "Police Professionalism : Its Meaning and Consequences". Anglo-American Law Review 1, 1972 and evidence submitted to the Royal Commission by the Inns of Court Conservative and Unionist Society - supra.
105. "The Tri-Partite Arrangement - A Chief Constable's View" - supra.
106. Supra.
107. Section 29, Police Act 1964, and Section 31 Police (Scotland) Act 1967. These sections apply to all chief officers.
108. Section 30, Police Act 1964, and Section 15, Police (Scotland) Act 1967. The Secretary of State is entitled to receive a copy of the Chief Constable's annual report to the Police Authority, Section 12, Police Act 1964, and Section 15, Police (Scotland) Act 1967.
109. Section 32, Police Act 1964, and Section 29, Police (Scotland) Act 1967.
110. The Challenor Inquiry 1965, Cmnd 2735 : The Red Lion Square Inquiry 1975, Cmnd 5919.
111. "McNee's Law", Sir David McNee, Collins 1983, at page 117.
112. HC 90.

113. Supra page 111.
114. At least in England and Wales - Home Office Circular 114/1983, "Manpower, Effectiveness and Efficiency".
115. IT Oliver - "The Office of Constable", 1975, Criminal Law Review, page 321.
116. Section 41, Police Act 1964. The wording of the Police (Scotland) Act 1967, Section 36, is somewhat different but the effect is the same.
117. The Home Secretary has set up the Scientific Research and Development Branch and the Police Research Services Unit.
118. See Critchley, supra page 214.
119. Supra "Who Should Control the Police?", "Police", April 1982.

APPENDIXSurvey of Matters of Practice

1. The Working Party of the Association of County Councils and of the Association of Metropolitan Authorities carried out during 1976 a survey of all Police Authorities on matters of practice.

2. This paper is a commentary on the results of the questionnaire - which was completed by all 41 Police Authorities in England and Wales - 31 counties and 10 combined authorities (the summaries have been previously circulated - the explanation of why the county totals are sometimes 32 is that for some questions the one Metropolitan County Combined Authority was inadvertently added into the County Summary as well as the Combined Authority total .....). There were two questionnaires because of the obvious difference arising in the case of the Combined Authorities in a number of ways.

3. The Working Party considered the points, set out in the Annex hereto as raised at the 1975 Joint Police Conference, in considering the content of the questionnaire.

Chairman of the Police Committee

4. It is the general practice that the Chairman of the Police Committee is a County Councillor. In six cases the Chairman was a Magistrate - of these six, in only two cases was the Chairman not also a County Councillor (one English Shire County and one Welsh Combined Authority); and in two other cases it was stated that the Magistrate was Chairman by virtue of the County Council membership.

5. It is not the general practice that the Chairman of the Police Committee is a member of the County Council Policy Committee. In only sixteen cases of the thirty-one County Councils was this the case; of these, only four were automatically members ex officio.

6. It is not the general practice that the Chairman of the Police Committee is a member of other County Council Committees. In only thirteen cases out of thirty-one was this the case - one case was ex officio.

Relationship with County Council - Members/Structure

7. It is the general practice that Police Committees report regularly to the County Council. Only in four cases (two English Shire Counties and one English/one Welsh Combined Authority) was it stated that the Police Committee do not report at all and in only two others do they not report regularly (in one of these only once since 1973 and that was on the statutory position of the Chief Constable).

8. There is considerable variety in the method of reporting to the County Council but it is not extensive. In only eleven out of thirty-one cases were the full Police Committee minutes submitted - in many of these cases it was specifically stated that this was for information only; in the other cases reports or extracts from minutes were selective, usually relating to cases where specific County Council approval was required for expenditure or land acquisition. Four of the fourteen making special arrangements for questions on police matters were those which also submitted the full Police Committee minutes

9. It is the general practice to have Standing Sub-Committees. In eight cases there are no Sub-Committees - the most commonly found are a General Purposes or Finance Sub-Committee, often combined into one.

10. It is the general practice for County Police Committees to adopt County Council Standing Orders - most Combined Authorities have adopted their own Standing Orders rather than those of one of their constituent County Councils.

11. It is common but not general practice for the Police Federation to be represented regularly at Committee meetings - in twenty-three out of forty-one cases. The Superintendents' Association attend regularly in only nine cases. Consultation is on an ad hoc basis in thirty-four cases and only rarely (three cases) on a regular basis.

Press and Public Relations

12. It is the general practice to exclude the press for some items of business - usually items of a confidential nature relating to personnel or land acquisition negotiations, more occasionally operational matters. In one case, however, (an English Combined Authority) the press was excluded for all items: in another (a Welsh Combined Authority), they are not excluded for any item.

13. It is claimed to be the general practice to brief the press but on no general pattern, not usually after each Committee meeting, more usually in a "responsive" way only - in only one case was a regular Chairman's briefing session mentioned (with the Chief Constable and the Chief Executive). The Chief Constable and/or Press Officer is far more involved than the Chairman (eleven out of forty-one cases). In six cases there is no mention of any provision at all for press briefing and in several other cases mention is made only that the Chairman, Chief Constable or officers are available if questions are raised.

14. It is claimed to be general practice for Police Committees to make arrangements for fostering good relations between the police and the public. Information available from the questionnaire is, however, conflicting. In eight cases, committees make no arrangements at all. In the other thirty-three cases no positive examples could be specified in a fair proportion of answers.

15. Among the attitudes expressed on public relations are the following:-

"a deliberate policy" on public relations is followed by the Chief Constable;

the Committee supports the Chief Constable in all his efforts;

"the Chief Constable is of the view that publicity in keeping the image of the Force before the public cannot be over-emphasised";

the Chief Constable is supported on any occasions assisting in furthering good relations;

the "occasional" release of a press statement on contentious matters (example quoted - the withdrawal of a school crossing patrol);

In some cases, the examples seem to be not so much an involvement in activities aimed at good relations by the Police Committee itself as the absence of discouragement of activities of the Chief Constable to whom the whole of the initiative was left.

16. Among the methods used are:-



the supply of "guest speakers" to local groups - often the Chief Constable, senior officers or occasionally the chairman;

open days/group tours of police buildings and establishments;

the attendance of police bands, mounted sections, road safety and other displays at various shows/galas, etc;

meeting local delegations on specific matters;

the release of officers for annual camps and involvement in youth work;

the use of Police or County Council public relations staff;

broadcasting on local radio;

a police-pupil relationship scheme of crime-prevention education;

"adoption" of police officers by schools;

representation on community relations councils;

involvement with crime prevention panels;

school visits;

road safety lectures.

17. The more detailed answers given do not tend to support the full involvement of the Police Committee to any great extent as a general practice - certainly the variations in practice between Committees are very marked:

### Complaints Procedures

18. It is the general practice for Police Committees to examine records relating to complaints. In all thirty-one cases there was a procedure involving either a Sub-Committee or the full Committee, reinforced in six cases by a more detailed perusal by the Chairman. Although not included in the summary, the position in the Combined Authorities was the same.

Policing the Area - Local and Social Problems

19. It is the general practice for the Chief Constable to report regularly on the policing of the area. In a substantial minority of cases - ten out of forty-one - this was not, however, the case. It is also general practice for the Committee to request reports - but in seven cases this is not the case and in only ten was this a frequent occurrence.

20. The supplemental information provided again showed that there is considerable variation in practice and approach. At the extremes one (English Shire) County never requests information on policing and does not receive regular reports, nor do they give advice on local problems nor have their views sought on social matters. In contrast, one (English Shire) County has a positive involvement including the regular giving of talks on matters of current concern from officers of various ranks, discussion and comment is deliberately stimulated, there is a "constant exchange of points of view between the Chief Constable and the Police Authority with an accent on informality and a thorough understanding of each other's point of view rather than rigidity".

21. From the detailed replies it appears that although in the majority of cases - thirty-one out of forty-one - guidance about local problems is given, this is on a very narrow base - examples quoted included communications, use of cadets on community schemes, station siting/closures and car parking. In practice most Police Committees - irrespective of the formal reply - contribute on a limited scale only and the raising of "constituency" problems by individual members is the major involvement. This is not to say that other examples have not been quoted - pop festivals, hooliganism, vandalism, bad street lighting, were mentioned although the extent of advice and guidance given by the Police Committee was not set out.

22. It is not claimed to be the general practice of Police Committees to contribute formally to the solution of social problems. In only nineteen out of forty-one cases was this said to be so - the list in the questionnaire included a fair cross section of issues of acute concern to the community.

County Council Officers and Member Contact

23. It is not the general practice for Chief Constables to be members of County Council Officers Management Teams/Chief Officers' Groups although in twenty-two out of forty-one cases/

cases the police are represented on lower level officer working parties. At member level it is the general practice for the Chief Constable to advise other County Council Committees but this is related almost exclusively to traffic and road safety matters and often then is stated to be "as required". Reference is made in paragraph 31 below to use of County Council services.

#### Civilian Staff

24. In the majority of cases - civilian staff are employed by the Police Committee - in twenty-one out of thirty-one cases. Personnel matters are dealt with exclusively by the Police Committee in fourteen cases, in two cases exclusively by the County Personnel Committee, and in fourteen cases by a combination of both (one English Shire County did not answer) - a typical division is Police Committee deal with establishment and the County Personnel Committee deal with gradings, conditions of service, etc.

#### Police Cadets

25. Twenty-four Police Committees recruit police cadets at 16 years of age but in the other seventeen cases they can be up to 18.

#### School Crossing Patrols

26. It is not the general practice for Police Committees to be responsible for school crossing patrols - in ten out of thirty-one cases was this so, although in fifteen cases the Chief Constable actually administered them.

#### Prosecuting Solicitor

27. There is a variety of practices relating to the Prosecuting Solicitor but in the case of County Police Committees, in fifteen cases he is responsible directly or indirectly to the County Council in the twenty-two cases where one is employed. In ten cases a Prosecuting Solicitor is not employed at all. In the other cases, in fourteen (including eight Combined Police Authorities) he is head of a department responsible to the Police/

Police Committee, in three cases he is responsible to the County Council, in two cases (one English Shire County/one Welsh Combined Authority) he is responsible to the Chief Constable and in the other twelve he is part of a Central County Council Department.

28. In only eight cases are prosecutions other than police prosecutions undertaken by the "Prosecuting Solicitor" - it is the most common practice to use other solicitors for this work.

#### Lands and Buildings

29. The awkward statutory provisions relating to land and buildings have not in practice caused much difficulty - in only two cases was it experienced at all.

#### Direct Labour Organisations

30. In the majority of cases the County or District DLO was used and in seventeen cases not, but in quite a number of the cases where they were used the work appeared to be of a minor nature, e.g. servicing of central heating. There are legal difficulties when other than maintenance or minor works are concerned - only in one case (a Metropolitan County Council/Police Committee) is there provision for construction work in the area of two former County Borough areas under a Local Authorities (Temporary Use of Labour) Order made under the Local Government Act 1972.

#### County Council Support Services

31. It is the general practice to make extensive use of County Council support services. In virtually every case accountancy, legal, architectural, central purchasing, computer and payroll services are used. Building and costing services are extensively used. Specific information was sought on the purchase of motor vehicles and in only fourteen cases (including two Combined Authorities) was the County Council's purchasing system used for this purpose which throws some doubt on the extent of the use of this service.

Conclusion

32. The commentary set out in this paper is based on the detailed information which was set out on the individual replies to the questionnaire. It is understood that the Discussion Groups will consider the conclusions to be drawn from the replies in relation to how a "model authority" might operate.

33. As a general comment, there is clearly a considerable variety of practice between Police Committees. Variety is part of the essence of Local Government; while, therefore, complete consistency is not to be regarded as either necessary or even desirable, nonetheless the variety disclosed may be thought to be surprising in its extent. Further, the general pattern of practice disclosed on some important matters may also be thought to be surprising.

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III - POLICE AND GOVERNMENT  
IN NORTHERN IRELAND

1. Introduction

2. The Police in Northern Ireland

- i) *The Royal Ulster Constabulary.*
- ii) *The Ulster Special Constabulary.*

3. The Police Act (Northern Ireland) 1970

4. The Police Authority for Northern Ireland

5. The Role of the Army in Northern Ireland

6. The Primacy of the Police

### III POLICE AND GOVERNMENT IN NORTHERN IRELAND

#### 1. INTRODUCTION

"It is a truism that the police forces in any country operate within the context and in the climate of political conditions and stability of that country. Their task of enforcing law and order is inevitably affected by social, economic and other circumstances arising out of these general conditions; it must perforce be more onerous in an unstable situation. We feel it desirable to make this obvious point, in view of the special difficulties under which the police have operated in the past, which may persist in the Province in the future, which are not of the making of the police themselves, and which make their task at times both difficult and distasteful" (1).

For anyone to attempt to write with accuracy and authority on the problems of Northern Ireland requires a considerable amount of understanding, knowledge and impartial judgment which would be difficult, and some might say impossible, to acquire in a lifetime. Thus, it would be impertinent for an outside observer without much first-hand experience to try to comment with any authority on "the troubles", their causes and solutions. Therefore, it is important to emphasise that this study of police and government in Northern Ireland is intended only to examine that relationship as it has existed since 1969 and is not an attempt to evaluate the social and political problems in the Province. It is inevitable that some mention will be made of the problems that exist, but, /

but, as far as possible, an attempt has been made to examine only the constitutional developments as they affect the relationships between police and government and what effect these relationships have on the accountability of police in Northern Ireland.

That history has more than one interpretation is nowhere more apparent than in Northern Ireland, and because historical factors are important it is necessary to give a brief account of developments in Northern Ireland which culminated in severe public disorder in 1969, the year that may be regarded as the turning point in relationships between police and government. Certainly 1969 was a watershed in the social life of the community when the grievances of nearly fifty years erupted in a scale of violence that had not occurred since 1922 and which has continued, albeit at a steadily diminishing level, for more than fifteen years. During those years of turmoil, some social problems have been either resolved, compounded or new ones have arisen, but the solutions to the major conflicts and differences appear to be as elusive now as they were in 1969. However, there have been developments and advances about which the people of Northern Ireland should be proud; the transition from what was popularly believed to be a Government controlled, para-military police force, into a thoroughly professional and publicly accountable body, has occurred and although the Royal Ulster Constabulary is an armed force, with a strong anti-terrorist role, its policies and policing philosophy are geared to the eventual disarming of the force, a return to "normality" and the establishment of a police service organised on traditional lines (2). How long that takes will depend very much on the political/



political will of the community to proscribe terrorism, but the indications of a successful policy as far as policing is concerned are available for all to see and the developments with regard to the control of the police and their public accountability through the Northern Ireland Police Authority appear to have been very successful.

Given that history is open to all manner of interpretations, depending upon which political gloss one is prepared to apply to it, almost all official publications that have considered the troubles that burst upon the Northern Irish scene in 1969 agree that they occurred because of grievances either real or imagined that stemmed from the fact that since the setting up of the Government of Northern Ireland under the Government of Ireland Act 1920, one political party had been in power continuously with the result that no effective Parliamentary opposition had been established. According to a report entitled "Disturbances in Northern Ireland" (Cmnd 532) by Lord Cameron - the "Cameron Report":

"An Opposition which can never become a Government tends to lose a sense of responsibility, and a party in power which can never (in foreseeable circumstances) be turned out, tends to be complacent and insensitive to criticism or acceptance of any need for change or reform"  
(3).

The/

The evidence of complacency on the part of the Northern Ireland Government manifested itself in a failure to do anything about poor housing conditions and political manipulation of the allocation of housing on sectarian lines. Also gerrymandering took place in certain areas where the early disorders occurred, namely, Dungannon, Armagh and Londonderry, where the arrangement of ward boundaries for Local Government purposes bore no relationship to the relative number of Unionists or non-Unionists in the area, which naturally led to the suspicion that the Unionists used the artificially created electoral majority to favour their own supporters, both in the allocation of housing and in the making of public appointments. Thus, it was that, in largely Catholic areas Protestant Unionists were seen to hold the best jobs in public office (4).

The basic problem for the police stemmed from the hostility that was generated over the years between two deeply divided communities whose differences are superficially described as being between Catholics and Protestants but which go much deeper than sectarianism. Northern Ireland has a population of one-and-a-half million people which is divided roughly in the proportion of two-thirds who may be described as Protestant and one-third as Roman Catholic. Ireland, as a whole, has what is described as a "double minority" problem in that the Roman Catholic minority resident in Northern Ireland becomes absorbed into a significant Catholic majority when the population of all 32 counties is considered and the Protestants are the minority in the whole country by a ratio of 3 : 1.

Conflict appears to be inherent in Irish history and the protagonists in favour of a United Ireland and those who are opposed to political links with Great Britain, speak of the 800 year old conflict (5). Certainly, the current problems have their roots in the seventeenth century when the old Province of Ulster became the last part of Ireland to be brought under English Government. In order to maintain the subjugation of the population, a system of "plantation" was introduced under which the Catholic landowners were dispossessed and their land was given to Scottish and English Protestants who were loyal to the Crown. This caused a situation where the immigrant Protestants were in possession of the richer lands, while the remaining native population was left with poorer soil and therefore a poorer standard of living; not surprisingly, the "plantations" were a twofold source of resentment which has lasted until modern times. Thereafter, the pattern of Irish development was almost continuous faction and dissent - on the one hand, the dispossessed, seething with resentment, a feeling of injustice and the humiliation of having been conquered, and on the other, the Protestant immigrants, in an alien land, constantly in fear of an uprising against them.

The seventeenth century holds the historical ingredients of sectarian conflict. In 1641 the much feared "uprising" occurred when thousands of Protestants were slain at the hands of the Catholics and then later in the century the two most significant dates, which annually on 12 July and 12 August revive old bitterness and seemingly bring out the worst excesses in some extremists, were 1689 when there was a siege of Protestant Londonderry by Catholic troops and 1690 - the Battle/

Battle of the Boyne, when the Protestants led by King William, defeated the Catholics led by James the Second. At that time, the disputes and rivalries were undoubtedly based on religion but as the centuries passed much more than just sectarian differences became interwoven in the strife.

With the industrial advances of the nineteenth century and the development of the shipbuilding and textile industries, the conflicts centred on the cities where the work was plentiful. People moved into Belfast in large numbers and took with them at least two hundred years of resentment; marches, demonstrations and hostility, often in the form of street fighting and rioting became normal for the North of Ireland and clashes with the police were regular occurrences. Resentment against the immigrants remained and the nineteenth century saw pressure for "Home Rule" from both sides of the Irish Sea, the outcome of which was the eventual separation of Ireland into North and South in 1922. Northern Ireland became known in common parlance as "Ulster", which in itself was a bone of contention because it consisted only of six counties out of the nine which were the traditional Province of Ulster; the remaining twenty-six counties became the Irish Free State, known to many as Eire, but that too caused arguments because Eire is the Gaelic name for Ireland and many both in the North and South wanted to recognise only a united Ireland.

The/

The majority (Protestant) population of Northern Ireland remained intensely loyal to Britain and a minority was prepared to fight for the right to remain British, but some have described that "loyalty" as being only to a Britain that was not prepared to consider the eventual re-unification of Ireland. Under the Government of Ireland Act 1920, Northern Ireland remained subordinate to Westminster but it had its own Parliament at Stormont, which was a microcosm of the Mother of Parliaments and the State had its own government, its own Prime Minister, its own Royal representative in the form of a governor, who lived in a mansion in Hillsborough in County Down, and its own police force, which was State controlled and directly accountable to the Minister of Home Affairs. To all intents and purposes, Northern Ireland was able to run its own affairs with virtually no interest or interference from Westminster, and as Callaghan points out:

"Northern Ireland was dealt with by the General Department of the Home Office, a body which covered such matters as ceremonial functions, British Summer Time, London Taxi Cabs, Liquor Licensing, the administration of state-owned pubs in Carlisle, and the protection of animals and birds" (6).

Northern Ireland was resented by the Catholic minority from its inception and it was seen as an unnecessary and unjustified concession to the Protestant descendants of the "plantation" families who had no right to the land in Ireland. The pattern of events from 1922 fed on prejudice and hostility and for varying periods, armed groups of terrorists adopted a policy of sabotage, non-co-operation and intimidation, all of which was designed to make Westminster believe that Northern Ireland/

Ireland was more trouble than it was worth, so that eventual re-unification of Ireland would become politically desirable in the British mind.

From the beginning, the pattern was set for Unionist dominance of the Northern Ireland Parliament and the patterns of discrimination in favour of the Protestant majority developed over the next fifty years, culminating in prolonged and severe public disorder such that stretched the resources of the police to breaking point and beyond. In addition to the problems brought about by the Northern Ireland Government's complacency and ineptitude and the apathy of the Westminster Government towards matters Irish, another factor was identified by the Cameron Report as having a significant bearing on the social division - segregated education. The Roman Catholic Church maintained the view that Catholic children should be educated only in Roman Catholic Schools and this was seen by the Cameron Commission and others as playing its part in both initiating and maintaining division and differences among young people:

"The religious division within the community is that which has tended to provide the greatest bitterness and religious disturbances have tended to be intensified because the Catholic proportion of the population is more concentrated in the rural areas and southern districts and on the whole tends to be economically poorer than the Protestant population" (7).

At/

At the time of the formation of Northern Ireland there was a preponderance of Roman Catholics in the border areas and across the border so that the Protestants both historically and politically, adopted what the then Mr Justice Scarman described as "siege mentality" (8) - (a term which he was to use again in his report on the Brixton disorders in 1981) - and which led the Cameron Commission to describe Londonderry as a "frontier post" facing a predominantly Catholic hinterland across the border in Donegal. The Cameron Commission reported that by 1964 a change had occurred and that a larger Catholic middle-class had grown up in the towns and cities which was not prepared to accept an imposed "inferiority" and which was most unhappy about what it perceived as anti-Catholic discrimination by a Unionist-Protestant dominated State. From this time, many Catholics became involved in a Civil Rights Movement, called the Campaign for Social Justice in Northern Ireland, which was created to secure the redress of an accumulation of grievances. Later the Northern Ireland Civil Rights Association (NICRA) modelled on the National Council for Civil Liberties (NCCL) was formed in 1967 and it too received a great deal of financial backing and support from the Catholics whose sense of frustration at the lack of progress to reform in job and housing discrimination by Unionist Protestants, universal adult franchise in Local Government elections and fairer electoral boundaries in Local Government wards, had led them to seek redress by association and peaceful means.

As the Civil Rights movement grew, so too did the hostility between the two communities, as Cameron put it:

"Officially, the Association (NICRA) campaigned only on civil rights issues, but in practice its activities tended to polarise the Northern Ireland community in traditional directions. It was bound to attract opposition from many Protestant Unionists who saw or professed to see its success as a threat to their supremacy, indeed to their survival as a community. The movement also attracted the attention and support of certain left-wing extremists, some of whom by infiltration gained positions of influence within the movement, and their readiness to provoke and profit by violence was crucial at various stages in the disturbances, although their activities and influence were condemned and opposed by many of the movement's leaders and supporters" (9).

Sadly, the situation in Northern Ireland deteriorated so much that on 5 October 1968 a wave of violence and public disorder spread across the Province such that the normal forces of law and order were unable to cope with the situation. In 1969 the Army was called upon to restore peace and stability. In 1972 direct rule from Westminster was introduced and has remained to the present day - with the exception of the short-lived power-sharing Executive during the first five months of 1974 - with there being no immediate sign of a return to normality (10). At the height of the trouble there were in excess of 21,000 troops in Northern Ireland "in aid of the civil power", large numbers of them still remain, and the pages of recent history are full of tragedy.

As/



As was stated at the beginning of this chapter, it is not the intention to give a full account of recent Irish history but only to set the scene for an examination of the relationship between police and government in Northern Ireland. It will be necessary also to examine the role of the army in relation to the Royal Ulster Constabulary (11).

There is no doubt that the years of 1968 and 1969 were a turning point in the history of the Royal Ulster Constabulary, the events at the beginnings of the disorder were shattering both to the morale and to the reputation of the force, and it was to be many years before the RUC made a recovery, both in reputation and professional standards, which eventually earned both the admiration and respect of professionals throughout the world.

It has been alleged that the RUC did not enjoy a good reputation throughout the whole of the Province, even before 1969; for the minority population, the RUC was seen as an armed representative body of the Unionist Government (in 1969 only 11% of the force had been recruited from the Catholic minority) and there were historical reasons why "the police" were distrusted by some of the population (12). In the circumstances of social discontent, poor housing, unemployment and discrimination, the RUC was unwelcome in parts of Northern Ireland and there were certain areas where it is alleged that the force had not entered for the two years preceding 1969 (13). According to senior officers of the RUC this was a carefully nurtured perception of the force by those who wished to denigrate/

denigrate it for political reasons; in fact, it is claimed by the RUC, and the statistics seem to lend weight to this point of view, that the force enjoyed a good relationship with both Catholic and Protestant communities. At the time of the beginning of the troubles, Northern Ireland had the lowest crime rate and the highest detection rate in Europe and it is true that in 1984 the Province had the lowest crime rate per 100,000 people in the United Kingdom.

It has to be remembered that there were (and are) many people who saw advantage in denigrating the representatives of the law and order, and several reports speak of campaigns to discredit the RUC. Ten years after the beginning of the current troubles, a report of a committee of inquiry into police procedures, said:

"There is a co-ordinated and extensive campaign to discredit the RUC.

"No other police force in the UK is called on to deal with so much violent crime in such unpromising circumstances as the RUC ....."  
(14).

At the time of the disturbances, the Report of the Advisory Committee on Police in Northern Ireland - the "Hunt Committee", which included two distinguished police officers - recognised that certain policemen had conducted themselves badly in dealing with members of the public and they expressed deep concern that the image of the RUC had suffered in "the eyes of the world" as a result of the indiscipline. However, their report went on to say:

"We feel bound to deplore the extent to which some press and television coverage of these events has resulted in magnifying, in the minds of readers and viewers, the actual extent of the disorders, in generalising the impression of misconduct by the police and of bad relations between police and public, while sometimes failing correspondingly to illustrate the calm which has prevailed in most parts of Ulster, or the degree of deliberate provocation, the danger and the strain under which the police, frequently for long periods, tried to do their duty, as well as the fact that the greater majority acted not only with courage but with restraint" (15).

The Cameron Report detailed the misconduct of police officers and the commentary of the Government of Northern Ireland on that Report spoke of systematic attempts to discredit and undermine the police and all constituted legal authority. However, Callaghan took the view that the Cameron Report's description of police behaviour in the early days of the disturbances was -

"..... a pretty cool account of what appeared to have been a major breakdown in discipline, of a kind which would not have been tolerated in a British (sic) police force" (16).

Nonetheless, Scarman J, was able to give credit to an undermined force that was attempting to do a difficult job in extreme conditions:

"..... overall the RUC struggled manfully to do their duty in a situation which they could not control. Their courage, as casualties and long hours of stress and strain took their toll, was beyond praise; their ultimate failure to maintain order arose not from their mistakes, nor from any lack of professional skill, but from exhaustion and shortage of numbers. Once large scale disturbances occur, they are not susceptible to control by police .....

There are limits to the efficiency of the police and the criminal law: confronted with such disturbances, the police and the ordinary processes of the criminal law, are of no avail" (17).

2. THE POLICE IN NORTHERN IRELAND

i) The Royal Ulster Constabulary

It is convenient to take as a starting point the Report of the Advisory Committee on Police in Northern Ireland.

As a direct result of the breakdown of law and order throughout Ulster, the Minister of Home Affairs for Northern Ireland, the equivalent of the Home Secretary in England and Wales, appointed an Advisory Committee "to examine the recruitment, organisation, structure and composition of the Royal Ulster Constabulary and the Ulster Special Constabulary and their respective functions and to recommend as necessary what changes are required to provide for the efficient enforcement of law and order in Northern Ireland" (18).

The Committee was appointed on 26 August 1969 and submitted its report to the Northern Ireland Parliament on 3 October 1969, which was an indication of the degree of urgency that was attached to the "law and order" situation in the Province and which may be taken as an indication that the Government of Northern Ireland, no doubt prompted by Westminster, recognised that there were serious defects, both in constitutional and operational terms in the policing arrangements for Northern Ireland.

As a result of intermittent, but prolonged terrorism, policing in Northern Ireland was different from the traditional methods adopted in Great Britain and for this reason it was considered necessary to bring in senior police officers from England and Scotland to act as advisers to the Northern Ireland Government. The committee was chaired by Baron Hunt and the two police officers were Sir James Robertson from Scotland and Robert Mark, later to become Commissioner of the Metropolitan Police, from England. There is no doubt that the Minister of Home Affairs would have taken advice on the appointment of committee members from the Westminster Government and the appointment of Mark would have come as no surprise in that the Home Secretary of the day, James Callaghan, had sent both Mark and Douglas Osmond (Chief Constable of Hampshire) to act as his professional observers in Ulster on 15 August 1969 (19). These two officers had reported to Callaghan that, in their opinion, all was not well at the top level in the RUC and in particular they had observed that the Minister of Home Affairs appeared to be totally dependent upon the Inspector General who was the sole source of intelligence and professional advice, and that the Minister seemed to accept a subordinate role to the Police Chief (20). Other serious defects had been identified by Osmond and Mark and these had been reported both by Callaghan and Osmond to the Prime Minister, Harold Wilson (21). Callaghan's view of what he saw as political control of the RUC was that it was wrong and he was determined to bring his influence to bear in changing the RUC from an armed and para-military force into a traditional police force organised on GB lines (22).

In/

In many ways the poice of Ireland had a "colonial" flavour and even the title of the Chief Officer was reminiscent of the Inspector Generals of Colonial forces. From 1836, Ireland had been policed by a national force controlled by a single Police Authority and although the Local Authorities were required to meet half of the cost of policing, they were relieved of that burden subsequently save in exceptional circumstances. Originally, the force was known as "The Constabulary of Ireland" but it became known as "The Royal Irish Constabulary" during the reign of Queen Victoria. Following the partition of Ireland after the introduction of the Government of Ireland Act 1920, the force covering Northern Ireland became known as the Royal Ulster Constabulary under the command of an Inspector General with a maximum establishment level limited by statute to 3,000 men (23). The Inspector General was directly responsible to the Minister of Home Affairs for the maintenance of law and order, and the force was funded by the Government of Northern Ireland - thus there was no Police Authority organised on a local basis as in mainland Great Britain. The statutory limit of 3,000 men was lifted by the Constabulary Act (NI) 1963 and the establishment then became determined by the Minister of Home Affairs subject to the approval of the Minister of Finance (24).

The violent history of Ireland meant that the police had a dual role to perform, that is the conduct of normal police duties with the principal emphasis being placed on the military nature of their security duties. In many ways, the RUC was perceived as an army of occupation during the times of terrorist activity and to the Catholic minority, the police (particularly the "B" Specials - see later) were seen as a Protestant/

Protestant army biased in favour of the majority. That was neither a permanent nor a completely fair portrayal of the RUC and discussions with RUC officers have indicated that in much of the Province the force was able to carry on a traditional and friendly role within the community. Nevertheless, when trouble occurred, as it did in 1969, the RUC was seen by many to be "a force apart", and both Mark and Osmond and later the Hunt Committee, were critical of the "blockhouse", mentality that was assumed to prevail in some areas, particularly near the border (25). In particular, the Hunt Committee was anxious for the RUC to shed its military priorities and its security oriented role and that it should:

"play a leading part, not only in enforcing law and order, but in helping to create a new climate of respect for the law, a new attitude of friendship between its members and the public, and a sense of obligation among all men of goodwill to co-operate with the police in fulfilling their civic duties in the Province ..... with a view to enabling both the police and the citizens of Ulster to move towards a better relationship with one another in order to achieve this common need and purpose".

As events have turned out, this was a laudable but very premature ambition, although it is part of the RUC policy that this aim should be achieved.

Apart/



Apart from its desire that the police in Northern Ireland should move away from the military image, which was the first recommendation of the Hunt Committee, a lack of accountability to the public was identified. The law governing the relationship between the Government of Northern Ireland and the RUC was seen to be both vague and unsatisfactory and although the Minister of Home Affairs was said to be responsible for law and order, the Inspector General was responsible for operational control of the police and for policies with regard to law enforcement. In fact, the Inspector General was accountable to no one for his operational policies, but to an uninformed and partisan public, the RUC was seen to be closely aligned with a succession of Unionist Governments that had not changed in character since 1922 and the Committee saw this as being totally unsatisfactory, not least because it created a situation where it was difficult to refute allegations of partiality. Nevertheless, Hunt was quick to recognise the dangers that could arise if the Inspector General and the RUC were subjected to political pressures on the one hand, and the corresponding dangers of allowing the force to remain politically unaccountable on the other. Therefore, the second, and in many ways the most important recommendation, was that a Police Authority for Northern Ireland should be established.

It was thought that it would have been best if the proposed Authority could have comprised elected representatives but a realistic assessment of the political situation which prevailed was that this would not have given fair representation to the minority parties and communities and so a compromise solution was recommended. The Hunt Committee was of the/

the opinion that the political difficulty could be bypassed if some of the members of the proposed Authority were chosen by representative bodies and some were appointed by the Governor of Northern Ireland in such a way that would reflect the different population groupings in the Province - particularly the Roman Catholic minority. The formal recommendation was that a Police Authority should be created by statute and that membership should be as follows:

Association of County Councils .....	3
County Borough of Belfast .....	2
County Borough of Londonderry .....	1
Queen's University, Belfast .....	1
New University of Ulster .....	1
Incorporated Law Society of Northern Ireland .....	1
Resident Magistracy .....	1
Northern Ireland Committee of the Irish Congress of Trades Unions .....	2
Chambers of Commerce .....	2
Ministry of Home Affairs .....	2

plus 4 additional members, of whom 1 would be the chairman, nominated by His Excellency the Governor for Northern Ireland.

The proposed structure of the Police Authority was different from anything that had been known in Great Britain and although the committee recognised that the circumstances of Ulster prevented an Authority based on elected representatives at that time, there was no proposal that the structure should change once normality returned to the Province; neither was there any recommendation that the magistracy should play a/

a substantial role in the Authority, possibly because of their difficult position in a strife-torn situation, but also because there may have been an influence from Sir James Robertson whose Scottish system did not include the 1/3rd representation of magistrates that occurred in English and Welsh Authorities. The Police Authority for Northern Ireland is examined in greater detail later in the text and suffice it to say that although the Hunt recommendations to composition were a compromise, as events have developed, it is unlikely that in the event that a devolved government is provided for Northern Ireland at some time in the future, that it would see any advantage in changing to a politically based Police Authority.

The responsibilities proposed for the Police Authority were similar to those which prevailed in the mainland, subject to the authority of the Minister of Home Affairs, but for Northern Ireland they were quite revolutionary and were intended to make the Inspector General accountable to a representative body which could also act as a channel of communication of the expressed fears and desires of the community. Clearly it was in keeping with the intention of the Hunt Committee that an unarmed police force should establish normal, friendly relationships with the community in the hope that this would lead to a breakdown of any hostilities directed against the police force and that the establishment of good relationships would lead to a more stable community.

At/

At the same time that the Hunt Committee was examining the structure of the RUC and preparing its almost predictable recommendations, it is apparent that the Home Secretary, James Callaghan, was applying pressure to the Northern Ireland Government to secure the replacement of the Inspector General (26). No doubt the Westminster Government had been startled into action which at that stage was likely to lead to a situation of direct rule, however much that prospect may have been distasteful, and the Home Secretary had taken a position that as far as he was concerned, policing arrangements in Ulster were unsatisfactory, due in no small measure to the relative personalities of the Inspector General and the Minister of Home Affairs, and that either he or the Northern Ireland Government had to remedy that situation before a state of civil war developed (27).

As an additional remedy to the situation which is alleged to have developed, whereby the Minister of Home Affairs became dependent for his professional advice only on the Inspector General, the Advisory Committee recommended that the Minister should be empowered to require that the force should be inspected as he may direct, but in any event, not less than once a year by Her Majesty's Inspectorate of Constabulary and that one of the Inspectors should have a special responsibility for Northern Ireland. The use of the Inspectorate was recommended in order to secure an impartial and professionally competent assessment of the force and clearly this was a sensible arrangement, which makes it surprising that when the Police Act (Northern Ireland) 1970 was promulgated, which gave effect to many of the Hunt recommendations, Section 16 provided a power for the Minister of Home Affairs to appoint/

appoint an Inspector (or Inspectors) of Constabulary. In fact, there has existed an arrangement whereby the RUC is inspected by one of the Inspectors of Constabulary for England and Wales by invitation, and an Inspector within Northern Ireland has not been appointed.

A further recommendation to secure good communications between the Minister of Home Affairs, the Inspector General, the Police Authority and members of the force, was the setting up of an advisory board similar in constitution to those that existed in Great Britain.

In the short time available to it, the Hunt Committee was unlikely to have been able to make any recommendations for the reorganisation of the Royal Ulster Constabulary which were not based almost entirely upon policing arrangements in the mainland. In 1969 the mainland forces had themselves been subjected to recent reorganisations in administration and the first batch of amalgamations engineered by the Home Secretary had only just got under way, therefore it would have been surprising if the Hunt Committee had adopted an approach that was substantially different. The purpose of the exercise was to change the para-military Royal Ulster Constabulary to an unarmed "mirror-image" of a traditional force in Great Britain and all of the recommendations were made with that in mind, even to changing the colour of the uniform from green to blue (a recommendation that was never adopted, presumably on the grounds that such a change would have been too bitter a pill to swallow for a force that must/

must have been reeling under a collapse of morale and what must have appeared to many of its members as unjustified attacks upon its reputation).

The philosophy of the Hunt Committee was summed up in the following paragraph:

"Policing in a free society depends upon a wide measure of public approval and consent. This has never been obtained in the long term by military or para-military means. We believe that any police force, military in appearance and equipment, is less acceptable to minority and moderate opinion than if it is clearly civilian in character, particularly now that better education and improved communications have spread awareness of the rights of civilians" (28).

and all of the emphasis of the recommendations was placed upon securing and maintaining good and lasting relationships with the community. As far as policing methods were concerned, special emphasis was placed upon community relations in all its forms - work with youth, good press relations, the establishment of police liaison committees (particularly in Londonderry) and the re-opening of some local police stations. As far as prosecutions were concerned, it was thought that -

"the impartiality of the police may be questioned if they were responsible for deciding who shall be prosecuted and thereafter for acting in court as prosecutor".

and therefore the committee recommended that the Scottish system of independent public prosecutors should be adopted.

Certain legislative changes were recommended, particularly with regard to the Civil Authorities (Special Powers) Acts (Northern Ireland) 1922-1943 and regulations made under these Acts, which had aroused much public concern and criticism; the "Special Powers Act" as it was known, had been widely resented because the extensive and authoritarian powers that it gave to police to combat terrorism were alleged to be used too extensively against ordinary members of the community. Whilst recognising that some Emergency Powers may be necessary, the Advisory Committee was of the opinion that better police-public relationships could be established if the Acts were repealed and anti-terrorist matters were dealt with under normal legislation which provided better control by the courts and thus a better accountability to the public.

Also in an effort to ensure that police officers could be seen to be publicly "impartial and independent", the Hunt Committee was of the opinion that membership of certain organisations, such as the Orange Order, was incompatible with membership of the RUC, and without casting any doubts on the ability of officers to behave impartially, the committee recommended that it was necessary for that impartiality to be seen to be beyond doubt.

In order to speed up the process of a transition from a paramilitary force to a traditional organisation, the Advisory Committee recommended closer links with forces in the mainland. This relationship would offer the benefits of providing RUC members with "wider horizons", shared experiences in training/

training, research and planning, communications and particularly a boost to morale once the feeling of isolation was broken down. Additionally, the advantage of "mutual aid" between Ulster and the mainland forces was recognised by Hunt in view of the fact that shortage of manpower had been apparent during the rioting and some officers had been on duty continuously in the "front line" at Londonderry in excess of 36 hours. The associated recommendations encouraged permanent interchange between officers of the RUC and mainland forces as well as attachments and secondments for specific purposes. In fact, a Police Act 1969 was passed very quickly to give effect to the mutual aid provision for the RUC by mainland forces, and Callaghan describes the plans for sending 1,500 Metropolitan police officers to Ulster which never materialised, partly because of opposition by the Police Federation who would not operate the "Special Powers Act", and partly because the Labour Government lost power before the plans could come to fruition.



ii) The Ulster Special Constabulary

A brief mention is necessary of the Ulster Special Constabulary since it was different from what one would normally understand by the term "special constabulary" and at least part of the organisation was viewed by the minority population as a private Protestant army organised by the Orange Order (29).

Recruiting for the Ulster Special Constabulary (USC) began in November 1920 during the period of turmoil leading to the establishment of the Government and Parliament of Northern Ireland. There were three classes of enlistment:

Class A involved a willingness to perform fulltime duty;

Class B part time duty;

Class C provided a reserve list of volunteers available for call-up during a grave emergency.

By 1921 over 8,000 men had been recruited into Class A and platoons of these men could be posted anywhere in Northern Ireland. 25,000 men were recruited to Class B and platoons of these were available for local protection duties in the area in which they resided. Nearly 11,000 volunteered for Class C. During the transition period to Northern Ireland Government, the USC bore a heavy responsibility for law and order while the Royal Irish Constabulary ran down and the RUC was established in June 1922. As some semblance of normality returned, both Class A and Class C were stood down, but Class B was retained (the "B Specials") against the possibility of/

of further troubles developing. At the outbreak of the Second World War in 1939, there were 13,000 "B" Specials available for general Home Guard type duties and because constitutional arrangements in Northern Ireland prevented the establishment of a Home Guard Unit as an auxiliary of the military, a second section of the USC was established, bringing the combined strength to 40,000 men who were all armed and equipped for defence duties. After the war the USC reverted to its former reserve policing role and reduced in strength to about 10,000. Between 1956-62 when the IRA conducted a terrorist campaign, over 1,700 members of the USC were mobilised for fulltime duty - the remainder operated on a part-time basis.

The role of the USC members varied between city and county; in the cities normal police duties would be operated whereas the men from the counties usually carried out guard duties of a military nature as required by the RUC. The county specials were armed and trained as soldiers.

The USC was organised and controlled by the RUC and although there were no official restrictions about recruitment, it is a fact that no Catholic was a member of the "B Specials" in 1969; not surprisingly, this was viewed with dismay and alarm by the Catholic minority. When the "B Specials" were formed some Catholics did join, there were 28 Catholic recruits within the first few weeks. However, the polarisation and intimidation of the 1920-22 period prevented more from joining, resulting in an almost exclusively Protestant Loyalist Force. Similar events occurred after 1970 in which year a very large number/

number of Catholics joined the Ulster Defence Regiment, the part-time RUC "R" and, of course, the RUC. Intimidation, murder and internment ended much of the initial Catholic enthusiasm for joining such organisations.

The Hunt Committee recognised that the USC were loyal men who were fulfilling para-military duties under the control of the RUC. Having recommended the disarming of the RUC, it would have been illogical to have maintained an armed Special Volunteer force whose duties were primarily concerned with the security of the State and therefore should more properly be carried out by the military controlled from Westminster.

In a diplomatic way the Advisory Committee recommended the disbanding of the USC (effectively the "B Specials") and suggested the establishment of a locally recruited part-time force under the command of the GOC NI, which in fact became the Ulster Defence Regiment. Many "B Specials" joined the UDR.

3. THE POLICE ACT (NORTHERN IRELAND) 1970

Swift action followed upon the publication of the Hunt Report and on 26 May 1970 the Police Act (Northern Ireland) 1970 was introduced by the Westminster Parliament, whose power to legislate for Northern Ireland on any matter it so chose remained undiminished, notwithstanding devolution under the Government of Ireland Act 1920. Many of the recommendations of Hunt were embodied in the statute and not surprisingly, the Act was shaped on the Police Acts of 1964 and 1967 which applied to the mainland forces. Until March 1972 when direct rule was introduced in Northern Ireland by the Westminster Parliament, the equivalent powers of the Secretary of State with regard to mainland forces were vested in the Minister of Home Affairs, and thereafter in the Secretary of State for Northern Ireland; the chief officer of the force was referred to in the Act as Inspector General but almost immediately the style Chief Constable was adopted and the title was introduced by way of a Statutory Instrument in 1970.

The Act was an important turning point for the Royal Ulster Constabulary which began its role change that was intended to establish traditional policing methods in Northern Ireland by an unarmed force. Circumstances were to frustrate the transition envisaged by the Hunt Committee, which itself conceded that in the short time available to it the committee was not fully aware of certain facts and political undertones which were to govern the life of the people for many years to come. It is also fair to consider that even those who were steeped in the political history of Northern Ireland were not altogether aware of the eventual power and influence of the conflicting/

conflicting forces that were unleashed in 1969. To a certain extent, the terrorist aspect of Northern Ireland is incidental to the study of the relationships that exist between police and government in the long term and no attempt will be made to consider the political implications beyond those which have an immediate bearing on the accountability of the police in Northern Ireland. However, it is difficult to separate the day-to-day effect that terrorism has had on both administration and policy for over 15 years, and in the immediate situation it colours almost everything that occurs in that relationship; it remains to be seen what changes will take place when a return to normality occurs.

The most important feature of the 1970 Act, as far as police accountability is concerned, was the creation of the recommended Police Authority for Northern Ireland. Under Section 1, the Authority was established as a body corporate tasked with the duty to secure the maintenance of an adequate and efficient police force with similar powers and obligations as were possessed by Police Authorities in England and Wales; the direction and control of the force rested with the Chief Constable, who was made vicariously liable for the actions of his officers in defined circumstances and who had imposed upon him the same obligations with regard to reports as were placed on mainland Chief Constables. The Secretary of State for Northern Ireland stood in relationship to the Police Authority and the Chief Constable in much the same way as his colleagues across the water. The force was funded 100% by Central Government since there was no similar Local Authority arrangements with regard to a national force (30).

4. THE POLICE AUTHORITY FOR NORTHERN IRELAND

The constitution of the Police Authority was laid down in Schedule 1 of the Police Act (Northern Ireland) 1970 and is as follows:

The Authority consists of a chairman who is paid such remuneration and other allowances (including allowances by way of superannuation) as the Secretary of State, with the approval of the Treasury, may determine; and a vice-chairman and no fewer than 14 nor more than 20 members appointed by the Secretary of State, who may be paid such allowances as he may determine, again with the approval of the Treasury. The powers of appointment must be exercised by the Secretary of State so as to secure, as far as practicable, membership of the Police Authority that is representative of the community in Northern Ireland; and as far as practicable, members appointed must include persons representative of the interests of -

- i) Local Authorities and other public bodies (including universities and other institutions of higher education);
- ii) the legal profession;
- iii) trades unions;
- iv) agriculture, industry and commerce;
- v) voluntary organisations having as their principal object, or one of their principal objects, the welfare of children or young persons;

and a person appointed to represent the Secretary of State.

The Secretary of State must consult such organisations and persons as appear to him to represent the respective interests above before making such appointments. Membership of the Police Authority is for a term of three years but members may be re-appointed. The Secretary of State may fill casual vacancies that occur and a person appointed to such a vacant post shall be eligible to serve the residue of the term of the member in whose place he is appointed, subject to re-appointment at the end of that term.

Members may resign their appointments by giving notice to the Secretary of State and if in the opinion of the Secretary of State a member becomes unfit to continue or incapable of performing his duties, then the Secretary of State may terminate his membership (32). Certain conditions of fitness to continue in office are laid down. The quorum for a meeting of the Police Authority is 8 but the Authority may constitute committees of such 5 or more of its members as the Authority may appoint and may delegate to a committee so constituted any of the functions of the Authority.

Section 3 of the Act provided for the appointment of a chief administrative officer to be secretary of the Police Authority and it allowed the Authority to make arrangements for administrative, secretarial or other assistance to be provided for the Authority from the civil service.

In June 1973 the Police Authority for Northern Ireland issued a report on its first three years of operation and the reality of the extraordinary task facing both the Authority and the "adequate and efficient" police force that it was required to maintain may be judged from the first few pages which contain an "In Memoriam" notice for one of the Authority members who was murdered by terrorists in 1972, and a Roll of Honour recording the names of 37 officers of the RUC and the RUC Reserve who were killed during those years as a result of terrorist activities.

The foreword by the chairman of the Authority speaks of the firm hope of the new Authority that it would have been able to comply with the recommendations of the Hunt Committee and records the co-operation of the officers of the RUC in seeking to achieve "changes which seemed at the time very radical".

"The changes have not brought about the peaceful and happy situation for which we hoped; terrorism and its accompanying evils have seen to that. That does not mean, however, that the changes were inadequate or were wrong. We and the police force believe them to have been right, and we are convinced that they will be proved so immediately violence ends, as end it must".

Clearly the Police Authority in Northern Ireland was confronted with a mammoth task not only in organising itself into a workable and efficient body but also of familiarising itself with the intricacies of a sophisticated force that was itself in/



in the throes of a rapid re-organisation. The Authority took the line that no single function was more important than any other and identified its major responsibilities (according to statute) as being:

- i) the determination of the size of the force;
- ii) the appointment of senior officers;
- iii) the provision and maintenance of all buildings, equipment and supplies essential to the proper functioning of the RUC;
- iv) the duty to keep itself informed as to the manner in which complaints from members of the public against members of the police force were dealt with by the Chief Constable (33);
- v) financial and budgeting control of expenditure on police services.

In order to cope with the problems the Authority constituted four standing committees of a functional nature and all with delegated powers to act in defined areas without reference back to the full Authority, other than by way of keeping all of the members informed of developments. The four committees were:

a)/

- a) Finance and General Purposes Committee (which also dealt with police recruitment insofar as it affected the Authority);
- b) Buildings, Equipment and Supplies Committee;
- c) Complaints Committee;
- d) Consultative Committee on Public Order (The First Schedule of the Police Act requires the Authority to constitute a committee comprising the chairman, or in his absence, the vice-chairman, and four other members which the Secretary of State shall consult in connection with the making of Orders under the Public Order Act (Northern Ireland) 1981, prohibiting the holding of public processions or meetings).

It would seem that the committee structure provided for in the Police Act (Northern Ireland) 1970 was the only effective way in which the Authority could function. Such a structure is not yet common within many mainland Police Authorities, although it will be remembered that it was an idea commended by Professor Regan and utilised by the Chief Constable of Greater Manchester Police and others (34).

The/

The problems facing the Police Authority in the early years were legion but the rapid expansion of the force necessarily brought its own difficulties. There had been a recognition by the Hunt Committee and others that the RUC did not have sufficient manpower with which to cope with the severe public disorders that occurred in 1969, but as the years went by so too did the problem of terrorism grow on such a scale that the military presence in Northern Ireland escalated of necessity in order to give the RUC an opportunity of re-organising and training itself to deal with the social problems. (The presence of the military in Ulster is dealt with as a separate issue later in the text).

In recognition of the Hunt Committee's recommendation that the establishment of the RUC should be increased, a police examination of the problem had recommended to the Police Authority that the force should be built up over a five year period, from 3,500 to 4,940. Such a rapid growth brings with it innumerable problems in training, equipment and absorption into the regular force, not to mention the enormous financial implications, and for a Police Authority comprising members without committee experience and without a detailed knowledge of policing arrangements, the task would appear to have been doubly difficult.

The implications of terrorist activity dominated everything that the Authority had to do and as well as having to re-arm the force and to counter the effects of little or no firearms training for 18 months after the force was re-organised, a/

a particular problem manifested itself in such a serious way that a separate committee had to be established by the Authority to deal with it.

In December 1971 the Authority appointed a Special Housing Committee to deal with problems affecting a large number of police officers as a result of terrorist attacks on their homes or the threats of such and the intimidation of their families. Urgent meetings were held with the representative bodies of the officers and with the then Minister of Home Affairs and representatives of the Ministry of Development and Finance and a scheme was approved for granting financial aid to police officers who had to vacate their homes as a result of intimidation or attack. 136 claims were received under the scheme, necessitating detailed examination by the Chief Constable and final processing approval by the committee.

Thus, it can be seen that, in addition to the normal functions of a Police Authority, the Northern Ireland Authority had special and peculiar burdens to deal with that meant many meetings, no doubt placing a strain on individual members but which would have made almost impossible demands on elected members of a Local Government type of Police Authority who would also be members of other Local Authority committees. The type of Police Authority that exists on the mainland would be unlikely to be able to deal with the peculiar pressures of the Northern Ireland scene. If Professor Regan and others are right in their assertions that some police committees in England and Wales are failing to fulfil their statutory roles, how much/

much more likely is it that such a committee could not cope with the Northern Ireland problems as presently constituted?

One of the pieces of information that is missing from the report by the Northern Ireland Police Authority - "The First Three Years" - is a statement about what steps, if any, the Authority took to keep members of the Northern Ireland community informed about its activities. Certainly, much of the activity of the Authority would have been confidential, of necessity, but as the creation of the Authority was one step in making the Chief Constable of the RUC publicly accountable, it would have been interesting to learn whether the appointment of representative members from a cross-section of the community was seen as being sufficient or whether positive steps were taken to consult the public and to learn of their opinions.

A more comprehensive document on the first eleven years work of the Police Authority was issued in 1981. If the introduction to "The First Three Years" was shocking, that of the report on the first eleven years work of the Police Authority was more so; details now included a statement "In Memoriam" to two former members of the Authority who had been murdered by terrorists and the Roll of Honour contained the names of 160 RUC officers and members of the RUC Reserve who had been killed as a result of terrorist activities. Apart from those who had died, many hundreds more had received injuries ranging from the trivial to total incapacity, all of which had produced trauma and domestic upheaval to those directly involved and an enormous welfare task for the RUC and for the Police Authority who serviced the force; the consequential problems of such repeated tragedy are both far-reaching and prolonged.

By 1981 it had become apparent that the Police Authority had matured significantly and in recognising the independent and yet inter-related functions of both the Secretary of State and the Chief Constable, it saw itself as having the "middle role":-

"On the one hand it must be sensitive to the image and requirements of the police and on the other hand to the responsibilities of the Secretary of State. At the same time, in viewing the performance and effectiveness of the police service, the Authority must have regard to the interests and concerns of the community" (35).

Additionally, the Authority was very conscious of the need to ensure that the Chief Constable was free from political pressure while at the same time, being careful to ensure that both Central Government and the RUC were fully supported in their task of ensuring a steady return to normality in the Province. Additionally, the Authority declared that it was always glad of an opportunity to discuss any "worthwhile contribution towards solving the law and order problem" with any section or group in the community.

Notwithstanding the determined effort of terrorists to undermine the stability of the Province, the chairman of the Police Authority declared that it had not been deflected from its strong determination to make the RUC one of the best and most efficient forces in the United Kingdom. That intention and dedication by an Authority, coloured as they are, and should be, by a high degree of community interest, are both commendable and desirable.

Growth is one of the necessary problems that the Northern Ireland Police Authority has to face on a continuing basis: between 1970 and 1981 the establishment of the regular force increased from 3,500 to 7,500 and the strength of the RUC Reserve was 2,060 full-time members and 2,810 part-time. In accordance with the recommendations made by Hunt, a Cadet Corps was established under the provisions of the Police Act (Northern Ireland) 1970 and at the end of 1981 there were 120 cadets. In addition to the police strengths, the Authority had become responsible for approximately 110 traffic wardens, as well as a large civilian staff and in 1975 it had taken over responsibility from the Northern Ireland Office, on an agency basis, for the Civilian Search Unit with a strength of 315 (36).

The provision and maintenance of buildings and the supply of modern equipment are enormous tasks which have grown in a way that could not have been imagined in 1969. Additionally, the Authority has a very real responsibility for ensuring that complaints are handled properly in an area where the eyes of the world are on the alert to discover breaches of duty by police officers that have been, and are, alleged to be lax in enforcing laws designed to maintain and protect basic civil and political rights (37). In this regard, the Authority reported that it had made "a major contribution to the development of safeguards which are designed not only to prevent ill-treatment of persons in custody but also to protect police officers against false allegations". Although the responsibility with regard to complaints against police has the same wording in all three of the major Police Acts in the United Kingdom, there can be few Authorities where the actual burden can lie more heavily and where the consequences of any failure on the/

the part of either the Police Authority or the Chief Constable to ensure that the members of the RUC operate within the law and that the grounds for justified complaints are kept to the absolute minimum, are likely to be more serious.

There has been no requirement to make any statutory changes regarding the Police Authority but it would have been surprising if the committee structure had not been subject to change periodically (38). At some time between 1973 and 1981 the committees that were described in "The First Three Years" altered as follows:-

1. The statutory provision for a Consultative Committee on Public Order remained

2. Finance and General Purposes Committee

This committee was empowered by the Police Act (NI) 1970 to act and to take decision in respect of any matter of a financial nature within a certain expenditure and such other matters as may have been specifically delegated by the full Authority. Examples of matters considered by this committee were:-

Annual Financial Estimates

Requests for additional RUC posts

Increase in rates of pay and allowances

Monitoring of overtime

Review of promotion procedures

Compensation claims

Specialised civilian posts.

3./



3. Buildings and Supplies Committee

This committee dealt with any matter related to the above, including the acceptance of tenders, the entering into contracts and the purchase or leasing of land or property within defined limits.

4. Complaints and Public Relations Committee

This committee had a dual function:-

- i) the statutory obligation on the Authority with regard to complaints against the police;
- ii) through liaison with many representative and opinion forming bodies throughout Northern Ireland, to encourage the community to identify with a fair, impartial and efficient police service in their own way.

5. Policy Co-ordinating Committee

This committee was described as having a co-ordinating and exploratory function and was also responsible for the examination of policy priorities. The members of this committee were the chairman and vice-chairman of the Authority plus the chairmen of the three standing committees and two other members of the Authority in rotation.

All of the above committees met at least monthly and more often if the occasion demanded. In addition to those meetings, the full Authority met at least once a month when reports from the other committees were submitted. The Chief Constable attended each meeting of the full Authority when he made his/

his report and discussions would then occur on any matter for which the Authority had responsibility. Additional special meetings were called as necessary.

It is interesting to note that in the second major report on the work of the Police Authority for Northern Ireland, full recognition was included of its intended role as being representative of the community and of the need for it to be sensitive to the concerns and wishes of the people of Ulster. The Authority reported that it had meetings with all of the leading constitutional political parties in the Province in an attempt to understand community views with the intention of explaining the policies and philosophy of the RUC as far as possible (39). Contact was reported with an extensively wide cross-section of the community, mainly through organisations and associations as well as the churches. It was no accident that much of this contact was made through the Complaints and Public Relations Committee, because it was found that an analysis of many complaints provided a useful indicator of public opinion; needless to say, public opinion was not always well informed and that committee regarded it as an important function to give an accurate portrayal of the RUC in the hope of securing a supportive community.

"The Authority has found that it has received almost total acceptance in its requests for meetings. These meetings have not only given the Authority the opportunity of creating a greater knowledge of its activities, objectives and achievements but they have imparted to the Authority a better understanding of public opinion on law and order, policing and community problems. They have given the Authority an opportunity to seek support for its main/

main objective of achieving a larger and more representative police force in Northern Ireland" (40).

In 1983 the committee structure was changed again (41):-

1. Policy Co-ordinating Committee

Described as the chief policy determining body of the Authority; it comprises the chairman, vice-chairman, all committee chairmen and two other members who rotate every six months. The committee meets regularly and the Chief Constable is normally invited to attend. All appointments of chief officers of the RUC are recommended by this committee.

2. Finance and Manpower Resources Committee

This group exercises overall financial responsibility for the Authority's affairs and senior RUC officers attend its monthly meetings. Its activities include:

- a) Review of all manpower establishments
- b) Monitoring manpower allocations and effectiveness (including overtime controls)
- c) Review of rank structure within the RUC
- d) Monitoring of recruiting and training arrangements
- e) Determination of budget estimates and review of expenditure in relation to manpower commitments
- f) Overall budgeting and monitoring of all Authority expenditure
- g) Liaison with HM Inspectorate of Constabulary.

3./

3. General Purposes Committee

This committee meets monthly and its functions include:

- a) Policy issues of a minor nature
- b) Health and Welfare of the force, including recreation and sports
- c) Compensation
- d) Rates of pay and allowances and changes in conditions of service
- e) Special studies
- f) Oversight of administrative arrangements of Civilian Search Unit
- g) Determination of estimate provisions and monitoring of expenditure in relation to the CSU.

4. Building and Supplies Committee

Meets at least once per month and considers:

- a) Acquisition and disposal of property
- b) Provision of all Authority buildings
- c) Property maintenance
- d) Acquisition of equipment, stores and supplies
- e) Telecommunications, transport and catering.

5. Complaints and Public Relations Committee

Meets at least once a month and considers:

- a) The statutory oversight of complaints, including the right to insist that the Chief Constable refer a complaint affecting or appearing to affect the public interest, to a Tribunal (42)
- b) Oversight of Police Community Liaison Committees - under review in 1983
- c)/

- c) Monitoring the effectiveness of police-public-press relationships including community relations activities
- d) Police Authority public relations - including consultation with outside bodies and agencies of all kinds.

6. Selective Committee on Public Order

Meets only as required and at the request of the Secretary of State, regarding prohibition orders which are very occasionally necessary in respect of public processions or meetings.

The secretary of the Authority made the point that there are regular meetings between the chairman and secretary of the Authority, the Chief Constable and the Secretary of State on a tripartite basis, to discuss matters of common interest. Naturally, it is to be expected that the Secretary of State would take a personal interest in such meetings, particularly since it is he who is responsible for the supply of public funds to the Authority and he in turn is ultimately accountable to Parliament. In much the same way the Authority's relationship with the Chief Constable is much concerned with the supply of money - the budget in 1983-84 amounted to £238m (43). There is, of course, a high degree of common interest that makes such regular meetings between the three parties both necessary and desirable and it may be that, whenever there is a return to normality, the regular contact that is enjoyed by both the Police Authority and the Chief Constable with the Secretary of State, may become less frequent. In England and Wales such contact as there is between Chief Constables and the Home/

Home Secretary is more likely to be rare and when it does occur, in all probability it will be through ACPO; in Scotland, the Chief Constables are less likely to see the Secretary of State, even through ACPO(S) meetings (44). On the mainland, contact between Police Authorities and the Secretary of State is even more rare and communications are usually written, either in the form of circulars or other correspondence. Circulars are not a necessary form of communications in Northern Ireland because the RUC is a national force and Local Authorities as they are known on the mainland, do not carry out the same functions there.

In addition to the committee meetings and social contacts, members of the Police Authority of Northern Ireland make regular visits to police establishments, usually once each month to a sub-division. The Authority also undertakes regular meetings with the representative bodies within the force.

According to Taylor:

"Underlying all the specific functions of the Police Authority, is the interest of the community at large in the style and efficiency of policing. An efficient and accountable police service is essential for the proper functioning of a democratic society. The Authority has a major role to play in bringing this about, and the present relationship between the Authority and the Royal Ulster Constabulary is contributing significantly to the restoration of law and order .....

"Our/

"Our body is most certainly not just some form of meaningless and unimportant quango. There are many aspects of our activities and particularly that of achieving complete acceptability of the impartiality of the RUC throughout our troubled community, which we would hope to see improved yet further. We are constantly striving toward this end ..... the Authority does in no way see its role as something static, but rather as an evolving one within the statutory framework, as circumstances may require" (45).

Needless to say, the tripartite arrangement of Ulster depends upon goodwill and mutual respect in exactly the same way as it does in Great Britain:

"Those relationships are at once simple and complex, formal and informal, direct and indirect, and single and multiple, and vary in accordance with the nature of the role or function involved" (46).

They rest only partly upon statute, having evolved over the years through custom and convention, changing from time to time to match the circumstances.

There is little doubt that the creation of a Police Authority in Northern Ireland has been beneficial, it being seen as a buffer between the RUC and Government. The political circumstances which precluded elected representatives forming the Authority may well have been fortuitous insofar as the Northern/

Northern Ireland Authority has avoided the partisan political influence that is experienced in some Police Authorities on the mainland; nevertheless, personalities are very important and it is reported that the public profile has been negligible (fear of reprisals being a strong factor) and the Authority members have on many occasions lacked a degree of vision and adequate background knowledge. The fact that the Authority has been less than progressive on occasions may have resulted from a lack of awareness of police requirements, but more importantly from the undue influence that successive Secretaries have exercised on Authority members from the outset. After 15 years the Authority is now reported to be developing well (47)!



5. THE ROLE OF THE ARMY IN NORTHERN IRELAND

It would seem that both the Government of Northern Ireland and the Westminster Government were taken by surprise by the extent of civil disorder and the inability of the RUC to cope with it in 1969. Although it was the Unionist Government that requested Westminster to authorise the army to deal with the rioting, it is apparent that Central Government had a hand in initiating that request. The situation was a difficult one from a political viewpoint since Westminster had to retain its control of the army and thus of the security situation in Northern Ireland as it would have been unlawful to allow the troops to be under the control of a Unionist Government which was viewed with suspicion, if not outright hostility, by many of the minority community. The causes of the rioting were seen to be largely as a result of the neglect of the Unionists over the previous fifty years. Also the Northern Ireland Government was under the impression that the troops could go in and restore order by a short, sharp and effective action and then withdraw. However, it was apparent to Callaghan and to Healey, then Minister of Defence, that once the army had been committed it would have to remain in the Province for at least two years. Indeed, Callaghan saw the use of the army as being one step nearer to the assumption of direct rule by Westminster and warned the Unionist Government of his feelings in this matter (48).

The situation deteriorated to such an extent that on 14 August 1969 the formal request for military aid was made by the Unionist Government and the troops were committed while the following statement was issued by Callaghan:-

"The Government of Northern Ireland has informed the UK Government that as a result of severe and prolonged rioting in Londonderry, it has no alternative but to ask for the assistance of the troops at present stationed in Northern Ireland to prevent a breakdown of law and order.

"After three days and two nights of continuous duty the RUC find it necessary to fall back on their police stations, thus exposing the citizens of Londonderry to the prospect of looting and danger to life.

"The UK Government has received assessments of the situation from the Northern Ireland Government and the GOC NI and has agreed to this request in order to restore order in Londonderry with the greatest possible speed.

"The GOC NI has been instructed to take all the necessary steps, acting impartially between citizen and citizen, to restore law and order. Troops will be withdrawn as soon as this is accomplished. This is a limited operation and during it the troops will remain in direct and exclusive control of the GOC who will continue to be responsible to the UK Government".

This announcement had profound effects in the Province, many Loyalists felt that "their" police had been defied and humiliated and in Londonderry the troops were welcomed by the Catholics as their saviours from the excesses of the violent Protestants - that state of euphoria was not to last for very long! Not long after the troops were committed in Londonderry, there was trouble in Belfast and the Catholics called for the protection of the troops. Thus began a "policing Action" for the army which military observers have reported as the most costly and unrewarding that the British army has ever had to face. Northern Ireland was not another Malaya, Kenya or Aden and it could not/

not be treated as such, although the early military tactics were based entirely on their colonial policing experiences.

There had been a garrison of some 3,000 troops based in Northern Ireland permanently, with the underlying purpose of providing a back-up to the police in the event of serious public disorder, but as the terrorist activity had died out in 1962, there had been no real consideration that military aid to the civil power would be necessary. In view of the confusion and urgency of the situation that arose in August 1969, it seems likely that the full implications of using the army in Northern Ireland had not been foreseen. A further statement was issued by the Westminster Government on 19 August 1969 which was to sow the seeds of an immense relationship problem for the police and the army; this statement became known as "The Downing Street Declaration":-

"It was agreed that the General Officer Commanding Northern Ireland will with immediate effect assume overall responsibility for security operations. He will continue to be responsible directly to the Ministry of Defence but will work in closest co-operation with the Northern Ireland Government and the Inspector General of the Royal Ulster Constabulary. For all security operations, the GOC will have full control of the deployment and tasks of the RUC. For normal police duties outside the field of security, the RUC will remain answerable to the Inspector General, who will be responsible to the Northern Ireland Government" (49).

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This "declaration" was clearly ultra vires, for without a specific Act of Parliament, the Westminster Government had no power to place the police under the control of the GOC (NI), or anyone else, for any purpose - security or otherwise!

Thus, from August 1969 until March 1972 when the Westminster Government assumed full responsibility for and control of Ulster, the army were present in a "policing" capacity, acting as agents of the Westminster Government, with the GOC exercising an extensive amount of control and influence over the RUC for "security" purposes, and "normal" policing arrangements were left to the Inspector General (Chief Constable from 1970 onwards) who was answerable to the Minister of Home Affairs in the Northern Ireland Government and who had been appointed from the mainland on the advice (and one suspects insistence) of the Westminster Government. Clearly not a situation in which the army was acting "in aid of the civil power" and not a situation which was likely to satisfy any professional police officer. Indeed, Callaghan, himself, speaks of "recurring friction" between the Inspector General and the GOC (50).

According to the Manual of Military Law (Part II, Section V) (51), the soldier differs in no way from an ordinary member of the public in the eyes of the law when called to the aid of the civil power. Two obligations under common law are quoted in the manual:-

- a) every citizen is bound to come to the aid of the civil power when assistance is required by that power to enforce law and order;
- b) to enforce law and order no one is allowed to use more force than is necessary.

In addition to the common law obligation there is an additional duty laid upon military commanders by Queen's Regulations (52), which does not apply to other citizens, viz: in disturbances where the civil authority has not asked for help, there is an obligation to take action to quell that disturbance and to restore order even in cases where the civil authority may give direction to the contrary if, in the judgment of the military commander, action is deemed to be really necessary.

Certain other conditions enable the military to be employed in other than their normal role:

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- 1) National Emergency - under the Emergency Powers Act 1920, as amended by a similarly entitled Act of 1964, provided that a proclamation has been made by the Sovereign that a state of emergency exists, then soldiers may be employed in addition to the preservation of peace, for purposes necessary for securing and regulating the supply and distribution of food, water, fuel, light and other necessities, for maintaining the means of transport or locomotion and for any other purposes essential to the public safety and life of the community (53).
- 2) Tasks of Urgent National Importance - under Regulation 6 of the Defence (Armed Forces) Regulations 1939, military personnel may be employed temporarily in agricultural work or such other works as may be approved which are regarded as being of urgent national importance. It is by virtue of this regulation that troops may be used to maintain essential supplies and public services which become threatened by strikes and industrial disputes.
- 3) General Emergencies - troops may be used to assist in floods or in the case of forest fires, clearance of snow and ice and other like emergencies which are dealt with upon application by Local Authorities to the local military headquarters in accordance with instructions issued by the Ministry of Defence.
- 4) Civil Defence - under the Civil Defence (Armed Forces) Act 1954 members of the armed forces may be called upon to undertake duties and training in civil defence which amounts to any measures that are not actual combat for effecting defence against hostile attack by a foreign power.

Brigadier Shortis (54) pointed out that the Manual of Military Law was long overdue for revision, partly because it was published at a time when some of its contents became inaccurate because of changes in the criminal law and partly because genuine doubts had arisen about the "civil authority". Traditionally, when the Riot Act 1714 was in force (this was repealed in 1967 and superceded by the Criminal Law Amendment Act 1968) it was the magistracy who were normally regarded as having the authority to call out the troops. As the result of a speech delivered by Sir Robert Mark at Leicester University in 1976, when he queried the legal position, a question was asked in Parliament when the Home Secretary confirmed that the use of the army would no longer be sanctioned by the magistracy but by the Home Secretary (55).

Eveleigh was critical of this uncertainty which he claimed left the army to operate in Northern Ireland -

"without discernible constitutional rules to guide it or a clear chain of constitutional responsibility"

which in turn caused it to operate with -

"a certain aimlessness and with repeated changes of policy as it tried to respond to each new wave of pressure" (56)

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An article which appeared in a national newspaper in 1978 said of the commitment of troops to Northern Ireland in 1969:

"they were sent under common law as aid to the civil power, but for the first four years the legal status of the army was a mass of contradictions" (57)

Martial law is always regarded as a policy of last resort and it is clear constitutional law that it can only be imposed out of necessity and never as a matter of convenience; it follows that once the urgency passes from the situation, that military intervention should cease. Clearly the situation that prevailed in 1969 was one in which there was an urgent need for the intervention of the army to restore law and order to prevent serious disturbances and to preserve life. Callaghan states that when the army was committed in 1969 it was "in aid of the civil power" i.e. the government of Northern Ireland and the Royal Ulster Constabulary. The army remained accountable to the Westminster Government and arguably the GOC had been given effective control over the RUC, certainly as far as security was concerned; - and it is a moot point as to whether an armed bank raid to secure funds for a terrorist organisation is for normal police investigation or a matter of security! The RUC were acknowledged to be understrength and a situation had been created, unwittingly, by the Westminster Government that caused professional uncertainty and potential friction for the newly appointed Chief Constable.

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The theory of "in aid of the civil power" is that it is the Chief Constable who directs his police force, and by agreement with the GOC, secures the co-operation of the military in effecting a policing function by use of soldiers. What appears to have happened in Northern Ireland is that the GOC had been given the senior role and that what was at first a relatively straightforward task of dealing with mob violence and rioting, gradually changed into one of combatting organised terrorism whilst at the same time the army was operating in such a way and at such a level as to allow the RUC to regroup - retrain and reorganise to enable it to operate effectively in a policing role throughout the Province. The Hunt Committee had, with the best of intentions and for the right "long-term" reasons, severely curtailed the ability of the RUC to act as an effective force against the ever-increasing terrorist activity that developed after 1969 and was not a major original cause of the troubles (58). According to Fox, this meant that the army in Northern Ireland:

"..... have been used not merely as an aid to the civil authority but, in some respects, in place of the civil authority. They have and are being used not merely to restore order on the streets but also to assist in restoring the authority of the civil power" (59).

As Fox points out, no formal proclamation of martial law was made since this would have meant an abrogation of responsibility by the civil authority, but even the most casual observer between 1969 - 1973 would have been forgiven for assuming that all the ingredients of such a state were present: internment had been introduced by the Northern Ireland Government, which meant imprisoning people without trial; the suspension of/

of habeas corpus; trial without jury in certain cases and the extensive use by the army of dubiously legal techniques which had been used in relatively remote colonial "policing actions". Until the passing of the Northern Ireland (Emergency Provisions) Act 1973 (60), which was one of the first legislative acts taken by the Westminster Government after its assumption of direct rule in March 1972, the justification for the activities described was dubiously attributed to the "Special Powers Act" which had been passed by the Northern Ireland Parliament in 1922.

"Thus, by the enactment of emergency laws, the Government has provided a great deal of the substance of martial law in Northern Ireland whilst avoiding its form. By so doing, the Government has affirmed that the Irish conflict has political, economic, and cultural, as well as military forms and it recognises that to narrow the conflict to one-dimensional military form would be playing into the hands of the terrorists" (61).

However, the passing of the Northern Ireland (Emergency Provisions) Acts did not really clarify the position of the army in Ulster vis-a-vis the police. It has to be remembered that the degree or urgency in committing troops to Northern Ireland came about largely because the RUC was not in a position to maintain basic law and order when the pressures of mob-violence were upon them. That "inability" was recognised, at least by Westminster, as being a relatively long-term disadvantage and so the support of the army was likely to be equally a long-term necessity. All that these "Emergency Acts" did was to give the soldiers specific powers to undertake their policing role, and that not very well, if the views of Eveleigh are accepted (62).

Various commentators have pointed to the constitutional incorrectness of Central Government controlling and directing "policing operations" by the army. The army is politically subordinate to the Government, the police service is not:

"it is worth pointing out that there is an interest conflict in the proposition that the same force can discharge both military and police duties in the same area. It is humanly impossible for the army to build up appropriate police-citizen relations of respect, trust and tolerance by day, whilst engaging in guerrilla warfare by night. What is remarkable is the extent of British success in blending the two roles, but they seem inherently incompatible" (63).

For a period of time this appears to have been what the Government had tried to do in the form of political expediency, ignoring the finer points of constitutional law. It would be possible to put forward the argument that because the army was supposed to be acting in support of the civil power in Northern Ireland, then the exercise of discretion, that plays such an important part in a policing role, including the choice to ignore some laws and to enforce others, could be extended to it in its "policing" capacity; but some observers have questioned the validity of the argument that allows discretionary policing to ignore "no-go" areas for long periods at the behest of Central Government. Eveleigh argued that in their "policing role" that soldiers should be treated in exactly the same way as police officers, i.e. as independent officers of the Crown, rather than being subject to the political control of Central Government. That particular constitutional problem seems to have been ignored and as things were to develop later, the "primacy of the police" was both established and accepted by the army.

The annual reports of the Chief Constables from 1970 - 1983 pay tribute to the generally good relationships that were established between the police and the army from 1969. It would be foolish to suppose that personalities did not play a large part in those relationships and certainly the Chief Constables were placed in an unusual position in the early years after the commitment of the military. On the one hand the Chief Constable would have been grateful of the support of the army (normal facilities for mutual aid from mainland forces did not exist before 1969 and even after that date there were difficulties) but on the other, any chief officer would be anxious to establish the position where it was the police who were responsible both for matters of security and for law and order, aided by the army, rather than being in a partially subordinate role. Additionally, the history of past police/military co-operation in an internal security situation has been littered with difficulties owing to conflicting views about time-scales. Usually the army would favour a speedy, firm and effective solution, whereas the police attitude would be concerned with the long-term situation and the effect of military actions on the community that would have to be policed after the army had left (64).

In Northern Ireland the army had to suffer the brunt of burgeoning terrorist activity in the early years whilst struggling under the burden of uncertainty about its powers. Certainly the lessons learned in other colonial "policing actions" were applied very firmly throughout the early seventies:

"the/

"the army maintained very comprehensive intelligence records on people, houses and vehicles in those areas where the IRA operated. These records were maintained by house visits, or "head checks", searches and a comprehensive P (personal) check system operating 24-hours a day on the streets and in the pubs. Such measures made the movement of wanted IRA men extremely difficult and the associations revealed by "sighting reports" led to many arrests, often in red-handed circumstances. Despite these successes in purely operational terms, a very heavy price was paid in relations with the community as a whole, since cause and effect became blurred in the minds of the general public so that the counter-measures were seen as the cause of the troubles rather than the Provisional IRA's actions" (65).

Nevertheless, the statement by the Westminster Government on 19 August 1969 about the power of the GOC combined with the temporary inability of the RUC to function as it would have wished, led to a situation in which the army almost took over the role of the police. Clearly both circumstances and personalities would have had much to do with that development, whether it was intentional or not, and at least one writer perceived the position of the army in 1975 as follows:

"When the army was brought on to the streets of Derry in August 1969 they were sent there "in support of the civil power"; that is to say as an auxiliary to the RUC. In theory, therefore, military units in Ulster awaited a request for help from the police before becoming involved in civil disturbances. In practice this strategy became less and less applicable over the following years and the army increasingly came to take over the functions of the police in Northern Ireland. This came about not through any subversive conspiracy/

conspiracy on the part of the army, but because the police were unable to operate on their own in districts where the IRA were particularly strong. The military machine, being by nature bureaucratic, also took to itself various functions on the periphery of the army's daily duties. Thus soldiers became not only policemen patrolling the streets as the police might do elsewhere in the United Kingdom, but also community relations experts, housing assistants, intelligence men and plain clothes officers. The intelligence corps provided an alternative to the Special Branch. The plain clothes army patrols - in early 1974 assisted by men from units of the 22nd Regiment, Special Air Service based at Hereford - became a kind of unofficial CID, operating quite outside the control of the RUC, under the immediate and exclusive control of the Commander Land Forces at Lisburn. The army ran its own "black propaganda" operations, forging posters and documents and leaking sometimes untruthful information to journalists about politicians or extremist leaders whom they disliked<sup>1</sup>. There are lawyers in Belfast who would say, with some justification, that a few soldiers have also acted as unofficial judges, juries and executioners, because troops dressed as civilians have been involved in at least half a dozen disturbing but still unexplained shooting incidents<sup>2</sup>. As the arrest operation in north Belfast was to prove again within a week, the army were not obliged to inform the police of their actions in advance. In many ways they no longer supported the civil power because they had themselves become the civil power in Northern Ireland (66).

"(1. cf The Times, 25 March 1975, p.6.

2. Patrick McVeigh, for example, was shot dead in Andersonstown in an apparently sectarian murder in 1972. Months later his inquest revealed that soldiers in plain clothes, firing from a civilian car, had been responsible. But no one was charged)."

Whether or not that description of the army was entirely accurate, the circumstances described fit very closely the pattern of events that occurred in Malaya and Aden and certainly there were reported occasions when much of the activity described occurred in Northern Ireland. There is no doubt that many people in Ulster saw the army performing the dominant "policing" role and some years after the military were committed to regular duty in the Province, there were some areas, particularly in the south, where the presence of RUC officers at police stations which were both fortified and defended by the army, was a token (67). Nevertheless, some courageous RUC officers insisted on patrolling with the army and entering areas which were supposed to be "no-go" to the police, and during the years there were countless examples of how the army and police have operated together. At one period from 1973 - 1978, there were two regiments of the Royal Military Police (who had the powers of constables in Northern Ireland) in the Province, whose mission was to perform duty in support of the RUC and who carried out joint patrols with police officers and in Special Patrol Groups (SPGs) (68).

In the words of the 1974 Annual Report:-

"The Royal Military Police worked in harmony throughout the year in divisions with the Special Patrol Group. Military police duties have been varied and their efforts in a civil policing role are fully appreciated and merit the gratitude of all for the excellent contribution they have made to peace and security during the year".

6. THE PRIMACY OF THE POLICE

It is interesting to note that for a period from 1975 the annual reports of the Chief Constable do not contain much information about the role of the army in Northern Ireland; there are polite acknowledgments of the co-operation given by the military to the RUC but not much detail. The annual report for 1976 is of interest because it gives several clues to a developing police strategy that heralded a transition from a situation where the police, of necessity, had an almost subordinate role to the army, to one where the police took over responsibility for the security of the Province, assisted by the army. This was a position that every senior police officer would have regarded as being the correct one, even from the outset of the troubles in 1969, but which the army had ignored, partly because of Callaghan's statement on 19 August 1969, and partly because the reality was that the RUC could not maintain the dominant role for reasons that have been mentioned.

In May 1976 a new Chief Constable, who was well-versed in constitutional law, took command of the RUC and announced his objectives for the force; they included "a basic shift in security strategy" and the intention to deal with terrorism by effective law enforcement executed by highly professional and sophisticated police methods. To assist in realising those objectives -

"The full weight of the army is therefore being deployed in a detailed way which best serves police purposes and is governed by police objectives" (69).



Emphasis was being placed also on what was described as "Enlightened Law Enforcement" which was an effort to identify the force as closely and as fully as possible with the community and to be sensitive to its needs and feelings. This community relations philosophy was very much in line with police thinking on the mainland, had been recommended by Hunt and showed a determination on the part of the Chief Constable to establish a "traditional" police force within the Province as part of the strategy to defeat terrorism and to bring "normality" to Northern Ireland. It may be assumed that such a philosophy also demonstrated the new Chief Constable's determination to maintain the professional independence of the police in operational matters!

On 2 July 1976 the Secretary of State for Northern Ireland (Mr Merlyn Rees) moved in Parliament:

"That the Northern Ireland (Various Emergency Provisions)(Continuance) Order 1976, a draft of which was laid before this House on 27 May, be approved" (70).

The debate that ensued revealed some interesting information about the changing role of the RUC and endorsed the philosophy that came to be referred to as - "The Primacy of the Police" (71).

The Secretary of State made reference to a Ministerial Committee which had considered Law and Order within the Province from February 1976 until June of that year and which had concluded:

"The only way forward is the way in which law and order has always been established in this country - by the police working to the law and securing its effective administration. Every other way of introducing law and order will always alienate one or other section or group of the community, who will come to feel that they have been unfairly dealt with. Alienation will grow and lawlessness will increase".

The committee had gone on to acknowledge that the police had to secure acceptance and integration in the community and that for some time to come the army would continue to provide "the basic security buttress". This was nothing new, it was a rehearsal of what the Hunt Committee had identified as being essential to the RUC and it was in line with the views of successive Chief Constables who had learnt the lesson of the importance of good community relations in a hard school. Nevertheless, it was an important turning point for the RUC which took the force one step nearer to a traditional role despite the continuing need for it to be armed.

The policy of the restoration of the "primacy of the rule of law" has been reported as being solely due to the then Secretary of State for Northern Ireland (Merlyn Rees) who introduced the change as a result of the recommendations of the Working Party which he established. The policy then advanced by Rees was/

was endorsed by Cabinet, was introduced in September/October 1976, and pertains to this day (1985). It was this policy which was projected by the new Chief Constable (72).

In the foreword to the annual report on 1977, the Chief Constable was able to comment:

"the policy of restoring primary responsibility for law and order to the RUC, with the army acting in support, increasingly became a visible reality during the year. The accelerating implementation of this policy made a significant impact on the security situation and this in turn engendered greater confidence in the community and respect for the police".

The report went on to state that in security matters the changed strategy mentioned in the 1976 report - the concept of the police assuming the principal role - "was translated into a positive reality which could be seen in action".

Indeed, 1977 was acknowledged to be the year when the Royal Ulster Constabulary assumed full responsibility both for law and order and for security within the Province; according to an official document used to brief soldiers being posted to Ulster -

"The/

"The current role of the army in Northern Ireland is to support the RUC to defeat terrorism. This represents a change in role from 1969 when it was to assist the civil authorities to restore law and order. In 1977 the RUC, however, assumed formal responsibility for security in the Province".

Clearly, this development must have been a boost to the RUC, which had been working hard to recover both status and morale after the shattering events of 1969, but to some observers, the primacy of the police was not well received by some military personnel. According to Boyle, Hadden and Hillyard, after the RUC assumed the dominant role in 1977 -

"There is a good deal of frustration in the army over this curtailment of their operations, and their effective subordination to the police in respect of the processes of arrest and prosecution" (73).

It is not clear how widespread this reaction in the army was supposed to be, but it is understandable if military personnel, who had been doing a difficult job for eight years, did feel some resentment at seeing their ability to handle that situation as they had become used to doing, restricted by a force which had, hitherto, been unable to cope. There is no doubt that there was a degree of suspicion within the army about the partiality of the RUC to the Protestant cause (74), and it would not be surprising if senior military personnel were resentful of losing the ability to control the destiny of the army within the Province. It is not clear how much personality clashes at senior levels in the army and the police contributed to any/

any friction that occurred after the primacy of police had been established but it would appear that there was conflict. It is also true that the army itself was undergoing a deterioration in its acceptability to both communities in Ulster and this too may have added to any tension that existed.

By 1979 the apparent rivalry between police and army for the control of security policy was very much a matter for Government concern. An article in "The Guardian" (75) drew attention to the deterioration of the army's popularity and the improved standing of the RUC which had come about from its professional development over the previous ten years. Clearly the methods used by the army in defeating terrorism caused a lot of questions to be asked about their activities and, no doubt, caused a degree of resentment with the police who were trying to defeat terrorism by clear "law and order" policies, mindful of the long-term effects that any other methods would have on police-public relationships. The policing philosophy recommended by Hunt had been designed to ensure the development of a traditional police force that was constitutionally accountable to the law-abiding members of the community; while any degree of subordination of the RUC to the army remained, full development of that ambition was not possible for the police.

In 1980 another Chief Constable was appointed to command the Royal Ulster Constabulary and in his report for the previous year he emphasised the importance that he attached to continuing with the policy outlined by Hunt:

"The RUC for its part is dedicated to assisting the community, to giving it increasing support and to conducting its own affairs in a just and impartial manner. We are committed to being an accountable police force; accountable to the law and to responsible agencies such as your Authority and Her Majesty's Inspector: ate of Constabulary. In return, we ask for responsibility by the community and its goodwill and support in the belief that the end of terror: ism lies in the strength of the bond that exists between the police and the people they serve" (76).

Despite a generous tribute to the co-operation received by the RUC from the army in the 1979 report, that year was one when matters between police and the military seemed to come to a head, at least in the eyes of Central Government. In October 1979, Sir Maurice Oldfield took up his appointment as a "co-or: dinator" of security. His arrival on the scene followed short: ly after a new Secretary of State for Northern Ireland had taken office and just before the appointment of both a new Chief Const: able and a new GOC(NI). There was no precedent for the creat: ion of a security-co-ordinator and as events turned out, the job seemed to disappear almost as quickly as it arrived. Pre: sumably the co-ordinator was Central Government's attempt to smooth out any difficulties that remained between police and the army, but it is difficult to understand why this position was thought to be necessary since any "co-ordination" that was necessary should have been carried out by the Secretary of State for Northern Ireland.

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The police approach to security and to dealing with terrorism, was that of "enlightened law enforcement" as laid down by the Chief Constable in 1976, which meant a skilful, patient, professional and thorough fight against crime which should be dealt with in the normal manner through the courts; whereas the army were inclined to the view that they should be mounting a campaign against insurgency as they had done so successfully in Malaya. However, the army also felt that there was little point in achieving any kind of success against terrorism in a particular area if this was not followed by a social and economic effort to improve the underlying causes of trouble. In particular the army drew attention to the high unemployment, the poverty and the poor housing conditions in Roman Catholic West Belfast. Generally, the army appeared to be undergoing the frustrations that the police service has identified over the years, and to many soldiers there appeared to be a role conflict for the army which seemed to be trapped in a "policing" situation which it no longer controlled and which showed little signs of ending. The toll on the security forces in terms of life and limb, not to mention the emotional trauma, had been enormous and the army wanted a new approach to break what they saw as a stalemate, while the police wanted the return to normality to leave them in an acceptable position once the army had withdrawn. The corollary of the primacy of the police as stated in 1977 was, for them, the independence of the police without the army in a policing role at all, although it was recognised that the army presence would be necessary for some time to come.

Following/

Following the announcement of the appointment of the security-co-ordinator, an article in "The Observer" (77) drew attention to the different attitudes emanating from the police and the army. "The Observer" quoted an RUC spokesman as saying:

"The Chief Constable (has) stated his constitutional position of independence, his freedom from political control and his accountability to the law and to the law alone".

The army position was summarised as identifying Oldfield as a "head" or "supremo" as opposed to the RUC's stress on the description "co-ordinator". Army commanders were quoted as complaining of "a shortage of resources, muddled priorities and an unwillingness to plan against terrorism socially and economically"; and "The Observer" saw the security-co-ordinator's role as being "to eliminate the present duplication between the army and police and to end rivalries". The Secretary of State was quoted as saying that "Sir Maurice would be involved in detailed, painstaking work, designed to eliminate waste of manpower". No doubt that was a euphemism for the elimination of conflict perceived by Central Government.

Certainly, the RUC was anxious to avoid both the actuality and the public perception of their being subordinate to a Government appointee so soon after establishing the "primacy of the police"; and it appears that the army was anxious to use the appointment of the security-co-ordinator as a public manifestation of the army's view that the anti-terrorist campaign was not being conducted properly.



According to one observer, the army's attitude was not one of strident militarism, but after eleven years in Ulster it was born of -

"a frustration that a problem which they believe is susceptible to legal and practical solutions is being perpetuated by political supineness" (78).

Whatever the frustrations of the army, both constitutional law and public opinion were on the side of traditional policing methods and any attempt by either military commanders or Central Government representatives to dominate policing was unwise. Indeed, the statement issued by the Westminster Government on 19 August 1969 placing the RUC under the control of the GOC, was a constitutional blunder which may well have contributed to the very friction which Callaghan himself was so anxious to avoid. However, the RUC was quick to see the sense of the philosophies outlined by the Hunt Committee and a succession of Chief Constables established a community-policing policy which was well supported by a Police Authority that had the financial power and Central Government backing, to ensure that the pre-1969 position would not be repeated and that "traditional" policing would prevail in the long-term.

Dervla Murphy acknowledged the importance of good police-community relationships:

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"It is very much part of our way of life that the police should be acceptable and accessible, not driven to defend themselves from the public like an army of occupation. Until the policing problem has been solved, how can normality be restored anywhere in Northern Ireland?" (79).

and that impetus which was started by Hunt and reinforced by successive Chief Constables was re-emphasised in November 1980 by the GOC(NI) in an address to the Belfast City Council when he took the opportunity of issuing a joint statement made by himself and the Chief Constable:

"We assure the people of Northern Ireland that we, the professionals, are being provided with all the resources we require to do the job. Together we have the men, we have the equipment, we have the strength and we have the will to see an end to the current violence. But the responsible support of the total law-abiding community will be necessary if we are to succeed" (80).

Perhaps the friction that existed between the police and the army was a natural consequence of years of difficulty dealing with an apparently insoluble problem. Although the army came to recognise that it was present in aid of the RUC and that it had a "policing" role to perform as part of its anti-terrorist function, it may have been difficult for it to acknowledge that its role in its normal relationship with Central Government was to contain a situation of violent opposition to the Government in order to allow a political solution to be reached; in this regard they had both a supportive and a differing role from the police whose concerns were independent of "party politics" and should not have been influenced by them.

Whatever the difficulties for the security forces between 1977 and 1980, the friction seems to have died away thereafter and official documents contain acknowledgments of mutual respect and co-operation between police and the army; certainly the post of security-co-ordinator lapsed. The annual report of the Chief Constable in 1982 is typical of the statements of co-operation and the development of a policing ethos that was entirely in keeping with the attitudes that prevailed on the mainland. After recognising the RUCs indebtedness to the army and acknowledging the "warm comradeship" between them, the following statement appeared:

"..... as the RUC gains in strength and professionalism and as the level of terrorist violence is more and more diminished, so is the future need for military support reduced.

"In my report last year I concluded with the view that law and order is the responsibility of the community as a whole. In respect of the RUC I accept without reservation the principle of real accountability - to the law, to your Authority and to the community itself. The force is pledged to extending its community relations programme in a manner which involves the force as a whole with the community as a whole. The force is also pledged to enforce the law within the law and with continued and determined impartiality. There can be no compromise of these fundamental principles and requirements. Never was it more essential, in the interests of the people of Northern Ireland, that the community should give - and be seen to give - fuller support to its police in face of the undemocratic and ruthless criminal forces which threaten us all. Much of the progress in 1982 was due to the public and this surely points the way forward".

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In a speech to the Northern Ireland Assembly on 30 November 1982, the Secretary of State for Northern Ireland recognised that the community of Northern Ireland owed a great debt to the RUC and he acknowledged the value of the policing philosophy enunciated by the Chief Constable. The Secretary of State went on to state that the improvement and success of the RUC would not have been possible without the aid of the army and the UDR.

The serious disorder, followed by prolonged terrorism is a domestic situation that had not been faced within the United Kingdom by any Government, by the army or by any police force and so it is not surprising that constitutional errors and inter-service rivalry occurred. Similarly, changes in government and political attitudes were bound to cause confusion and a lack of continuity in government policies, and although the political remedy does not seem to have been developed after over 15 years of strife, there have been major successes in the development of the RUC both as a highly professional force and as a publicly accountable body. The transition from a situation where a government minister appeared to be adopting a subordinate role to the Inspector General when the police were supposed to be directly answerable to the Northern Ireland Government, to one where the Chief Constable is accountable to a Police Authority and is yet constitutionally independent, is one that has to be applauded. Despite improbable odds and having to deal with a situation which mainland Chief Constables would regard as the ultimate threat to law and order, the RUC has succeeded in developing a "traditional" policing role which is seen by informed observers as the only way in which ultimate order may be restored in the Province. Additionally, the Police Authority/

Authority has developed a style of maintaining an adequate, efficient and publicly accountable force in a way that may be the envy of certain mainland Chiefs.

Admittedly, the Police Authority has had the advantage of strong support and total commitment from Central Government in a way that would not be either possible or acceptable in normal times and therefore its success as an Authority has been almost guaranteed. Further, it is not comprised of political interests so much as "community" interests in the widest sense and so that disadvantages often perceived by "independent" Chief Constables of party-political ingredients are avoided; decisions affecting the RUC are not taken in a party caucus and are not subject to the party-whip system which dominates some Police Authorities on the mainland. Although the Police Authority for Northern Ireland cannot be described as being democratically appointed in the normal sense, it is probably more representative of the law-abiding community in Ulster than one made up of solely elected members as in Scotland or one comprising elected members and magistrates as in England and Wales. Certainly there are many Chief Constables who are likely to see merit in a system such as prevails in Northern Ireland and this aspect of "tri-partite control" is examined later in the text.

The next section deals with the situation which prevails in the Metropolitan Police District.

NOTES: (Section III)

1. Report of the Advisory Committee on Police in Northern Ireland, Cmnd 535, October 1969, para 8.
2. Serving officers in the RUC are offended at the suggestion that the force was Government controlled because its Police Authority, as such, was the Minister of Home Affairs, and they draw parallels with the relationship of the Metropolitan Police to the Home Secretary. Nevertheless, there is no doubt that the true constitutional position of the RUC was not widely known to the general public, neither was it fully appreciated by the then Home Secretary, James Callaghan, who should have known better. See Note 6 infra.
3. Disturbances in Northern Ireland - Report of the Commission appointed by the Governor of Northern Ireland, Cmnd 532, para 7.
4. Supra - Report of the Cameron Committee.
5. See "A Place Apart", by Dervla Murphy, John Murray 1978.
6. James Callaghan "A House Divided", Collins 1973.  
  
See also "Memoirs of a Statesman", Brian Faulkner, Chap 3, Wiedenfield & Nicolson, 1978.
7. Supra para 10.
- 8./

8. Violence and Civil Disturbances in Northern Ireland in 1969, Cmnd 566. Report of Tribunal of Inquiry by the Hon Mr Justice Scarman.
9. Cmnd 532, supra para 12.
10. Following the collapse of the Executive in May 1974, direct rule was reintroduced and the Northern Ireland Act 1974, which came into effect in June, made "better temporary provision" for direct rule.
11. For a detailed examination of the disorders that have occurred since 1968, reference should be made to:
  - a) "Disturbances in Northern Ireland", September 1969, Cmnd 532. Report prepared by Lord Cameron
  - b) A Commentary by the Government of Northern Ireland to accompany the Cameron Report, September 1969, Cmnd 534. Report prepared by Government of Northern Ireland.
  - c) Violence and Civil Disorders in Northern Ireland, Cmnd 566. Report of Tribunal of Inquiry by the Rt Hon Mr Justice Scarman.
  - d) Northern Ireland : Problems and Perspectives : Conflict Studies. Ulster : Politics and Terrorism. Institute for the Study of Conflict No. 135 - 1982.  
Institute for the Study of Conflict, June 1973.
  - e) "A House Divided" James Callaghan, Collins 1973.
  - f)/

- f) "The Point of No Return" Robert Fisk, Times Books  
1975.
- g) "A Place Apart" Dervla Murphy, 1978.
- h) "A History of Northern  
Ireland" P Buckland, Gill &  
Macmillan, 1981.

12. See for example - "Arming the Protestants" by Michael Farrell, Pluto Press 1983. It is pertinent to note that Farrell is a self-confessed Marxist and the 1970/74 leader of the People's Democracy.

Legislation of 1920 which created the Northern Ireland State directed that 1/3rd of all vacancies in the RUC should be reserved for Roman Catholics - this was not taken up though the percentage then and for many years thereafter was 17/18%.

13. See Callaghan - "A House Divided", supra.

14. Report of the Committee of Inquiry into Police Interrogation Procedures in Northern Ireland - Cmnd 7497 (1979).

15. Report of the Advisory Committee on Police in Northern Ireland, October 1969 - Cmnd 535, para 13.

16. Supra, page 12.

17. Supra, Cmnd 566, para 3 : 10.

18. Supra, Cmnd 535.

19. Callaghan "A House Divided", supra p.50.

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20. Officers, who served with the Inspector General, with whom I discussed this point, were adamant that the IG was not a "dominant" man and that this was a wrong impression.
21. Supra p 55 - 56. See also Cameron Report, Cmnd 532, pp 102-4, for a description of the relationship between the Government of Northern Ireland and the RUC.
22. It is perhaps an irony that the very criticisms that Callaghan made of the relationship between the Minister of Home Affairs and the Inspector General of the RUC, have been made in the 1980s (and before) of the relationship between the Home Secretary and the Commissioner of the Metropolitan Police (see later section on the Metropolitan Police).
23. Constabulary Act (Northern Ireland) 1922, Section 1(3).
24. The recruited strength of the RUC as at 31 July 1969 was 3,052; the authorised established level was 3,500. In addition, the Ulster Special Constabulary, which had been mobilised for fulltime duty with the RUC, had 425 men.
25. It is inevitable that history is recorded in a way that is not always accurate or which is open to many contrasting views or opinions. So it is with the Hunt Report which is seen by many RUC officers who were serving in 1968 and before, as being "simplistic" and naive. Discussions with RUC officers at the highest level lead to the belief that general relationships between the police and public were good and the need/

need for closed station doors and normal security precautions did not reflect a "blockhouse" mentality but identified a continuing terrorist threat as evidenced by attacks at Rosslea, Brooke Borough and Derry. Official history will have it another way!

26. For an account of this see "A House Divided", supra. Sir Arthur Young, former Commissioner of the City of London Police, was appointed and took up his post on 10.10.1969.

See also "Memoirs of a Statesman", by Brian Faulkner, Weidenfield & Nicolson, 1978, at page 70.

27. It is interesting to reflect how differently constitutional arrangements about policing have been viewed by a Labour Home Secretary in 1969, when Callaghan described direct political influence over policing as being "evil", and a Labour opposition group in 1984 who had advocated a move to greater political control over operational policies on the mainland.

See, for example : Notices of Amendments : 1 May 1984 - 991 - to the Police and Criminal Evidence Bill, where opposition members proposed alterations to the powers of a Police Authority such that it may "direct" the police force and that it shall lay down policing priorities.

28. Cmnd 535, para 81.

29. See "A Place Apart", by Dervla Murphy, and "Arming the Protestants", by Michael Farrell.

30. Callaghan described how consideration was given to creating local forces in the Province on the basis that the community might identify more readily with a local constabulary, but this idea was rejected as untenable in the circumstances prevailing, supra.
31. The Police Authority for Northern Ireland was established on 29 June 1970 with a chairman, vice-chairman and 19 members.
32. There has been one instance to date of a member of the Police Authority being dismissed by the Secretary of State as being unfit to perform his duties.
33. For the same reason as given in the sections on police in the mainland, complaints against police will not be considered in detail for Northern Ireland, not only because the subject lends itself to a thesis on its own, but also because of the special problems concerned with recognised attempts to denigrate the RUC.
34. See "Are the Police Under Control?", by David Regan, supra.
35. Report of the Work of the Police Authority for Northern Ireland 1970-1981, p.5.
36. The Unit, formerly known as the Transport Information Unit, was introduced in 1972 to prevent the illegal importation of arms and explosives through ports. Search officers were appointed Explosive Inspectors under S.53, Explosives Act 1875, and a regulation was made under the Civil Authorities (Special Powers) Act/

Act (Northern Ireland) 1922 to widen the powers of search to include random checks. Subsequently, the powers of the Unit were derived from the Emergency Provisions Act (Northern Ireland) 1973 as amended.

In June 1974 search operations commenced in the Belfast Segment area and in November of the same year a Segment area came into operation in Londonderry with a small number of staff recruited locally. (Report on the Work of the Police Authority for Northern Ireland 1970-81, p.39).

37. See for example Cmnd 7009. The Protection of Human Rights by Law in Northern Ireland - Report prepared by the Standing Advisory Committee on Human Rights, Nov 1977; and Cmnd 7497 - Report of the Committee of Inquiry into Police Interrogation Procedures in Northern Ireland - by Judge Bennett, March 1979.
38. See proposal in Northern Ireland Constitutional Proposals (Cmnd 5259), dated March 1973, paras 69-70, which suggests reform of the Police Authority to include an element drawn from elected representatives.
39. The Authority does not meet with Sinn Fein even though it started to contest elections in October 1982.
40. Report on the Work of the Police Authority for Northern Ireland 1970-81, Ch.14, para 14.8.
41. See Constabulary Gazette 1983 "The Police Authority for Northern Ireland - What it is all about in Practice", a report of a talk to the Garda Association in Dublin by W Taylor, Secretary to the Authority.

42. This power has been used on only one occasion since 1970; it is contained in Section 13(r), Police Act (NI) 1970. For a brief discussion on this power see 1983 Constabulary Gazette, supra.
43. In 1970/71 the budget was just £7,839,100.
44. Between 1979-1984 there was only one recorded meeting with the Secretary of State and ACPO(S).
45. See Constabulary Gazette 1983, supra.
46. Northern Ireland Office memo 1983.
47. Unpublished personal and private correspondence.
48. "A House Divided", supra.
49. Cmnd 4154, August 1969, also quoted in "Peace-Keeping in a Democratic Society", by Robin Eveleigh, p.16.
- See also "Public Order in the 80s", by Brigadier CT Shortis, Seaford House Papers 1981.
- See also "Memoirs of a Statesman", Brian Faulkner, at page 64, where the author describes a conversation in which the then Prime Minister of Northern Ireland claimed that he had secured the agreement of the Inspector General to the arrangement whereby the GOC should be supreme security commander.
50. Supra p.143.

See/

See also "Pig in the Middle. The Army in NI 1969-1984", Desmond Hamill, at pages 39 and 40.

See "Memoirs of a Statesman", Brian Faulkner, at page 70.

51. Which observers acknowledge is out of date and seriously in need of revision. Part V of the ninth edition was issued in 1968 and does not appear to have been amended since that time. See "Peace-Keeping in a Democratic Society", by Robin Evelegh; "The Armed Forces and Industrial Disputes in the UK", by G Marshall, published in Armed Forces and Society, February 1979; "Public Order in the 80s", by Brigadier CT Shortis.
52. QR for the Army 1961, paragraphs J.1164a and amendment 92 of March 1975.
53. For details of the army's inability to run a power station in Ulster in 1974 - see Fisk "The Point of No Return".
54. Supra, page 115.
55. Hansard, 8 August 1976, Col.616.
56. Supra page 3.
57. The Guardian, March 20, 1978. Criticism of the "unconstitutional" role of the army in the Province has been voiced on many occasions but particular reference should be made to an article by Professor Claire Palley in The Times, 13 February 1973 - "No-Go Area Between the/

the Cabinet and the Army". See also - "The Dangers of Using the Army in Law and Order Situations", a speech by the Rt Hon J Enoch Powell, MP, to the Bexleyheath Political Forum, 4.10.77; "Public Order : The Law and the Military", Captain KO Fox in *Army Quarterly*, April 1974; "The Place of the British Army in Public Order", a paper by General Sir Edwin Bramall, delivered to the Royal Society for the Encouragement of Arts, Manufactures and Commerce, on 6.2.1980. See also "Pig in the Middle. The Army in Northern Ireland 1969-1984", by Desmond Hamill, Methuen 1985, at page 96.

John Hume, MP, challenged the powers of the army after he had been charged on 18.8.1971, with failing to disperse (with others) when ordered so to do by an army officer purporting to be acting under the Special Powers Act. Hume had been convicted at the Magistrates' Court and appealed on the grounds that powers attributed to the army under the Special Powers Act were unconstitutional. In the High Court at Belfast, Lowry LCJ upheld the appeal and quashed the conviction. Reference was made to the Government of Ireland Act 1920, which imposed a restriction on Stormont from giving legal powers to the army.

58. Cameron Report, Cmnd 532, supra.
59. "Public Order : The Law and the Military", Captain KO Fox, at page 304, supra.
- 60./

60. The Northern Ireland (Emergency Provisions) Act 1973 was based on recommendations by Lord Diplock (Cmnd 5185) in his Report to the Commission to consider legal procedures to deal with terrorist activities in Northern Ireland. The Act gave soldiers broadly the same powers as those under the 1922 Act but the precise circumstances in which they could be used were described. There were further Acts in 1975 and 1978 - the latter being a consolidating Act which was itself considered in a report by the Rt Hon Sir George Baker, OBE, (Cmnd 9222), published in April 1984.
61. Fox, supra.
62. Supra - "Peace Keeping in a Democratic Society".
63. "The British Army in N Ireland", by Patrick O'Farrell in December/January 1975, Pacific Defence Reporter.
64. See "Some Aspects of Conflict in Ulster", by Brigadier GLC Cooper, April 1973. Extract from BAR No. 43.
65. "Public Order in the 80s", by Brigadier Shortis, supra. See also "Contact", by AFN Clarke for one man's view of the army's role in search situations. See also "Law and State : The Case of Northern Ireland", by K Boyle, Tom Hadden and Hillyard, who quote figures supplied by the Northern Ireland Information Service that in 1973 the army searched 75,000 houses. See also "Ten Years on in Northern Ireland", by Boyle, Hadden and Hillyard. For an account of one difficult "police action" involving the army, see the Report of the Tribunal appointed to inquire into the events/



events on Sunday, 30 January 1972, which led to the loss of life in connection with the procession on that day, by Lord Widgery.

66. R Fisk, "The Point of No Return", page 101 (1975).
67. See "Contact", by AFN Clarke. See Annual Report of Chief Constable 1971 - with regard to terrorist attacks: "All this meant an end to our open stations and in some areas, the saloon car. Instead we had to resort to high security fences, floodlighting, barbed-wire, sand-bagging and 'hard-skinned' vehicles with crews wearing protective garments" - page ix.
68. See "The War that Never Stopped Bleeding", by Col Jerome J Haggerty, Military Review, Vol. 49, 1979. See also Chief Constable's Annual Report in 1973, pages 12 and 13 - which also speaks of good police/army liaison. See Chief Constable's Annual Report 1974, page 15, which gives details of the work of the army/police SPG throughout 1974.
69. Annual Report 1976, page viii. On 1 May 1976 the Senior Deputy Chief Constable, Kenneth Newman, became Chief Constable of the RUC. Before transferring to the RUC, Newman had been the Commander in charge of the Community and Race Relations Branch (A.7) at New Scotland Yard.
70. Hansard, 2 July 1976, Cols 879 - 923.
- 71./

71. This is an unfortunate piece of terminology which the current Chief Constable of the RUC was at pains to point out should really be "The Primacy of the Rule of Law" for which the police are primarily responsible in terms of enforcement.

72. Personal and private correspondence.

See also "Pig in the Middle. The Army in Northern Ireland 1969-1984", by Desmond Hamill, Methuen, 1985, in which the author describes the frustration of Merlyn Rees, as Secretary of State for Northern Ireland, at the inability of the police to cope with the strike action which paralysed the Province in 1974 - Ulster Workers' Council Strike - and the unwillingness of the army to "police" a civil matter such as a trade dispute.

73. "Ten Years on in Northern Ireland", supra.

74. See "Contact", by Clarke, and "The Point of No Return", by Fisk, and "A Place Apart", by Murphy.

75. 3. 2.79 by Anne McHardy.

76. Mr John Hermon was appointed to take command of the RUC with effect from 1. 1.80 and it was he who produced the Annual Report for 1979 which was issued early in 1980.

77. Sunday, 7.10.79. See also "The Listener", 28. 2.1980.

78./

78. Simon Berthon, "A New Approach to Defeat the IRA",  
"The Listener", 28. 2.80.
79. "A Place Apart", 1978, page 60.
80. Soldier News, November 1980. "Till the Job is Done  
- A Pledge to the Ulster People".

IV - THE METROPOLITAN POLICE

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4. Summary

IV        THE METROPOLITAN POLICE

1.        DESCRIPTION, OFFICIALS AND FINANCE

i)        Introduction

"The constitutional relationship between the Home Secretary as Police Authority for the Metropolitan Police and the Commissioner is unique and the exact terms of that relationship cannot be defined with precision. However, in practice it works satisfactorily, and I have no alterations to suggest" (1).

It is a paradox that the force which served as a model for all others and which has been held out to the world as being typical of British policing, bears little resemblance to any other force in the United Kingdom when the question of control and accountability is considered. There are few officers serving in the Metropolitan Police Force who would regard themselves as members of a state controlled police force, but although it has been made clear in judgments and Government statements, and although the Home Office is always at great pains to stand back from having anything to do with operational control of the force, by the terms of the originating statute of 1829, the Metropolitan Police is under the direction of "one of His Majesty's Principal Secretaries of State" (The Home Secretary) in a way that applies to no other force (2). Such "direction" as there is applies only to the administration of the force and could not apply to matters of law enforcement. It will be recalled that, with the exception of the Royal Ulster Constabulary, all other police forces are subject to a Police Authority with at least two-thirds of the members being elected, Local Government councillors.

The Metropolitan Police is by far the largest force (3), comprising approximately one-fifth of the police establishment in the UK and although the arrangements for financing it involve a degree of contribution by the London Boroughs, no Local Authority plays any part in its management. It is often claimed by Central Government, and this was endorsed by the Royal Commission on the Police (4), that "local control" of the police is a "constitutional principle" and the lack of such involvement by the London Boroughs is a constant cause of dissatisfaction to some boroughs, which has been criticised by the slogan of the "Boston Tea Party" - "No Taxation without Representation"; - nevertheless, there are very special reasons why the position of the Metropolitan Police needs to be different. Indeed, the Royal Commission followed the line taken by the then Commissioner of Police of the Metropolis and recommended that there should be no change in the Home Secretary's position as Police Authority, although it did see the wisdom of allowing confidential discussion between the Local Authorities in the Metropolitan Police District and the Receiver before the financial estimates were presented to Parliament, and so recommended (5).

ii) The Commissioner of Police of the Metropolis

When the Metropolitan Police Force was established on 29 September 1829, there was no recognisable Local Government structure that could have been moulded into a Metropolitan Police Authority. London was a mixture of small parish councils and Local Authorities and the only powerful body was the City of London, run by a strong group of businessmen and landowners known as the Common Council, who rejected any suggestion that the City should be incorporated into a Metropolitan Police District (6); there was no reasonable alternative to the Government itself assuming the responsibility for overseeing the "New Police". The situation of Local Government is vastly different today and throughout the history of the Metropolitan Police there have been representations by Local Authorities to allow them to have some say in the policing of London, none more vociferous and ardent than the Greater London Council in the 1980s.

Traditionally, law enforcement in England and Wales and such policing as there had been pre-1829 was subject to the influence and control of the Justices and it is for this reason that Sir Robert Peel appointed "two fit persons as Justices of the Peace of the Counties of Middlesex, Surrey, Hertford, Essex and Kent, and of all liberties therein to execute the duties of a Justice of the Peace at the said office (of police) ..... together with such other duties as shall be hereinafter specified, or shall be from time to time directed by one of His Majesty's Principal Secretaries of State, for the more efficient administration of the police" (7).

From the outset the Justices were known as Commissioners but this form of title did not become official until the passing of the Metropolitan Police Act 1839. The Justices were "non-judicial" in that they were prohibited by statute from acting in any Court of General or Quarter Sessions and they could not act "judicially" in any matter out of sessions:- "except for the preservation of the peace, the prevention of crimes, the detection and committal of offenders, and in carrying into execution the purposes of this Act" (8).

It was reasonable that the men entrusted with the control of the Metropolitan Police should have been created Justices of the Peace since they had to be seen to have a law enforcement function. To that extent they were technically independent of the Secretary of State as it would have been contrary to established constitutional law for him to have attempted to transgress the doctrine of the "Separation of Powers" by purporting to direct Justices in their law enforcement role. However, it was made perfectly clear by the Metropolitan Police Act 1829 that the "Justices" were subject to the direction of the Secretary of State in the "administration of the police". The Commissioner and the Assistant Commissioners were all sworn as Justices of the Peace until 1974 when the wishes of successive Lord Chancellors that the office of JP should be limited to persons actually performing a judicial function, prevailed and by virtue of Section 1(9), Administration of Justice Act 1973, chief officers of the Metropolitan Police ceased to be Justices.



In the later years up to 1974, the position as a JP was merely an anachronism and when Sir Joseph Simpson was questioned on this point by members of the Royal Commission in 1961, his reply was:-

"I would hardly think it was necessary even for me, Sir, except that it does simplify the swearing of recruits - they do not have to go to court, which is a help with the large numbers in the Metropolitan Police - that is a very minor matter; and it does enable the Commissioner or Assistant Commissioners to read the proclamation under the Riot Act, if that should be necessary" (9).

The Commissioner of Police of the Metropolis is appointed by the Sovereign, on the advice of the Secretary of State, under the Sign Manual (Met Police Act 1829, S.1); he is not attested as a constable, although he is a Chief Officer of Police (10), and neither he, nor the Assistant Commissioners, is a member of the Metropolitan Police. The Commissioner and Assistant Commissioners hold office during the Sovereign's pleasure; there is no retirement age, they are not subject to the various requirements to retire in the interests of efficiency under the Police Act 1964, and the statutory provisions for the hearing of disciplinary charges against Chief Officers of Police, with a right of appeal to the Home Secretary, do not apply to the Commissioner and his Assistants. Parker makes the point that although the appointment of Commissioner could be terminated by the Home Secretary, by way of recommendation to the Sovereign, without any formal proceedings, the Secretary of State is responsible to Parliament for his executive actions. In fact, no Commissioner ever has been dismissed, although several/

several have resigned, and again Parker states that "it has always been understood that any Commissioner who felt he had lost the confidence of the Home Secretary, especially if this showed itself in some form of public dissension or censure, would resign" (11).

Much of the Police Act 1964 does not affect the Commissioner, except insofar as it deals with regulations concerned with general conditions of service for police officers, police powers and discipline affecting all police forces in England and Wales. The relevant statutes governing the relationship between him and the Home Secretary, as Police Authority, are the specific Acts concerned with the Metropolitan Police; the original Act of 1829, Section 5, sets out clearly that the Commissioner(s) [Justices until 1839]:-

"may from time to time, subject to the approbation of one of His Majesty's Principal Secretaries of State, frame such orders and regulations as they shall deem expedient, relevant to the general government of the men to be appointed members of the police force under this Act; ..... and all such other orders and regulations, relative to the said police force, as the said Justice shall from time to time deem expedient for preventing neglect or abuse, and for rendering such force efficient in the discharge of all its duties; .....".

Nowhere/

Nowhere in the Metropolitan Police Acts 1829/39 is there any suggestion that the Commissioners were subject to the Home Secretary in their "operational" capacity as being responsible for law enforcement, and as one of the original Commissioners was a lawyer and the other an army officer, it would seem that Sir Robert Peel had no such intention. By the time that the constitutional protection from interference attaching to Justices had been removed in 1974, a judgment by Lord Denning, MR, supported by Lord Justice Salmon in the Court of Appeal in 1968 (12), placed the matter beyond any further doubt. Lord Denning's oft quoted judgment is worth repeating:

"I hold it to be the duty of the Commissioner of Police of the Metropolis, as it is of every Chief Constable, to enforce the law of the land ..... No Minister of the Crown can tell him that he must or must not keep observation on this place or that place; or that he must or must not prosecute this man or that one. Nor can any Police Authority tell him so. The responsibility for law enforcement lies on him. He is answerable to the law and to the law alone".

and Lord Salmon in support of that judgment said:

"constitutionally, it is clearly quite impermissible for the Home Secretary to issue any order to the police in respect of law enforcement".

iii) The Home Secretary

According to Newsam -

"The Home Secretary is the Minister on whom rests the primary responsibility for ensuring that the Queen's Peace - the normal state of society - is maintained" (13).

and it has been mentioned already that the Home Secretary has a general responsibility to promote the efficiency of the police service under the Police Act 1964. Thus, in theory, the Secretary of State wears two hats in his dealings with the Metropolitan Police; he is, by virtue of the various Acts that have been mentioned, the Police Authority, but, to a large extent, this is an academic point as far as normal description of such a body is concerned since most of the activities of provincial Authorities are subject to the approbation of the Home Secretary. Also, it must be remembered that as the general relationship between the Commissioner and the Home Secretary was set down in other Acts and the Royal Commission recommended that there should be no change in that relationship, the Police Act 1964 was not drafted to take account of the constitutional position of the Metropolitan Police as defined in the Metropolitan Police Act 1829 (as amended). Much of the relationship between the Commissioner and the Home Secretary has grown up by custom and convention over the 150 plus years that the force has been in existence and is not covered by reference to a specific statute. Parker cites by way of an example of this custom the fact that whereas provincial Chief Constables are required by statute to provide an annual report to their Police Authorities (14), the Commissioner has done so "voluntarily" for over one hundred years and this report is formally presented to Parliament as a Command Paper.

The absence of any specific statutory definition of the relationship between the Commissioner and the Home Secretary makes it all the more necessary for the personalities involved to have a good understanding of the constitutional principles governing the independent role of the police and the political delicacy of the Home Secretary's position. It would be an unwise Home Secretary who attempted to overstep the mark with regard to the operational responsibilities of the Commissioner, and it is incumbent upon the Commissioner to be aware of the national and wide-ranging duties that the Home Secretary has and his specific accountability to Parliament. Nevertheless, the vagaries of politics can mean that the Commissioner and the Home Secretary do not have long to establish a personal relationship; Sir Robert Mark worked with four Home Secretaries in the five years that he was Commissioner, and so the relationships and understanding between the Home Office and New Scotland Yard have to be based on much more solid foundations. Indeed, the true picture of the Home Secretary as Police Authority is based very much on the constant dialogue between the Police Department at the Home Office and subordinate police officers and civil staff at New Scotland Yard; this is described in more detail later.

Although Sir Joseph Simpson postulated a question about the Home Secretary's role as Police Authority in his evidence to the Royal Commission and suggested that it might be possible to distinguish the Home Secretary's position as Police Authority as being independent of his role as a Minister of State, and therefore as being independent of any Government influence in the former function, modern attitudes emanating both from the Home Office and from the Commissioner discount any suggestion that a Home Secretary could be seen in such a light.

In his evidence, Simpson acknowledged that the Home Secretary as Police Authority was answerable to Parliament but then went on to say:

"and yet it can be contended that he fulfils this function qua Police Authority and not qua Secretary of State, who also has national functions affecting all forces. However the situation may be viewed, one fact remains paramount - the Secretary of State does not in practice interfere with the executive functions of the Metropolitan Police, who enjoy the same independence of action and accept the same responsibilities in law as do their provincial counterparts" (15).

It is inconceivable that any Home Secretary would feel secure in asserting his independence from the Prime Minister and the Government, even if he felt so inclined and in fact successive Home Secretaries have been prepared to give Parliament information on many aspects of police activities, whilst at the same time making clear the limits of their own position and the operational independence of the Commissioner.

Despite the acknowledgment of the Commissioner's independence in certain areas of policing, the Home Secretary has greater powers over the Commissioner's administration of operational matters than he has over any other police force and greater powers than any other Police Authority enjoys. It has been noted that the Metropolitan Police Act of 1829 makes all orders and regulations made by the Commissioner for the general government of the men "subject to the approbation" of the Home Secretary and that the Commissioner must "execute such other duties"/

duties" as shall from time to time be directed by him. Newsam draws attention to the fact that a former Home Secretary, Mr Henry Matthews, said:

"it is quite plain that the intention of the legislature was to put the police force under the authority of the Secretary of State, and to hold him responsible, not for every detail of the management of the force, but in regard to the general policy of the police in the discharge of their duty" (16).

In theory, the Home Secretary is personally and directly responsible for the administration and policy of the force but in practice it does not, and could not, work like that. In evidence to the Royal Commission, Sir Joseph Simpson described the situation thus:

"The Commissioner initiates those orders and regulations as he thinks fit and submits them to the Secretary of State who before approving them may, and does frequently, suggest alterations. In this way the Secretary of State exercises a control over the administrative policy of the force, but he does not presume, nor, as I understand the situation, has he the power to interfere with the Commissioner's discretion in individual or specific decisions on executive matters" (17).

Later in oral evidence Simpson said:

"It/

"It is really a formality. The initiative for change is normally left to the Commissioner, although the Secretary of State might make a suggestion or request reconsideration of the matter".

In practice the Commissioner and the Home Secretary are not personally involved in the thousands of regular exchanges that take place between New Scotland Yard and the Home Office at many levels. Certainly routine amendments to the General Orders to the Metropolitan Police are sent across to the Police Department of the Home Office, more for the sake of an accurate record rather than by way of seeking formal approval, and it is only matters of major policy that attract attention at the highest level.

There are many matters within the discretion of the Commissioner which are outside the influence of the Home Office; for example, all promotions up to and including the rank of Commander are within the power of the Commissioner, although it is now the practice to consult the Home Secretary before such appointments are made (18); internal discipline subject to any appeal to the Secretary of State (as provided in national regulations) and the internal inspection of the force (19). Nonetheless, the relationship between the Commissioner and the Secretary of State has to be a very close and, preferably, a cordial one. That is not to say that there is no room for disagreement between the two on matters of day to day management of the force. Parker is of the opinion that -



"This is clearly a matter for the Commissioner, subject to the financial and establishment limits approved by the Home Office, and whatever doubts a Home Secretary might feel about aspects of management in detail, a resolute Commissioner, convinced that a particular style of management is in the interest of efficiency of the force is in a strong position. In practice, matters of this kind are generally sensibly dealt with in the course of continuing contact between the Home office and Scotland Yard at all levels" (20).

Clearly, the situation in the Metropolitan Police is one of balance, commonsense and compromise. It is perhaps better to suggest that it is the Home Secretary's sphere to prescribe general principles after detailed discussion with the Commissioner, and it is the Commissioner's job to interpret and apply the enunciated principles by way of orders to the force so that they may be applied by way of guiding policy. Certainly, the Commissioner must regard himself as being bound to keep in regular and personal contact with the Home Secretary in a way that few other Chief Constables would with their Police Authorities. Sir William Harcourt's description of the desirable relationship between the Commissioner and the Home Secretary is often quoted:

"They should act together as confidential colleagues" (21).

and there is much attraction in that.

However, there are times when, in the judgment of the Commissioner of the day, the national interest requires that he should share his operational responsibilities with Central Government and he should be prepared to give very close consideration to its wishes in such matters even though these may not be completely in accord with his own judgment. This view was taken by two recent holders of that office about situations which involved immediate decisions concerning relationships with foreign countries. An example cited as possibly attracting Government involvement in an operational decision by the Commissioner, was the kidnapping of a member of the Royal Family, or the Ambassador of a major ally. Similarly, there are arrangements specifically designed to keep Central Government informed of developments in an urgent and delicate situation and which enable the Home Secretary to give advice to the Commissioner (or for that matter, any other Chief Constable) after consultation with certain of his government colleagues, as for example in the Siege of the Iranian Embassy in 1980 and the shooting incident at the Libyan People's Bureau in 1984 (22).

Such a situation is bound to be vague and uncertain but there is no doubt that the decision to submit to the wishes of Central Government would be that of the Commissioner, who would be more likely to accede to its wishes expressed through the Home Secretary where he could understand the political or diplomatic delicacy of a situation as seen through the eyes of the Government and that such a departure from his own views would not involve a major affront to his professional integrity. Presumably it would be necessary too that the Commissioner should be satisfied that the Central Government plan was proposed as being within the scope of its overriding responsibility for the preservation of law and order rather than as a party political/

political compromise designed to placate national or political allies; the national interest would need to be the dominant consideration and the Commissioner would need to be persuaded of that. It is most likely that the close collaboration between the Commissioner and the Home Secretary that is so necessary for the day-to-day running of the force, would prevent any outright confrontation between the two as Parker indicates

"Any Home Secretary would be failing in his duty if he did not take a close personal interest in the Commissioner's plans to deal with major disturbances, and the necessary involvement of Ministers in the development of plans for bringing in Service units to deal with armed terrorists in certain circumstances, has now created a closer operational link than has been the case for many years. This is inevitable when immediate decisions may have to be taken involving, for example, relations with foreign countries, action by the armed services and the operation of airlines. But it would be a retrograde - and dangerous - step if there were to be any confusion of role and function between the Home Office and the Commissioner over operational control and direction when only police operations are concerned, as is the case in the vast majority of occasions when public order is in question"

(23).

As far as Parker is concerned, Lord Denning's judgment in Blackburn places the Commissioner's position beyond any doubt, but such situations are both complicated and delicate and always create the need for informed professional and political collaboration in the best interests of the Nation. Undoubtedly, two of the qualities necessary for a Commissioner are sound judgment and strength of character.

Hart felt that the answerability of the Home Secretary to Parliament is not an adequate form of accountability and certainly that view has been shared by others in recent times. Quoting a former Home Secretary, Sir W Joynson-Hicks, who said in a debate on the Savidge Case in 1928 (24):

"I am the servant of the House of Commons and every action I take, every decision I come to in regard to the police can be brought up and discussed here".

Hart observed that the statement was not really true in that the House of Commons could not exercise much control over such things as the appointment of senior officers to the force or the establishment levels. This view was echoed in the evidence submitted to the Royal Commission on the Police by the Metropolitan Boroughs Standing Joint Committee which felt that the position of Local Authorities in the Metropolitan Police area was substantially inferior to that of Local Authorities in other areas, partly because of -

"the inadequacy of the accountability of the Home Secretary as Police Authority which can be put in issue only by a Parliamentary process, e.g. a question, motion on the adjournment or in debate on police estimates".

But/

But present-day Home Secretaries would feel justified in countering such criticism by saying that Members of Parliament are very active in seeking answers to their questions concerning the activities of the Metropolitan Police and that such a public forum for debate has a very significant influence on the attitude that any Home Secretary would adopt in his role as Police Authority. It was Parker who pointed out that Parliament has never hesitated to examine the activities of the Metropolitan Police force, both operational and administrative, and he observed:

"It is significant that the Royal Commission on Police Powers and Procedure of 1929 and the more comprehensive Royal Commission of 1960-62 were both triggered off by Parliamentary criticism of the handling of individual cases by the Metropolitan Police" (25).

Recognition of the Home Secretary's accountability to Parliament was stressed by Sir Joseph Simpson:

"insofar as the Secretary of State answers to Parliament for the Metropolitan Police, he must be in a position to call on the Commissioner concerning the facts of any matter which is the subject of question or debate. If the Commissioner fails on such occasions to maintain the confidence of the Secretary of State or perhaps of Parliament - his office must be in jeopardy" (26).

However, it is right to point out that there are matters over which the House of Commons has no influence as far as the Home Secretary, as Police Authority, is concerned and this is no different from the position with regard to provincial Police Authorities.

iv) Financing the Metropolitan Police

It has been mentioned already that the Local Authorities within the Metropolitan Police District (MPD), some forty in all, contribute to the upkeep of the force and yet none of them has any say in the control of the force. Finance is one of the major grounds of criticism that some Local Authorities have concerning the policing of London; in the views of some elected members and councils, the Metropolitan Police Force is very large and, therefore, very costly, and because it has certain national obligations as well as all of the problems associated with policing a capital city, the extra costs involved ought to be spread more equitably throughout the country rather than being borne by an already over-taxed London ratepayer. Others do not see the problem exactly in those terms.

In the same way that other forces in Great Britain are financed, the costs after allowing for miscellaneous receipts, are shared between the exchequer grant of a minimum of 50% (plus rate support grant contribution) and local rates. Additionally, the Metropolitan Police receives what is called an "Imperial and National Services Grant" which is paid by way of a "recognition" of the additional services that the force is obliged to provide, both by statute and because of the burdens associated with, for example, Royal and Diplomatic Protection duties; the Home Office is at pains to stress that it is not a "reimbursement" grant (27).

In recent years, Central Government has, with the approval of the Local Authorities, decided to pay the "block" or rate support grant, which is usually paid to Local Authorities in addition to the 50% exchequer grant, direct to the Receiver for the Metropolitan Police and the balance of money due is then secured from the Local Authorities within in the MPD by way of a precept, which in 1983 was for only 28% of the total net expenditure incurred in policing London. This puts into perspective the size of the Local Authorities' contribution.

v) The Receiver for the Metropolitan Police District

By Section 10, Metropolitan Police Act 1829, provision was made for the appointment of a person to "receive" all sums of money applicable to the purposes of that Act and that such person should be called "the Receiver for the Metropolitan Police District". In fact, more of the 1829 Act is devoted to the appointment, powers and functions of the Receiver than is given over to the Justices (Commissioners), and according to Parker (himself the Receiver from 1967 - 74), the Act reflects the decision of Sir Robert Peel to maintain close Home Office control of the force by making the Receiver independent of the Commissioners and accountable to the Home Secretary.

The Receiver is also appointed by the Crown (on the advice of the Secretary of State) under the Sign Manual and although he is technically accountable to the Secretary of State, since 1968, his status in the Metropolitan Police organisation has been equated with that of Deputy Commissioner, and his right of direct access to the Home Secretary, in the event of a disagreement between the Commissioner and himself, is described as being competent but existing only as a hidden "check and balance" against abuse which has not been used.

Under Section 1, Metropolitan Police (Receiver) Act 1861, the Receiver is a corporation sole who has the power in that capacity to acquire, hold and dispose of real property and buildings for the purposes of the Metropolitan Police, to hold stock in public funds, shares in public companies, securities for moneys/



moneys and personal property, to sue and be sued, to execute deeds under his official seal, to make leases and contracts which are binding upon his successors in office "and to do all other acts necessary or expedient to be done in the execution of the duties of his office". There are other statutory functions for which the Receiver is responsible, not directly concerned with the Metropolitan Police.

Before an internal reorganisation of the force took place in 1968, the Receiver held an entirely separate and independent office from that of the Commissioner and although commonsense and good practice required that the two office holders should act together very closely in the interests of the force, personalities influenced the effectiveness of that co-operation from time to time and it appears that there were occasions when the Receiver was unaware of the Commissioner's operational plans and due consideration was not always given to fiscal matters. A new procedure was worked out under which demands on money and resources were considered jointly by the operational and administrative branches of the organisation and although the Receiver does not have, nor would he seek, direct control over police operations and personnel, yet he does have an influence in working out the best policy commensurate with the funds available (28). Although technically accountable to the Home Secretary, he has become, by practice and approval, answerable to the Commissioner.

The/

The change in the actual position of the Receiver in relation to the Commissioner was set out in a letter from the Home Office to the Commissioner on 3 September 1968; the constitutional position and the statutory duties of the Receiver were unchanged by that letter but its effect had great significance. The Secretary of State, as Police Authority, has responsibility for the resources made available to the force; the Commissioner is answerable to the Home Secretary for the efficient administration of the force and the Receiver is responsible to the Commissioner with independent right of access to the Secretary of State if it appears to him that to comply with the Commissioner's wishes would conflict with his responsibilities under Section 11, Metropolitan Police Act 1829, would be outwith his statutory powers, or would conflict with specific directions given by the Secretary of State.

When the force was set up in 1829, there was provision for the Justices to levy a police rate on various townships and parishes within the Metropolitan Police District in order to raise funds towards the cost of policing the area (29), such money to be paid to the Receiver; in effect, the Chief Police Officers were, subject to the approval of the Secretary of State, taxing the inhabitants of the Metropolitan Police District. In theory, the same principle applies today, although it would be nonsense to suggest that the Commissioner concerns himself directly in such a financial exercise.

For 1983/4 the total budget for the Metropolitan Police was in the region of £800m and such a vast amount of money is estimated and accounted for in such a way as to meet stringent requirements, including those of Parliament.

The Receiver is responsible for ensuring that the estimates of the receipts and payments of the Metropolitan Police Fund are prepared for the approval of the Secretary of State. Included in these estimates, which are based on an annual forecast, produced earlier, of probable expenditure in future years, are accounts of known and predicted variations in prices, remunerations and approved changes in policy which might affect the expenditure. The Receiver is required to supply information which will enable a calculation to be made for:

- a) Rate Support Grant (the "block" grant);
- b) Civil Estimates (the exchequer grant of 50%);
- c) the precept to be levied on Local Authorities as their contribution towards the cost of policing London;

all of which need to be approved by the Secretary of State, with the Civil Estimates being presented to Parliament (and published by HM Stationery Office, with the result that the information is fully available to all) as an annex to the estimates of the Home Office in "Civil Estimates", in which the estimates of all Government Departments appear.

The accounts of the Metropolitan Police Fund are audited by the National Audit Office, certified by the Comptroller and Auditor General and presented to Parliament (also published by HM Stationery Office with the result, once again, of full public availability) as an annex to the accounts of the Home Office in "Appropriation Accounts", together with the accounts of Government Departments. It is, of course, open to the/

the Comptroller and Auditor General to comment adversely on accounts and for the Committee of Public Accounts (which is a Parliamentary Committee whose reports are presented to Parliament for debate and are also published by HMSO with, again, public availability) to summon the Receiver to appear before it and to subject him to examination on the matters raised by the Comptroller and Auditor General.

Again it would be naive to believe that all of this activity is carried out by the office holders who have been mentioned. In reality a number of civil staff attached to the Metropolitan Police and Home Office Police Department, scrutinise expenditure and work according to a well defined plan which is both subject to Government strategy and resource control.

It should be recognised that this text does not provide a complete and a detailed description of the financial direction and control of the Metropolitan Police, but rather it indicates the enormous amount of work that is carried out on a full-time, day-to-day basis which demonstrates a degree of supervision by the Home office Police Department, working in a delegated capacity for the Home Secretary as Police Authority, which is unlikely to be surpassed by other Police Authorities.

Nevertheless, the fact that Local Authorities in the London area do not have the right to appoint elected councillors as members of a Police Authority, is a point of real contention/

contention for some of them and although representations have been made over the years to change the situation, no Central Government support for such a proposal has been forthcoming. It must be apparent to even the most ardent supporter of local democracy that policing London is a very different proposition from policing other parts of the United Kingdom and the difficulties of creating a Police Authority comprising members from all of the London Boroughs was apparent to the Association of Municipal Corporations in the evidence which it submitted to the Royal Commission on Police in 1961 (30), when it pointed out the anomaly of the London Authorities (the majority of which were then Borough Councils) being precepted by the Receiver, but went on to say:

"..... no provision is made for these bodies to exercise any surveillance over the police. We recognise that the authority of the Secretary of State should be undivided but we are of the opinion that an advisory and consultative body, representative of rating authorities, should be set up for the purpose of consultation with the police on matters of mutual interest and concern to the police and to the rating authorities who, as the Local Authorities within the area of the MPD, represent the public within that district".

The Metropolitan Boroughs Standing Joint Committee was more resigned to the fact that a different arrangement for the Police Authority in London was not possible:

"The/

"The Metropolitan Boroughs SJC are of the opinion that the participation of Local Authority representatives in the administration of Police Authorities is a very desirable objective. They are, however, compelled to accept the view that, with the present pattern of Local Government in the Metropolitan Police area, it is difficult, if not impossible, to suggest any alternative to the existing arrangements whereby the Home Secretary is the Police Authority for the MPD. The Metropolitan Boroughs SJC therefore accept the position that in the present circumstances direct Local Authority control of the police force, as in the County Boroughs, is an unattainable ideal in the Metropolitan Police area" (31).

Nevertheless, the SJC was critical of the remoteness of the Home Secretary as Police Authority and the financial inequity as it saw it, and called for closer contact in police affairs in a number of ways not dissimilar to those proposed by the Association of Municipal Corporations, although it was not critical of police-public relationships.

The SJC produced an Appendix to the evidence that it gave to the Royal Commission, in which it dealt with the financial arrangements of the Metropolitan Police. Apparently, according to the SJC, prior to 1949 very little information had been given to the Local Authorities, but in that year, after representations had been made to the Home Secretary, it was agreed that an annual conference should take place between the Receiver and the financial officers of the Metropolitan Boroughs SJC and the Outer London SJC. The purpose of the conference was:

- a) to examine the accounts of the previous year;
- b) to review the current accounts as soon as possible after they had been submitted to Parliament; and
- c) to provide an opportunity for the finance officers to discuss matters and raise questions on the understanding that the Home Secretary remained responsible for policy.

Whilst recognising that the conference had been most helpful, the SJC considered that it should have been given some effective voice, both as to the amount of money to be expended and the manner of its expenditure, falling short of the right of veto. The SJC proposed a compromise solution:

- a) an ad hoc committee should be formed by SJC members;
- b) before the Receiver settled the draft estimates for inclusion in the Home Office vote, a copy of the draft should be forwarded in confidence to that ad hoc committee for examination;
- c) the Receiver should be obliged to take into consideration any representations made by the committee and inform it of any actions, if any, taken in consequence of those recommendations before submission to Home Office;
- d) in the event that the Receiver takes no action on the recommendations, the committee should have the right to make representations to the Home Secretary before settling the estimates.

The Royal Commission was impressed by the argument insofar as it provided machinery for influencing the Home Secretary rather than challenging his policy, and a recommendation along the lines suggested for consultation was included in the final report (32). Parker describes how such consultation takes place before the estimates are approved and makes the point that in 1980 the pressure from the Local Authorities in London was for more police and auxiliaries rather than fewer and that as 80% of the Metropolitan Police expenditure relates to pay and pensions, which are determined nationally, this was in effect a plan for greater expenditure on the force and, therefore, a higher precept on the Local Authorities. Incidentally, Parker goes on to describe how greater contact occurred between police divisional officers and Local Authorities after the boundaries of police divisions and boroughs had been made generally coterminous in 1963 (33).

The arrangements that exist currently for consultation between the Receiver and the London Boroughs on financial matters are that each year in late November, a meeting is held between representatives of the London Boroughs Association, the Outer London Districts Association (some 40 Local Authorities, comprising 32 London Boroughs and 8 Outer London Authorities) and the Receiver (34). The theory of the consultation is that the Local Authorities are supposed to be able to influence expenditure, and there is no doubt that both the Receiver and the Home Secretary pay careful attention to the representations, but the influence is a latent one that cannot have immediate effect because by the time that the Receiver draws up his estimates and "consults" with the Local Authorities, Central Government has already decided the limits of expenditure on the police in the following/



following year, and to that extent the consultation is something of a fiction. Nevertheless, the Local Authorities do have an influential voice and Members of Parliament may challenge the estimates when they are presented to the House, which is more than they may do for the estimates of provincial forces. As the process is a continuing one the representations made by the Local Authorities have a constant influence on both the Receiver and the Home Secretary, although the GLC have been critical of the quality of information made available to them for informed comment.

There are numerous ways in which MPs either in Parliament itself or through the sub-committee of its Expenditure Committee dealing with Department of Environment and Home Office matters, or its Public Accounts Committee, can question the estimates and accounts of the Metropolitan Police: other activities may be questioned through various other Parliamentary committees.

An additional form of influence that the London Boroughs and the Outer London Districts have on both the Commissioner and the Home Secretary (as Police Authority for the MPD) is to be seen in the series of meetings that were set up on a biannual basis by the Home Secretary in the aftermath of the 1981 disorders. Such meetings were obviously intended as forerunners of the compulsory consultation envisaged by Lord Scarman, and they involved the Home Secretary, the Commissioner (and his Policy Committee) representatives of the London Boroughs Association and representatives of the Outer London Districts/

Districts Metropolitan Police Consultative Association - but not including the Greater London Council. According to a press release issued in 1982 by the Home Office, the setting up of such a series of meetings provided an enhanced role for Borough and District representatives "both to state their views and to consider practical issues concerned with the policing of the Metropolis". Examples given of such issues included: persistent crime problems such as burglary and the importance of crime prevention; general manpower levels and finance; recruitment from the ethnic minorities; training and consultation arrangements.

2. PROPOSALS FOR A NEW POLICE AUTHORITY FOR LONDON

i) Introduction

The general dissatisfaction registered from time to time about the lack of a "proper" Police Authority in the Metropolis which would place London ratepayers in a similar position to their provincial counterparts came to a head in March 1982 when the Greater London Council adopted the following policy:-

"That a Police Authority for the Metropolis be composed of elected representatives of the GLC and the London Borough Councils to which the police would be accountable in matters of policing policy, practices and operations" (35).

In March 1983 the Greater London Council published a consultation paper on "democratic control of the police in London" entitled "A New Police Authority for London". Most police officers and many informed observers would regard that document as being a mixture of selective scholarship and prejudice, part-truth and fiction, written in such a way as to attempt to convince the unsuspecting reader that "something is rotten in the State of the Metropolitan Police" to such an extent that change from the present independent status of the police force, in operational terms, to one of total party political control, is necessary to prevent London being dominated by an autocratic and unaccountable Commissioner. In addition to the changes proposed for London, the GLC Police Committee Support Unit, which was responsible for that document, suggested similar changes for Police Authorities throughout the United Kingdom in order to abolish police "independence" and to ensure that Police Authorities acquire "direction of policing policy".

However one chooses to view the document it should not be ignored because it deals with the vexed subject of police accountability in London in the 1980s and offers proposals for change which fly in the face of established constitutional law. Many of the proposals contained in the document not only follow the theme advocated by Jack Straw, MP, and others (36), but also go much further. Whatever the remedies proposed, the underlying criticisms have been voiced in the past and are worthy of closer examination (37).

The authors of the document state that an urgent problem developed in London in that the Metropolitan Police lost the confidence of many Londoners to such an extent that they withdrew their co-operation from the police. Police conduct is described as having:

"gone beyond the bounds of accepted behaviour"

and the force is said to be "impervious to outside influence". In the view of the GLC Committee the Metropolitan Police Force is unaccountable and generally less efficient than its provincial counterparts.

With regard to the role of the Home Secretary as Police Authority, the Committee expressed equally serious dissatisfaction by saying that he showed "no local interest" and was prepared to abdicate his responsibilities to the Commissioner:

"Unlike/

"Unlike a locally elected Police Authority, the Home Secretary does not "meet" to discuss policing matters, nor is he bound to make regular reports to Parliament on their activities and answer questions on them".

In addition to this the Committee asserted that "Londoners contribute nearly a third of a billion pounds to the cost of the Met (yet) they have no part in how the money is spent nor any voice through their elected local representatives on policing matters".

All of these points led the GLC Police Committee to ask how the force can "be most effectively brought under local democratic control?"; and then a series of "options" are put forward for consideration by interested parties together with recommendations by the GLC.

There is an observation that a change in the formal structure of accountability is not in itself an answer to the problem unless such change is accompanied by "a new relationship between the police and representatives of local people ..... both for restoring public confidence in the police and in order to bring the police under adequate control" (38).

In order to secure this change the GLC Committee considered it necessary to treat the force as a department of Local Government with the members as local government officers (thus introducing/

introducing the "master and servant" relationship denied by caselaw (e.g. Fisher -v- Oldham Corporation), who would be entitled to full trade union membership, affiliation with the TUC and, therefore, the right to strike. Additionally, the restrictions, which exist in Police Regulations preventing a police officer from taking an active part in politics, and which are generally regarded as reinforcing the traditional "political independence" of the police, would be removed on the basis that it would become the responsibility of the Police Authority (as employer) to establish and direct policing policies.

The document issued in 1983 attempts to consider various options for building on that policy and in addition to changing the powers of the Police Authority and the status of police officers, certain pre-conditions for establishing such a body are laid down:

- "a) National policing services should no longer be the responsibility of the Metropolitan Police which should confine itself to servicing the needs of Londoners (39).
- "b) The anomaly whereby London is served by two police forces with two different systems of Government, the Met and the City of London Police, should be ended. The City of London Corporation would then be represented on the London-wide Police Authority.
- "c) The boundaries of the Metropolitan Police District should be made coterminous with those of the GLC and the police districts with those of the boroughs.

"d)/

- "d) A centralised Police Authority which related only to the central organisation of the Met, at Scotland Yard, would not be effective in terms of controlling police activity at the local level. Given also the wide variations in perceived policing needs across London, it is essential that the relationship between the borough council and the local commander be given a central role in the establishment of a London-wide Police Authority" (40).

The document concludes that it is both feasible and practical for Police Authorities to retain "ultimate control" of police operations while having no say in the outcome of an individual arrest, and that the force would still be able to act in accordance with the law (in the form of national statutes) and to comply with the national standards of efficiency as laid down by the Home Secretary in various regulations. The force would comply with the standards laid down for other police forces and would be subject to "outside inspection" by the Inspectorate.

"Ultimate control" is defined as the Police Authority having:

- "i) the power to direct all police officers in relation to operational matters as well as general policy;
- "ii) the power to determine the amount of police precept, and to allocate expenditure to different policing functions;
- "iii) responsibility for all appointments, promotions, disciplinary procedures and dismissals within the police force;
- "iv) the power to obtain information".

The first three powers are seen as being consistent with there being an employer/employee relationship between the Police Authority and the force, but according to the GLC, such proposals would not mean that the Police Authority would scrutinise every detail of police operations and every appointment. Delegation to senior officers is seen as preserving the professional status and personal judgment of such men; no doubt the police and others see it as a sinister erosion of their independence.

The fourth power is described in the document as possibly allowing the Police Authority to "inspect in confidence police files provided that such inspection does not lead to there being any prejudice of pending police investigations or contempt of court. (N.B. This means that Police Authority members could inspect all files of individual investigations to ensure correct procedures being followed, except where an individual has been arrested so that it would prejudice a pending charge/court case or constitute a contempt of court in matters sub-judice)" (41).

No mention is made of the possible breach of the Official Secrets Acts and various other statutes that govern police activity and records, and presumably the GLC is not prepared to accept the validity of its own suggested inspection by Her Majesty's Inspectorate with regard to procedures. There is a limited right of appeal to the Home Secretary suggested by the GLC if the right to information is likely to prejudice police investigations where an individual has been arrested, or would constitute a contempt of court. Otherwise, the GLC want the right of access to all information at some stage. No explanation/



explanation is given as to how this knowledge would be necessary for the purpose of fulfilling the role of a Police Authority other than the assertion that this would make the police more democratically accountable.

ii) The Proposed Structure and  
Composition of the Police Authority

The GLC concludes that the most efficient type of Police Authority for London would be one comprising a partnership between the Greater London Council and all of the London Boroughs, such that there would be a GLC Police Committee and Borough Police Committees. The GLC Committee would control all aspects of policing that could be described as London-wide, whereas the maximum power should be devolved to the Borough Police Committees who would be aware of local needs and whose boundaries would be coterminous with the police district boundaries. As far as possible, the local commander would be responsible to the Borough Police Committee and a working partnership would then be established so that local policies and priorities could be worked out to suit local needs. In order to assist the Borough Committees in their day-to-day work the GLC Committee would draw up detailed regulations that would serve as guidelines to the boroughs and would establish common practices where appropriate. The combination of the GLC and Borough Committees would form the Police Authority for London and would be the formal employer of police staff. The GLC Committee would be an ordinary committee of the Greater London Council comprising a larger than usual number of councillors. The suggested composition of Borough Committees is that they should be ordinary committees of the Borough Councils with GLC councillors being ex officio members, to ensure a link with the GLC Committee, and the boroughs should be encouraged to co-opt membership from representatives of the community. The London Police Authority would remain subject to statutory requirements and would accept the standards of efficiency laid down by the Home Secretary as Minister responsible for national policing matters.

Both the GLC Committee and the Borough Committees would operate a system of sub-committees dealing with such matters as finance, recruitment, training, record-keeping, and the GLC Committee would make provision for Borough Committee members to be included in the various sub-committees. No doubt the boroughs might feel that they would be assuming a subordinate role to the GLC rather than acting as members of a London Police Authority.

iii) The Proposed Role of the Commissioner

Under the GLC plans for a London Police Authority, the Commissioner would cease to be responsible to the Home Secretary and would become generally responsible to the Authority and specifically responsible to the GLC Police Committee which would delegate certain powers to him:

"Those might include: overall responsibility for discipline of the force, and for ensuring that correct procedures were followed in relation to discipline, recruitment and promotion; responsibility for implementing London-wide policy in areas within the provenance of the GLC Police Committee; responsibility for the London regional police squad; overall responsibility for drawing up policy guidelines and detailed regulations for the guidance of the Borough Police Committees and local commanders; responsibility for ensuring that statutes and Home Office standards of efficiency were incorporated into guidelines. The Commissioner would report back to the GLC Police Committee".

Additionally, the Commissioner would be required to produce an annual report and such other reports as may be demanded but he would have the right, in common with other officers of the Authority, to raise matters with the committee. As an employee the Commissioner would be hired and could be fired by the Police Authority.

iv) The Proposed Role of the Receiver

The Receiver would, like the Commissioner, be made directly responsible to the London Police Authority and specifically to the GLC Police Committee. The London Police Authority would assume the functions of a precepting authority and would set the rate after full discussions with the boroughs, and through them, the local police. The method of raising the precept would be unchanged but the way of deciding the precept would be significantly different in that the GLC Police Committee, with the advice of the Receiver, would draw up the budget for the London regional police squad and seek comment in advance from the boroughs. The boroughs, after consulting their district commander, would prepare bids for finance and establishment levels which would be submitted to the GLC's Police Committee Finance Sub-Committee. Discussion on the bids would take place between the interested parties and then the Finance Sub-Committee would draw up a budget for London for circulation and comment before final submission to the GLC Police Committee (not the Police Authority) for final approval. This method is seen as being advantageous to the individual boroughs who would have some say in fixing the overall budget which should take account of local needs. No decision or proposal has been made by the GLC on the ownership of Metropolitan police assets.

v) Comment on the Proposals

Most of the proposals put forward by the GLC are revolutionary but should be seen in the context of the stated intention of Central Government to abolish the GLC and Metropolitan Counties by 1986 (42). Nevertheless, they do contain many similarities with the thinking of the Labour Party (43) and it would be unwise to discount them as the extremist views of an aberrant Local Authority. The proposals challenge the constitutional position of the police and it is not unreasonable to assume that some of the arguments for change stem from a desire to gain political control of the police rather than for a clarification of the constitutional position in Greater London. Nevertheless, some of the reasons for change have been constant for many years and in view of the different structure of Local Government in London from that which existed before the Royal Commission, it is at least debatable whether or not some representative body could be established to give Londoners the same opportunities for "Police Authority" participation as have their provincial neighbours. The whole question of the form and structure of Police Authorities is considered later, and in view of the anticipated dissolution of the GLC and the introduction of "statutory" consultation as recommended by Scarman, combined with the improved liaison between the Receiver and the London Authorities, it may be that some of the objections that have been registered over the years are less justified now than they were before the Royal Commission.

Certainly/

Certainly the Metropolitan Police can claim that they have a long standing relationship with community representatives and organisations which has complied with the ideas enunciated by Scarman, and he acknowledged that and paid tribute to the work that was being done by the police to promote good community relations (44). A glance at the first appendix of the Commissioner's Annual Report for 1983 demonstrates the way in which the Metropolitan Police has followed a path, and how the Commissioner plans to continue to develop attitudes, leading to a greater awareness within the force of the needs and wishes of the community which it serves, and to a more informed community of the demands that are placed on the force in giving that service (45).

The GLC document gives an exact example of how it would envisage the workings of the proposed London Police Authority. The intention is to place the police in the situation which the Royal Commission said should not apply to the police, that is, that the force should operate "under authority" delegated by the Police Authority:

"Clearly most policing decisions would continue to be made by the professionals on the ground, the individual police officer, and his/her superior officers. However, those decisions would be made under authority from the Police Authority, a delegated authority which could be recalled, limited or extended at any time.

"For example: a Police Authority might become aware that a corporate landlord in its area is proposing to evict squatters from a whole street of empty properties. There may be a general policy that the police should be present on such occasions only to ensure there is no breach of the peace and that they should/

should have as few police officers as possible visible. Subject to that, there may be delegated authority for senior police officers to assist on such occasions without reference to the Police Authority.

"Nevertheless the Police Authority may decide that this particular set of evictions is a different case both because of public concern about the extent of likely opposition and because of its own councillors' objections. It might be worried about a widespread outbreak of public disorder inspired by large scale police involvement in such an event. It may therefore decide to recall its authority and instruct police not to participate on this occasion" (46).

The logical extension of that kind of "ultimate control" of policing is what is worrying to many police officers who are proud of the political and operational independence allowed to them under the present constitutional law, and it is likely that many people who consider that proposal in detail would voice some concern.

The comments of a former Commissioner seem a relevant response to the GLC Proposals:-

"If ever the police in Great Britain cease to represent government by consent and become the servants of those who rule, their relationship with the public will inevitably change. Improvement in their material conditions would be compelled, since vocational appeal would be gone, except perhaps to the kind of man at present not acceptable to the police. The damage would not be much less if the police were ever formally associated with trade unionism/



unionism whilst retaining their present organisation. There is no impartiality about trade unionism in politics and impartiality is essential to the present police ethos.

"The greatest challenge for the police of tomorrow, therefore, is the threat of change in their constitutional position ..... There is no doubt however that as political, industrial and racial tensions rise, the police will increasingly become the focus of political controversy centred upon their control and accountability" (47).

The Miners' Strike in 1984/5 and the police response to that under the provisions for mutual aid, certainly show that Mark's predictions were accurate and the long-term consequences of that dispute are likely to have a great impact upon the police in the United Kingdom. The implications of that dispute are discussed later.

As for a new Police Authority for London, it is difficult to envisage how a truly representative body could be established for 7½ million people and it is to the point that Lord Scarman did not recommend improved accountability by moves in that direction; rather he preferred an interchange of ideas and experiences by way of consultative committees and it would seem that through such bodies the communities may come to feel that the police are more accountable in what Marshall described as the "explanatory and co-operative mode" rather than the "subordinate obedient mode" envisaged by the GLC (48).

Certainly members of Her Majesty's Opposition did not anticipate any difficulty in establishing such an Authority for Greater London; in a proposed amendment to the Police and Criminal Evidence Bill a new schedule to the Police Act 1964 showed the constitution of a Police Authority for Greater London to be a committee of the council consisting of such number of members as the council should determine. The functions of the newly constituted Police Authorities were to include "direction and control" of the police force and the appointment of all officers of the rank of inspector and above (49). Sections 5(1) and 7(2) of the Police Act 1964 would have ceased to have effect, thus removing the control of the force from the Chief Constable. Apparently, no such change was intended for Scotland.

Nevertheless, there is merit in the argument that the people of London should be given a more overt representation as to how the Metropolitan Police is called to account, and despite the considerable changes that have come about over the years in connection with consultation on the financing of the force, and the greatly improved opportunities for 'consultation' under S.106, Police and Criminal Evidence Act 1984, it may be appropriate for this matter to be considered by a Royal Commission (see later).

3. COMPULSORY "CONSULTATION" BETWEEN  
THE POLICE AND THE COMMUNITY

1) Introduction

It may be remembered that Lord Scarman had stated his view that "consultation" between police and representative members of the community should be made compulsory despite his acknowledgment that existing machinery for controlling the police was working well and that Police Authorities had adequate powers to enable them to ensure that local consultation occurred (50).

Central Government had taken up Scarman's views on consultative committees by issuing the circulars both north and south of the border which encouraged such activity (51); and there were numerous indications emanating from the Home Office that reinforced the view that Central Government could see no present need for a change in the structure of Police Authorities, particularly so far as arrangements in the Metropolitan Police District were concerned (52).

Notwithstanding the fact that Central Government was firm in its views about the structure of Police Authorities, nevertheless, it was prepared to accept the recommendation of Lord Scarman about compulsory consultation and it made its views known that it was anxious to encourage a much greater dialogue between police and the local community, not only to allay the concerns and misgivings that members of the public might have about policing, but also to enable the police to benefit from the opportunity of receiving advice and offering explanations about professional/operational matters. This consultation is not intended to interfere with the delicate constitutional/

constitutional balance that exists between police and Government and most certainly it is not intended that the Chief Constable's operational independence should be diminished; rather it is hoped that the quality of decision making will be much better informed and will take account of the declared needs of the communities.

A substantial, and an accurate, police response would be that "consultation" has been an ongoing feature of relationships with the public, but certainly the Brixton experience in the MPD and those which occurred elsewhere in the disorders of 1981, have prompted new attitudes both within police circles and with: in Central Government which has taken the form of the statutory requirement in Section 106 of the Police and Criminal Evidence Act 1984 and guidance issued by the Home Office not only to the Metropolitan Police but also to the remaining forces in England and Wales.

Section 106 of the Act states that the Police Authority in each police area outside London, and the Commissioner within the MPD (the Common Council in the City of London) shall make arrangements for obtaining the views of people in that area about matters concerning the policing of the area and for obtaining their co-operation with the police in preventing crime in that area. The Police Authority must consult with the Chief Constable about the arrangements to be made for the area and the Home Secretary, as Police Authority for the Metropolitan Police, shall issue guidance to the Commissioner. Any appearance of inadequacy in the arrangements entitles the Home Secretary to/

to call for reports on the arrangements made for a particular area; no other sanction appears to have been suggested but it is thought to be unlikely that a Police Authority would benefit by failing to make adequate arrangements for consultation.

ii) Arrangements in the Metropolitan Police District

In the Metropolitan Police District the Commissioner is obliged to make separate arrangements for:

- a) each London Borough;
- b) for each district which falls wholly within the MPD;
- c) for each part of a district which falls partly within the MPD.

The principles governing the formation of consultative committees laid down in the Home Office guidance are similar throughout the whole of the country, viz:

- 1) No consultative group should be dominated in form or representation by any one body or interest group. The consultative groups should be freestanding bodies independent of local or Central Government structures and of the police.
- 2) Groups should be of a manageable size and should reflect as wide a range of community interests as is consistent with a reasonably effective working arrangement. A regular turnover of membership should be encouraged so that the groups do not become exclusive.
- 3) The police must be members as of right - not called to account in any legal sense but enabled to discuss, explain, be criticised and to prompt action. The police will normally be represented by the district commander and the community liaison officer.

4)/

- 4) Members of Parliament and members of the Greater London Council (until abolition, or in the outer districts, county councillors) for the borough (or district) should be members of their local consultative groups as of right. In order to maintain independence, the total number of such "core" members also including police and members of statutory agencies should normally be less than the number of community representatives.

The overall objectives of the consultative committees are intended to be that they should work towards a continuous improvement of relations between the community and the police and that they should attempt to arrive at agreed solutions to local problems. It is not the intention that either the consultative committees or the Police Authorities should attempt to direct or control police operations, only that they should provide a forum for discussion and explanation about how law enforcement and police operations can best be implemented in accordance with local community needs. Such matters as criminal investigations, security, allegations of crime or complaints against police officers should not be the subject of local consultation and neither should specific cases or matters which are sub-judice be introduced into such a forum. The guidance issued by the Home Secretary, as Police Authority for the Metropolitan Police, suggests subjects that might usefully be discussed by consultative groups:

- a) Ways of maintaining a relationship of mutual trust between the police and the community in the area;

b)/

- b) Discussion of community attitudes to policing in the area;
- c) Exploration and development of ways in which the police and the public can co-operate in the maintenance of a peaceful and law-abiding community, improving the quality of life, and improving accessibility of police to the public;
- d) Provision of opportunities for the police to consult the community, and for the community to discuss with the police all aspects of police policy which are of local concern, including operational matters other than those which, in the view of the commander of the district, must remain confidential. The general rule will be one of openness and frankness as far as possible;
- e) Discussion of the incidence of and police response to both crime generally and specific types of offence (e.g. vandalism and racial attacks);
- f) Promotion of greater understanding of policing issues, including:
  - i) causes of crime;
  - ii) the legal rights and duties of the police, other statutory agencies and the public;
  - iii) the operation of police procedures and policy in relation to law enforcement;
  - iv) the difficulties facing the police and the limits to what they can do in response to local problems;

g)/



- g) Discussion of issues of local concern which it is desired to bring to the attention of the police;
- h) Consideration of the general pattern of complaints against the police (not specific cases) and the offering of practical advice and assistance to members of the public in their dealings with the police;
- i) In areas of significant ethnic minority communities, ways of improving relations between police and these communities;
- j) Developing and extending the relationship between the police and other statutory services, thereby encouraging the multi-agency approach to the prevention of crime;
- k) Promotion of joint efforts in crime prevention through practical community action to discourage and prevent crimes ..... in the light of local circumstances;
- l) Developing positive links between young people and the police, etc;
- m) Discussion of the possible focus of local crime prevention campaigns and of their effectiveness;
- n) Developing ways in which the police and the community better appreciate the effects of crime upon its victims.

This/

This list is not intended to be definitive and it is the expressed hope of the Home Secretary that consultative groups "will themselves generate ideas and that discussions will be open and constructive and promote mutual trust and respect" (53).

Of course, such groups cannot function without goodwill and co-operation from local politicians as well as potential members, as has been demonstrated already by certain attitudes and political pursuits in some of the London Boroughs where "police committees" have been formed aimed at changing the constitutional form of accountability rather than promoting the "consultation" envisaged by Lord Scarman (54). Clearly, Scarman's proposals are not seen by all as the panacea to police-community relations and some would prefer the solutions proposed by the GLC Police Committee. Nevertheless, the idea of consultation is a valid way of achieving a significant move towards the type of accountability implicit in the Royal Commission Report of 1962 and is, perhaps, a more realistic way of giving the London Boroughs in particular, a greater say as to how they wish to be policed. The proposals put forward by the GLC involve major statutory and constitutional change and raise as many problems as they are supposed to remedy - therefore it is unlikely that they would receive support from at least two of the three major political parties at all and the third party, which is committed to substantial constitutional change, must recognise the peculiar problems attached to policing the capital city.

4. SUMMARY

This section has been concerned mainly with the peculiar position of the London Metropolitan Police and the ill-defined relationship of the Commissioner of Police of the Metropolis with the Home Secretary as Police Authority has been described in some detail. Although the London situation is atypical it is very important because almost all of the issues affecting policing in Great Britain emanate from or are associated with the Metropolitan Police.

An important historical point, which touches on the modern doctrine of constabulary independence is the fact that Sir Robert Peel recognised that as far as law enforcement was concerned, and by inference associated "operational" policing, the Police Authority should have no direct control over such matters, by insisting that the first two Commissioners should be made JPs.

A consideration of policing in the MPD is important too because, as a result of the feelings of successive London Borough and County Councils, the debate on accountability has been enhanced. Many of the arguments put forward for changes in control of the police have emanated from London, particularly after the disorders of Brixton in 1981 and Lord Scarman's Report.

It has been convenient to examine the recommendations on "consultative committees" in this chapter, particularly as they relate to London, but also as an indication of what is expected to happen, at Police Authority initiative, in the rest of England and Wales.

The next and final section considers some of the strengths and weaknesses of the various systems of control of the police that operate throughout the United Kingdom and considers some alternative suggestions. In particular, it gives an assessment of "accountability" (as defined in this thesis) as it operates in the 1980s and makes some proposals as to how it may be possible to improve upon the relationships that exist between police and government.

NOTES: (Section IV)

1. Sir Joseph Simpson, Commissioner of Police of the Metro: polis - Evidence submitted to the Royal Commission on the Police, November 1960, Minutes of Evidence 20 at p.1167.
2. Metropolitan Police Act 1829.
3. Establishment in 1983 = 27,000. The establishment for England and Wales in 1983 = 121,000.
4. Cmnd 1728.
5. Recommendations 37 and 38.
6. The City of London Police is still separate from the Metropolitan Police and is responsible for policing one square mile of London within the MPD of approximately 780 square miles.
7. Section 1, Metropolitan Police Act 1829.
8. Metropolitan Police Act 1829. See also "A Brief History of the Metropolitan Police" - an official publication adapted from a series of articles by FE Heron in the Metropolitan Police Training School Magazine, with additional material by AR Pike, OBE.
9. Minutes of Evidence 20, para 4104. The Riot Act 1714 was repealed by the Criminal Law Act 1967 and proclamations are no longer necessary.

10. Section 62 and Schedule 8 of the Police Act 1964 re-enact Section 33 and Schedule 3 of the Police Act 1890. See "The Office of Constable - 1975" 1975 Crim LR 313 et seq, by IT Oliver, at page 320.
11. "The Constitutional Structure of the Metropolitan Police", by KAL Parker, Police Journal, October 1980. See also "McNee's Law", by Sir David McNee, at page 216, for an account of how he, as Commissioner, was pressed for his resignation over an incident of an intruder in the Queen's bedroom on 9 July 1982.
12. R -v- Commissioner of Police, etc, ex parte Blackburn (1968) IALLER.763.
13. "The Home Office", Sir Frank Newsam, George Allan & Unwin 1954. The author was a Permanent Under-Secretary of State at the Home Office.
14. Section 12(1) and Section 30, Police Act 1964. Parker = supra. Section 15, Police (Scotland) Act 1967. Section 15, Police Act (Northern Ireland) 1970.
15. Minutes of Evidence 20, at page 1167.
16. Newsam - supra at page 45, who quotes from Parliamentary Debates, 330 (1888), 1174.
17. Minutes of Evidence 20, at page 1153.
- 18./

18. Commander rank is the Metropolitan Police equivalent of Assistant Chief Constable, which in the provinces requires the approval of the Secretary of State before the Police Authority may make the promotion.
19. The Metropolitan Police is not subject to inspection by Her Majesty's Inspectorate of Constabulary, despite many suggestions over the years that it should be so, for the official reason that the Home Secretary is responsible for the Metropolitan Police and the Commissioner is responsible to him as his chief professional adviser; therefore it would be inappropriate for another professional adviser to report to the Home Secretary on the efficiency of the Commissioner in maintaining a police force. In fact the force has its own Inspector in the rank of Deputy Assistant Commissioner, which appointment has existed since 1967, with responsibilities and duties modelled on those of HMI's.
20. Parker - supra at page 332.
21. 330 Parl Deb 3rd s.c. 1163.
22. The Siege at the Iranian Embassy is described in some detail in Sir David McNee's book (supra) at page 146 and details of Central Government arrangements for offering advice to the operational police commander are given at pages 154/5.
23. Parker - supra at page 330.
- 24./

24. BM Hart "The British Police", 1951, George Allan & Unwin.

This debate led to the setting up of the Royal Commission on Police Powers 1929 (Cmnd 3297).

25. Parker - supra p.329.

26. Minutes of Evidence 20, at p.1156.

27. Section 1, Police Act 1909.

In 1983-84 the grant was £13.1 million whereas the Home Office estimate of the actual cost was £24m.

Hansard 27. 1.83, Col.489, and 21. 2.83 Col.307.

28. For fuller details of the structure of the Metropolitan Police, reference should be made to Parker - Police Journal, October 1980, page 324.

29. Section 23, Metropolitan Police Act 1829. Originally the rate was limited to 8d in the pound but this was raised progressively to 13d, with provision being made by S.5, Riot (Damages) Act 1886, to exceed the limit if necessary for the purpose of raising the sum to pay riot expenses under that Act and by Section 19(4) Police Act 1890, for the purpose of supplying a deficiency in the Pension Fund. The limit was abolished by S.7, Police Act 1919.

30. Minutes of Evidence II, at page 640.

- 31./



31. Minutes of Evidence 24, at page 1270.
32. Cmnd 1728, para 227, and recommendations 37 and 38.
33. Supra pages 338 - 339.
34. In fact, not all London Boroughs are represented at this meeting as in 1982/83 a group of Labour-controlled boroughs formed an unrecognised breakaway group, which called itself the Association of London Authorities - ALA. In 1984 ALA was invited to the consultative meeting. See an article describing this in "Policing London", No. 15, Nov/Dec 1984, issued by GLC.  
  
See also "The Metropolitan Police Precept", GLC Police Committee Item 10, PC 288, dated 6.11.84.
35. The policing aspects of Lord Scarman's Report on the Brixton Disorders, para 128, 9. 3.82.
36. Ante - The Police Authorities (Powers) Bill discussed previously in the section on "Accountability of Police".
37. The GLC draw attention to the fact that in the 1880s the London County Council had advocated local control of the Metropolitan Police. "A New Police Authority for London", page 9, para 14.
38. It will be recalled that Lord Scarman recommended that consultation, on a statutory basis, should occur between police and the people of the area about matters concerning policing and in order to secure their co-operation/

co-operation in the prevention of crime. Cmnd 8427, para 5.57. See also Home Office Circular No. 54/1982 and SHHD Circular No. 1/1983. See Police and Criminal Evidence Act, Section 106.

39. A detailed analysis of this suggestion is given in Chapter 9 of the document but the main national functions to which the GLC takes exceptions are - .

- a) Protection of Royalty, the Diplomatic Protection Group and Special Branch;
- b) Record Keeping - the National Criminal Records Office, National Identification Bureau; Criminal Intelligence; Central Drugs and Illegal Immigration Intelligence Units; Central Public Sector Corruption Index;
- c) Technical Support : Metropolitan Police Laboratory;
- d) Co-ordination : National Control Bureau of Interpol; National Co-ordinator of Regional Crime Squads; ACPO Secretariat; National Centre for Co-ordinating Mutual Aid;
- e) Operational Support : Criminal Investigation; Central Drugs and Illegal Immigration; Special Branch.

N.B. The above list is one perceived by the GLC and does not necessarily portray an accurate picture of the national responsibilities of the Metropolitan Police.

40. "A New Police Authority for London", page 10.

41. Supra page 52.

42. See Cmnd 9063 (Oct 1983), "Re-organisational Proposals for Local Government in Greater London and Metropolitan Counties". Also re-affirmed by Mr Kenneth Baker, Minister for Local Government at the Conservative Party Conference on 10.10.84. Daily Telegraph 11.10.84.

See also "Policing London", Number 17, April/May 1985, which acknowledges that the GLC Proposals would not be viable with the re-organisation of Local Government structure.

43. See for example the proposed amendment to the Police and Criminal Evidence Bill tabled as a Notice of Amendment on 1 May 1984 by Mr Ferald Kaufman, Shadow Home Secretary, and five other MPs, which proposed amendment to Police Act 1964 such that a Police Authority should "direct" the police force and : "prepare and publish a policy for its area which lays down policing priorities to be adopted and the proposed allocation of resources".

44. Cmnd 8427, supra.

45. Cmnd 9268, HMSO June 1984.

46. "A Police Authority for London", page 55, para 156.

47. Sir Robert Mark - "In the Office of Constable", page 284.

- 48./

48. Geoffrey Marshall "Police Accountability Revisited", in "Policing and Politics", edited by Butler & Halsey, 1978, MacMillan. See also "The Brixton Disorders 10-12 April 1981", report by Lord Scarman, Cmnd 8427, at paras 5-68, 69.
49. Amendment proposed by Mr Alex Lyon, MP, on 25 January 1983, in Standing Committee "J" on Police and Criminal Evidence Bill. These proposals went further than those put forward by Jack Straw, MP - supra.
50. Cmnd 8427 at Section H, paras 5.55 - 5.71.
51. HO Circular 54/1982 and SHHD Circular 2/83, supra.
52. See in particular - "I'm in Charge of the Met", Police Magazine, August 1981 - an account of a statement by Home Secretary, Wm Whitelaw, to ACPO(EW&NI). See also Cmnd 9063 (Oct 1983).
53. "Draft Guidance on Arrangements for Local Consultation Between the Community and the Police in the MPD", dated 15 March 1984 issued by Home Office. See also HO Circular 2/85, providing guidelines as above for areas outside London, issued on 25. 1.85. See also HC Debate on 28.2.83 in which Home Secretary, William Whitelaw, outlined the principles governing consultative groups.
54. See paper presented by A/Supt Harley of Metropolitan Police Community and Race Relations Branch (A7) to the Superintendents' Association Summer Conference at Torquay 1983.

See also The Annual Report of the Commissioner of Police of the Metropolis for 1984 (Cmnd 9541) which notes that nine out of the thirty-two London Boroughs have questioned the remit and orientation of the consultative committees and have refused to participate in them.

V - AN ASSESSMENT OF "ACCOUNTABILITY" AS IT  
OPERATES IN THE 1980s

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V. AN ASSESSMENT OF "ACCOUNTABILITY"  
AS IT OPERATES IN THE 1980s

1. INTRODUCTION

Having considered the various systems that were designed to ensure that the police in the United Kingdom are accountable through Central and Local Government to the community at large, it is now necessary to examine whether or not those systems are working as the designers intended.

There is no tangible evidence to show that the police are not properly accountable to the law, although there have been many assertions that they have not been so in individual cases, and, for the reasons already stated, it is not proposed that an examination of that aspect of accountability is necessary here; neither is it necessary in this particular study to examine the aspect of the subject concerned with complaints against the police, also for the reasons already given. Clearly, the area where accountability has been challenged seriously is in the relationships between the various Police Authorities and the Chief Constables, and it is to that aspect of the debate that most attention must be concentrated.

One/

One of the main intentions of the Royal Commission and the ensuing Police Acts was to ensure police accountability in their relationships with Government through the medium of the modified Police Authorities. There have been suggestions that the Authorities have not been a successful way of either influencing or "controlling" Chief Constables and those suggestions must now be considered in the light of developments in the 1980s.

2. THE OPERATION OF SOME POLICE AUTHORITIES

i) Reprise

It may be remembered that the Royal Commissioners who considered this matter and reported in 1962 were of the opinion that a Police Authority ought to have four main duties:

- a) to provide an adequate police force for its area, properly paid, equipped, housed and administered.
- b) to constitute a body of citizens concerned with the local standing and wellbeing of the police, interested in the maintenance of law and order, and able to give advice and guidance to the Chief Constable about local problems.
- c) to appoint, and if necessary, discipline or remove senior officers of the force.
- d) to play an active role in fostering good relations between the police and the public (1).

and the Commissioners made it clear that their intentions were that the Police Authority should be limited to having an ADVISORY role:-

"the Authority's role cannot, under the arrangements which we propose, extend beyond the giving of advice; and it will not be entitled to give orders or instructions to a Chief Constable on matters connected with policing" (2).



In order to ensure that the Police Authority conducted itself properly along the lines proposed, the Commissioners also stated that they intended that the Secretaries of State should be responsible for:

- i) ensuring the effective execution by Police Authorities of the Authorities' duties;
- ii) for the efficiency of each separate police force;
- iii) for securing collaboration between groups of forces to promote the efficient policing of wider areas;
- iv) for the provision of ancillary services (3).

Although the Secretaries of State were not statutorily made responsible for the efficiency of individual forces, it is important to remember that they have to be satisfied on the following points before defraying the 50% grant of the approved expenditure of the Police Authority, viz:-

- a) that the area is efficiently policed;
- b) that there is adequate co-operation between forces;
- c) that the police force is properly maintained, equipped and administered and that the rates of pay and allowances are as prescribed (4).

In 1964 when the Police Act for England and Wales was introduced the terms of the statute seemed unequivocal; the Police Authority was made responsible for the maintenance of an adequate and efficient police force which was under the direction and control of the Chief Constable. It was the clear and declared intention of the Commissioners that the Police Authority should play no part, other than in an advisory capacity, in what is referred to as "operational" police matters.

ii) Error

A common error on the part of some Police Authority members in the 1980s has been to state that they are responsible for providing an adequate and efficient police force and from that basic error they go on to assert that this enables them to have some say in operational matters. The Police Act 1964 makes the Authority responsible for securing the "maintenance" of an adequate and efficient force, which is quite a different matter. In particular the chairperson of Greater Manchester Police Authority has made such an assertion in the Police Review (16.11.84), the chairwoman of Merseyside Police Authority is reported to have said a similar thing in an article in The Guardian (11.8.84), while the chairman of South Yorkshire Police Authority is reported to have made similar claims during the Miners' Strike 1984/5. This mistaken view is shared by Martin Ennals, Head of the GLC Police Committee Support Unit (5).

According to the Oxford English Dictionary, the principal meaning of "maintenance" is "the action of maintaining", supplying "means of sustentation". Applying that definition and remembering the intention of the Royal Commissioners, it is more likely that the addition of the word "efficient" was intended to be a control device to be used in case the Police Authorities failed to provide sufficient maintenance for the forces to be efficient, rather than as a means of allowing them to dominate (rather than advise) in a situation which was clearly defined as being the responsibility of the Chief Constables under the Police Acts.

Although there has been a growing interest in the control of the police since the early 1970s, the 1980s are the years when serious challenges to law and order and the police response to those challenges have focussed public attention on the police in general. It would be untrue to say that the ordinary man in the street in the 1980s is highly concerned about the way in which the police service is controlled, but there is no doubt that some members of Local Government have become very interested in the matter, either for political reasons or because of the method of financing police responses to unusual and prolonged public disorder or demonstrations. In many instances the main concern has been the financial one rather than an attempt to interfere in police operations; to some, the matters are indistinguishable and the control of either finance or the police operations is seen as a solution to the problem. However, there has been a growth in some party political aspirations to take operational control of the police service.

iii) The Miners' Strike 1984/85

Brief mention has been made already of the disturbances in 1980 and 1981 which alarmed many people and which brought about a visible change in the appearance and tactics of police when dealing with severe public disorder. The demonstrations against the deployment of nuclear missiles lasted in excess of three years outside Greenham Common Air Force Base and caused severe problems for both police and local residents; and the Miners' Strike which began in early March 1984, and which lasted for twelve months, brought about a situation which created many conflicting emotions about both miners on strike and the police response to that particular trade dispute. Sadly, the debate on control of the police developed and progressed as though that dispute were an issue between striking miners and the police service - National Union of Miners (NUM) -v- National Reporting Centre (NRC) - rather than between employer and employees - National Coal Board (NCB) -v- National Union of Miners (NUM).

An examination of the national press from March 1984 until the end of that year would give an account of the severe and prolonged disorder which occurred on picket lines and on at least one occasion at Orgreave Coking Plant, South Yorkshire, an estimated 10,000 pickets from all over the country were present on 18 June when there was serious and violent disorder.

The/

The scale of the incidents that occurred on a daily basis throughout the coalfields of Britain made it necessary for the police forces in England and Wales both to give and to seek aid on such a scale that the requests had to be co-ordinated through the National Reporting Centre, which for the sake of convenience was set up at New Scotland Yard under the supervision of the President of the Association of Chief Police Officers. There were serious disturbances in Scotland but it was not necessary to set up a National Reporting Centre there since only the forces in the central belt of the country were involved, and as there is no provision for cross-border mutual aid between Scotland and England, Scottish forces could take no part in the NRC in London.

iv) The National Reporting Centre

The NRC is an administrative office of convenience which, when set up, has no statutory standing and which is organised under the auspices of ACPO whenever large-scale events involving officers from a number of forces occur; recent examples of such occasions before the Miners' Strike of 1984 were - a) the 1980/81 disorders; b) the visit of the Pope in 1982. Central Government has no connection with the centre, although, for the sake of convenience so that the Home Secretary could be supplied with up-to-date information about the deployment of police to various locations throughout the country, staff from the Home Office attended the centre on a regular basis - they took no part in the organisation or staffing of the centre. For some people who do not understand the arrangement the NRC is seen as a Central Government control and is an indication that Government is intent on nationalising the police service. In response to such an observation David Hall, Chief Constable of Humberside, and at that time, President of ACPO, stated:-

"Any men provided by NRC are under the direction, control and responsibility of the Chief Constable to whom they are supplied. NRC neither gives nor receives operational instructions. The cornerstone of our policing is the absence of political control or direction of operational policing. Without NRC, some national direction becomes inevitable" (6).

And/

And speaking of the police response to the Miners' Strike to an ACPO meeting at Preston on 13 September 1984, the Home Secretary, Leon Brittan said:-

"Recent events have proved that there is no need for a National Police Force" (7).



v) Mutual Aid

Section 14, Police Act 1964, makes provision for the Chief Constable of any police force, on the application of the Chief Constable of any other police force, to provide constables or other assistance for the purpose of the other force to meet any special demand on its resources. If it appears necessary the Secretary of State may direct Chief Constables to supply such aid: it is not thought that there has been any occasion, since the passing of the 1964 Act that the Secretary of State has made such a direction (8). While a constable is provided under S.14 he is under the direction and control of the Chief Constable of the "host" force. The Police Authority maintaining a police force for which assistance is provided under S.14 shall pay to the Police Authority maintaining the force from which assistance is provided such contribution as may be agreed between the Authorities and in the absence of such agreement, such sum as may be determined by the Secretary of State. Provision is made in S.14(4) for a general agreement to be made between all Police Authorities and as long ago as 1925 such an agreement was reached in England and Wales which was superseded in 1973 by a general agreement between the Association of Municipal Corporations and the Association of County Councils which was then translated into a Home Office Circular (9).

The Miners' Strike of 1984/5 was the cause of the greatest and most prolonged mutual aid that has occurred in the history of police in the UK, involving officers from almost every force; it was also the cause of much heated debate in some Police Authorities, primarily because it seemed that Chief Constables could/

could raise large armies of occupation to combat "peaceful picketing" at enormous cost. Although Central Government made special financial arrangements designed to relieve Authorities of the worst of the financial burden, there was still a considerable cost to be borne by the ratepayers and some Authority members challenged the right of Chief Constables to spend, in some cases, millions of pounds without the approval of the Police Authority and to such an extent that other community services were jeopardised (10). Such was the frustration and dismay, not to mention anger, of some Police Authorities, that they sought ways of instructing their Chief Constables not to incur additional expenditure in policing the Miners' Strike without the specific approval of the Police Authority.

In Merseyside, for example, the Police Committee declared its intention of seeking an injunction against the Chief Constable to stop his sending police officers on "mutual aid" after it had learned that more than £2,612,000 had been spent on extra overtime payments during the strike. The chairman of the Police Committee is reported to have said:

"It is a scandal that Mr Oxford (the Chief Constable) can spend so much public money without any accountability. But this is not a political move. It purely a test case of the law" (11).

vi) Conflict in Greater Manchester

In Greater Manchester the chairperson of the Police Committee, Gabrielle Cox, made similar complaints about excess expenditure and the Chief Constable's ability to spend money without reference to the Authority:

"This points up the total constitutional anomaly that Chief Constables can virtually do what they like; our responsibilities appear to be meaningless. Not only can the Chief Constable do what he likes but he can spend all our money doing it and bankrupt us, and potentially bankrupt the County Council. In theory, we would have to cut back on fire services and everything else to pay for this" (12).

There has been a history of conflict between the Chief Constable of Greater Manchester Police and the chairperson of the Police Committee, who is on record as challenging the doctrine of constabulary (and in particular Chief Constables') independence and has been active in attempting to ensure that what she perceives as the functions of the Police Authority are carried out in a firm and uncompromising manner (13).

Shortly after the complaints about the expenditure on policing the Miners' Strike, the Greater Manchester Police Committee decided that it was necessary to scrap the police band as a part of a cost-cutting exercise brought about by the increased expenditure attributable to policing the strike. The Police Committee took legal advice and concluded that the deployment/

deployment of officers to play in a band could not be described as an operational decision and therefore it was entitled to instruct the Chief Constable to employ the officer-bandsmen in a different way and to save money by cancelling that particular activity. The Chief Constable objected to this and to other actions which he regarded as an intrusion into his direction and control of the force and there was a strong disagreement between him and the committee, resulting in the passing of a resolution by the committee expressing its "grave displeasure" at the behaviour of the Chief Constable over the matter (14). It was later reported that Her Majesty's Chief Inspector of Constabulary for England and Wales had given advice to the Chief Constable that the band could not be regarded as being necessary to the operational efficiency of the force. The response of the Chief Constable was to request of the Home Secretary a "clear definition" of the powers and responsibilities of a Chief Constable: this matter was reported to be "under consideration" by the Home Secretary in consultation with his professional advisers (15).

Similar conflicts have occurred between Chief Constables and Police Authorities elsewhere and the fact that such uncertainty has arisen demonstrates how complicated the issue of police accountability has become in the 1980s. At first sight the problem of a police band seems simple and straightforward, but if the Police Authority had the right to direct the deployment of manpower to such a limited extent in the case of bandsmen, could it not be said that it would be entitled to direct the deployment of other "non-operational" officers, and where would the line be drawn? Is a talk to a class of school-children /

school-children by a community constable an operational matter or is that a policy decision to be made by the Police Authority on the advice of the Chief Constable? Judging by the intention of the Royal Commissioners, it would seem that deployment of manpower is a matter for the Chief Constable who should consider any relevant advice that the Police Authority would wish to give; in the event of a disagreement the advice and guidance of the third party in police management should be consulted and an agreed solution should be reached. What causes some misgivings in the case of the police band is the appearance of possibly improper motives on the part of the Police Authority. What cannot be denied is that the Greater Manchester Police Committee have the right to ask questions of the Chief Constable and to take advice from the Chief HM Inspector and/or the Home Office if it is unsure of its position or of the "efficient" running of the force. Clearly it would be wrong to assert that in matters of manpower deployment or "operational" decisions, the Chief Constable's judgment is sacrosanct and that he is immune from being called to explain his policies, but that is significantly different from a Police Authority purporting to direct the Chief Constable in his statutory functions for whatever reasons.

vii) Conflict in South Yorkshire

In the case of the South Yorkshire Police Authority's attitude towards the policing of the Miners' Strike there was a clear case for concern which caused the Central Government to invoke the aid of the Attorney General, as guardian of the public interest, to take action against the Authority to compel it to fulfil its obligations under the Police Act 1964 after it had passed certain resolutions which were designed to inhibit the Chief Constable in his law enforcement role.

Again the problem which caused the initial conflict between the South Yorkshire Police Authority and the Chief Constable (on this occasion (16)) was one of financing the additional costs of policing the Miners' Strike.

In order to appreciate the problem, it is necessary to know that South Yorkshire is in the heart of a mining area and that the South Yorkshire County Council (Labour controlled) had passed a resolution at a County Council Meeting on 21 March 1984 which said in part:

"We (the County Council) give our full support to the miners in their struggle".

Not/

Not surprisingly both local feeling and that of a majority of the elected representatives in the area were in support of many of the actions of the striking miners.

Early on in the Miners' Strike, the Chief Constable of South Yorkshire agreed to supply officers under a mutual aid agreement to the Chief Constable of Nottinghamshire, who was experiencing extreme difficulties in policing the Nottinghamshire Coalfield where a large number of working miners were being "mass picketed" in the area. The problems in Nottinghamshire were so great that officers from all over the country were billeted in the area on a constant basis.

The immediate response to this operational decision taken by the Chief Constable was that the Police Committee asked the Chief Executive of South Yorkshire whether or not it could withdraw from national guidelines on mutual aid and the Committee asked the Chief Constable to refrain from allowing officers from South Yorkshire to leave the county for the purposes of giving aid to another force. A Queen's Counsel was retained to advise the Committee on the legality of the National Reporting Centre and whether the Committee had the power to prevent the involvement of officers from South Yorkshire Police outside the county; the advice given was that there was little the Committee could do in either regard. The reaction of the Police Committee was to pass a resolution calling upon the Chief Constable to reduce the scale of picket line policing where possible and to avoid providing officers on "overtime" for that particular/

particular duty. It was also made clear to the Chief Constable by both County Council and Police Committee resolutions that no additional cash would be found for policing and that all additional commitments which the Chief Constable undertook would have to be financed from within the existing budgetary provisions - in other words, policing the Miners' Strike would be at the cost of normal police budget items. Clearly an unrealistic demand given the scale of the disorder that had to be policed!

A further step in the Police Committee strategy was to invite the Chief Constable to carry out a joint study with a firm of management consultants into working arrangements for the deployment of all police manpower in the most economical, efficient and effective manner. The Chief Constable declined to comply with this request on the grounds that the deployment of manpower was his responsibility.

As the strike developed, South Yorkshire became a centre of intense activity, particularly at Orgreave, a coking plant outside Sheffield, from which the President of the NUM had publicly declared that no coke would be transported. Daily convoys of lorries to and from the plant were picketed, on one occasion by an estimated 10,000 men, and disorder was severe and extensive. Despite the presence of many hundreds of police officers to control the disorders, there was a point when there was a danger that police might lose control of the situation. In order to combat this risk, the mounted police were deployed and the situation was rapidly and effectively brought under/



under control, but not without raising the anger of both strikers and Police Committee members (17).

Strong criticism of police tactics was levelled against the Chief Constable in Police Committee and elected members described the use of horses, dogs and protective equipment as "provocative and brutal". The Chief Constable was called upon to withdraw police officers from Orgreave, thus preventing the convoys and the accompanying violence and on 27 June 1984 the South Yorkshire County Council passed resolutions which called upon the Chief Constable:

"to exercise his powers to prevent the conveying of coke from Orgreave and that the payment of bills concerning the mining dispute be not paid".

The notion behind this resolution was that the movement of coke from the plant was causing disorder and if that stopped so too would the disorder.

However much the Chief Constable might regret the passing of a resolution asking him not to police the area in a certain manner, as the first part of the resolution of 27 June did, there is no doubt that both the County Council and the Police Committee could take such a step provided that it was intended as "advice" and there was no attempt to interfere with the Chief/

Chief Constable's direction and control of the force either by purporting to instruct him in his operational role or by denying him the funds to enforce the law. Clearly, the second part of the resolution was intended to force the Chief Constable to refrain from carrying out his responsibility to the law.

Continued pressure was applied to the Chief Constable by the Police Committee, including the passing of a resolution to withdraw South Yorkshire officers from the Regional Crime Squad (made up of officers from six forces) with effect from 1 October 1984, and later a resolution denying approval for any police officer to be seconded to the Regional Police Training Centre at Dishforth (18). Nottinghamshire Police Authority took a similar decision to withdraw officers from the Regional Crime Squad at about the same time (19). The reason given for such action on the part of both Police Committees was the high cost of policing the Miners' Strike but it is difficult not to infer that the true reason was an attempt to force the hand of Central Government to pay for all of the additional policing costs.

Not surprisingly, the Police Committee in South Yorkshire (as in other counties) questioned the Chief Constable very closely about his strategy for policing the dispute and there were many criticisms consequent upon the explanations offered. On 2 July the Committee stated that while it was not attempting to interfere with the Chief Constable's operational responsibility, nevertheless it had a statutory duty to control financial matters and it was, therefore, withdrawing the Chief Constable's delegated/

delegated authority under County Council Regulations to incur any expenditure in connection with the mining dispute without the prior approval of the Police Committee. On 3 July the Chief Constable sought permission from the Police Committee to spend a considerable sum of money in policing Orgreave during the following week; with the exception of a small sum for the provision of temporary toilet accommodation, all other expenditure was denied.

Thereafter, the Chief Constable referred the matter to the Home Office, an affidavit was prepared and an application was made to the High court for judicial review to quash the Police Committee's resolutions of 2 and 3 July and requiring the Committee to comply with its obligations under the Police Act 1964 to meet the expenditure necessary to enable the Chief Constable to secure the adequate and efficient policing of the county. This application was made by the Attorney General in his capacity as guardian of the public interest.

An order was made for the hearing to be held on 6 July 1984 and on that day the Chief Constable's sworn affidavit was presented outlining the circumstances above and expressing his fears regarding his ability properly to police Orgreave in view of the action taken by the Police Committee.

The/

The Police Committee asked for an adjournment of the hearing and there was ordered a stay on the implementation of the two resolutions restricting the Chief Constable's spending and the specific refusal to supply the money requested on 3 July.

The issue did not come to a formal hearing because the Police Committee held a special meeting on 10 July when it lifted the previous restrictions on the Chief Constable and agreed to pay all bills in connection with the dispute. However, a Finance Sub-Committee was established to identify savings in the next year's budget and to monitor and control further expenditure incurred in policing the Miners' Strike.

At the next full meeting of the Police Committee, criticism was voiced that policing the dispute was to the detriment of the community as a whole which was not receiving the normal policing to which it was entitled; a criticism made in many other council chambers throughout the duration of the strike. Additionally, the Chief Constable was asked to prepare a report on the potential savings that could be made if the Mounted and Dogs Sections of the force were disbanded: a resolution was passed prohibiting any further purchases of either horses or dogs (other than dogs intended for use in the detection of drugs or explosives).

On/

On 3 September the Chief Constable presented the report and it was referred to the Policy and Resources Committee of the County Council for a decision.

On 17 September 1984 the South Yorkshire Police Authority voted to dispose of all of its horses and associated equipment and half the number of police dogs. On 18 September it was reported that the Home Secretary had intervened and had asked the Police Authority to think again on the grounds that it had a statutory duty to secure the maintenance of an adequate and efficient police force (20).

In October 1984 the editor made the following comment in "Police":

"Mr Britten may have persuaded the South Yorkshire Police Authority, not for the first time, to have second thoughts. But the real issue is, not whether the police horses (or even police dogs) remain part of the police service. It is whether the existing structure of police governance is any longer appropriate for the needs of the service and the country".

Whatever the reasons that Police Authorities may have for challenging the actions of the Chief Constables, and it must be assumed that many of those reasons are bona fide even if some of them are based on a less than adequate appreciation of the constitutional issues, the remedies available to the Chief Constables/

Constables and/or the Secretaries of State against improper actions by the Police Authorities appear to be both cumbersome and unsatisfactory. It is even possible that the remedies which are designed to protect the constitutional independence of the Chief Constables in their law enforcement role may actually bring about a situation where the constitutional position is weakened.

It may be assumed that the actions of South Yorkshire Police Authority were, at best, crude attempts either to embarrass Central Government or to force it to pay all the extra costs involved in policing the Miners' Strike; at worst they were party political attempts to assert control over the police force for partisan reasons. There are other examples of actions by other Police Authorities which may be regarded as questionable; and there is no doubt that the structure of all Police Authorities in Great Britain is such that domination by the majority political party is possible so that decisions affecting the police can be made within the party "caucus" and subject to the party whip (21). Such a situation which may not have been foreseen in 1964, has allowed the intrusion of party politics into policing, even though this was not the real intention of either the Royal Commissioners or Parliament.

viii) Existing Remedies in the Event of Conflict

The present remedies open to the Secretaries of State are either in the form of legal action to attempt to compel the Police Authority to fulfil its legal obligations under the Police Acts or by the withholding of all or part of the 50% grant on the grounds of failure to secure the maintenance of an adequate and efficient force. Neither of these steps is particularly attractive and if several Police Authorities agreed together to make a major stand of disobedience over an issue such as the Miners' Strike, then either the prisons could be full of "contemptuous" councillors or the financial problems over which the issue was raised would be compounded by an even greater shortage of money and much more severe Central Government measures would be necessary including the direct financing and supervision of the police forces involved. This in turn would raise a difficult constitutional issue and nice problems about state controlled funding of police at a time when political feelings would be running high and extreme allegations would be made about Central Government attempting to do in one way what Local Government was being accused of attempting in another.

This is clearly a situation that has not occurred on a large scale before and failures by Police Committees in the past have soon been remedied by the mere threat of the grant withdrawal - perhaps such a threat would not be so efficacious in the future.

Normally/

Normally it has been the policy of Central Government in Great Britain that the financing of local services should be on a shared basis; notionally, the share is on a 50-50 basis, but in the case of policing, the Central Government contribution is usually much larger, taking account of the additional payments under the Rate Support Grant. In unusual circumstances, such as Greenham Common, the Fire Brigade Strikes and other industrial action involving considerable extra costs for policing, additional payments have been made by Central Government in order to ease the burden on local ratepayers: nevertheless, the underlying philosophy of Central Government is that the burden of additional cost should lie where it falls. In an annual report made in 1973, when he was Chief Constable of Lincolnshire, the present Chief Inspector of Constabulary, Sir Lawrence Byford, suggested that Central Government should pay a greater contribution (75%) of the costs of policing. Such a suggestion in the 1980s offers an attractive solution with regard to the attempts by some Police Authorities to exercise control over operational matters by way of financial manipulation.

It has long been thought that it would be wrong in principle and potentially dangerous for Central Government to be responsible for 100% of policing costs for the simple reason that the appearance of total Central Government control could very soon become a reality with a government of that inclination. Of course, a government with a sufficiently large majority could introduce legislation along the lines of that proposed by the GLC and the cherished independence and impartiality of the police service could disappear, but for over 150 years no government has chosen to follow that particular attack on freedom.



However, there appears to be some merit in adjusting the amount of Central Government contributions to 75% or 80%, thus giving the Secretaries of State a more effective method of influencing aberrant Authorities without the unpleasantness of a Chief Constable having to take legal action against his own Authority, whilst at the same time leaving some influence with the Police Authorities both as controllers of finance, subject to the maintenance of an adequate and efficient police force, and as "advisers" on local interests and concerns.

3. CONSIDERATIONS REGARDING NATIONAL  
OR REGIONAL POLICE FORCES

One of the fears that has been expressed over the years, particularly during the 1984/5 Miners' Strike and to a lesser extent during the disorders in 1980/81, is that a National Police Force seems to be inevitable. The existence of the National Reporting Centre has been seen as a manifestation of incipient Central Government control and the prospect of such an occurrence generally is viewed with disapproval.

The case for and against a National Police Force was considered by the Royal Commission and it concluded:-

"8) There is a substantial case for creating a national police service. Its organisation would be more logical, and a number of us think that it would prove to be a more effective instrument for fighting crime and handling road traffic than the present large number of partially autonomous local forces (para 128).

"9) We do not regard the creation of a national police service as constitutionally objectionable or politically dangerous (paras 134-139).

"10) We think, however, that there is much value in a system of local police forces, and that the improvements which we regard as desirable can be achieved on the basis of the present police system. We, therefore, reject the case for creating a national police service and we recommend the continuance of a system of separate local police forces (paras 140-150)" (22).

One member of the Royal Commission felt so strongly in favour of a "centrally controlled police force, administered on a regional basis" that he outlined his proposals in a comprehensive memorandum of dissent (23). Dr Goodhart's view was that centralisation of control would be a democratic safeguard:

"It has been suggested that the recent dictatorships on the Continent ought to be a warning against the establishment of a strongly controlled police force here. I believe that the lesson is the exact opposite. The danger in a democracy does not lie in a central police that is too strong, but in local police forces that are too weak. It was the private gangs of the Fascists and of the Nazis that enabled Mussolini and Hitler to establish their dictatorships when the legitimate police proved impotent" (24).

Certainly, those who view a national police force with disapproval in the 1980s speak in exactly the same vague terms, such as "police state", as were used when the matter was considered by the Royal Commission a quarter of a century earlier. Images of totalitarian regimes restricting freedom and abusing arbitrary power are conjured up for some whereas others, including many police officers, have a vague feeling of unease whenever the subject is discussed. It is likely that the only National Police Force of which many chief officers would approve is one over which they were able to exercise personal control to prevent the perceived excesses of a Minister of the Interior, forgetting in the meantime that the Metropolitan Police, representing between one-fifth and one-quarter of the police service, is under the control of a Secretary of State.

A National Police Force is regarded in much the same way as "tyranny" and the logical extension of that line of thought is that so long as police in the United Kingdom are not controlled by Central Government, then oppression is not possible. The Royal Commissioners dismissed that argument and stated that the proper criterion is not whether the police are centrally controlled or locally so, but whether or not the police are answerable to law and ultimately to a democratically elected Parliament.

Despite their lack of fear of a "police state", the Home Secretary of the day was not so sanguine and it is likely that a National or Regional Service would have been rejected in 1962 by the Central Government. Such a transition from many small forces to a unified organisation under Central control would have been too big a step to take even if the Government had been prepared to ignore the constitutional system of "checks and balances" which the Home Secretary favoured (25).

The arguments put forward in favour of a unified or "national" police service were most strongly supported by the Law Society and the Inns of Court Conservative and Unionist Society, but even they were more in favour of regionalisation rather than a straightforward conversion to a national force.

The/

The main reasons for favouring a unified service fell into two categories:

- i) the alleged unsuitability of policing being controlled by Local Government, partly because of examples of abuse pre-1962, but largely because:

"When things begin to go wrong in the police, it is a proper matter of concern for all and should therefore be ventilated in Parliament rather than being confined to the Town Hall. The conduct of the police is of importance to all in a civilised state because disgraceful behaviour by police anywhere brings shame on all its citizens" (26).

- ii) the improved organisation which would be possible with a single centrally administered force or regional forces with common practices and administration, with the consequent benefits to police effectiveness and efficiency, including a higher degree of uniformity of practice in enforcing the law (27).

Many of the benefits that were thought to attach to a national or regional service appear to have occurred in the years following on from the Police Acts; it could be argued that the police service has achieved the advantages of common training and standards without any of the perceived disadvantages outlined in evidence to the Royal Commission. A further move to uniformity in law enforcement standards seems likely if the Prosecution of Offences Bill 1984 becomes law (28).

It may be remembered that the Chief Constable of Greater Manchester Police indicated his belief that regional police forces are inevitable and that the arguments in favour of them are overwhelming (29):

"A regional pattern of policing would provide the best possible service to the public and eliminate large areas of waste. All that has prevented it so far is local prejudice and political ill will. .... Surely, before the end of this century, we must move to a more logical and obvious police organisation to avoid the gross duplication of effort and capital development still inherent in the present system".

On the other hand, Sir Philip Knights, then Chief Constable of West Midlands Police, expressed the view that his police area was too big with the result that police were in danger of becoming "remote and impersonal" unless a great deal of effort was expended in combatting that possibility (30). Indeed, one of the strong criticisms levelled against police by some elected representatives was that the forces had become too big as a result of amalgamations and the consequence of this was a loss of the accountability which had existed when forces were small and served identifiable localities.

Certainly, if regionalisation along the lines proposed by the Inns of Court Conservative and Unionist Society in evidence to the Royal Commission, and by James Anderton, Chief Constable of Greater Manchester Police, were to be developed, then Police Authorities as described hitherto would be abolished. If a/

a national police force were to be set up then "the semi-autonomous office of Chief Constable would disappear, since these officers would be brought within a single police hierarchy; and thus they would be made answerable to Central Government for some or all of their activities in a way in which they are not at present answerable to Local Police Authorities" (31).

The Royal Commissioners were persuaded of the value of a system of separate forces because of the perceived advantages of a partnership between Central and Local Government in the maintenance of a public service and because they were able to say:-

"The system on the whole works well because it is worked by reasonable people on both sides" (32).

4. THE CONTINUING ROLE OF POLICE AUTHORITIES  
AND PROPOSALS FOR STRUCTURAL CHANGE

Personalities play a very real part in the maintenance of a good relationship between the three parties involved in the control of the police service, and it is just as important to select a highly capable and publicly motivated individual to be chairman of the Police Authority as it is to ensure that the Chief Constable is thoroughly professional both as a police officer and as a man who has to recognise and deal with the sensitivities of government at all levels. The fear of many chief officers is that chairmen of Police Authorities, in too many cases, may be political pawns placed where they may be manipulated by the party or they may be highly motivated party political animals who wish to exploit their position to maximum partisan advantage. The fear of some elected representatives is that Chief Constables are too independent and that:

"Law and order is too wide a subject to be regarded as a narrowly professional preserve; policing is too important to be left to the police" (33).

These fears are perhaps the opposite ends of the police accountability spectrum and before the Miners' Strike of 1984, the reality in many cases was a combination of the ill-informed and inactive Authorities perceived by Regan, Brogden and others, and the well-intentioned bodies of people trying to do their best and trusting in the ability and professionalism of the Chief Constable to advise them in their role and to get on with his job of directing and controlling the force; advice on the efficiency of the force was implicit in the Central Government's willingness to continue paying the exchequer grant after it/



it had received its report from the Inspector of Constabulary. Such a state of affairs is unlikely to continue and it would appear that it is now time to consider alternative ways of ensuring that the police are properly accountable in a way that will not interfere with their professional functions.

It is apparent that the definition of accountability that is essential if police are to continue to be responsible to the rule of law, which was preferred by the Royal Commissioners and which is implicit in the Police Acts, is that one described by Marshall as "the explanatory and co-operative mode" (34). Under this definition, the Chief Constable is able to maintain his professional integrity, he remains answerable to the law and yet he may be called to give an account of his policies and actions to those who have a legitimate interest in them.

It is now necessary to examine who it is to whom the Chief Constable should be accountable, given that serious deficiencies in the present arrangements have been identified and are capable of being repeated in the future. Quite apart from political manipulation being possible through the present structure of Police Authorities, the uncertainties about financial control and their impact on operational policing have to be considered. A Police Authority and a Chief Constable ought to be in a position to know clearly whether or not certain equipment can be purchased by the Chief Constable, for example, protective clothing for public disorder situations - riot gear, plastic bullets, firearms and the like, or whether that is a financial decision for the Authority. If an Authority can refuse to finance the/

the band, can they also refuse to finance the Special Branch, the SPG and War Duties Training? If not, what are the areas of influence and who is the judge of the situations? It is far from satisfactory to resort to court actions or the threat of the withdrawal of a grant.

During the years since the passing of the Police Acts 1964 and 1967 there have been many proposals for amending both the structure and the powers of Police Authorities. From the evidence gathered thus far, it would appear that the powers of Police Authorities are adequate if the "explanatory and co-operative mode" of accountability is accepted; what does seem to be necessary is a gloss on those powers by way of an explanation from the Secretaries of State as to what the Police Authorities may do, perhaps by way of an official circular to be issued after discussions between all three parties involved (35). The problems experienced by some Police Authorities seem to have fallen into two distinct types:- either the Authorities have been unsure of their powers because they have been ill-advised or because they have not bothered to find out what is expected of them and have therefore functioned in a less than satisfactory way, or the members of Authorities have been party-politically motivated and they have sought to extend their powers by a deliberate misinterpretation of what the Acts provided and what was the intention of Parliament after considering the advice given in the Royal Commission Report. It would appear that while the powers of the Authorities may be judged by some to be adequate subject to a clearer statement by the Secretaries of State, the present structures of the Authorities in Great Britain may be challenged as being unsatisfactory insofar as they give rise to the possibility of introducing party politics/

politics into police management and, in the case of those in England and Wales, the presence of magistrates appointed by the Magistrates' Courts Committees is objectionable to some on the basis that it is seen to be improper to associate the functions of the police with the administration of justice. Opinions are sharply divided on this last point and the Royal Commission took the view that the objection was probably more theoretical than real and that there were overriding advantages in bringing the experience of justices to Police Authorities. Perhaps the objections may be lessened if the Independent Crown Prosecution Service is introduced, and it should not be forgotten that many elected members of Police Authorities are also JPs; nevertheless, alternative structures of Police Authorities must be considered in the same way as the various suggestions for altering the method of making the police properly accountable.

It was only ten years after the implementation of the Police Act 1964 that Banton was advocating a change in both function and structure of the Police Authorities on the grounds that the public had a right to be consulted on how its resources would be used, but he was careful to maintain an advisory role for the Authorities in his proposals. He envisaged that "consultation" would be the important function of the Authorities and that they, in turn, would advise the Secretary of State and the Local Authorities on the adequacy and effectiveness of the measures employed by the Chief Constable for the preservation of the peace. Magistrates, as an appointed body, were to be removed from the Banton style authorities for the reasons outlined above but he was in favour of other "appointees" to the Authority for the purpose of discussing non-financial items, /

items, such members to be selected from bodies concerned with crime prevention, and perhaps, such organisations as football clubs. Banton also saw a role for chief officers of Local Government departments and members of police associations, particularly the Federation, on his redesigned committees. No mention was made of involving members of Central Government departments or, indeed, of elected representatives to Parliament. The function of such a committee, in addition to the advisory role already mentioned, was to "evaluate the whole range of local methods of preventing crime and dealing with offenders" (36).

Circumstances another ten years on from Banton's proposals are significantly different, but the emphasis remains on the advisory and consultative role of the committees as evidenced by the Scarman proposals and Central Government's move to make local consultation compulsory in England and Wales. Indeed, the whole emphasis appears to be designed to ensure that the public are kept informed of how the police operate and are able to have a proper "voice" in making their views known to the Chief Constable. At present there seems to be little demand from the general public to secure a change in the structure of Police Authorities and apart from an evident wish to make occasional representations of their views to the Chief Constable there appears to be no substantial groundswell of opinion in favour of political control of the police. However, it would be unwise to become complacent or to ignore the opinions expressed at party conferences and the outbreaks of severe disorder which are alleged to have been provoked by improper policing methods. Currently, such disturbances have been brought about by a minority of people who have expressed themselves with petrol/

petrol bombs, riots and, in some instances, murder, and it is far from clear that this is evidence of a demand for a change in the control of the police rather than blatant criminality arising from socio-economic conditions. Nevertheless, the phenomenon of disorder has to be considered further in the light of developments that have taken place since the Scarman Report.

Banton's idea of consultation was strictly in line with the thinking behind the Royal Commission Report but his proposals, seen in the light of developments in the 1980s, are not an adequate remedy for the apparent defects in the modern Police Authorities; they would not prevent the possibility of partisan influence, neither would they remedy the problems that can arise from improper financial manipulation. The best that can be said for Banton's ideas is that they do encourage and promote a better interchange of information between representatives of the public at large and the police service.

About the same time that Banton was making his suggestions for change, the Joint Working Party of ACC and AMA representatives were considering the developing role of the Police Authorities but no clear-cut decisions about the structure emerged. The notion of "corporate management" in Local Authority affairs was increasingly popular after "Bains" but apart from the desire to get the Chief Constables involved in Local Authority management teams and an apparent misunderstanding about the constitutional position of the police, the Local Government representative bodies seemed to be satisfied with the partnership arrangement that existed. Indeed, the AMA in particular were later/

later to acknowledge the value of what was described as "a unique feature of our constitution" and one which it was anxious to preserve, notwithstanding its desire in 1982 to see a fundamental change in the power and influence of Police Authorities along the lines proposed by Jack Straw, MP. Nevertheless, the AMA was opposed to the presence of magistrates on the Police Committees on the clear grounds that there should be a separation of the police service from the judiciary. At the same time that the AMA was expressing this view about magistrates on Police Authorities, it may be recalled that Barry Pain, then Chief Constable of Kent, was so concerned at the influence of party politics into the affairs of the Authorities that he recommended an increase to 50% membership of the magistrates in order to moderate this undue political influence (37).

Pain's suggestion was, perhaps, born out of frustration rather than as a complete remedy to what he saw as an unsatisfactory structure of the Police Authorities and although it may have countered political influence, the magistrates still suffered from the criticism that it was improper to associate the judiciary with the management of a law enforcement agency. Also the fact that appointed magistrates were all from one group of people made it possible that the "group" influence could have been seen to be as bad in its way as party politics and such appointees can hardly be said to represent the cross-section of community interests at large. Banton's idea of appointees from other groups was better in this regard although it was not the complete answer, and so both his and Pain's suggestions are unsatisfactory remedies for the situation which has developed in the 1980s.

The political changes proposed by Jack Straw, the AMA, the GLC and others have been examined and it is certain that they would bring about such a significant change, if they were to be adopted, that the independence and impartiality, which are seen to be the fundamentals of British policing, would disappear; although accountability to the political party in power for the time being would increase, it is likely that such a subordinate and potentially corrupt style of policing would not be acceptable to the general public. If ever it becomes so, then the appropriate laws will be introduced through Parliament to secure a major constitutional change in the control of the police service.

As Waddington said: "It is incumbent upon those who advocate increased political accountability and control, to show that this is likely to lead to a more impartial and neutral police force, not less" (38). And such proposals as have been forthcoming in the evidence tend to indicate a preference for the "subordinate obedient mode" of accountability, which was rejected by the Royal Commission Report and Parliament.

Similarly, it appears that despite the remarks of George Cunningham, MP, (39), that national control of the police is necessary to avoid a patchwork policing system, it appears that a national police force is not more acceptable now than it was in 1962; there is a basic public fear of national control of the police. Indeed, it would seem that what Cunningham was really arguing for is a greater control over aberrant Police Authorities who attempt deliberately to disrupt the "national partnership" that was demonstrated between many police forces during the Miners' Strike and the disorders of 1980/81.

Surprisingly, those most public chairpeople who have received much attention and who have voiced many opinions about accountability of the police, Margaret Simey, Chairman of Merseyside Police Authority, and Gabrielle Cox, Chairperson of Greater Manchester Police Authority, have failed to produce a concrete proposal upon which to develop a different form of accountability from the one that is implicit in the Police Acts. Indeed, Gabrielle Cox said:

"We need to work together to a more creative understanding of the way forward. I can produce no blueprint, no new Police Act, out of my pocket, with all the constitutional safeguards written in, all the checks and balances elaborated. But sometime soon in the future it needs to be done, so that we produce a truly (rather than the current pseudo) democratic structure for policing" (40).

Reference has been made to the suggestion for improving the present methods of operation in Police Authorities by Regan who advocated a greater use of sub-committees as a means of ensuring that the Authorities were better informed about the matters which concerned them. The Chief Constable of Greater Manchester Police was enthusiastic about this idea and recommended to his Authority a greater number of sub-committees than those which previously had been introduced; it was a suggestion that contained the seeds of enormous problems for him and which has brought about a situation which can only be described as an improper use of the Authority's right to request reports from the Chief Constable. During 1983 there was a total of 56 meetings of the Greater Manchester Police Committee and its sub-committees, not including pre-agenda meetings and various other adhoc meetings, in respect of which the Chief Constable/



Constable was required to submit 243 reports on all aspects of policing. Such activity creates an enormous drain on administrative and operational resources in servicing the committees in addition to the pressure that is applied to the chief officers who are required to attend the meetings. As well as the time element involved, the sub-committees could be a convenient way for the ruling political party to divert matters away from the attention of the main committee until it is suitable for the party to proceed and it is also a convenient way of manipulating the full Police Committee because items could be passed from the sub-committees to the full committee by way of resolutions which are then subjected to the vote without debate, and passed because the major political party holds the majority.

So heavy was the demand for reports and committee meetings that the Chief Constable had to keep a flow-chart of reports and deadlines which were almost impossible to meet. Implicit in this failure was the question of efficiency and possible moves to secure suspension and/or removal of the Chief Constable by the Committee. The only remedy that the Chief Constable has in such a situation is to decline to submit the reports on the grounds that they are not needed for the Committee to carry out its function and have the matter referred to the Home Office for decision. If the requests are for information that the Committee is entitled to receive, the remedy is not very potent (41).

It is perhaps a little ironical that the chairperson of Greater Manchester Police should publish her statements in the Police/

Police Review on 16.11.84 at a time when both she and the Chief Constable had turned to the Home Office for guidance on their respective roles (42). Again the point is worth making that personalities and goodwill play an enormous part in the relationships that exist in such situations and they affect "accountability" in a direct way.

Despite the obvious value in the use of the sub-committee within a Police Authority, as may be seen in the Northern Ireland situation, the main weakness in the Greater Manchester case is the ability, for political motives, to manipulate the business of the Authority in such a way as to attempt to dominate the Chief Constable's freedom of operation. It is not the idea of the use of sub-committees that appears to be wrong but rather the composition of existing Police Authorities largely on party political representation. Clearly, to allow partisan influence of a non-political service is likely to cause the kinds of difficulties that have manifested themselves in the 1980s. What appears to be necessary is the type of structure that allows true representation of a wide cross-section of the communities' views without the domination of party politics. Of course, it is difficult to avoid party politics particularly where finance is concerned, but there is no reason why that particular problem could not be overcome perhaps by a greater percentage grant from the Exchequer or an amendment to the powers of the Police Committee such that it became a precepting authority.

A proposal to make Police Authorities more representative was made in a Consultative Document issued by the Citizens' Rights Group of the SDP (43) in which it said:

"We propose that the non-councillor element on the committee should be expanded to include also a wider range of representatives of the local community. Councillors give the political dimension, magistrates (in England and Wales) provide experience of the administration of justice. But there should also be representatives of other elements in the community such as organisations concerned with the young or elderly, ethnic minorities, the advisory agencies, women's groups, social services and the like".

Acknowledging that it would be difficult to have a statutory list of the types of organisation or group that should be represented on Police Authorities, the document went on to propose that the other community representatives should be appointed by the Home Secretary (in England and Wales) upon advice from a new national appointments committee which should have regional sub-committees.

The authors of the SDP document took the view that the present law gives Police Authorities adequate powers to secure proper accountability and they went on to say that there was no reason why the Authorities should not concern themselves with operational matters provided this concern was by way of review and the seeking of information that is reasonable for them to have in carrying out their proper function. The idea of further guidance from the Home Secretary was also mooted and it was proposed that guidelines should be issued to Chief Constables about what items should be included in their annual reports so that Police Authorities would be assisted in their relationships with their Chief Constables by knowing what they ought to be looking for in the reports. It was also suggested, in much the same way/

way as that proposed by the AMA, that Home Office circulars should be issued to cover the matters that are properly the subject of discussion between Police Authorities and Chief Constables; further it was proposed that a statement by the Home Secretary on the extent of Police Authority powers should be issued to both Police Authorities and Chief Constables. Support was also given to the idea of "Scarman-type" local consultation committees because such a process "will inevitably make the police more sensitive to the concerns and interests of the community". No doubt the police would add the point that it might also educate the community about the realities of policing and teach its members not to have unreasonable expectations from an already overburdened service.

The one Police Authority in the United Kingdom which, of necessity, is composed of appointed members, is that which exists in Northern Ireland. For the very obvious reason that the political situation was such that representation and co-operation were unlikely to be achieved in the Police Authority if the mainland pattern were followed, a system of representative appointments was devised for a set period of three years. The appointments are made by the Secretary of State for Northern Ireland after consultation with the organisations and persons as appear to him to represent the respective interests, and as far as possible a wide cross-section of representatives of the people is achieved. As circumstances have developed, in the event that a devolved Government is provided for Northern Ireland at some time in the future, it is unlikely that it would see an advantage in changing to a politically based Authority.

One of the advantages of the Northern Ireland system is that because of the regular change of members that is possible on the three yearly cycle, this gives rise to the opportunity to make slight changes in the bodies that are represented on the Authority so that no one particular interest becomes either entrenched or dominant and the interests concerned are consulted by the Secretary of State. There appears to be no reason why such an arrangement could not be followed in Great Britain and the idea is worthy of consideration, particularly in view of the apparently unsatisfactory nature of some Authorities on the mainland. It has to be remembered that the RUC is funded 100% by Central Government and the circumstances are such that the Police Authority has a very strong interest in maintaining a more than adequate and efficient force. Nevertheless, friction is possible in any committee, and personalities are as important in Northern Ireland as they are in Britain.

Although political interests were handled differently in Northern Ireland for totally separate reasons from the objections that are made to party politics within mainland Police Authorities, it is possible that the answer to the apparent problems with Authorities in Great Britain may be found across the Irish Channel (44).

If such an Authority were introduced on the mainland, then it would be necessary for the financial arrangements to be altered, perhaps by the introduction of a precepting power, to prevent any possible attempt to manipulate the Authority by controlling the purse strings from a political body at County Council level. Also it would be necessary to consider the balance of the Authority/

Authority; certainly there would be advantage in having representatives from the elected councillors in such limited numbers that it would not be possible for party political domination to occur. Also consideration would have to be given to the place of magistrates on the Authority, for apart from historical reasons there is no general representative reason why magistrates as a body should be included at all, and certainly not in such numbers as at present; and finally some method of selecting a representative cross-section of non-elected members would need to be adopted.

The question has often been asked as to how truly representative a small body of people can be of a large population. It is not easy to state, with any degree of confidence, that thirty or forty committee members can really claim to voice the wishes of a community numbering hundreds of thousands of people. But that argument can be made just as cogently about Parliament. The real issue in the case of Police Authorities seems to be that because the police service has to be impartial and independent of party politics, and should treat all people as being equal under the law insofar as it is possible so to do, then it is necessary that police actions in their operational role should be seen to be free from partisan influence. If that is accepted, then the corollary must be that Police Authorities should be so structured that when judged by the standards of the reasonable man in the street, they are seen to be politically untainted. Structuring Police Authorities along party political lines does not achieve that standard of reasonableness and the alternative appears to be one that is as representative of as many community interests as possible. If the alternative could be achieved then that combined with the Scarman-type consultative/

consultative committees would go far in securing what seems to be the general wishes of the community.

Given that most police forces are now of a strength in excess of one thousand officers and that they serve, for the most part, areas with populations in excess of half-a-million people, the question has to be asked in the 1980s - "How local is local?", and is it realistic to place so much importance on police relationships with Local Government? Is the efficiency of policing a necessary concern of Local Government? Clearly this aspect is not so important in the 1980s as it was at the time of the Royal Commission, even though it has to be admitted that there is evidence of a peculiar kind of loyalty to what are perceived to be "our police". During the Miners' Strike in 1984/85 there were many objections raised to the importation of police officers from "outside" forces, even from people served by forces with police strengths in excess of six thousand officers. This is surely a matter of perception and a community policeman in Strathclyde Region, where there are nearly 7,000 officers, is just as much regarded as being local as any other officer. It is likely that such feelings would adjust if regional forces were developed throughout the United Kingdom and it is possible to argue that Local Government is not so important to ensuring that police are properly accountable as is the need to ensure that public opinion is properly represented and that a proper system of policing open to public scrutiny, insofar as security considerations make that possible, is maintained.

5. CONCLUSIONS

There are some issues which, for the good of the Nation, must override party political interests, and this thesis has set out to demonstrate that independent policing is one such issue. Traditional methods of policing in the United Kingdom are so important that they should not be controlled, either directly or indirectly, by the normal processes of democracy at Local Government level; indeed, the party political independence of the Chief Constable when he is acting in an operational role should be protected as part of the unwritten constitution which is capable of amendment only in Parliament. In other words, policing policies and activities connected with law enforcement and the preservation of the Queen's Peace should not be amenable to control by any person or group that could be perceived to be party politically motivated. The reasons for this fundamental principle are simple:- it would be inequitable, potentially corrupt and the policing values throughout the country would be uncertain if a local political party for partisan reasons, however noble they perceived them to be, were able to choose which laws were to be enforced rigorously, which were to be ignored and which areas or people were to receive police attention. Put simply, it is dangerous to the principle of equality under the law if policing policies simply reflect the local political majority of the day. The example given by the GLC Police Committee (soi-disant) of the slum clearance evictions is exactly the type where gross unfairness and abuse of the law could arise if politicians or even independent Police Authority members had the power to direct police policies.

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Law enforcement is a delicate area which has to be carried out fairly for everyone; as far as possible, policing must be conducted in such a way that everyone is regarded as being equal under the law and everyone should know what to expect of the police throughout the country (always allowing for local variations to suit local needs). It should not depend upon such considerations as the winning of votes at the next local election or partiality for a particular type of enforcement or for particular individuals and it is a matter that is so complicated that a considerable amount of training and understanding is necessary for it to be exercised properly and fairly.

None of this argument in any way asserts that ultimately policing should not be decided upon by democratically elected governments or that the Chief Constable should not be subjected to proper influence in arriving at his policies, but rather that the system is important enough to warrant constitutional protection and that it should not be capable of abuse, misuse or speedy change by reason only of local preferences. What are referred to as "operational" decisions affecting how the law is enforced are often so urgent and delicate that they cannot be left to untrained committees; far from "policing being too important to leave to police", it is so important that it should be left to independent and impartial men who owe their allegiance to the law rather than to a political party or some other partisan group. This was exactly how the Royal Commission saw it in 1962 and how successive Governments have agreed that it should be - never for one moment suggesting that proper advice should not be offered to the Chief Constable as to what his priorities should be to satisfy the needs and preferences of the local communities. The limitation to those expressed/

expressed preferences being what is acceptable discretion in the enforcement of law - clearly the suggestion of a ban on policing picket lines during a trade dispute might be a local preference, but it would be ultra vires and the Chief Constable, in the urgency of the situation is the one to decide what action should be taken - not an elected committee, perhaps comprising people intimately involved in the dispute, which meets infrequently and which is unable to satisfy either urgency or the appearance of being detached and impartial. All of this is balanced by the fact that the Chief Constable is accountable to the law, to Central and Local Government and to the public at large (through the complaints system) in such a way that ineptitude, bias or unprofessional conduct can be dealt with by way of discipline or compulsory retirement in the interests of efficiency. It is not so easy to dismiss an elected body that has not served its period of office, and a remedy through the courts or by appeal to the Secretary of State can be a cumbersome and drawn out procedure when expedition may be necessary. Operational decisions can be a matter of life or death and are not amenable to delay or party political preferences.

The theme running through this thesis is one which reinforces the importance of a politically impartial and independent police service. The arguments that have been put forward by those who would seek to change the "accountability" of the police are understandable if the proponents seek constitutional change and see merit in a politically appointed and politically controlled chief of police, they are not understandable if they merely reflect frustration about financial arrangements. Certainly one can understand the frustration voiced by some Londoners who may feel that they are over-taxed and under-represented/

under-represented, particularly with regard to policing London, but the question is implicit in the thesis as to how much real influence the democratic system allows to citizens of Manchester, Liverpool or Glasgow, for example.

The proposals put forward by the GLC and Jack Straw do not offer a satisfactory answer to under-representation and the desire to restrict or direct the activities of the Chief Constables seems to be a disproportionate remedy to the problems enunciated and reflect a fundamental desire to change policing from an independent function to a party dominated and variable institution.

As arguments about control of the police have developed in the 1980s, it would appear that a substantial case has been made out for a change in the structure of Police Authorities that would satisfy police, politicians and the general public. The prevention of party political manipulation and the widening of representation to reflect a broader cross-section of the community seem to be sensible aims, and that combined with the Scarman-type consultative committees (in England and Wales) would serve the dual purpose of increased public participation and influence - accountability by persuasion rather than direction - combined with increased public knowledge of the realities and capabilities of policing.

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The encouragement of public participation may enhance the notion of accountability but it is also a recognition of the fact that resources are finite and that policing problems are the responsibility of society and not just those who are appointed to the office of constable. It should also bring about a greater understanding of the police in the public mind and therefore create a situation whereby those on Police Authorities and consultative committees could give an informed response to the problems which the Chief Constable has when they seek to influence his policies. Reciprocally such arrangements should encourage police even more in their understanding of the communities that they serve. Any move which brings about an improvement in the presently perceived deficient accountability of the police and which alleviates any concerns that the general public may have, combined with a demonstrably more understanding and caring police organisation, must auger well for the future.

If it is accepted that some modern Police Authorities have not functioned in the way that was intended by the Royal Commission Report and the wishes of Parliament expressed in the Police Acts of 1964 and 1967, and that the present structure of all Police Authorities in Great Britain is such that it is possible for other like-minded Authorities to operate in a way that was not intended; and

If it is accepted that to ensure the proper accountability of the police it is necessary to re-examine the system of control of the service and either to amend the system or otherwise to introduce a different system; then

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it is necessary to suggest how that may be achieved and by whom.

Opinions in two of the main political parties are in favour of extensive amendment to the present system while Central Government (dominated by the Conservative Party) appears to take the view that the existing system is working as it was intended and that any contravention of that system can be dealt with by way of the existing remedies (45). Nevertheless, the examples that have been seen in the text of how Police Authorities can take differing views suggest that, at the very least, some detailed examination of the system is necessary, and that by Central Government. It is unlikely that any of the Local Government Associations would be seen to be sufficiently able to define and enforce procedures which would be acceptable to all parties concerned and some effective sanction is thought to be necessary to control any aberrant Authority.

The options open to Central Government seem to fall into three categories:-

- i) A Home Office Circular could be issued giving advice to both Police Authorities and Chief Constables on their respective obligations. The weaknesses in this suggestion are several but turn on the immense difficulty in drawing up a comprehensive statement that could cover all situations and the fact that a circular is only an advisory document which in itself can provide no sanctions (other than those which already exist) against parties who choose to ignore the advice. A/

A circular is only of value to those who are willing to recognise the rights of the Secretaries of State and who are sufficiently well intentioned to wish to co-operate in the realities of the system of Tripartite Control. Any substantial challenge to the system would not be countered by an advisory document despite the recommendations that have been given in the past.

ii) It is always possible for Central Government, if it could be persuaded that change is necessary, to introduce an amending statute to put right the perceived defects in the present system, but in the face of a substantial body of opinion that seeks radical changes in the powers of Police Authorities, such a step could be seen to be politically unsound and would not commend itself as a satisfactory, long-term solution.

iii) The vehicle that might be seen as having the merit of allowing for a full examination of the system and which would be open for any person or organisation to submit evidence or opinions would be a Royal Commission. Such institutions can be costly and are not always popular but in the case of an issue affecting both the constitutional position of the police and the future stability of the country, then it would seem that such an objection should be cast aside as being insufficiently valid to outweigh the possible benefits that might accrue from such a Commission of Enquiry.

Of course, it would be necessary to set down the terms of reference of the Royal Commission precisely, but the issues that have been raised in this examination of the accountability of the police in relation to Government are clear:

- a) the ability to abuse the existing system of control for partisan purposes, thus impeding the political independence and operational impartiality of the police service.
- b) the unsatisfactory system of financial control which allows for uncertainty, both for the Police Authorities and the Chief Constable, the possible hinderance to inter-force co-operation (and, therefore, efficiency), and the capability of County Councils to exert undue influence on both Police Committees and Chief Constables.
- c) the cumbersome and unsatisfactory remedies that are available to either Central Government or the Chief Constable in the event of any abuse under "a)" or "b)".
- d) the present organisation of police forces both in terms of size (ranging from 308 to 27,000) and their association with Local Government; and the question of whether or not regionalisation would be of benefit both to the communities at large and to the police service.
- e) the "independence" and dependence of Chief Constables.

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It is over twenty years since the last Royal Commission Report and although that report appeared to bring order out of the confusion that existed before 1962, the changes that have occurred both in society and in terms of policing in those intervening years have been such that it would seem sensible to have another comprehensive examination of the issues raised. It is only in that way that society may be satisfied with the organisation of the police service and the method of control (46).

If pressed for a recommendation on what changes are necessary in the existing system, then two main suggestions seem obvious:

- i) that a Police Authority structure similar in form to that which exists in Northern Ireland should be introduced throughout the United Kingdom. No additional powers are thought to be necessary but a clear statement of the roles of both the Authority and the Chief Constable should be produced in the form of a Home Office/SHHD circular.
- ii) given the creation of an apolitical Police Authority as suggested above, then that body ought to be given powers as a precepting authority on the County or Regional Council for the purposes of a budget that had been agreed with the Secretary of State. This would prevent any politically motivated council from attempting to influence operational matters by using its control of the money supply to veto the Chief Constable's operational autonomy (see page 422 supra).

Additionally/



Additionally, the Secretary of State should provide, with the agreement of the Local Authority Associations, clear guidelines on financial arrangements for exceptional operational commitments which might compel a Chief Constable to exceed his previously agreed budget; for example, long term mutual aid as in the Miners' Strike 1984/5. Failure to clarify this issue leaves a Chief Constable exposed and vulnerable to criticism for something which the Council and/or Police Authority might regard as an unwarranted and 'controllable' intrusion into their area of responsibility. Adhoc arrangements are seldom satisfactory and it is thought to be in the public interest for there to be clearly defined contingency plans for unusual circumstances.

The major consideration to be borne in mind when contemplating the proposed amendments to the existing but deficient, relationships between police and their authorities within the tri-partite system of control, is that it is important not to upset the balance in favour of Central Government such that excessive centralisation and therefore operational control by Central Government becomes possible by any means other than within the constitutional framework of Parliament.

A third matter which is thought to be in serious need of consideration is the proposal to regionalise police forces, particularly in Scotland, where the smallest forces and the second largest force in Great Britain exist alongside one another.

Regardless of whether or not regionalisation takes place, but a fortiori if it does, it would appear to be sensible to modify the size of the forces and adopt the original recommendations of the Royal Commission with regard to Her Majesty's Inspector: ate of Constabulary, and appoint one Chief Inspector of the UK and two Inspectors for Scotland, so that a greater degree of standardisation and comparison of systems could exist nation: ally (47).

Apart from these points, it is thought that the principles laid down by the Royal Commission Report in 1962 with regard to what has become known as the doctrine of constabulary independence are sound in that they do provide the basis for an apolitical and impartial police service, and that it would be dangerous to freedom to allow any Police Authority or any Government Minis: ter the power to direct (as opposed to influence) operational matters which are and should remain the prerogative of the Chief Constables. There are adequate means of securing the dismissal of an inefficient chief officer and no change in the present constitutional position of the police is thought to be necessary (48).

NOTES: (Section V)

1. Royal Commission on the Police 1962, Cmnd 1728, para 154.

See also Part I of thesis at page 45.

2. Cmnd 1728, para 166.

3. Cmnd 1728, para 231.

4. Cmnd 1728, para 110.

5. "Community Priorities", Gabrielle Cox, Chairperson of Greater Manchester Police Committee, Police Review 16.11.84.

See also "Independence and Impartiality", IT Oliver, Police Review 2.11.84.

See also "Government by Consent : The Principle and Practice of Accountability in Local Government", by M Simey, Bedford Square Press, 1985.

See "The Job", 22. 3.85, "Accountability : A Personal View", by Martin Ennals. NB : "The Job" is the force newspaper of the London Metropolitan Police.

6. "Police" magazine July 1984, p.14.

7. See also Report of HM Chief Inspector of Constabulary for 1984, HMSO.

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8. S.14, Police Act 1964, re-enacts similar provisions which appeared in the Police Act 1890. S.11 Police (Scotland) Act 1967, makes similar provisions in Scotland and Ss 19 and 20, Police Act (Northern Ireland) 1970, make similar provisions for aid to and from the RUC. It is ironical that a provision made for the assistance of the RUC in an extremely difficult situation has meant, in theory, that the only place outside Scotland where assistance could be obtained is from the RUC. Despite an acknowledgment of the lack of cross-border mutual aid between England and Scotland, nothing has been done to remedy that anomaly.
9. HO Circular No. 134/73. For a fuller description of the mutual aid agreements and HO Circular 134/73, see an article by Tony Parkes in "Police", November 1984.
10. In England and Wales the Central Government issued Home Office Circular No. 59/84 which introduced a "threshold" of the product of a pennyrate up to which Central Government would pay the normal 50% grant for policing costs and thereafter it would pay 50% + 40%, i.e. 90% of expenditure above the threshold. In Scotland the threshold was .67p pennyrate and no Authority has been aided with additional grants because the threshold has not been reached despite the expenditure of many thousands of pounds. For a detailed discussion of the financial arrangements see "Police" magazine, November 1984, at page 14. In the case of the policing costs at RAF Greenham Common where an anti-nuclear demonstration has been ongoing in excess of three years, it was reported in the Daily Telegraph of 23.2.82 that/

that Central Government had made an additional payment of £1½ million towards the "exceptional additional costs" of guarding the Cruise missile base.

11. The Scotsman, 6. 6.84. See also "The Dictatorship of the 43 Chief Constables", The Guardian, 11. 8.64.
12. The Guardian, 11. 8.84. See also "Community Priorities", by Gabrielle Cox, Police Review, 16.11.84.
13. "Community Priorities", supra.
14. Glasgow Herald, 6.10.84. The Scotsman, 6.10.84.
15. The Daily Telegraph, 11.10.84.
16. It may be recalled that reference has already been made in the section entitled "Accountability of Police", at page 104, to a previous disagreement in South Yorkshire in 1977.
17. For an account of the events at Orgreave on 18 June 1984, see "Police" magazine, July 1984, at page 8.
18. C.f. the action of Derbyshire Police Committee.
19. Daily Telegraph, August 9, 1984.
20. Daily Telegraph, 18 and 19 September 1984. See also "They Shoot Horses Don't They", Police magazine, October 1984.
- 21./

21. This was a point made by Gregory in his paper to ACPO in 1976.

See also "Independence and Impartiality", by IT Oliver, Police Review, 2.11.84, and "Year One", Security Gazette, February 1981.

22. Cmnd 1728, para 118 et seq. Recommendations 8, 9, 10.

See also Memorandum of Dissent by Dr AL Goodhart, page 157 et seq.

23. Memorandum of Dissent, by Dr AL Goodhart. Cmnd 1728, at page 157. Personal and private conversation with another member of the Royal Commission has revealed that Dr Goodhart almost prevailed upon the Royal Commissioners to favour a unified force as he proposed - at one stage near to the writing of the final report, the arguments were very delicately balanced.

24. Cmnd 1728, at page 165.

25. See Part I of this thesis at page 54 - RA Butler. The following organisations opposed the setting up of a national force in evidence to the Royal Commissioners:

1) National Council for Civil Liberties

on the grounds that "this might lead to political manipulation in the interest of the party in power". Minutes of Evidence 13, at page 761, para 159.

2)/

2) Magistrates' Association

on the grounds of genuine public fear (which might be more theoretical than real) of placing such power in the hands of Central Government.

Minutes of Evidence 14, at page 788, para 5.

3) ACPO

favoured local forces with standardised procedures to nationalisation.

Minutes of Evidence 15, at page 846 and 847.

4) Association of County Councils in Scotland

opposed a national force because of the danger that it might be used as a political weapon and as such would be repugnant to the British way of life. Uniformity amongst local forces is achieved through the Secretary of State, the HMIs and the Scottish Home Department.

Minutes of Evidence 25, at page 1334.

5) Chief Constable's (Scotland) Association

Minutes of Evidence 26, at page 1368.

6) Sheriffs-Substitute Association

centralisation opposed on grounds of police-public relations.

Minutes of Evidence, Appendix 2, at page 105.

26. Minutes of Evidence 11 - 12. Evidence submitted by Inns of Court Conservative and Unionist Society at page 688, para 22.

27. A complete summary of the advantages and disadvantages of a national/regional service is given in the Royal Commission Report at Chapter V.
28. This was first published on 16 November 1984 after the passing of the Police and Criminal Evidence Act 1984 and in accordance with the intentions specified in the White Paper - "An Independent Prosecution Service for England and Wales", Cmnd 9074.
- See also "Independence and Impartiality", by IT Oliver, Police Review 2.11.84.
29. "The Art and Economics of Policing", by James Anderton, Chief Constable of Greater Manchester Police - a paper presented to the SSRC Public Policy Study Group Seminar on Central and Local Government Relations 9.1.1981.
30. "Ultimate Command - The Responsibilities of Chief Constables in the 1980s", Sir Philip Knights, Police Journal, Oct/Dec 1981, pp 331, et seq.
- See also "How Police Chiefs Can Make Friends and Influence Police Authorities", Gwilym Morris Memorial Lecture 1985, delivered at the University of Wales by Sir Philip Knights, reported in "Police", May 1985.
31. Cmnd 1728, para 118.
32. Cmnd 1728, para 130.
33. Gabrielle Cox, "Community Priorities", Police Review, 16.11.84.



34. Marshall, G - "Police Accountability Revisited", in "Policy and Politics", edited by Butler & Halsey, Macmillan 1978.

See also "Independence and Impartiality", by IT Oliver, Police Review, 2.11.84.

35. The AMA had called upon the Home Secretary to issue "authorative guidance" which could form the basis of good practice to be followed by Police Authorities and Chief Constables: "Policies for the Police Service", issued by AMA, November 1982.

See also "What the Police Committee Member Needs to Know", published by AMA 1983.

36. "A New Approach to Police Authorities", Michael Banton, "Police", 1975.

37. Pain. Address to AMA/ACC/ACPO Summer Conference 1982.

38. Waddington - "The Role of Police Committees : Constitutional Arrangements and Social Realities", Department of Sociology, University of Reading.

39. See Part II, page 191.

40. "Community Priorities", Police Review, 16.11.84.

41. A provision has been included in the Police and Criminal Evidence Act 1984 that will require Police Authorities to refer the question of the suspension of a chief officer to the newly created Police Complaints Authority.

42. Supra note 33.
43. Green Paper No. 10, SDP, issued in 1982.
44. See "Independence and Impartiality", by IT Oliver, Police Review, 2.11.84, and The Guardian 9.11.84, "Ulster 'Model' to Stay Politicians' Hand on Police".
45. See Cl.23 and 32 of Local Government Bill 1984, which propose the perpetuation of the party political structure of the new Police Boards which should replace the Metropolitan County Police Authorities after 1986.
46. See "Time for a Change", IT Oliver, Police Review, 28. 6.85.
47. An additional consideration might be to follow the system in England at the Police College, Bramshill, and appoint an additional Inspector to take charge of the Scottish Police College.
48. It may be that there are other matters not included in this thesis that ought to receive the benefit of scrutiny by a Royal Commission.

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