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Name of Lead Supervisor   Dr Helen Wells

I certify that:

(a)   The thesis being submitted for examination is my own account of my own research
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Annex B1, Declaration

The Policing of Petty Crime

in Victorian Cumbria.

Guy Neal Woolnough

Submitted for the award of doctor of philosophy

May 2013

Keele University

This work is dedicated to

PC Arthur Woolnough (P779)

Metropolitan Police, 1910-1937, 1939-1945

1888-1957

and

Chief Inspector Bryan Woolnough MBE (B11)

Metropolitan Police, 1947-1981

b. 1923

Abstract

The Policing of Petty Crime in Victorian Cumbria

This study presents an innovative analysis of the policing of petty offending and the work the police in Cumbria: it problematizes conceptions of policing and its history. This study uses the neglected minutiae of police and court records to deconstruct the role of the police, discretionary policing by men on the beat, public expectations of the police, and the growth of police bureaucracy, which then calls into question the idea of a 'golden age' of policing. These are the issues that dominate the contemporary discourses on policing, though this study makes clear that assumptions are made today that are not supported by the history. The themes of this study are as relevant today as they were 150 years ago, for this work is interdisciplinary, situated in the social sciences, particularly criminology and history.

This study examines the police's role at a time of social, economic and bureaucratic change. It links the development of police expertise and professionalism with the process of state formation. The historiography and nature of Victorian policing are tested by this study of Cumbria, a remote and unique region which was culturally, economically and agriculturally quite atypical of Victorian England.

The analysis considers the ways in which the police endeavoured to tackle problems: for example, vagrants, fairs, blood sports, traditional recreations, drunkenness, pick pocketing, violence, gambling. The ways in which the police defined and targeted outsiders or deviants and how they identified and dealt with problems on the streets, are central to this study. Discretionary policing, which is shown to be culturally determined and rooted in the working class cultures of Cumbria, is the constant theme. Structuration theory provides the approach which allows an understanding of how policemen, exercising culturally informed discretion, were the crucial agents in the policing of Victorian Cumbria.

Contents

Chapter six: The Formation of the Police in Cumbria.

Chapter seven: Working Class Culture in 19th Century Cumbria.

Chapter Eight: Victorian Fairs.

Chapter nine: How the men Policed Cumbria.

Chapter ten: Conclusion.

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The Policing of Petty Crime in Victorian Cumbria

Chapter one: Themes and Theories.

Introduction

The work of the police has often been typified as a benign form of social service, or (at an opposite extreme) as a means of repression. This study problematizes conceptions of policing and its history, particularly the idea of a 'golden age' (Reiner 2010: 68-9; Loader & Mulcahy 2003; Godfrey & Lawrence 2005: 20; Emsley 2013). This is achieved by examining the role of the police, discretionary policing by men on the beat, and the growth of police bureaucracy, all of which are considered in the context of petty offending.

This thesis contributes to the study of policing by demonstrating how the humble policeman in Victorian Cumbria played a formative role in the process of state formation, how the discretion of the constable shaped the practices of policing, and how his agency was an important factor in the structuration of policing and of state formation. The policeman's handling of petty crime was crucial in this process, for although the policeman's time has always been much more taken up by order maintenance than crime fighting, dealing with crime is the manifestation of his work which most excites a public response (Reiner 2013).

The aim of this study

This study explains how policing in Cumbria developed and functioned at street level in the second half of the nineteenth century, and presents the work of the police and of policemen at a formative period, one of rapid social and economic change. The philosophy, strategy and tactics of the police are deconstructed. This study argues that ordinary policemen shaped policing and it situates their work within the context of local working class cultures. It explores the level of bureaucratic control of and by the police, the extent to which the role of the police was shaped by the culture of Cumbria, and the ways in which nineteenth century discretionary policing was able to meet the demands of Cumbrians. This study examines how the praxis of policing developed, and how power was negotiated with and by the police.

The elements of this study, described in the previous paragraph, were the components of the 'golden age' of policing, a myth of a benign, efficient and popular police service, a myth which delivered its swansong in the era of *Dixon of Dock Green,* but enjoyed its apogee in the early twentieth century[1]. This detailed study allows an understanding of the creation of the myth and of its enduring power, and challenges the myth at a time when it is cited as an aspiration for policing reform today (Herbert 2012). The idea of a golden age has been implicit in the criticisms of the 'fire-brigade' or 'reactive' policing of the 1960s and 1970s (Gordon 1984, Tilley 2008). However, the idea founders when tested against the historical record for there was never a cosy golden age, in which the police used their discretion to implement policies that perfectly matched the will of the people and the expectations of the politicians.

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[1] The BBC (2013) website includes a sample of the programme. Tobias (1972: 95-7) outlined the history of the myth.

Themes

Five themes that recur through this thesis seem at times to pull in different directions. These themes are not hermetic categories, and each is to be found in several chapters: they are reconciled in the conclusion within an analysis that allows for change and resolves the dilemma of agency versus structure as it is presented in a history of the mundane such as this.

- State formation
- Bureaucracy
- Police discretion
- Culture
- Petty offending

State formation, bureaucracy and police discretion.

This study examines an area of conflict in society at a time of social and bureaucratic change, which saw the development of police expertise and professionalism as part of the process of state formation. Whereas state formation is an inherently historical process of bureaucratic and structural change (Steinmetz 1999: 8-9), discretionary policing depends upon the agency of individuals. Dubber wrote that the 'defining undefinabilty' of police exposes 'its radically discretionary nature' (Dubber 2005: xv). Although this was written about American police, the observation is valid for Cumbria where policing was an activity rooted in local working class cultures in which the policemen were living. Chapters seven to nine explain how everyday police discretion effectively interpreted for the state what was acceptable, and thereby

delineated the limen, the boundary beyond which behaviour was deviant. The contradictions of this distinction between state formation and discretionary policing are reconciled in chapter four.

Petty offending and culture

The subjective nature of petty offending requires this study to examine the details of criminogenic situations and events. Trivial offences have always greatly exercised the public, but they seem almost unworthy of the expert's attention. Petty offenders seem too minor to require anything but routinised punishments. However, this study looks in detail at some of the most trivial offences and offenders in order to understand why these offences troubled the public, how the police attempted to identify and control these offenders, and what the public (however well informed or ignorant, however powerful or impotent they may have been) expected the police to do.[2]

The phenomena of offending and its control or management are cultural artefacts. Cultural analyses must be deeply implicated in this study, for the culturally informed policing of offending impacted upon state formation, police bureaucracy and discretion. By adopting a hermeneutic approach to the operations of the police and by a careful examination of the statements and actions of constables, this study proves that the actions of the constables were influenced or even determined by the local culture, which was in turn continually influenced by the actions of the police.

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[2] Brodeur (1983) coined the term 'low policing' for this mundane police work.

History and the social sciences: Agency versus structure

Although this study may be read as a history, it is interdisciplinary. Historical detail can seem to be merely contingent, but when examined within a structural context the consciousness and actions of individuals, including those between victims, police, offenders and courts, are susceptible to analysis (Fox-Genovese 1997: 86). For example the apparently random nature of the policing of drunks on the streets can be analysed in order to understand structural patterns. The social sciences invite a structural approach, without which a historical study, especially in social history, is susceptible to relativism and antiquarianism, [3] or an uncritical acceptance of the cultures of the past and a fixation with curious details. An engagement with appropriate social theory guards against the production of what could be merely a collection of curious, fascinating but random facts and events (Munslow 2000: 221; Abrams 1982: 196).

A fundamental paradox of social history is the question of continuity and change: why do human affairs change? Why are there continuities across the centuries? This leads on to the dilemma of human agency versus social structures or systems.

> *How far are we creative human actors, actively controlling the conditions of our own lives? Or is most of what we do the result of general social forces outside our control?*(Giddens 1997: 567)

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[3] Sharpe (1991: 34-5) disposed of the charge of 'antiquarianism' that has sometimes been directed at bottom up social histories and micro-histories.

The agency/structure dilemma is crucial in any historical study and has been a challenge from the days of Thucydides.[4] However, it has too often been forgotten or glossed over by historians who are drawn in by their narratives to favour either a history that privileges the works of great men and women or a social 'history with the politics left out' (Trevelyan 1942: vii).

In this study, the work of the police is examined in order to determine the extent to which the individual officer was a tool of the system, under the control and direction of those in command.[5] This study favours the alternative view, that the policeman was able to operate with significant discretion, so that the policies of the police were effectively determined by the collective actions of the men who operationalized the orders of the chief constable and magistrates, and the achievements of the police were made through the efforts of particular officers. But, as chapter two makes clear, this study does not seek to prioritise agency over structure. The position of this study lies between two trends described by Tilly, who wrote that historians tend to look for the actors in their narratives, whereas social scientists are more likely to discount the individual in favour of social changes or trends that emanate from the cumulative actions of large numbers (Tilly 1990: 92).

Some historians and many novelists of the nineteenth and early twentieth centuries slipped easily into analyses that represented criminals as free agents who ignored morality and social

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[4]Tolstoy (1992: 525-7)concluded that 'scientific', structural laws would soon render conventional 'heroic' history obsolete. Thucydides (1972) took a structuralist approach, underplaying the influence of human agents, seeking causation in the dynamics of power and economic relations between states. The Roman historian Sallust (1963: 35-7, 175-81)explained triumphs and failures in terms of the virtues or shortcomings of individuals.
[5] This is a perennial issue in policing practice (Rowe 2007).

proprieties, whereas the policemen were often depicted as the rather dull and dutiful servants of the system (Miller 1988). For example, in 1887, Charles Ribton-Turner wrote a lengthy history of vagrancy and begging, activities then closely regulated by the criminal law. He was clear that vagrancy and criminal behaviour were caused by moral failings in the individual, rather than the vagaries of industry and the economy; beggars and criminal vagrants were, he thought, free agents who chose the vagabond lifestyle. Success in dealing with criminal vagrants was being achieved, he believed, by the inflexible application of procedures by the police, not by the exercise of discretion. He saw the police as a structural solution to the problems caused by the free agency of criminal vagrants (Ribton-Turner 1972; 1887).

Conan Doyle, in stories like *The Red Headed League* (Doyle 2008), gave a different view of the same attitude, for Sherlock Holmes invariably ignored the rules himself and showed a cautious admiration for the evil cunning of criminals, while he decried the inability of the police to use intelligence or initiative. These attitudes are still found in a coherent body of opinion in policing today. For example, in a journalistic view of crime, Bratton is represented as believing that people as free agents cause crime, the solution to which is highly prescriptive policing, in order to minimise the discretionary freedom of the police (d'Ancona 2013).

The relevance of this study

This is a 'history of the present'(Garland 2001: 1-26; Dreyfus and Rabinow 1982: xxvi; Kendall and Wickham 1999: 4-5), a study of the formation and evolution of the police in the nineteenth century, which also informs studies of twentieth century policing and questions the

genealogy of contemporary debates[6]. Several studies of modern policing have recognised that a focus upon police administration risks missing the fundamental importance of street level police work, which is the 'key practice' (Cain 1971: 158; Holdaway 1983: 15-22). Nineteenth century policing developed a model that seemed unquestionably sound to commentators in the early twentieth century (Lee 1901, Reith 1943, Browne 1956: 367). This was subsequently interpreted as the golden age of policing, for example:

It is an indisputable fact that for 150 years the instrument [the police force] …has become the model for every other democratic society and the envy of less fortunate people. (Ascoli 1979:3)

The myth was built upon nostalgia and grew in the late twentieth century, when rising crime rates led to a general belief that modernity and the advance of civilisation were resulting in serious social decline (Hall 1997; Pearson 1985). The myth of a golden age has been increasingly criticised and challenged in the last forty years (Reiner 2010: 78-111; Loader & Mulcahy 2003:3-36; Hobbs 1989, PP, 17-83; Holdaway 1983; Holdaway 1979: 155-75; Joyce 2011b: 68-88; Tobias 1975: 95-7) but is wilfully exploited by politicians who use words such as 'rebuild' and 'restore' when outlining their proposals. See the words of Herbert and May below.

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[6] A similar position was taken by Bosworth (2001). Some historians may reluctant to engage with the present whereas criminologists may be inclined to disdain the past in favour of shaping the future (Lawrence 2012: 315). This study is able to take a position between these two.

The issues raised are relevant today in the context of the Police and Crime Commissioners' (PCC) elections.[7] The stated purpose of the PCC reform is to link policing with the community, so that people feel they have an influence over policing priorities, 'bringing communities closer to the police, building confidence in the system and restoring trust' (Home Office 2012; Emsley 2013). Many candidates in the PCC elections claimed they would prioritise the crime fighting role of the police, and would reduce police bureaucracy[8]. This is hardly a new idea but it has been comprehensively challenged (Jefferson & Grimshaw 1984:136-69). Reiner's critique is that a policy of 'returning' to crime fighting 'misrepresents older perspectives', and is a 'quixotic impossible dream' (Reiner 2010: 14; Reiner 2013: 167).

This study opposes the idealisation of an imagined golden age. Although this a study set in the past, it is nonetheless 'a criminology that has empirical bite and strategic relevance (Garland & Sparks 2000: 4)' for it seeks to problematize conceptions of policing and its history that are still current today.

Why nineteenth century Cumbria?

There are several excellent reasons for choosing this time and place for a study of policing. The second half of the nineteenth century recommends itself, both for the formation of standardised policing across England, and because these years adumbrate the idea of a

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[7] The PCC elections were held in Nov 2012. Nick Herbert (2012), Minister of State for Police and Criminal Justice, 2101-12, asserted that the measure of their success would be 'in cutting crime and antisocial behaviour, and rebuilding public confidence in policing'.

[8] For example: 'I will give the police in Lancashire just one target: To cut crime. Far too often they are stuck behind a desk, filling forms, ticking boxes and working their way through red-tape. I will make sure that they are out on the streets, in our towns and villages, visible and doing the job they joined up for; protecting us.' (Ashton 2012).

golden age. The Cumberland and Westmorland Constabulary and its long-serving chief constable enjoyed a good reputation: he frequently contributed to national debates, in which his opinions helped shape policies. The idiosyncrasies of the region permit an understanding of the cultural context of policing. This study supports Marshall's (whose works on Cumbria are referenced frequently in this study) opinion that regional studies offer the best means of testing many historical theories (Marshall 1986: 4)*.*

Chapter outline

Chapter two

Chapter two presents this study as an interdisciplinary work, and reconciles the empirical history with sociological and criminological theory, to argue that it is neither simply a history, nor a criminological study of policing at street level. This study of the policing of petty offending is introduced as a micro-history, or a 'bottom up' history, but not an antiquarian piece of research. Foucault's power in capillary forms and the power/knowledge nexus, are relevant, but the misgivings of the historian about Foucault are explored (Foucault and Gordon 1980: 96).

Deviance and liminality are introduced as key concepts: the policing of petty crime often focussed upon those who lived at the edges or beyond the edges of what was deemed respectable or acceptable. Subsequent chapters make clear that it was the Cumbrian policeman who frequently had to decide where this boundary lay, and deal on his own with what he saw as the problems at that point.

Class and culture are addressed. The idea of working class solidarity or homogeneity in Victorian Cumbria is discounted. The police are presented as a working class force whose actions both helped shape and were informed by the working class cultures of Cumbria. The premise is that crime and policing were experienced by all in the context of culture which in turn shaped their responses and expectations.

Agency versus structure, a key dilemma in both social sciences and history, is addressed and Giddens' structuration theory proposed as a resolution. Structuration theory allows the reconciliation of the divergent actions of individuals and organisations which is essential in a study of police who deal with their superiors, offenders, and the public. The strengths of structuration theory for this study include its ability to understand change, which is a seminal component in any history. The theory is valuable for its promotion of ontological security, which is a key element in understanding the public importance of the policing of petty crime. Structuration theory allows power, culture, change and social interaction to be drawn into the narrative.

Chapter three

Chapter three introduces sources and methods. The wide range of primary sources presented here are drawn from a variety of locations in Cumbria and beyond. Although many mundane records have not survived, this study has a sufficiency and a wide enough range to discover what policemen were doing. Court records, police records, records of prisoners, central government records, and a wide range of reports and correspondence from officials and private persons provide comprehensive coverage. Lacunae have been tackled with local

press reports. The data are amenable to interpretation in order to assess what the police were supposed or were expected to be doing, and even allowed an insight into the opinions of the men. Hermeneutic analysis of the entries they made in their official records and of their statements in court has been valuable. Data have been concatenated from diverse records in order to analyse offending at particular places. The quantitative and qualitative methods used in this study balance each other to allow an understanding of the thinking and actions of the police.

Chapter four

This chapter presents the idea of Cumbria[9], that is, the way it was understood by Cumbrians and outsiders, but the social and economic realities of nineteenth century are also examined. The quasi-mythical image of Cumbria was encouraged by the intellectual elite, and was a significant factor in shaping local cultures. Cumbria was different, and was imagined as different. The particular uniqueness of Cumbria offers an opportunity to test ideas. Cumbria was well away from the industrial and urban centres of Britain. Theories of policing that are based upon industrial growth are challenged, particularly in Westmorland, which was one of the counties least affected by the changes of the nineteenth century, but Cumbria was not isolated; Lakeland attracted many eminent persons, including the intellectual elite of Victorian England, who helped define Cumbria as different and superior. Cumbrians saw themselves as different. This is exemplified in chapters seven and eight, where fairs and sports are

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[9] In this thesis, 'Cumbria' is used as a shorthand term for the two old counties of Cumberland and Westmorland. The modern county of Cumbria includes Furness, which was until the 1970s part of Lancashire. The modern county is described in this thesis as 'modern Cumbria'.

examined. Cumbrian distinctiveness, and the myth of Cumbria, are relevant to policing.

These ideas helped construct the idea of deviant outsiders and informed the discourses of

policing. The analysis presented in chapter four is essential for an understanding of the

cultural implications of police action.

Chapter five

Chapter five introduces the specifics of policing and its early history, framed in terms of the

development of the police role, its function and legitimacy. The background to policing and

the establishment of police forces are evaluated within discourses of power and social control

in the context of state formation, though the role of the police was very diffuse. The issues

remain crucial to any understanding of policing today.

Individual policemen played a significant part in the creation of the system of policing through

the exercise of their discretion. The dilemma of state control versus discretionary policing is

reconciled by demonstrating that discretionary policing was the means by which the

processes of state, local or national, were advanced. State formation was not simply the role

of government, or the expansion of a nation state, but was the outcome of the subtle exercise

of authority within a state. The chapter links those who policed a community with the shaping

of the state, and demonstrates how policemen gained access to and some influence in the

discourses of power, in that they produced and used knowledge. This theoretical analysis is

supported by the localism of policing in Victorian England. This argument is contextualised by

an analysis of the aims and aspirations of those who worked to establish the first police

forces. Two theoretical extremes in the historiography of policing are considered: the

traditionalist idea of the police as servants of the people and the revisionist depiction of them a blue army imposing middle class morality, discipline and standards upon the working class. Chapter five explains how poorly these ideas fit with the realities of a provincial police.

Chapter six

Cumbria was important in the development of policing in England. Chapter six outlines how Chief Constable Dunne was a professional with considerable experience before he was appointed in 1856. He was an outspoken and respected contributor to debates on policing in the second half of the nineteenth century. Dunne's lengthy service (1856-1902) imposed continuity upon the region's policing. The policing of Cumbria before and after the establishment of the Constabulary in 1856 is considered. Much of the content is empirical, for the chapter evaluates how bureaucratic systems worked and why they were introduced, in order that later chapters may analyse the praxis of policing. Policing in Cumbria was based upon models that had been developed elsewhere, and upon traditions of policing that predated the first English police forces. The chapter informs this study's analysis of two issues in particular:

- Police discretion: the management and control of the Cumbria police are deconstructed in order to understand the scope for discretion that was available to the men.
- Structuration: prominence is given to the Chief Constable in order to understand his agency in the praxis of policing in nineteenth century Cumbria.

This chapter necessarily examines the bureaucratic systems which were introduced.

Chapters seven and eight

These two chapters are closely linked in their focus upon Cumbrian culture. The point of difference between the two chapters is that seven looks at the everyday recreations and activities of Cumbrians, whereas eight focuses upon a unique annual event where police interest was often drawn towards certain types of outsider.

Chapter seven uses phenomena such as religion, drinking, sport and violence to analyse the cultural contexts of the Cumbrian working classes, and to situate policing within those contexts. Respectability is analysed as a working class identity that informed what was expected of the policeman. The strength of working class religious groups in Cumbria supports this argument. The policing of (for example) drunkenness and cock-fighting was rooted in Cumbrian cultures, but Cumbria was not culturally homogenous for these activities divided communities. The examination of events illustrates the structuration of policing and how cultures were deeply implicated therein.

By focussing upon fairs, chapter eight examines more precisely questions of deviance and liminality. It was here that criminals 'were de-individualised and discursively constructed as a type that was easily categorised as "other"' (Skelly 2008: 1). Thus the fair allowed the police to define what 'normal' meant in Cumbria. Drunken behaviour and the indiscretions of locals were tolerated at the fair, whereas rigour was deployed against outsiders who offended. The different policing praxis at the fair is theorised in terms of Cumbrians' self-identity.

Chapter nine

This chapter presents the most detailed view of the work of the police. It analyses police control and influence through the daily processes of policing, and makes clear the involvement of all actors in the structuration of policing. This study is linked with current issues in policing, for it details the concerns expressed by the general public in the nineteenth century, the very concerns that populate the current plans of the newly elected PCCs.[10]

A model is presented for understanding the differences between the expectations of the public and those who were in charge of policing, a model which is then applied to the routines of policing in Cumbria. This explains how discretionary policing was effected in Victorian Cumbria. The empirical content used to support the theory draws upon the details of routine policing. Chapter nine assesses how the police used their discretion in ways that:

- Generally satisfied the demands of their superiors.

- Usually received a good press.

- Addressed the complaints and concerns of the public about disorder.

- Pre-empted problems by targeting those identified as suspicious.

- Provided a public service, accessed by persons of all ranks and beyond what was strictly required of them.

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[10] This is the conclusion of an analysis of the candidates' election publications (APCC 2012).The same verdict has been arrived at by Rix (2013) who claims to have made a textual analysis of the published plans.

These five points summarise the praxis developed through the structuration of policing in Victorian Cumbria, a process in which all members of society, from aristocrat to beggar, were implicated, even if unwillingly. This police praxis was an important component in the formation of the Victorian state.

Summary

This study is a history of the policing of petty crime in Victorian Cumbria, from the time of the formation of the constabularies of the two counties. This is neither simply a work of history, nor an orthodox criminological analysis of the pragmatics of policing at street level. This study draws upon the social sciences and historiography for theories, models and concepts which support the central argument, and to explain why some possible approaches have been avoided. It is applying models such as structuration theory in order to explore the history. [11] The study explains, in the following chapters:

2. The theoretical foundations of the study and how they relate to an empirical history
3. The sources and methods used in this study
4. Cumbrian background to this study, including cultures and Cumbrian exceptionalism
5. The development of policing in the nineteenth century, including the process of state formation
6. The development of policing in nineteenth century Cumbria

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[11] This methodology was described by Skocpol (1984: 365-7). An advantage of a historical study is that is not limited by ethical restrictions or predicated upon the expectation of policy implications (Ferrell 2010: 310-1).

7. Policing as an activity which influenced, and was influenced by, Cumbrian culture

8. Policing Cumbrian fairs, occasions which helped define how Cumbria understood itself

9. Policing at street level, the regulation of petty offending: the expectations of the police, their masters and the people whom they served

10. The validity of the study and its theoretical approaches; the relevance of this study to current discourses of policing

This study's analysis of the discretionary policing of petty offending uses primary sources, many of which originated within the police bureaucracy, to prove that:

- The culturally informed actions of the policemen shaped policing
- Discretionary policing was an important element in the ongoing process of state formation
- The structuration of policing occurred as the men responded to and interpreted the demands placed upon them by their masters, the public and offenders

Structuration theory is a good model for the development of policing in Cumbria through praxis. It allows that ordinary policemen were party to the shaping of policing, and that their culturally informed exercise of discretion was important in the formation of the Victorian state. This is a model that challenges the idea of a 'golden age'.

This chapter has introduced the main themes and theories of this thesis. The next chapter explains how structuration theory draws the diverse elements of this study of the work of the ordinary policemen into a framework that understands change and illuminates the present.

The Policing of Petty Crime in Victorian Cumbria

Chapter two: Theoretical Frameworks

Introduction

This chapter reconciles empirical history with the theoretical frameworks of sociology and criminology in order to allow the respective contributions of power, culture, change and social interaction to be drawn together.[12]

This study is a micro-history. The aim is to reduce what Fairburn (1999: 95) termed the 'scale of observation' while still examining macro-themes; that is, to study the key questions of history by observing how they are played out at the 'grass roots' level. The macro-theme is policing, with its role in the criminal justice system, with its close links to the process of state formation, and with its deep implication in the cultures of society. Micro-history, which draws upon the hermeneutic tradition to explore meaning in even subordinate cultures, reconciles the relatively small scale of chapters seven to nine with the broadest themes of nineteenth

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[12] There have been several histories of aspects of the criminal justice system written over the last thirty five years that consciously drew upon the social sciences. For example, Gatrell (1994), *The Hanging Tree*; Ignatieff (1989), *A Just Measure of Pain*; Victor Bailey (1993), *Fabrication of Deviance*; McGowan (1990), *Getting to Know the Criminal Class in the Nineteenth Century*; Godfrey et al.(2007) , *Criminal Lives*; Pick (1989), *Faces of Degeneration*; Welshman (2006), *Underclass*; Rowbotham & Stevenson(2003), *Behaving Badly: Social Panic and Moral Outrage*; Wiener (1990), *Reconstructing the Criminal.* Emsley (2005b), *The English and Violence since 1750*.

century history.[13] Micro-history is quite distinct from antiquarianism, which at its least critical examines isolated, minute details with nothing more than a sense of curiosity (Levi 1991; Fairburn 1999: 203-22; Abrams 1982: 6-7;196; MacRaild and Taylor 2004).

The theories of the social sciences are very relevant to social historians. Eley has written of a sense of 'epistemological uncertainty' that has encouraged social scientists and historians to take new approaches (Eley 2005a: 37, Eley 2005b: 98-100).[14] This study is situated within this trend for, as Sindall wrote, 'the study of crime' and, by extension, the work of the police, 'is the study of the whole of society and of the relationships of the various classes within that society' (Sindall 1986: p28).

Social science

This study, which is concerned with the mundane interactions of policemen, offenders and others, has been informed by the work of social scientists[15] who have sought to interpret the quotidian practices and activities of everyday life in order to discover meaning (Durkheim 1982: 50-1; Mead & Morris 1952; Goffman 1990, 1971). A search for meaning is entirely appropriate in the contested ground of policing, for in this area the historian continually

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[13] Joyce (2003)applied a hermeneutic approach to his sources to problematise conceptions of Victorian crime and punishment. In the social sciences, Merton's middle range theory tightly linked the micro, and the macro, in social dynamics, but his ideas on middle range theories were insufficiently precise in their articulation to be applied confidently to this study (Henry and McAra 2012, Hedstrœm and Udehn 2011).

[14] Examples include Turner (2009) and Tennant (2010). An alternative, the quest for historical certainty, may be found in Elton (1969), Himmelfarb (1994, 1997) and Young (1936).

[15] Durkheim's (1966, 1968, 2003)view of society as working and functioning as a coordinated entity, albeit with dysfunctional elements, accepts criminal acts as a social fact . Lemert (2003)regarded deviance as culturally or socially grounded. The 'normalising' of crime made it possible to study crime and policing without engaging in a moral judgment, which is essential to this study.

endeavours to penetrate the ideas and opinions of the actors through time (Munslow 2000: p229). The struggle of the individuals in this narrative as they strove to decode and interpret or challenge the situations in which the police were active, or even inactive was a search for meaning.

This study considers the behaviour of people in everyday social situations, albeit in situations that were often confrontational, for example, theft, fraud, drunkenness, disorder and gambling. They were all face-to-face interactions with cultural meaning (Goffman 1971: p13; Mead & Morris 1952: p1934). Social frameworks, which are rule-governed, involving recurrent patterns of action and concepts of morality, are a central element of culture (Williams 2008: 185-6, Goffman 2003: 205). This is particularly relevant in the policing of events like the large Victorian fairs, cock-fights and prize-fights of chapters seven and eight, which were 'edgy' situations and implicated in the cultures of crime (Hobbs 2003; Presdee 2000).

The Foucauldian approach has been considered, and has informed this study. There are several points of convergence, for example, the aim of studying the macro by analysing the micro, and of writing a 'history of the present' (Garland 2001: 131; Foucault 2001b: ix-xxvi; Roth 1981). This study concurs with the Foucauldian interest in 'governmentality' (Foucault 2001b, 1979, 2001a; Rose 1999: 4-6). The focus upon technologies of power, and how power produces knowledge, connects policing with state formation (Foucault 1979: 25-7; Weeks 1982: 111). The state is not seen as exerting direct power, but operates through existing power relations (Foucault 1983: 311-2) which include the police. Power is located at the local level, in the factory, prison or small Cumbrian police station ('power in capillary forms').(Barth 2008; Burke 1992: 40-3; Sheridan 1980: 144; D'Cruze 1998, ch 2).

The power/knowledge nexus is a concept very relevant to this study of policing, for the professional expertise of the men was essential in the development and acceptance of police work in which the presentation of power and, where necessary, the use of force established an official truth (Foucault 1979: 184, Shpayer-Makov 2010: 692). The policeman who acted upon what he believed or 'knew' a suspect person was going to do was 'render[ing] subjectivity calculable' (Rose 1999: 8).

Although Foucauldian analysis offers a useful model for the dissemination of state power, it provides no model for how power is negotiated at street level, where the policeman operated (Weeks 1982: 112; Donzelot 1980, 1979: 59;71). Foucauldian 'power' is not simply the force applied to subjects by dominant regimes (Kendall & Wickham 1999: 47-54); it is to some extent available to all, but analyses such as Donzelot and *Discipline and Punish* fail to explain how the humble can routinely exercise their limited power. Micro-historical analysis addresses this deficiency, for it looks at the negotiation of power by individuals, i.e., by ordinary police constables and even by offenders. This study has been able to borrow Foucauldian ideas and refine them in applying them to the mundane.

Concepts

Deviance, Liminality, Alterity

Deviance is a key concept in this study. Many of the offences regularly handled by the police, such as drunkenness and vagrancy, could be described as deviant, rather than obviously criminal, in the sense that this word is used in the popular media. In considering such activities, one may wonder what distinguishes deviance from diversity, what differentiates the drinker from the drunk, the wanderer from the vagrant. These divisions are clearly the cultural artefacts of the community (Hetherington and Munro 1997: 14, 17-8). The Victorian policeman was the key person in this 'labour of division', for he saw the 'problem', examined it and created the knowledge that sanctioned, in the eyes of the community, his actions (Hetherington and Munro 1997: 34-40).

Offenders, or deviants, were defined or even created by the Cumbrian police, as is discussed in chapters eight and nine. This draws upon Becker's idea that deviant behaviour was a social creation, a product of the label applied to certain types of behaviour (Becker 1966; 1963: 8-14; Newburn 2008b: 49-58). Offenders were never a homogenous group, despite the opinions of those whom Becker described as 'moral entrepreneurs', those who, although often relatively distant from the problem, initiated the process of dealing with offenders (Becker 1966, 1963: 122), usually by drawing public attention to what caused offence. This study demonstrates in chapters seven and nine that it was not only middle class citizens who fulfilled this role, but also Methodists, temperance organisations and Salvationists, who were both effective and working class.

Rule breaking and rule enforcement were often determined by temporal and spatial location (Downes and Rock 2007: 167). The act was not invariably an offence in itself, but became so because of the time and place of its occurrence. Crossing that boundary, or limen, was the deviant act, as is clear in chapters eight and nine. Liminality, the crossing of boundaries, or 'edgework', even the 'joyous avowal of crime' (Foucault 1979: 259) are factors in several narratives in this thesis. Nineteenth century policing was often concerned with deviance, the regulation of which reached a high level by the end of the century, according to Gatrell (Gatrell 1980: 244). However, misdemeanours such as gambling in public places, after hours drinking and unseemly behaviour in public were tolerated or permissible in some circumstances, for example at the fairs or sports events depicted in chapters seven to nine. The attraction of the fair held annually at Brough Hill was that it offered the possibility of reaching and crossing the boundaries of convention within the context of the carnival atmosphere.

The desire for order in society requires a definition of disorder (Bauman 2000: 23). Moral entrepreneurs aim to achieve this and to maintain the moral, temporal and geographic boundaries that define deviance. Erikson however neatly reversed this statement to argue that deviants also serve to define the boundaries, for they test the boundaries. Deviants push the rules to the limit and by reaching and passing the limit of acceptability, they indicate the limits within which the norms apply (Erikson 1967; 1964:13). Rock looked critically at the idea that the courts and penal system today define the boundaries and concluded that there is no evidence to support the claim (Rock 1998). This study has not concerned itself with the penal system and has only an indirect interest in the nineteenth century courts, but the empirical evidence reveals that the police, rather than the courts, were the arbiters of the boundaries

which defined deviance in Cumbria. The evidence from Brough Hill Fair presented in chapter eight supports this argument.

Transgressing the boundaries identifies the 'other', serves as a marker of alterity, or otherness. Jock Young saw the boundary defining role of deviance as 'ontologically confirming rather than threatening' (Young 1999: 6). The apparently precarious existence of those who live near or beyond the boundary confirms the certainty of conventional society that its standards are the only proper standards. Young here was alluding to the concept of alterity, which offers a theoretical analysis of the social construction of groups or classes of 'other' (Foucault 1986; Welz 2000). The concept is rooted in identity, and the identification of 'others' who are 'different'. The clearest embodiment of the theory was the policing of the fairs. Chapters seven and eight demonstrate that by identifying and controlling 'problem' people at fairs and at bare knuckle prize-fights, the Cumbrian police effectively delineated a boundary and reified a group of 'others', whose only true coherence existed in the minds and actions of the police, whose expertise led to the construction of metaphorical boundaries and relationships of alterity that did more than identify targets for police action. It reinforced an idea of the distinctive identity and moral superiority of Cumbria (Woolnough 2011a).

Social control

The focus in this thesis upon policing deviance leads on to the question of social control, a term which has often been applied to issues of deviancy and has been used to describe the organised processes by which society attempts to deal with deviance (Cohen 1985: 1). Social control is 'embodied in the figure of the police officer' (Innes 2003: 63) and the police may be seen as the first organised attempt by the state to establish a force whose duty was social control (Miller 1977: 26-7). However, Stedman Jones observed that a casual use of the term by historians has sometimes let to 'non-explanation and incoherence' (Stedman-Jones 1977: 164).[16] This is a pitfall that must be avoided in this study, for although the police are the last resort in any system for tackling deviance, the crude application of control is too simplistic as a description of the primary function of the nineteenth century police force in Cumbria, it imposes 'teleological lenses' that obscure the 'subtleties of real social processes' (Smith, D., 1998: 205). Wiener has described the emphasis upon social control through surveillance as a 'negative image of Whiggism' (Wiener 1990: 8, Reiner 2010: 4). A more subtle definition and one more useful to this study, sees social control as the ability to reproduce or change social relationships, including the means of organising a consensus (Melossi 1998: 52). This point is considered again in chapter seven.

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[16] Donajgrodzki (1977: 9) was very critical of the term: 'a species of crude reductionism, which doubts the humanity of the humanitarian, sees clergymen, social workers or educators as *only* and *merely* policemen without boots.'

The working class

The police, as chapter five explains, were essentially a working class group of men, whose work was largely concerned with the working class. It is therefore necessary to examine the concept of class, with particular interest in the concept of working class identity.

E.P.Thompson was the pioneering historian of working class culture who developed an analysis that questioned the concept of class as simply defined through the ownership of the means of production. Instead, he saw it as an historical phenomenon that involved the agency of the individuals (Thompson 1957; Thompson 1963; Skocpol 1984: 368). Thompson therefore explored working class culture from a working class perspective, rather than seeing culture as superficial or irrelevant in a narrative of working class development. Others have continued Thompson's project (Joyce 1994). Working class status is no longer accepted as a primary source of identity. Benson questioned the idea that industrialisation saw the forging of a homogenous working class (Benson 2003, PP, 2-3). This thesis presents many examples from Cumbria that confirm Russell's conclusion that the working classes were riven on number of issues (Russell 1992: 10-6). Bourke argued that assumptions of class consciousness or solidarity collapse in the face of empirical studies, which invariably reveal that the working classes (sic) were divided by many conflicting or competing identities, PP, she very effectively demoted working class consciousness and solidarity in favour of working class awareness (Bourke 1994). Many local and micro-histories have, like this study, critiqued the grand narratives of working class history (Griffiths 2001; Gillis 1975; Bok 1989; Scott 1991; Scott 1988; Scott 1987; Rowbotham 1977).

However, class cannot be completely dismissed as a factor in shaping social identity. Savage and Miles (1994: 43-9) offered a subtle reappraisal of class to incorporate qualified working class solidarity and divisions. They wrote that the working class had become more homogenous after 1850, but that this led to dissension with increasing competition over skills and status at work. Historians, they concluded, have been misled by focusing too much upon textile industries.

Culture

Tilly used a colourful metaphor when he wrote that culture is 'congealed history… the current residue of collective action' (Tilly 1999:411). Tilly's words are too imprecise to support analysis, but do serve to link culture with history and society. Offending and its policing are social activities located in cultural contexts (Wiener 1990:2-3).

Culture is an essential vehicle through which society acts (Cronin 2003:219).[17] Rather than representing culture as a superstructure, or as a hegemonic force to be deployed by those contending for power (Williams 1960; 1958; Bailey 1998: 3; Crone 2012: 15; 31) or as a civilising force (Arnold & Wilson 1960; Clark 1976, 1971). This thesis argues that culture; continually replicated and renegotiated; is a primary factor in human agency (Weber 2003: 119-20); it is how people 'organized reality in their minds and expressed it in their behaviour'

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[17] Gramsci was a pioneer of the idea that culture was a primary factor, not merely 'superstructure', in the shaping of societies through time. He always described culture as linked with class: culture was, for him how class realities were lived, not an epiphenomenon of society or of economic relations (Crehan 2002: 71-3).

(Darnton 1984: 3). The quotidian work of the police was situated in the culture and sub-cultures of the time and place.

There have been many attempts to define culture (Williams 1988: 87-93; Eagleton 2000: 1-31; Williams 1981: 10). The definition that best serves this study is 'a system of meanings, values and symbols' that allows individuals to form their ideas, beliefs and consequent actions within society (Moore et al. 2008: 1-2). Criminals, victims and those who deal with crime are all seeking a meaning in their actions and experiences, and culture is the context for that meaning (Goffman 1990, Ferrell & Sanders 1995: 297-300). The definition of culture given here should be refined by considering the three main strands identified by Williams and accepted by many others (Williams 1988: 2; Green 2008: 90): aesthetic and intellectual 'high' culture, culture as a way of thinking, including the spiritual, and culture as the way of life of a society or social group.

'High' culture is the least relevant in this demotic study, but cannot be completely excluded for the Lake District was an especial focus of intellectual activity, including luminaries such as Wordsworth, Martineau, Arnold, Trollope, Morris, Rawnsley and Ruskin, who are discussed in chapter four. Is culture a way of thinking that directs social life, or does the way of life of a group shape their culture?[18] Eagleton has endeavoured to reconcile this dilemma:

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[18] A Marxist approach might favour ownership of the means of production in shaping culture. An alternative, post-structuralist, view would see culture as a prime mover in the discourses of power that shape society (Williams 1960, 1988, 1981; Green 2008). The relevance for this study of policing is that a materialist interpretation (e.g. Storch) might position the police as a product of a culture generated by the social system. A symbolist view (e.g. Foucault) might position the police as prime movers who determine the cultures of policing.

Human beings are not mere products of their environs, but neither are those environs

sheer clay for their arbitrary self-fashioning. If culture transfigures nature, it is a project

to which nature sets rigorous limits.(Eagleton 2000: 5)

This conclusion concurs with this study and fits well with Giddens' structuration theory. Eagleton saw culture as both a descriptive and an evaluative concept, not just describing the phenomena involved, but also implying some idealistic intentionality (Eagleton 2000: 5). Williams himself anticipated this opinion by outlining how culture is not merely derived from the social order, but is a major element in its constitution (Williams 1981: 12-3). Culture is not an epiphenomenon, but does itself shape states (Steinmetz 1999: 4-5). To discover 'idealistic intentionality' and how culture constructs social order, it is important to engage in empirical research, of which Winstanley's (1993, 1990) study of Oldham and this thesis are examples.

Cultural historians must not impose anachronistic value judgements upon the past, nor read the past through romantically rose-tinted spectacles (Black & MacRaild 2001: 115-20). Some have been accused of cultural relativism, the idea that all cultures are equal and must be accorded equal respect, even at the points of greatest difference from present day standards (Pallares-Burke 2002: 22). In this study, the points at issue include attitudes towards violence and blood sports, gambling, religion and drinking, which are covered in chapters four, and seven to nine.

Criticism has been levelled at some advocates of cultural criminology for having a political agenda that delights in working at or beyond the margins of society (O'Brien 2005: 500-600). Accusations of cultural relativism and political bias can be avoided by the impartial empiricism

of a detailed historical study such as this. The method has been to explore the actions of police and offenders through detailed, local and verifiable sources. Emsley, Klein, Godfrey, Cox and Gatrell (whose works are referenced throughout this study) worked in this way. Impartiality is more easily achieved with a historical study that focusses upon detailed analysis.

Culture is a dynamic that functions at every level of society, to shape or question the realities of daily life (White 1999: 318; Ferrell et al. 2008: 7). The anthropologist Marshall Sahlins, who has been drawn to questions of historical change, explained how culture moulds the individual's ideas, actions and reactions (Sahlins 2005). For this study, these views can be refined to a statement that the realities of crime and policing were experienced, by all concerned individuals, in the context of culture which in turn shaped their responses. For example, the victim who described a crime as outrageous, the citizen of Kendal who deplored rowdy behaviour on the streets, the young man who intervened to assist the police, the policeman who decided to ignore some drunken behaviour, the vagrant or gambler who thought he was unjustly persecuted, were all making cultural appraisals and responses. Chapters seven to nine include examples of all of these.

The diversity of a society raises issues of crime, disorder, deviance, social control and alterity which are all concepts deeply implicated in the cultures of that society: the aim of a cultural history or criminology is to analyse the cultural implications of that diversity (Hayward and Young 2004). This study concludes that working class culture, in a 'bottom up' fashion,

influenced the work of Cumbrian police in the nineteenth century as significantly as the directives of the chief constable or magistrates[19].

Change and periodization

Change, in the nineteenth and early twentieth centuries, was easily and naively explained as the march of progress and civilisation; it was easy to support this explanation at a time of falling crime rates and an aging prison population (Lee 1901; Griffiths 1901). In the mid-twentieth century this teleological approach still had some currency, even with more critical historians like Radzinowicz who included in the introduction to his seminal work a classic 'Whig' interpretation that the history of England was a history of progress, in which the criminal justice system made an important contribution (Radzinowicz 1948:ix). However, although post-modernism challenges teleological grand narratives, the phenomenon of change still needs to be encompassed in this history (Munslow 2007: 207-9).

Periodization is necessary in order to provide a framework for the discussion of change. Within the period covered by this study, the important division of periods is the 1870s. This was a significant juncture, connected with the end of the Victorian boom, the start of the agricultural depression, the introduction of schooling for all (1870), and the extension of voting rights to large numbers of men (1867). Particularly significant for a local study such as this, in the 1870s the reluctance of central government to intercede locally was diminishing which is explained in chapter five. For this study, this turning point is an externality, a

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[19] Hobbs (1989: 2-20) took a similarly 'bottom up' approach in his study of the culture of policing and criminality in the East End of London.

contingency to be referred to rather than explained (August 2007: 4; Floud & Johnson 2003; Floud & McCloskey 1994: 127-84; Waller 1983: 240-80; Briggs 1979: 1-7; Crone 2012: 259). However, in one respect the turning point is crucial, for Wiener identified 1870 as the year in which the state seemed to succeed in turning the tide against criminality, with police apparently gaining control of the streets and statistics showing crime on the wane (Wiener 1990: 215-6). Although this thesis cannot specify one year as a turning point, it does support the view that police professionalism developed significantly in the second half of the century.

The process of change is important in a study that is concerned with the introduction and development of the social phenomenon of organised policing. Narratives that imply that change is random and contingent are unsatisfactory. Marxist interpretations accommodate both revolutionary and gradual change, but tend to undervalue agency, whereas inter-actionist theories tend to undervalue structural factors (Dugger 2000: 4). By contrast, for social scientists, the question of structure or agency has been a key issue: for example, one reads that Tilly rejected Durkheim's view of society because it concealed the human actors (van der Linden 2009: 243). But where historians have grappled with the problem of change through time, some social scientists have preferred to take a synchronic approach (Crowley 1996: 21-7). Even Foucault's 'epistemic shifts' seem to succeed one another in an arbitrary way, with no causation explained (Merquior 1991: 40-2; Foucault 2001b). Structuration theory, introduced in the next section, offers a solution to these dilemmas.

A framework for this study: Structuration

The theoretical approach adopted in this study utilises the structuration theories elaborated by Giddens (1987, 1984, 1979, 1976). These offer an approach that helps draw together all the theoretical strands that have informed this study. Structuration is a process, that is something which develops through time, in which individuals interact and thereby shape themselves, shape others and shape social structures. Structuration theory allows the reconciliation of the divergent actions of individuals and organisations, or resolves the dilemma of agency and structure, both of which it can integrate 'within a historically formed structure' (Parker 2000:12-3). This is important in a historical study of policemen who dealt with their superiors, offenders and the public. Particular strengths of structuration theory are its promotion of ontological security and its ability to understand change. It allows power, culture, change and social interaction to be drawn into the narrative.

Giddens (1985:12) discounted the idea that institutions, such as the police force, or the criminal justice system, determine actions. Cohen (1989:131) explained how material conditions such as these institutions constrain or enable social action but the individual always has the means to exercise some sort of power, even though it may be at extreme cost to him or herself. Consider, for example, those vagrants who ripped up their clothes in the workhouse (chapter 7). However, neither the isolated actions of one individual nor the social structures at one particular time and place are in themselves significant. What is significant is the form of social practices, which are protean: they continually re-form and are re-created as people act within and with the social structures. It is this recursive activity that 'reproduce[s] the conditions that make these activities possible' (Giddens 1984: 2). Praxis is the term that summarises this protean activity. Simply expressed, it is how things are done, which is at the

heart of structuration theory, and is at the heart of any study such as this, concerned with the discretionary actions of individuals within a hierarchical organisation.

Giddens' structuration theory provides a means of understanding, in the context of this study, the ways that cultural and social practices developed. His theory resolves the agency/structure dilemma by presenting them as a duality, inseparable concepts of social action (Giddens 1984: 25,1979: 5, Shaw 2001: 6). The duality is expressed through praxis, which is the skillful performance of conduct and interaction. Agents use praxis and consequently this praxis shapes society (Stones 2008).

Social systems such as policing are constituted in reproduced practices, or praxis, which are the points of articulation between actors and structure. Because praxis provides a model for action, and is itself the creation of actions, praxis is forever evolving and is always located within time and space. A simple metaphor is that it has the dynamic stability of a moving bicycle: it is never stationary, but is always moving forward, or changing. Like the rider and the bike, praxis is a duality which continually adjusts and responds as circumstances change, and its progress is determined by the interaction between the actor and the structure, as between the rider and the bike.

The praxis of policing in Kendal differs from that in Carlisle, the 1860s from the 1890s. This offers an explanation for the paradox of social stability and change, both of which are relevant to this study (Giddens 1979: 117). Structuration provides a model of the way in which a police force could act and interact to reproduce itself through the knowing actions of individuals. It encompasses the rules, systems, social relationships and resources that form part of this

production and reproduction. This structure exists as memory, albeit totally implicated in the actions of all parties involved in the work of the police (Giddens 1984). For Giddens, 'social structures are both the condition and the outcome of people's activities' (Tucker 1998: 67). Social systems or practices 'do not have structure, but exhibit structural properties, which only exist in memory traces in human agents' (Giddens 1984: 17). They have a virtual existence (Craib 1992: 42). Thus the Cumberland and Westmorland Constabulary of the nineteenth century, with its men, uniforms, police stations and effective power, appeared to be a social structure and a concrete entity, but the reality of its existence could only be discerned in its actions and in the reactions of others to the police. The bodies of the men and their equipment, which Giddens termed allocative resources, was the least part of the force's existence. The authoritative resources were far more significant. The same rationale can be applied to the criminal justice system and to occasions such as Brough Hill Fair, examined in chapter eight, which were far more than just a collection of people and their 'stuff'.

Giddens has used the term ontological security as a means of explaining the motivation of actors within his theory (Craib 1992: 40). Routine, which formed the greater part of the constable's work, is not satisfactorily explained as unconsciously motivated, whereas rationality alone offers a poor explanation for some of the brave, foolhardy or foolish actions of police and offenders described in chapters six to nine. Discursive consciousness, the reflexive ability to describe, monitor and rationalise action offers a better model for their actions (Craib 1992: 38). Actors, police, offenders etc., need to have 'Confidence and trust that the natural and social worlds are as they appear' (Giddens 1984: 275). This is the desire for ontological security, that is confidence in one's ability to understand and cope with a situation, which motivates adherence to routine. It is formed at an unconscious level, but

ontological security is the 'on-going accomplishment of the acting subject' such as the

policeman on duty (Cohen 1989: 53; Giddens 1976: 117). The response of policemen and

offenders to threats to their ontological security depended upon their discursive

consciousness, i.e., their reflexive ability to describe, monitor and rationalise their actions

within the situation, including an appraisal of their physical and resource limitations.

Others have developed theories similar to structuration but none has framed the idea as

precisely as Giddens (Abrams 1982:6-7; Munslow 2000: 23-6,129-31; Reckwitz 2005: 244-

58).[21] Bourdieu and Wacquant (1992: 90-5), who were more inclined to situate their work

empirically and historically than Giddens, offered habitus as a way of understanding how the

individual is implicated in the replication of social structures[22]. Wacquant (2008: 267) saw

habitus as a null point between subjectivity and objectivity, and 'through which we perceive,

judge and act in the world'. He used Bourdieu's theories to describe the experience of

sparring in the boxing ring, in a scenario that could easily be re-written to describe the

policeman on duty:

Every time a boxer steps into the ring he puts a fraction of his symbolic capital at

stake: the slightest failing or slip up . . . . brings immediate embarrassment to the

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[21] Joyce (1995: 90) approached the question of subjectivity in a similar way to Giddens when he wrote of 'processual'   reproduction of the social by the agents. The *Annales* school anticipated Giddens' theory in some respects (Bloch 1954; Braudel 1980, 1974, 1972; Vovelle; O'Flaherty 1990: 5). Carter-Wood (2004: 12-23) in writing of *mentalities;* used ideas similar to Gidden's structuration theory without referring to it. The main shortcoming of *mentalités* for this study was that it tended to devalue or ignore subjectivity and the agent (Stedman-Jones 2005: 65-9).
[22] Bourdieu (1988: 143)described habitus as 'lex insita . . . an immanent law of the social body . . . agents realise the law of the social body without intentionally or consciously obeying it.' Bourdieu, rather than exploring the dilemma of structure versus agency, tackled the theoretical problems of subjectivism versus objectivism (Wacquant 2008).

fighter, as well as to his gym-mates who hasten to assist his 'corrective face work'.

(Wacquant 2004: 79)

But although Bourdieu's ideas allow for reproduction of social structures and cultures, it is not clear how habitus accommodates social change or discord, both of which are important in this study (Lemert 2004: 142-6). Structuration can accommodate change and conflict, for it provides a way of understanding of the development of social structures' situated in specific time and place ((Craib 1992: 44; Giddens 1979: 116).

The historian may raise objections to the application of structuration theory in this study. Giddens is a sociologist who has avoided historical references and studies in his analyses, and, although he referred to E. P. Thompson as an exemplar of the 'sociologist's historian', Giddens has been wary of applying his theory to empirical work (Giddens 1987: 203-5, 1984: 294). Giddens almost completely avoided any historical references in his works and, whenever made any historically located reference, it was very vague, generalised and unhistorical.[23] Nor has Giddens ever approached deviance, crime or policing directly in his work, though his ideas on ontological insecurity and the relevance of power to social change must impinge on any criminological study (Giddens 1984; Cohen 1989; Stones 2008).

Although there have been several attempts by social scientists to apply Giddens' structuration theory empirically, there are but a few references by historians to Giddens' structuration

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[23] For example, his comments on the emergence of agrarian states, which 'always exist along time-space edges in uneasy relations of symbiosis and conflict with, and partial domination, over surrounding tribal societies', are exemplified with generalised references to Tahiti and Moghul India (Giddens 1984: 244-50). Giddens preferred to examine contemporary issues (Mestrovic 1998: 20-2).

theory. One history of the criminal justice system refers to structuration: 'Criminal Lives' briefly addresses the theory in the context of institutions, or 'humanly devised constraints that structure human interactions', that are implicated in the desistence of offenders (Godfrey et al., 2007: 175). Other historical studies that reference Giddens' structuration are remote from the areas covered in this study (Yates 1997; Ogden & Rose 2005).

However, this thesis shows that the application of structuration to the specifics of policing in Victorian Cumbria is valid and useful. To exemplify this with an illustrative synopsis of the approach taken in this thesis, take as a starting point the gulf between the intentions of the Home Office, the local magistrates and the chief constable, and the reality at street level. The laws were in place, the orders were issued, the men were equipped and sent out to police Cumbria. But the agents faced constraints in allocative and authoritative resources: for practical reasons the constables could not just arrest anyone at any time. It would never be possible to arrest every offender, so the police had to employ stratagems to maximise their efficiency. The targets of this policing were themselves agents who contributed to the structuration process. A vagrant, for example, learned how to evade or exploit the force of the law, how to escape, argue or resist. When the paths of vagrants, police and magistrates crossed, each used his or her practical consciousness to negotiate the situation. Many vagrants, of course, fell foul of the law, but the praxis was the interaction of all these agents. The outcome was sometimes disappointing in the terms of those whose wish was to deal with 'the problem', it was sometimes distressing for the vagrants, but the process enabled the social reproduction of the phenomena of policing and vagrancy. Power was negotiated in a way that allowed all agents a share. Sewell made this point succinctly:

However unequally resources may be distributed, some measure of both human and non-human resources are controlled by all members of society, no matter how destitute and oppressed. Indeed, part of what it means to conceive human beings as agents is to conceive them as empowered by access to resources of one kind or another (1992: 10).

Structuration may attract the historian with its ability to accommodate change. The process of change in the policing of nineteenth century Cumbria was determined by events that seemed contingent from the Cumbrian perspective, such as the growth of the railways, the epidemics of foot and mouth disease and the development of photography. Taking photography as an example, it was adopted by the Kendal police to help in tracing offenders, who reacted as unhelpfully as they could, with contorted faces and the obvious use of aliases (Kendal Record Office, hereafter KRO,, WS/Cons 10/2 1880-1910). Photography did not work exactly as the police hoped it might, the resistance of the prisoners was probably largely futile, but the actions of both parties had defined a new social reality (Jager 2001).

Criticisms of structuration theory

Turner (1986: 969) wrote that Giddens' theory of structuration 'is comprehensive in scope and sparse in detail', which summarises the criticism of others. Giddens' texts can be prolix and inaccessible (Yates 1997: 159). He has given little idea of how his ideas might be applied in an empirical analysis (as explained in footnote 23, above) and structuration theory offers no precise explanation of how the duality of structure and agency functions (Stones 2005: 75-6).

The first two of these criticisms can be tackled by the determined student who wishes to deploy the theory. Stones has addressed the lack of precise explanation by refining Giddens' theory to develop what he has termed 'strong structuration theory', in which he has expanded the 'duality' with the intention of making the theory more appropriate for a more practical application to empirical analyses (Stones 2005). Stones has described the structural component of the theory as comprising external and internal structures, the latter including the individual's culture, ability and knowledge. In this way Stones' theory is able to encompass Bourdieu's 'habitus' and to describe a precise mechanism by which structure and agency can be implicated in the development of praxis. But, for the purposes of this thesis, Stones' development of Giddens' theory adds little of benefit. The original insights of Giddens' theory serve this study well.

Structuration theory has been refined in the context of criminology by the concept of negotiated orders (Henry & McAra 2012). These are orders in that they imply constraint and imposed classification, negotiated in that they are seen as performed interactions in which compromise is an essential component. Recent work in this field has looked at policing in modern America which, although far removed from Victorian Cumbria, has similar aims as this study in that it has considered 'how communities produce a negotiated order through the action of individuals and formal agents of control' (Carr 2012: 398). Negotiated orders thus come back to address the problem initially posed, i.e., how to reconcile the process of change and the dilemma of agency versus structure which is central to structuration theory.

Summary

Although this is a bottom up history, it eschews a Marxist analysis. The concept of social control is highly relevant to any study of policing, but it is not viewed in a context of class conflict. Culture is integral to this study. It is neither viewed as superstructure, nor as a civilising force, but as a primary factor in human agency at all levels of society, and therefore deeply implicated in the actions of the policemen and those with whom they dealt.

The dilemma of agency or structure is resolved at a theoretical level by structuration theory, which sees agency and structure as inseparable conceptually. Agency and structure together shape society through praxis, and this is particularly apparent in evolving development of nineteenth century policing. The theory of structuration accommodates change, which is essential in any description or history of a new organisation such as the Cumbrian police. The empirical study undertaken in this work provides effective exemplification of Giddens' theory of structuration. It is effective because it is a social history that is examining an area of conflict in society at a time of social and bureaucratic change, which saw the development of police expertise and professionalism as part of the process of state formation. This is made clear in chapters five and six.

Structuration is an overarching theory which encompasses many, if not all, of the concepts needed for the process of analysis in this study. It allows power, culture and social interaction to be reconciled in the analysis of empirical content of this history. The next chapter explains and justifies the empirical bases and methods of this study and introduces the bureaucratic procedures of the Cumbrian police in the nineteenth century.

The Policing of Petty Crime in Victorian Cumbria

Chapter three: Methodology: selecting, interpreting and using primary sources.

Introduction

This chapter outlines the primary sources used and presents the quantitative and qualitative methods used. These are the specific concrete situations,[24] the study of which is used to problematise the routine policing of Victorian Cumbria. The sources and methods allow an analysis of the structuration and the cultural foundations of the mundane work of the police. The records necessary for a 'bottom up' study of policing at the street level have not survived well. Whereas the records relating to felons, convicts and higher courts have survived, many everyday police and court records have been lost. Although coverage of the whole of nineteenth century Cumbria is not possible, this study found sufficient diversity and even some surprising survivals from Maryport, a small town on the Cumberland coast. It is through hermeneutic examination of such sources that it is possible to discover how the mechanisms of power were able to function at the lowest levels (Foucault 1983: 308-9).

In order to prove that discretionary policing was rooted in the plebeian cultures of the rank and file policemen, it is necessary to access the ideas that those men held. This is difficult

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[24] *Every truth . . . owes its effectiveness to its being expressed in . . . . specific concrete situations. If it cannot be expressed in such specific terms, it is a byzantine and scholastic abstraction, good only for phrase mongers to toy with.* Gramsci 'Selections From the Prison Notebooks', cited in Crehan (2002: 28).

because of the paucity of reflective written sources, but the task is not impossible. There were written records that allowed the men to express opinions, the men were able to speak in court, and even the most tightly constrained of bureaucratic written reports left opportunities for the men subtly to slip in their opinions. Occasionally inferences may be drawn from the reported actions of the police, or from the comments of witnesses or defendants. The diversity of sources used in this study requires mixed methods to be used; the outcome is a critical analysis of the contexts of structure and agency in the development of policing in Cumbria. However, the next few pages include three main caveats,

1. Positivism: much of the data recorded in the primary sources was compiled with implicit assumptions about their value in an agenda of progress.
2. Statistics: the sources are not a record of objective reality.
3. Events: are they contingencies, or part of a trend?

Positivism

The methodical collection of information by the criminal justice system expanded steadily after 1810 (Godfrey 2008: 28-31). The assumption was that the data contained in records of the police and the criminal justice system in general would allow an understanding of and thereby a means of limiting, managing or controlling the phenomenon of crime (Lombroso et al. 2006; Emsley 2007: 117; Jager 2001). This belief was supported by the apparent drop in the rates of offending as the century progressed.

Foucault, in the context of penology, described this transformation as a 'new micro-physics of power' in which utilitarian thinking encouraged the observation and control of detail, and advanced the development of new knowledge and techniques which aimed at the management of men (Foucault 1979: 139-41). The police force, as part of the system that claimed to be reducing offending, was constructing categories of offender and then set about dealing with them. Examples include the criminal vagrants who existed in the mind of the chief constable, the drunks and beggars arrested by Kirby Stephen and Kirkby Lonsdale police, the pick-pockets and card-sharpers who were targeted by police at the fairs, and the slonks dealt with by Kendal police. These are all to be found in chapters six to nine.

Statistics

The value of the crime statistics of the nineteenth century has been debated by many historians. The point of disagreement has generally been over the reliability of the data as a means of describing or quantifying offending (Taylor 1998; Stevenson 1986; Gatrell 1980; Gatrell & Hadden 1972; Walker 1983; Sindall 1986; Morris 2001; Williams 2000; Gatrell et al. 1980). This debate is not significant in this study, which is an analysis of policing, not offending. It is sufficient for this purpose to say that the records do not necessarily record levels of crime and offending with any accuracy, but their greater value in this study is that they record what the police were doing (Sindall 1986, 1990) and they show what some contemporaries thought about crime and offending: 'they reflect the experience and decisions of a multiplicity of actors in the interactive social process of criminal justice' (Morris 2001: 120). The information given in the sources and documents is not used in this study to describe offending, but is used to analyse the policing process. For example, the detention of

a person for drunkenness generated documentation that claimed to describe the offence committed. The only certain fact is the documentation. The policeman proceeded against the offender, but it would be very difficult to form any clear opinion of the actual offending or intoxication of the person, for offences such as these were extremely subjective. A Victorian policeman had no objective means of assessing drunkenness, so it would be unwise to extrapolate from alcohol related arrests to conclusions about levels of drunkenness and drunken behaviour. But it is quite possible to consider the types of persons the police arrested, the circumstances as described by the police and the reactions or comments, if any, of magistrates and of contemporaries.

Events

Sensational events grabbed the attention of contemporaries and may mislead historians. Gatrell warned that trends in criminal statistics could only be interpreted in the long term; short term 'blips' were invariably contingencies.(Gatrell 1980: 289-92) For example, cases like the killing of PC Groves in Kendal and the Netherby murders, in chapters seven and nine, tended to lead to moral panics (King 2003; Cohen 2002; Davis 1980) about the declining standards and then to action that was often disproportionate. Although this study is concerned with an analysis of mundane police work, space has been given to sensational events; the aim has been to use these events in order to understand what was considered normal. Extreme events led to detailed reporting and discussion that revealed what was thought to be the norm in policing, and to what extent policing actually met the standard expected. In the case of the Groves killing, the events up to Groves' death were routine policing of drunk and disorderly behaviour. The tragic death of the constable meant that these

preceding details were meticulously described, whereas a 'normal' arrest would have been reported in no more than half a dozen lines.

Method: quantitative versus qualitative

This is a cultural study, and the primary hypothesis is that police discretion was culturally determined, as explained in chapter two. Whereas some previous historians of crime and policing have favoured statistical analyses, one might expect a cultural history to prefer qualitative methods. Both qualitative and quantitative methods are used here, for many of the sources used are susceptible to both approaches.

The types of sources dictate the qualitative approaches used. This is particularly so in the section on the occurrence books and police correspondence in which the discourse is the means by which hegemony was established: the policemen who wrote these documents were creating a reality in which they were in control (Chouliaraki & Fairclough 1999: 5). Discourse, as an element of social practice, is important in the qualitative analysis. The occurrence books are the most consistent and reliable sources to allow an analysis of the discourses of policing, and they illustrate the extent to which these discourses were in the hands of the police themselves. This is of central importance in an analysis of the development of policing. The historian can find in the narratives of the sources 'the significance of shared or collective symbolic structures of knowledge [in the context of] . . . action and social order' (Reckwitz 2005: 249). The men themselves controlled the discourse at some points because they completed the charge books and the occurrence books, they wrote the reports of offences, they gave evidence in court and they organised the photographic records. One might argue that they controlled the discourse on the streets, but

the only evidence of this is in the records. At some points, the discourse was not exclusively

theirs, for example in court. But even here they negotiated with the other actors. There are

stages in the discourse when the men are virtually silent, for example in correspondence in

the local press and the watch committees, but these situations allow one to measure the

strength of other voices in the discourses of policing.

The qualitative analysis of the sources employed in this study is a task of micro-history

drawing upon hermeneutics and analogous with Geertz's ethnomethodology, but does not

preclude quantitative approaches (Fairburn 1999: 156-8; Levi 1991: 98-9; Geertz 1973).

Several of the sources used are amenable to mass quantification. Although this study does

not employ advanced statistical methods, there is significant use of high volume data, for

example concerning persons charged and newspaper reports. These have been handled by

using spread-sheets. Failure to use the large-volume data in any sort of quantitative analysis

would be, in effect, to ignore them, and would be unwise in a study in which the information

on many of the individuals is so brief and fleeting to be almost meaningless as qualitative

data (Floud 1979: 3).

Accessing the opinions of policemen

This study faces the methodological problem of registering the opinions and discovering the

activities of ordinary policemen. The task is to create 'motivated narrative' from sketchy

sources that were not intended to record motivation (Tilly 1990: 92). This is a project that has

been attempted many times in fiction, and in some non-fiction works for the general reader,[25] but only occasionally in academic histories, most recently by Shpayer-Makov, Emsley and Klein (Emsley 2009; Klein 2002, 2010; Shpayer-Makov 2002).

Memoirs might offer the academic historian some insight into the authors' opinions, but the Victorian police autobiographies that do exist reflect a need for self-justification. Some of these memoirs tip over into vainglory (for example, the memoirs of Jerome Caminada and James Bent) and invariably need to be approached with caution (Bent 1891, Caminada 1983, 1982). The risk of being deceived by police memoirs has not been a problem in this study, for the author has not found any relating to Victorian Cumbria.

It has been possible to approach the opinions and discover the activities of ordinary policemen through primary sources which include the mundane and routine details of policing. These are records that allowed what Giddens has termed 'the storage of authoritative resources', which, he explained, is analogous with the storage of allocative resources, or 'real things', like police equipment (Giddens 1984: 261-2). Storing resources enables the maintenance of power: this seems self-evident with material resources, but in the nineteenth century improving literacy and enhanced means of storing information allowed a more subtle and 'knowledgeable management of a projected future'. (Giddens 1984: 261) The creation and management of these records was to a significant extent in the hands of the policemen, even at the level of the ordinary constables, who consequently had a handle upon power.

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[25]Dickens (1993) was the pioneer in fiction, with Inspector Bucket. Summerscale's (2009) 'The Suspicions of Mr Whicher' and Payne's (2011) 'The Chieftain' were commendable non-fiction works for the general reader.

The analysis of police and court records allows some insight into the opinions and actions of those who interacted with the ordinary constables: the senior officers, magistrates, victims of crime, offenders and other individuals. The sources facilitate an understanding of the discourses concerning policing that can be related to Foucault's theories. Where Foucault considered sexuality, madness and penality, this study looks at the discursive practices that made policing meaningful.

Primary sources

The selection of records is constrained by the contingencies of survival. This study has necessarily focussed upon those locations within Cumbria where the number and type of records are favourable. The categories of record are police records, local administration, court records and local newspapers.

Newspapers

Newspapers have been used, both to supplement the data where there are lacunae, and to register wider opinion. Stories favourable to the police, particularly in their tackling more serious crime, frequently appeared in Cumbrian newspapers. Shpayer-Makov described how police tended to feed 'good' stories to the press, but the Cumbrian papers were no less willing to publish critical stories (Shpayer-Makov 2010: 691). Table 3.1 shows the local newspapers that have been most frequently consulted.

Table 3.1   Cumberland and Westmorland newspapers used in this study

	PLACES AND DATES OF PUBLICATION, POLITICAL AFFILIATIONS
WESTMORLAND GAZETTE	Published Kendal, 1818 to date. Tory, Conservative. A Lowther paper (Chapter 4 for details about the Lowthers).
KENDAL MERCURY	Published Kendal, from 1784-1917.Whig, Liberal.
WHITEHAVEN NEWS	Published Whitehaven, from 1852. Radical, Liberal.
CARLISLE JOURNAL	Published Carlisle, from 1798-1968. Whig, Liberal.
CARLISLE PATRIOT	Published Carlisle, from 1815-1910.Tory, Conservative. A Lowther paper
CUMBERLAND PACQUET	Published Whitehaven, from 1774. Tory, Conservative. A Lowther paper.
THE LANCASTER GAZETTE, and General Advertiser for Lancashire, Westmorland, Yorkshire, &c.	Published Lancaster, from 1801-1894. Tory, Conservative.

All of these papers reflected the agricultural nature of the Cumbrian economy and shared an interest in reporting from the Lake District (Woolnough 2011b, 2011c). The Lowthers, who influenced a 'stable' of Tory papers, were the leading aristocratic family and very powerful, politically and economically (Moon & Moon 1973; 1976: 185). Both of the Whitehaven papers favoured the industrial Cumbrian coast. The Whitehaven News was radical and implicitly anti-Lowther, and always strongly in favour of temperance reform (Woolnough 2011c). The

Westmorland Gazette and the Kendal Mercury tended to favour Kendal in their reporting. The Gazette was opposed to strict temperance; the Mercury supported temperance, but was not as committed as the News (Woolnough 2011b).

Policemen most frequently appeared in the Petty and Quarter Sessions court proceedings, the reporting of which was routine. The reports in both of Kendal's papers were very similar, if not the same, suggesting the same hand prepared reports for both papers. As well as court cases, there were frequent comments in all the papers upon the successes and shortcomings of the police, and the attempts at regulation of the police forces through sessions and town hall committees. The reports in the newspapers sometimes give subtle details that are available nowhere else, for example:

- PC Medcalf appeared in court with the marks of a beating he received from the two defendants (Westmorland Gazette, hereafter WMG, 18 Nov 1876: 5). Chapters seven and eight.

- Report headlined 'Clever Capture by a Police Constable' described how PC Arrowsmith of Greenodd spotted a man wanted in Liverpool for sheep stealing and pursued him through the night for over 30 miles across the fells to Kendal, where he arrested the man (WMG, 13 Nov 1886: 5). Chapter six.

- Superintendent Sempill, prosecuting a case of pitch and toss, said he 'did not wish to press the case against these lads; was the older ones who were the worst: and he wished public attention to be given to the matter'. The case, described in chapter eight, was dismissed (Carlisle Patriot, hereafter CP, 9 Apr 1886: 9).

Only a few reports can give this sort of insight, but 50 years of news reporting allows sufficient valuable detail to be found.

Police and Court Records

The words of the ordinary Cumbrian constable can be found in many sources. A description of the documents which the constable routinely completed in chapter six makes clear the quantity of paper work he had to complete. Table 2.2, summarises the extant Cumbrian records that have been found and utilised in this study.

Spread-sheet analysis

Some of the sources listed in Tables 3.1 and 3.2 were used to create spread-sheets that compile data concerning the policing of particular locations in Cumbria:

- The court reports from the newspapers of Kendal for one year, 1880, have been analysed and aggregated into a spread-sheet. This year was chosen because it falls mid-way in the period studied, and was unusually a year when no police left the borough force or were recruited.
- Arrests and summonses at Kirkby Stephen, 1874-1900. The charge books were used as a source of data, with gaps filled by using the Court registers.
- Arrests and summonses at Brough Hill Fair, 1858-1900. The aim was to find every case which came to court from the fair. A wide range of sources was needed: Kirkby Stephen occurrence books, charge books, court registers, Appleby court registers and

minute books. 'Blank' years were checked by using the local papers, but it is possible some cases have been missed.

- Arrests and summonses in Maryport charge book, 1883 – 1888.

- Arrests and summonses in Kirkby Lonsdale, 1888-1900. The charge book was used.

**Table 3.2   Cumberland and Westmorland police and court records,
used in this study.**

POLICE STATION RECORDS		
POLICE STATION OCCURRENCE BOOKS	Grayrigg, 1886-9, 1902-9 Grayrigg, 1890-1902 (incorrectly catalogued as 'General standing orders'. Includes items of correspondence). Keswick, 1857-80 Kirkby Lonsdale, 1897-1922 Kirkby Stephen, 1857-1902	Kendal Record Office, hereafter KRO, WS/Cons 9/1-2 KRO, WS/Cons 1/2 Carlisle Record Office, hereafter CRO,, Scons 4/57 KRO, WS/Cons 2/8 KRO, WS/Cons 4/1-3
POLICE CHARGE BOOKS	Kirkby Lonsdale, 1888-1930 Kirkby Stephen, 1874-85,1888-1915 Maryport, 1873-88 Shap,1874-1914	KRO, WS/Cons 2/5 KRO, WS/Cons 4/10-1 CRO, Scons 4/137 KRO, WS/Cons 6/1-2
REPORTS FROM POLICEMEN	Maryport, Reports of Crimes in the 1880s	CRO, Scons 4/127-8, Scons 4/75-7
PRISONER RECORDS	Carlisle, Habitual Offenders, on licence, 1879-1949 Kendal, Photo book, 1881-1910 Kirkby Lonsdale Persons detained, 1869-1906	CRO, Scons 4/12 KRO, WS/Cons 10/2 KRO, WS/Cons 2/1-2
CORRESPONDENCE INTO POLICE STATIONS	Maryport, 1879-85, Police posters Letters received at Maryport police station, 1879-85 Information sheets received at Maryport police station 1877-85	CRO, Scons 4/6 CRO, Scons 4/143-4 CRO, Scons 4/148-9
VAGRANTS	Maryport, 1880s, Reports on vagrants Maryport, Form 49. No of vagrants in lodging houses, 1885-9 Wigton, Relief Book, 1879-80	CRO, Scons 4/70 CRO, Scons 4/139 CRO, Scons 7/2
MISCELLANEOUS	Maryport, beat records, 1877-c1890 Maryport, Reports to Coroner, 1880s	CRO, Scons 4/140 CRO, Scons 4/126,

ADMINISTRATIVE RECORDS		
CHIEF CONSTABLE	Letter book, 1857-60	CRO, Scons 1/2
	General orders and Circulars, 1857-97; 1888-97	CRO, Scons 1/114, 1/4
WATCH COMMITTEE & SPECIAL SESSIONS MINUTES	Carlisle, 1852-89	CRO, Ca/C 1/27/4-9
	Kendal, 1831-1907	KRO, WSMK 1 Box 8
	West Ward, Special Sessions book, 1855-73	KRO, WTPS/WW 21
DISCIPLINE	Constabulary, Disciplinary Report book, 1857-c1900:	CRO, Scons 4/22
POLICE INSTRUCTION BOOK	Constabulary, General Instructions issued to all ranks, 1857:	CRO, Scons 1/1
	Kendal, Guide to the duties of the Kendal Police Force,1877	KRO, WDX 168
POLICE SERVICE RECORDS	Constabulary:	
	Returns of the distribution and constitution of staff 1866-1901	CRO, Scons 2/19-21
	Description of persons appointed 1865-84	CRO, Scons 2/7
	Kendal: Police service record, c1868-1947	KRO, WS/Cons 10/1
COURT RECORDS		
PETTY SESSIONS REGISTERS	Alston, 1880-95	CRO, QPAL 1
	Appleby, 1880-1900	KRO, WTPS/A A-E
	Kirkby Stephen, Court registers, 1880-1901	KRO, WTPS/KS 1-4
PETTY SESSIONS MINUTES	Appleby, Rough Minute books, 1839-1916	KRO, WQ/M 31-5
	Keswick: 1873-c1885	CRO, QPK 1

Occurrence books: accessing the words of ordinary policemen

The occurrence book was the volume used to record events at a police station. Any event reported to the police or action taken by the police, other than basic routine such as patrolling, was recorded in this book. For example:

> *Kirkby Stephen Detachment, 16th March 1874. During the night of the 12th Inst. a black faced Hogg sheep was worried to death by some Dog or Dogs at present unknown in a field adjoining Kirkby Stephen the property of the Rev.d J Simpson of Kirkby Stephen Vicarage Value 15/-. Information received at 11am on the 15th Inst. N Hutchinson, Serg.t. [in the margin] the Dog or Dogs cannot be [identified?] (KRO, WS/Cons 4/1)*

This entry is typical of the occurrence books, in that most of the entries are of very minor events, often of a very local interest. Lost dogs, lost property, sudden deaths, fires, diseased animals and routine police business such as inspections feature far more frequently than crime or offending. The occurrence book allowed the individual policeman an opportunity to expand at length, which he sometimes utilised to reflect well upon on his actions. The reports can be very partial and self-serving, for the narrative freedom could be exploited far more than in most of the other records that a policeman completed. It is in these documents that one can access the ideas and opinions of the police, in entries that invite narrative analysis. Young, writing about a rural police force in the 1980s, observed that the Occurrence Book was obsolete, but was nonetheless valued by police officers as a means of justifying the force's existence, and proof of their 'busy-ness' (Young 1993: 109-14). The police entries in

occurrence books support Campbell's conclusion that it is in normativity that one finds the unconscious belief in policing as a force for good.(Campbell 2004, p709)

For example, on April 17th 1874 Sergeant Hutchinson (above) wrote a lengthy entry in which he described a serious assault upon Mr Raw, who was returning home drunk from Kirkby Stephen market to his farm in Mallerstang, a distance of ten miles. According to his entry, Hutchinson made careful enquiries and collected statements from several witnesses, including navvies working on the Settle Carlisle line, who had seen Raw progressing drunkenly towards midnight. In the first two pages Hutchinson detailed Raw's injuries, then described his drunken progress, leading up to the assault, from Kirkby via inn, alehouse and pub, itemising his drinks. The final page of his lengthy report reads:

Mr Raw is a very quarrelsome man when in drink and has frequently had quarrels with people at different places also on the Fells with some of the neighbours about hounding each others sheep. It is evident that Robbery had not been the object of the party who attacked him, as he had 5 sovereigns in Gold and sixpence in silver in a purse in his trousers pocket and two Five pound Bank of England notes in his pocket Book in the inside pocket of his waistcoat, which were not touched. This case was never reported to the police and the Serg.t heard by chance on the 15th inst. as he was on his way to Appleby that a man had been Violently Assaulted in Mallerstang on the night of the 13th Inst. and went and made inquiries the following day.

N Hutchinson, Serg.t(KRO, WS/Cons 4/1)

It is only in the occurrence book that a policeman could engage in such hypothesising. Entries such as this exemplify Polkinghorne's (1988: 11) view that narrative gives meaning to human experience and action, giving 'form to the understanding of a purpose to life' as well as providing an episodic framework to events.[26] One can read into Hutchinson's account 'the new standards of behaviour and self-restraint' (Wood 2003: 118) which were components of the growth of working class respectability described in chapter seven.

Hutchinson's entry is typical of several long entries which presented narratives of police operations. The narrative is clearly rooted in the concerns of the local community. His opinion of Raw can be linked with the local temperance culture described in chapter seven. Moreover, he has appropriated 'the storage of authoritative resources',(Giddens 1984: 256-62) by showing that he is in charge and is knowledgeably in control. In no other type of document was the policeman able to express such a level of opinion. The effect of this entry is that one can discover at least as much about Hutchinson as about Raw.

Occurrence books have been invaluable in this study, for they give greater access to the opinions of the men than any of the other sources. The men were not constrained by the structure, layout or official purposes of the document; they were allowed, perhaps even encouraged, to express opinions. For example, commenting on the state of drunkenness of a victim of crime, mentioned in chapter eight. Occurrence books feature strongly in this study.

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[26] Hutchinson's sophisticated account moves through the six stages of Labov's (1977: 354-96) model for analysing narrative, culminating in the passage quoted with the resolution, revealing Raw's disagreeable personality and the implicit reason for the attack, and the coda in which Hutchinson completes his tale by explaining how he became involved.

The occurrence books of detached stations

In stations manned by one constable the occurrence book served a rather different purpose, in that it was the daily diary in which the policeman recorded his hours and his work. The only books of this type found in this study are from Grayrigg, a small township some five miles from Kendal, its nearest neighbouring station. Every day, the constable recorded precisely where he patrolled, his hours and what happened. For almost every day, the final line is the same: nothing to report. Occasionally, the narrative is as revealing as that of Hutchinson, above. The content of the Grayrigg book is explored more thoroughly in chapter nine.

Making an arrest or issuing a summons: charge books

Arrests and summonses generated much paperwork. The details of an arrested person should appear in the record of persons detained; the only such record discovered in researching this study is from Kirkby Lonsdale. When an arrest was made or a summons issued, the facts were recorded in the charge book which provided a more comprehensive view of the case, including details of the person charged (age, address, trade etc.), of the offence, the prosecutor and of the outcome, even listing the costs and disbursement of monies collected in fines. If a person was arrested, the charge book detailed the possessions he or she carried, including the smallest items. These books give little idea of the constables' opinions, other than the occasional marginal note, such as 'supposed fictitious' next to a name. Documents such as the charge book did not encourage the expression of opinion by

the individual officer.[27] Occasionally a policeman's opinion can be inferred from the entry; for example Hutchinson's arrest of a navvy who was in possession of women's clothing, mentioned in chapter nine. However, the fact of an arrest or charge should be interpreted in itself as a statement of police opinion.

Court appearances: petty sessions records and news reports

Appearance in court generated further records; the petty sessions registers listed those found guilty, a simple statement of the offence, for example, drunk and disorderly, vagrancy or larceny, and penalty, with the dates and names of magistrates. They were of limited value for this study, for although they have been used to summarise totals of offences, they give very little idea of the circumstances of any case.

The newspapers usually reported the interesting details of any case, such as the statements of the defendants and the police, and the physical appearance where relevant. They tended to favour the cases that might be of most interest to their readership, whereas some reports were pared down to the minimum. These are highly filtered accounts which can only provide the journalist's interpretation of the case. Moreover, when there were more 'important' stories, the court reports in the paper diminished. For example, in April 1880, there was a disturbance according to the Kendal Mercury, or riot according to the Westmorland Gazette, on the evening of the election in Kendal. But the newspapers were very full of election news, local

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[27] One column required the policeman to appraise the character of the person: 'Previous good' was often the only choice allowed to the policeman. In other cases the policeman's judgement seems based upon the offence. Thieves from outside the locality were 'suspicious', other 'visiting' offenders were 'unknown'. These returns need to be read with Hudson's (2000: 4) warning in mind: 'Historians [are] at the mercy of categories created by their predecessors'.

and national, so there were no court reports. It has therefore proved impossible to discover whether any arrests occurred, and difficult to determine if the police really were cowed by the mob on this occasion.

Occasionally, a defendant pleaded his/her case in court. Such cases generated in the petty sessions minute book a narrative view of events that is more reliable than the newspapers and more detailed than the petty sessions registers. Most cases were uncontested, but whenever a defendant argued the case a clerk attempted to keep a verbatim record. Once the problem of legibility is surmounted, these provide an excellent narrative discourse in which the differences of the parties are teased out. They are similar to the occurrence books in that they allow the reader to engage closely with the discourses of nineteenth century policing, but they have the advantage of occasionally admitting an opposing point of view. Few minute books have survived, but it has been possible to utilise the minute book from Appleby. Where the Minutes are available for comparison, the press reports were generally accurate in giving the facts. Police evidence, as recorded in the minute books, is presented as a series of factual statements, but is clear that this testimony was highly opinionated, with the constable's views carefully presented as facts. See, for example, the cases of George Cohen and James Johnston in chapter eight.

Prisoner records

Few police records relating to prisoners are available. The most useful prisoner record for this study was the Kendal Police Photograph Book, which is the only such record to have survived in Cumbria, and has attracted some academic interest, which is discussed in the context of quantitative analysis, below (KRO, WS/Cons 10/2 1880-1910; Pooley 1994). The

photograph book used a printed format that was employed by other forces (Godfrey 2010).

The value of the photo book for this study is as qualitative data. As a guide to the priorities

and methods of the Kendal police, the value of the photo book is limited by the difficulty of

ascertaining the criteria which the police used in deciding which offenders should be recorded

by photograph, for the people shown were quite disparate. The problems with using this

source are:

- Many local offenders have not been recorded. Most of these were petty offenders, but

  even some more serious offenders have been omitted. For example, Kendal born

  William Leather, despite serious convictions in the town and across Cumbria and

  Lancashire over many years, was not in the book (Lancaster Gazette, hereafter LG,

  14 Oct 1882 p8, 30 Jun 1888 p6, 21 Nov 1888 p2, 6 Jul 1889 p6, 13 Jan 1892 p2).

- Some offenders who are shown in the book do not have any Kendal or Cumbrian

  offences recorded. There are at least five such men in the first six pages of the book:

  for example, George Bill Dawes, convicted at Newcastle and acquitted at Carnarvon

  in 1884.

- Some of the 'mug shots' in the book come without any details of the offences the

  persons shown might have committed.

The lacunae leave a distorted cross section of offenders. There are occasional clues to the

opinions of the police: for example, the description of Johanna Burke as a 'french polisher'

(possibly a euphemism) but the unique value of the Photo Book in this study is that it allows

one a view of the offender as seen by the police. In some cases, one must conclude that the

physical appearance of the offender is relevant to the police understanding of the case; for

example the cases of Molloy, in chapter eight, and Johnson in chapter nine. Its greatest value as qualitative source rests upon this, for it opens access to discursive practices that are not purely text or language related.

Police personnel and management records

This section considers the police records that were not directly concerned with offenders who had been arrested or charged. That is, documents concerned with the internal management of police and police business. The orders issued by the chief constable form a particular group, in that they are evidence of the operational priorities of the Cumbrian police. Further evidence of these priorities is to be found in the chief constable's reports to the quarter sessions, later to the Joint Standing Committee. These are examined in chapter six, in which the role of the chief constable is analysed.

Service records

Upon recruitment, a few biographical details about the man were recorded. These records have not been systematically analysed, but cursory examination suggests that the Cumbrian police recruits were, as described in other studies, largely recruited from unskilled or semi-skilled jobs (Emsley 2009; Klein 2010; Steedman 1984; Taylor 1997; Taylor 1991). Cumberland and Westmorland Constabulary recorded every six months the location, rank and pay of every man, with changes and references to disciplinary action in the ensuing half year appearing as annotations. Again, the picture is similar to that described in other studies (CRO, SCons 2/21 1891-1901, SCons 2/20 1874-1890, SCons 2/19 1866-1873, KRO, WS/Cons 1/1 1866-1915, WS/Cons 10/1 1860-1947).

Inspection reports

Every year, the Inspector of Constabulary[28] inspected the Constabulary and Borough forces, and signed the occurrence books to record his visit. The reports have been studied, but fail to give much information about the operation of police in Cumbria, for the conclusion of each inspection says little more than 'the force is efficient'. The reports have been used to discover the sizes of the forces.

Watch Committee Minutes

Kendal and Carlisle Borough police were each managed by a watch committee. The fortnightly meetings were minuted, but usually the business was very mundane, concerning approval for payments. Often there was no detail of what was being paid for. Issues of moment do appear in the minutes from time to time, for example the discipline of the men of serious offences and disturbances. The minutes never recorded the discussions or disagreements within the committee, but merely presented the resolutions passed, which limits their value as a means of understanding the discourses of policing. At times, the newspaper reports of the watch committees' efforts are more revealing than the minutes themselves. Nevertheless, the minutes have been useful in examining the discourses of policing in particular crises, for example the rape of Tabitha Rutter, examined in chapter six (CRO, Ca/C 1/27/8 1875-1882, Ca/C 1/27/5 1856-1862, Ca/C 1/27/4 1850-1856, Ca/C 1/27/9 1882-1889, KRO, WSMBK/1/21/1 box 8 1831-1903).

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[28] Inspector of Constabulary, annual reports from 1857(Parliamentary Papers, hereafter PP, 1857 et seq.).

Correspondence and station paperwork

Maryport Police Station has provided an unusual collection of police station paperwork (CRO, SCons 4/126 c1875-1885, SCons 4/127 c1875-1885, SCons 4/139 1885-1889). It seems that Inspector Grisdale retained many of the documents, including several letters that might normally have been disposed of after a few weeks or months. The range of topics is remarkable. The public asked him to look for their missing property, to send details of bodies found on the coast, to search for errant husbands, to verify the character of people seeking employment or engaging in business, from poor law guardians tracing absent parents and from others making requests. These documents were not written by police, but they do reveal what the general public expected or hoped of the police, ranging from the banal to the serious, from perfunctory orders and abusive complaints to plaintive requests. The surviving Maryport police paperwork relating to their duties includes routine documents completed by policemen.

- Detailed beat schedules, with reports from policemen to explain why they had been unable to attend stipulated conferences. Conferences are explained in chapter nine (CRO, SCons 4/69 1877, SCons 4/140 1879-1890).
- Lists of vagrants, scrawled in haste by constables in compliance with the chief constable's order to record those staying in common lodging houses (CRO, SCons 4/70 c.1870-1880).
- Monthly compiled returns: 'Return of tramping vagrants in conformity with circular 27415, dated 17th January 1878' (CRO, SCons 4/139 1885-1889).
- Reports to and telegrams from the coroner concerning sudden deaths (CRO, SCons 4/126 c1875-1885).

- Formal requests for information or action from other forces, many of which were completed pro-formas sent by ha'penny post. These are usually letters from senior officers. Amongst these missives from elsewhere are letters originally sent out by Grisdale, but subsequently returned with annotations. For example, on 27th October 1877 Grisdale wrote to Glasgow Gaol to request information about a man whom he believed to be there. The reply which was posted the next day was Grisdale's original pro-forma with the words 'Nothing is known here of the person mentioned below', signed by the governor (CRO, SCons 4/4 1884-1885, SCons 4/6 c1880-1888).

- Formal reports describing offences committed and/or suspects wanted, circulated within Cumbria (CRO, SCons 4/148 1877-1881, SCons 4/75 1877-1881).

- Reports from constables describing the actions they have taken in particular cases, usually expressing the opinion that the persons involved should be prosecuted. These exemplify the careful construction of cases by constables to convince senior officers. The constable's opinion had to be endorsed by the inspector and signed off by the superintendent, so that these documents occasionally expose divisions of opinion within the force (CRO, SCons 4/127 c1875-1885, SCons 4/128 c1875-1885).

A similar set of documents was found with the Grayrigg Occurrence Book (1892-1902). Although the Grayrigg collection is less wide ranging than that at Maryport, it does give further evidence of the systems in place. These documents contain some highly narrative accounts which give a voice to the ordinary person, whether policeman or member of the public. The policemen's reports of incidents, described in chapter nine, are invaluable for although they were constrained by the requirements of police systems they reveal what the

men considered important. Maryport and Grayrigg have provided minor documents that allow an insight into the discourses of policing at the lowest level of the hierarchy.

Primary sources outwith Cumbria

A handful of documents held in the National Archive have been used, but interventions by central government were rare, as is explained in chapters five and six, and correspondence from the Home Secretary's Office invariably supported the actions of the chief constable.[29] A more valuable source of information relevant to this study has been the Parliamentary Papers. This diverse archive has been able to provide many detailed references to the content of this study. Rather than create a tedious list of the documents used, the purposes served by their use are summarised under two headings:

- Opinion: the points of view of many persons are presented in a wide variety of contexts.
- Statistics: an 'avalanche of numbers' (Hacking 1991; 1990) was the outcome of the rational quest for understanding in the nineteenth century. Numerical answers to many detailed questions exist in this vast volume of data.

Opinion

Parliamentary enquiries invited evidence from a wide range of witnesses. Although the testimony given must be treated as partisan, it gave a valuable insight into the opinions of

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[29] For example, in the handling of Inspector Rollo of Whitehaven, mentioned in chapter six.

some sections of society,[30] including John Dunne, other professional policemen, and 'well-born' gentlemen. But the views of the relatively humble appeared regularly. For example, in 1834 Joseph Livesey, working man and temperance pioneer, spoke to the Select Committee on Drunkenness (PP 1834:307). Cumbria was well represented on this stage, for Dunne frequently gave evidence, as is explained in chapter six. But many other voices are to be found. For example, the Reverend James Simpson, vicar of Kirkby Stephen, whose sheep is mentioned above, gave a detailed and valuable response to the Commission on the employment of Children in Agriculture (PP, 1868a:548). Edward Whitwell of Kendal, mentioned in chapter seven, gave evidence to the Select Committee on Intemperance in 1878 (PP 1878:16). The precise records of these committees allow an insight into the opinions of many men of the middling sort.

Statistics

This study has drawn upon the statistical data contained in the Parliamentary Papers to explore the work of the police. The main source used has been the Judicial Statistics which aimed to give data on offending and the arrest and punishment of offenders. The collection of these data, compiled with positivist intentions, only became possible with the creation of police forces across the whole kingdom in 1857 (Morris 2001:112-3). It was assumed that an

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[30] The opinions of ordinary policemen have not been found in these papers.

understanding of the 'facts' of crime would be a first step towards tackling the problem. (Emsley 2007: 117-34). This positivist fallacy privileged data without recognising that crime statistics were created by official categorisations which were invariably culturally generated.[31]

Some historians, e.g. Welsh (1997), have relied upon the contemporary published statistics relating to offending, but these are inadequate on their own for this study, for the statistics' value is limited by another caveat. Although the statistics were presented as fact, the numerical information presented in the Parliamentary Papers falls well short of the objective standards applied by the modern historian or social scientist.

Quantitative analysis

Analysis by spread-sheet has been sufficient for this study. The numbers charged under the various headings, the locations of offences, offenders' ages, the proportion of males to females and much more are compared and analysed in this study. Sindall introduces another caveat here: the statistics on crime are not a reflection of criminal activity, but are simply phenomena measuring what Victorians believed about crime (Sindall 1990: 20). The criminal statistics allow the reader some idea of what the police were doing, but give at best a limited idea of what offenders were doing. The problem with the use of criminal statistics is that they are a social artefact: they show not the reality of crime, but the control response to certain types of behaviour (Fairburn 1999: 181). Statistics were filtered by the discretion of the men and were blind to the 'dark figure' of unreported crime but their potential for this study is that

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[31] This point is derived from Bailey's (1998: 15-27) work on suicide.

they allow access to what concerned the Victorian police and their masters (Williamson 2003: 55; Tobias 1972; McDonald 1982; Casey 2011: 368).

Gatrell and Hadden, in their pioneering article on the criminal statistics of the nineteenth century, concluded that an analysis of crime data from small counties and boroughs would be of negligible value because of the distortions through contingencies and local factors. Cumbria and its boroughs were certainly small, but Gatrell and Hadden had a different purpose from that of this study: they were seeking to understand trends in crime, and to relate them to economic fluctuations and social change at the national level. This study is not seeking to analyse offending, but to understand policing. Whereas contingencies and local factors were distortions for Gatrell and Hadden, they are the focus of this study, which is seeking through a hermeneutic approach to understand the vagaries of policing as a cultural phenomenon (Gatrell and Hadden 1972: 360-1). In this study, comparison of the rates of offending in Cumbria with national rates serves as a means of assessing similarity and difference, so that rather than regarding the divergences as distortions to be ignored, they are points of interest to be explored. Gatrell, in a subsequent article, made significant progress in interpreting the data in order to access the trends in certain types of offending from 1834 to 1914. His work was valuable, convincing and pioneering, but its significance for this study is its caveats, for he concluded that trends in criminal statistics could only be interpreted in the long term; short term 'blips' were invariably attributable to changes in the law, to 'moral panics' (Gatrell 1980: 289-92).

Particular reference must be made here to Pooley's study of the Kendal Police Photograph book, which is the only academic article found during this study that related to the primary

sources used here. Pooley (1994) used the photo book as a source of data to analyse the

itinerant nature of petty offenders. Statistical techniques (Chi squares) were employed to

reach his conclusion that rates of itinerancy of the females, i.e., how far and wide they had

roamed, were lower than those of the males; but that when categorised in other ways, for

example, age, trade, offence, the rates were similar. Pooley's general conclusion, that petty

and serious offenders were surprisingly mobile, is valid but one must doubt the value of his

statistical analyses, for the lacunae of the book mitigate their robustness, which bears out

Gatrell and Haddon's (1972) general point about the problem of local distortions. The

peregrinations of offenders cannot be accurately quantified or compared when so many

serious and minor offenders, locals and off-comers are missing. The Photograph Book's

value is that it reveals the work of the police, but it does not provide sound analysable data

about the deeds or movements of offenders.

For this study the fundamental question that might be answered by a statistical analysis is:

was policing a response to crime levels, or did crime levels change according to the levels

and types of policing used? Some historians have approached this question, but have failed

to come up with clear answers. Stevenson's (1986: 48-9) study related the data on habitual

criminals to patterns of policing in English towns and counties. Gerard (2005: 224). used

crime statistics to inform his study of policing in Gloucestershire,1814-1830. Wong (1995:

244-5) made a sophisticated economic analysis in which he explored the incentives that

persuaded offenders to offend or desist. The significant point for this study is that these

historians' conclusions have been generalised and limited, and needed the support of

subjective data, lest they be challenged with the maxim *post hoc, sed non propter hoc*. In

contrast to these studies, Williams (2000) doubted the validity of the data as a means of

assessing crime levels in Victorian Sheffield and used the data relating to arrests to estimate

the impact of policing upon the working class of that city. The approach in this study has been

similar to Williams': to use data to examine the work of the police. Analyses that are derived

almost entirely from statistical data, such as Stevenson's and Wong's, tend to lack the

detailed context, which is essential to distinguish cause and effect, to test the validity of

conclusions, and to situate the study within the cultures of the time and place.

Qualitative balance

This study has endeavoured to avoid the shortcomings described above by balancing the

quantitative analysis with qualitative appraisal. One of the first historians to aim for this

balance was Tobias (1972) with his '*Crime and industrial society in the nineteenth century*'.

Wallach expressed a similar aim when she argued against the positivist use of statistical

evidence and said that statistics are:

> *neither totally neutral collections of fact, nor simple ideological impositions. Rather*
>
> *they are ways of establishing the authority of certain visions of social order, of*
>
> *organising perceptions of 'experience'. (cited in Scott 1988: 115)*

Turner (2009), who was working in a similar field to this study, but was more concerned with

the offenders than police, achieved a balance between quantitative and qualitative data, as

did Scollan (1993) with her study of the police in Essex. Gillis's (1975) work is perhaps

closest to the methodology of this study: he used the crime statistics in the city of Oxford as

an entry point into his cultural study of the changing provision for and attitudes towards

adolescents in the city, treating the data as an indicator of what police and courts were doing.

Summary

This chapter has identified sufficient primary sources to present an analysis of policing in nineteenth century Cumbria. The sources allow quantitative analyses and provide an insight into the ideas, beliefs and actions of ordinary policemen, sufficient to prove that discretionary policing was rooted in the plebeian cultures of the rank and file policemen.

The main purpose of quantitative analysis in this study is to understand the thinking and actions of the police, for this can provide information about the actual behaviour of the police that is in one sense more reliable than the stated opinions of the police themselves, their superior officers, the magistrates or the wider public, for the data can differentiate what the police actually did from what was claimed (Fogel and Elton 1983: 45; Munslow 2000: 57-60).

The qualitative analysis considers how, and the extent to which, the discourses of policing were controlled or influenced by the police and others. The quantitative and qualitative analyses in this study balance each other. Data are mediated and interpreted by the qualitative analysis, and what might otherwise have been challenged as subjective, or a value judgement, is grounded in quantified information. Thus this cultural history avoids the accusation of relativism (chapter one), for it is grounded in objective data (MacRaild and Taylor 2004: 138-9). The fusion of qualitative subtlety and quantitative precision allows engagement with the dynamics of meaning in the routine actions of the Cumbrian police (Sewell 2005).

The primary sources have been outlined, and the resources, tools and ideas that are

deployed in chapters six to nine have been presented, so that the discourses and methods of

policing Victorian Cumbria can be deconstructed.

Chapter four: Victorian Cumbria

Introduction

This chapter examines Cumbria in terms of social and economic change and continuity in the nineteenth century; the examination of the concrete is set against the myth of a distinctive Cumbrian character. These two strands are essential to this study of policing, for the police were not simply dealing with the problems created by the material circumstances of people in Cumbria in the nineteenth century, they were dealing with the interpretation of those problems. The actions and opinions of police, offenders and the general public, as is apparent in the following chapters, were all mediated through their perceptions of the mythic Cumbria as well as the Cumbrian reality.

The focus is on the region[32] for regions are as Marshall (1986: 1-2) has said are not simply economic or physical entities, they are defined by the people. The geographical, economic and social similarities and differences within the counties which form Cumbria, and in relation to the rest of Britain are considered. Girling, Loader and Sparks (2000: 162-3) have been critical of a trend in contemporary criminology towards 'an insensitivity to place'. This study accepts that place matters. The towns, villages and dales of Cumbria had a strong sense of

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[32] Appendix A includes a map of Victorian Cumbria.

their own identity which they were determined to defend, so that Kendal Watch Committee praised Sergeant Medcalf, when he arrested a gang of thieves, for 'ridding the Borough of a serious evil' (KRO, WSMBK/1/21/1 box 8 1831-1903, Nov 29 1881).

A comparison is made with Wales, a region of Britain which seems to be similar to Cumbria in many ways. The aim is to set the background for the policing of the two counties of Cumberland and Westmorland, to understand the distinctive features of the region that informed and directed the policing of the two counties. At the heart of this chapter is the perception of Cumbria as different.

The Cumbrian economy is examined briefly in terms of its agriculture, trade and industry, but there is no detailed description of industrial or agricultural change, for these are peripheral to the main purpose of this study, and are well covered elsewhere (Marshall & Walton 1981; Marshall 1978; Marshall &Davies-Shiel 1971; Shepherd 2003; Whyte 2003; Williams 1975a). Migration in Cumbria (in, out and within) is discussed and the nature of the working class in Cumbria analysed. These points are linked to the idea of Cumbrian distinctiveness, and to the priorities, recognised and implicit, of the police.

Mythologising Cumbria

Before 1750, Cumbria was often defined in terms of a perceived uncivilised remoteness. Travellers such as Defoe; Camden; and Fiennes considered it wild; lean; desolate; terrible.(Whyte 2003: 21-2; Cousins 2009: 11; Defoe 1928; 1927: 269-70) The Romanticism of the late eighteenth century began to eulogise Cumbrian culture and geography (Huggins 2012; Carlson 2010). Cumbria seemed to epitomise Rousseau's opinion:

Nothing is more gentle than man in his primitive state, as he is placed by nature at an equal distance from the stupidity of brutes and the fatal ingenuity of civilised man… keeping a just mean between the indolence of the primitive state and the petulant activity of our amour propre … the happiest and most stable of the epochs… men remained content with their rustic huts. (Rousseau 1993: 91)

The Cumbrian William Wordsworth articulated similar ideas which were picked up later by eminent off-comers such as Ruskin. They reinterpreted the wildness as a virtue lying at the heart of what they believed to be the sturdy self-reliance of the Cumbrians. Wordsworth himself played a significant role in constructing the myth, for on his first visit to London he was shocked, but nonetheless impressed by the contrast with his native Cumbria. In the anonymous crowd and unrecognised faces he saw a loss of identity, 'a new kind of society…No experience has been more central in the subsequent literature of the city' (Williams 1975b: 150). This statement can be reversed: Wordsworth's verses were central in defining Cumbrian exceptionalism for the literate urban population.

The nineteenth century saw a growing movement to preserve what was considered to be different, special and superior about Cumbria. Ruskin, a frequent visitor, and resident for his last thirty years, often expressed his concerns about the threat that industry and modern transport posed to Cumbria, fearing the arrival of drunken masses and physical destruction. For example, he deplored the building of the railway and a station right alongside the romantic ruins of Barrow Abbey (Waller 1983: 98-9). [33] A tourist guide book of 1893 listed several groups which were aiming to preserve the region, such as The Lake District Defence Society (Windermere) and The Footpath Society (Kendal, Mr E. Whitwell, who is mentioned in chapter seven) (Jenkinson et al. 1893: 16-7). The National Trust, founded in 1895, originated in Keswick (Brunton 2001).

Cumbria's wild landscape is today revered rather than feared, but the wildness still dominates Cumbrian discourse in every sense, and this has engendered the idea that the terrain has shaped the character of the people. This idea has become definitional of Cumbria's 'imagined community' (Anderson 2006). Here Wordsworth describes Michael, a husbandman of Grasmere:

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[33] Barrow is in modern Cumbria. Before 1973, it was a Lancashire town.

An old man, stout of heart and strong of limb.

. . . .: his mind was keen,

Intense, and frugal, apt for all affairs,

And in his shepherd's calling he was prompt

And watchful more than ordinary men.

'Michael, the Shepherd of Grasmere'.
William Wordsworth (1965: 137) First published in 1800.

Whether Wordsworth was originator of, or heir to, the idea of the robust and independent nature of the Cumbrians is not relevant to this study, but his was certainly the best voice to articulate the myth[34] in the early nineteenth century. Michael the Shepherd epitomised the rugged Lakelander, whose struggle with the elements and terrain had shaped his self-reliant, dependable determination. This myth is alive and well today:

Cumbrians deserve a big hand this year. …the people of Cockermouth, Keswick, Workington and a hundred other places battered by 2009's floods have given the rest of us a lesson in self-help this year. . . . . But the energy and imagination has been terrific; the neighbourliness inspiring; the generosity within the county, from people and businesses facing their own costs and travails, exceptional. How come? … This is a sturdy part of the world, used to coping because it has always had to. Cumbrians know about lifting up their eyes to the hill for help. (Wainwright 2010: from The Guardian, 12 Dec 2010)

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[34]The use of the word myth does not imply that this idea of the Cumbrian personality is not valid, but the word is used because it is an idea that is not verifiable. The word myth is used in the sense that Malinowski employed: a story with a social function (Burke 1992: 101).

Wainwright mentioned the serious floods of December 2009, but omitted any reference to the crazed rampage of murder by the Cumbrian Derrick Bird at Whitehaven the following Easter (Whitehaven News online 2010). Mythology requires some details to be forgotten.

The myth is relevant on a very practical level to this study, for it can be linked to the belief held by many in nineteenth century Cumbria that crime in the region was predominantly perpetrated by outsiders, which recurs in the narratives of the following chapters. Wordsworth's Michael suggests that Cumbrian purity is only threatened by outside corruption. Michael is faced with ruin through the bankruptcy of a kinsman. To escape indigence, Michael allows his fine young son to seek his fortune in London, but the youth is seduced into wickedness and crime by the capital city. It is not surprising that the poet strongly opposed the Windermere Railway in 1844 (Prickett 2002).

Henry Mayhew, who wrote so much about the social problems of London, visited Buttermere and used his fictional story of a statesman (yeoman farmer) to contrast Cumbrian honesty and innocence with urban England:

> *Cursty Sandboys was the easy dupe of many a tramp and Turnpike sailor that with long tales of intricate and accumulative distress . . . . sought out the fastnesses of Buttermere to prey upon the innocent hospitality of its people. (Mayhew 1851: 12)*

Ruskin similarly eulogised Cumbrians, who he said:

. . . . are hitherto a scarcely injured race, whose strength and virtue yet survive to

represent the body and soul of England before her days of mechanical decrepitude

and commercial dishonor. There are men working in my own fields [at Coniston] who

might have fought with Henry the Fifth at Agincourt without being discerned from

among his knights; I can take my tradesmen's word for a thousand pounds; my

garden gate opens on the latch to the public road, by day and night, without fear of

any foot entering but my own, and my girl-guests may wander by road, or moorland,

or through every bosky dell of this wild wood, free as the heather bees or squirrels.

(Ruskin 1885: 59)

The myth has been retold many times in the last two hundred years: invariably the stories explain the phenomenon as a product of the distinct geography of Cumbria; the attention-grabbing scenery has seized the imagination, and provides a romantic explanation for the Cumbrian character.[35]

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[35] Mrs Humphry Ward (1974: 4) wrote, in her novel 'Robert Elsmere', of the high valleys of Westmorland: *Man is still well able to defend himself against her (nature), to live his own independent life of labour and will, and to develop the tenacity of hidden feeling, that slowly growing intensity of purpose, which is so often wiled out of him by the spells of the South*. Walton (2000: 90-3) wrote of similar idealised appraisals of Basque people being voiced by visitors in the nineteenth century.

Definition and geography of Cumbria

Modern Cumbria comprises the old counties of Westmorland and Cumberland, with Furness, the part of Lancashire that is to the north of the Morecambe Bay.[36] The regional unity of Cumbria was generally accepted during the period covered by this study as a geographic and cultural entity. For example, from its inception in 1866 the Cumberland and Westmorland Antiquarian and Archaeological Society included Furness with the two counties in its remit (Marshall & Walton 1981; Beckett 1981; Huggins 2001: 36). This contrasts with the North East, the regional identity of which historians, contributing to a recent study, were unable to find: Northumbria has not existed, as a region, in any meaningful sense since at least the Middle Ages (Green & Pollard 2007). Newspapers in the North East did not reflect a regional identity, whereas the Cumbrian press shared an interest in the Lake District and the rural economy (Huggins 2000b: 139).

The Lake District, in the popular imagination, defines Cumbria, which has been recognised, at least since the time of Wordsworth for its unique beauty. Lakeland forms the geographic heart of Cumbria, reaching into each of the three counties. However this view neglects the large areas of Pennine upland in the east, the significant coastal plains in the north, the west and in Furness, and the rolling country of South Westmorland. The climate and terrain of the upland areas has favoured pastoral agriculture, but the coastal plains, the Eden Valley and the south of Westmorland all offer an easier environment for the farmer. The complex

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[36]Furness is etymologically 'further-ness', Lancashire 'north of the sands' is closer to its Cumbrian neighbours than to Lancashire by every important criterion.

geology of the region has offered the potential for mining lead, iron, coal, slate, copper, silver, graphite, gypsum and more.

Transport

Transport by land has always been difficult in Cumbria; before the nineteenth century, the roads were notoriously bad and the use of packhorses continued long after 1800 (Williams 1975a, Hallas 1996). The direct land route to Scotland was turnpiked in the 1760s, but the climb over Shap summit remained difficult. It was not until the 1820s that this main road to Scotland was realigned and reconstructed for the use of heavy and fast wheeled traffic (Hindle 1984).

The canal network reached Kendal in 1819, but its impact was slight, and it was soon eclipsed by the railway. Carlisle was linked by rail to Newcastle in 1835, and the line was continued to reach the coastal towns to Whitehaven by 1840. The main line to Scotland passed Kendal in 1846 and continued through Carlisle, allowing the city to be transformed into an industrial and commercial centre (Marshall & Walton 1981; Rice 1974).

Transport improvements allowed the first opening up of Cumbria to mass tourism (Pocock 1979) and gave migrants far easier entry to, or exit from the region, so that, by 1857 when the Constabulary was established, Cumbria was for the first time within a day's travel of all of England's and Scotland's centres of population (Bradshaw 1869, 1854). The Cumbrian experience in the nineteenth century bears out Langton's opinion that increased inter-regional contact intensified regional differences (Langton 1988: 170-6).

Cumbrian distinctiveness

The north/south divide

It is difficult to delineate exactly where 'the North' begins as one travels up from London (Howell 2004: 65; Rawnsley 2000: 4) but the separate and discrete identity of Cumbria is clearly epitomised by its accent and dialect. The short distance between junctions 35 and 36 on the M6 crosses, even in modern Britain, a significant shift of accent. One who has taught in secondary schools in Lancaster, Carnforth and Kendal is very aware of the shift. Many have observed that there is a significant dialect boundary along an approximate line of the rivers Lune, Wenning, Ribble, Wharfe and Humber, corresponding with the Cumbria border up to the Pennines (Trudgill 2004).[37] Perhaps the accent has softened, or today opinions on accents are more tolerant, but in 1861, the Cumbrian dialect was a difficult problem for the Commissioner reporting to the Parliamentary Education Commission: 'one of the most uncouth dialects it was ever my lot to hear' (PP, 1861: 34). Rollinson remarked how the Cumbrian accent has endured despite immigration from Scotland, Ireland and the rest of England into the industrial and tourist areas (Brook 1978; 1963, Rollinson 1997).

One might suppose that the distinctiveness of Cumbria is simply a function of its remoteness from London; that Cumbria is simply at the extreme edge of the north-south divide (Howell

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[37] This line originally followed the ancient border between Northumbria and Mercia; it is 'A better-established boundary between north and south and one along which occurs the bundling of some historically very important isoglosses' (Wales 2009: 19-21), which means that at this point occur the greatest number of significant accent changes in the north to south transition. Wakelin (1972) reported that, to the east of the Pennines, the boundary has moved steadily north in the twentieth century, whereas it has remained fixed at the Westmorland border in the west. The next shift does not occur until the motorist is beyond Carlisle and entering Scotland.

2004, Jewell 1994). Cumbrians certainly match the image of 'Northern "grit," being earnest

and matter-of-fact, quite unlike the soft and gentle Southerner' (Pocock 1979: 66), but this

assertion is qualified by Horne's description of the metaphors of Northern and Southern

England after the industrial revolution as (respectively) 'pragmatic, empirical, calculating,

Puritan, bourgeois, enterprising', and ' romantic, illogical, muddled, divinely lucky, Anglican,

aristocratic, traditional. . . '. (Baker and Billinge 2004). Wordsworth and Ruskin clearly felt that

Cumbria eschewed the calculating, bourgeois and enterprising tendencies of 'the North' in

favour of the traditional and romantic.

Romantic tradition versus dynamic commercialism

Wiener contrasted the idea of the dynamic, commercialising 'puritan' north with the gentrified,

traditional 'romantic' south (Wiener 1981: 41). Rawnsley wrote of nineteenth century

constructions of Northern England that were based upon the urban and industrial

environments and the dynamism of middle-class businessmen (Rawnsley 2000: 7-9). Wiener

linked three names, Ruskin, Matthew Arnold and Trollope,[38] as the epitome of Victorian

concerns about the rampant commercialism of the industrial age (Wiener 1981: 31). What

Wiener did not say was that these three all took homes, permanent or holiday homes, in

Cumbria. Nor does Wiener mention the Keswick School of the Arts and Crafts Movement

which he might well have used to illustrate his point about the reluctance of middle class

England to accept unqualified commercialism. The Keswick School was set up in 1884 by the

Rev. Rawnsley, who later founded the National Trust, upon the principles espoused by

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[38] Ruskin and Arnold are referenced below. Trollope (1864) visited regularly and situated at least one of his novels partly in Cumbria (Wiseman 2007; Sharpe 2004).

Ruskin: that is, traditional hand-craft skills were to be nurtured as a riposte to the machine-made goods flooding from the factories (Brunton 2001).

Today the popular view is that the Lake District is different from Lancashire, Yorkshire, Durham and Northumberland, which are envisaged as industrial (Pocock 1979: 64). This point of view has its roots in the mid-nineteenth century, if not earlier. Joyce argued that the industrial remained, throughout the nineteenth century, 'central to the cultural discourse of the nation and the very landscape of Englishness' (Joyce 1994). But this is an idea that is inappropriate to Cumbria. Mrs Gaskell who was very familiar with the industrial north emphasised the point in her novel of industrial Manchester, *Mary Barton*, by using the friendship between Mary and Old Annie to highlight the distinctiveness of Cumbria, when old Annie fondly described to Mary her Westmorland home, offering her its bread and dialect words (Gaskell 2006: 27-34).

The romanticised, sentimental view of Cumbria expressed by Ruskin, Mrs Gaskell and many others in the nineteenth century can be understood against the prevailing view of contemporary social change, in which, it was believed, 'customary small-scale social life . . . . dissolved in the rising waters of urbanisation, industrialisation, and secularisation' (Tilly 1988: 332). Durkheim (1858-1917) took a less negative view of modernity, describing a transition from cooperative, traditional communities with a collective conscience to a society of mutually interdependent individuals; from mechanical to organic solidarity (Durkheim 1966; 1964). Whatever view of social change was accepted, nineteenth century Cumbria could be presented as an example of the survival of tradition in a modernising world. The romantic view of pre-industrial society has been challenged (Tilly 1988: 332). Nonetheless the romantic

tradition was, and perhaps still is, the image that was promoted by many writers, especially in tourist guides to the Lake District, and is has been consciously fostered and maintained in events like Grasmere Sports and sheep dog trials (see below) (Cambridge Man n.d.; Ivison n.d.; Nicholson 1977; Wordsworth et al. 1951).

The Cumbrian working class

If the rise of a homogenous working class was situated in the industrial and urban expansion of Britain, if it is regarded as central to nineteenth century social history, then Cumbria must be peripheral. One may read this conclusion into some of the older works of social history. For example, Cole's works, *The Common People* and *A Short History of the British Working Class Movement*, in which Cumbria is hardly mentioned in 1200 pages (Cole 1956, 1947). This is similar to the way in which contemporaries such as Ruskin, Martineau, Mayhew and Mrs Gaskell lionised Cumbria as an unspoilt society and region, and looked elsewhere for their descriptions of the problems they wished to explore (Rice 1974: 110; Martineau 2007: 118). So it is not surprising that few of the primary sources deployed in the standard works of nineteenth century social history refer to Cumbria, even though writers who knew Cumbria well are frequently quoted. For example, several collections include pieces by Ruskin, Arnold, Martineau, Trollope, Mrs Gaskell and Henry Mayhew. (Evans 1978; Golby 1986-7; Haight 1976). It was easy to see the region as quaint, possibly even backward, a trivial detail in the narrative of industrial expansion, social reform and political progress. But E P Thompson (1963, 1967), whose ideas were discussed in chapter two, effectively questioned the teleological and homogenising class analysis implicit in this narrative. The fissiparous nature of the working class, which emerges in chapter seven, means that this Cumbrian study

cannot be dismissed as peripheral or irrelevant, for it is detailed studies such as this that demonstrate how the working class were not at all monolithic. The Cumbrian working classes comprised myriad disparate groups: the police, the Primitive Methodists, the temperance movement, Catholic iron miners, live-in farm servants, poachers and drinkers and many more. The structure of the working classes was quite different in every region, but this study of working class cultures in Cumbria assumes analytical value beyond the quaint, because it may be taken as an exemplar rather than a curiosity in understanding social change.

Cumbrian culture: immorality

Nineteenth century Cumbria differed from the rest of England significantly in its culture. For example, levels of illegitimacy were considerably higher than the rest of England. The rate of illegitimate births in Cumbria was more than twice that of London. In Alston and Kirkby Stephen, the unions where church attendance was highest in the 1851 census, discussed in chapter seven, the illegitimacy rates were the highest in the kingdom (PP, 1870). In 1865 a campaigner attempted to tackle 'the problem', but his meeting in Keswick and the offer of a prize for the best essay on the subject met with derision (Marshall 1995). Harriet Martineau in the local press dismissed the idea of premarital sex as a problem. William Henry Wakefield, banker, landowner and magistrate of Westmorland, spoke at the Cumberland and Westmorland Agricultural Society in September 1865 to condemn the wrong and false impression that Cumbrians were immoral. His argument was that, although levels of bastardy were high in Cumbria, prostitution was far less frequent than elsewhere. Prostitution was a 'fearful evil', whereas illegitimacy was, he felt, a far less serious problem that was quite understandable in the context of the system of live-in farm servants that was so widespread

in Cumbria (WMG, 2 Sep 1865 p8). Many contemporaries linked high bastardy rates to the practice of live-in farm service, but there is no sound evidence to support this conjecture (Marshall 1995).

Cumbrian sport and leisure

Cumbrian sport, which was in its plebeian forms essentially a working class phenomenon, was and is another marker of the region's uniqueness. Cultural differences from the rest of England are underlined by such distinctive Cumbrian activities as hound trailing, Cumberland and Westmorland wrestling, fell racing and sheep dog trials; they have in some cases been adopted elsewhere, but remain culturally defining of Cumbria (Marshall 1995; Askwith 2004; Armstrong 1870; Litt 1823; Huggins 2012). Machell in seventeenth century Westmorland described the holiday sports and games practised by the 'common sort' meeting on the moors. He mentioned pitching, throwing, bowling, horse racing, foot racing, shooting, dancing and leaping, but did not mention wrestling (Fox 2012: 340). Machell's omission reminds us that tradition often had a relatively short history, for the sport which was the most popular in Cumbria by 1800 was not even worthy of mention in 1650.

Cumberland and Westmorland wrestling

Wrestling was probably the region's most popular sport (Huggins 2001).[39] Police routinely attended wrestling events (CRO, Ca/C 1/27/2-9). This attendance seems to have been part of

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[39] Cumberland and Westmorland wrestling migrated to London in the first half of the nineteenth century, practised by Cumbrians in the capital as a way of sustaining their cultural identity (Armstrong 1870: 37; Huggins

their duties, redolent of the symbolic power of the police. No untoward incidents arising from such events have been found. Wrestling seems to have proceeded without problems, which contrasts significantly with another combat sport, prize-fighting, that took place occasionally in Cumbria. The significance of this contrast is analysed in chapter seven.

Football and cricket

Huggins and Murfin explained that the sports which were growing in popularity in the rest of Britain in the late nineteenth century – soccer, rugby, cricket, tennis – 'seemed initially to have had little impact on such specifically Cumbrian sports as wrestling, hunting on foot, hound trailing, or fell racing, which brought different classes together.' Football[40] (association and rugby) and cricket made little impact. Before the Great War the handful of clubs and their few spectators were invariably middle class, and confined to the larger towns of the region (Huggins 2000a: 37,110-8; Murfin 1990: 159-61; Marshall & Walton 1981: 147-54).

Traditional sports

Traditional Cumbrian sports enjoyed high status and Huggins has linked them with 'the maintenance and promotion of a specifically Cumbrian identity and cultural heritage'. Traditional Cumbrian sports have been linked with the geography and agriculture of the region. Wrestling skill and speed on foot across rough fell were prized by shepherds, as were

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2000b). Significantly the sport of wrestling was least popular in the town of Barrow, which grew rapidly in the second half of the nineteenth century with large numbers of migrant male workers from Ireland and the rest of Britain (Huggins 2001).

[40] Traditional, anarchic football matches continued in Workington, and survive to this day, but this is a quite distinct phenomenon (Murfin 1990: 110-3).

dog handling and hunting skills, but this was probably an invented rather than a necessary tradition (Huggins 2000b, 2001: 57; Askwith 2004: 158). Events such as sheep dog trials were a nineteenth century innovation(PP, 1868a: 764; Marshall 1981) but they have certainly become a 'traditional' Cumbrian sport.

Hunting

Hunting was popular in Cumbria, but fox hunting in the region developed quite differently from much of Victorian England in that it was a much more plebeian sport. Hunting was seen by small farmers as a necessary means of controlling vermin, but developed into a sport (Marshall 1981; Murfin 1990). There were one or two upper class hunts, such as the Cumberland Foxhounds, but many packs included humble men, such as John Peel of Caldbeck (died 1854), who is remembered in song. Peel was a small farmer, and master of foxhounds, whose coat was 'hodden grey', or homespun (Mason 2011: 155-64; Marshall & Walton 1981: 95). Tommy Dobson, Master of the Eskdale and Ennerdale hunt, 1857-1910, started his working life aged eleven as a bobbin maker and died hunting, aged 83 (Mason 2011: 82-5). In Lakeland, following the hounds on horseback was not practicable. Packs like the Eskdale and the Ennerdale were followed on foot, which gave the rich no advantage; what counted was athleticism and knowledge of the fells (Carr 1976: 84-5). These packs often had no gentry members, although sometimes with gentry as patrons (Mason 2011: 90-7; Murfin 1990: 225-44).

From hunting derived other dog-related sport. Whippet racing was popular in the mining districts of West Cumberland. Hound trailing developed as a uniquely Cumbrian sport in

Lakeland and the Pennines. [41] Traditional sports and rural pastimes such as these became entertainments in the nineteenth century.

Shows and Lakeland sports

The Rev. Simpson of Kirkby Stephen claimed to have initiated 'shows of flowers, poultry and dogs', including sheep dog trials to bring people together (PP, 1868a:550). The mid-century saw the start of the tradition of Lakeland sports, day long events that could be claimed as 'rational recreation'. Grasmere Sports started in 1852, the Guides Race was first run in 1868. As links with the rest of Britain improved, the popularity of Cumbrian sports grew, particularly at the highly organised events such as Grasmere (Machell 1911; Times 26 Aug 1885 p8). But this was not merely the result of pandering to the tourists who were so keen to experience Cumbrian culture, for events such as hound trails and wrestling matches continued throughout the year in small scale meetings and matches organised from pubs. These events were seen as traditional, and are still regarded as important for defining and maintaining a Cumbrian identity (Huggins 2000: 47).

Fairs

The nineteenth century saw fairs of all types, including hiring fairs, attacked in many parts of England as out of date and as hotbeds of immorality. But in Cumbria there was hardly a voice ever raised against them. Hiring fairs continued to thrive in the region and even expanded

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[41]In this sport, a trail of aniseed and turpentine is laid along a course of ten miles or so across the fells. The hounds are released from the show field; the first one to return is the winner, usually taking about half an hour. Hound trailing started in the 1840s (Murfin 1990: 103-5; Mason 2011: 186-8).

into the twentieth century. The Rev. Simpson was not alone in speaking up in favour of the recreational value of the fairs. Cumbrian fairs continued throughout the century as important commercial events attracting large numbers to do business and to enjoy themselves (Rollinson 1974: 118). This is covered fully in chapter eight.

Langton's opinion that increased inter-regional contact intensified regional differences is supported by the evidence from Cumbria (Huggins 2000b). This social geography of Cumbria now needs to be set against the material geography of Cumbria in the second half of the nineteenth century.

The Cumbrian economy

Agriculture

Cumbria was, as it still is, one of England's most rural regions. This was particularly true of Westmorland, but even in Cumberland and Furness the economy remained predominantly agricultural. This contrasts with the wider region of North West England which was throughout the nineteenth century the least agricultural region of England (Howell 2004: 68). Cumbrian agriculture has always been biased towards stock rearing, especially in central Lakeland and the Pennines. In Westmorland, almost eighty per cent of the county was given over to rough grazing in the nineteenth century. For at least two hundred years, the Lakeland and Pennine areas of Cumbria have contained the largest area of upland grazing in England (Straughton 2008: 2-4). There were some areas fit for more extensive arable farming: the valleys of south Westmorland, the Solway plain around Carlisle, the Eden valley and the Coastal plain of Cumberland. However, much of the arable farming was geared to the needs of stock, to

produce feed for horses and cattle. The reliance of the agricultural economy on stock presented problems and opportunities in the second half of the nineteenth century.

Traditionally Cumbria played an important role in the Scottish and Irish droving trade. In the late eighteenth century, Scottish beasts numbered 10,000 at the annual Brough Hill Fair (Beckett 1981: 5). But by 1850, this trade was in decline; enclosure restricted the movements of drovers, the railways were beginning to offer cheaper alternatives, and foot and mouth epidemics (1865-80s) were a further blow (KRO, WQ/M/32 1859-1875: 30-65). However, when the agricultural crisis started in the 1870s, Cumbrian farmers were well situated to survive, even if they did not prosper (Marshall & Walton 1981: 57-65; Perry 1974: 30-9). The domestic markets in wool, meat and dairy fared better than the grain market, and the expanding market for working horses allowed new opportunities that Cumbrian farmers were able to exploit. Railways actually increased demand for the types of ponies reared in Cumbria (Mingay 1998: 4).

Land tenure

Land tenure in Cumbria differed from most of England. Even at the end of the eighteenth century, two thirds of Cumberland was still held in customary tenure, which has been described as feudal, and this form of tenure survived well into the nineteenth century (Searle 1986: 109). The causes and consequences of this ancient system enduring in Cumbria have been extensively covered elsewhere: the relevance for this study is that there were, in the region, more independent small land holders than in other counties, and fewer tensions between large landowners and small farmers. Enclosure had far less impact, socially and economically, than in the rest of England. Parliamentary enclosure, which was still

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proceeding in the first half of the nineteenth century, was rarely opposed by the small Cumbrian farmers who tended to benefit from the enclosure of the rough grazing (Searle 1986). But whereas the pressure in 1800 had been in favour of enclosure, by 1900 the emphasis had shifted to rural preservation, with the backing of eminent figures such as Canon Rawnsley and, later, Mrs Heelis (Beatrix Potter) (Straughton 2008; Marshall & Walton 1981; Healey 2007).

Farm labourers

Typically, modest farms (a large number of which were to be found in Cumbria) employed the family members, with one or two live-in farm servants who shared the family table; itinerant labour met seasonal demand, such as with the hay crop (Garnett 1912: 90-5). The survival of the farm servant system in Cumbria was striking. In 1851, 45% of Westmorland farm labour was supplied by live-in servants. The figure for Cumberland was 41%. The median figure for the counties of England was 11% (Snell 1985: 96). Contemporaries reckoned that Cumbrian farm labourers were superior to those in the rest of England, which they believed was explained by the superior conditions of employment in the region. The labourer supped, it was claimed, at the same table as his master, a good man was respected and could make something of himself (Garnett 1912: 97). Wage rates for farm labourers were generally better in Cumbria than in other parts of England. With many small farms available, contemporaries reckoned that it was possible for an industrious farm labourer to become a small farmer, and to prosper with careful stock management (PP, 1868, Marshall 1981: 60-1).

Cumbrian agriculture's place in this study

The significance of this description of Cumbrian agriculture to a study of policing is in highlighting relevant social phenomena.

- Cumbria, when compared to other regions, was less socially divided: there was less of a gulf in terms of wealth and status between farmers and labourers.
- Droving and itinerant farm labour were well established features of the Cumbrian economy and life. Although droving was in decline, and had virtually ceased by 1900, seasonal farm labour remained important for small farmers.
- Regulation of stock was a high priority in the region.

Commerce and Industry

The traditional industries in Cumbria were in the main either extractive or related to agriculture. Mining has a long history in Cumbria, the geology of which has provided opportunities to extract lead, silver, copper, slate, coal, iron and more. Spinning and weaving were important. These traditional industries were often integrated into the agricultural life of the region. For example, Pennine Cumberland could boast no towns, yet in 1831 the census showed that ten per cent of the workers were engaged in mining and related work (Marshall & Walton 1981: 9). The nineteenth century saw industrial growth in some parts of Cumbria, though Westmorland, east Cumberland and central Lakeland remained the least industrialised area in England.

West Cumbrian industry

The Cumbrian coast (including Barrow) was the area of greatest industrial growth. The coal field (extending from Whitehaven through Workington to Maryport) was close to high quality haematite iron deposits (around Cleator and Dalton in Furness) so that these areas expanded as mining and iron producing centres (Marshall & Walton 1981; Marshall 1978). Barrow in Furness expanded rapidly in the second half of the century as the location proved very suitable for the construction of warships (Waller 1983: 98). The ports of Whitehaven, Maryport and Workington grew for they were particularly well placed to supply Cumbrian coal to Ireland.

The old towns of Cumbria

Carlisle and Kendal both grew as diverse industrial and commercial centres, though in the case of Kendal the growth was modest. In both towns, long established textile industries struggled to compete with Lancashire and Yorkshire. Kendal continued to produce much of the checked woollen cloth used in trousers (Savage 2012: 29), but the weavers and stockingers who were home workers faced steadily dwindling employment through the century (Bingham 1995: 207-13; Rice 1974: 23). Commercial services and banking expanded in both towns. There were new industries to sustain them: carpet and shoe factories, which drew upon the town's traditions in textiles and leather, were set up in Kendal, biscuit and engineering works established in Carlisle (Marshall 1981: 20-2). But by national standards, both towns remained small.

Some towns failed to develop industrially; Cockermouth, which had been a Parliamentary borough and one of Cumberland's larger towns, failed to develop its textile industry and remained a country town serving agricultural needs (Marshall & Walton 1981: 10-3).

Tourist industry

Some quiet towns were to benefit from the new tourist industry, which was growing even before the railways arrived, and increasingly attracted eminent persons. For example, Dr Arnold (of Rugby School) built in 1833 a holiday home at Ambleside which became the main home of his son Matthew. Harriet Martineau moved to Ambleside in 1845, and John Ruskin honeymooned with Effie at Keswick in 1848 (Marshall & Walton 1981; Rice 1974: 110-4). The railways encouraged the better off middle classes to holiday in Lakeland in ever increasing numbers. Census data for Keswick gives a limited idea of the impact of this growth, for the census was taken in April, during the off-season. The comfortably off tourists were relatively high spenders who created valuable opportunities: for example, photographic studios (Kelly 1991). [42]

Industrial change

Industrial change in Cumbria was not as profound as it had been for other counties, but Cumbria was not an impoverished backwater. Industry was concentrated in a few locations, but much of the region was only indirectly affected. Even Westmorland, which was least

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[42] Cumbrians termed these visitors 'Lakers', a word which Harriet Martineau (2007) used to describe herself. The irony of the name seems to have escaped her: in the Cumbrian dialect, 'laiking' means childish, pointless play (Rollinson 1997).

affected by industrial change, benefitted from transport improvements which brought in tourists and benefitted from some industrial expansion. The policing of industrial centres, examined in chapter nine, was quite different from the policing of remote rural locations.

Population

Population change in Cumbria in the second half of the nineteenth century was similar in pattern to that of the rest of England and Wales: rural areas were static or falling in population while the urban population grew steadily.[43] England and Wales' population boom was an urban phenomenon: while the urban population more than tripled in size from 1851 to 1911, the rural population fell by more than ten per cent (Lawton 1973: 195). Cumbria was, as it still is, predominantly rural. Westmorland grew slowly, with the limited growth concentrated in Lakeland and Kendal. By the end of the century, the county's population was static or in decline, which implies a steady emigration from the region (Tilly 1988: 350-2). The decline was greatest in the east of the county, which remained predominantly agricultural. Appendix A shows the changing population a typical parish, Warcop.

The experience in much of Cumberland and Furness was similar to that of Westmorland: growth in the tourist spots such as Keswick and Coniston, decline in the rural areas. Some parts of Cumberland and Furness benefitted from the rapid expansion of the coal and iron industries, as well as other extractive industries such as slate and lead mining. The expansion was centred on the ports of Maryport, Workington, Whitehaven and Barrow: Cleator Moor and Aspatria were villages that grew into towns. Barrow mushroomed into a

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[43] Appendix A presents population figures for a sample of Cumbrian towns and parishes.

significant urban centre. Carlisle, which is situated on the main lines of communication, expanded as a centre of services, commerce and general industry.

Migration

Migration is an important detail in a study of policing; the social dislocation and potential antagonisms resulting from these movements must be considered as factors in perceptions of criminality. Ruskin's (1885: 59) myth of Cumbrians as *'hitherto a scarcely injured race',* quoted in greater length on page 84*,* encourages the assumption that immigration into Cumbria was a recent phenomenon in the nineteenth century. But mining had attracted immigrants for generations. In the sixteenth and seventeenth century, lead mining around Keswick was undertaken by German craftsmen (Rice 1974: 95). In the eighteenth century, when coal deposits were exploited in Westmorland, the miners came from the north east (Brooks 2010).

Ravenstein's Laws of Migration are applicable to the phenomenon of migration in nineteenth century Cumbria.[44] For example, most of the migrants who came to the rapidly growing town of Workington were born in Cumberland. Surprisingly (given the declining population of many parts of the county) migrants from Westmorland were outnumbered by those from Lancashire, Northumberland, Durham, Scotland and Ireland. Those working in the iron and coal industries were much more likely to have come from regions with experience of those

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[44] Most migrants went only a short distance, long distance migrants were more likely to be seeking skilled employment, and migration increased in volume as industry, commerce and transport improved (Brooks 2010: 249).

industries (Durham, Northumberland, Scotland and the Midlands) whereas domestic servants in Workington (a relatively small group) were more likely to have come from Westmorland than from counties further away (Smith, I. 1994).

Irish migration

More migrants came from Ireland than Scotland. Important factors were the crisis in mid-century Ireland as a 'push-factor', and the relative low cost and ease of transport across the Irish Sea on collier vessels returning in ballast to Cumbrian ports (Smith, I. 1994; Smith and MacRaild 2009). The impact of Irish migration was significant in Cumbria. Over five per cent of the population of Cumberland and Furness were of Irish birth in the 1861 census, a figure that was matched in England and Wales only by Lancashire, Cheshire and Durham (Smith,I. 1994:8-16). In the 1901 census of Cumberland, more than ten per cent of those who had been born outside the county were from Ireland (Marshall 1978; Neal 1998; MacRaild 1996). But these figures are misleading: the migrants were concentrated in the coal and iron districts near Whitehaven, Workington and Barrow, to which they were attracted by the expanding demand for workers. Cleator Moor was a particular magnet for Irish migrants. In 1841, the iron mines had recently opened and nineteen of the forty heads of household were Irish (Marshall 1978: 164). Although difficult to measure, by the 1880s there must have been many who had been born in Cumbria but still counted themselves as part of the Irish community (Jackson 1963: 8-16). Although there was a strong Irish connection in West, the community was not homogenous. The religious divisions are mentioned in chapter seven (Swift 1999, 1989: 8-16; Marshall 1978; Neal 1998; MacRaild 1996).

Wales and Cumbria: a comparison

In terms of geology, climate and agriculture, Wales and Cumbria have much in common. The mountains of both regions are, for the purposes of this study, very similar and have imposed communication difficulties on, and limited the agricultural potential of both regions. Wales and Cumbria have both been able to exploit coal and iron as the basis for industrialisation; both regions have seen rapid growth in heavy industry, with significant migration into a relatively small part of the region.

Welsh agriculture operates under very similar climatic and topographical constraints as Cumbrian farming. Both regions, in the nineteenth century, relied upon stock; sheep for wool and cattle for the meat market were the main cash products. Farmers in both regions, of necessity, maintained traditions of self-sufficiency and diversity far longer than farmers in the rest of England. As in Cumbria, Welsh farms were smaller than other English farms, and relied upon family labour with live-in servants hired on a six monthly basis, so that there was no significant social gulf between employer and employee: they worked and ate alongside each other (Evans 1989: 9). Just as in Cumbria, enclosure had not been a serious problem for small Welsh farmers: they tended to benefit from the process (Howell 1978: xiv).

The significant differences between Wales and Cumbria were social and cultural, and a significant element of this difference was in the attitude of outsiders. Whereas the respectable middle classes flocked to and eulogised the Lake District, Wales was regarded with disdain. Writers such as Wordsworth, Gaskell and Ruskin, often praised the Cumbrians for self-reliance and hard work, whereas the Welsh were more often regarded with suspicion (Howell 1978: 93). Matthew Arnold, who had a home in Ambleside, in his role as schools' inspector,

advocated the suppression of the Welsh language (Mandler 2000: 241; Evans 1989: 241).

The Times, in 1866, described Wales as:

a small country, unfavourably situated for commercial purposes, with an indifferent

soil, and inhabited by an unenterprising people. It is true it possesses valuable

minerals but these have chiefly been developed by English energy and for the supply

of English wants. Quoted by Morgan (1997: 241).

This attitude was highlighted by the infamous *Blue Books*, the Government enquiry into

education in Wales, which concluded that the main problem with Wales was the Welsh who, it

was claimed, were a people retarded and benighted by their lack of English, fickle, laggardly,

unreliable, dishonest, dirty, un-resourceful, prone to high levels of bastardy and given to

argument and non-conformity (Hobsbawm and Ranger 1984: 92-5; Davies 2006: 36-8; Evans

1997).[45]

Despite the similarities, Wales was very different. Whereas Cumbria was one of the calmest

regions of England, civil unrest was frequent in nineteenth century Wales. Prys Morgan

described South Wales in the 1840s as the most militarised zone in Britain. The most violent

episode of physical force Chartism occurred in Wales, whereas Cumbria saw no Chartist

'outrages' and only a 'brief flickering' of Chartism in a few places (Morgan 1997; Marshall

1981: 132). Jones observed that there were many serious outbreaks of civil unrest, including

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[45] An unsympathetic reporter might have made many similar comments about Cumbria (Marshall 1995: 80-2), but the shortcomings of Cumbrians were overlooked by most commentators in a glow of pro-Cumbrian sentiment.

'Rebecca Riots' (1839-44 and recurrent thereafter), Caernarvonshire riots (1859-67), poaching raids and tithe riots (1886-95) (Jones 1992: 97-100).

The 'Tithe War' was very relevant to both Welsh and Cumbrian agriculture in the later nineteenth century. As the agricultural depression hit farming after 1870, many farmers demanded that tithes should be abolished or reduced. Both Wales and Cumbria faced the same agricultural crisis, farmers in both regions operated in very similar ways, and in both Wales and Cumbria the incidence of non-conformism, especially Methodism, was higher than the rest of England. A determinist view of history might suggest that the issue of tithes would be similar in both regions, but whereas the term 'Tithe War' is, accepting some journalistic exaggeration, appropriate for Wales (Thomas 2011: 185), in Cumbria there was hardly a whimper of protest, only an occasional speech at farmers' meetings. And yet in the seventeenth century Cumbria had been the home of Quakerism, whose followers had resisted tithes most strongly, even to the point of severe hardship through dispossession and imprisonment (Anderson 1977). Cumbria retained in the nineteenth century a Quaker community, to which had been added Weslyan and Primitive Methodists, as well as Baptists and other non-conformists, none of whom had any desire to support the established church, and yet there was neither an organised nor a disorderly tithe dispute in Cumbria.

The lack of physical force Chartism, of Rebecca riots and of a Tithe war in Cumbria points up a significant difference between the two regions; social disquiet in Wales where Cumbria enjoyed relative calm and content. But this conclusion only imposes another question; why was Wales discontented when Cumbria was calm? A question like this might require another volume to provide a full answer, but suffice it to say that the perceived social gulf between

absentee English landlords in Wales contrasted with the view that Cumbrian aristocrats were an integral part of the life of the counties. One must add the obvious fact that Cumbrian landowners did, more or less, speak the same language as their tenants. Once again, in the comparison of Wales and Cumbria, one must conclude by emphasising the importance of beliefs and ideas that enjoyed currency in the nineteenth century; even if these contemporary views were ill founded, the myth of Cumbria was important. In a study of policing, beliefs and ideas are of crucial importance, for they were integral to local culture and shaped the opinions and influenced the actions of all parties, police, magistrates and offenders. It is appropriate at this point to link these observations on Wales with those on Irish migrants. The idea of Cumbria as calm and contented, self-reliant and stoical in contrast to Wales is only tenable if one overlooks the presence of a divided Irish community in Cumbria. This is, of course, exactly what the myth of Cumbria did, it ignored these 'outsiders', or wished them to go, and fashioned an image of Cumbria that fitted expectations.

Summary

The distinct nature of Cumbria allowed Cumbrians to define themselves and their region as superior: this view was endorsed by significant numbers of high status outsiders who came as visitors or settlers. Since at least the eighteenth century, they have seen its beauty as unique, but beyond this, in the nineteenth century, the lack of overcrowded cities and of polluting industry combined with comparative prosperity even when other regions were experiencing hardship such as the agricultural depression, reinforced the feeling of Cumbrian superiority. This narrative of a Cumbrian idyll must be qualified significantly by the empirical investigations of social and economic historians, but it has long enjoyed currency within and without the region. Cumbria was imagined to be socially superior. Objective criteria could be

used to support this contention in the nineteenth century: attendance at religious services, lack of social unrest and low crime rates could all have been used as evidence. This feeling of a superior uniqueness fed into the mundane work of policing (chapters eight and nine) and into the policing of prize-fighting and animal cruelty (chapter seven).

The myth of Cumbria has been explored in order to gauge its validity and importance. Interpretations of the economic and geographic reality have also been presented. The ideas and facts herein inform the rest of the study. Chapter five takes the narrative of this thesis from the local to the national. The development of policing in the nineteenth century is analysed in order to understand the process of state formation and to reconcile with police discretion and policing as a culturally situated activity.

The Policing of Petty Crime in Victorian Cumbria

Chapter five: the First Police

Introduction

> *the object of police is not only to enforce compliance with the definite law of the land,*
>
> *but also to encourage a general recognition of the unwritten code of manners which*
>
> *makes for social progress and good citizenship . . . . the policeman stands for good*
>
> *citizenship, . . .a reality that the most ignorant can comprehend.. (Lee 1901: xi-xii)*

Lee's claim that the policeman stands for good citizenship and maintains the King's Peace is sufficiently vague to be all but incontestable (Lee 1901: 1; Garland 2001: 29). This chapter looks beyond the idea of the King's Peace to consider the fundamental questions of policing. The previous two chapters have been concerned with the sources, methodology and Cumbrian context of this study. This chapter is concerned with the broader issues of policing which were presented as self-evident at the end of the nineteenth century when Lee wrote his 'A History of Police in England'. His opinion of the police of Victorian England was a precursor of the idea of a 'golden age' of policing. The functions of the police are problematised to demonstrate that the police forces set up in the nineteenth century were built upon principles with a long history, but that their legitimacy and function was never as straightforward as commentators such as Lee have suggested.

The significance of the police was problematic in a system which was uncertain whether the police's function and legitimacy derived from the state or from the people. This uncertainty is expressed below with the phrases 'the blue army' and 'servants of the people'. A force which is organised hierarchically and forms part of the apparatuses of state must seem at times like an army, but the police have also been represented as deriving their legitimacy and function from the people and from common law.

Many secondary sources that inform this chapter are drawn from studies of power and social control which address the process of state formation, for that is the context of policing. The framework used here is the legitimacy, function and structure of police forces (Newburn 2008a; Mawby 2008: 15) which were far from being a clear-cut 'reality that the most ignorant can comprehend', and it was only through the exercise of discretion that the police were able to operate as an effective force.

Were the police in Victorian England a tool of a state which sought to exercise increasing control over society? Or did the police function autonomously, so that the discretion of individuals, from chief constable down to PC, effectively determined policies and actions? Discretionary policing and the project of state formation are two phenomena which seem to be pulling in opposite directions, but the discretion of the ordinary policeman is the means by which the dilemmas are reconciled. [46]

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[46] The role and operation of discretionary policing is developed in chapters six to nine.

The purpose of the police

It is necessary to consider the theoretical foundations of policing.[47] Why were police forces established? What purposes were they intended to serve? How were they intended to function? The legitimacy and structure of policing underlie these questions, which remain as relevant today as they were when the first police forces were established in Cumbria in the 1830s and 1850s.[48] Historiography and legitimacy form the theoretical framework that allows exploration of state formation and the structures of policing established in the nineteenth century. The sequence in which and the headings under which these issues are addressed in this chapter is:

1. The historiography of policing

2. Function

3. The legitimacy of policing

4. Policing as part of the process of state formation

5. The importance of localism in state functions in the nineteenth century

6. The pre-1830 background to the establishment of police forces

7. The structures of policing as they developed in the nineteenth century

8. Discretionary policing

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[47] Police bureaucracy in the nineteenth century is covered in the next chapter, using the example of the Cumbrian police.
[48] The specific policing concerns of Cumbrians in the early nineteenth century are examined in chapters seven and nine.

Historiography of policing

The traditional model

The traditional Whig interpretation of police history envisaged the achievement of linear progress through consensus in the implementation of law enforcement. Others have described this as the 'heroic' model (referring to a similar model for American policing) (Walker 1977:xi) and as an evolutionary process (Brogden et al. 1988:49). Typically, the narrative was that after initial difficulties and resistance, the police were accepted as effective, dependable and neutral by all sections of society. This traditionalist interpretation has been described by several historians (Critchley 1972:2; Taylor 1997:73; Emsley 1996:4; Emsley 2009:3; Taylor 1998:3; Philips 1999:xiii-xiv). The police and criminal justice reform, implemented initially by Robert Peel, were seen as part of the project of enlightened modernity.

Lee in 1901 interpreted the police as a modernising force backed by a wide consensus. Some more recent historians have been generally happy to support this traditionalist view. Although more critical than Lee, they have, accepted the general sweep of his argument (Lee 1901; Critchley 1972; Critchley 1970; Radzinowicz 1956b; Reith 1943:xi-xii; Radzinowicz 1956a). Radzinowicz, for example, wrote of a history of progress emanating from reforms that were grounded in the Enlightenment:

> *. . the history of England is the history of progress . . . . the main features [of the criminal justice system] were built up from the movement for reform which began in the eighteenth century. To that development the forces of morality, of philosophical*

thought and of social consciousness all made their contribution. (Radzinowicz 1948:

ix)

The revisionist model

An alternative (Brogden et al. 1988) revisionist approach interpreted police forces as the product of social division and as an instrument of social control, created in response to the turmoil resulting from rapid social and economic change.[49] Some interpret the police as a refinement of the military functions exercised by the state (Mann 1993: 402-11) or a means of extending disciplinary control beyond the prisons and barracks to the wider population (Websdale 1991: 91-3).

Others have gone further, to argue that the problems of capitalist development necessitated the setting up of police forces both as a response to the problems and as a means of protecting further development (Harring 1983: 8; Edwards 2005: 27; Philips 1999; Donajgrodzki 1977; Philips 1977; Williams 2003). The argument is that the police were intended as a tool of the dominant class, to discipline the working classes into new patterns of labour and life (Hay 1980: 58). Storch described the police as 'an all-purpose lever of class discipline' (Storch 1976: 481, 1975: 61-90, 1982; Humphries 1995; Scraton 1985; Robinson 1978). Welsh moderated Storch's thesis, concluding that the police were generally obedient agents in a process of social control, but that there was inevitable and significant compromise between the police and the policed, so that the police were not totally alienated from the working class (Welsh 1997: 376-80). Cohen argued that the police offered to the state, for the

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[49] Described by Brogden et al. (1988: 49-50) Critchley (1972) Taylor (1997: 2-3, 1998: 73-4) Emsley 1996) Philips (1999) and Welsh (1997).

first time, the means to impose an ideological repression: it was not just a means of

protecting private property, but the opportunity to 'enforce statutory norms of public order'

(Cohen 1981: 116).

The argument is one of economic determinism that sees police forces as a response to

industrial change and urbanisation. But the idea that the police were created to discipline the

working classes in a capitalist state is simplistic, for state formation (below) was a project of

modernity in the nineteenth century which embraced many discourses (Ogborn 1993a). A

more subtle revisionist view sees policing and penal policy in general as 'determined by

unacknowledged deep structures of power' (Wiener 1990:6-7). This idea is advanced in

empirical studies such as Ignatieff's, and in Garland and Foucault (Garland 2001; Ignatieff

1989; Foucault 1979). Even if a ruling class had intended the police to maintain their elite

status, the reality of employing working class men to do the work exposed the plan to risk

(Robinson & Scaglion 1987: 148-9).

Both traditional and revisionist theories imply that the established police forces were the

outcome of a rational decision making process. Johnston and Shearing (2003: 59-60) have

described the traditional model as implicitly teleological, the revisionist as functionalist

(Johnston & Shearing 2003: 59-60). Both theories are challenged when tested against the

reality of particular police forces; the idea of the police as neutral agents employed to support

a benevolent social system is as naïve and flawed as the idea that they were the mindless

tools of state oppression or class interest. Barrett (1996: 288-9) wrote that the two theories

could only be sustained by ignoring major pieces of evidence (Barrett, 1996: 288-9). Other

studies have supported that opinion, for example, Finnane (1994: 48-67) and Swift (1988: 211-3).

The traditionalist argument implies the existence of a criminal element or tendency that needs policing. The revisionist argument implies that the police should, if they were more aware, be at odds with the ruling class (Robinson and Scaglion 1987: 148-9). Firm evidence is simply lacking. In the words of Hall and Scraton (1987: 470):

> *The view of policemen … as wholly disinterested beneficiaries of society was just as unconvincing as the 'social control' caricature of them as simply and solely the unconscious agents of state repression.*

The pluralist model

A pluralist consensus has emerged in recent years which accepts that the history of policing cannot be reduced to a simple narrative of social control, of class conflict or of the progress of modernity; but the 'accidental' theory that suggests policing is a contingent phenomenon is no more satisfactory.[50] Policing, in the words of Ogborn, cannot 'be understood simply as a fragmented series of local adjustments' (Taylor 1997; Ogborn 1993a, 1993b: 1-11). More convincing is the pluralist approach of Wiener who condemned revisionism as a 'negative image of Whiggism' (Wiener 1990: 8). He argued that the motives and interests that lay behind the development of policing were too complex, diverse and problematic to be reduced

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[50] 'Accidental theory' was the term used by Brogden et al. (1988: 50) to dismiss the theory of Kitson Clark (1967: 147) who viewed policy as a series of *ad hoc* responses to contingencies. Cox (2006: 1-2) used the term pluralist to describe the consensus of recent years (Wiener 1990: 5).

to a theory of enlightened progress, or of social control. This is supported by many of the empirical studies and analyses of recent years (Clapson 1994; Emsley 1996, 2005a, 2005b, 2009, Rawlings 2001; Scollan 1993, 2005; Smith, P.T.,1985; Steedman 1984; Taylor 1997, 2002; Tennant, 2010).

The value of empirical studies

The many bottom-up studies of nineteenth century policing show the weakness of both traditional and revisionist theories. The police were neither benignly disinterested, nor were they simply tools of the ruling class. Small scale, local studies allow a detailed view of the reality of everyday policing, and reveal how individual policemen played a significant part in the creation of the system of policing and thereby contributed to the process of nineteenth century state formation. Local studies may, at first glance, seem to support the 'accidental' theory, for many worthy local histories of policing present a narrative of random events, 'villains' and worthy individuals, for example Scollan (1993) and Savage (2009), but academic studies of local forces must avoid the antiquarian trap. Careful reading of detailed local studies illustrates that the genesis and development of police forces grew out of 'people's concerns and objectives …situated, constructed and reconstructed within complex and dynamic processes, rather than merely "given" by the "nature of things"' (Johnston and Shearing 2003: 60). This statement adumbrates Giddens' structuration theory, introduced in chapter one: critical histories of local forces should be more than descriptions of apparently random 'local adjustments'.

Function

Policing implies the set of activities aimed at preserving the security of a particular social order, or social order in general. (Reiner 2010: 5)

Whether the Victorian police were envisaged as a 'blue army' or 'the servants of the people' is relevant to the intended functions of the police. The problem remains as a dilemma for police today: are they 'an invading army, or are they integrated in the community? How can they be the force that cracks down on criminals and disorder, but still be the friendly helper of those in difficulty?' (Uglow 1988: 10-1)

The nineteenth century debates concerning the establishment of police forces in London and the counties might be expected to have illuminated the explicit functions of policing, but dissension obscured the purposes of those involved, resulting in the vague policy of the prevention of crime and disorder.[51]

Servants of the people

The policeman as a 'servant of the people' enjoyed some currency from the outset, for the first Metropolitan Police Commissioners used the term (Taylor 1998; Emsley 2005a; Ascoli 1979). The fictional PC George Dixon was the epitome of the constable as public servant (McLaughlin 2007: 10-22; Emsley 2009: 3-4). The idea of the constable as a species of

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[51] This statement from ACPO in 1990 shows the same vagueness: *Statement of Common Purpose and Values for the Police Service…Uphold the law, Prevent crime, Bring law-breakers to justice, Keep the Queen's peace, Protect, help and reassure the community, Fulfil all such roles with integrity, common sense and sound judgement.* Cited in Joyce (2006: 197).

servant (Steedman 1984: 30,130) is supported by the experience and structure of policing in Victorian Cumbria. The people seen to be clamouring for their services were more often from the respectable and middle classes than the demos (Emsley 1996: 64-71; Taylor 1998: 102), but this is an impression created in large measure by the bias in the records towards the articulate and vociferous members of society. The police took on many public service roles, including (in different forces) weights and measures, vagrant relief, fire brigade and first aid, such that they were described in the Times in 1908 as 'the true handyman of our streets, the best friend of a mass of people who have no other councillor or protector', quoted by Taylor (1997: 8). Duties of this type have been described as the 'service function' of the police.

 'Servant of the people' is too vague to define precisely what policemen were expected to do but vagueness was convenient for those who supported the creation of the first police forces. The phrase has remained useful in situations where it has been difficult to define the role of the police. [52] Some policemen have been less happy with their service function. Police memoirs have tended to prefer the crime fighting aspects of the job (Bent 1891; Caminada 1983, 1982; Woollaston 2007; Lawrence 2003: 132-4). It is on this issue that the sentiments of the rank and file policemen have coincided with the stated aims of those who direct police forces, and this coincidence can be traced back to the inception of the constabularies in the mid-nineteenth century, when the emphasis moved subtly away from the repression of riot and disorder towards a concern with what Phillips referred to as 'normal' crime (Philips &

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[52] Chapter nine gives examples of how Maryport police filled a public service role that went beyond their precise obligations and was extended to the poor. John Giblin of the Police Federation has spoken of the importance of the public service role, which he contrasted with what he feared would be the proscription of discretion by the PCCs (Jethura 2012: 19).

Storch 1999: 83-4). In the words of an outspoken police officer in 2006 'I love my job, especially the bit where I get to chase after thieves and arrest them. After all, that's why I joined' (Copperfield 2006: viii). Becker and Stephens (1994: 1-10) reported that police today do not see the service function as 'real' police work.

The blue army

Lee's 'maintenance of the King's Peace', referred to above, seems closer to the idea of a 'blue army'. Lee's phrase suggests a function of controlling disorder and crime, for example, riot, theft and behaviour that was deemed unacceptable to the mores of the time and place. From the outset, subjectivity was implicit in the policing of disorder and unacceptable behaviour. Bittner (1990: 91) wrote that police statements of their function are merely 'specious programmatic idealizations'. Such idealised and generalised statements about law and order functions allow a pretence of understanding and agreement. Although Bittner was writing about policing in modern America, his point is borne out by the English political context of policing: police forces were established in England with poorly framed ideas of their law enforcement purposes, and in Cumbria (as in other counties) policing was carried out in an *ad hoc* fashion that depended upon the initiative and discretion of the men.

The founding principles made no direct reference to riots, and set the stated function of the Metropolitan Police as the prevention of (undefined) crime and disorder and to work with

public approval,[53] which is very similar to Emsley's definition of police as 'the bureaucratic and hierarchical bodies employed by the state to maintain order and to prevent and detect crime' (Emsley 1996: 1).

A more precise definition of the function of the police was written by Bittner, 'a mechanism for the distribution of situationally justified force in society' (Bittner 1975: 39). This has been described as obsolete in the twenty first century (Godfrey et al., 2008: 52-3), but was appropriate for Victorian Cumbria. However, even Bittner's definition rests heavily upon what might seem justified.

Revisionist histories have often presented the function of the police as one of discipline and control over the working classes. The implications of this are sought in the latent or implied functions of the nineteenth century police within a capitalist framework of industrialisation and urbanisation (Reiner 2000: 24; Storch 1976, 1975; Humphries 1995). Neocleous stated that the police were concerned with 'removing the possibility of obtaining a non-wage existence' (Neocleous 2000: 75) but the Cumbrian evidence, particularly in chapter eight, contradicts this, as does the opinion of W. H. Davies, the 'super-tramp' who survived many years by begging and hawking without ever falling foul of the police (Davies 2010: 160).

Traditional histories present the functions of the police as impartial, but this glosses over the fact that the law falls heavily on the poor. ' . . . *la majestueuse égalité des lois, qui interdit au*

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[53] The provenance of these 'Peelite Principles' has been challenged recently by Lentz and Chaires (2007). Even if they did not originate with Peel, they have become part of police 'mythology' and their lack of precision underlines the vagueness of purpose in those who established the first police forces.

riche comme au pauvre de coucher sous les ponts, de mendier dans les rues et de voler du pain.'[54] (Partington 1992: 292) First published in 'Le Lys Rouge', 1894.

Anatole France's aphorism seems to offer clear *a priori* support to the revisionist argument. However, it is clear that the lower classes were willing and able to use the criminal justice system in defence of their own values and moral codes (Davis 1989, 1985; Conley 1991; Gatrell 1994: 420; Welsh 1997: 380). Indeed the increasing role of police as prosecutors in the nineteenth century was a service that supported impecunious victims of crime (Emsley 2005a: 190-1).

The value of an empirical study is that it can reveal the latent functions implicit in the theories of revisionists, but none of the studies of particular police forces referenced in this study has resulted in a conclusive delineation of the implied function of class discipline and control.

Legitimacy

The two phrases 'blue army' and 'the servants of the people' refer back to the legitimacy of the state. Police legitimacy has always derived from the state (the legitimacy of which is beyond the scope of this study) and rests upon the duty of the state to maintain law and order.[55] Policing, a process that predates organised police forces by many centuries, has

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[54] 'The majesty of the law which forbids the rich and poor alike from sleeping under bridges, begging in the streets and stealing bread.'

[55] This everyday phrase is itself problematic. Law should be precise, unambiguous and clearly defined, whereas what constitutes order 'belong[s] to such a messy area of informal practices and unwritten rules . . . that they are more suited to . . . . the dramas of everyday life than to systematic conceptualisation' (Mladek 2007: 2).

been deemed crucial to the criminal justice system, and for the maintenance of law and order[56].

In England, the nineteenth century police forces' legitimacy was built upon the traditions of the ancient office of parish constable (Critchley 1972: 1-28; Taylor 1998; Emsley 2005a: 217-9; Godfrey 2008: 56-7; Eastwood 1997: 130), an office that was highly local in character and rested upon common law for its authority (Jefferson and Grimshaw 1984: 23-30). The legacy of this history is that police legitimacy in England has always depended to some extent upon local approval[57] and upon assumptions of what is considered reasonable action (Newburn 2008b: 100; McBarnet 1979: 34; Skolnick 1966: 6). 'Restraint and fairness are two significant factors in the general acceptability or legitimacy of the police' (Uglow 1988: 4). This has created unresolved tensions between the public and the state, especially when a modernising state has pursued centralising reform policies. This is explored in more detail under the heading 'Structure'.

Coercion versus consent

The coercive function of a police force can only be justified in terms of its legitimacy, based upon the authority of the state. Weber stated 'The state is considered the sole source of the 'right' to use violence' (Weber and Gerth 1948: 78). More precisely, it has been defined as a coercion wielding organisation that comprises government, is autonomous and lacks rivals

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[56] Choongh (1998: 29-31)observed that the English criminal justice system operates upon a crime control model, rather than a due process model. Her point is well made in the context of summary justice in the 19th century, for most of the persons before the magistrates pleaded guilty.
[57] This was the justification for the PCC elections, discussed in chapter two (Emsley 2013).

within its territory (Tilly 1992, 1990: 1-2). The authority of the state is manifested at the national or local level and police must be an important organ of the state in the exercise of that authority, police exercise jurisdiction in some regard over all persons within that territory (Tilly 1999: 413). Wielding coercion is behaviour that spans a wide spectrum, from parents and teachers to megalomaniac dictators. Police forces whose duty it is to coerce do not have to be repressive organisations, and can operate with the consent of a majority of all classes. Even the limited and parochial aims of Cumbrian police forces and those who ran them, described in chapter six, fit with a model of nineteenth century state formation.

State formation

In so far as the policeman was the most visible representative of the state, he was giving the state a new image. … The policeman . . . .represented the new, bureaucratic state. (Holdaway 1979: 17)

In the words of Shpayer-Makov (1991: 26), 'the policeman was the representative of the government on every street corner' (Silver 1967). Gatrell (1990) coined the term 'the policeman state' for the state's assumption of increasing control of the criminal justice system, including the systematisation of the management of crime. Welsh (1997: 380) concluded that the police were 'politically partial instruments of the state'. Some police have denied they are agents of the state (Jethura 2012) but state formation is not simply the role of government; it is the broader product of the subtle exercise of authority within the state (Eley & Nield 2000: 10-1). Arguments based upon state formation have tended to prioritise the deeds of great men (almost always men in the nineteenth century) who were represented as structuring the state or shaping society (Critchley 1972: xiii-xv). Men like Robert Peel, Edwin

Chadwick or John Dunne, as is explained in chapter six, were often depicted as agents

whose activities influenced events (Philips 2003). Chadwick's unrealistic vision proposed a

state where police were the organ of control for a benign central administration (McMullan

1998: 117-25). Symons (1849: 214) expressed a similar opinion: he saw the state as a

potentially beneficent and responsible servant of the people, with a duty to deal with problems

such as crime and vagrancy.

Neocleous (2000: 65-75) has used Chadwick's ideas to argue that police were 'an expression

of the state's contribution to class formation', and that Chadwick's 'preventative police' were

an organ of state that, with the new poor law and the vagrancy acts, were a form of political

administration to police the poor. In such a system the ordinary policeman would be little

other than a tool in the narrative, a functionary who received from those in command orders

and acted upon them. This idea that the state is a function of the elite refers back to Hobbes'

political analysis (Sahlins 2004: 178-9). Although it is the case that elite groups framed the

original models of police functions, it is clear in the empirical content of this study that 'the

ruling class' never had clear direction or control of the policing of England (Field 1981: 59).

Chapters six to nine explain how the actions of police were never precisely what their masters

desired.

The diverse state

State formation in England, as exercised centrally, was hesitant, especially in the 1830s and

40s. It was intended to bolster the local structures of the state (Pugh 1999: 10-1, 50-4). State

formation depended on the nationwide aggregate achievements of local action. This is

adumbrated in Foucault's view that 'power is widely dispersed throughout capillary networks'

and not 'localized in the State apparatus' (Steinmetz 1999: 9). The Victorian state was not a monolithic organisation; even the organs of the state (for example, the government) were not monolithic. It is misleading to reify the state, for as this study demonstrates, the state 'grew, the often unintended result of actions by men and women in many walks of life and often, too, the result of conflicts and cross purposes' (Clark 2004: 84). This connects nicely with the observation that 'all examples of theories [of state formation] involve the interaction of a number of variables [and] implicit or explicit positive feedback processes leading to growth' (Cohen and Service 1978: 52). This maxim holds good in this study of policing.

Giddens described the state as an actor rather than a structure (Giddens 1991: 16). Gatrell saw the formation of his 'policeman-state' as a process, not an event (Gatrell 1990: 260). These views have been refined in recent years by theorists of social movements and organisations. The theory has been advanced that the state is formed of organisations, including police forces, which are far from monolithic. Stenson (2001: 105) explained this by saying that the power of the state is not a centralised function but emerges from 'a set of technologies of rule'. This links nicely with Steedman's (1984: 161) observation that the development of the police

> contract[ed] working people to the state, and made them participants in the
> restrictions placed upon them …[police were] part of the commonweal.

Even if the component organisations have apparently rigid governance structures, those in command have an imprecise control of the institutional logics (the belief systems and practices of the organisation) and an even remoter control of the actors who enact those

logics (MacAdam and Scott 2005: 9-16; Davis 2005; Armstrong and Bernstein 2008). This analysis is most apt for this study of policing.

The best analogy for state formation is not the construction of a building upon sound foundations, but the problem of feeding the nation; it is the outcome of the work of countless individuals, and what succeeded in the past could fail in the future. In every generation, the process must be renewed. The modern state is, in Giddens' (1991: 16) words, a reflexively monitored system that endeavours to follow defined policies. State formation is 'an on-going process of structural change and not a one-time event' (Steinmetz 1999: 9) and the continual monitoring, reshaping and redefinition of the state is a project in which policing is deeply embedded (Loader and Walker 2001). State formation is implicit in those police histories that saw the police as 'a specialist organization that formed part of the state' (Garland 2001: 30).

The nineteenth century saw, in Giddens' terms, the onset of modernity with its 'massive increase in the organizational power', which saw an expansion of accessible information in which police were necessarily implicated. This modernizing state was both, in part, the product and the progenitor of policing policies and systems. The surveillance function, which Giddens (1991: 14-6, 1985: 13) said comprised both information handling and supervision, was essential for this growth in state power (Dandeker 1990; Johnston & Shearing 2003: 65-6). The importance of this police role has been emphasised in some histories, but has been examined most closely in the work of social scientists (Critchley 1972; Taylor 1997; Emsley 1996; Radzinowicz 1981: 60-85; Neocleous 2000; Holdaway 1979; Cohen & Scull 1983).

Culture and state formation

Policing, as an important tool of the state, was implicated in the process of state formation, but policing itself was a culturally influenced or determined activity (Bittner 1990: 102-8).[58] The policeman represented the state's 'extension of the organisational and moral community', but he was detached, operating with initiative and some independence (Silver 1967: 13). At the local level in Victorian Cumbria policemen functioned within their cultural context, as did all the other actors: the members of the watch committees, the magistrates, the thieves, beggars and drunks. Some of these persons made a more permanent contribution than others to the formation and development of Cumbrian police forces and consequently the state, but they all had some impact. It is therefore useful to take a 'bottom up' view of the process of state formation to examine its roots in the cultures of a society. The development of the state in the nineteenth century was described by Clark as an apparently random process of messy compromise, which nonetheless conformed to the culture or ideologies of the age, including religion (Clark 2000: 349-424; Corrigan and Sayer 1985). This resonates with Lee's (1901) 'unwritten code' and 'good citizenship' (Critchley 1972, 1970; Radzinowicz 1956b; Reith 1943: xi-xii).

A clash of cultures often raised policing issues. For example, the challenge to workplace appropriation from the mid eighteenth century led to legislation and the administrative machinery to deal with it (Godfrey et al. 2008; Godfrey and Locker 2001). Divisions over temperance reform, which are explored in chapter seven, embroiled the police and raised

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[58]The working definition used here is that culture is the shared meanings implicit in every social act (Burke 1992: 119) .

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questions about the role of the state that were never resolved (Harrison 1994; Gutzke 1989; Shadwell 1903), The policing of fairs, covered in chapter eight, raised issues of cultural antagonism (Moses 1996; Judd 1983). Cultural divisions proliferated in the first half of the nineteenth century, a time of rapid social change. Corrigan and Sayer (1985: 8) depicted state formation as a cultural or ideological project in which the state seeks its own legitimation. Eagleton (2000: 57-9) made a similar point. It is a powerful argument and very relevant to the debate concerning the formation of police forces.

This thesis explains how the authority invested in the men was influenced by the culture of the men, within which they lived and worked. These men were culturally informed actors in the process of state formation.

The local nature of state functions in Victorian England

His [Peel's] revolutionary model for policing in London was so successful, Parliament legislated for similar bodies across the country but subject to local accountability by people who knew the locality and what was wanted – initially magistrates and councillors … (May 2010: 2).

May is correct to emphasise 'local accountability' in the police reforms of the early nineteenth century. The diverse state, outlined theoretically above, was not merely an idea, for administration in England in the nineteenth century, and earlier, was by design very local in character. It has been aptly described as the night-watchman state, in that central government aimed to do little other than monitor local government (Osborne & Gaebler 1993). Policing, along with many other functions such as poor relief, justice, health and roads,

was a local initiative which was locally managed: the police were the tool that was intended to enable urban authorities and rural magistrates to control behaviour in public spaces and even, on occasion, intervene to regulate behaviour in private (Godfrey & Lawrence 2005: 21; Midwinter 1969; Henriques 1979; Foster 1974).

Whig reform legislation in the 1830s and 1840s, which included police measures, did not aim to extend state power and bureaucracy, but indeed aimed expressly at the reverse (Pugh 1999: 10-1, 50-4). National policies were prescriptive and reforming, in so far as they set standards which were enforced by inspection, but inspection was light and administration remained very local, being exercised by elected local bodies or county justices. Reforms such as the Poor Law Amendment Act and the Municipal Corporations Act empowered the ratepayers to play a greater role in state formation. The police acts of 1839 to 1856 secured the authority of local magistrates, town councils, ratepayers and county elites (Philips & Storch 1999; Macdonagh 1977: 1-19, 36-57; Hart 1956, 1955).

Although central government often leant impetus to local functions such as poor relief and public health, the power of Whitehall in this regard was limited by the willingness of local actors. The criminal justice system, especially when dealing with petty offenders, was shaped and informed in every county and borough by local values and priorities (Conley 1991; Mellaerts 2000). This localism is why centralising initiatives such Edwin Chadwick's Public Health Act achieved much less than intended (Rose 1971: 121-34; Taylor 1997: 38-40). In towns like Kendal, Carlisle, Whitehaven and Kirkby Stephen, the form and effectiveness of the police force depended on local action.

J. S. Mill epitomised the mid-century view when he wrote:

> *The principal business of the central authority should be to give instruction, of the*
> *local authority to apply it; power may be localised, but knowledge, to be most useful,*
> *must be centralised. (Mill 1975: 226)*

This was recognised regularly when local government sought advice from London on specific issues, such as (relevant to this study) the control of foot and mouth disease or the management of vagrancy. The central state was expected to advise, but even the advice could be infrequent and minimal. For example, in 1867 Kirkby Lonsdale Union wrote to London concerning the relief given to vagrants: was the relieving officer able to withhold relief from an able bodied man? This is a question that goes to the heart of the principles of the Victorian poor law system, yet the reaction in Whitehall is telling. The Departmental notes written on the back of the letter include:

> *'Is there any correspondence as to the [relief?] of vagrants in this Union?' 'None for*
> *the last ten years. WHS 7/2/67.' 'Write back and ask for . . . more details. At the same*
> *time the Board must observe that the overseers have no authority to give any relief*
> *except in cases of sudden and urgent necessity.' (TNA MH12/13593/506 1867)*

This typifies the light touch of advice from London. This important question had not been addressed in more than ten years, and the answer was sufficiently vague to allow the local union to give or to withhold relief at their own discretion.

However, the local bias of national government was eroded after mid-century, in that Whitehall gradually increased its power to control or direct local administration. Police was one of the first areas where this change became apparent, for the County and Borough Police Act 1856 (19 & 20 Vict., c. 69) introduced a central government subvention to meet 25% of the costs of 'efficient' forces, increased to 50% in 1874 (Godfrey et al. 2008: 64). By the 1870s the reluctance of central government to intercede locally was waning, although in 1883, the Home Secretary was still warning the constabulary inspectors not to seek to impose a national standard in defiance of local wishes (Hennock 1982: 4-8; Hart 1956: 411). The principal of localism was still openly lauded and thriving at the end of the century and, although the demands of Whitehall were increasing, the Home Office did not exert itself to ensure that the requirements of central government were being met (Hart 1956: 411-6; Morris 2001: 111-2).

Background to the establishment of the first police forces

Both traditionalists and revisionists have supported the view that police forces were established as a response to the turmoil resulting from rapid social and economic change (Edwards 2005; Midwinter 1969; Midwinter 1968; Critchley 1972: 18; Jones 1982: 2-6). However, in this study of Cumbria it is necessary to warn against the reductive simplicity of this statement. The social and economic transformations of the nineteenth century were far more complex than might be suggested by a brief reference to change from rural to urban, or from domestic to large scale industry. Cumbria included many areas that were the least affected in England by the changes of the nineteenth century, but there was rapid growth in mining, iron and steel, and other industries. The developments in transport connected Cumbria internally and externally, so that Cumbrians were far from isolated as is explained in

chapter four. The complex nature of the social and economic transformations of England explains why Philips and Storch (1999: 157-63) were unable to find any correlation between the urban and industrial growth and the development of policing before 1856.

The criminal justice system before 1830

The shortcomings of the criminal justice system before 1830, and particularly the 'bloody code', which had been debated extensively for many years, have been presented as the background to the inception of modern police forces. From the eighteenth into the nineteenth century, a narrative of increasing crime enjoyed considerable currency; today, the idea that this period of social and industrial change saw rising levels of crime is widely accepted (Jones 1982; Hoyle 1876: 2-14; Giddens 1987: 190; Lundman 1980: 14). However, revisionist interpretations have questioned the apparent rise in crime rates, suggesting that the increases could be the result of increased sensitivity and changes in prosecution procedures (Gatrell & Hadden 1972: 372-4). It has been argued that the eighteenth century criminal justice system may not have been as barbaric and inefficient as the advocates of reform claimed.

Riot, and the threat of a 'blue army'.

The fear of riot was important in the development of police forces, for the Gordon riots (1780), in which the rioters had gained control of the capital, were well remembered. The threat of riot was felt strongly outside London and was a significant factor in decisions to establish police forces (Brogden 1982: 50-2). The 'Peterloo Massacre' (1819) in Manchester highlighted the problems of military intervention in the control of crowds. In the debates concerning the

projected police force, riot and disorder was a problematic issue, for this was the ground upon which the form of the nineteenth century state was disputed.

In the 1820s and 1830s, the arguments of those opposed to the police force idea were far from being simply ignorant. David Robinson, in Blackwood's magazine in 1831, wrote that

> *The blue army, almost unlimited in numbers and powers, will be the servile*
> *instruments of the executive. It will continually increase its encroachments on popular*
> *rights and the liberty of the subject.*[59]

From the perspective of mid-century stability, these fears may have seemed ill founded, but in the context of 1827 – 1832, they can be understood as the expression of uncertainty at a politically difficult time. Catholic Emancipation (1829) was opposed as a dangerous weakening of the constitution; the death or sudden incapacity of three prime ministers and the king in quick succession exacerbated political instability; the continual disputes over the corn laws kept alive the fear of riots; disturbances were growing with the seeming intractability of the reform crisis (Briggs 1979: 225-60).

The definition of police functions needed to be vague, for clarity and precision would generate implacable opposition. It was, for example, the very detail and precision of Patrick Colquohon's recommendations in his 'System' that made it unattractive to many in Parliament (Colquhoun 1800; Neocleous 2000: 45-59). So Peel chose to keep the Bill for Improving Police vague in its details (Rawlings 1999: 115). Even though there were those [for example

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[59] Quoted by Philips (1980: 155)

the Utilitarian Edwin Chadwick (Steedman 1984: 21-5) and, at a later date, Captain MacHardy, Chief Constable of Essex (Emsley 1996: 54)] who advocated a militarised police at the disposal of central government, Peel did not refer to the threat of riot in his case for a police force (Jenkins 1979: 30-1) for opponents of the government felt uneasy at the idea of a centrally controlled para-military force. In his letters and in public statements Peel deployed the argument that a police force would control thieves, drunks and vagabonds, and reduce felonies (Jenkins 1979: 30-1). However, within a few years of their establishment, the Metropolitan Police were deployed to control riots in and outside London (Godfrey et al. 2008: 62; Emsley 1983: 70).

The fear of riot remained a subtext to the police project as it was extended across the land. The County police Acts (1839: 2 & 3 Vict., c. 93, 1840: 3 & 4 Vict., c. 88) which allowed the formation of some of the first county forces have been seen as a response to the threat of Chartism, and the County and Borough Police Act, 1856 (19 & 20 Vict., c. 69) which required police forces in every county and borough was passed against a background of fears of disorder from discharged soldiers at the end of the Crimean war and concerns about the increasing problems with penal transportation (Emsley 1996: 65-70; Hart 1956). Provincial forces needed to be able to deal with serious disorder, for central government became increasingly reluctant to send out the military or the Metropolitan force to assist in dealing with disturbances (Emsley 1983: 78).

The threat of riot never disappeared in the nineteenth century,[60] but the preferred statement of purpose for policing avoided this noun and remained, like Lee's opinion stated in 1901, poorly defined and vague. Moreover, with the declining incidence of riots after mid-century, the new constabularies were able to emphasise their crime-fighting duties rather than engage in a discourse of repressing disorder (Philips 1977: 84).

Structure

The epithet 'blue army' may seem more appropriate when considering the structure of police forces. The new constabularies and borough forces adopted the pattern established with the formation of the Metropolitan force (Emsley 2009: 67-90, Philips 1977: 54-78). This pattern aimed to avoid the creation of an apparently military force by means of civilian organisation, with a blue uniform (in most forces) and no police barracks or police issue firearms. It was none the less organised as a disciplined service. The practice of drill, the issuing of cutlasses upon occasion, and the resemblance of the ranks to a military hierarchy suggested a military force, which was further supported by the deployment of Metropolitan and county police to manage riots.

The evolution of policing

Policing had always been a highly local responsibility and police forces were built upon existing structures in England. Indeed, the policeman had few powers that were not, in theory, enjoyed by the ordinary citizen, and these powers rested upon the common law

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[60]The Murphy riots of the 1860s and the disturbances in London in 1887 showed the unpredictability of the problem (Critchley 1972: 163-6, Steedman 1984: 32-8).

(Eastwood 1997: 130; Jefferson & Grimshaw 1984: 25; Rawlings 1999: 153). The striking innovations of the new police forces included a uniform and a chief constable who would remotely appoint a community's policeman with no reference to the wishes of the populace. [61] The village constable would be supplanted by the uniformed PC, but policing was not a new phenomenon in the early nineteenth century. Even in rural communities such as Cumbria before the railway age, there was a long tradition of rural communities accessing the legal system to police themselves. Wrightson and Levine (1995: 113) described how, even in the seventeenth century, humble Essex villagers frequently availed themselves of the various courts. 'The machinery of the law was abundantly available to the villagers if they chose to use it – and use it they did.'

Policing before the 1830s

There were systems of policing in place in English communities before 1830, including paid watches and prosecution associations, and the structure of policing crime changed only gradually after the inception of county and borough police forces. For example, for many years after the creation of local police forces, detection and prosecution remained the responsibility of the complainant and prosecution associations continued to operate (Godfrey 2008; Rawlings 1999: 115; Garland 2001: 32; Davis 1989; Hay and Snyder 1989). The police, by gradually shouldering a greater burden of prosecution, enhanced its status as an organ of state and increasingly positioned itself as a public service (Garland 2001: 32).

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[61] The uniform's significance was that it both anonymised the individual and identified the police constable (Miller 1977: 32).

Local administration

In Cumbria and other rural areas the old parish constable existed for many years alongside the new Constabulary. The administration of the new force was placed within existing local government systems. In boroughs such as Kendal and Carlisle, the town councils set up and controlled their own watches even before they were required to do so by the 1835 Municipal Corporations Act: this is explained in the following chapter. The magistrates at Quarter Sessions who had always held authority over the constables aimed to continue that role after the Constabulary was established. In Victorian Cumbria, as in other counties, the authority of the police largely depended upon local government acting through Watch Committees, Quarter Sessions, and after 1888 Standing Joint Committees (Critchley 1972: xiv; Godfrey et al. 2008: 64). The administrative 'class' which ran these bodies and became magistrates were, between 1860 and 1914, increasingly from the petty bourgeoisie of shop-keepers and local businessmen, though the 'gentry' were still well represented at county level (Bailey 1979a: 277; Thompson 1990: 65-71).

Ambiguities

The structure of the pre-existing local administration and parish constable system, combined with the vagueness in the definitions of police functions, created problems for the first police forces which were often tackled in the courts. For example, the death of PC Culley in 1833 in London during the policing of a gathering of radical working men was first judged by the Coroner's court to be 'justifiable homicide', a verdict which was later overturned on appeal by the Court of King's Bench (Emsley 2009: 47-51). Parish constables were often unwilling to accept that their authority was inferior to that of the policeman. For example in Essex in 1843,

three policemen arrested a drunk man carrying a basket of goods at 1am. The Thaxted parish

constable issued a summons against the police for assault and robbery. When the case was

initially heard by the Rev. Thomas Lee, he supported the summons and referred the case to

the Petty Sessions. In a packed Petty Sessions a week later, Lee found himself in a minority

of one on the bench, and stormed out in disgust, before the case was dismissed (Scollan

2005: 92). Policemen who believed they were acting correctly and following orders never

escaped the risk of facing a challenge such as this in court, with no guarantee that the court

would be sympathetic.

Top down control

Police forces have always been hierarchical organisations, and the new recruit in the

nineteenth century found himself in a very disciplined organisation (Lowe 1983: 44; Emsley

1996, ch 10, 2009: 42-4, Steedman 1984: 106-8). Marxist and Foucauldian theoretical

approaches saw the police as a tool of the state, but rather than identifying the agency of

eminent leaders, they implied that there is some structural force or power that is consciously

or unconsciously directing the actions of the police (Robinson & Scaglion 1987). Foucault, for

example, described a virtually acephalous state, which seemed to lack any conscious agency

but nonetheless sought to know more about its 'delinquents' and deployed new types of

professionalism to achieve this. One component of this state was the police who by assisting

in the production and use of knowledge gain access to and some influence in the discourses

of power (Foucault 1979: 27; 198, Cohen & Scull 1983: 3; Foucault & Gordon 1980: 96;

Dandeker 1990: 23-9; Sklepek-Hatton 2012). They were empowered in this process by the

changing status of information which, in the nineteenth century, became a tool to be used,

rather than a simple record of facts (Weller 2010). It has been said that police today are

'knowledge brokers' in modern society; the Victorian police had themselves adopted something of this role (Ericson & Haggerty 1997: 19-31). The police became concerned with creating, handling and disseminating information and aspired to manage risks such as Fenianism, foot and mouth disease and vagrancy: these points are covered in chapters three, six and nine. The rank and file policeman was able to control some of this power himself, through his compiling of reports, charge books and occurrence books.[62]

Some writers have implied that, when policemen acted, they were influenced or controlled by the imperative of this structural authority which operated through the hierarchies of the police force, to direct the actions of the men.[63] Ignatieff (1983: 86) summed up this situation in his critique of Foucault, who

> *consistently portrays authority as having a clear field, able to carry out its strategies without let or hindrance from its own legal principles or from popular opposition. Power is always seen as a strategy, as an instrumentality, never as a social relation between contending social forces.*

Careful, empirical studies such as Ignatieff's examination of the prison system, and this study of the actual experience of policing in a region of nineteenth century England, challenge this

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[62] Ericson and Haggerty (1997: 21-2) wrote that modern police spend most of their time handling 'knowledge.' It is not possible to discover how much time the Victorian constable spent on this task, but as is the case with police today most of the knowledge gained was for internal use. The expansion of a particular form of knowledge, aptly termed 'statistics', was a key feature of the developing nineteenth century state (Hacking 1991: 3).

[63] For example, Storch (1976: 481)cited several examples of policemen taking the initiative in dealing with disorder 'as a direct complement to the attempts of urban middle class elites . . . to mold a laboring class amenable to new disciplines of work and leisure'.

reductionist view of the operations of power and demonstrate that state formation is far more subtle than a narrative of the expansion of bureaucracy, or of the attempts of a dominant class to secure its position.

The chain of command: counties

The position of chief constables was not clear cut. In the boroughs, they were appointed by the Watch Committee; in the counties, appointments were made by the magistrates at Quarter Sessions. After 1888, the Joint Standing Committees appointed chief constables (Taylor 1997: 77-9). Although these bodies were responsible for the funding of their police, the degree of control they exercised was not clearly defined. In the counties, the chief constables enjoyed considerable autonomy, for they could decide on strategy and priorities, dismiss and appoint men as they saw fit. The magistrates rarely directed their chief constables to act, or criticised decisions (Critchley 1972: 124; Philips 1977: 64). Emsley suggests the infrequency of the Quarter Sessions explains this (Emsley 1996: 87-9). It has been claimed that chief constables benefitted from their being the social equals of the senior magistrates, but Cumbria's first chief constable was not gentry by birth or upbringing, this is explained in chapter six (Philips 1977: 64; Taylor 1997: 77; Emsley 1996: 88). The appointment of Joint Standing Committees did lead to more disputes. Leigh (2010) has stated that this was because these bodies were more political and divided. Nonetheless problems were infrequent, and a Committee's best hope for disposing of a chief constable was to persuade him to resign, as happened in county Durham in 1892.

The chain of command: boroughs

In the boroughs chief constables, or superintending constables as some were known, were under the closer control of the watch committees. Critchley concluded that the committee exercised full control over its chief constable: they had the authority to appoint, discipline or dismiss any of the men. They often issued directives concerning police priorities (Critchley 1972: 124-5). However, few of the local studies of policing describe serious dissension between a chief constable and his watch committee. For example, in her study of Manchester, 1829-1880, Davis found only one period when the Watch Committee pressurised the Chief Constable to act: in 1855, the Committee demanded tough policing of drunks, prostitutes and the Irish. By the 1860s, the Chief Constable was in the lead on policy and advising the Watch Committee of its effectiveness (Davis 1985: 35-8).

The most serious disputes between watch committees and chief constables seem to have been in Birmingham and Liverpool. In Birmingham in 1880 the Chief Constable claimed operational independence, whereas the Committee demanded to preview and control his plans. The Chief referred the matter to the Home Secretary, who refused to intervene, only reminding the parties that the Committee had the power to make regulations and dismiss constables. In Liverpool, in 1890, a difficult relationship reached a crisis when the Watch Committee directed the Head Constable to act against all brothels. The policy was a failure, as the Head Constable had predicted (Jefferson & Grimshaw 1984: 39-40; Taylor 1997: 81-2; Brogden et al. 1988, ch 2; Brogden 1982). Taylor and Brogden take this case as an example of how simplistic it is to say that the watch committees exercised full control. In practice, the power of the committee was very limited against the expertise, professionalism and leadership of a competent chief constable.

In dealing with the men, watch committees often seemed pusillanimous. Field (1981: 57-9) described how the committee in Portsmouth was ineffective in directing or controlling the actions of the men in the so-called 'Battle of Southsea' in 1874. The committee issued instructions but the men, led by the Superintendent, acted as they saw fit. After the event, the committee was torn between condemning or supporting their force, and avoided the difficulty by doing almost nothing. Watch committees could tell the men what to do, and praise, criticise or discipline them afterwards, but what actually happened on the street depended on the initiative and discretion of the men. This was so in Cumbria, just as in Portsmouth.

The structure of policing in the second half of the nineteenth century was far from clear cut, just as the legitimacy and functions of the police were far from self-evident. Discretion was needed to negotiate the ambiguities of policing.

Discretion

Justice . . . . demands that [police officers] stay true to their conscience and use their intellect, for, like it or not, they are arbiters as well as constables – the consequences of their decisions to act or not to act, or to act in a particular way, make this so. A police officer must practice a philosophy, not merely follow procedures. (Lashley 1995)

Discretion epitomises the question of agency versus structure, introduced at the start of this thesis. From the outset discretion was an important concern for those whose aim was to direct police operations, and it remains a key issue in the discourses of policing today (Ericson 2007; Jethura 2012; Goldsmith 1990; Leyland 2012). A set of rules may be in force

to direct the work of the police, but it is practice that actually gives form and meaning to the rules (Ericson 2007: 368-79). 'There could be guidelines, but no firm rules' (Dubber: 72).

The Victorian policeman was subject to a stricter discipline than the labourer, but he was not a soldier, for he was expected to use his discretion (Emsley 2009: 118-43; Lowe 1983: 46-9). The word 'discretion' is appropriate in the English model of policing, deriving from the common law, in which the power of the policeman to act is permissive. That is, the constable is told he may take certain actions, not that he must take them (Wakefield & Fleming 2009: 85).[64] Although the term discretion was used in the original General Instructions issued in 1829 (Taylor 1997: 90) it was problematic within the context of a disciplined force. The dilemma the ordinary policeman faced was between an instrumental power relationship, in which the senior officer told him exactly where he should be and what he should or should not do, and a normative power relationship, in which he was expected to respond to unforeseen problems and achieve vague standards of public safety and order, which is more appropriate for a reassurance model of policing (Walker 1994: 37-41; Joyce 2006: 136-41; Rowe 2007; Campbell 2003). But neither relationship worked satisfactorily in the messy day to day reality of police work. Rules, or laws, and norms were both palpably insufficient for they presented a series of lacunae when dealing with real problems. For example, how should the constable deal with a drunken wife-beater when the woman refused to complain? What should the constable do when he observed a man who, he was sure, was a pickpocket but had not yet stolen anything? However, citizens, whether they were criminals or their victims, relied upon

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[64] Discretion is appropriate for American police forces for, as Skolnick (1966: 6) observed: 'The ideology of democratic bureaucracy emphasises initiative rather than disciplined adherence to rules and regulations'.

the protection of precise rules and laws in their dealings with the policeman or the state (Skolnick 1966: 6).

Discretionary power was even more inevitable in a legal system in which the subjective opinion of the arresting officer was the primary evidence against the offender. For example, in cases of drunk and disorderly and vagrancy, the evidence was almost invariably the opinion of the policeman. 'The police are given the statutory powers to define the limits of the behaviour that constitutes public order' (McBarnet 1979: 34).[65] The policeman was caught between three stools:

- The legal system and hierarchy continually issued precise orders.
- The definitions of police powers and functions, described above, were vague.
- The public were often willing to express an opinion on what the police should be doing.

Police discretion was the means by which it was possible to reconcile the structural problems of organising a force whose functions had been poorly defined. When faced with a real problem, such as a large and noisy drunk, or a child who has stolen a turnip, described in chapter nine, the constable had to use his initiative. He was guided by his recollection of orders and memos issued by the superior ranks, his personal opinions and the influence of

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[65] The desire for order in society requires a definition of disorder (Bauman 2000: 23).The policeman was expected and empowered to know and decide what constituted disorder.

canteen culture' which offered practical ideas for dealing with difficulties on the street (Wilson 1978: 7).

This dilemma of discretion versus hierarchical control is problematic for chief constables. To what extent should they order the men to enforce the law and to obey their orders to the letter? The dispute between the Watch Committee in Liverpool in 1890 exposed the shortcomings of such an approach: the world is far too complicated to eliminate police discretion. However, very often complaints against the police revolve around the issue of police discretion. Were they obeying or exceeding their orders? Complaints against police are covered in chapter nine (Jefferson & Grimshaw 1984: 41-61, 143-50).

Discretion and the cultures of policing

Discretion is implicated with the cultures of policing.[66] It is necessary to tease out the clues of Victorian police culture in order to understand how discretion worked and discover if it can explain discrepancies in the handling of cases. The deployment of subjective criteria on the street meant that each constable handled each case differently.[67] This is clear in chapters seven to nine.

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[66] Chan (1996: 110-1)put together a loose definition that meets the needs of this study: practices, principles, values and norms, including craft rules and responses to danger, that inform police conduct. The cases analysed in this study (eg, the Netherby murder, ch 8) support this definition.
[67] Banton (1964: 139-43) illustrated this clearly from his observations in Scotland.

Discretion at street level

It has been observed that police forces are unusual organisations, in that the scope for discretion increases as one goes down the hierarchy; the humble police constable 'has the greatest discretion and thus his behaviour is of the greatest concern to the police administrator' (Wilson 1978: 8). The constable is in a 'high trust' position (Giddens 1989: 19). This was certainly the case in Victorian Cumbria, for the policeman was quite likely to be acting in isolation for long periods of time, and needed to think for himself. This enabled the constable to exercise some control over his work: he could manage to some extent the content, pace and the satisfaction he derived (Manning 1979: 43). This is clear in the description of the work of the Grayrigg constable in chapter nine.

The Instructions issued by the Chief Constable of the Cumberland and Westmorland Constabulary recognised the importance of initiative, for the constable was required to 'do everything which seems to him to be necessary for the security of life and property, whether contained in his instructions or not' (CRO, SCons 1/1 1857: 18). Nonetheless the Chief Constable's orders and circulars, discussed in chapter six, regularly gave the men precise instructions on what they should or should not be doing.[68]

The empirical content of this study provides examples of the men acting upon initiative and using their discretion to tackle problems. Banton (1964: 127) stressed the importance of the policeman's decisions *not* to act: 'usually they have good reasons not invoking [the law]'. It is,

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[68] Events in Colne demonstrated the inadvisability of inflexible policing (Storch 1975).

however, difficult to find examples of the men choosing not to act, for the records are inadequate for this (Goldstein 1960: 553). [69]

The corollary of initiative and discretion is the idea that there is an area of compromise between the rule book and the actual work of the police. The police invariably believed that following the rules to the letter would be impossible or disastrous, for they saw a significant gap between the law in theory and the law in practice (Chatterton 1979: 83; Campbell 2004; Copperfield 2006; Manning 1977: 179-201; Walklate 2008: 43-9; Holdaway 1983: 17; Goldsmith 1990: 92-6). This idea was well established in the nineteenth century, for example, in Jerome Caminada's method of dealing with 'scuttlers'(Caminada 1895: 404; Payne 2011, ch 7: 225). From their first days, the uniformed police 'negotiate[d] often "unspoken" contracts with various social groups', (McLaughlin 2007:5) and used the law as a resource to achieve practical solutions to immediate problems (Punch 1985). Chapters seven to nine give examples of how Cumbrian policemen were able to manipulate cases to the disadvantage of certain offenders, usually in cases involving vagrancy and pickpocketing, but evidence that they were lenient 'with various social groups' can only be inferred from the lacunae in the records. It was at this point of discretionary action that the contradictions implicit in an ambiguous system were reconciled.

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[69] Chapter nine draws inferences from some records to show discretionary inaction by the men.

Summary

This chapter has problematised the function of the police in the nineteenth century. It has demonstrated how discretion was central to the task of policing and was implicit in the common law origins of police powers. There was little central government direction of policing in the nineteenth century, chief constables enjoyed considerable autonomy, but (as is clear in the following chapters) what actually happened depended largely upon the opinions and actions of policemen.

The successful constable was not a neutral agent of social forces, nor the mindless tool of the rulers, to use Hall's terms quoted above. He was not a ruthless member of a blue army, nor was he a fawning servant of the people. But he was expected, on occasion, to be at least some of these things. Discretion was the only way these competing views of the police could be navigated by a man who was working on the beat. The constable was, for those whom he policed, the representative of the state. He was one of the means by which the processes of state, local or national, were advanced. But the constable's actions were shaped by his discretion, which was only in part formed by the wishes of those in authority above him.

This chapter has explored the historiography and the ideas that informed the establishment of provincial police forces. This study of a small police force in its first fifty years facilitates an understanding and testing of the centrality of police discretion, which is fully explored in the following chapters. First, chapter six establishes the framework within which the Cumbrian policeman operated, in order to situate his discretion.

The Policing of Petty Crime in Victorian Cumbria

Chapter six: the Formation of the Police in Cumbria

Introduction

This chapter covers the policing of Cumbria before 1856, the shortcomings of the system at that time, and the introduction of new ideas and methods after 1856. It concerns the management of policing and the evolution of the control of the police. The establishment and development of policing in Cumbria are examined; key issues are the contemporary ideas of what constituted an efficient police force, what its priorities should be and how these ideals were to be achieved. The organisation of this chapter is framed by a simple chronology: before and after the 1856 Act which required police forces in the whole of England (County and Borough Police Act 1856 19 & 20 Vict., c. 69). Most of the primary sources used postdate this Act, though a number of useful sources are earlier. The major pitfall of this chronology is that it might favour a simplistic interpretation of 'old' versus 'new' policing, but this chapter dispels this interpretation. Oversimplification is avoided by describing the gradual and faltering nature of the development of policing in nineteenth century Cumbria.

The formation and structure of policing in Cumbria was the context within which the policemen acted and is therefore an important component of this study of the structuration of policing. However, it is clear in subsequent chapters that individuals, including ordinary

policemen, were significant agents in the creation of the structures of policing, for policy and its implementation are quite distinct phenomena (Holdaway, 2013; Punch 1985).

More significant than chronology in the structure of this chapter are the priorities for police (as they were perceived at the time) and how they were defined, imposed or influenced by those in authority. Tennant (2010: 14-5) has pointed out that there has been a tendency to produce models of the development of policing that are based on the ways in which the police were controlled and organised. These models, she explained, derive from the 'old' versus 'new' paradigm mentioned above. This study aims, like Tennant's, to examine not the models but the processes that brought about new forms of policing (Styles 1987: 16).

Although the overall approach of this study is 'bottom up', this chapter focuses on the hierarchical control of the police in Cumbria so that the strictures imposed upon the policeman by his superiors may be understood. The chapter therefore presents evidence of how the police were controlled and managed in order to assess (in the next chapters) the discretionary independence of the ordinary police constable. It is necessary to consider the Constabulary and the Borough[70] police as separate entities, for there were fundamental differences in the mode of supervision. The differences were keenly debated when the question of establishing county police forces was debated in the 1850s. Relations between the Constabulary and Kendal Borough were good, whereas there was a difficult relationship with Carlisle.

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[70] This chapter focuses upon the borough of Kendal, rather than attempt a detailed coverage of both Cumbrian boroughs.

Policing: the nineteenth century discourse

The main debates about policing had taken place in the 1830s and 1840s; these were discussed in the previous chapter. Once concerns about the independence of boroughs and perceived threat of centralisation had been addressed, the 1856 Act passed with little demur. (Tennant 2010: 53-64; Rawlings 2001: 124-142; Critchley 1972: 78-88, 107-17; Emsley 1996: 43-54, 2005a: 228-31; Taylor 1997: 36-9; Philips & Storch 1999: 164-6). Philips and Storch (1999: 7-10) observed that the 'provincial ruling class' generally supported the idea of police reform, and their arguments focused not on the desirability of police forces, but on the implementation of the systems. In the 1850s magistrates and county leaders of Cumbria, families such as Lowther and Senhouse (Marshall & Walton 1981: 115-8) did not engage in much debate concerning the establishment of the Constabulary, and only rarely disagreed with the Chief Constable thereafter. The relative silence of these men in the record, even as the financial costs of policing increased after the 1856 Act, suggests acquiescence in the changes and acceptance of the methods of the Chief Constable. The relationship between county leaders and chief constables was much the same in other counties, for Quarter Sessions rarely gave orders (Emsley 1996: 87-9). Watch committees enjoyed absolute power on paper (Critchley 1972: 124-5) and were more likely to attempt to intervene in borough policing, but even in these towns the head constable had considerable operational freedom, and the occasional rows did not result in any clear decision on who had priority, watch committee or head constable (Emsley 1996: 87-9; Taylor 1997: 6).

Central government was very reluctant to intercede locally, as the previous chapter explained. After 1856, the Home Office did little beyond the annual inspection to ensure that requirements were met, though the annual grant did give them the opportunity to discover

problems and exert pressure.[71] The relative indifference of Whitehall and Quarter Sessions explains how it was possible for professionals and experts such as chief constables to dominate the discourse.

One man, John Dunne, stands out; he epitomised the leadership role of chief constables in the nineteenth century. It is necessary to examine Dunne's work in order to analyse the extent to which this individual can be said to have shaped policing in nineteenth century Cumbria. Dunne may be represented as the man who created the Constabulary, but this chapter examines the ideas and background that motivated and inspired the thinking underlying the formation of the new police in Cumbria. This facilitates an examination, in the following chapters, of the role of the rank and file police in the development of policing.

Although the main focus of this study is the Cumberland and Westmorland Constabulary which was established in 1856, it is necessary to contextualise this within the earlier forms of police forces both within and without the region. Cumbria was far from isolated, for in both policy and personnel the two counties contributed to and drew upon developments in policing across the country. The professionalism of the Cumbrian police grew as did that of forces elsewhere through the century (professionalism is discussed below).

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[71] The weakness of the inspection regime is mentioned below in the context of the Tabitha Rutter case.

Policing Cumbria before 1856

The creation of the Metropolitan Police Force in 1829 is generally taken as the inception of modern policing in England, but the *fons et origo* of English policing was the office of parish constable (Godfrey 2008: 56-7; Williams 2010: 161-2; Critchley 1972: 5; Emsley 1996: 8-14; Philips 1999: 4-6). Policing and police forces existed in Cumbria before the 1856 Act (19 & 20 Vict., c. 69) and the police force created in 1857 was only 'new' in a qualified sense (Styles 1987: 117-8). The first forces organised in Cumbria were in the boroughs of Carlisle and Kendal, both of which had established forces before they were required to do so by the 1835 Municipal Corporations Act (5 & 6 Wm IV, c. 76). The Metropolitan model was used as a guide in Kendal when the borough was planning its own force in 1830, though the original Kendal force seems to have resembled the London police only in the design of the uniform and the titles of the ranks (KRO, WSMBK/1/21/1 box 8 1831-1903). This was typical of early borough forces (Hart 1955: 421). The most significant point of difference between provincial policing and the Metropolitan model was that the essence of provincial policing was the local interest, which exerted itself to define and regulate the community (Steedman 1984: 22-5). Chapters six to nine provide many examples of the exertion of local interest in nineteenth century Cumbria.

One important point of similarity was the autonomy of the men in charge. Richard Mayne (the dominant partner of the first two Commissioners of the Metropolitan Police) enjoyed considerable personal authority, unencumbered by any significant interference in defining policies or regulating management of the force. The Home Office was by and large content to let Mayne run things his own way (Emsley 1996: 65-6), and this was to be the pattern in the management of county policing in Cumbria, where, as is explained below, the Quarter

Sessions and Joint Standing Committees generally allowed the chief constables a free hand (Smith, P.T., 1985: 33-7).

By the early 1850s, three Cumbrian towns had their own police forces. Whitehaven Town and Harbour Trustees employed their own policemen, the City of Carlisle had twenty two men in its force (PP, 1852a: 90) and Kendal had a force of four men (KRO, WSMBK/1/21/1 box 8 1831-1903).[72] Following the 1839 Act (2 & 3 Vict., c.93), which allowed counties to establish police forces, a minuscule county force consisting of one superintendent and three constables was created in the Derwent district of Cumberland, the coal and iron district of the West Cumberland coast (Leigh 2006: 19-20; Marshall & Walton 1981). It was the same size in 1853, when Superintendent Brown claimed his force was effective, even though they had less than one man for every 10,000 of population (PP, 1852b: 33). Westmorland had used the 1839 Act, in 1844, to appoint a superintending constable (Emsley 1996: 44; Philips & Storch 1999: 158). By 1850, this 'force' stood at three men, the chief of whom, Mr Henshall, received £130pa, with expenses of £31 from the county in 1849 (PP, 1850).

By the early 1850s, paid constables and small forces existed in several parts of the two counties. These police were intended to act in the same way as the traditional parish constables, in that they were expected to respond when the victim of a crime wished to bring a prosecution, and to assist by locating offenders and detaining them if necessary in order to bring them to court. They were expected to deal with vagrancy and disorderly behaviour. However, most Cumbrian communities continued to depend upon the cooperation and

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[72] Appleby, although a borough, was excluded from the provisions of the 1835 Act because of its small size (Parris 1961: 255).

effectiveness of the parochial, unpaid constables. The parish constables were supervised by High Constables until these posts were abolished in 1869 (Leigh 2006: 17-23). The traditional parish constables continued to operate for some time after (KRO, WTPS/WW 21 1855-1873)

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Controlling the Cumbrian Police

In Cumbria, there was little effective direction or control of police by county magistrates, as is made clear by the case of Henshall, below. In the borough of Kendal the Watch Committee was reactive rather than proactive in its management. For example, Kendal's Superintendent of police was instructed to remove nuisances and deal with disorderly persons and vagrants (KRO, WSMBK/1/21/1 box 8 1831-1903: 11 Jun 1836). This vague instruction met the concerns voiced in the local press about the problems of dirt, drunks and beggars but seems quite modest. Deterring or catching thieves was not mentioned, but a beat system of surveillance was adopted, with more men patrolling by night than by day. The assumption was that the presence of a uniformed policeman would deter infractions of law and order (Critchley 1972: 157-9). In Kendal, vague instructions sufficed until a serious incident provoked action:

> *Mr Kendrick [Superintendent] be required to write a circumstantial detail of his*
> *exertions to detect and bring to justice the murderer of the late Thomas Hunter and*
> *that he lay such statement before this Committee on Friday Night next (KRO,*
> *WSMBK/1/21/1 box 8 1831-1903: 5 Dec 1837).*

This entry is unusual only in the gravity of the offence. More typical entries concerned children playing with hoops (9 May 1837) defective street lamps (24 Nov 1867) and damage to gardens and stolen flowers (12 July 1880). These *ex post facto* directions contrast with the specific instructions given to Constabulary police after 1856 (below).

Problems in Westmorland, 1850 -1851

In Westmorland, problems arose because the Chief Constable was able to operate with minimal supervision. The freedom of action of chief constables was not much less after 1856 (see below), but the new system included external inspections, and the Cumberland and Westmorland Constabulary introduced bureaucratic systems that ensured some professionalism and managed difficulties, as chapter three showed. The experience of Westmorland at mid-century epitomised the difficulties of policing in the early nineteenth century, specifically in two respects:

- There were limited means of ensuring that the policeman or constable pursued the public interest rather than using his position for personal advantage.
- It was difficult to supervise policemen within a system that allowed individual magistrates to act upon their own initiative in police matters.

These were among the points made by John Dunne (future Chief Constable of Cumberland and Westmorland) and others in evidence to the Select Committee on Police in 1853.

Westmorland's Chief Constable Mr Henshall[73] exemplified both problems. Henshall was frequently mentioned in the Lancaster Gazette, in more than a dozen cases between 1848 and 1850. Most were thefts, usually of the less trivial kind: e.g., a large number of knives from a shop (LG, 30 Sep 1848, p5); robbery and attempted rape (LG, 18 Mar 1848, p5). But he also prosecuted some minor offences: serving drink during the hours of worship; gambling (LG, 22 Mar 1851, p5). Henshall came in for some serious criticism. In 1850, he was called before the Quarter Sessions. One case was presented in detail, in which Henshall had secured the conviction of a robber, but had retained the recovered proceeds of the robbery, claiming they were expenses, so that the prosecutor had received nothing. It was further claimed that this was only one of many similar 'delinquencies on the part of the chief constable', such that the local prosecution society refused to work with him again. The chairman stated that such conduct was 'highly reprehensible', but left the matter to the local magistrates (LG, 12 Jan 1850, p3).

The following year, Henshall was criticised at the Westmorland Quarter Sessions for claiming a fee of six shillings for attending the fair at Milnthorpe. The bench felt that this was part of his normal duties and he should not receive any fee. In the discussion it emerged that Henshall's claim had been endorsed by two local magistrates, but the bench ruled that this did not make it legal (WMG, 19 Apr 1851, p5). These Sessions had more serious issues to consider, for details of a case against Henshall had been forwarded to the bench from the Lancaster Quarter Sessions. He had been found guilty of disgraceful conduct towards a 'respectable

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[73] Henshall was sometimes described as Superintendent, sometimes described as 'of Kendal Ward', and at least once just as 'police constable.' He was in post until 1851. Although his post had been created under the 1839 County Police Act, in practice the position was much more like that of the Superintending Constable created by the 1842 Parish Constables Act (5 & 6 Vict., c. 109).(Philips & Storch 1999: 157-8).

female' with whom he had shared a compartment on a train from Preston to Lancaster. Henshall had made an explicit proposition to her, and then had tried to kiss her and to put his hands up her clothes, which were considerably torn in the struggle. Henshall was fined £5 (LG, 22 Feb 1851, p3).

In April 1851, Westmorland Quarter Sessions did not directly address Mr Henshall's conduct, but singularly vague reporting in the Westmorland Gazette suggests that a decision had been reached on the matter in private discussion before the meeting. Mr Gandy (chairman of the Sessions) referred to a testimonial that Henshall had presented bearing the signatures of a number of magistrates.[74]

> *He [Gandy] should propose under the present circumstances that testimonial should be returned to Mr Henshall before the court would grant his salary. The other magistrates having concurred in this Mr Henshall said that he had not the least objection to the return of the testimonial.* (WMG, 19 Apr 1851, p3)

> [A week later the magistrates decided that] *no successor should be appointed to the late county Superintendent until the next Westmorland Sessions . . . . such a functionary may be dispensed with without any very great danger.* (WMG, 26 Apr 1851, p3)[75]

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[74] Testimonial: a written statement of his merits and achievements, presumably presented as ammunition in his defence.

[75] In the 1861 census, Henshall's daughter, Mary Jane, aged 14, was an inmate of the Kendal workhouse. Her parents are not to be found in the record.

The reports in the newspaper, although detailed, are far from clear. One may infer that the bench, because debate at Quarter Sessions was conducted in public, was avoiding an open discussion of the difficult circumstances. By withdrawing the testimonial, Henshall was withdrawing his case and the need for debate ceased. Henshall's 'resignation' was then accepted and he received his salary, following which his post was terminated.

Dissension

The particular problem illustrated by Henshall's behaviour was dissension amongst the magistrates. If the police were under the control of these gentlemen, the system needed to be able to cope with inevitable differences of opinion. There were those who argued that authority should stay at Petty Sessional level, rather than being centralised at the Quarter Sessions as required by the 1856 Act, but this sort of extreme localism encouraged dissension and allowed problems such as Henshall (Philips & Storch 1999: 150-169; Steedman 1984: 18, 47). In Horncastle, Lincolnshire, the functioning of the town's first police was continually beset by problems arising from the divisions in the community, for the police committee was required to hold open meetings and accept submissions from the ratepayers (Davey 1983). Dissension was a problem even in boroughs where the police were run by the Watch Committee. In Kendal, for example, on election day in December 1832, one group of magistrates complained that the police 'had not excited themselves for the purpose of repressing the outrages that had then taken place and were still then in progress' (KRO, WSMBK/1/21/1 box 8 1831-1903, 3 Jan 1833). They were angry to discover that Mr Whitwell, a Kendal magistrate and banker, had instructed them not to interfere. Scollan has given a good example, referenced in chapter five, of the problem for policing of magisterial dissension in Essex in 1843. Steedman cites another case in Kent in 1850 (Steedman 1984: 20).

The Quarter Sessions, when they dealt with the 'delinquencies' of Henshall, was trying to tackle the problem of how to establish a disinterested police force that were not hamstrung by local divisions. [76] This was addressed by the Select Committee on Police, 1852 and 1853 (PP, 1852a, 1852b). The evidence presented and discussed below allows a view of the thinking that helped shape the system introduced by the 1856 Act.

The Essex model: a Cumbrian connection.

Some of the most influential evidence came from one of the first county forces, Essex police, described in 1857 as 'one of the most efficient in England',[77] whose Chief Constable, Captain MacHardy, enjoyed a high reputation as the leader of an effective force. MacHardy claimed to recruit his men with consistent standards (Scollan 1993: 5-7). He claimed recruits were chosen 'to insure discreet conduct, and unbecoming zeal . . . . and by elevation of character . . . . are really sagacious, intrepid and valuable men' (PP, 1852a, 1852b: 146). Apart from MacHardy, at least three others giving evidence had served in Essex and had progressed in their careers since leaving. There was a consistent Essex point of view presented which is relevant to this study because two of the men had progressed from Essex to Cumbria. John Dunne, the future Chief Constable of the Cumberland and Westmorland Constabulary, had joined the Essex force as a PC and was promoted to inspector. Thomas Redin, promoted

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[76] The police needed to be disinterested. The Chief Constable explained this to his men at Kendal in 1892 (LG; 20 Jul 1892, p7). Disinterest must not be confused with indifference. The ideal postulates a policeman who, like a good football referee, is acutely conscious of what is going on around him, and applies a set of rules objectively and without favour (Bourdieu 1998: 76-80). A passionate disinterest, such as creates effective policing, can only exist when 'economic interest is suspended' (Bourdieu 1998: 88). Disinterest should not be limited to the strictly economic: drunkenness (an endemic problem in the early police forces) immorality and corruption were always seen as threats to efficient policing (Emsley 1996: 61-2, Taylor 2002: 43-4).
[77] From the government inspector, quoted by Scollan (1993: 26).

from PC to superintendent, was by 1852 governor of Carlisle Gaol. Both of these men presented their evidence to the committee on the same day, June 3rd 1852.(PP, 1852a:118) The third Essex man who gave evidence was William Oakley, who had gone on to be Chief Constable of Bath, where Dunne had joined him as an inspector (Scollan 1993: 27,139). These men presented a consistent 'Essex approach', the key points of which, as applied in the Cumberland and Westmorland Constabulary, were

- Borough Policing was seriously flawed, they said, because local interests, especially publicans and brewers, tried to exert undue pressure. The answer was to merge county and borough forces under the command of an effective Chief Constable (PP, 1852a: 92-3, 118-25).

- Rewards and fees, if due, should accrue to the force, not to the constables or higher ranks. The parochial constables, who were not disinterested, were limited in their effectiveness, because they would refuse to act in difficult circumstances or without inducements (PP, 1852a: 58).

- Vagrants were a major problem, but could be dealt with by an efficient force, acting as relieving officers and regularly monitoring the common lodging houses (PP, 1852a: 53-60).

So effective was the Essex force, according to MacHardy and Oakley's highly disingenuous figures, that the force had actually saved the county significant expenditure, over and above the cost of the police force itself (Philips & Storch 1999: 228). Oakley was particularly critical of the Superintending Constable system which, he claimed, was very expensive and wasteful. The figures he used to support this argument had been passed to him, he acknowledged, by

John Dunne, based upon his time as a Superintending Constable in Kent (PP, 1852a: 58). Dunne himself spoke very critically of his own borough force, Norwich: forces like this, he said, were highly inefficient, lacked uniformity and the ability to cooperate in tackling crime, but he had made major improvements, following the Essex model, in the supervision of the men, ending the payment of fees to the men and in standing up to the local magistrates and Watch Committee (PP, 1852a: 115-24).

Whereas the Essex approach might have angered some magistrates in points one and two, in dealing with vagrancy the approach was widely welcomed and was an opinion shared by many county gentlemen. Concerns about vagrancy seemed universal and perennial in the mid-century (Philips & Storch1999; Jones 1982; Barrett 1996; Fowler 1991; Jones 1977; Matthews 1986). Vagrancy was one of the main issues to galvanise support for the 1856 Act (Philips & Storch 1999: 56-7,100,124-7, 225). Cumbrian magistrates and organisations such as the Charity Organisation Society certainly agreed that tackling vagrancy was important (below).

Policing did not emerge into a vacuum in 1857. The new county constabularies were able to build upon experience, personnel and expertise that already existed, from within and without their own counties (Rawlings 2001: 143-4).[78] Nor did the creation of the constabulary mean the demise of all previous police systems. After 1856 much of the policing of Cumbria

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[78] *Lawless and Immoral* gives a graphic account of the stuttering progress of policing in the town of Horncastle from 1838 to 1857. The nature of the records used in this study allowed a detailed 'street level' view (Davey 1983).

remained a local affair, with a new Chief Constable, John Dunne, who was a determined organiser.

The Cumberland and Westmorland Constabulary

Continuity

The 1856 act was not a revolution in policing, merely an evolution, as chapter five explained. Rawlings argued that the concept and principles of policing were well established by 1856 and largely uncontested at county level, whereas Taylor described it as the culmination of a long process of reform (Rawlings 2001: 143; Taylor 1997: 38). In Cumberland and Westmorland, as in many other counties, the gradual development of policing since the 1830s forestalled the need for extensive debate about policing in the 1850s (Leigh 2006: 33). The views of the counties were represented at the 1853 select committee by men who were already committed to policing. Officers such as Redin, the governor of Carlisle gaol who had served in the Essex force, and Brown, the superintendent at Cockermouth were experienced in police work well before 1856. Within Cumbria, the boroughs raised concerns that centred on the threat to their autonomy but in Kendal the doubts were short lived (see below).

Survival of the parish constables.

Before examining the changes introduced in 1856, it is well to consider the continuities, for the evolutionary nature of the changes in the mid-nineteenth century is evident from the persistence of the parish constable system in Cumbria. The beat system[79] was stretched to the limit in the thinly populated areas of Cumbria, so it was perhaps inevitable that the Parish Constables continued to operate for many years after 1856. As late as 1872, thirty five parish constables were appointed for the West Ward of Westmorland. Of these, twenty nine were in townships without their own constabulary constable (KRO, WTPS/WW 21 1855-1873). This was the year in which the post of parish constable was abolished by statute.

In Essex the parish constable system continued to function and the new police worked with the parish constables in the 1840s (Ewen 2003: 162-85). There is evidence that the new Cumbrian constabulary worked with and supported the holders of this traditional office for many more years. For example, in 1871 the Westmorland Gazette reported a salutary tale of Mr Robson, a shopkeeper of Penrith, who happened to be the parochial constable. At this time, there were six policemen stationed in the town of Penrith (CRO, SCons 2/19 1866-1873). Robson's cash box containing several pounds was stolen by two young tramps. Robson gave chase and caught them at Clifton, a mile or so up the road. The children were searched but no money was found, so Robson gave them nine pence in recompense. Later he met Inspector Bertram of the Constabulary, who returned to Clifton with Robson and

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[79] The beat system, adopted by the Metropolitan force, derived from the old system of watches in urban areas (Smith, P.T., 1985: 43). The problems of beats in rural Cumbria are addressed in chapter 8.

caught the tramps. Bertram found the coins in the boy's trousers by shaking him. The Gazette reported the exchange in court:

> *Jameson (magistrate): Have you ever been in the police force?*
>
> *Robson: No, I have not.*
>
> *Supt Fowler: He is a parish constable and this is his first case (Laughter).*
>
> *Jameson: . . it is quite clear that parish constables are not as sharp as they were forty years ago.*
>
> *Fowler: Every man must have a training. (*WMG, 28 Oct 1871, p5)

This is a conflicted narrative, for it suggests the last gasp of an obsolete system. Perhaps Robson was galvanised to act in this emergency because it was his own money at stake, but it is significant that the office of Parish Constable was still operating fifteen years after the constabulary had been set up, in a town which had six constabulary men of its own. There must have been greater need in Cumbria's many remote townships, but the narrative suggests a general recognition that there was a need for a professional police force.

Reorganisation

A committee formed of representatives of the Quarter Sessions of both counties met to plan the new force. The meeting quickly agreed 'it would be better to throw the counties together and have only one chief constable' (LG, 11 Oct 1856 p5). It was an unusual force, in that two counties were served by the same establishment. [80] Much of the debate was concerned with

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[80] Cambridgeshire, Huntingdon and the Isle of Ely was the only other joint force (Parris 1961: 237).

the cost of the force and what rate should be levied. The Chief Constable's salary was a modest £450,[81] and the meeting decided that it would not be necessary to increase the number of policemen employed; they would for now defer the decision on salaries to be paid to superintendents and other officers (LG, 11 Oct 1856 p5). This discussion at Quarter Sessions reinforces the view that in Cumbria at least the establishment of the constabulary was conceived as an evolution of policing, not a revolution.

Appointment of a chief constable

> *eighty two candidates offered themselves, including officers of the army and navy, civil officers and private gentlemen. J. Dunne, Esq. was unanimously elected, and subsequently appointed by the secretary of state. (Whellan 1860: 70)* [82]

When John Dunne became chief constable, those who held that post were generally 'little more than "gifted amateurs" and in some case not so gifted' (Wall 1998: 4). Dunne was an exception who could be described as a professional. This section considers how atypical he was of a Victorian chief constable, and the extent to which he determined the principles and structures of policing in Victorian Cumbria.

Black (1916: 215) presented Dunne as a man typical of high office, claiming an ancient Irish lineage, a good marriage and describing him as 'Senior Chief constable in the kingdom'. He

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[81] Dunne, who accepted the post, was already receiving that sum at Newcastle (Newcastle Courant, 18 Aug 1854).
[82] Whellan's Directory included a lengthy entry concerning the new Constabulary. The detail and the implicit praise therein suggest that Dunne may have had a significant role in its writing.

was Deputy Lieutenant and was knighted in 1897. Dunne claimed a good education in France and Dublin (Bryant 2013). Such character had been deemed necessary for the holder of the office of Chief Constable since the earliest days of the 1856 Act (Hart 1956: 416-7). Despite these references, Dunne did not fit the stereotype of a Victorian Constabulary chief (Philips 1977: 64; Steedman 1984: 15; Reiner 1991: 47-8) for he was not from a military background, nor was he 'gentry' by birth. His family was not affluent; his father had owned a small woolen mill. Dunne was Catholic and not university educated (Bryant 2013). He had left Ireland aged fourteen, and started his police career as a fifteen year old constable in Manchester in 1840.[83] Sixty years later, the knight of the realm who rubbed shoulders with Lord Lowther, Kaiser Wilhelm, the Tsar and the Prince of Wales (Bryant 2013; North Eastern Daily Gazette, hereafter NEDG, 8 Jan 1898 p5) may well have felt the need to embroider his past, but the truly exceptional fact about his career is how a modest start in life had not prevented him from achieving the highest honour and esteem, at a relatively young age and without any military background (Emsley 2009: 84-5).

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[83] Dunne's year of birth in *Who's Who* was 1825. In unpublished statements to the author, Leigh has expressed doubts about this date.

Table 6.1 John Dunne's police career

Manchester	1840-1841	Constable
Essex	1841-1848	Constable and Inspector
Bath	1848-1850	Inspector
Kent	1850-1851	Superintending Constable
Norwich	1851-1854	Chief Constable
Newcastle	1854-1856	Superintendent (chief)
Cumberland & Westmorland	1856-1902	Chief Constable

Sources: (PP, 1852a,1852b, Newcastle Courant: 18 Aug 1854 p4, Leigh 2006)

Dunne's progress to Chief Constable contrasts markedly with that of Sir William Knott-Bower and Sir Henry Smith KCB, who reached that office in the same century by means of family connection and patronage (Wall 1998: 108-17). However a *faux pas* by Dunne near the end of his career betrayed his enthusiasm to link himself with the county elite: he spoke publicly in 1900 to endorse Claude Lowther, the Conservative election candidate and junior member of the aristocratic family which dominated Cumbria. By this act Dunne contravened the rules on police political neutrality and was heavily censured, and not only by the Liberals (Emsley 1996: 110-1; Leigh forthcoming, ch 7).

Establishing the Constabulary

The Constabulary adopted the ideas outlined above in the 'Essex approach'. In his first report to the Quarter Sessions, within three months of his appointment, the new Chief Constable explained how he had reorganised the policing of Cumbria: he stated that recruits of the right quality and number had been appointed, the counties had been organised into new divisions,

new regulations and pay scales introduced. The Quarter Sessions' plans, mentioned above, for modest change were soon challenged, for Dunne reported that the manpower needed augmentation, to which the Sessions agreed (Leigh 2002: 34-8).The inspector's report in July stated that the number of men had risen from 74 to 93, and that the force was 'efficient', though it pointed out many deficiencies in police accommodation and cells (PP, 1857:14). The size of the force rose rapidly in the early years, reaching 115 men by 1859, after which the increase in the size of the force was gradual.

The reports presented by the Chief Constable to the Quarter Sessions were almost invariably received without question. Typically the minutes stated: 'the thanks of the Court be given to Mr Dunne for his communication, and especially that part of the letter that alludes to vagrants' (KRO, WQ/M/32 1859-1875: 5 Jan 1866). The Chief Constable was allowed a considerable free hand in his running of the force, which supports the pattern described in chapter five, where the autonomy of chief constables across England has been discussed.

The only serious dispute over the operational policies of the Constabulary arose in 1896-98, when the Westmorland magistrates on the Joint Standing Committee challenged the Chief Constable over the manning of the force in Westmorland. The magistrates accused him of leaving their county undermanned, but concealing it by moving men around frequently. The Committee wished to interview Superintendent Graham, but Dunne would only allow this if written questions were submitted beforehand. Dunne prevailed in this dispute (Leigh 2010).

Dunne's longevity may explain why systems introduced at the inception of the Constabulary in 1857 continued with little if any change throughout that time: the instruction book was not

modified before 1902. Innovations are mentioned in the records in a fleeting and ad hoc manner. Photography, telegrams, bicycles and letter copiers are adopted and used without comment or explanation. There is no evidence that Dunne ever took a lead in modernising his force.

However the narrative of this thesis is one of developing professionalism in the police. Cumbria was typical in that policing was left to the professional expertise of the man in command. Dunne filled the role imperiously, as his orders, described below, make clear.

The boroughs

Borough policing was intrinsically more democratic than county policing, for the ratepayers were in control of the town council and its sub-committee the watch committee, as chapter five showed. Kendal and Carlisle were typical of English boroughs; very few supported the Bill preceding the 1856 Act which was seen as a potential threat to their autonomy (Rawlings 2001: 139; Critchley 1972: 113-4; Hart 1956). There was a superficial attempt by Carlisle Watch Committee to work with the Constabulary, for they minuted that the Chief Constable should cooperate with them (CRO, Ca/C 1/27/5 1856-1862: 24 Mar 1859). There was little evidence of cooperation, but clear evidence of hostility, which was revealed in 1890 when Dunne was prosecuted by the Carlisle police for infringements of the cattle disease regulations.[84] The prosecution and the hefty fine of £85, £5 for each of seventeen cattle,

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[84] One may interpret this as a direct challenge to Dunne, who had been very active in measures to deal with foot and mouth disease in the counties and had been celebrated as the man responsible for what was termed the 'Cumberland system' for dealing with the disease.

seemed vindictive. Dunne took the case to appeal at Queen's Bench where the conviction and fine were overturned (LG, 30 Aug 1890, 10 Jan 1891, 18 Apr 1891).

The policy of uniting constabulary and borough forces enjoyed more success in Kendal. In 1857 the Watch Committee agreed that the Constabulary superintendent in the town should also be superintendent of the Borough force. The proposal was attractive because the superintendent's salary would be met by the county, bar a subvention of £50 from the Borough, and the Watch Committee would retain complete control of the appointment. The agreement proved to be enduring: the Committee consulted the Chief Constable from time to time about the appointment of officers (7 Jul 1868) and he regularly inspected the Kendal police (LG, 2 Oct 1886, 20 Jul 1892, 24 Jun 1893). The Watch Committee nonetheless continued to function, instructing, disciplining and paying their police. Kendal was probably unique in that it was a borough that entered into a lasting voluntary agreement with a county force without ever being formally merged (Parris 1961: 242-8).

Whitehaven, which was much larger than Kendal, was not a borough, so before 1857 its force of eight men came under the Derwent superintendent, and therefore passed to the Constabulary. A row grew over who should meet the cost of the Constabulary men in Whitehaven: should the local rate be higher, to meet the higher costs of policing the town? Or should the same rate apply across the county? The debate in the local press became inflamed by accusations of cronyism against Dunne, in appointing one of 'his' men to the rank of superintendent (Leigh 2006: 39-41). Further problems ensued when Dunne removed the popular Superintendent Clarke from Whitehaven to another station. The local bench took Clarke's part in the dispute (LG, 12 Dec 1857 p5).

Relations between Chief Constable and the town of Whitehaven seem to have been permanently soured. Another dispute arose in the town over an Inspector Rollo in 1893. The inspector was in dispute over his dismissal without notice for his endorsement of false claims (according to Dunne) made by his men. Rollo received money from a public subscription to pursue his claim, but Dunne was backed by Whitehall in the case (TNA HO45 /9699/ A 501 46 1893-4). Just a few months before he retired, there was another spat, over Dunne's treatment of an officer in Whitehaven, which spilled onto the agenda of the Standing Joint Committee through the efforts of representatives from the town (Leigh forthcoming).

Bureaucracy and professionalism

The duties of the police in the rural districts differ much from the routine in large towns . . . . each constable, not being so immediately under the eye of a superior, is left more to his own discretion, and greater responsibility attaches to him. (Whellan 1860:71)

These words of Dunne[85] from Whellan's Directory recognised that the policies of the Chief Constable could only be operationalized through the efforts of the ordinary policemen. This section considers how the boroughs and Constabulary endeavoured to regulate the

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[85] See footnote 82

discretionary freedom of the men, including the general guidelines, specific orders and the mechanisms of supervision that were established.[86]

In the Metropolitan model, the necessary discretionary powers of the constable were 'carefully circumscribed by rules and regulation' (Smith,P.T., 1985: 33; Emsley 1996: 215-6; Taylor 1997: 44-5). This was seen as essential in a quasi-military force that nonetheless depended upon the initiative of the rank and file. In Liverpool, the Head Constable cited police discretion at all levels as an important reason for not blindly following the Watch Committee's orders on prostitution, and this discretion proved to be a major impediment to the committee's police aims, that is to say that the committee could not force the men to carry out their orders to the letter (Brogden 1982: 68-70). In rural Cumbria, the constable had greater discretion because he was subject to remoter supervision, as is clear from the work of the Grayrigg police, in chapters seven and nine.

Bureaucracy

Bureaucracy was the means by which the dilemmas of this situation were resolved. [87] The ordinary constable was required to complete many reports and forms which were essential to the police role as 'knowledge brokers', but bureaucratic regulation and systemisation was intended to constrain his options and direct his actions, thereby minimising discretion (Ericson and Haggerty 1997: 31-8) Ironically, this paperwork did not simply control the policeman, it

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[86] Supervision in the boroughs, which already had their own organised forces, was inevitably different from that of the rural areas.
[87] The police forces of the nineteenth century conformed to the Weberian 'ideal type' of bureaucracy (Weber 1964: 329-41, Emsley 1999).

empowered him (Campbell 2004: 705-7; Punch 1985; Holdaway 1983; Manning 1979; Chatterton 1979).

> *the bureaucrat is not just the servant of the state, he is also the one who puts the*
>
> *state at his service. (Bourdieu 1998: 87)*

The paperwork of the police was introduced in chapter three, for it constitutes the primary evidence for much of this study's content. Chapters seven, eight and nine utilise this paperwork for the hermeneutic analysis of police activity, in order to explore the men's motivations and aims. Here some of these documents are re-presented as a list, in an order that illustrates how the daily work of the policeman was regulated and monitored by paperwork.[88]

- Occurrence Book. Every man who was at a detached station was required to complete a detailed entry for every beat every day (KRO, WS/Cons 1/2 1890-1902).[89]
- Conference. The constable was required to submit a report if he or the man he was due to meet failed to make a conference (CRO, Scons 4/69: Reports from other stations in the Maryport beat 1877). This is covered in greater detail in chapter nine.

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[88] The author must acknowledge Inspector William Grisdale of Maryport who made it possible to create this list. Grisdale failed to throw away much of the routine paperwork of his station, and thereby left a copious amount of trivial and random documents, a treasure trove for the researcher.

[89] At no point has any order been found relating to constables' note books. However, one may infer that the police referred to them in court. See, for example, the cases relating to cock-fighting in chapter 7, and the case of Johnston in chapter 9.

- Each constable was expected to visit every common lodging house on his night time beats and record full details of all vagrants staying there (CRO, Scons 4/70: Reports on vagrants, Maryport).

- Police were required (until 1880) to act as Relieving Officers for vagrants. The register had to be maintained (CRO, Scons 7/2: Vagrants' relief book 1879-80, Wigton).

- If a constable saw or was told of an infraction of the law, he had to submit a report to his inspector in which he explained the circumstances. The constable expressed his opinion on the merits of prosecution, which may or may not have been agreed with by the inspector and superintendent (CRO, Scons 4/77: Reports of crimes, 1884-7, Maryport).

- If a constable made an arrest, he had to enter the details into the register of persons detained and write a report to his superior officers (KRO, WS/Cons 2/1: Record book of persons detained 1869 1906, Kirkby Lonsdale. CRO, Scons 4/126 & 7 Reports from Constables, Maryport).

- When a constable was instructed to issue a summons, he had to enter the details into the charge book, complete the form and deliver it to the person summonsed (The charge books seem to have been completed by a constable clerk, for the hand remains consistent over several pages (CRO, Scons 4/137: Maryport Charge Book 1873-88).

- If called to a sudden death, a constable was required to record the details and forward them to the coroner (CRO, Scons 4/126: Reports to Coroner,1880s, Maryport). Details of fires had to be recorded, even if the policeman was not at the scene until later.

- A constable was required to carry out annual weights and measures checks (KRO, WS/Cons 9/1: Grayrigg Occurrence Book, 1886-89: 27 Jan 1887).

These are some of the duties which required a constable to keep a written record. Klein writes of city policemen being disciplined in the twentieth century for laxity with their records, and Cumbrian police were reported for the same type of offences (CRO, Scons 2/1 1857-1900, Scons 4/33 1857-1900; Klein 2010). Senior officers were directed to inspect the men's reports regularly (CRO, SCons 1/1 1857: 96); that this was done is evidenced by frequent endorsements in red ink.

The sergeant, inspector and superintendent had many records to maintain.[90] The General Instructions, printed in 1857, listed fifty forms and returns which required attention, some daily, covering three pages (CRO, SCons 1/1 1857: 122-4). Constables received a regular stream of documents to read, including the orders from the Chief Constable (below), information sheets and Police Gazettes.[91] A constable at a detached station received regular post cards from his superintendent or inspector giving him orders.[92] These cards were sent by ha'penny post, and the sender was confident that the card would be received early the following morning. The new technologies of the nineteenth century assisted this bureaucratic expansion. When a new chief constable was appointed in Kendal in 1876, he requested and received from the Watch Committee a letter copying machine. The archives of the Constabulary include many documents made using such a machine. The use of telegrams was routine by the 1870s. Bureaucracy played an important role not only in the supervision of

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[90] For example, Habitual Offenders register (CRO, Scons 4/12, Register of convicts on licence 1879 1949, Carlisle), Refused charge book (CRO, Scons 4/13 Refuse Charge Book 1857-1966 Maryport)and Beat rotas (CRO, Scons 4/140, Detachment duty routes c.1877-90 Maryport).

[91] Because Grisdale of Maryport failed to dispose of out-or-date documents, the Archive includes many examples of reports of minor importance (CRO, Scons 4/148, Information sheets received at Maryport police station 1877-81). The Archive also includes some well-thumbed copies of the Police Gazette from Kirkby Lonsdale Police Station (KRO, WS/Cons 2/25 Police Gazettes 1882 at Kirkby Lonsdale station).

[92] For example, 'Arrange to visit Selside tomorrow afternoon, there is a sale there and most likely some of the Kendal ruffs (sic) will be there. Shields' (KRO, WS/Cons 1/2: Occurrrence book, 1890-1902, Grayrigg: 11 Apr 1892).

the men, but also enabled the police to trace, identify and arrest offenders such as George

Cohen and Mary Woods who are to be found in chapters eight and nine (Circular 59,155 and

Order 781, below).

Supervising the borough force

The Kendal and Carlisle forces were organised and run in accordance with the Municipal

Corporations Act, which placed the Watch committee in charge. There was no discontinuity of

policing in the boroughs after 1856, but they lagged behind the Constabulary in some

respects. For example, Kendal Borough's *Police Regulations* was only twelve pages,

whereas the Constabulary had a 124 page booklet (KRO, WDX 168 1876-7; Leigh 2006;

CRO, SCons 1/1 1857). [93]

The Watch Committee's minutes recorded only unanimous resolutions, and so gave a very

opaque view of any divisions within that body, but they did reveal in some incidents divisions

within the Kendal force. The Watch Committee seemed pusillanimous in failing to resolve the

problems of the police and left many in the town dissatisfied, though the dissatisfaction was

more often expressed in the local newspapers. For example, a typical letter in the

Westmorland Gazette in 1873 complained that three females had been assaulted in the town

between seven and eight o'clock on one evening, 'and that while three or four policemen

were cosily drawn up around a fire in the police office' (WMG, 1 Nov 1873, p6). A policemen

wrote back to dispute this statement.

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[93] The Borough booklet reads like a précis of the Constabulary Instruction book. Since Kendal Borough police were under the authority of the chief constable, they may have used the constabulary Instruction Book from 1857.

The Watch Committee Minutes recognised a sense of crisis in the management of the Kendal police in the 1870s. On December 16th 1874 a special meeting of the Committee was held to discuss the problems of the police and the cause of the numerous resignations from the force. The minutes of this meeting and the committee's subsequent attempts to regulate the force reveal that they were trying to exercise top-down managerial control, but with few effective tools at their disposal.

The meeting passed detailed rules on the use of alcohol by the men and commented upon the low morale of the men. A more significant but less emphatic recommendation was a greater role for the sergeant on duty, who:

> . . should act directly under the Superintendent and be responsible to him for the behaviour and discipline of the Force – He should have the power to use his own judgment when questions arise, upon which he may not have received or could not obtain instructions. (KRO, WSMBK/1/21/1 box 8 1831-1903, 16 Dec 1874)[94]

The role of the sergeants was central to the 1874 report, but although the committee desired professional initiative and commitment from the sergeants, they found it very difficult to achieve with the men they had. Sergeant Charlton White was the main obstacle. He had offered to resign when the report was received, but did not actually go until 1879. The minutes record the Committee's dissatisfaction with Sergeant White on several occasions. Problems included his behaviour towards Sergeant Wilde in 1874, and the accusation in 1876

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[94] This statement recognised the crucial importance of the exercise of discretion in a police force (Chapter 4).

that he had assaulted a child who was consequently confined to his sick bed. The committee even endeavoured to secure his transfer to the Constabulary, but the Chief Constable failed to find him a post. The final straw came when White was accused of raping Tabitha Rutter, a young female prisoner in the cells, in June 1879. This case clearly caused dissension on the Committee. No action was taken until the intervention of James Cropper, JP, Quaker, prison visitor and major local manufacturer (Cropper 2004), who had been abroad when the girl was imprisoned for theft. Rutter was only willing to raise the matter with Cropper, who immediately wrote to the Watch Committee insisting that they prosecute the case, the details of which he had forwarded to the Home Office. The Committee prevaricated, saying that the matter need not come to court until Rutter was released from her sentence. Cropper wrote back at once to say that the case should be heard directly, for the court could easily convene in the prison. One may suppose that the Committee hoped the case would be quietly forgotten when the girl was released and left town, but this was the very reason why Cropper wanted it dealt with swiftly (KRO, WSMBK/1/21/1 box 8 1831-1903, Jun-Jul 1879).

White was acquitted when the case came to court, claiming that he had acted with consent, but this time he actually resigned. White enjoyed support in the town, for the Mercury reported that his offence was moral rather than criminal, 'that it often requires greater courage to retire from a position than to adhere to it, especially having held it for twelve years' and that Rutter was a bad character belonging to the criminal class (Kendal Mercury, hereafter KM, 4 Jul 1879, p5). The episode exposed the divisions and bureaucratic incompetence of the committee in the face of intransigent and uncooperative men. It implies myopic supervision by the inspectors of constabulary, for his report on Kendal Borough Police, written in the month following the court case, contained nothing but the usual bland praise.

Inspected on the 19th August [1879] . . . The offices and cells for prisoners were clean

and in order; the ventilation of one cell is defective. The constables are an effective

body, and the establishment has been maintained in a state of efficiency. (PP, 1880)

The hierarchical control of the borough police was ineffective, which allowed men like

Charlton White and George Medcalf, whose career features in chapters seven, eight and

nine, greater freedom to exercise their discretion, for good or ill.

Policing rural areas

The low population density of much of Cumbria resulted in a thinly spread force with several

stations that were more than five miles removed from their nearest colleagues. Alston was

fourteen miles from the next county station, at Langwathby. The problem was greatest in

Westmorland, where almost two thirds of the men served at detached stations; it was

deemed necessary to provide the sergeant at Kirkby Stephen with a horse (KRO, WQ/M/32

1859-18755 Jan 1866). A 'conference system'[95] was introduced when the force was

established. This required constables to meet at set times and places with the men on the

neighbouring beats, and with sergeants and senior officers. This is covered in greater detail in

chapter nine.

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[95] The conference system was based upon practice in Essex (Scollan 1993: 14). It was one of the criteria used by constabulary inspectors for judging efficiency of forces (Parris 1961: 230-2).

Table 6.2   The Cumberland and Westmorland Constabulary 1885: manpower[96]

CUMBERLAND	WESTMORLAND	Men at the stations
Whitehaven		24
Workington		22
Penrith		9
Maryport		8
Cleator Moor		7
Carlisle[97] & and Cockermouth		6
Millom, Wigton, & Brampton		5
Frizington & Egremont		4
Harrington & Keswick	Appleby & Kendal	3
Cleator, Dearham & Alston	Kirkby Stephen, K Lonsdale & Shap	2

DETACHED STATIONS AND SUPERNUMERARY POLICE	CUMBERLAND	WESTMORLAND
Total number of men at detached stations.	54	23
Percentage of manpower stationed at detached stations.	51%	64%
River police (supernumerary, or 'private' police, to patrol for poachers) (Williams 2008: 196).	6	1

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[96] Source: CRO, Scons 2/20.
[97] Kendal and Carlisle had Borough forces, 14 and 38 men respectively in 1885.

Setting a professional standard

Orders

Dunne issued his men with frequent circulars and general orders. Order number 33, issued 27th October 1857, warned the men of his desire to impose standards from the outset.

> *. . . . Recently there have been several very frivolous and improper informations laid*
>
> *by the Constabulary which have been dismissed by the Justices. . . . With a view to*
>
> *guard against the repetition of a practice which is on the one hand fraught with so*
>
> *much evil to the best interests of the service; and on the other to the fair and impartial*
>
> *administration of justice, I have to direct that in future no summonses whatever shall*
>
> *be taken out by any member of the Constabulary till in the first place all the*
>
> *circumstances of the case have been laid before the Superintendent of the division.*
>
> *(CRO, SCons 1/4 1857-1897)*

Orders such as these were to be copied and placed into the occurrence book at every station. Superintendents and Inspectors were to check that the men had read and understood the orders (KRO, WS/Cons 9/1 1886-1889). General Orders were supplemented by Circulars, which were more frequent and usually referred to immediate, short term issues. It is difficult to detect a precise semantic difference between the two, for circulars often did give the men orders. For example, Circulars 27806 and 27813, in March 1878 told the men to watch out for tramping vagrants who were believed to be responsible for a spate of burglaries and thefts. Orders 384 and 398 (26 Oct 1878, 20 May 1879) deplore the failure of the men to act upon the information in circulars 27806 and 27813, and give more precise orders about what must

be done. As this numeration makes clear, the orders were frequent. By December 1895, the circulars were up to number 59232, the orders reached 854 in June 1896.

Criticism of the men

Guidance to and criticism of the men was clear, fair and firm. In critical remarks, individuals were invariably left unnamed: for example, in 1886 Dunne wrote:

> *. . . when a Constable who was a principal witness in a certain case was asked a question by the Judge . . . he was quite unable to give a satisfactory and proper answer, and he appeared to be painfully unable to understand the questions that were asked. (CRO, SCons 1/4 1857-1897,18 May 1886)*

An unnamed superintendent received similar criticism in Orders, 5th September 1894.

The Chief Constable inspects

It is difficult to discover how often Dunne left Carlisle to inspect policing but he claimed to inspect all the divisions and their men annually (CRO, SCons 1/4 1857-1897, Order 854, 24 Jun 1896; Lancaster Gazette, hereafter LG, 20 Jul 1892, p7; WMG, 2 Oct 1886, p5). Serious events brought Dunne to the scene. In 1871, he visited Whitehaven following the near fatal attack on the demagogue William Murphy, and foot and mouth disease caused him to visit Brough Hill Fair (Whitehaven News, hereafter WN, 11 May 1871, p5; LG, 14 Oct 1871, p7).

The priorities

Dunne's orders reveal a commander who was continually directing his men, telling them what they should do and how it should be done. From these orders it is possible to form an idea of what Dunne thought was most important. Two linked priorities emerge: the apprehension of thieves and robbers, and the deterrence of vagrancy. But it is appropriate to consider first an issue that was not prioritised.

Drink

Dunne did not lay much emphasis upon 'moral' offences, taking a pragmatic approach rather than fulminating against the evils of drink. One may link this to his background in the Essex force, for MacHardy had been relaxed about his men chasing licensing offences, believing despite pressure from the local clergy that this was a matter for parish constables (Ewen 2003: 170-1).

Dunne told his men to take in anyone lying drunk and insensible, 'for the purposes of safety', but they should not arrest the drunk and disorderly, because of the risk of assault upon the police and the danger of exciting riotous behaviour in bystanders; they should prefer to summons.[98] The same order was reissued in 1886, specifically referring to the killing of PC Groves of Kendal Borough Force (CRO, SCons 1/4 1857-1897: Order 162, 10 Mar 1865, Order 581, 10 Mar 1886). Policing drunkenness is covered in more detail in chapters seven and nine.

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[98] Dunne's own experience as a police constable dealing with drunks will have informed his directive. This practice was used in other forces (Choongh 1997: 10).

Dunne did not wish to lend weight to one of the main planks of the Temperance movement's campaign; when a superintendent at Petty Sessions 'asked the Bench to inflict such a penalty as would deter landlords from constructing this traffic [in drink] on Sundays', Dunne weighed in with scathing criticism of his officer, for Dunne said that investigation showed that there had been no prosecutions for drunkenness or licensing offences on Sundays at this place for many years.

> *No evidence was adduced in proof of the alleged drunkenness beyond the opinion of*
>
> *the Superintendent [who was at fault because] the report was highly calculated to*
>
> *create a prejudice in the minds of the magistrates. (CRO, SCons 1/4 1857-1897,*
>
> *Order 800, 5 Sep 1894)*

Crime and vagrancy

The most explicitly promoted policy was the apprehension of thieves and robbers, which, Dunne believed, would be achievable in most cases. For example, in 1896 the failure of three constables to catch two robbers was described as 'lamentable' because the men had been reminded at every annual inspection and at every other opportunity of their duty in detecting offenders. Policing vagrancy is covered in chapter nine.

But praise of those who had done a good job was generous, with their efforts presented as an example to encourage the others:

> *Circular 59,155. . . . Constable Hutchinson of Low Row captured at Hexham on the 1st*
>
> *inst. a man charged with house breaking at Dumfries. . . . the Constable saw a man*

going towards Gilsland whom he thought to be suspicious. On examining information

from Dumfries he thought the suspicious looking man corresponded with it. [He

followed him to Hexham] and through his vigilance, promptitude and efficiency, he

discovered and apprehended the man who committed the robbery at Dumfries. These

cases show what may be done by promptitude and vigilance in thoroughly and

efficiently carrying out the Regulations which have been so frequently issued with the

object of protecting life and property and preventing crime. If anything like similar

energy and efficiency had been evinced in connection with the recent burglary at

Alston the burglar must have been captured redhanded at Hexham. (CRO, SCons

1/114 1888-1897, 5 Dec 1895, Leigh 2006: 41)

Hutchinson was duly rewarded for his good work. This Circular highlighted the need to

prioritise crime and the capture of those responsible for property offences, even to the extent

of chasing a man who had offended in Scotland, and following him twenty four miles into

Northumberland to make the arrest. Throughout the Orders and Circulars, and the reports to

Quarter Sessions, property crime was the over-riding priority, superseding the requirement to

attend conferences. Every effort was to be made, every available resource deployed:

Telegraph, telephone, rail and special conveyance by road should be used promptly

for the purpose of following up a reasonable clue. Order 781, 5 May 1894.[99]

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[99] Bicycles were added to the list in 1896.

Dunne was concerned with 'tramping thieves', whom he regularly enjoined his men to question search and detain if there was any doubt about them.

> *Circular 27806 & 27813   In consequence of the large number of tramps, and suspected persons who are travelling through these counties; and the recent robberies which have been committed and attempted; the Superintendents will arrange for their officers and Constables [to ensure] . . . that the low lodging houses may be well supervised, and the movements of suspected persons carefully watched. Tramps should be questioned and examined. (CRO, SCons 1/4 1857-1897, 22 Mar 1878)*

The pursuit of vagrants was part of the Essex approach which came with Dunne to Cumbria. Soon after his appointment, Dunne introduced one particular policy that MacHardy (Chief Constable of Essex) had strongly advocated; that constables should be appointed as relieving officers to vagrants: this is fully explained in chapter nine (Radzinowicz 1968: 284-5, KRO, WSPU/K/9 1855-57, 15 Aug 1857). The system was claimed as Dunne's, for when in 1887 Ribton-Turner published his lengthy *History of Vagrants and Vagrancy* he termed it the Cumberland and Westmorland system (Ribton-Turner 1972: 321). However this claim is exaggerated, for the policy clearly predated both MacHardy and Dunne. It had been implemented in the Metropolitan force, Kendal Watch Committee had given this duty to its constables in 1836, and parish constables had assumed the role long before 1800 (Rose 1988: 20; KRO, WSMBK/1/21/1 box 8 1831-1903; Ewen 2003: 110).

Dunne was not alone in Cumbria with his concerns;[100] in 1867 and 1868 the Police Committee of Cumberland and Westmorland petitioned the Quarter Sessions to act against vagrants 'in consequence of the frequent and general complaints of the inhabitants as to the depredations and numerous robberies committed by those persons' (PP, 1868-69: 1-2). Dunne wrote at this time to the Home Office:

that he had no doubt that 99 out of 100 tramps were professional mendicants, and a large proportion of them were convicted thieves, and lived by an organised plan of plunder. . . that he had issued special and strict instructions to the police to be most vigilant and energetic in enforcing the Vagrant Act in regard to tramps, and he could state that generally they had carried out that duty most effectively [Dunne's words quoted by Mr Spedding, Cumberland magistrate]. (PP, 1868-69: 3)

These policies were endorsed locally. In 1879, in reply to a request from Mr Basil Cane (of the Home Department) for information on the methods of dealing with vagrancy, Brampton Union replied that the system of police acting as relieving officers has been in place for fourteen years and works 'satisfactorily:' the police, the reply said, visited vagrant wards and common lodging houses every night,

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[100] Vagrancy was a preoccupation of the Chief Constable. When replying to J. H. Tremenheere's *Commission of the Employment of Children, young Persons and Women in Agriculture*, Dunne stated 'that the great bulk of the crimes committed in these counties are traceable to vagrants and beer houses', which statement seemed to have but a tenuous link with the question asked (PP, 1868a: 540). Dunne's point was that casual farm work attracted itinerants, women and young people, and beer houses often served as meeting places for the purpose of engaging workers.

noting down the description of all suspicious looking characters . . . .[it] gives them

great facilities for the prevention and detection of crime – a great proportion of which

in this county is considered to be committed by the vagrant class. (CRO,, D/HOD

11.119, 4 Jun 1879)

Dunne was considered at Whitehall to be an expert on dealing with vagrancy, for the

suppression of which he was invited to join a committee of the Charity Organisation Society in

1873 (TNA HO45/9613/A9839 1881-1885).[101] One might describe Dunne's views on

vagrancy as a prejudice, but one should temper this opinion with the observation that he

would, as a constable in Manchester and Essex, frequently have had hands-on experience in

dealing with vagrants.[102] His opinions reflect the general view of the problem of vagrancy at

the mid-century, that vagrancy was a moral problem caused by the profligacy of those who

preferred a wandering life of leisure to the rigours of hard work.

By the time of his retirement in 1902, Dunne's views seemed very dated.[103] Vagrancy was

one of the few issues over which he disagreed with the bench at Quarter Sessions. In 1886,

three of the senior magistrates presented a report in which they said that there was

insufficient accommodation at Ambleside for tramps; recently thirteen had been convicted for

sleeping out, and the problem was getting worse. The bench was divided on the issue, with

local feeling being strongly against any provision for tramps. At this point Dunne repeated his

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[101]File containing document, 'Report of the Society for Organising Charitable Relief and Suppressing Vagrancy', undated, with '1873' written in a pencil note.
[102] And, of course, with drunks, which may explain his orders to the men, mentioned above, to prefer the use of a summons rather than arrest in the case of disorderly drunks.
[103] In the introduction to Criminal Statistics, 1899, one may read a lengthy opinion that concluded: 'there is no reason to believe that vagrants are "essentially a criminal class"' (PP, 1901: 55).

oft-stated view that these men were habitual offenders of the worst sort, against whom the public needed protection. This statement united all but two of the bench in opposition to Dunne: they strongly disagreed particularly as, they said, many of the tramps were men who had come to seek work on the Thirlmere aqueduct. The question was referred to the Poor Law Guardians (WMG, 23 Oct 1886, p5). The policing of vagrancy is discussed further in chapter nine.

Dunne addressed a wide variety of issues throughout his time as Chief Constable. New concerns appeared from time to time, for example, the menace of 'scorching cyclists' cropped up in the 1890s. The perennial problem of poaching was covered but was not prioritised, for the men were ordered to refer such matters to the landowners or the fishery boards (22 Mar 1894).[104] These points are discussed further in chapters seven and nine.

Dunne's orders returned regularly to vagrancy. His strictures to the men on 'tramping vagrants' and common lodging houses remained consistent and persistent throughout his period of office. Even when reports were received of the arrival in the North of two Fenians from New York,[105] Dunne's circular directed the men to search common lodging houses and barns (Circular 36922, 12 Apr 1884). When foot and mouth disease broke out, the Chief Constable reported to Quarter Sessions:

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[104] Poaching featured far less in the Occurrence Book of the Cumbrian police than it did in Wales, where, Jones (1992: 111-2) found, 25% of all offences were poaching

[105] Fenians were Irish republicans whose actions would today be described as terrorism. The Clerkenwell bombing in 1867 was the worst outrage in England. Fenians travelling from the USA were often relatively well-funded and unlikely to risk staying at common lodging houses (Payne 2011; Short 1979).

It is believed that tramps introduced the disease into a healthy district in Lancashire. .

. . I have given the Police instructions to use their utmost efforts to prevent these, and

other itinerant travellers, from begging about either of these counties. (KRO,,

WQ/M/32 Quarter sessions minute book 1859-1875, 5th Jan 1866)

In 1893, an outbreak of smallpox caused Dunne to remind his men of the importance of searching vagrants (Circular, 8 Feb 1893).

Dunne's significance

Dunne was instrumental in the development of policing in Cumbria. Like all chief constables, he enjoyed power that was rarely questioned. His reputation was high, being accepted as an important expert in London and generally praised by Quarter Sessions and Joint Standing Committees in Cumbria; he was accepted by the local magistracy, aristocracy and at the national level as a significant actor. Dunne's success may be because his experience of policing at street level and promotion on merit meant he was an effective leader with real power. This opinion stands up well when Dunne's record is compared with the muddled and ineffective control exercised in Kendal until the late 1870s. In Kendal, the short-comings of the Watch Committee allowed the men greater freedom to exercise discretion, whereas in the Constabulary a determined effort was made to fence the men in within precise rules and orders.

But was Dunne the instigator or prime mover in the development of policing in Cumbria? His own statements and orders might lead a historian to conclude that he was the prime mover,

but this would be to ignore the actuality of what happened in policing the streets, pubs, fairgrounds and markets of Cumbria. The significance of Dunne's orders can only be measured against their impact upon the actions of the police, the offenders and the reactions of the wider public.

Professionalism and bureaucracy

The chief constable's sway was not limitless. Even if he initiated systems he could not predict their progress. The increasing professionalism of the men was another factor in the structuration of policing in Cumbria.[106] Professionalism has been defined as comprising:

- a period of training

- a set of standards with a code of ethics and practice

- mobility within the profession

- an organised body of knowledge

- uniform standards

- a system of monitoring the performance of those doing the work

- an ethos of service to the public (Godfrey 2008: 63-6)[107]

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[106] Wiener (1990: 215-27) described the increasing professionalism of the police from 1870. It was an element of the bureaucratic organisation of police forces (Above).

[107] It has been argued that professional status is an unattainable target for police, given their coercive role. But this author argues that professionalism is a target towards which policing has progressed since the 1830s. See Neyroud (2008: 586-9).

Although some of these elements (e.g., training) were still rudimentary in the nineteenth century the cases of Henshall, Cornthwaite and Charlton White[108] illustrated that ethical standards were being built up, and the Essex group exemplified professional mobility. Surveillance of vagrants and criminals, including the 'collection and processing of personal data' (Newburn and Neyroud 2008: 270) established a body of knowledge, and the bureaucratic systems used in the constabulary after 1856 established the means of setting uniform standards and monitoring, which had been previously lacking. These points are reinforced in subsequent chapters, where the ethos of service and the increasing efficiency of police methods and systems is evident (chapters eight and nine).

The men who controlled the body of knowledge and operated the systems were empowered and increasingly professionalised. The expansion of the men's duties and responsibilities (Taylor 1997: 91-2), and the steady increase in the length of service of the men assisted in this process.[109] The men who stayed in the force were more likely to accept, or to be socialised into the professional ethos of policing, and a shrinking turnover rate is an indicator of the growing professionalism of the force. This has been noticed in other studies (Taylor 1997: 76-8; Emsley 2009, 1996: 199-203; Steedman 1984: 161; Shpayer-Makov 1991; Klein 2002; Lowe 1983: 55). Although this professionalism may not have been of a standard considered appropriate for affluent professions or for the twenty first century, professionalism was still a force among rank and file policemen by the end of the nineteenth century.

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[108] Cornthwaite and White are introduced in the next chapter.
[109] This is evidenced in the Kendal Police Record Book and in the Constabulary personnel records (KRO, WS/Cons 10/1 1860-1947; CRO, SCons 2/19 1866-1873, SCons 2/21 1891-1901, SCons 2/20 1874-1890, SCons 2/7 1865-1884).

Summary

This chapter has assessed the development of policing in nineteenth century Cumbria. The region was not isolated in this development, even though central government was many miles removed and the Home Office took only a distant interest in local police management. Chief Constables enjoyed considerable power in their role, and men such as MacHardy and Dunne played a commanding role, both in their statements and actions. Dunne, although he came from a modest background, was able to convincingly present himself as a gentleman and a county leader, and was a man who made a mark nationally. Bureaucracy, backed up with regular orders, circulars and inspections by senior ranks, was the means by which the Chief Constable aimed to maintain control and exert authority. He set the priorities and expected his senior officers to assist in checking that the men stuck to the task.

A detailed analysis of the establishment and running of the Constabulary and Kendal Borough force has been presented. The next three chapters explain how the praxis of policing emerged from persons who operated in the field, which included (apart from the chief constable) every policeman, offender, victim, ratepayer and many more. It emerged from the interactions of the players, amongst whom Dunne must be numbered as pre-eminent, but whose status is entirely conditional upon the opinions and responses of many others. The role of the Cumbrian policemen in the structuration of policing is considered in the next chapter, which explores the extent to which the men had the discretionary power to influence the development of policing. The next three chapters explain how the aims of the Chief Constable were interpreted by the men in ways that may have met his criteria but nonetheless revealed their own attitudes and priorities.

The Policing of Petty Crime in Victorian Cumbria

Chapter seven: Working Class Culture in 19th Century Cumbria

Introduction

The place of culture in this study was introduced in chapters one and three. Chapter five linked state formation policing and culture. The idea that culture is the meaning in social life is a useful paradigm for this study. The definition of culture most appropriate for this study is a system of meanings, values and symbols that supports the ideas and beliefs of individuals and thereby frames their actions within society. Culture is not simply a design for life, but has always been a contested process full of symbolism.

No simple interpretation of culture and policing is possible. The implication of culture in the policing of Victorian Cumbria was complex and nuanced. This study subsumes two cultural questions: What did the police think they were doing? What did people think they should do? This latter point is developed in chapter nine. These questions can be answered in a micro-history such as this.

The nineteenth century historian Macaulay advanced the Whig idea of culture as a progressive, civilising force which included the idea of respectability. [110] This is not a definition of culture shared by this thesis, but the Victorian idea of progress towards 'respectability' is a recurrent theme of this chapter, for this idea of culture was itself a cultural phenomenon which, though expressed in many different ways, was shared by many, including Ruskin, Carlyle, Smiles, Arnold, Martineau, all but one of whom had Cumbrian links (chapter 4).

The police are treated here as implicated within the culture of nineteenth century Cumbria, not as a discrete sub-culture. To understand the cultural significance of policing, and to explain how it was a culturally informed activity, it is necessary to understand or define the cultural milieux within which it was situated. This is tackled by addressing, as an overarching theme, the idea of respectability in working class Cumbria, and measuring that against middle and upper class standards. 'Moral reform', as adumbrated in Macaulay's statement above, is a concept closely related to the idea of respectability, which is explored here through the divisions in society. Respectability and moral reform were fundamental concepts in the policing of nineteenth century Cumbria. The police both shaped and were shaped by ideas of respectability and morality, so they were implicated in the processes of social control described by Melossi (1998, 2008), which reproduced or changed social relationships and organised a moral consensus, as is explained in chapter two.

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[110]*For the history of our country during the last hundred and sixty years is eminently the history of physical, of moral, and of intellectual improvement. … no man who is correctly informed as to the past will be disposed to take a morose or desponding view of the present.* From the introduction to Lord Macaulay's 'History of England' (1882: 2-3).

Empirical evidence is used to analyse the cultural milieux of policing in nineteenth century

Cumbria. The Cumberland and Westmorland Constabulary were policing the contested

boundaries between respectable and disreputable. The focus is upon particular aspects of

working class cultures within which the police operated, and upon cultural fields related

specifically to the policing of Cumbria. It is necessary to be selective, because the many

aspects of culture become an overwhelming multitude if one attempts to analyse all

possibilities and permutations. The fields examined here are the policing of religion, drinking,

sport and violence, which headings are not hermetic, for in every day policing they often

impinged upon one another. The specific activities covered include street-corner religion,

drunkenness and the temperance movement, sports such as prize-fighting, wrestling, cock-

fighting, and the use of violence in daily life.

The activities selected here were all situated on the edge of respectability. Serious crimes are

excluded; offences such as theft were clearly beyond the pale of respectability, but activities

like cock-fighting or noisy open-air preaching were contested. These were activities that were

subject to police action from time to time, and were regarded by many as disreputable. But

the line between respectable and disreputable was contentious and obscure. Each individual

may have had his/her own precise list of what was and was not respectable, but there was

never any consensus. Moreover, attitudes were in a state of continual flux, as is clear from

this study's examination of cock-fighting; although attitudes to this sport changed during the

years covered here, the change was not in a consistently progressive or 'civilised' direction.

Indeed, the examination here of cock-fighting exemplifies the difficulty of moderating social

behaviour by external law reforms (Goldsmith 1990: 93).

Making the distinction between what was, and what was not respectable was always

problematic, but the task of operationalizing the distinction invariably fell to individual

policemen. Policing was both an enforcer of change and the product of change, arbitrating

between the emergent, dominant and residual cultures (Williams 1980: 40). The policing of

Cumbria was thus shaped by culture.

Policemen and most of those with whom they dealt were of the working classes (Emsley

2009, ch5; Klein 2010: 13-8). As is clear in subsequent chapters, the police regularly dealt

with the middle classes particularly magistrates, the watch committees, town councils and the

middle class public. However, the business of these meetings was most frequently

concerned with managing the working classes.[111]

Gatrell used the striking phrase, 'the policeman state', which seems to imply domination of

the working class, but he qualified this by observing that the 'broad process of moralization'

was situated in the working classes, rather than being imposed from above (Gatrell 1990).

Thus this study takes as its cultural context the working classes, who most frequently

delivered, received or required the ministrations of the police.

The final section of the chapter analyses one particular incident in which the ideas and

strands explored can be tested empirically. The incident was exceptional in that it involved

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[111] Only one convicted offender who could be identified as middle class has been found in this study. John Redhead, banker's clerk, 30 years, convicted of embezzling £100 at Kendal (WS/CONS 10/2, 1880-1910, Jul 1885).The Kirkby Stephen Petty Sessions data revealed fourteen offences out of 2230 committed by 'gentlemen' but it is not clear that this meant anything more than 'of independent means.' No offenders were described as members of middle class professions. Two of the 'gentlemen' were drunks and repeat offenders with six offences between them. The sources used are fully described in chapter three.

the death of a policeman; PC Groves was killed on duty. The actual circumstances, up to the point of Groves' death, were unexceptional, but the serious outcome resulted in much more detailed reporting of the issues and points of division than would normally have been the case. The death of Groves exposed the negotiation of power within the town between sections of the community and revealed the cultural context of the structuration of policing.

This exploration of respectability supports the argument introduced in chapter two that the cultures and ideologies of individuals of every rank helped to shape the process of state formation, rather than the argument that culture and ideology were tools deployed by those in authority. The final resolution of the argument is presented in chapter nine.

Respectability

Respectability was an idea that informed what was expected of the policeman, and its negative defined what was the target of policing. Gatrell wrote 'the policeman made …sense of his extraordinary situation only by internalising authoritarian values and deferring to conventional standards of respectability' (Gatrell 1990: 272). This thesis does not disagree with this statement, but qualifies it by situating respectability within the working class cultures in which the police lived and worked.

Persons and activities that were regarded as disreputable were most likely to experience police intervention, whereas 'respectable' persons were unlikely to be challenged (Steedman 1984: 56-60; Jones 1992: 168-200; Bailey 1981;Thompson 1988: 94-125; Bailey 1979a; Jones 1982: 178-209; Miller 1977: 55; Gatrell 1990: 277; Stedman-Jones 1983; Thompson 1988; Wiener 1990: 141). This point is elaborated in chapter nine. Cumbrian police were told

to target with vigour vagrants and tramps, (PP, 1872b: 52) who were regarded as the least respectable members of society, but they were warned 'they should be extremely careful to guard against interfering . . . upon the liberties of the people' and not to 'shoulder past respectable people. … the least approach to rudeness or incivility to anyone will certainly be punished.…' (CRO, SCons 1/1 1857: 19-20). This implicit double standard was based upon the idea that the key division in society was not simply between classes but was between respectable and disreputable (Cunningham 1980: 11; Bailey 1979b; Huggins and Mangan 2004; Crossick 1976).

Some historians have shown that, for a section of the working class, certain types of behaviour and pastimes were regarded as demeaning of their dignity.(Stedman-Jones 1974: 168) The 'transformation of popular culture' was central to the development of a working class idea of respectability (Easton 1988: 58). Some autobiographies support this idea that respectability could be important for even the most humble of persons. Lucy Luck, born 1848, wrote 'How often I was tempted to lead a bad life, but there always seemed to be a hand to hold me back' (Burnett 1994: 59). Lucy's opinion was by no means unusual, but the very subjectivity of the term 'respectability' meant that agreement on what constituted respectable behaviour could never be reached.

Roberts used respectability and moral reform as a means of an explaining how and why Victorian England remained stable and calm through a period of rapid social and economic change (Roberts 2004: 14). The police were a necessary part of this stability and respectability was an implicit theme in police management.

The standards that have been described in studies of large police forces include the dismissal of men for drinking, entering licensed premises, smoking or chatting on duty, and even failing to reach a respectable standard in their private lives (Emsley 2009: 5, 43; Klein 2010: 22). The same impetus towards respectability operated in Cumbrian police forces, but the negotiation of respectability was always problematic. For example, in 1832 the married constable Thomas James of Kendal Borough force was sacked upon the application of the church warden because he was responsible for the pregnancy of an unmarried girl, but five days later he was reinstated on the petition of 100 ratepayers who had signed a memorial endorsing his work as constable (KRO, WSMBK/1/21/1 box 8 1831-1903, 19 & 24 Nov 1832). Forty seven years later Sergeant White, whose resignation after his rape of a prisoner was discussed in chapter six, enjoyed the support of the Kendal Mercury (KM, 4 Jul 1879 p5). Shortly after White's departure PC Layton was dismissed for 'unbecoming conduct with a girl on Fellside' (KRO, WSMBK/1/21/1 box 8 1831-1903, 13 Jul 1879).

More straightforward cases attracted less comment. For example, men dismissed for theft, drinking or bad language to the chief constable.[112] Drinking did not inevitably lead to dismissal. PC Duers of Whitehaven was fined three times for drunkenness in 1875, '76 and '77, but stayed in the force. In December 1863 PC Mason was dismissed for 'sparring with several boatmen for drink' (CRO, Scons 4/33 1857-1900).

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[112] PC Cornthwaite, guilty of felony, dismissed, 15 Feb 1876: PC Atkinson drunk on duty, 10/- fine. 10 Aug 1880; PC Starkey resigned, bad language 25 Jul 1882 (KRO, WSMBK/1/21/1 box 8 1831-1903, WMG, KM) .

The rise of working class respectability

> *Even the poor man… though he possess but little of this world's goods, may, in the self-consciousness of a well-cultivated nature, of opportunities used and not abused, of a life spent to the best of his means and ability, look down… upon the person of mere worldly success. (Smiles 1859: 254)*

Respectability was a concept that grew steadily in status in the later nineteenth century, but it was not simply a middle class idea imposed upon or adopted by the working class. Working class respectability was a distinct phenomenon in its own right (Thompson 1988; Wiener 1990; Roberts 1972: 30).

Respectability was an elusive and ever-changing concept, especially for the working class. The events, deeds or opinions that were taken as defining respectability in the nineteenth century require interpretation in order to understand their meanings and the values of those who held them. The 'thick description' (Geertz 1973) of the past necessary for this interpretation is problematic, but the historian gains insights through work like the best-selling 'Self Help' (quoted above), the oral histories of Elizabeth Roberts and memoirs such as Robert Roberts, in which respectability, albeit imprecisely defined, is a constant concern and often depended upon the ability to stand on one's own two feet (Roberts 1972: 3-11, Roberts 1985a). This could lead to regularly employed, skilled workers looking down upon the unskilled and itinerant (Savage and Miles 1994: 46-7). Working class men were expected to provide for their family, be regular, work hard and bring their wages home, but otherwise had some freedom to enjoy themselves (Tomes 1978: 341; Jackson 2000: 131).

'Character' was a key word in the Victorian understanding of what was 'respectable', but it was not an exclusively middle class value. The working class socialist or Methodist was just as likely as middle class entrepreneurs or Anglicans to eulogise 'character' (Collini et al. 2000: 29-48; Bailey 1979b).

The disreputable upper classes

> *Far better and more respectable is the good poor man than the bad rich one—better*
> *the humble silent man than the agreeable well-appointed rogue, who keeps his gig.*
> (Smiles 1859: 252)

Although the middle classes may have found it easier to keep out of the Petty Sessions courts (see footnote 111 above) respectability could not in any way be parcelled up on class lines. This section describes two examples of the disreputable upper classes in Cumbria. These reprobates were significant, for they provided a yardstick against which the respectable working classes could measure themselves. Respectability could only be defined if there were alternatives.[113] The metaphorical gutter was a poor alternative, but the dissolute lord or vicar presented an alluring alternative that the respectable Methodist could reject, thus allowing him/herself to enjoy the moral high ground. The misdemeanours of the clergy and aristocracy were usually reported.

Elias (1978: 430-1) outlined how members of a 'rising class' would develop their own more severe mores without reference or concern for the moral standards of elites. This is

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[113] Douglas (1994: 25-6) explained how the cultural awareness of sin, danger or risk may be formed in a homogenous group through its contacts with 'others.'

epitomised by sections of the Cumbrian working class included in this study. Huggins has provided examples of the moral shortcomings of many of the supposedly respectable middle classes (Huggins 2000a: 588-9). Lord Lowther himself, the 'sporting' earl and Cumbria's premier aristocrat, was a well-known *roué* who managed to spend his way through a fortune, and was lucky to escape with only one conviction at Petty Sessions (Sutherland 1965).[114] He was generally regarded as a disreputable drunk and was described as 'a congenial liar who probably never read a book' (Carr 1976: 162).

Edward Gripper Banks had more success in concealing his Cumbrian indiscretions. Banks was charged at the Petty Sessions at Keswick in September 1871 with assaulting a female shopkeeper. The charge was that he had used foul language, assaulted the shopkeeper, loosened her tooth and damaged the photos on sale in the shop. She said he seemed drunk. Banks denied the charge and was acquitted because he had 'respectable' witnesses to support his statements. The magistrates, however, were not satisfied that his behaviour had been proper: 'The Bench had insisted on this case being brought before them on account of the disgraceful line of conduct and disturbances which had been pursued by the defendant and his party for the past three years in the neighbourhood' (WMG, 16 Sep 1871 p5; CP, 8 Sep 1871 p6). This case did not ruin Banks' career. After ordination in 1874, he became headmaster of a 'good' public school (Smart 2012, The Morning Post: Sep 21 1874 p3). He was in court again in 1884 and 1888: exonerated in a case of fraud (The Standard, 1 Mar 1884 p2) and fined for having a dangerous dog (Lloyds Weekly Advertiser, 5 Aug 1888 p5).

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[114]Hugh Lowther (1852-1944) was fined by Newcastle magistrates for an assault upon the husband of his actress lover. Sutherland's (1965: 31-2, 58-9, 70-1, 80-83, 115-8) biography attempts to present Lowther as an engaging character, but left this writer with the feeling that he was a bully and a bore.

Lowther and Banks illustrate the point that the middle and upper classes were just as capable of bad behaviour as any other. But they enjoyed the resources to conceal their offending, or secure an acquittal, or (as in the case of Lowther) be tolerated as a good sport and *bon vivant* (Crone 2012: 31). These two cases are not unusual (Huggins & Mangan 2004: 64-5; Bailey 1978; Moore 1999; Warren 2008: 237-8).

Analysing respectability

Table 7.1 presents a hypothetical framework for comprehending the complexities of respectability in nineteenth century Cumbria. The validity of this framework is supported by the situations and interactions analysed here and in chapters eight and nine. The columns represent a scale, from respectable on the left, to, on the right, sufficiently disreputable to invite prosecution or arrest. The rows are the cultural fields which are examined in this chapter. Each entry is a cultural phenomenon and has been placed in the matrix on the basis of evidence used in this study. The aim is to represent a subjective consensus of the time and place in a simplified form. This was the consensus which the police force was instrumental in shaping (Melossi 2008: 2-3). This simplified depiction of the consensus ignores the changes in attitude during the fifty years of this study, and fails to show how any individual's perception of these activities would have differed significantly from this representation. For example, no Salvationist would have equated himself with a drunk or a cock-fighter, but every entry is supported by the evidence deployed in this study.

**Table 7.1   Cultures of respectability: nineteenth century Cumbria.
A matrix representing attitudes to social phenomena.**

CULTURAL FIELDS	RESPECTABLE				DISREPUTABLE (PROSECUTION)
Religion	Church of England	Non-con-formist	Primitive Methodists	Salvation Army	Sacrilege and disruption of services 'Ranting'
Drink	Moderate	Temperant	Teetotal	Drunk	Drunk and disorderly
Violence	Effective policing	A fair fight		Brawling	Assault of police
Sport	Wrestling	Betting		Cock-fighting	Prize-fighting

Recreation and leisure.

The aspects of culture that are addressed here can be summarised under the heading

recreation, for they are all discretionary activities, in that they are not directly related to work.

This includes religion, for in the second half of the nineteenth century the choice of place of

worship and sect was free from legal restriction or obligation.[115] Moreover, the various

churches engaged in activities which were avowedly social occasions. Every edition of the

local papers reported concerts, suppers, picnics, dances or tea-parties organised by

congregations. To take just one example, in Kirkby Lonsdale in February 1880, at the

Wesleyan School tea party, 'nearly 200' scholars, friends and teachers sat down to enjoy the

meal and sing together: 'the meeting was crowded to excess' (LG,14 Feb 1880 p7).

Traditional or rational recreation

Weber saw the rise of capitalism as a rational force leading to the decline of traditional forms

of popular recreation (Weber 2002: 13-38), but more recent research has suggested that

change in the nineteenth century was more complex (Stedman-Jones 1983: 77; Cunningham

1980). Although 'rational recreation' (the idea that the labouring classes might be improved by

civilising forms of leisure) was promoted by some of the middle classes, (Golby and Purdue

1999: 10; Bailey 1978: 35-55; Vorspan 2000) 'the middle class interloper' found it difficult to

engage with the working classes, and found respectable working class phenomena such as

temperance difficult to understand (Bailey 1978: 55).

This mismatch between middle class and working class aspirations, and the problematic

nature of respectability is apparent in Cumbrian primary sources such as Hodgson's (1986)

'Reminiscences, superstitions, improvements, and customs of Whitehaven to the present

time' (first published 1853). This booklet is a dyspeptic description of the changes in the

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[115]The last serious obstacle to freedom in worship had been removed by the Catholic Emancipation Act in 1829 (10 Geo., c. 7).

author's home town over thirty or more years. Hodgson listed many customs that had passed or were passing out of use. [116] For example, he said that on 'Tarry Barrel Night' (November 5th) sailors used to carry flaming tar barrels through the town, cadging drinks. Hodgson remembered it last being celebrated in the mid-1820s; it was just one of many events through the year that involved drink, noise and risky behaviour, 'all of which have been long suppressed as being too great annoyance for the gents of Whitehaven to endure for one day of the year' (Hodgson 1986, unpaginated). This is an example of what Slaughter referred to as 'the criminalisation of custom' (Slaughter 2002: 187-95).

Hodgson particularly approved of Easter Monday at the Black Cock pub, where there was 'dancing, singing, fighting and drinking until a late hour', but that had ceased by 1850. He was pleased that the 'unseemly custom' of bull baiting had ceased forty years earlier, but did not enthuse about some of the new customs of the town, such as the Methodist meetings to preach the old year out and the new year in, and the Primitive and Wesleyan Methodist female choirs that promenaded through the town on Christmas morning. These events were, Hodgson said, 'oftimes annoyed with the rabble of the town' (Hodgson 1986).

Hodgson's comment about 'the gents of Whitehaven' hints at the idea that conventional respectability was a middle class virtue. Huggins has observed that this view survived into the histories of the late twentieth century (Huggins & Mangan 2004: ix). Hodgson's comments are relevant to the question of tradition. Did the industrial revolution sweep away long established traditions, as his narrative seemed to imply? Malcolmson linked a decline in popular

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[116]Hodgson was listed in Mannix's (1974: 399) Directory as a collector of harbour dues at Whitehaven.

recreations with the end of pre-industrial society, but in fact 'traditional' events were forever changing, new events forever replacing the old and moribund (Malcolmson and Rule 1993; Malcolmson 1973: 170; Golby and Purdue 1999: 17-40). In seventeenth century Westmorland, Thomas Machell recorded traditions that could only be recalled by seeking 'ancient' men of the 'vulgar' sort, and he deplored their passing. He described flourishing customs that did not survive into the nineteenth (Fox 2012: 336-43). 'Tradition' was always changing and was often invented to meet the needs of a community to validate their existence. Kitching (2011) analysed this phenomenon in his study of the Alnwick shrove-tide football game. Hobsbawm and Ranger (1984: 1) described the symbolic importance of invented rituals that are intended to link with an imagined past. Huggins (2001) described the fabricated traditions of 19th century Cumberland and Westmorland wrestling. These events and rituals were often described as traditional when they were recent inventions or re-inventions (Stedman-Jones 1977: 167).[117]

Working class culture had a life of its own, it was not simply the product of upper class patronage. The ordinary people were 'not helpless pawns in the grip of great historical forces which transformed their way of life' (Golby and Purdue 1999: 11). Thus by mid-century in Whitehaven Easter Monday ceased to draw the Crowds to the Black Cock, but Methodist hymns brought out female choirs on Christmas morning. Bull baiting was spurned, but cock-fighting remained very popular throughout Cumbria even though it had become illegal

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[117] Machell did not mention wrestling as a pastime in seventeenth century Cumbria.

(below). These were working class activities which were emergent, dominant or residual aspects of their cultures (Williams 1981).[118]

Religion

It frequently occurs that reports are made to the Police of persons assembling in groups near to the entrance of churches and annoying those who are going to or returning from worship. (CRO, SCons 1/1 1857: 49)

This section aims to demolish some of the truisms about religion that are commonly accepted in the twenty first century. Although it has been suggested that religion is one of the means by which a superior class attempted to exert social control (Russell 1992: 119-21), this view is challenged by the importance of plebeian religious groups described here.

Religion was a contested issue the interpretation of which must be nuanced and cannot be understood simply in class terms. For example, at Lowgill, on the Grayrigg beat, young men were reported to have fastened the doors of the Primitive Methodist Chapel from the outside so that worshippers could not leave for some time (KRO, WS/Cons 1/2 1890-1902, 2 Feb 1892). In 1870, two vagrants were sentenced to five years' penal servitude for sacrilege after a spate of vandalism to churches across the Lake District (KRO, WS/Cons 10/2 1880-1910, 5 Mar 1870 p42).

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[118]Rush bearing was another Cumbrian tradition which was frequently modified and significantly changed. In Warcop it was metamorphosed from a drunken occasion into a temperance event (Shepherd 2003: 265, Murfin 1990: 53-8,90-5).

The status of religion in nineteenth century Cumbria was exalted, but not unchallenged. This section proposes that the importance of religion for policing was more than simply protecting worshippers and places of worship. Religious opinion was contentious, divisive and led to violence: religion influenced culture and could set the agenda for policing. Non-conformity was seen by some as less respectable, whereas some plebeian religious groups saw their faith as morally superior and as a mark of their respectability. This is clear from the stand taken by some Methodists and the Kendal Mercury against cock-fighting.

The Constabulary Instruction Book acknowledged the status of religion by requiring the men to attend Divine Service on Sundays, 'For nothing more conduces to the respectability of a body of public men than a due regard for the observances of religion' (CRO, SCons 1/1 1857: 76). However, no record has been found of any policeman disciplined for failure to comply (CRO, Scons 4/33 1857-1900, Scons 2/1 1857-1900).

Victorian England experienced a religious boom (McLeod 1993: 2; Obelkevich 1990). Anglicans sometimes deplored the poor attendance at church of the working classes, but this point of view tended to ignore growing attendance at Methodist and other churches (Crockett 2005: 53-4). There was a strong religious commitment among sections of the working classes in the second half of the nineteenth century, with a sincere and committed plebeian religious culture (Billington 1988: 148; Hempton 1996). Methodism was a powerful force in the 'civilising' of, for example, miners in the north east (Pelling 1964; Bruce 2011; Field 1977). Plebeian religious groups such as the Methodists were social movements with a literally salvational message (Lyman 1995: 397). They pursued agendas for social reform in ways that at times made them transgressive (MacAdam & Scott 2005: 6-9). A similar analysis can

be applied to the temperance movement, and possibly even to the confrontational young men of Kendal in 1886 (below).

Many Cumbrians shared this religious commitment. Gilbert and Huggins both said that the religious revival was running out of steam by the 1840s, (Gilbert 1976; Huggins 2000a: 586) but this was not the case in Cumbria. There were many examples in the press, typical of which is the report of a 'Special Sermon to Working Men', given by an independent minister at Sedbergh on a Sunday evening in 1867. The public hall was packed with 500 men long before the minister started his sermon on the subject of salvation through Christ alone. Even if allowance is made for hyperbole in the report, the attendance was remarkable in a town of just 1983 population (LG, 2 Mar 1867 p4; PP, 1871). There was sincere and genuine religious commitment among a large section of the working class in Cumbria, and secularisation had not significantly threatened the place of the church in working class life (Entwistle 2001: 25-6; Roberts 1985b; Nash 2004; McLeod 1993). Working class religious culture inevitably influenced policing.

The penetration of working class religious groups

The largest area of growth in nineteenth century religious observance was in Methodism (Crockett 2005: 53-5; PP 1852; Gray 2012). In Cumbria, two strongly working class groups had a significant impact, the Primitive Methodists, from the1820s, and the Salvation Army, from the late 1870s. Both delivered plain, simple preaching from ordinary men and women

and the Methodists disliked hierarchy.[119] Primitive congregations were more than eighty per cent manual workers; they have been described as the 'most plebeian' Victorian denomination (Billington 1988; Field 1977: 216, 148-50; Obelkevich 1990: 333). The Salvation Army relied on a 'fiery' message delivered by plain people whom Walker identified as essentially working class (Walker 2001: 210-8).

Attendance at worship was remarkably high in Alston and East Ward, the most thinly populated wards, which were the most strongly Methodist places in Cumbria.[120] They defied the tendency for thinly populated areas to have poor rates of attendance (Crockett 2005: 59-62). The significance of this religious commitment is apparent in the context of policing drunkenness, below.

Primitive Methodism grew strongly in Cumbria. This church was similar to the Quakers in some respects, which is significant for it had been in Westmorland that George Fox in 1652, after five years of failure in the West Midlands, found a community willing to receive and accept his message (Watts 1978: 195; Morgan 1993: 20). The Primitives embarked on an ambitious chapel building programme which addressed the geographical problem many Cumbrians faced in travelling to worship on Sundays. They built at least seven new chapels in the East Ward after 1851 (Clarke 1983: 84; Burgess 1980: 89-90) and more in other places in Cumbria; in Cockermouth Union, the number of chapels increased from five to eighteen in number, in Brampton from zero to six, in Whitehaven and Penrith from four to six (PP,

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[119]Billington observed that Wesleyan Methodists in the North West of England maintained this tradition even when it was falling out of favour in the rest of the country.
[120] In the East Ward, attendance was 71%, Alston 58%, England and Wales overall 48% attendance (PP,1852c; McLeod 1993: 48). Cumberland was the second lowest in England, at 37% (Gray 2012: 234).

1882b). As the Primitives and other Methodists continued to expand, the Church of England was in a gradual decline, giving up two places of worship in the East Ward (Burgess 1980: 77-9).[121]

Many Cumbrians attended Methodist chapels *faut de mieux*, but once there would have been exposed to the message of non-conformist working class morality. Nenthead, in the Alston union, was reputed to be the strongest Primitive community in England. The unlikely claim was made, 'no police were ever needed, no immorality even hinted at', and members were reputedly expelled for 'sins' such as holding hands in public (Burgess 1980: 106).[122]

The 1851 national census returned figures showing attendance at Sunday religious service. Although the figures must be treated with some caution, they are valuable for comparison. England and Wales overall recorded 48% attendance (McLeod 1993: 48). In Cumberland, attendance was the second lowest in England, at 37.3% (Gray 2012: 234). However, the rate of attendance in the East Ward (including Appleby and Kirkby Stephen) was one of the highest in the country, at 71%. Alston, in Cumberland, was also well above the national average. In these two unions, the power of non-establishment Protestantism is striking. In Alston, 10% of the population attended Anglican services, 48% other protestant services. In

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[121]There were other dynamic religious groups in Cumbria. MacRaild (1998: 102-3) concluded that the Catholic church did not simply expand with the arrival of Irish migrants, but was resurgent in Cumbria . However, Irish migrants were divided, for Cumbria attracted large numbers of Irish Protestants (Smith and MacRaild 2009, MacRaild 2005). Sectarianism persisted with a significant expansion of Ribbon societies (Fenian sympathisers) and the Orange Order in west Cumberland, with concomitant outbreaks of sectarian violence (MacRaild 1998: 2-13, 170-97).

[122] Difficult to reconcile with this assertion is that the union had the highest bastardy rate in England. Chapter four.

the East Ward, the ratio was 30% Anglican to 41% other protestant services.[123] These

dissenting congregations described themselves with a wide range of titles, but Methodists,

including Primitives and other factions predominated.

The existence of strong working class congregations in some Cumbrian Unions demonstrates

not a society united in a moral crusade, but one riven on the question of morality. Primitive

Methodist hagiographies that describe the evangelisation of Cumbria make clear how they

were regarded as far from 'respectable' in their early days. For example, when the first

preachers arrived in Cumbria in the 1820s and 1830s, the reception was mixed. Preachers

were threatened with prosecution by the 'gentry' who deplored their 'midnight revelling and

ranting'. This relates to the 'Love Feasts' held through the night (Kendall 1906: 149-50; Petty

1864: 156-7, 202-8).

These zealots challenged 'pub culture' by attending Kendal races in 1822, (Petty 1864: 149)

running a temperance refreshment tent at Brough Hill Fair (Times, 6 Nov 1928 p19), or

organising a 'Tee-total meeting' at Milnthorpe in 1835. However 'pub culture' was willing to

engage with religious zeal. The tee-total meeting was disrupted by a group who offered free

beer from three barrels they had brought along (Bingham 1987: 220). These working class

evangelists were not deterred. For example, the biography of Roger Haydock (a Primitive

Methodist hagiography) says that 'Owd Roger' spoke out strongly against more 'respectable'

Methodists who supported moderation in drink. Roger visited pubs and events such as dog

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[123] These figures were calculated by the author using the Parliamentary records (PP, 1852c).

fights to save the sinners. The dogs 'miraculously' refused to attack him (Whittle & Haydock 1912).

Salvationists in Cumbria experienced similar animosity from the middle and working classes. In 1884, when General Booth visited Kendal, the Gazette described him as 'one of the most notorious men living'. Large crowds greeted the General, many cheering loudly, and many hooting and booing.[124] Attempts were made to disrupt the meeting in the hall: a stone was thrown through a window and several drunken young men and women were ejected (WMG,16 Aug 1884 p5).

Kendal Watch Committee decided to act against the Army in 1886; they wrote to the Salvation Army requesting them to notice 'the complaints of the inhabitants in reference to the danger, obstruction and inconvenience caused by street preaching in the principal thoroughfares' and warned them of possible prosecution (KRO, WSMBK/1/21/1 box 8 1831-1903,16 Mar 1886). In June, Captain William Ebbs was gaoled for seven days for such an offence (NEDG,12 Jul 1886).

Some action against the Army was more extreme. In Maryport in 1887 a Salvation Army meeting was disrupted. The report in the Cumberland Pacquet (28 Apr 1887 p5) told of sixty or seventy 'roughs' who held and assaulted the Salvation Army officer, smashed and hurled the chairs around the room. When a police officer arrived, he 'took a lad, who was bleeding profusely from the head, into custody.' The other roughs eventually withdrew and the meeting

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[124] Presdee (2000: 43) cited such anti-Salvation army protests as an example of carnival.

proceeded. But the attackers then held a meeting at which they resolved to 'starve the Army out of Maryport' and to disrupt their open air meeting that evening. The presence of Inspector Grisdale prevented any violence, but the evening meeting was disrupted by the roughs singing ribald songs.

The emphasis here upon working class evangelists is not vitiated by their being a relatively small minority, for they were determined and dedicated. If they were small in number, they were large in commitment and impact (Bruce 2011: 351; Watts 1978).

Drinking

The working class was divided on religion and drink (Harrison 1967: 98-101). After 1860, temperance was the norm for Methodists and non-conformists, who increasingly defined pub culture, with its gambling and 'other vices' as incompatible with respectability (McLeod 1993, 1984: 33-5).

Drunkenness assumed increasing importance as a 'problem' in the discourses of the nineteenth century. A search in the online Parliamentary Papers for the years 1830-1864 on the subject 'drunkenness' produces 189 hits; from 1865-1899 produces 685 hits (Proquest 2012). Legislation to tackle drunkenness by regulating public houses proliferated in the nineteenth century (Lewis 1985: 26). Drink related offences formed the largest category of offences coming before the courts, and were the greatest category of offence dealt with by

police. In the judicial statistics, these offences were invariably more than 25% of the total.[125]

Although the data on prosecutions for drunkenness suggests that 'boozing'[126] remained an important leisure activity for many, temperance had strong support and the issue became a major division in working class society.[127]Joseph Livesey, Francis Place, Willam Lovett and William Gregson, all pioneers of the temperance movement, were radically independent working men (Harrison 1994; Shiman 1988; Dingle 1980; Shaw and Gregson 1891; Cunningham 1980: 68-79;Greenaway 2003, Ch 1). Livesey believed that social reform would come, not from the middle classes, but from the mutual efforts of the labouring classes, two manifestations of which were, he believed, temperance and chapel (Roberts 2004: 173). The Methodists saw drink in Manichean terms. So we read 'John Horn dropt. William Sewell backslidden through drink' (Clarke 1983: 91, quoted from Appleby circuit Register, 1861).[128]

Temperance was not a middle class campaign to reform the working class; it was a phenomenon that confused the respectable upper and middle classes, amongst whom it garnered limited support (Bailey 1978: 54; Dingle 1980: 15; Harrison 1971: 251-5; Pugh 1978: 62). Temperance enjoyed significant grass-roots support in Cumbria. For example, when Salvationists in January 1883 staged a night march from Kendal to Milnthorpe, where

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[125] The problem seems to have peaked in the 1870s (Greenaway 2003: 8; Jennings 2007: 143-64;Shadwell 1903: 47-50). However, the number of charges for drink offences continued to grow in Kirkby Stephen. (See chart B.2, appendix B.)

[126] This slang term was used in Cumbria (Rollinson 1997).

[127]Drink is often presented as a working class problem, but there is no evidence of any difference in drinking habits between the classes. There are plenty of qualitative sources depicting the bibulous middle classes. For example, Martineau's (1862) *Last Day in the Old Home*. Richard Doyle's (1849) *Manners and customs of the Englishe* [sic] particularly his depiction of Disraeli addressing the agricultural interest .

[128]But there were 'respectable' working men who did drink. For example, Henry Broadhurst (1901: 52-3), stonemason, trade unionist, MP and government minister, who although himself a drinker deplored the '. . . . degraded habits, brawling and drunkenness . . . .' of the mid-century and claimed that things had significantly improved, thanks to socialism.

they patrolled the streets singing hymns, their arrival caused some excitement and a large

crowd gathered in the centre of town. At a follow up meeting in the town, 140 joined the 'Blue

Ribbon' (temperance) movement, and 104 'pledges' were taken (Bingham 1987: 232-3).[129]

It has been possible to assess the impact of temperance and Methodism upon the policing of

drunkenness by comparing two very similar Westmorland towns, Kirkby Stephen and Kirkby

Lonsdale. Appendix C details the similarities and differences between these two towns. The

most significant difference is that Kirkby Stephen was a town where temperance and

Primitive Methodism enjoyed considerable support. Kirkby Lonsdale did not have even one

temperance hall or inn, but was already a tourist destination (Bulmer 1885: 214-20, 681-87).

The data from the two towns (1893 to 1900) highlight striking differences in charges issued in

the two Kirkby's: 31% of charges were drink related in Kirkby Stephen, 21% in Kirkby

Lonsdale. In Kirkby Stephen, vagrancy offences were 13% of the total, in Kirkby Lonsdale

they constituted 47% of the total (figures compiled by the author from KRO, WS/Cons 2/5

1888-1930, WS/Cons 4/11 1888-1915). It is possible that the higher rates of drunkenness

charges in Kirkby Stephen were because of higher levels of drunkenness in the local

population, despite the town's temperance reputation. To test this, one group of offenders

was isolated, those who were described in the charge books as of no fixed address, or as

vagrants. These persons can be assumed to have been similar in character and behaviour in

both towns, and will have been similar in their drinking patterns in both towns. Indeed, many

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[129] The Army had reached the Cumberland coast in strength. A photograph from Whitehaven, 1892, showed forty eight uniformed children, 'Salvation Army Junior Soldiers', aged from about six to teenage. (Moon 2011: 29)

itinerants will have passed through both towns, though none of them was charged in both

places during these years.[130]

Table 7.2   Arrests and Summonses, Kirkby Stephen and Kirkby Lonsdale (1893-1900)

	K. STEPHEN	**K. LONSDALE**
Drink related offences, showing the place of residence of those charged.		
Non-vagrants (locals and visitors with fixed addresses) charged with drink offences	158	69
Vagrants or itinerants charged with drink offences	58	10
Vagrants charged with drink offences, expressed as a percentage of all vagrant offenders	31.4%	5.2%
Drink offences committed by vagrants, expressed as a percentage of all drink offences	26.9%	12.7%
Vagrancy offences: types of offence for which persons were charged		
Begging	30	72
Workhouse offence (mostly destroying clothes)	3	8
Sleeping out	3	2

Table 7.2 provides evidence that local attitudes among the police heavily influenced the rates

of arrest. Although far fewer vagrants were arrested in Kirkby Stephen, those arrested were

far more likely to be charged with drinking offences. The number of vagrants arrested in

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[130] Evidence that the route between the two towns was travelled regularly by vagrants comes from the Kirkby Lonsdale Vagrants' relief book, which recorded the itineraries of those relieved. A significant number had come from or were going to Kirkby Stephen (KRO, WPR/19a 1825-1857). One offender who was detained in both places has been discovered: Joseph Miller. The details are in chapter eight.

Kirkby Lonsdale was far higher and the charges were far more likely to be for begging. Kirkby Stephen police were less tolerant of drinking offences. Kirkby Lonsdale police were less tolerant of begging.

The best hypothesis to explain these differences is that the police were informed or guided by local cultures. In both towns, vagrants were a target for the police if they stepped beyond certain parameters that were never precisely defined. These were the disorderly off-comers shown in chapter nine, table 9.2.

In Kirkby Stephen a policeman, even if he himself was not temperance or Methodist, would have family, friends and neighbours who were. Laxity in policing drunkenness would have been deplored. Vagrant drunks were the most obvious problem and were therefore a particular target for the police. In Kirkby Lonsdale, local priorities required the police to target those beggars who posed a threat to the town's growing reputation: 'Kirkby Lonsdale, as a pleasure resort, becomes more and more popular as the years pass by, - not the popularity of the cheap tripper, but of well-to-do persons from all parts of England' (WMG, 12 Apr 1890 p5). Beggars who might pester affluent visitors were the priority.

There was in Cumbria, as elsewhere, a proliferation of organisations which made temperance a core principle, and the most committed element of the temperance movement derived from the working class. A majority of every class enjoyed alcohol, but the growing and significant minority who most deplored its use and campaigned against it were vociferous. How this working class temperance culture could affect policing is revealed by the data from Kirkby Stephen.

Sport

Traditional Cumbrian sports have been discussed in chapter four. This chapter considers their relevance to respectability and class, and how they thereby relate to policing. Gambling is touched upon, but the main focus is on sports which came to the notice of police, including wrestling, cock-fighting and prize-fighting. [131] Sport was, as it still is, a significant marker of regional identity in Cumbria. Sport was the arena in which men (almost always men) acted out their performances of drinking, gambling and violence. Thus the interaction between the police and the public in dealing with sporting activity was a defining factor in the structuration of regional and working class identity.

Wrestling, fell racing, pedestrianism (foot racing) and hunting were activities that were rooted in local working cultures and remained popular throughout the century (Murfin 1990:113-20). The physicality and skills of these plebeian sports gave them a respectability that was rooted in the work of Cumbrian men, as outlined in chapter four, but they were sometimes close to the 'edge' of respectability. Events were often staged by publicans and could become opportunities for drinking and gambling. It was said of the wrestler Rev. Andrew Brown of Bampton (d. 1822) that 'although occasionally addicted to the bottle, he preserved through life . . . the regard and esteem not only of his parishioners in general, but of nearly all who were acquainted with him' (Litt 1823: 118). Such behaviour would have challenged a vicar's respectability after mid-century as sport became civilised (Wood 2004: 12).

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[131] This writer is reluctant to describe cock-fighting as a sport, but must here follow the conventions of nineteenth century Cumbria.

But sport and alcohol were forever linked in nineteenth century Cumbria. The 'World Champion' Cumberland wrestler, George Stedman (Marshall & Walton 1981: 170; Huggins 2001; Murfin 1990) took on the Fleece Inn at Brough, from where he was summonsed for licensing offences in 1894 and 1896 (KRO, WS/Cons 4/11 1888-1915, 5 Jul 1894, 25 Feb 1896).

Gambling

Many primary and secondary sources record the expansion of betting in the nineteenth century, and Cumbrian sports such as wrestling, running, whippet racing, cock-fighting and hound trailing were closely implicated in gambling culture (Moore 1999; Churchill 1894; Itzkowitz 1988; Vamplew 1976; Chinn 1991; Clapson 1991; Murfin 1990: 103-8). The influence of money could be pernicious, Murfin's oral histories included references to 'fixing' hound trails, Askwith referred to 'nobbling' in the Guides' races in the nineteenth century[132] and Machell described 'barneying', the practice of wrestlers agreeing the progress and outcome of a match before it started (Murfin 1990: 103; Askwith 2004: 59; Machell 1911). But it is difficult to find any clear, contemporary record of such practices. Such deception or fraud did not attract any police attention or result in private prosecutions, nor were there any reports of 'welshing'.[133]

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[132] In conversation with the author, Pete Bland of Kendal affirmed that the practise of fixing fell races was widespread until the post-war generation of runners (Bland, Tommy Sedgwick and Fred Reeves) whose commitment was to running rather than income (at Manchester, 15 Sep 2012) (Askwith 2004).

[133] Welshing was the term for taking bets and then decamping with the stakes before the successful betters sought payment. The 1845 and 1853 Betting Acts (8 & 9 Vict., c. 109; 16 & 17 Vict., c. 119) made gambling debts unenforceable (Bellingham 1924: 80). One incident of cheating has been found, in the Whitehaven News of

Gambling excited little comment in Cumbria. It only featured in the local press when it was incidental to another story. For example, the young thief who came to Bowness with his paramour and proceeded to use the stolen money to fund a gambling spree at local foot and boat races (WMG, 1 Jul 1871 p8). A search of the House of Commons Parliamentary Papers reveals no Cumbrian reference in the context of gambling, even though other 'moral' issues such as vagrancy, drunkenness poaching and child labour invariably attracted much Cumbrian comment, and often a lengthy statement from the Chief Constable.

Off course betting was illegal. Clapson (1989) explained how it was tackled as a problem in Lancashire. The novel *Esther Waters*, first published 1894, included a plot line in which the landlord of pub where illegal bets were taken was pursued by police and religious zealots but no similar prosecutions or reports of such activity have been found in the records used in this study (Moore 1999).

At Grasmere sports, the Rev. Rawnsley, in his introduction to Machell's history of the sports, was proud to say that he had eliminated the beer tent from the show-field, and he did claim that the practice of barneying had been stopped, but he made no reference to bookmakers

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1871. At a mile race between McCarty of St Bees and Beck of Aspatria, for a stake of £25 each, McCarty was tripped up by Beck's supporters when he was leading. The referee, a gentleman, Mr Robert Ellwood, refused to award the race to Beck and referred the matter to *Bell's Sporting Life* (the newspaper) which was acting as stakeholder (WHN, 29 Apr 1871). The tone of the reporting suggested that the main concern of the newspaper's readers would be the awarding of the prize and the outcome of the betting.

(Machell 1911: 58). Since the 'sporting earl' Lord Lowther patronised Grasmere and attended regularly, bookmakers could expect good business.[134]

The lack of concern about gambling at sporting events contrasted with the pursuit of card sharps at the fairs and of young men playing pitch and toss in the streets. The reasons for the pursuit of these offenders is considered in chapters eight and nine.

Violence

This section is concerned with cultural attitudes towards violence, which was integral to men's enjoyment of the sports of wrestling, covered in chapter four, cock-fighting and prize-fighting, all of which were gambling sports. This section considers cultural attitudes to violence in the work of the police: cruelty to animals,[135] fights, in assaults upon police and in the cases where police used violence. The interpretation of violence was nuanced, for although extremes of violence were deplored, the use of force was not considered *per se* wrong; many times the fact that the police received or dished out violence was passed over with little interest shown. Men were expected to fight in certain circumstances.[136]

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[134] Few visitors mentioned the betting: one who did was Thompson (Westmorland Federation of Women's Institutes. 1957: 66). James Lowther, Cumbrian MP and cousin of the 'Sporting Earl', was a leading supporter of the pro-betting Sporting League in 1894 (Petrow 1994: 243).

[135] The author interprets cruelty to animals, including cock-fighting, as gratuitous violence. This view was advanced by Atyeo (1979: 70-1) It was also illegal (Cruelty to Animals Act, 1835 5 & 6 Wm IV, c. 59.).

[136] This thesis has not considered the use of violence against women: although this is a valuable topic for study, it is beyond the scope of this work and its sources.

Cruelty to animals

Cumbrian police were not greatly concerned with the treatment of animals, for they rarely acted to prevent cruelty to animals *per se*. At Brough Hill Fair (see chapter 8), as in other parts of England, almost all the animal cruelty cases were dealt with by the RSPCA (Godfrey et al. 2007: 31). An incident at Kirkby Lonsdale illustrates the point. PC Parrish in the police occurrence book in October 1898 recorded that he intervened when he found three men roughly inspecting a pony on the roadside: 'I ordered them to desist as the highway was not a right place for this purpose.' At this point Mr Knowles, a barrister from Lancashire, arrived on the scene; he told the men that their actions were cruelty and told them to desist. The men replied with bad language and refused to give their names, and then departed. Knowles told Parrish that the men must be summonsed. Parrish did find out their names, but he referred the matter to a veterinarian 'who states that there was no cruelty in what the men did to the pony'. Parrish's entry into the book was (unusually) counter-signed by Superintendent Graham of Kendal (KRO, WS/Cons 2/8 1897-1922, 5 Oct 1898). The superintendent's signature highlights the uncertainty the Kirkby police felt. Although they were sure that the men's actions were not cruel, Parrish and Graham recognised the threat posed by the interference of an educated outsider with different values.

The few cases where police did take action are reported with little detail. In some of these cases there may have been reasons other than simple cruelty for the charge being brought. For example, in Maryport two children were charged with cruelty for attacking a hen. The policeman could have been concerned to protect property, or to tackle what he saw as a problem of disorder, which seems to have been Parrish's concern in the case above (CRO, SCons 4/137 1879-1888, 13 Jun 1886).

Cruelty to animals was an issue that did not excite much interest among the Cumbrian police and magistrates. Cruelty was apparently a preoccupation of outsiders, such as the RSPCA and Mr Knowles. The next section explains that cruelty to animals was not the main driver of police action against cock-fighting.

Cock-fighting

Crone (2012: 32) wrote that patronage of violent sports such as cock-fighting was a means by which the working class in London could express their opposition to the cultural hegemony of the middle classes. Atyeo (1979: 86-7) however argued that cock-fighting had a long history of patronage by all classes. This study of Victorian Cumbria establishes that support and opposition to cock-fighting were in no way class based.

Cock-fighting was not tackled by the Cumbrian police in order to reduce cruelty to animals[137], even though the legislation had been framed in those terms (Cruelty to Animals Act 1835 5 & 6 Wm IV, c. 59). In Cumbria and elsewhere in nineteenth century England opposition to cock-fighting and similar violent sports was framed in terms of morality, religion and respectability (Malcolmson 1973: 37; Fiske 1989: 70-80). Cumbrian cock-fighting bears out Weinberger's (1981: 88) observation that police often attempted to suppress leisure pursuits that were declining in popularity, but what happened in Cumbria illustrated how a declining leisure activity could still enjoy strong support, and police activity could be resisted for many years.

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[137] Similarly, Lowe-Laurie (2012) explained that cruelty was not the main reason why opponents wished to supress the Stamford bull running in the 1830s.

Cock-fighting is reported to have been widespread in the region even well into the 20th century (Murfin 1990: 90-5). Newspaper reports were often sympathetic to cock-fighters. For example, in 1863 the Carlisle Journal reported on a match in the city in a light–hearted way. The journalist who attended seems to have enjoyed the occasion, reporting the antics of the police and participants as they chased or evaded each other. No prosecutions ensued on this occasion (Carlisle Journal, hereafter CJ, 27 Feb 1863 p7). Later the same year, the Journal commented on 'over-legislation'. The article deplored the SPCA[138] 'sneaking' to find evidence from servants and said that practices such as prize-fighting and cock-fighting should be allowed to 'make itself respectable or die out under the pressure of growing public opinion' (CJ 18 Sep 1863). The reference to servants made it clear that the journalist saw the followers of the 'sport' as more affluent. Clearly, supporters of cock-fighting did not consider themselves as anything less than respectable.

Thirty years later, the Carlisle press was still reporting on cock-fighting in positive terms. In 1890, a report described the thirty two fine 'sporting' birds entered at the Brampton poultry show, and hinted broadly that 'a superintendent' was a follower of the 'sport' (CP, 3 Jan 1890. P6). The following year, there was a report of a match between the eastern and western districts of Cumberland: the 'west sportsmen' won (CP, 1 May 1891 p3).

There was a body of public opinion against cock-fighting particularly among Methodists (Tranter 1998: 10; Metcalfe 1982: 475-6). It was an issue that divided opinion in a way similar to the temperance question, chapel versus pub, or respectable versus disreputable. It was

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[138]The SPCA, later the RSPCA, was middle class in character and very unpopular amongst the working class (Harrison 1967: 116-9).

the 'brutalising' of the men involved in the sport that caused opposition: this point, brought out by Lowe-Laurie in his study of the Stamford bull running, is clear from contemporary reports (Lowe-Laurie 2012). Some sections of the press implicated the gentry. In 1885, the Lancaster Gazette[139] reported:

> *The 'sport' retains many ardent admirers in Westmorland and is carried on to a considerable extent, it being not long ago that a sporting baronet was among the 'ring' surprised on the estate of a landed gentleman near Kendal. (LG, 10 Jun 1885 p2)*

The Kendal newspapers took opposing positions. The Mercury frequently expressed itself against cock-fighting. A neglectful Church of England vicar of the Duddon Valley was criticised for his cock-fighting hobby (KM,18 Mar 1848 p3). A village fete was praised because it was conducted on rational lines; 'instead of the cock-fight and tipsy revelry' a thousand factory workers sat down to tea and to listen to a public examination of the scholars of the village (KM, 30 Aug 1851 p3). At a Wesleyan tea party in Peppercorn Lane Chapel,[140] Mr Balmer, a foreman at a Kendal mill, addressed the meeting to say that he had lived in that area of the town as a child forty years ago, when it was notorious for cock-fights, drunkenness and immorality: it was much improved by the work of the Chapel (KM, 28 Dec 1867 p3). However, the Westmorland Gazette printed no criticism and frequently reported the results of cock-fights in a matter of fact way. For example, in 1880 a main[141] between Barrow

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[139] The same report appeared three days later verbatim in the Manchester Courier and Advertiser (13 Jun 1885 p11).
[140] This lane is on Fellside, reckoned to be the roughest part of the Victorian town.(Bingham 1995: 206, 306)
[141] A main was a meeting at which several birds representing two 'teams' were matched.

and Kirkby Irleth took place just a couple of miles from the centre of Ulverston: Barrow won (WMG, 10 Apr 1880 p7).

Even in the twentieth century cock-fighting was described with affection by some and mains were said to be well attended. Humber, an enthusiast, suggested that the followers were often solid and respectable citizens (Humber 1966: 16-30, Bingham 1987: 401). In 1937, the Home Secretary was asked about the supposed complicity, by turning a blind eye, of the Cumberland and Westmorland Constabulary in cock-fighting (PP 1937, 18 Feb 1937).

There is today a popular view that cock-fighting went largely unprosecuted in the nineteenth century.[142] The RSPCA has recently been quoted as saying that there have been 'about 12 prosecutions for cock-fighting in the UK since 1835' (WMG, 5 Jul 2012 p31). This figure must be incorrect, for there were several in Cumbria alone before 1870. The police and parish constables did act, but what is clear is that it was difficult to succeed in a case against cock-fighters, and attempts to do so were petering out by the 1880s:

- Four labourers were fined 10/- each, Furness (KM, 27 Feb 1841 p3).
- One man was convicted, New Hutton, £3 fine (WMG,1 Jul 1851 p5).
- Four men were prosecuted at Kendal, cock-fighting at Cunswick[143]. Acquitted (WMG, 4 Jun 1864).

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[142]Metcalfe (1982: 475), writing about the mining districts of Northumberland, used the lack of prosecutions in the record as evidence of the end of blood sports after the 1870s. This writer, considering the prevalence of the 'sport' across the Cumbrian border, believes it may be possible to find evidence to challenge the reliability of this claim.
[143]This is open fell, 2km from the town centre. Grid ref. SD491943.

- Three men were convicted at Carlisle for cock-fighting at Wigton, 10/- fine each. The bench was lenient because there was no evidence of the fitting of spurs (CJ, 17 Jun 1864 p9).

- Thirty eight men were arrested in Carlisle city, 'a good deal of cock-fighting still goes on in this district *sub rosa*' (CJ, 28 Apr 1865 p9).

- Six men at Bootle were fined £2 each, or twenty one days. 'The Chairman, in passing sentence, said the Bench were determined to put down this brutal system of cock-fighting' (KM, 1 May 1867 p2).

- Police raided a cock-fight at Cunswick. Those attending decamped in good time when a warning shot was fired by a look out, the newspaper report was sympathetic to the 'sportsmen' who attended, and was bold enough to identify three as men who had been prosecuted for the same offence twenty one years previously. No prosecutions (LG, 16 May 1885 p5).

- Two farmers were fined for cock-fighting near Kendal after Sergeant Kelly led a police raid which secured the birds and equipment (LG, 10 Jun 1885).

It was difficult to catch cock-fighters, but the police did make some determined efforts. In the last case listed above, the fight was due to start at 3am, but the police were hidden in ambush from midnight. Nonetheless, most of the 'sportsmen' decamped successfully.

It could be difficult to secure a conviction for those arrested were often well defended. In the 1851 case (above) several men were charged. The evidence presented by the SPCA inspector was very detailed, including the size of bets, how they were placed, who owned the birds, how they were fitted with metal spurs and more. Despite the precise evidence, the

magistrates were reluctant to convict, cavilling on several points of law. Eventually only one

man was fined, all the others acquitted.

The 1864 case at Kendal was carefully prosecuted by superintendent Hibberd, who had

observed the match from cover with two constables. The defence presented by Mr Clark was

vigorous, the court was packed, and there was frequent and intimidating laughter at the

expense of the police. For example, when Hibberd referred to his notebook, Clark asked:

'Can't you remember this without reading it?…yes, but I took it down to refresh my memory.

(Laughter)'.[144]

When the police arrived at Cunswick, they found two hundred men present, most of whom

ran away. The two accused were threatening towards the police. They said, according to

Hibberd's evidence, that as they were well caught, they might as well continue with the

match, 'they could only commit one offence'. The accused, later in the afternoon, said to

Hibberd 'you might as well have stopped and seen some good battles (laughter) but we did

get three or four after you went, for you didn't get all the cocks'. One of the accused said to

PC Currie 'If they [those at the main] were all of my mind you [the police] should not go home

with whole bones (Laughter)'.

The accused did not deny owning the cocks, fighting the cocks, or fitting them with spurs. The

defence argued that cock-fighting was not *per se* illegal, the offence was cruelty to animals,

and the police had presented no evidence that cruelty had taken place only that the cocks

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[144]Mockery in court of the police was a common feature in several of the cases described here.

had been fighting. Even though the court heard graphic descriptions of terrible injuries suffered by one bird, the bench 'did not consider the case sufficiently strong against the defendants to convict them upon the evidence. They were sorry they could do no more.' This is quite at odds with Crone's (2012: 32) view of violent sports in London (above).

Cases like those at New Hutton and Kendal demonstrated the difficulty of securing a conviction. Humber, writing about the early twentieth century, described how mains were held in remote places which easily escaped police notice, and were keenly supported by a Westmerian magistrate, 'Sir Maurice'.

He was never hard on his own folk ['sportsmen'], *but he liked to give them a stern lecture upon the error of their ways. He bullied the police if they disputed his authority. (Humber 1966:30)*

By the 1890s, reports of cock-fighting, and of police action to prevent it, were disappearing from the newspapers. One late report commented sarcastically:

South Cumberland and Furness Cock-fighting Club, had a successful main on Saturday last, in the neighbourhood of Whitbeck. It is to be regretted that your contemporary was not in a position to publish the names of the hardened law breakers, who took part in this disgraceful affair. (WMG,10 May 1890 p8)

The Chief Constable of the Constabulary issued no orders relating to cock-fights, nor did the Watch Committees' minutes. One may conclude that some of the police, like Superintendent

Hibberd, were willing to tackle this 'sport', but it was very difficult to find, detain and prosecute offenders. When they did intervene, the police were confronted with the derision, hostility and aggression of the participants who were defending their culture. The 'sport' enjoyed some support from the gentry, though it is impossible to say how widespread this was. The accused were often well defended, evidenced in at least three cases, 1851, 1864, and June 1885. The supporters were confident and cocksure in the field and in court.

Cock-fighting was an issue that strongly divided Cumbrians, but the divisions were not on class lines. The police themselves were divided, with some, like Hibberd and Kelly at Kendal planning careful raids and ambushes, but others believed to be covert supporters, for example the unnamed superintendent at Brampton and the police mentioned in Parliament in 1937. Cock-fighting benefitted from strong support in Cumbria, but the sport of prize-fighting which came into the region from outside was treated with indifference by most Cumbrians.

Prize-fighting

When prize-fighting came to Cumbria, the policing was similar to that of cock-fighting, but the outcome quite different. Prize-fighting was efficiently, quickly and conclusively dealt with by the police.[145] Although prize-fighting was not judged to be illegal until the ruling R v. Coney in 1882, (Stevens 2012), prize-fights were often targeted by the police throughout England for their potentially disorderly nature. Cumbria was attractive as a venue for fight organisers such as Jem Mace of Liverpool, for the fighters and spectators could travel by private train to a

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[145] The key similarities and differences between the handing of a cock-fighting and a prize-fighting case are examined in Appendix D

remote location (Mace 1998, 1890). The engine was halted 'in the middle of nowhere' and the fight would start, with any surprised farmer receiving a good fee. Two such events were recorded in the local press.

Mace brought two Manchester[146] men to Cumbria for a fight in 1865. It was fought to a conclusion in 55 minutes, with no police interference. But the pugilists Kelly and Rooke were later summonsed to appear at the Quarter Sessions and bound over in their own recognizance, £20, to keep the peace (LG, 29 Apr, 8 Jul 1865). In 1867, a similar match was held at Grayrigg and had been in progress for an over an hour when two parties of police arrived simultaneously, Constabulary men from Penrith and Kendal Borough men from the south. The alarm had been raised by constable Bertram at Milnthorpe, who had been made aware of the passage north of the train. Bertram telegraphed to the Chief Constable, who ordered the Constabulary to attend from Penrith, and to Kendal, where in the absence of the superintendent, constable Currie and sergeant Hoggarth organised the transport of the available Borough men by waggonette (LG, 9 Feb 1867). The pugilists Allen and Rooke, the stakes and the equipment were seized, though Mace, the promoter, 'skedaddled'. The fighters were released on bail, but were required to remain in Kendal, where they were 'during their stay, the "lions" of the town' (LG, 2 Mar 1867 p5). They were sentenced at the Quarter Sessions to one and three months respectively (LG, 20 Apr 1867 p5). There are several points of significance in this narrative.

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[146] This expedition to Cumbria took place at a time when Manchester police were cracking down on prize-fights (Davies 2009: 54; Caminada 1983: 314-21). According to Atyeo (1979: 154) the 'last bare knuckle fight of any consequence' in England had taken place in 1860

1) The swift and strong response of the police. Fourteen police attended.

2) The initiative and prompt action of junior ranks in Kendal, men who might have been able to claim that a fight on constabulary turf was not their concern. These men could easily have avoided becoming involved by a judicious delay.

3) The public were present in large numbers in court but did not laugh or express any opinion. In the 1851 and 1864 cock-fighting cases the public were disruptive and expressive.

4) The severity of the sentences. Cock-fighters, at a 'sporting' event which had similar crowds and potential for disorder, had been acquitted. A detailed comparison of the prize-fighting and cock-fighting cases at Kendal can be found in appendix D.

The determination to deal with the problem of prize-fighting was clearly shared by the members of the magistracy and by the rank and file policemen, nor did the public in court demur. There was, culturally, a significant difference between prize-fighting and cock-fighting, so much so that it became difficult to prosecute the offence that was illegal, but straightforward to convict men engaged in an activity that was of itself legal.

Fighting

Each and every act of violence …tends to resonate with meanings that express wider societal values. (Godfrey 2003: 344)

Many have explored the idea that there was a trend towards less violent, more 'civilised' behaviour in the nineteenth century, but this progress, if it was that, requires careful analysis (Elias et al. 2000; Gatrell 1980; Archer 2000; Wiener 2006, ch 2; Dunstall 2004: 64; Crone

2012: 3-6; Wood 2003). Carter Wood considered that violence, which had been viewed as normal in earlier centuries, was redefined as a problem in the nineteenth (Wood 2004). Violence was regarded as normal for men, a definer of masculinity. The incorrect or improper use of violence was criticised, but violence was never rejected absolutely. Because this study is concerned with policing, it focuses upon police involvement in violent incidents. In the nineteenth century most cases of assault were privately prosecuted so fall outside this remit, but this study analyses one exceptional case, which exemplifies cultural attitudes to violence.

A fair fight

Violence delivered in a 'fair fight' was generally considered acceptable, even by the courts and police (Wiener 2006: 55-6; Emsley 2005b: 51-9; Wood 2003: 114-5).

This was certainly the case in Carlisle in 1862 when two lads, Callam, aged fifteen and Sinclair, seventeen, met to settle their differences in a pre-arranged fight. The match was well organised with a roped-off ring, with seconds, and candles brought against the darkness. After one and a half hours of fighting, both boys were in a poor state. Callam was willing to shake hands and end the quarrel, but Sinclair refused. Shortly after they resumed, Callam threw Sinclair and fell upon him. Sinclair lost consciousness and died soon after. The referees and survivor were prosecuted for manslaughter. Their defence was that the fight had been fair (CJ, 10 Oct 1862 p10). They were convicted, but the sentence of just two days' prison was merely a token (WMG, 28 Feb 1863 p6). The guilty verdict with a token sentence illustrates how this case was on the very borderline of 'fairness'. The style of fighting and the prolongation of the match by the referees and seconds may have told against them, but they were partially exonerated because the fight had continued upon Sinclair's insistence. At no

point in the court appearances was any mention made of the lack of police intervention. It is difficult to believe that police were unaware of a ninety minute match in Catholic Lonning in the city.

Violence and the police

Assaults against the police may be an indicator of levels of violence in society. The rate of assault upon police was lower in Cumbria than in England and Wales as a whole.[147] However, interpretation is not straightforward, and comparing trends across the period studied is problematic, for the cultures of violence were in constant flux.

Assaults on police

A casual acceptance of violence was apparent in the work of the police. For example, Edward Speight pleaded guilty in Kendal to the theft of a leg of lamb in 1867. When constable Potts had come to arrest Speight, he went for Potts with a bill hook, which Potts seized. In court, Speight complained that he had been cut on the head by the police officer; how this had happened was not explained, but the mayor dismissed Speight's protest saying that the policeman was acting correctly in self-defence, and sentenced Speight to three months for theft (WMG, 22 Jun 1867 p5). A later age might have been more concerned at the violence.

Some policemen were by no means reluctant to engage with aggressive offenders. George Medcalf of Kendal Borough Police was a good example. Early in his career, in 1869, he

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[147] Calculated from data in inspection reports (PP, 1857 *et seq.).*

intervened in a brawl, which led to his being attacked by two men who got Medcalf on the ground and proceeded to strangle, kick and strike him. The two men were arrested and sentenced to three and four months for assaulting a policeman: they clearly felt aggrieved protesting in court that they should only be fined. These men admitted to being drunk, but expressed the view that the policeman had attacked one of them first and should accept retaliation (KM, 11 Dec 1869 p3).

Violence to the point of foolhardiness was in Medcalf's character. 'He was struck several times and eventually knocked down and kicked severely as he lay on the ground. Defendant struck him in the face from which blood flowed profusely, and of which he still bore the mark' (WMG, 18 Nov 1876 p5). In 1885, he was unfit for duty through a 'serious injury'. (KRO, WSMBK/1/21/1 box 8 1831-1903, 25 May 1885) In 1881 Medcalf was on the trail of four pickpockets whom he followed into a pub yard. When he challenged them, the men 'struck him about the face; the defendant Morgan used a stick'. Medcalf 'had to use his stick' before he could get hold of the defendants Bennet and Walsh. The two other men got away but were arrested later in the day by PC Winn, assisted by a landlord and a railway porter, after a serious fight. The defendant Morgan complained that he had received two black eyes, a cut head and an injured leg, but the magistrates waved this protest aside. Morgan was sentenced to six weeks for loitering with intent and one month for common assault upon the porter: he was not charged with assaulting a policeman, even though Medcalf, whose face was extensively cut and bruised, had given evidence that Morgan had assaulted him with stick (KM, 12 Nov 1881 p5).

At the Police Court in November 1883, Robert Simpson, after being convicted to seven days for abusive language, made a run for the door: 'Sergeant Metcalfe (sic) who was standing by, caught hold of defendant, who struggled furiously, striking out with his fists' but was eventually subdued (WMG 18 Nov 1883).

Emsley (2005b: 133) speculated that policemen under-reported cases of assault. The example of Medcalf bears this out and was not unusual. In Staveley in 1867 James Davey, a tramping butcher, was arrested for begging. Superintendent Hibberd gave evidence that the defendant had assaulted the constable seriously by biting him. But the charge remained begging, for which he was sentenced to fourteen days (KM, 30 Nov 1867 p2).

Police use of violence

The police were often accused of dishing out violence (Emsley 2005b: 131-46). There were several complaints, for example:

- 1876. Sergeant Charlton White was reported to the Watch Committee because he had struck a child, who had consequently been confined to his sick bed. After medical investigation, the conclusion was that the child was indisposed for other reasons (KRO, WSMBK/1/21/1 box 8 1831-1903, 18 Jan 1876, 1 Feb 1876). White was later forced to resign over his rape of a prisoner.

- 1879. Ratchel Hardcastle complained that PC Hartley, who was arresting her for drunkenness, had assaulted her. The Watch Committee paid £4/4/- to defend Hartley (successfully) in court (20 Jan & 11 Feb 1879).

- 1883. James Birkett complained that PC Barnes had treated him violently. The Watch Committee told Barnes he should 'exercise extreme caution in such cases'. (KRO, WSMBK/1/21/1 box 8 1831-1903, 20 Feb 1883).

- 1885 PC Mitchell was cautioned for 'striking some boys with his stick' (CRO, Scons 4/33 1857-1900, 14 Feb 1885).

No accusation concerning police use of violence was upheld by the magistrates, nor was disciplinary action ever taken, other than the issuing of a warning. The use of strong-arm methods by the police was not deemed inappropriate if the situation demanded it (Emsley 2005b: 135-42). Analysis of narratives of incidents demonstrates an acceptance of violence by both police and public. This makes it difficult to be certain of the reliability of a comparison of rates of assault across several years. If there were different attitudes to violence in 1857 compared to 1897, then comparing the data from these two years is not comparing like with like. Sharpe (1985) made a similar point in his examination of the history of violence, and Cockburn (1991, p:106), in his examination of homicide in Kent, spoke of 'statistics which are, at best, impressionistic'. The hypothesis that there was less tolerance of violence, and less likelihood of it being used can only be tested in Victorian Cumbria by subjective observations which are insufficient to support a reliable conclusion.[148]

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[148] King (1985) has concluded that here is no evidence to support the idea that there was a decline in violence in the nineteenth century. Godfrey (2010) observed a growing reluctance (in London in the later years of the century) to accept violence, as aggressive displays were increasingly challenged and interest grew in the use of minimal force through new martial arts. Carter Wood (2003: 118, 124) described a 'civilising offensive' and growing respectability that resulted in greater self-restraint and less violence.

The death of Groves

An incident in Kendal in 1886 is a good example of how policing was a culturally informed activity which, although it was deeply implicated within the mores of the working class, was negotiated with all strata of society. The form of that negotiation could include violence. [149] The events on the day of Groves' death and thereafter illustrate effectively the complexities of the praxis of policing.

In the early afternoon of Sunday 7th March 1886, six young men were told to leave the Rifleman's Arms. Two of the men, John Airey and John O'Brien, spent the next hour messing about on the streets, then went along to the Salvation Army Hall where a service was going on. At the Hall, Airey and O'Brien set about disrupting the service (KM,12 Mar 1886 p5).

When PC Williamson arrived, he arrested O'Brien, whom he gave in charge to a bystander, but Airey resisted. He kept shouting that Williamson should summons him, not arrest him, apparently aware of the Chief Constable's order, mentioned in chapter six, that drunks should not be detained. Airey resisted by throwing himself repeatedly to the ground. This avoided the risk of being charged with assaulting a policeman, but he had no qualms about thumping the face of a young man, John Hine, who had come to help the police. PC Groves arrived and the two policemen got Airey on the ground and handcuffed him, but he kicked out hard, making contact with Groves' head. Groves died instantly (KM,12 Mar 1886 p5).

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[149] Tilly (1999: 418) wrote of 'repertoires of contention.' The phrase is apt for this case, in that the actions of police, offenders and public followed an almost predictable pattern.

Airey who was a well-known Kendal trouble-maker was charged with murder.[150] At the

Assizes he pleaded guilty to manslaughter and was sentenced to one year (KRO, WS/Cons

10/2 1880-1910).

The response in the press conformed to the pattern of other 'moral panics', (King 2003; Davis

1980; Rowbotham &Stevenson 2003) and highlighted divisions in the town on the drink

question. Both newspapers did of course condemn the killing, but disagreed about the

underlying causes. Edward Whitwell, chairman of the Temperance Society, wrote to the

Kendal Mercury to say:

The sad event of Sunday would never have happened if the Rifleman's Arms and

other public houses had not been open on Sunday to entice in the passers-by. Surely

the liquor trade does enough mischief during six days of the week, in demoralising,

impoverishing and destroying the people without breaking the Sabbath to intensify

these evils. (KM,19 Mar 1886 p5)

Whitwell invited electors to write to Earl Bective who had supplied beer to Tory voters at the

last election in Kendal, urging him to support prohibition (KM,19 Mar 1886 p5).[151] The

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[150]Airey's 'mug shot' shows a hair style that conformed to the description of Manchester corner men given by Davies (2009: 22, and photo facing p144).

[151] Whitwell had given evidence to the House of Lords Select Committee on Intemperance in 1878, and described himself as the Honorary Secretary of the Central Association for the Stopping the Sale of Liquor on Sunday (PP 1878: 12 et seq.). Edward was brother to John Whitwell (d. 1880), JP and MP of the town, 1868-1880, and to William Whitwell, owner of the brewery (Shaw and Gregson 1891: 108-9, Marshall &Walton 1981: 110).

Westmorland Gazette presented the anti-temperance view. The Salvation Army was blamed for disturbing the peace in the town on Sundays:

It is to be sincerely desired that …self –styled 'Salvation Army' will, on Sundays at least, show ordinary regard for common decency by keeping their discordant instruments silent. The extinction of a valuable and gallant life in its service ought to weigh even with the 'soldiers' who stood by to witness one of their defenders' death and the imminent peril of the other. (WMG,20 Mar 1886 p7)

The Gazette was very critical of the Watch Committee:

Kendal 'mobs' are growing in audacity and ferocity, a result which some persons connect with the touching tenderness displayed by certain members of the Watch Committee a few months ago when several men convicted of ruffianly conduct found their offences were condoned by several persons who are morally and partially responsible … The spectacle of a Kendal mob hustling and jeering a policeman when he is taking a disorderly member of the less reputable class to the police station is by no means rare. (WMG,13 Mar 1886 p5)

This article anticipated the division of the town council on party lines. At the next meeting, there was heated discussion. Some councillors thought the police were not diligent enough in dealing with trouble makers, and the Watch Committee were attacked for not supervising the police properly, for they spent more time discussing how the police should salute the mayor than discussing disorder in the town. Other councillors, especially Mr Baron, spoke out

strongly in support of the efforts of the police and the committee. Baron blamed Councillor Thompson, in whose pub these same thugs had been drinking heavily on the Saturday evening before Groves' death. Baron broadened out the debate to cover earlier incidents when troublemakers were 'being made drunk with Tory drink!' at which point the discussion became even more heated. Although the town council was split on most points, there was general agreement on the Salvation Army 'problem' (KM, 2 Apr 1886 p5).

Ald. Braithwaite: … the 'Salvation Army' and the 'Church Army', with all the good they may have done, have had an injurious effect upon young people…Coun. Monkhouse: … As long as they had this rowdy-dow of brass bands and street preaching on Sundays there would be continued disorder. (KM, 2 Apr 1886 p5)

The Watch Committee would write to them to warn them that creating a disturbance in the town and obstructing the streets was an offence against the by-laws, even if the event was religious worship. A few weeks later, Captain William Ebbs was gaoled for a week (see page 217). He was accused of obstructing Mr William Wilson, whose horse had been stopped by the crowd and spooked by the noise of Ebbs' preaching, and then crashed into a market stall causing some damage (NEDG, 12 Jul 1886 p7). William Wilson was the farmer of a large estate near Kirkby Lonsdale, and the brother of Charles Wilson, High Sheriff of the county. Both Wilsons moved in the same social circles as the magistrates (LG, 20 Dec 1884 p7). Captain Ebbs may well have believed that he had been entrapped by a conspiracy of Westmorland gentlemen, who knew that it would be easier to convict him on a charge of obstruction than of disorderly conduct.

The local papers reported a strong vein of anti-police sentiment. The Gazette reported that in the altercation just before Groves died, there had been three large rushes of men against Williamson when he attempted to arrest Airey. 'Down with him', 'Over the top of him', they cried as they pushed Williamson to the ground (WMG, 13 Mar 1886 p5). This was not stated in evidence in court.

After the killing, when a replacement for Groves was appointed, a large and noisy crowd, 200 or 300 strong, gathered outside the police station, and it was deemed prudent to smuggle the new recruit out of the back entrance. At the inquest, a crowd of young men outside the building jeered the superintendent when he arrived. For a few days policemen on duty in the town were followed by intimidating groups of young men, who were singing music hall songs in a rude and offensive way, according to the newspapers (KM, 12 Mar 1886 p7; WMG, 13 Mar p7, 20 Mar p3).

In studying this case, it is easy to read the views of the newspapers and the citizens who expressed themselves so clearly in print and in committee. Divisions amongst the middle classes of the town were exposed, even the divisions within one family, the Whitwells. The articulate and 'respectable' people of Kendal did seem to reach a consensus on one point: the Salvation Army needed to be curbed.

This case illustrates how an inarticulate section of the working class of the town could express themselves. These actions, particularly of Airey and his friend, were a statement on the question of temperance reform and policing. Airey's visit to the hall expressed his opposition to the Salvation Army in defence of his customary leisure activity. The behaviour of

some young men of the town when Airey was being arrested and after the killing, demonstrated their support for Airey. However, drunken rowdyism was not what every young labouring man in Kendal wished to engage in, for the Salvation Army was itself working class, and young working class men had come to the assistance of the police.

The Salvation Army, the temperance movement and the angry, rowdy young men of the town can all be interpreted as social movements, aiming to advance their own causes, struggling against the established organisations of the town. All of these divisions were there before Groves died; his death simply brought the discussion into the open, and enabled the present day student to observe the changing class identities of nineteenth century Cumbria. The police, who were themselves men of the working class, were at the centre of the divisions at 'street level'. Constables like Groves and Williamson had to decide if, when and how to intervene to prevent the problems of drunkenness, obstruction, street preaching, rowdy behaviour and after hours drinking. How the police acted is examined in more detail in chapter nine, but those decisions were informed by the cultural contexts which have been the subject of this chapter. Police decisions were scrutinised by citizens like Whitwell, Hine, Wilson, Airey, Epps, Thompson, Baron etc., each of whom could and would express agreement or disagreement in one way or another. This case, in which the negotiation of power was so public, and in which so many sections of a divided community were involved, establishes clearly the cultural context of the structuration of the policing of the streets of Kendal.

Summary

This chapter has used religion, drinking, sport and violence to analyse the cultural contexts of the Cumbrian working classes, and to understand the praxis of policing in Cumbria. Respectability has been presented as an idea with a clear and distinct working class identity that informed what was expected of the policeman. The strength of working class religious groups in Cumbria supports this argument. The policing of drinking was strongly influenced by local working class cultures, but nonetheless divided all classes. Similarly, the policing of cock-fighting was an area of working class conflict, but in this case the police's efforts met with some (but not complete) indifference from the magistracy. However, the rank and file, the Chief Constable and the magistrates agreed in their opposition to prize-fighters, who came from outside the region. Attitudes to violence are difficult to measure, but Cumbrian police were confident in dishing out violence, and phlegmatic upon receiving it. The magistrates fully supported the police.

The killing of Groves in 1886 epitomised the way policing was implicated in the complexities of working class culture, and that opinion was divided at every level. If there was any emerging consensus within and between the various groupings of nineteenth century Cumbrian society, it could easily be damaged or set back by contingent events.

The next chapter examines fairs, events that were integral to Cumbrian working class and farming culture. It explains how the policing of fairs was effected. The significant differences in the policing of fairs informs this study of police culture, and their handling of the fairs facilitates an understanding how Cumbrian society was defined. Chapter nine uses these ideas to address the question of how Cumbrian police culture was formed.

Chapter Eight: Victorian Fairs

Introduction

This chapter is concerned with the policing of fairs in Cumbria. Fairs did not fit into the normal routines of policing; they were understood as events that attracted the least respectable of persons, as well as honest farmers and labourers. Fairs drew in visitors from a wide area for trade, business, employment, entertainment and (in some cases) for crime. The main focus here is one fair, Brough Hill Fair,[152] which was both typical of Victorian fairs, in that it drew in commerce and standard fairground entertainments, and unique for it was the largest in the north of England. This chapter discusses the phenomenon of fairs within the economy and culture of nineteenth century Cumbria. Fairs in Cumbria were able to survive, flourish and even grow while they were under attack in other parts of England This is another facet of Cumbrian distinctiveness discussed in chapter four.

The liminal status of fairs is analysed, in order to consider (later in the chapter) the policing problems presented by events that were open to all, offering leisure, licence and opportunity. The social, moral and geographical liminality of Brough Hill Fair was pronounced. Liminality connects with the moral entrepreneurs who predominated in the debates which threatened

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[152] Brough Hill Fair has been poorly served in secondary histories. Only Shepherd (2003) has given it any attention.

the existence of fairs in many places, but had little impact in Cumbria. Liminality was increased by the prevalence of activities that were illegal, semi-legal (such as gambling and prostituation) or disreputable, and which were the focus of police attention at the fair. It was further heightened by the presence of off-comers, persons who were clearly outsiders, including Gypsies and travellers.

Liminality is important in the analysis, offered in the final section, of the policing of Brough Hill Fair. The police focussed on the most liminal aspects of the fair, upon external threats from without Cumbria which were believed to pose the greatest menace. The targets were those who came with the intent of flagrantly robbing or cheating ordinary Cumbrians. The threats included epidemic animal disease, but the more subtle problem of fraud was beyond the scope of the police. The liminality of the event was central to the practices of policing, but the significant differences between policing the fairs and the streets and villages of Cumbria reveal the cultural definitions of unacceptable behaviour, and of alien threats. The comparison situates policing within the cultures of nineteenth century Cumbria, to support this study's argument that discretionary policing was rooted in the working class cultures and that the agency of the ordinary policemen was a crucial factor in the structuration of policing and of state formation.

Definition and origins

A fair is a 'periodic gathering for sale of goods, often with entertainment; funfair' (Swannell 1986: 196). A fair is a public event which, although it appears anarchic, has its own formality, intentionality and social meaning (Handelman 1990: 10-2). Judd (1983: 12) has said that fairs are as interesting as riots to the social historian. This comment is very apt, for fairs, like

riots, were closely implicated in contemporary discourses on social order, morality, economic change and progress. Whereas riots were relatively infrequent, fairs occurred several times a year in every county. Whereas riots were extremely difficult to control, fairs seemed susceptible to management by police.

Powell-Frith's (1893/4) picture Derby Day[153] gives an excellent insight into the mid-century idea of the fair, for it portrayed the complexity of a fair as a social phenomenon by showing the meeting of all classes of Victorian society; sharpers, flashy young men and their female escorts, farm labourers, soldiers, Gypsies, entertainers and schoolboys were all rubbing shoulders. It suggests that the line between disreputable and respectable, discussed in chapter seven, was not clear cut.

Traditional sideshows and entertainments included the boxing booth, ballad singers, the Aunt Sally, the shooting gallery, waxworks and freak shows, roundabouts and swings. A roundabout is just visible in the photograph on page 262. Some sideshows are mentioned in police records of Brough Hill (KRO, WS/Cons 4/2 1883-1894, 9 Oct 1885) but all are to be found in the descriptions of other fairs (Judd 1983; Addison 1953; Sanger 1927; Page 1887; Forster 1881; Wilkins 2011; Cunningham 2007; Catt 1986; Alexander 1970; Houghton le Spring Heritage Centre 2009; Forster 1881). The description closest in time and place was a record of memories of Kendal fair in the 1890s (O'Connor 1962: 75-9).

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[153] Epsom Downs hosted the great Derby Day fair. The picture was painted in the 1860s. Although the main event was horse racing, the open course on the Downs attracted a large and popular fair.

Many fairs claim to be ancient: Addison (1953:120) asserted that Brough Hill Fair is 'almost certainly' of Roman origin. This fanciful opinion, which reminds one of the fabrication of tradition mentioned in chapter seven, rests upon the fact that many such fairs have existed since beyond the memory of man. Brough Hill Fair can be traced back to a Royal Charter of 1329 or 1330, but many fairs had a relatively short history (Sowerby 1948; Alexander 1970: 1). Hiring fairs, at Whitsun and Martinmas, and stock fairs like Brough Hill continued to flourish in nineteenth century Cumbria (Hartley 1981; Rollinson 1974; 188, Perren 2000; Caunce 2012).

Survival of the fairs in Cumbria

The number of fairs in the rest of England fell significantly in the nineteenth century (Flanders 2007: 209) but in Cumberland and Westmorland they grew in number from fifty six in 1792, to one hundred and twenty five in 1888 (PP, 1888). This growth is linked in part to the persistence of the live-in farm servant who was recruited at the hirings, a system which continued to thrive in Cumbria. (Catt 1986; Rollinson 1974; Caunce 2012). The relative prosperity of Cumbrian agriculture during the agricultural depression of the later nineteenth century, and the limited urban growth in nineteenth century Cumbria helped sustain the fairs.[154] Brough Hill Fair did particularly well because industrial growth and railway expansion increased the demand for the type of work horses bred on northern fells and sold on Brough Hill.

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[154] Communities with limited access to urban centres still relied on fairs for their infrequent purchases, such as pots and pans.

Hearn (1978: 132) argued that the piecemeal ending of fairs in other parts of England was led by the desire of the government to restrict working class recreational assemblies, for public order and economic reasons. This interpretation is seriously challenged in the north of England, both by the statements of the Chief Constable of Wigan (below) and by the growth in the number of fairs in Cumbria. In Westmorland (the least urbanised part of Cumbria and England) no one could question the economic significance of the fair, which was an important opportunity for buying and selling, as well as good fun. Fairs were attended by gentlemen and ladies, by rural labourers and 'townies' out for a spree.[155] The vicar or Kirkby Stephen, who lived relatively close to Brough Hill, spoke out strongly in favour of hirings and fairs (PP, 1868a: 519-55).

This study has found no significant Cumbrian voice raised against the fairs. The only hint of a critical voice in Cumbria is to be found in the local press which contained some mildly pejorative remarks about '. . . the usual array of potters' (vagrants) tents, one or two circuses, and the travelling shows . . .' and '. . . . the many places of amusement which are provided by the itinerant charlatans' (WMG, 8 Oct 1870; 6 Oct 1878, p7).

Liminality

Field (1981: 46) wrote of Portsmouth in the early nineteenth century that the fairs must be 'boisterous but tolerable' and they would not be proper fairs unless at least a few respectable

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[155] Sir Joseph Savory MP (Westmorland) attended with his wife in 1892 (WMG, 8 Oct 1892, p7). Kendal Record Office holds a letter from A. Haddow of Manningham, Bradford, who wrote to his parents in Cumbria regretting that pressure of work would keep him from the fair this year (KRO WDX 602, private letter from A Haddow, 1893).

citizens condemned them as 'outrageous'. Bakhtin and Iswolsky (1984: 8-10) wrote of the

carnival as a safety valve which allowed humble people an emotional release. The position of

a fair, a type of carnival, was precarious, situated on an edge, or limen, between order and

chaos, between fun and immorality, between commerce and fraud (Presdee 2000: 32-56;

Fiske 1989: 70-90). 'Edgework'[156] is another term, used by Lyng (2005, 2004), to describe the

galvanised emotions of those who hoped to exploit the fairs' opportunities (Ferrell 2009). A

fair was a liminal event, a meeting place for buyers and sellers, of town and country, of many

ranks of society and levels of honesty. Turner defined liminality as ambiguous, something that

slips through the classifications that normally locate people in a society. It places them '. . .

betwixt and between the positions assigned by law, custom, convention . . .' (Turner 1995:

95). Fairs fit Turner's description, especially a fair that took place in an isolated, uninhabited

spot which was an awkward and alien meeting place for all comers: this was the nature of

Brough Hill Fair.

The nineteenth century fair was similar to the seaside resort in terms of its liminal

possibilities. The beach was 'betwixt and between', belonging to no one and open to

everyone. The seaside bank holiday attracted the urban masses who wanted to enjoy the

daring opportunities of this novel location, and it attracted those who would satisfy or exploit

the demand. Shields (1990: 47-55), writing of Brighton beach, and Belchem (2000: 71),

writing of the Isle of Man in the later nineteenth century, described liminal possibilities that

were redolent of fairs like Brough Hill. However, just as moral entrepreneurs or the forces of

commerce tamed the fairs, so resorts like Blackpool were modernised, sanitised,

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[156] Katz (1988), *Seductions of Crime.*

commercialised and legitimised as they grew (Webb 2005: 124-5; Walton & Walvin 1983). In most of England, fairs were banned, bowdlerised or replaced with rational recreations (Judd 1983; Fiske 1989: 74-7; Walton & Walvin 1983; Poole 1983; Malcolmson 1973: 30-4) but not in Cumbria.

Fairs, attractive to outsiders, offering anonymity and licence, match Turner's (1974: 242) criteria well, for all comers, apparently equal and removed from their normal environment, can enjoy the spontaneity and altered states (drunkenness) and relaxed rules (sexual licence) in this 'open society' of the fair. [157]

Itinerant criminals

Criminals were likely to exploit the opportunities of liminal events like the fairs. The report of the Parliamentary Commission on the establishment of county police forces included prisoners' evidence to support the view that the fairs were plagued by an army of itinerant offenders who operated with male and female accomplices. They described their modus operandi, both in operating fraudulent games and at picking pockets (none of the witnesses mentioned fairs in Westmorland) (PP, 1839: 18-31). Pickpockets were widely reported at Victorian fairs and often featured in jokes (Illustrated Chips,17 Jul 1897: 4; Cameron 1888; Loisan 1870; Allingham 1934). Robert Loisan, a vagrant and criminal who, in 1870, left a written account of his life, toured the north of England, including Cumbria, with other young men to visit fairs and races. He wrote of Newcastle races, which was a major fair:

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[157] See, for example, Harriet Metcalfe, below, and Mary Harrison, chapter 9.

..... gammy touts, broad fencers, ballad singers, patterers, prostitutes, thieves, tramps,

snide pitchers, bad money passers and all the refuse of society attend these and all

larger races (Loisan 1870, unpaginated).

The reliability of this graphic evidence is questionable, but it is consistent, and it does

represent the widely accepted narrative of villainy perpetrated by outsiders, people from far

away who were morally far removed from 'respectable' society. This view remained

commonplace for at least one hundred years. Robert Loisan's memoir confirmed the view

that offenders such as he were in thrall to their own unbridled passions.

The limits of liminality

The liminality of the fair was problematic, for it was to some extent an artifice. It was more

precisely a 'quasi-liminality', which was the term used by Hobbs who wrote of:

spatial and temporal locations within which the familiar protocols and bonds of

restraint which structure routine social life loosen and are replaced by conditions of

excitement, uncertainty and pleasure (Hobbs 2003: 42-3).

Commerce and anarchy do not sit well together, so the liminality of a modern night club is an

artificial creation, a carefully generated and maintained bonhomie that is used to encourage

free spending, but is backed up by the bouncers of whom Hobbs was writing. The stall

holders, hucksters, barkers, charlatans and sharpers at a Victorian fair exploited the same

emotions, and defended themselves against thieves and violence (Allingham 1934).[158]

Opposition to the fairs: the moral debate

Some opponents of fairs argued that with the growth of railways, urban shopping and

markets, the fairs no longer served any useful purpose (Page 1887). Many fairs were closed

during the nineteenth century. The problem of space in crowded and growing towns was

exploited by opponents of the fairs to secure their closure, and many reports suggest that the

middle classes were no longer attending in large numbers (Crone 2012: 43-6). It was

however morality which opponents most frequently deployed as an argument against fairs.

Some saw them as a pernicious influence upon the social life and leisure activities of young

working people that should be supplanted by rational recreation (Moses 2002, 1996;

Malcolmson 1973; Cunningham 1985, 1980; Storch 1976, 1982; Thompson & Smith 1967).

> *In the nineteenth century, and in civilised, enlightened Christian England, scenes of*
>
> *iniquity may be witnessed that would defile and degrade the most debased of heathen*
>
> *nations of the earth.*

Nash-Stephenson(1858: 124) wrote this in his monologue, 'On Statute Fairs: their

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[158] The young Jem Mace, introduced in chapter seven, frequented the fairs where his abilities as a fighter were valued by stall holders (Mace 1998: 240-51; Green 1876). Sanger gave several examples of how the fair people had to defend themselves, with little or no support from the police or magistrates (Sanger 1927: 171).

Evils and their Remedy', which was situated in the social philosophy that saw civilisation as a thin veneer in all members of society. The veneer might be thinnest among the lower orders, but the passions of all were susceptible to excitement, and savagery could burst out if they were stimulated (Wiener 1990). Contemporary literature such as Gissing's reinforced this view (Gissing 1992: 104-13). Fairs and fairgoers were identified by some as particularly dangerous:

> *That scum of society that debased humanity which the fair brings into the town with the shows and with the stalls and with the various other things that are attendant upon the fair…those who come with their stalls…are a nomadic race, who are utterly untaught and uncultured, and who have no sense of morality, no sense of decency, and they introduce their debased habits amongst the people. (PP, 1890: 288)*

This was the view of the Rev. J. Cronshaw speaking out against the continuation of Wigan fair; he carefully listed the economic and social changes that made the fair, in his view, redundant, but he left it in no doubt that his principle objection to the fair was moral (PP, 1890: 287-91). Ironically, his main opponent in this debate was the Chief Constable of Wigan who argued that Wigan fair (which was, he said, well managed by his men) was important as working class leisure, and that more immorality occurred at the Church Gala, which was less well supervised than the fair (PP, 1890: 290-1). Cunningham explained that opposition slackened towards the end of the century, by which time the police often spoke up in defence of fairs as a valuable form of entertainment for the working classes, as with Wigan fair (Cunningham 1977: 164-73).

Reformers like Cronshaw saw themselves as shepherds to the working class, 'but working class people were very far from being sheep'. (Rojek 1993: 37).Humble Cumbrians attended the fair for their own reasons. Primitive Methodists, temperance organisations (Chapter seven) and the Salvation Army came to the fair to evangelise, but many working class people were there for business or pleasure (Greenaway 2003; Shepherd 2003: 263-4; Thistlethwaite 1995).

Brough Hill Fair.

Brough Hill Fair was held on September 30th and October 1st in an extremely remote and isolated location. Brough Hill, the site, was unenclosed rough fell pasture, a Pennine hill which was a wild spot even before the arrival of a fair, 'a wild mountainous region remarkable only for its sterility' according to Bulmer's directory (1885: 278). The hill is almost a mile from the small village of Warcop, five miles from the very small town of Kirkby Stephen. Few people lived within a five mile radius of the hill, so few of those attending the fair could have walked to the hill from their homes on a fair day. This increased the liminality of the event, for all of those attending were far from home. Many of those attending came from the urban centres of the north, as well as from Cumbria.[159]

It was a stock fair, for horses particularly, and was virtually free. Although the landowner had the right to collect tolls, most of those bringing animals simply brought them across the fells

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[159] This is clear from the data presented in table 7.4, below. Local has been defined as Cumbrian or within 20 miles of Brough Hill. This includes some parts of Pennine Durham and Yorkshire.

without paying (Westmorland Federation of Women's Institutes. 1957: 192-3).[160] In practice, anyone could turn up at the fair and sell anything. There was no organizing committee for it was an unorganised fair in an uninhabited place, so the records are poor (Birkbeck 2000: 33). The reports in the press focussed upon the prices, quality and quantity of stock and say little about other activities. Police and court records have provided some of the most detailed descriptions of Brough Hill Fair. It was similar to the present day Appleby Horse Fair in that it was a major rendezvous for Gypsies across Britain, even into the twentieth century (Cunningham 2007: 78).

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[160] In 1867, a toll collector was seriously assaulted. He had been run down by several men on horse-back, one of whom knocked him out and inflicted a severe wound with a heavy whip-end. In court, evidence was given that many had evaded the toll. The bench imposed a 'lenient' fine of £2 because of the 'provocative' behaviour of the toll collector (WMG, 10 Mar 1866 p4).

Illustration 8.1 Photograph of Brough Hill Fair, 1911.

A real big fair, a proper Gypsy fair . . . . . it's dying out now. Mary Hayhurst, born 1918,

quoted by Thistlethwaite (1995: 29).

There are few pictures of Brough Hill Fair. Only one photo, shown above, of the fair itself has

been found, showing Gypsy caravans and wagons on Brough Hill (Liverpool University 2010).

In the background, on top of the hill, can be seen the fairground attractions, but the photo is

disappointing in that it does not show the 'edgework' of the fair. Powell-Frith's Derby Day

(mentioned above) gives a better idea of how fairs were understood in the mid-nineteenth

century. The Northern Echo's description of the entertainments at Brough Hill conjures an

image similar to Powell-Frith's:

All seemed intoxicated with either joy, or excitement, or - liquor. From innumerable

booths came noisy declamations and exciting descriptions of the fantastic tricks

played inside to make the unskilful laugh, whilst immediately opposite there were tents

erected where the masses were invited to eat and drink, and in these the most

extraordinary music was continuously discoursed. (Northern Echo; 1 Oct 1870, p4)

It was business that was the primary reason for the fair. Before the railway age, drovers

travelled considerable distances from Scotland and Ireland to sell cattle in large numbers at

Brough Hill (Perren 2000: 980; Beckett 1981: 5; Addison 1953, p121; Roberts 1988). The

cattle trade declined with epidemics of foot and mouth disease (1865-80) and the growth of

reputable auction markets (Garnett 1912: 132) but when a railway line arrived at Warcop,

within half a mile of Brough Hill, in 1861, the fair revived and grew as a horse fair (Bulmer

1885: 278; Cunningham 1980; Shepherd 2003: 211; Mellentin 1980: 11; Easton 1988: 62).

Brough Hill Fair was able to survive and grow because it did not have the problems with

space and location of urban fairs (Crone 2012: 45). Buyers came from across the North; even

the French and British armies came to Brough Hill which was famed as a market for the

horses and fell ponies which were essential for transport and industry (Shepherd 2003;

WMG, 1 Oct 1870, 2 Oct 1893, 7 Oct 1899). The importance of Brough Hill Fair is made clear

in entry from the Cyclopedia of Agriculture of 1855:

one of the largest and most important in the United Kingdom.. . . . the extensive

common on which it is held is literally crowded with people, booths and stalls of

woollen cloth and other merchandise, and immense numbers of horses, sheep, and

cattle. (Morton 1855: 366)

Fifty years later, Brough Hill was still pre-eminent:

> *Brough Hill Fair in all probability the biggest horse fair in the United Kingdom . . .*
> *.unbroken horses or 'stags' . . . .fortune tellers, quacks, sharpers, and a general*
> *assortment of the riff-raff from the Trent to the Tweed . . ..(KRO, WDFC M 2/27/4*
> *1908)*

Gypsies and horses at the fairs

> *The Gypsies used to bring out their horses in the afternoon and trot them up and*
> *down to effect sales… the Gypsy was in his glory. Here he exultingly exhibited his*
> *beast to the very best advantage. Mounted on its bare back, with a halter for a bridle,*
> *he galloped about in all possible places; and, drunk or sober, he generally kept his*
> *seat.* (Brockie 1884)[161]

Most fairgoers were outsiders in one sense, for almost everyone had come more than five miles to reach Brough Hill. Kendal, the nearest borough, is 30 miles distant (unless walking across the fells). Gypsies were the group most obviously recognisable as outsiders at Brough Hill, though paradoxically it was a Gypsy event.

Brough Hill was one of the most important Gypsy gatherings, a social event and opportunity to earn money (Mayall 1988: 60; Cunningham 2007: 78). The horse and horse dealing hold a central place in Gypsy culture; but Gypsies were regarded as outsiders (Woodcock 1865: 47;

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[161] These words could be used to describe Appleby fair today.

Borrow 1857; Okely 1983: 99; Mayall 1988; Leland 1886: 137). Although some news reports gave a very positive, romantic gloss to the Gypsy presence (KRO, WDFC M 2/27/4 1908, YWP 1908), for the local press the Gypsies were often associated with the suspect and criminal aspects of the fair.[162] One cannot doubt the pejorative tone that was so often apparent in the reports of the Westmorland Gazette:

> *This migratory tribe was largely represented, there being scores of camps along the fair hill, and as many children rolling about in the straw, or playing about outside, as would almost populate a young colony.* (WMG, 7 Oct 1865, p5)

> *Along the western border of the bleak hill dozens of tents had been pitched by the tribes of wanderers who infest the great fair grounds of the kingdom.* (WMG, 7 Oct 1876, p7)

The Gypsies were perhaps the most easily identified group of outsiders; their very strangeness seemed to invite the disparaging comments of some, and the attention of the police. Prejudice against them survives today and is apparent in some of the press reports concerning Appleby Fair.[163] In the nineteenth century, the Westmorland Gazette's reporters did not hesitate to reveal their prejudices.

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[162] Young (1993: 238-40) observed in his study of a rural police force in the 1980s that the Gypsies and Travellers were despised in a way that was disproportionate to the 'real' problem.
[163] '5:10pm Tuesday 9th March 2010: The detail of a policing strategy to combat crime and anti-social behaviour by Appleby Horse Fair travellers has been revealed at a packed public meeting in Sedbergh. . . . . Last year, anti-social behaviour attributed to Gypsies and travellers sparked a number of complaints from local residents. . .' (Westmorland Gazette. 2010)

It has been difficult to identify Gypsies in the police records, for names are a poor identifier. However, it has been possible to put together the interactions between one member of the community, Joseph Miller, and the police. The author has made contact[164] with Keith Miller, descendant of Joseph, who recognised his ancestor Joseph whose lineage he has researched, and describes him as a Gypsy who lived an itinerant life travelling to fairs for trade.

Table 8.2 Joseph Miller's interactions with Westmorland Police

DATE	PLACE OF OFFENCE AND RESIDENCE	OFFENCE	RECORD
11 AUG 1869	Kirkby Lonsdale, residing Colne, Lancs	Hawking without a licence. 50/- fine, paid	(KRO, WS/Cons 2/1 1869-1906)
17 JULY 1875	Kirkby Stephen, residing at Brough	Animals on the highway, 5/- fine, paid	(KRO, WS/Cons 4/10 1874-1888)
1 OCT 1879	Brough Hill Fair, residing at Carlisle	A horse stolen from Joseph Miller (horse dealer). Thief arrested by police at Penrith	(KRO, WS/Cons 4/1 1857-1880)
15 APR 1887	Kirkby Stephen, residence not given.	Animals on the highway, 6 horses, 6/- fine, paid.	(KRO, WS/Cons 4/10 1874-1888)

Table 8.2 gives an idea of Miller's itinerant life style, and illustrates how the dealings between travellers and police were complex and nuanced. Miller was prosecuted three times for minor offences, but he enjoyed the assistance of the police when he became a victim. It is very

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[164] Initial contact was made via the Ancestry census webpages (Ancestry 2012).

likely that the police knew Miller well; both parties may have been irritated at each other's actions, but there was also a positive and supportive relationship.

Fraud at Brough Hill Fair

Horse-dealing allowed plenty of scope for dishonesty. There is evidence of fraudulent dealing in animals, but it does not derive from police sources: some of it is highly anecdotal. For example, the Westmorland Gazette published the dialect poem, *Jimmy Green at Brough Hill Fair* (Clarke et al., 1870):

> *It's an awful spot*
> *For a roguish lot,*
> *Is Brough Hill Fair –*
> *An' ye'llha'e to leeakoot,*
> *An' be gaily cute,*
> *If ye wish to manidge*
> *an' keep a' square!*

The hero of this verse negotiated the purchase of a fine yellow mare. But the mare turned out to be a worthless dud, and the notes he had received in change were fakes.[165] Allowing for a certain exaggeration, this verse agrees with descriptions of other fairs. Tales of the fraudulent sale of dud horses were commonplace (Leland 1886). The use of false money was referred

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[165] The poem had been in circulation some time before 1870. The Lancaster Gazette reported a public reading of the poem at Sedbergh in 1866 (27 Oct, p4). It belongs to a North West dialect tradition. Many verses told the tale of Jim o'Greenfield, or Grinfelt, whose sufferings at the hands of his exploiters seem interminable. Jimmy Green seems to be his Cumbrian cousin (Vicinus 1974: 48-53).

to by Loisan (1870), in *The Romany Rye* (Borrow 1857), and it was in use at Brough Hill. However, fraud cases from Brough Hill did not appear in the local police records, and only rarely in the local press. If the victim of a fraud pursued the matter it was usually a civil case, often in courts away from Kirkby Stephen. For example, in Kirkby Lonsdale (LG, 16 Apr 1861, p4) and Richmond (Yorkshire Herald, 28 Oct 1882, p4, 6 Jan 1883, p4).

Few frauds were reported in the occurrence books. It is possible that many victims remained silent because of the difficulty of pursuing the wrong-doer. One serious example from 1887 exemplified the problem. Several farmers from Hawes (nineteen miles from Brough Hill) had entrusted horses for sale to a local dealer, a young man named Brown, who had sold them as agreed at the fair. He then disappeared, rumoured to have left for New York with over £300. No further news of Brown or the money appears in the press or elsewhere (NE, 27 Oct 1887, p3). Brown seems to have made good use of the liminal possibilities of the fair to effect his emigration to America. In such cases the wrongdoing was revealed only after everyone had gone home, and therefore escaped the attention of the police on the hill.

Policing the fair

This section examines how the police operated at the fairs and assess their priorities. Police had no authority over fairs, beyond their duty to enforce the regular laws (Greenwood 1874: 468), but well before the formation of a county force the fair was policed by special constables (PP 1846: 517, 1288). The creation of the Cumberland and Westmorland Constabulary did not simplify the problem of policing Brough Hill, for the fair site was relatively distant from the nearest police stations, Appleby and Kirkby Stephen, which are

both over five miles away. Men from both stations and further afield covered the fair, with those arrested appearing before magistrates in either of those two towns.

The key issue is how policing the fairs differed from routine policing. This section examines how the problems of animals, crime, and disorder were dealt with. This highlights the liminality of the occasion and reveals the typification of outsiders by the Cumbrian police. The significant points to emerge are:

- The fairs were relatively orderly.
- Few offences were prosecuted.
- Discretionary policing of the fairs differed from the routine policing of the streets and lanes.
- Fairs manifested Cumbrian fears about threats from outsiders.

Animals at the fairs

Cumbrian policemen, especially those in the rural areas such as the Grayrigg constable, described in chapter nine, spent much of their working time with duties concerning animals. During Brough Hill Fair there was no significant increase in charges brought for offences concerning animals, except in the case of animal cruelty. At Kirkby Stephen Petty Sessions, 1856-1900, 14 of the 35 cases of cruelty to animals were heard in the month of October. [166] The number of animal cruelty cases increased considerably towards the close of the century, with a sudden increase in the number of charges brought after 1900, so that in the early

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[166] Not all of these have been included in the list of Brough Hill Fair offences, because they did not occur immediately at the time or place of the fair.

twentieth century, animal cruelty was the most frequent offence at the fair. The cases all relate to beating animals: none is connected to blood sports. All of these cases were dealt with by summons. However after 1878 all the prosecutions arising from incidents at the fair were brought by the RSPCA: animal cruelty was not a police priority, so the cultural changes implicit in the changing prosecution rates for animal cruelty lie outside the scope of this thesis.

Foot and mouth disease

The police played an important role in the regulation of animals arriving at the fair during the years of foot and mouth disease. The disease had been endemic since 1839, but in the years of epidemic, policemen were deployed to check cattle and turn back, or even order the slaughter of, diseased animals on their way to the fair, a policy which was made possible by a series of Acts of Parliament (Woods 2004). The first serious outbreak of "cattle plague" was in 1865; policemen were posted to check cattle coming to the fair in that year (PP, 1868b) and in (at least) 1866, 1869, 1870 and 1871 (KRO, WQ/M/32 1859-1875). In 1871 the Chief Constable himself attended as the men, under the command of the superintendent, 'were placed at various points for the purpose of intercepting all cattle on their way to the (fair) ground' (LG, 14 Oct 1871, p4).This policy kept police from Fair Hill which explains the low levels of arrest in these years.[167]

The nineteenth century discourse on animal disease was dominated by the idea of imported infection, which was believed to have been brought in by inferior animals from outside

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[167] There were seven arrests and summonses between 1865 and 1873.

England; police action in protecting this front line at Brough Hill was fully supported at Quarter Sessions (KRO, WQ/M/32 1859-1875). Foot and mouth disease can be interpreted as a metaphor for Cumbria under attack; disease was often used as a metaphor for crime, as 'a concept that could be shaped and reshaped to serve the needs of whoever sought to depict it' (Kudlick 1996: 12), but in this case, the infection was real, and the police were deployed to prevent it.

Disorder at Brough Hill Fair

Tables 8.2 and 8.3 below present a surprisingly low number of reported offences, arrests and summonses at Brough Hill Fair. Between 1858 and 1902, the sources recorded just 145[168] arrests or summonses, a rate of just over three per annum. In several years, none was recorded. The fair was more orderly than sensational reporting might have led one to believe: the public attending the fair were willing to assist the police in dealing with certain types of offender and the police ignored some behaviour that would have invited police attention elsewhere. The data in the table support Fiske's point that 'Carnival may not always be disruptive, but the elements of disruption are always there' (Fiske 1989: 101).

The most serious disorder reported at Brough Hill Fair was a riot 1894, which led to arrests and prosecutions. The Gazette reported that 20 or 30 roughs attacked a beer tent at midnight (WMG, 6 Oct 1894, p5). William Clayton, the owner, of Kirkby Stephen was badly beaten and a number of men were taken into custody. Clayton was hit with a heavy fence post and left

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[168] The information used to create these charts, and other factual statements, was compiled from diverse primary sources. The method is detailed in chapter three.

unconscious for some hours, another stallholder suffered a broken arm, a third was beaten.

Money and beer were taken (WMG, 17 Nov 1894, p5). [169]

The determination of the police is apparent in their handling of this riot for it was brought under control in the small hours, with some difficulty, by just two policemen who effected the arrests. Given the reputation of fairs, the remoteness of Brough Hill and the large numbers who attended, it is surprising that this riot was the only one of its kind, and surprising that two policemen were able to deal with the problem. This case, and lack of similar occurrences, problematises the disorderly nature of fairs. It suggests that what made the fair exciting was the frisson of possibility, even if 'exciting' events were few and far between. A police presence, symbolising the risk of crime, enhanced the frisson and reduced the risk. The local press invariably retailed a narrative of police efficiently controlling the fair.

A strong force of police was on the ground, but there were few rows, and they were chiefly on the lookout for pickpockets and sharpers. (WMG, 8 Oct 1870, p5)

Crime at Brough Hill Fair

The first Brough Hill Fair to be policed by the Constabulary saw a serious robbery. John Metcalfe, a farmer on his way from the Fair after dark, was approached by Harriet Metcalfe,[170] 'a very fast young lady'. Harriet charmed the farmer, but when an embrace occurred her

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[169] Three offenders received sentences of up to one year for assault, though they were acquitted of theft. A fourth man was acquitted. The police Superintendent said that the witnesses, all Kirkby Stephen men, had been tampered with.

[170] Harriet was the only woman charged with an offence at the fair within the period of this study, and up to 1910. The press report made no comment on her sharing the surname of the victim.

accomplices appeared, presenting themselves as two passers-by. She rushed off with

feigned embarrassment and the farmer's pocket book containing more than £85. The police

worked hard to trace and identify the offenders, whom John Metcalfe was unable to describe,

but others gave them assistance. Harriet and two men were arrested, one of whom 'had also

in his possession a roulette table, which pretty clearly marked the profession he followed'.

The money was not recovered and the evidence was not strong enough for the magistrates

(Morning Post; 12 Oct 1857, p8).

There were considerable difficulties in proving a theft by such pickpockets, who invariably

operated in a gang; the person who lifted the property would immediately pass it on to an

accomplice. [171] Crowded fairs and railway stations were and are liminal areas, ideal for these

operators (Bailey 2004). The Harriet Metcalfe case was a good example of the priorities,

problems and opinions of the police and public:

- It was a case of pick-pocketing.

- The persons charged were off-comers, from Lancaster.

- The supposed offenders were of dubious character: a 'fast woman' with many tattoos, and a man who was a street gambler.

- The victim was relatively local, from Mallerstang (Yorkshire Pennines, 15 miles from the fair).

- The public were willing to assist in their apprehension.

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[171] Philips (1977: 207-13) described the *modus operandi* of this type of offender.

- Proving a case of pick-pocketing was difficult, especially if the operators were as adept as these three seem to have been.

Table 8.3 reinforces the point about the difficulty of convicting pick-pockets. In approximately one in four cases of reported theft a conviction was secured. But if one looks solely at pick-pockets, the rate falls below one in eight.

Table 8.3   Incidents connected with Brough Hill Fair

From Kirkby Stephen Police Occurrence Book, 1858-1900, organised by category

TYPE OF OCCURRENCE	INCIDENTS REPORTED	ARRESTS MADE	CONVICTIONS SECURED
THEFT	42 (17 pickpockets)	14 (5 pickpockets)	11 (2 pickpockets)
GAMING	18	18	17
FREQUENTING	8	8	8
LOST PROPERTY	10	n/a	n/a
OTHER CASES	9	7	3 (assault in riot)

The reputation of the pickpocket for cunning reinforced the status of the fair as an awkward meeting place for town and country. In 1877, the Penrith Herald reported of the town's fair that 'The lynx-eyed sergeant in the afternoon detected a professional pickpocket' (Penrith

Herald; 23 May 1877, p5), but this seems exceptional or exaggerated when set against the offenders' point of view:

The thimble rigging gang played their parts with great adroitness. . . . .The constables used to be on the look-out for them, but were seldom able to catch them, as they had lynx-eyed sentinels posted all about. (Brockie 1884: 52).

And as we walked about the fair, the two rural policemen, who had nothing better to do, shadowed or followed us, their bucolic features expressing the intensest suspicion allied to the extremest stupidity. (Leland 1886: 139).[172]

The difficulties constables faced allowed their critics, such as Brockie and Leland, to accuse them of disinterest or incompetence. However, another case illustrates how difficult it was to deal with pick-pocketing. Inspector Stephenson wrote that he had seen Francis Richardson who was drunk in the company of 'three or four respectable looking men' just a few minutes before they robbed him of £29. They were not caught (KRO, WS/Cons 4/1 1857-1880: 2 Oct 1874).

However, the police did use tactics that enabled arrests to be made. Plain clothes officers[173] operated at local railway stations at fair time with the intention of catching these thieves or potential thieves (KRO, WS/Cons 4/3 1894-1902). One of the few cases argued in court

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[172]Brockie was writing about a fair in Scotland. Leland was writing about Cobham fair, where he was in company with Gypsies.

[173] Detectives were regarded as potential targets for corruption (Emsley 1996: 72-3, Payne 2011) but these men were not detectives. No record has been found of men being appointed as detectives in the Constabulary, but Kendal appointed Kitchen as its first detective in 1893 (KRO, WS/Cons 10/1 1860-1947).

provides an insight into the assiduous efforts of the police. In 1900, Sergeant Illingworth and

Constable Sheffield followed four men by train from Penrith Station to Warcop (twenty miles)

and onto the hill where, having made detailed notes of their behaviour, they made the arrests

(KRO, WTPS/A, 1851-1903: 2 Oct 1900). This arrest secured George Cohen, who had

extensive previous (using different names) as a pickpocket, in London, Chelmsford and

Manchester, since the age of fifteen, in 1889 (TNA PCOM 2/451 1907: 14 Oct 1900). One

cannot doubt that this was a carefully planned operation,[174] for when he appeared with his

accomplices at the Quarter Sessions, detectives came from London and Manchester to prove

his identity (Manchester Courier and Advertiser, hereafter MCA, 20 Oct 1900, p3).

These arrests were not for theft, but for loitering, or frequenting, with intent to commit a

felony, an offence under the Vagrancy Act. Table 8.4 shows that charges for frequenting far

exceeded those for pick-pocketing, but as far as the police were concerned those charged

were the same type of person: frequenters were simply pick-pockets who had been caught

before they stole anything. Jones and Gatrell have stated that the police reduced the problem

of pickpocketing after the 1870s. There is insufficient evidence from Cumbria to support this,

but the difference between the handling of the Metcalfe case in 1857 and the Cohen case in

1900 does suggest greater police professional skill (Jones 1992: 211; Gatrell 1980: 275-8).

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[174]Cohen had given his residence (at the Petty Sessions) as Scotland. The police at Penrith Station seem to have been waiting for Cohen and his gang, suggesting that they had been advised that the gang was on its way from Scotland. Similar arrests at Kendal are described in chapter nine, for frequenting, after carefully monitoring the railway station (KRO, WS/Cons 10/2 1880-1910, WMG).

Table 8.4　　　　　**Offences for which people were charged
at Brough Hill Fair, 1858-1910**

Illegal gaming (vagrancy laws)	**53**[175]
Theft	**37**　(including 11 animal thefts, 10 pick-pocketing.)
Cruelty to animals	**21**　(including 2 police prosecutions)
Frequenting (vagrancy laws)	**25**
Drink	**5**
Assault	**4**　(3 in the 1894 riot)
Arson	**1**

Gaming

Table 8.4 organises the total number of arrests at the fair according to the types of offence.

The largest category of offence was gaming, usually the three card trick. Police at the railway

stations were not only looking for pickpockets, but also for card sharpers, who operated with

relative ease in railway carriages with no corridors, but ran the gauntlet of police attention

upon arrival (Vamplew 1976). Contemporaries depicted gamblers as a moral contagion,

whose presence inflamed the passions of weak willed working men (Bent 1891: 13;

Caminada 1895, 1982: 10).

A typical description given in police evidence was that the accused were conducting 'a

pretended game of chance, to wit, the "three card trick" ' (KRO, WTPS/A A, 1880-1885, 30

Sep 1880). There was often a clear implication in the reports that the aim of police action was

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[175] Only two of these arrests occurred before 1875. The Vagrancy Act was amended in 1873 to facilitate the prosecution of these offences (Vincent 1912: 26).

to protect the naive locals from the practised deceit of the sharpers. The sergeant observed men 'betting money with country people and cheating them out of it'. (KRO, WS/Cons 4/1 1857-1880: 2 Oct 1876) (Similar observations were made in other entries). The two men in this case had over £6 in cash between them, but the Gazette added the detail that were carrying 'Bank of Engraving' £10 notes which could be passed off as Bank of England notes (WMG, 7 Oct 1876, p5) and might be used to dupe semi-literate Cumbrians. [176]

Comments on the attempts of sharpers to deceive young, rural labourers abound in press reports which invariably implied that the purpose of police action was to protect these naive or foolish young men. For example, two men were found guilty of gambling on licensed premises during the Martinmas Fair at Kendal in 1894, using the three card trick. 'They were endeavouring to induce some youths to gamble with them'. A farm labourer from Staveley was a witness in this case (WMG, 24 Nov 1894, p5).

Police actions and comments express the firm idea that sharpers and pickpockets were the same people. This was evident in the Harriet Metcalfe case (above) and 35 years later when John Molloy was convicted for gaming. The police testimony suggested that Molloy was a pickpocket as well as a sharper: he was seen 'jostling amongst the crowd in a very suspicious manner'. Witnesses saw him follow a farm man around Kendal fair and stopping farm youths in an attempt to 'ring the changes' (KRO, WS/Cons 10/2 1880-1910, WMG, 19 Nov 1892,

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[176]Notes like these probably duped 'Jimmy Green' at the fair in 1870. Such notes are found in the stock of dealers in currency, such as Dixon Noon Webb, who kindly assisted the author (DNW 2010).

p7).[177] Pickpocket Joseph Allen's trade was described in the occurrence book as 'card sharper' (KRO, WS/Cons 4/2 1883-1894, 1 Oct 1885). John Murray, charged with frequenting, was seen to drop 'three flash notes', which refers to notes of the 'Bank of Engraving' kind, as used by sharpers (WMG, 1 Oct 1901, p7). [178]

The Kendal Police Photograph book shows a smartly dressed John Molloy (KRO, WS/Cons 10/2 1880-1910). Plausible offenders, the 'whizz boys' or 'the swell mob', were far from easy to identify, as for example in the case of Francis Richardson (page 275). In several cases, the Kirkby Stephen Charge Book recorded the property of those arrested as including their own gold or silver watches, suggesting respectability rather than criminal vagrants. Their presence increased the feeling of ontological insecurity at the fairs, underlining their liminal nature.[179] Targeting people such as Molloy restored public confidence and enhanced the professional status of the police. Men such as Sergeant Medcalf, described in chapter nine, could present themselves as the experts who could identify such offenders. For the public perception was that sharpers were all of a piece with the assorted 'riff-raff' who attended the fairs.[180] This is apparent from the Gazette's comment on the 1894 riot:

> *Brough Hill Fair has been a happy hunting ground for sharpers and rowdies for many*
> *generations; but if they begin to organise parties for plunder and riot like that of*

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[177] "Ringing the changes" meant changing bad money for good. No evidence was presented relating to the money they were said to be offering.

[178] The Oxford English Dictionary defines flash notes as "sham, not genuine."

[179] Ontological security, Giddens' term, introduced in chapter two, was undermined by plausible, friendly and well-dressed offenders.

[180] Jones (1992: 125-6) made the same observation about these offenders in Wales.

Monday night the resources of civilisation will have to be more carefully organised too.

(WMG, 5 Oct 1894, p5)

Sharpers were easier to spot than other offenders, and it was easier to bring charges successfully, for the offender often had in his possession cards or Bank of Engraving notes, which were evidence to support the charge (see footnote 176 above). Most of those charged with sharping pleaded guilty.

Drink related offences and assault

At Brough Hill Fair there were just five persons charged with drink offences, four with assault. Bar one vagrant, all were local. Two men were charged with being drunk and riotous in 1867, but the cases were dismissed. Three of the assault cases arose from the 1894 riot, and it is likely that this charge was used because it was easier to prove than theft or riot. The men involved were sentenced to a year. The fourth case of assault was a vagrant who assaulted a police officer in 1886; it was dismissed.

There is no doubt that drunkenness was commonplace at the fair. Several victims were described, in court or in the occurrence book, as drunk. Even though Kirkby Stephen police prioritised drink offences in town, as was explained in chapter seven, they evidently were far more tolerant at the fair. It is likely that *ad hoc* discretionary methods were used to control difficult drunks. There was a temporary lock-up on Brough Hill during the fair (KRO, WS/Cons 4/1 1857-1880, 7 Oct 1874). It was only referred to occasionally and briefly, when a constable described detaining an offender. Similar lock ups were used at Epsom during the Derby fair, where, according to the Illustrated London News of 1843, 'Justice is administered on the

ground, and peculators dealt with in a summary manner' (Williams 1977). Jones mentioned

their use in Wales (Jones 1992: 125-6). There is only one clue that such summary justice was

meted out at Brough Hill:

During the day, the police made a raid on the light-fingered fraternity, and several

were kept in durance, whilst others made their escape. (WMG, 5 Oct 1878, p5)

The only recorded prosecution arising from the fair that year was of a local father and son,

accused of cruelty to a horse.[181] A plausible explanation is that thieves mentioned in the

newspaper report were detained in the lock-up, at the discretion of the men on duty and

released later without charge. The actual number of arrests at the fairs seems insufficient to

merit a lock-up, but it is likely that it was used without recording the detention of offenders in

the Occurrence Book.

Evidence of relaxed police attitudes to drinking at the fairs came from the Keswick Police

Occurrence Book. On 8th November 1879, the evening of the hiring fair, the police were

called to the Oddfellows' Hall where a dance was in progress. Daniel Cartmel, a local young

man was drunk and disorderly, and removed by the Inspector and Constable. These officers

found the room 'fit up as a bar with spirit kegs with taps in, . . . the bar table was crowded with

glasses containing ale' and there were two waiters. They asked the owner, Faith Gill, if she

had a special licence. She said not, that she had only told her two daughters to take

lemonade and ale into the room. When the inspector pointed out the spirits, she made no

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[181]This was prosecuted by the RSPCA upon summons, not by the police.

reply. As was normal practice, the details were forwarded to Superintendent Taylor at Cockermouth. His response, recorded in the margin in red ink, is significant. On 29th November he wrote that Cartmel could not be charged because he was not drunk on licensed premises, and he was not disorderly in the street. Gill could not be charged with a licensing offence because there was no evidence that spirits had been sold or exposed for sale (SCons 4/57 1857-1880: 9 and 29 Nov 1879).

Taylor's decision seems disingenuous: either Gill or Cartmel, possibly both, might have been charged. These offences (drunk on licensed premises and selling drink without a licence) were routinely prosecuted at Keswick and in Cumbria.[182] The only unusual circumstance in this case is that it was the hiring fair dance. Although impossible to prove, it is likely that the tolerance of drink related offences was far higher at the fairs than on other occasions.

This tolerance would explain the surprising lack of charges for drinking offences and disorderly behaviour at Brough Hill Fair. The temporary lock-up and the police action at Keswick suggest that many more offenders were warned or briefly detained than were charged in the official records. This exemplifies pragmatic policing, which is discussed in chapter nine.

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[182] George Kurbishley was fined £45 and costs for selling beer in unlicensed premises at the navvies huts near Crosby Garrett. PC Lancaster caught the offenders by stealth. This was in the strongly pro-temperance Kirkby Stephen district (KRO, WS/Cons 4/10 1874-1888, WS/Cons 4/1 1857-1880: 12 & 18 Mar 1875).

Offenders: gender and origin.

Almost all the offenders in the records were men. Harriet Metcalfe was the only women

charged in any case between 1858 and 1901. Some of the pick-pocketing gangs must have

attended the fair with female accomplices and it is extremely unlikely that there were no

prostitutes at the fair (Harriet was presenting herself as a prostitute). The gender imbalance is

probably the result of the police practice of looking for particular types of offender at the fair.

The target of choice was the sharper: easy to identify and easy to catch because he did not

enjoy much support from the other fair goers (as is evidenced by the willingness of people to

pass on evidence, such as the phony notes discarded by the suspects in the cases

mentioned above, and their appearance in court as witnesses). The card sharper was

invariably male, an observation reinforced by every picture and cartoon, every novel and

news report in which sharpers were included (Illustrated Chips: 16 Nov 1895, p1). Dealing in

animals was a very male activity, so it is not surprising that all offences of cruelty and of

animal theft were committed by men. The police at Brough Hill Fair, by looking for male

offenders, may well have reduced their chances of detecting any female offenders.

Most of those charged with offences at Brough Hill Fair were off-comers. The exception was

cases of animal cruelty: of the twenty one cases of animal cruelty, nine were local. This bias

is explained by the operations of the RSPCA, who brought most of these charges. They all

proceeded by summons. The further the distance travelled by the person maltreating an

animal, the less easy it was to identify the person and serve the summons.

Chart 8.5 collates data recording the stated residences of those apprehended for pick-

pocketing, theft and card sharping. It has been explained how the police watched at the

railway stations, from where potential offenders were followed onto the hill. This strategy was effective in apprehending offenders who travelled from afar, but could have overlooked some who arrived on foot. The greatest number of offenders at Brough Hill came from industrial Yorkshire (Leeds, Bradford, Sheffield and environs) twenty two of the thirty one gamblers arrested came from this area.[183]

Chart 8.5   Places of residence of those charged: gaming, frequenting and theft offences at Brough Hill Fair, 1858-1902.

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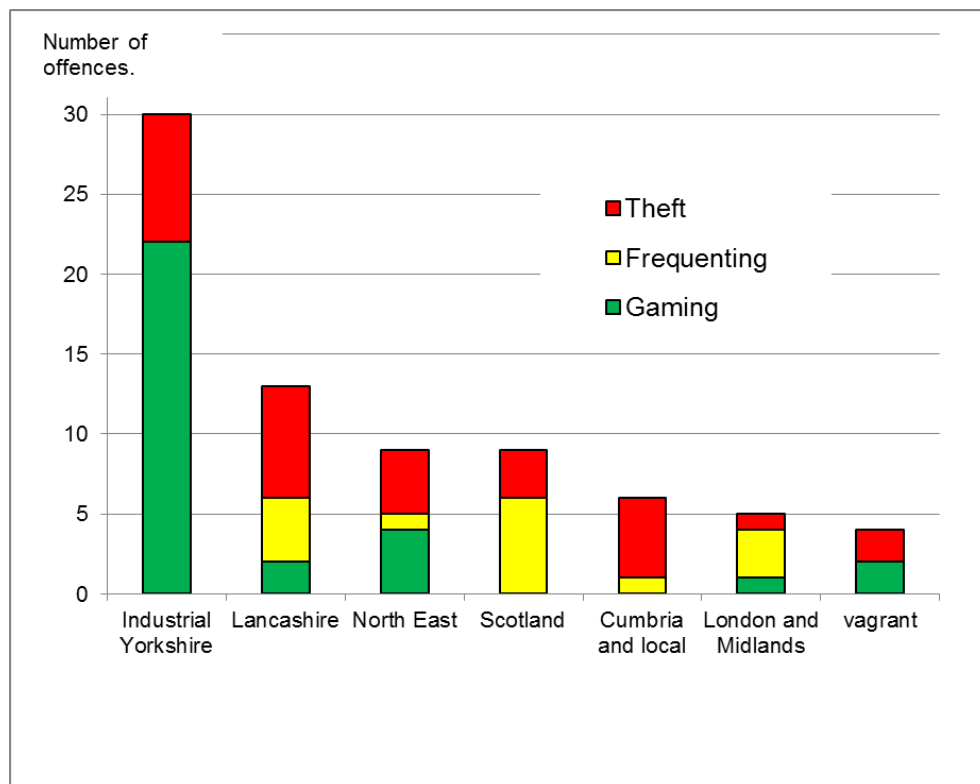
[183]The journey from Yorkshire was direct, whereas fair goers from Lancashire would have had at least one change of train: it is plausible that this is why people from Yorkshire predominate amongst the offenders (Bradshaw 1907). However, day excursions were advertised from Liverpool (Liverpool Mercury, 28 Sep 1897: 1).

Monitoring the railway stations for suspicious persons, looking out for a particular type of

offender, and operating with the aim of protecting naïve Cumbrians and Cumbria effectively

defined the type of offender who was wanted and who was arrested: he arrived by train, was

smart or flashy, did not come alone and was likely to be involved in gambling. The police

were the experts who identified and intercepted the people whom they themselves

represented as significant threats to Cumbria. Police action satisfied the requirements of the

Chief Constable, worked towards reassuring the public who attended the fair, sustained

ontological security and was favourably reported in the press.[184]

As Wells (2011: 177) observed:

> *The legitimacy of a system is . . . . determined . . . on the basis of the type of people it*
> *criminalises. The system is judged not on the accuracy with which it detects offences*
> *but on the accuracy with which it seems to criminalise the 'right' people.*

The Cumbrian police were picking up the 'right' people at the fairs. They were making an

important contribution to the definition of the mythological idea of Cumbria, introduced in

chapter 3, which is redolent of the cultural construction of 'Englishness' of which Newburn

(2008a: 2) wrote. They were accentuating local cultures by identifying the unwelcome

outsiders, a role in which they were generally supported.[185]

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[184] The process described bears out Welsh's (1997: 380) observation that 'the forces of law and order
encouraged the demonization of certain exogenous groups.'
[185] The same observation is made by Cohen (1982: 12).

Summary

Fairs such as Brough Hill continued to thrive and even grow in the nineteenth century. Although fairs were challenged in other parts of England, the liminal and carnival atmosphere of Brough Hill Fair continued.

One cannot doubt that the police were determined and assiduous in carrying out their duty at the fairs. Men like Medcalf and Illingworth, whose work is described in chapters seven and nine, used their discretion in implementing proactive methods to control the fairs: men were deployed (often in plain clothes) to the stations, through which they believed most offenders would travel, and in which many offenders were expected to operate. Men were deployed on the hill, with a temporary lock up to hold those arrested. The strategy was to identify and eliminate as soon as possible what they believed to be the most serious threats.

The police were far more tolerant of the types of offending behaviour that farm lads might engage in on a day's holiday. There were surprisingly few offenses relating to drink and disorder.

The implicit priority was defending Cumbria, or Westmorland. This was epitomised by the control points managed by the police during foot and mouth years. The Chief Constable accepted the importance of keeping diseased animals from the fair, but in most years the petty thieves and gamers, who were invariably present at the fairs, were the main targets of police attention.

Westmorland police focused on the minor petty fraud of gaming that seemed to exploit the young and naïve. Pick-pocketing was a parallel priority for policing; police arrested suspects before thefts were committed, and were able to give evidence in court to secure the conviction of these men for frequenting. The comments, actions and court evidence of the police provide the clues that they regarded card sharping and picking pockets as two offences committed by one type of criminal; the arrest of a sharper would, they believed, prevent thefts.

The overarching strategy was a paternalistic desire to protect rural Cumbria, in particular the young and the farm labourers who were believed to be naïve, and easy victims for the seasoned 'swell mob'. Few successful prosecutions for actual theft were recorded, but there were genuine attempts to curtail the activities of thieves and fraudulent gamblers. Few other cases were recorded or dealt with by the police. Pickpockets and gamers were never eliminated from the fairs, but they were carefully policed.

This strategy-led policy resulted in the pursuit and arrest of certain types of easily identified, male offenders, but the Cumberland and Westmorland Constabulary rarely arrested anyone for a serious offence. The case of Brown, the dealer who absconded with the money, is an example of a serious offence, committed without consequence for the offender.

The Cumberland and Westmorland Constabulary may have believed that their experience in policing the fairs proved that offenders from outside the county, particularly petty offenders were the main source of problems at Brough Hill. Certainly, the record of offenders included a large number from outside the county, especially from industrial Yorkshire. The policing

strategy was rooted in the implicit idea of the fair as a liminal event, where there was a front line between honest, decent Cumbrians (who might have had too much drink) and disreputable outsiders. The policy resulted in the arrest of those whom it targeted, but tended to allow others, whose honesty and respectability might have been questioned, to operate with some impunity. Female offenders and fraudulent traders were far less likely to be arrested than male card sharpers: indeed, none was ever caught. Brough Hill Fair continued to be a liminal experience, where people felt excited or vulnerable as they visited or left the fair; the policing of that experience depended on how the Cumberland and Westmorland police identified problems and targeted those whom they believed created them.

The praxis of the fair developed in the interactions of all those present: farm lads, horse dealers, stall holders, the swell mob and the policemen. The police were major actors in this process of structuration, their discretionary action more significant than the few orders emanating from the Chief Constable, their ideas shaped by the plebeian cultures of Cumbria within which they lived and worked. The next chapter looks at how these same policemen handled the problems they faced in the rest of the year, and examines the similarities and differences in the policing.

Chapter nine: How the men Policed Cumbria

Introduction

This chapter explores one of the main problems in the regulation of petty offending: the 'extensive disparity between what we want the police to do, what we often believe they do, and what they can and should do'.[186] The exercise of police discretion on the streets and lanes of Cumbria is examined. The issues have been touched upon in chapters five and six, but here are analysed in more detail. This study shows that the Cumbrian police did respond to public opinion, albeit not uncritically.[187] This chapter addresses the contradictions between the expectations of the public, the aims of those in charge of the police, and the work of the policemen.

Chapter seven analysed how events and interactions on the streets monopolised discussion in Kendal and divided opinion, and situated those divisions in the cultures of Cumbria. This chapter works through the problems of reaching a consensus on policing issues, and

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[186] From 'The Kansas City preventive patrol experiment: a summary report' (Gelling et al. 1974: 30-50) quoted in Bayley (1996; 1998:34).

[187] Chapter 6, the policing of vagrancy in Kirkby Stephen and Kirkby Lonsdale, and the 'turnip robbery' below. There has been criticism of a 'theoretical deficit' in some recent criminology that tends to disregard public opinion on crime (Girling et al. 2000: 163-4).

concludes that the exercise of discretion by the ordinary policeman was central to the structuration of policing, a key point that is picked up in the concluding chapter.

The actions of the men are analysed here in order to understand what those in charge expected the policemen on the beat to do, what the public believed they should do, and how the police themselves interpreted their role, all of which is set against what the police actually did. The disparities between these four strands have been explored in the last thirty years (Reiner 1989, 2000; Joyce 2011a, 2011b; Holdaway 1983, 1989; Manning 1979; Wilson 1978; Williams 2010) but in the nineteenth century there was little debate on these issues except for that which emerged from crises such as the killing of PC Groves, described in chapter seven. The exercise of discretion in a Victorian police force reconciled, or perhaps obscured, these four strands (Bayley 1998: 34).

This chapter seeks to discover motivations and opinions. This work therefore builds upon the work of historians who have investigated the minutiae of police work, seeking from the primary sources the deeper springs from which routine police work is derived (Williams 2010; Emsley 2009; Emsley and Clapson 1994; Klein 2010; Shpayer-Makov 2002; Storch 1976; Taylor 1991, 2002; Lawrence 2003).

The policing of petty offending was only possible through the efforts of the men who were engaged on the project at street level, the ordinary policemen. However, the effectiveness of their work, today and in the nineteenth century, is limited by public confidence, which rests upon communities' perceptions of social cohesion and morality (Loader 1997; Loader and Mulcahy 2003; Garland 1990; Jackson and Sunshine 2007: 216; Hough 2003: 146).

Discretion

The wishes of those in command (magistrates, chief constables, local politicians, gentry and elites) could only be achieved through the exercise of the discretion of the policemen, for no matter how precise the bureaucratic systems, no matter how prescriptive the instructions given to the men, the exigencies of everyday circumstance meant that they always had to use their initiative. To understand the effectiveness of police, it is necessary to examine the 'fundamental processes' by which policemen endeavour to maintain order on the streets (Cain 1979: 157; Holdaway 1983: 15; Bradford et al. 2009). This chapter explores the dilemmas of discretion versus bureaucracy, managerial control and public opinion, which have always been central to the discourses of policing (Goldstein 1963; Campbell 2003; Goldstein 1960; Tieger 1971; Rowe 2007; Wilson 1978: 30; Leyland 2012). These are issues which remain current today in the context of the election of PCCs, and in the debate in the press about the possible appointment of Bill Bratton as Commissioner of the Metropolitan Police (d'Ancona 2013).

This chapter presents the range of responses of the Cumbrian police to common offences and explores the ways in which discretion allowed the men to ignore, resist or re-interpret the efforts of the Chief Constable to control them (Manning 1977: 133; Rowe 2007: 280). But there were areas of consensus, where the discretion of the men was in tune with the aims of the hierarchies and the wishes of the general public. These areas of consensus were and are the successes upon which the reputation of policing was built.

Policing disorder

This study of the policing of Victorian Cumbria is relevant to contemporary debates about order maintenance policing. The link between discretionary policing and order maintenance policing is public confidence. 'Broken windows' theory, which claimed that attention to minor problems would assuage public concerns about disorderly neighbourhoods, originated in the cities of modern America.[188] It is however relevant to Victorian Cumbria, where people's concerns about crime and policing were framed in much the same terms. Crime itself was not what most concerned people: the 'social meaning of disorder' was more important (Gau and Pratt 2008: 170). This connects with Gidden's use of 'ontological security, introduced in chapter two, as the motivation of actors within his theory. Cumbrians were generally satisfied with their police's handling of serious crime, but became more animated by the theft of peas or the rudeness of young men on a street corner. This parallels the concerns today of the PCCs. Analysis of the candidates' election material showed that they prioritised public engagement, 'visible' police and victim support. The PCCs' draft plans prioritise anti-social behaviour (Rix 2013).

This chapter considers the extent to which discretion determined the practice of policing in Cumbria. The exercise of this police discretion is explored through the synergies and conflicts that arose between the police themselves, those whose role was to control the police, and the public in the widest sense, including those least well disposed towards the police. The men

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[188] The original New Jersey project concluded that foot patrols did not reduce crime, but did cause people to believe that crime rates were lower. Kelling and Wilson (1982: 2) qualified this conclusion and argued that citizens were correct in their belief that crime rates fell.

were collectively no less important than their masters in the structuration of nineteenth century policing.

The daily work of a constable

Cumberland and Westmorland Constabulary was like every other Victorian police force in its deployment of men on the beat as its principal method of operating. The practice of operating a beat system has become part of the mythology of policing, perceived as an important element of the golden age (Loader and Mulcahy 2003: 37-45). It is possible to gain a very precise idea of the routine daily work of a Cumbrian police constable from the Grayrigg occurrence books which were introduced in chapter three (KRO, WS/Cons 9/2 1902-1909, WS/Cons 1/2 1890-1902, WS/Cons 9/1 1886-1889). The constable of a detached stationwas required to keep a precise daily record of his beats and of incidents, but these books show that little of consequence ever happened. [189]

The book recorded all of the constable's work, but there were rarely any untoward incidents that required further action. In 1887 only one summons was issued by the Grayrigg constable, and that for a dog licence offence. It may be that the distance from the lock-up at Kendal deterred the Grayrigg constable from making arrests, but there was no such difficulty in issuing summonses. The rate of charges issued was much higher in Kirkby Stephen, Kirkby Lonsdale and Maryport.

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[189] Such men were more than half of the Cumberland force, almost two thirds of the Westmorland force (Table 5.2b).

The pattern was similar throughout the books.[190] The constable checked weights and measures, reported on fires, observed animals for the signs of disease, looked out for wanted persons, reported to the sergeant and superintendent as required, checked licensed premises, visited fairs and much more. 1887 was probably Grayrigg's quietest year, but one can still say that in every year nothing much happened. There were occasional arrests. For example in 1888 '7lbs of tea lead [sic] value 10½d' was stolen from the postmistress. PC Auburn traced the thief to Tebay, and apprehended him at a lodging house. But arrests for 'serious' crimes were fewer than one a year, and most of the daily entries in the occurrence book concluded with the words 'nothing to report'.

Nonetheless the constable was active, for the purpose of his work was surveillance: PC Auburn's ability to spot sheep scab is a significant indicator of the importance of his work in rural Cumbria (KRO WS/Cons 9/1 1886-1889, 18 Jan 1887). The routine was two beats per diem and each beat averaged about ten miles along the remote and hilly lanes of Westmorland, seven days a week. The routes and times did not follow a set pattern, but followed a timetable given by the sergeant.[191] The constable was, on different days, walking his beats at every hour of the day and night. He was required to meet for 'conferences' at set times and places with the men on the neighbouring beats, and with sergeants and senior officers, as is explained in chapter six. When conferences were missed the constable wrote the circumstances in the occurrence book. A number of reports of missed conferences have

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[190] Grayrigg prosecutions would have appeared in the Kendal police charge book, which has not survived. But every event that could have led to prosecution should have been entered into the occurrence book.
[191] The beat schedules of Maryport station have survived. There are none from Grayrigg (CRO, SCons 4/140 1879-1890).

survived from Maryport. They take the form of a letter, in which the same formulaic wording is invariably used:

Sir, I beg most respectfully to report that I attended Conference on Wednesday the 21st Inst. at 8pm High Tank the Maryport constable was absent ……James Robinson PC 102. (CRO, SCons 4/127 c1875-1885: 22 Mar 1877)

Any constable who failed to attend a conference wrote to explain the circumstances. Such entries are frequent: most of the planned conferences of the Grayrigg constable failed. There were occasional diversions. In July 1886 PC Scott was on duty at Ambleside 'for the purpose of preserving order at the election' (13-14 Jul 1886). On these days, too, there was nothing to report.

Chart E.2 (appendix E: 367) analyses the arrests made by policemen in Kendal in one year, 1880. The Kendal police were busier than the Grayrigg constables, having more incidents to deal with, though the work load in respect of farm animals was lighter in Kendal. Some men were much more active than others. Kitchen and Medcalf brought many more charges than their colleagues, and it seems that they were specialising in the handling of certain types of offending. They were more likely to be sent for if theft or pickpocketing was suspected. In 1893 Kitchen became Kendal's first detective officer (KRO, WS/Cons 10/1 1860-1947).

Priorities: what should the police do?

A simple examination of the actions of the police is insufficient to understand their role. The actions of the police must be set against the ideas and opinions of society as a whole in order to understand their work.[192] Diagram 9.1(page 297) is a Venn diagram that represents the ideas of three groups, the public, the police themselves, and those in charge of policing, hypothesising their opinions about the nature of police work. Each group had its distinct set of views of what the police should do. The evidence used here, and in chapter seven, supports the generalisations of the diagram, which is necessarily an over simplification; each group comprised a wide range of views. For example:

- The public included drinkers and temperance supporters, church goers of every denomination and none, the most law abiding and respectable, and the most dissolute and criminal.

- The authorities included the Chief Constable, the magistracy, the Watch Committees, Joint Standing Committees, the town councils, the Home Office and the Inspectors of Constabulary. These people were often divided over particular issues, for example, the killing of Groves, described in chapter seven.

- The police included men of every rank and many backgrounds, men who were capable of illegality, dishonesty and evasion of rules, as well as men of the utmost probity. For example, PC Cornthwaite of Kendal who was gaoled for theft on the evidence of his colleague (LG, 19 Feb 1876, p5).

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[192] This relates to police accountability, 'the need for policing to reflect "community" wishes' (Jones 2008: 695).

Diagram 9.1 What the police should be doing.

Hypothesising the opinions of three elements of nineteenth century Cumbrian society.

Public

Police

Insults to women, rowdyness, cruelty to animals

Locating property and people, arresting disorderly drunks

Being tough and prag-matic, cutting corners.

Catching criminals: burglars, murderers, pickpockets

Compliance with the rules and laws, elimination of vagrancy.

Robust policing, controlling pubs & the dis-reputable

Authorities

Vagrant relieving officers, finding Fenians, stopping 'scorchers.'

The diagram simplifies by suggesting that each sector's view was monolithic, whereas the evidence that has been presented makes clear that every group was riven by at least some irreconcilable disagreements. Cock-fighting and temperance reform, discussed in chapter seven, are two obvious examples. The diagram grossly simplifies the reality of nineteenth century Cumbria by omitting those who were the targets of police action or surveillance.

The central zone of the diagram represents the priorities that the police shared with those who gave them their orders, and with the public at large. The previous chapter showed that the police managed to arrest the 'right' people at the fairs. Serious crime was the problem that everyone wanted to bring under control (Casey 2011). Crime fighting was and is easily understood as the duty of the police and protection from the easily identified risks of crime is valued by most people (Hough 2003: 145). Although the same attitudes to offending were not shared by all groups, serious crime was a priority for all classes: Bill Sikes was feared and reviled by everyone (Dickens 1846). The press in the second half of the century extensively reported on serious crime and tended to raise the public's fears of crime, even at a time when crime levels seemed to be falling (Crone 2009: 128-30, Shpayer-Makov 2010, 2011; King 2003; Rowbotham & Stevenson 2003; Davis 1980).

This chapter uses the outline drawn in diagram 9.1, examining first the areas of consensus, before proceeding through the expectations of those in charge of the police, the demands of the public, and the attitudes of the men themselves. The analysis reveals how the police reconciled their own position and role within society through the exercise of discretion.

Discretion was most limited in the areas of consensus (Sousa 2010: 50). The strength of public opinion and the coordinated, organised response to serious incidents in this zone allowed little scope for individual discretion. But in the other zones of the diagram the policeman's discretion was an important factor. Offences that might have been seen by many as the most trivial allowed more scope for discretion. The issues exemplified and analysed in this study of discretion are:

- Offences:

    a) vagrancy offences

    b) cycling offences

    c) animal cruelty

- Disorder:

    a) drunken behaviour

    b) misdemeanours of children and youths

- Police/public relations:

    a) assisting the public

    b) police discipline

    c) robust policing

Some of these issues, which have been covered fully elsewhere, for example cruelty to animals, receive brief coverage. The issue of cycling may seem too trivial, but it has been included because it clearly shows that priorities could differ significantly between the chief constable and the men in the police stations. Robust policing[193] is the term used by this author to describe the pragmatic approaches by which the police dealt with problems, in ways that could stretch or cross the boundaries of what was permitted or legal (see below).

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[193] In describing similar practices in contemporary policing, Ericson (2007: 387) used the term 'counter law' and Sobol (2010: 253) wrote of 'police vigor.'

Consensus on crime

Serious crime seemed to unite all parties, the public, the police and those in authority over the police.[194] Crime excited most interest among the general public, with the chief constable and among the policemen themselves. A telling detail that highlights this point comes from the Westmorland Gazette when Kendal Borough appointed a new chief constable. The paper explained that Luke Talbot was the preferred candidate because when stationed at Bradford he had 'captured Jackson, the Strangeways murderer, under somewhat exciting circumstances' (WMG, 7 Jun 1890, p5).

Action to tackle serious crime was usually initiated at the rank and file level. The narratives found in occurrence books often allow the reader to discover police enthusiasm for investigation. For example, in October 1863 at Kirkby Stephen, Sergeant Stephenson filled more than two foolscap pages relating how he had skilfully located and arrested late at night one of the perpetrators of a highway robbery (KRO, WS/Cons 4/1 1857-1880).[195]

The assorted paperwork that survives from Maryport police station has provided an interesting example of the priority given to tackling serious crime: it also highlights the dilemma of bureaucratic systems versus police discretion. In December 1879, Inspector Grisdale read in the local press of an attempted highway robbery by two tramps. He was concerned that his men had not reported the incident. Grisdale gave PC Bell full details of the

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[194] Hobbs (1989: 205)observed of the detectives in the East End that, when serious crime occurred, they acted with the utmost diligence and propriety: 'the ambiguities of going native were dispensed with.'
[195] The evidence Stephenson gave in court was an edited and abridged version of this account (WMG, 10 Oct 1863 p8).

report and instructed him to investigate. Bell replied in less than 24 hours. His report was exhaustive, included the salient facts from interviews with tramps and all possible witnesses, and concluded that there had been no attempted robbery. Whatever the truth of the story, it shows the operation of a bureaucratic system. Grisdale expected to see the paperwork following any serious offence: its lack signalled to him a failure of discretion. Grisdale and Bell thereupon exercised discretionary initiative to pursue the matter, which was rapidly resolved to the inspector's bureaucratic satisfaction (CRO, SCons 4/143 c1879-1883, 5-6 Dec 1879).The case shows that the police were willing to respond immediately and energetically to any crime that was deemed serious, like highway robbery.

Serious incidents could galvanise the Cumbrian police forces and the public into coordinated action, in which the constable was seen as 'a defender of the peace and an agent of some deliberately chosen community goal.… [and the chief constable became] a leader deploying men, not a paper shuffler fretting over budgets, maintenance and citizen complaints' (Wilson 1978: 78). The best example was the Netherby burglary and murder (Heslop 2007: 57-66). On 28th October 1885, at 8pm, a gang was reported to have burgled valuable jewellery from Netherby Hall. The police were rapidly mobilised to find the criminals who, in effecting their escape, shot and wounded two policemen at 11pm. PC Handley heard the shots and headed to the scene with two neighbours who volunteered to assist, but the burglars got away by threatening to shoot Handley and his helpers (Heslop 2007: 59-60). At 2am they seriously assaulted a Carlisle policeman, and shot and killed PC Byrnes near Penrith at 8.25pm on 29th October. Two of the men were apprehended after a fight at Tebay at 10.30pm, the third man was caught by Lancaster police at 7am on Friday. When the criminals were brought to

Carlisle, John Dunne came in person to the railway station to charge them and to protect them from the crowd (CRO, SCons 3/1/1 1885; Griffiths 1901: 144-9).

In the Netherby case, four forces worked together with the employees of the railway, and the chief constable was able to highlight his role as the leader. [196] The concerted efforts of the police extended to Manchester, where the redoubtable Inspector Caminada arrested a known offender, William Baker, who had the same surname as one of the murderers and had apparently been in Carlisle at the time of the offences. William Baker was sent to Carlisle, where he was soon cleared of the charges (MEN, 2 Nov 1885, p3). The reporting lauded the bravery and effectiveness of the police in this case, without commenting on the irony that the murderers were eventually detained by the determined actions of several railway men (CRO, SCons 3/1/1 1885).

This case was not unique. In Kendal in 1884 the pursuit and arrest of burglars armed with a gun was effected with the assistance of working men of the town, and Watch Committee member John Baron who happened to be present when the burglars were first spotted. Kitchen intercepted three men as they were about to break in. He secured 'Cock-eyed Billy' and gave him in charge to Baron, who (according to the Gazette) 'entered upon the business of a detective officer with willingness and pleasure'. The other two burglars brandished a gun at PC Kitchen and, later on, PC Oliver as they ran through the town, but nonetheless 'several

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[196] Carlisle Borough, the Cumberland and Westmorland Constabulary, Lancaster Borough and Lancashire Constabulary.

townspeople entered on the chase and they had a capital hunt'.[197] The Gazette, by its choice

of words 'willingness and pleasure…capital hunt', revealed the public and police enthusiasm

for the derring-do of crime fighting (KRO, WS/Cons 10/2 1880-1910; WMG, 16 Aug 1884,

p5).

A similar consensus could occur in respect of less serious offences, such as the

apprehension of the prize-fighters in 1867, explained in chapter seven. A strong consensus

could form against even a minor offender when the animus of the crowd turned against him.

At Brough Hill Fair in 1875 a pickpocket was caught red-handed. The potential victim beat

him with a stick while a certain Mr Mason detained him. The accomplice was held by the

crowd until the constables arrived (KRO, WS/Cons 4/1 1857-1880, 1 Oct 1875).

The citizens of Kendal were often willing to assist in the arrest of pick-pockets. A typical case

was in 1884 when three were arrested. Mr John Milligan, wool-broker of the town, gave

evidence in court that he had watched two men acting suspiciously at the station. Milligan did

not say how long he had observed them, but gave a detailed statement about their activities.

Milligan followed one man, Jenkins, out of the station and through town until he met Medcalf

and Kitchen, in plain clothes, who made the arrest (WMG, 15 Nov 1884, p5). The other two

were caught later. Medcalf, whose robust methods were mentioned in chapter seven, was

lauded for his skill at catching thieves pre-emptively, and, upon his retirement in 1894, the

town's Chief Constable eulogised him: 'It was well known that he was always a good man at

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[197] The gun was not fired. It ended up in the river Kent, from which it was never recovered. One man escaped, but was arrested in Birmingham later in the year. The other two were convicted at Kendal for loitering with intent (Woolnough 2012).

their fairs, having a good eye for a thief; and even so recently as at the last fair he spotted two expert thieves and caused their conviction' (WMG, 16 Nov 1894, p7).This was policing that was praised by the public, the press, and the chief constable: as is clear in chapter seven, men such as Medcalf even seemed to relish the rough and tumble.

Fenianism was an issue that united public opinion, but exposed the limitations of a provincial police force. Fenianism was a national issue the ripples of which were felt in Cumbria, for Whitehaven and other Cumbrian ports offered easy passage to Ulster and had Irish expatriate communities, as is explained in chapter four. Fenianism exposed the limitations of police detective power in 1867 and 1884 (Shpayer-Makov 2010: 683; Hobbs 1989: 42). Troops were sent to Whitehaven in the wake of the Clerkenwell outrage, the Chief Constable pressured his men on several occasions to find Fenians, but no terrorists were detected or detained in Cumbria (CRO, Scons 4/77 Maryport Police, 25th March 1884; Scons 1/114, Circular 56922 12 Apr 1884; Belfast News-Letter: 2 Jan 1868, p3).

These were all cases where no one (other than the offender, perhaps) disapproved of the police action. Everyone agreed that police action was necessary and commendable. The paragraphs which follow examine offences which did not galvanise all parties to act.

Vagrancy

Vagrancy and its policing have received the attention of few historians in the last thirty years, yet in the nineteenth century it was an issue that was regarded as a high priority (Emsley 2005a: 95-6,172-3; Radzinowicz 1968: 1-25; Radzinowicz & Hood 1986: 339-75). [198] The evidence presented below shows that for some Cumbrian policemen, their duties in regard of vagrants were tiresome and could be evaded.

Relieving vagrants, dealing with beggars and rough sleepers.

Some of the orders issued by the Chief Constable were not acted upon with as much rigour as he might have expected. For example, in dealing with vagrancy it can be inferred with confidence that at least some of the police were using their discretion not to act, despite specific orders. The compendious nature of the 1824 Vagrancy Act (5 Geo. IV, c.83) meant that it could be deployed in many situations beyond merely controlling vagrants. Petrow (1994: 51) has described it aptly as the 'flypaper', for it worked as an effective means of entrapping those who were deemed as a problem, rather than giving a precise definition of criminal acts. In this section it is the clauses that were directed against begging and rough sleeping that are considered.

Chapter six explained how the rigorous control of vagrants was a priority for Dunne, who believed that criminal vagrants were responsible for most crime in the region. The 'problem' was a priority for many in authority. The Police Committee of Cumberland and Westmorland

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[198] Vorspan (1977); Fowler (1991); Matthews (1986); Rose(1988)

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petitioned for action against vagrants (PP, 1868-69:1-2) and, twenty five years later, the Poor

Law Guardians wished to find 'the best means of mitigating the evil of vagrancy' (KRO,

WSPU/K/26 1894,14 Sep 1894). But despite this pressure from their superiors,[199] the police

did not handle vagrants with the vigour desired. As Lawrence (2000) showed, the police dealt

with vagrants not according to a policy imposed by their superiors, but acted as individuals

with their own criteria, which were at times disinterest, irritation, tolerance or intolerance. It

was the policeman on the ground who became the 'expert' whose judgement decided

whether an itinerant was morally 'lost', or was a tramp genuinely seeking work (Petrow 1994:

31).

Dunne, with the support of the Guardians, promoted the idea that police take on the duties of

relieving officer. However, the practice was ended in 1880, after the workhouse inspector

condemned the 'slovenly' way in which the duties were carried out; some of the police acting

as relieving officers in the Kendal Union contrived to avoid vagrants who were seeking relief

(PP 1909: 52). The duty was unpopular with police across the country and ceased in all

counties in 1881 (Radzinowicz 1968: 359).

Recording of vagrants by the police was a daily duty in their capacity as relieving officers and

on their beats, when they were required to write down the full details of all vagrants applying

for relief and those staying at common lodging houses. But the task was completed in a

perfunctory manner. The small amount of such paperwork that has survived is scrawled in a

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[199] This is covered in more detail in chapter six, where points of disagreement between the chief constable and the magistrates are mentioned.

way that suggests lack of concern (CRO, SCons 7/2 1879-1880; SCons 4/139 1885-1889, SCons 4/70 c1870-1880).[200]

Sergeant Hutchinson of Kirkby Stephen showed how discretion in his duty as Relieving Officer could be deployed in a very un-Christian manner. The occurrence book recorded that he arrested two vagrants in 1874 for fraudulently claiming relief as destitute tramps. He had searched them and found 1d and 1½d on them, for which offences they received ten and seven days (KRO, WS/Cons 4/1 1857-1880, 28 Mar, 11 Apr 1874). Three ha'pence was insufficient to secure a night's lodging, so it seems likely that Hutchinson's intention was to deter vagrants by enforcing the law to the letter, rather than assist, monitor or regulate them. After that date, there were no more such cases of 'fraud' at Kirkby Stephen.

The discretion, or attitude, of individual men determined how vagrancy was dealt with. The number of vagrants apprehended at Alston fluctuated as the police personnel changed.[201] Sergeant Farrer arrested eight in two and a half years, whereas only four had been arrested in the previous twelve years (CRO, QPAL 1 c1860-1900, Jan 1880-Aug 1895). The rate of arrests at Grayrigg for vagrancy fluctuated similarly as the man in post changed. In 1880, PC Gass arrested five beggars in four incidents.[202] In the years 1888-1902 PC Auburn arrested five beggars (KRO, WS/Cons 9/1-2, 1886-1902). Neither of them arrested any rough

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[200] This assessment is based upon a comparison with the formal documents which constables completed: occurrence books, charge books, prisoner records, reports to senior officers. These were records that the constable knew would be read by senior officers; they were invariably written neatly and are easy to read. The Wigton police Vagrants' Relief Book (1879-80) and the few surviving lists of vagrants in lodging houses were very poorly written and challenge the reader today.
[201] Alston is unusual, in that it is Cumbria's remotest community; this must have been a serious disincentive to a policeman making any arrest, for the journey to Carlisle gaol could never be easy.
[202] This information was derived from a spread-sheet analysis of the Kendal newspapers of 1880. See page 55.

sleepers. If the Grayrigg policeman had wished to tackle vagrancy, he could have easily

increased his arrest rate by targeting lime kilns. These were popular as sleeping places for

vagrants. The structure remained warm for a considerable time after the lime had been

removed, so that it was a warm and comfortable place to sleep even in winter (Johnson 2010:

36). Pemmott (2009) listed many of the Victorian lime kilns in the limestone areas of

Westmorland, including Kendal, Kirkby Lonsdale, Kirkby Stephen and Grayrigg, but no case

of a vagrant being arrested for sleeping rough in a kiln has been found. It is clear from the

Grayrigg occurrence books that the constable at that station regularly patrolled at night. His

beat took him past Meal Bank (Pemmott 2009: 256), Kiln Head (Grid ref. SD576955) and

other lime kilns, but his reports included not one rough sleeper. If the Grayrigg constable had

pursued vagrants with the vigour that the Chief Constable urged him to employ, he would

have been able to bring in a steady number from the kilns. The policemen simply ignored

these rough sleepers. This may be an example of '"unspoken" contracts with various social

groups (McLaughlin 2007: 5). Tramps in lime kilns were safely out of the way and perhaps

obeying unwritten rules. There is no indication in the occurrence books that he was under

pressure from his sergeant, inspector or superintendent to interrogate tramps and vagrants,

so he was able tolerate them on his beats if he chose.

Only one man, Benjamin Benson, was arrested for sleeping rough on the Grayrigg beats in

over twenty years. But Benson was no vagrant, for he was a farm labourer who lived with his

parents next door to the police station. His neighbour PC Scott (Auburn's predecessor)

arrested Benson at 10.30pm, sleeping in a barn near his parents' house, next to the police

house. Scott walked Benson to court in Kendal the following day, where he was discharged

with a caution (KRO, WS/Cons 9/1 1886-1889, 22 Nov 1886). It is a good example of the

Vagrancy Act as a social disciplinary model of policing.[203] The vagrancy law was the means

of arresting someone, rather than vagrancy being the reason for the arrest. Benson was not a

vagrant, but could well have been (in Scott's opinion) 'up to something'. The Vagrancy Act fed

into police culture for it allowed a style of policing that targeted those whom the police chose

to identify as vagrants.

At Grayrigg, a serious deterrent against making an arrest was the distance from Kendal. A

person detained would have to be taken the five miles into town. Grayrigg did have a railway

station[204] but it was two miles away from the police house, in the wrong direction. Scott may

well have regarded the walk as an informal punishment for Benson; he may have had an

intuition that the case would be dismissed. At Grayrigg and Alston the problem of conveying

prisoners was a powerful disincentive to action, which offers an explanation for the striking

difference in charges brought per man when Kendal, where the men averaged just over eight

arrests each in 1880, is compared with these remote stations (appendix E: 367).

Rough sleepers were far more likely to be arrested in towns where lock-ups were on hand

than in the country. In the Kirkby Lonsdale charge book, five of the charges brought for rough

sleeping were of men who actually resided in the town. Similarly, in Maryport many of those

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[203] In 1894, in reply to an inquiry from the superintendent of Appleby, Auburn wrote that Benson 'is personally known to me and is not of a very good character.' (30 Oct) The term 'street corner punishment' was used by Miller (1977: 62) to describe police action designed to retaliate against uncooperative citizens. The policeman achieved his goal by delaying or irritating the person. It is possible that Scott's intention was to harass Benson by taking him for a long walk to Kendal.

[204] In 1888, Auburn brought a thief from Tebay (11 miles from Kendal) by train. The occurrence book does not mention the journey, but shows that the arrest was made at 2.50pm, the prisoner handed over to the superintendent at Kendal at 4 pm (8 Nov 1888).

charged with rough sleeping were residents of the town.[205] 'Sleeping rough' was a charge

that could be used to deal with problems that were otherwise difficult to prosecute. For

example, in Kendal in 1889, William Birkett and Catherine Travis were convicted of sleeping

out on Vicarage Fields. Police Constable Clarke found them at 2am. He said 'there were

complaints about them'. The coy reporting of the newspaper leaves one to infer that their

offence was not sleeping as such (KM, 12 Jul 1889, p6).

Lack of diligence in dealing with vagrants was exposed by the case of 'John Dow', an

American sailor arrested for begging a few miles from Kendal and sentenced to fourteen

days. The police who arrested Dow had not troubled to search him but when he was received

at Kendal Gaol, he had on his person several silver spoons and other items which had been

stolen in the burglary of a gentleman's house in Kendal (WMG 17 Aug 1883, 26 Oct 1883,

KRO, WS/Cons 10/2 1880-1910).[206] This case was not unique. In 1870, Inspector Snook of

Penrith was reduced to constable for his failure to apprehend two tramps who, it transpired,

had robbed several churches (CRO, Scons 2/1 1857-1900,14 Mar 1870).

It has been shown how the police, including men with some rank, did not share the Chief

Constable's enthusiasm for rigorous action in dealing with vagrants. They used vagrancy

legislation to deal with offenders, including apprehending suspects and pick-pockets at the

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[205] Henry Huck, shoemaker of Kirkby Lonsdale, was charged three times in 1894, once in July and twice in September. John McKeron, aged 14, and Walter Brough, cab driver, aged 18, both of Maryport, were charged with sleeping rough in July 1886. McKeron was charged again with the same offence in August (CRO, SCons 4/137 1879-1888, KRO, WS/Cons 2/5 1888-1930, WS/Cons 2/1 1869-1906). In the iron town of Maryport, rough sleepers were attracted to the furnaces, but their presence there was not tolerated.
[206] The Gazette explained that Dow was wearing two pairs of trousers. He was sentenced at the Quarter Sessions to 12 months, but died in Kendal Gaol in February 1884 (KRO, WS/Cons 10/2 1880-1910).

fair, as explained in chapter eight, but preferred to avoid, discourage, tolerate or ignore genuine tramps. In some cases, reluctance to act arose from the inconvenience of the task. The effect of the collective action of the police in dealing with vagrants was quite different from what the Chief Constable and the Poor Law Guardians wanted, but there were a number of arrests every year under the Vagrancy Act. Even if those arrested were not true vagrants, the statistics showed that the police were acting, and the idea was sustained that the police were dealing with the problem.

Cycling: 'scorching'

Dealing with cyclists is an example of discretionary inaction by the Cumbrian police. Scorchers were cyclists whose speed was excessive, which the Chief Constable defined as over twelve miles per hour or, when passing horses and in villages, eight miles per hour. Dunne directed his men to deal with this 'problem', because he said, there was a large number of complaints and accidents (CRO, SCons 1/114 1888-1897; SCons 1/4 1857-1897: Circular no. 59323 11 Dec 1895, General order no. 695 3 Jun 1891). A search of the Westmorland Gazette of 1898 came up with a few accidents, and numerous articles reporting races, cycle club runs and dinners. Given the ease with which a youthful cyclist could exceed twelve miles per hour, and the ease with which a dutiful pair of constables could set up a 'speed trap' to await an advertised cycling event, one might expect many prosecutions if the police followed the Chief Constable's orders, but the police and court records used in this study showed only three cases of scorchers, all in 1898, all in Kirkby Lonsdale. One was of a man who rode his bike through a crowded town centre, the other two took place on August bank holiday at Cow Brow (Grid ref. SD548819), where the road plunges suddenly before

rising steeply again, an ideal spot to catch scorchers (KRO, WS/Cons 2/8 1897-1922,13 Jun, 1 Aug 1898).[207] The Gazette recorded just two more prosecutions, one in Kendal, the other case in Kirkby town centre (WMG, 23 Apr 1898, p2, 2 Jul 1898, p6).

There were plenty of cyclists on the roads, and plenty of places like Cow Brow, and magistrates were willing to convict on the evidence of the police, but there were very few charges brought. [208] The apprehension of scorchers was not a priority for the men.

Cruelty to animals

Prosecutions for cruelty to animals have been covered in detail in chapters seven and eight. The important point here is that animal cruelty was a low priority for the Chief Constable, the Watch Committees, the magistrates and the men. At the fair, most of the prosecutions were brought by the RSPCA, who were also interested in tackling cock-fighting. Whereas the RSPCA saw cock-fighting as a matter of cruelty, for the Cumbrian opponents of the sport it represented a disreputable and immoral life-style. The gulf in opinion between some members of the public who opposed animal cruelty and the police force was made clear in

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[207] The steep descent encouraged speed, the following stiff climb reduced the cyclist, with his single speed machine, to walking pace, or even to dismount, so he could be stopped easily.

[208] An article in the Lancaster Gazette blamed the magistrates for leniency towards cyclists, but the evidence of this study does not support this view. Very few cases came before the bench, those that did resulted in fines (LG, 19 May 1894 p7).

chapter seven by the case of the mistreated pony at Kirkby Lonsdale (KRO, WS/Cons 2/8 1897-1922, 5 Oct 1898). [209]

Police discipline.

Complaints against the police

Every police infraction of the rules can be interpreted as a policeman exercising discretion, or perhaps of indiscretion. Police were liable to the censure and discipline of the chief constable, magistrates and Watch Committees, and to be berated by the public on occasion. In a study of the city of Durham police, MacManus (1998) concluded that the complaints against the police were essentially from the higher social groups. But this study does not show the same pattern in Cumbria. Humble defendants could express themselves in court and poachers could use the law to fight back at authority. Even if these protests were dismissed, they were heard and reported, so that policemen like Sergeant White[210] could not ignore them. Few of the labouring class wrote letters, but Jane Hodgson (below: 332) managed to do so when faced with a crisis. The working class were not silent, nor were they completely excluded from voicing their concerns.[211]

The content of this section concentrates upon the disciplinary concerns of the chief constable and challenges to the police in court: the role of the Watch Committees has been considered

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[209] The gulf in opinion is apparent in England today in the prosecution of foxhunting. In December 2012, the RSPCA successfully concluded a case against the Heythrop Hunt. The police had chosen not to bring this case and the magistrate said that it was 'quite staggering' that the RSPCA had brought the case, notwithstanding the clear evidence and the defendants' pleading guilty (BBC 2012).
[210] White was forced to resign: see chapter six.
[211] Gatrell (1994: 449-50) made this point in his study of the death penalty.

in Chapter six, and complaints from the public concerning disorder are covered in the section (below) on policing disorder.

The discussion of police discretion (above) makes clear the dilemma the policeman faced between obeying the rules and using his initiative. The policeman, whether taking action or choosing inaction, needed to be able to negotiate a route between excessive caution and a cavalier disregard for rules and rank. The decision of the Home Office (in the early years of county forces) that a constable should remain personally accountable at law left him liable to prosecution for his errors (Steedman 1984:31-2). A misjudgement could lead to court action, could result in disciplinary action, or could provoke an angry reaction from people with influence.[212]

Chapter seven included several examples of robust policing that went unchallenged by the magistrates in court. One case showed clearly that the magistrates were prepared to back the police even when the protests of a defendant were supported by the evidence of a respectable citizen who was willing to challenge the police over a perceived injustice. Mr Derome, auctioneer, appeared as a witness in court to speak for a man who had been arrested for being drunk and disorderly. [213] Derome had seen PCs No. 3 and 4 (the paper did not name them) arrest the man, a stranger to the town, whom Derome did not consider disorderly.

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[212] Emsley gave several examples of police action leading to questions in the House of Commons about brutality or partiality, including an incident at Cleator Moor (1884) when dealing with an Orange parade (Emsley 1996: 69).
[213] Derome was a gentleman of sufficient status to be elected as a trustee of the Kendal Fell Charity Trust. The franchise was for £5 freeholders (WMG, 7 Oct 1871 p5).

No. 4 cursed and swore most outrageously and No. 3 tripped up defendants' heels

[the man was pushed and fell over several times] I then asked the policeman for his

number, and he used very uncivil language … I declare it was a most inhuman and

brutal affair … as the man had money he [Derome] would strongly advise him to get a

*solicitor and have the matter seen into (*KM,10 Jul 1869, p2).

The magistrates accepted the evidence of the constables and convicted the man, but court cases such as this made the actions of the police public knowledge.

The reporting of this case is interesting, for the *Mercury* seemed to favour the constables by not naming them and by adopting a disparaging tone towards Derome. The *Mercury*, which took a high moral tone on cock-fighting and drink (see chapter seven), supported Sergeant White when he was accused of raping a young female prisoner in the police station, though this act was too serious for most of the Watch Committee who ordered him to resign.

Court action against the police

In the great majority of cases examined in this study, including cases not directly cited, the magistrates in court accepted the word of the policemen and backed their actions. But the law could be, and was, used against the police. When a certain Mr Moss and Mr Morrison successfully claimed that they had been wrongly arrested for felony, the case provoked Dunne to an extremely angry diatribe against Superintendent Sempill of Carlisle whom he blamed for incompetence. Unfortunately, the details of this case were not reported in the press (CRO, SCons 1/4, Gen order 623, 2 Jan 1888).

It was not necessarily gentlemen who challenged the police in court. Poachers could be resourceful. Three of them charged Inspector Reid of Workington with perjury, claiming that he had given false evidence in their case (Daily Gazette for Middlesbrough, 13 Feb 1894, p3). Their action failed but cases like this showed how policemen needed to proceed with care. Poachers could succeed in their resistance to authority: Dunne described a case in which poachers who had fought the police were suing the police for damages on a technical point (PP, 1872b: 46).

At Ambleside in 1884, PC Cheeseman was charged with perjury. The case arose from his summons of Miles Shaw for drunkenness following a late night incident involving several young men. Shaw had been fined at the Petty Sessions on October 22nd, but in court on 19th November he claimed that the drunk in question had been his brother, Richard; Cheeseman, he claimed, wilfully misidentified the offender as Miles. Miles Shaw larded his evidence with details of Cheeseman's bad language. However, the magistrates swiftly dismissed the case without listening to the defence:

We are satisfied there has been a very great perjury, but not on the part of the policeman. It was probable that the policeman might have been mistaken in the two brothers; but if a man makes a mistake that is not a perjury. (WMG, 22 Nov 1884 p5)

The bench was firmly on Cheeseman's side and warned the Shaw brothers they were now liable to indictment, but there were aspects of the case that showed that police did need to exercise some caution. The Shaws were labouring men (bobbin turners) who nonetheless

had engaged Mr Gatey to conduct the prosecution for them. The low paid were able and willing to use the law if they felt they had been wronged.

Police internal discipline

Police were disciplined for their misdemeanours (for example, drinking and sexual misbehaviour, described in chapter seven) and their operational failings. This latter category of offence may have been more difficult to tackle, but when detected by or reported to the Chief Constable resulted in greater narrative detail in his orders, circulars, and in the Register of Complaints. Chapter six showed how the Chief Constable used his orders to criticise the failings of men who failed to meet his criteria in dealing with crime, but did not name those at fault. Details in the Register of Complaints showed how the Chief Constable was concerned with failings that reduced the efficiency of the police, threatened discipline, and concerned his priority areas such as Fenianism and vagrancy (CRO, SCons 2/1 1857-1900).

The complaints show that there was a concern with information. In a system that allowed considerable discretion to the operatives at the bottom of the hierarchy, those in command sought to maintain control of knowledge. Even failing to attend a conference threatened the system of relaying information through the organisation. The Chief Constable was exerting himself to control his force, but the discretion enjoyed by the men allowed them to cut corners or make decisions that limited the hierarchical oversight of the force and empowered the ordinary constable. Control of knowledge within the organisation epitomised Foucault's 'power in capillary forms', discussed in chapters two, three and five.

One of the less serious offences listed was failing to attend a conference. This offence was relatively easy to commit. Was the Grayrigg constable guilty of such behaviour? Typically, on 5th August 1886, PC Scott reported that he had attended the 2am conference, but the Kendal constable failed to appear. Scott reported that he came off duty at 4am, but had he slipped back home early? If he did, he got away with it (KRO, WS/Cons 9/1 1886-1889). An Order from 1902 made it clear that this sort of slacking did happen. The new chief constable, de Courcey Parry, issued General Order 13, in which he detailed several instances of mis-matches between the records of conferences on adjacent beats. He listed several examples where both men reported the other's absence. This was men using their initiative to cut corners (KRO, WS/Cons 9/2 1902-1909,15 Dec 1902). General Order 13 showed that the men had worked out how the rules could be evaded: although the new chief constable (or an underling) had trawled through several books to find the deception, he was unable to discipline the men beyond insisting the men explain the circumstances.

Helping the public

The primary sources show that the public turned to the police for assistance. The occurrence books frequently recorded approaches by the public. Every year, Kirkby Stephen occurrence book detailed problems reported by the public at Brough Hill Fair. It was typical of other occurrence books used in this study in that most entries relate to lost or stolen property. Letters written to the police provide more detail of what the public expected or hoped for from the police. The rate of police prosecutions gives a clue to the increasing importance of the police for the public who were victims of crime.

Letters seeking assistance.

A careful reading of the Instructions, Orders and Circulars issued by the chief constable finds no mention of any duty to assist the public, except in that they were expected to 'call on the occupiers of all houses and lands' to discover if they had suffered any thefts, or had any requests to make of the police (CRO, SCons 1/1 1857:105).

There are a few letters that suggest the gentry did regard police as a type of servant. For example, the vicar of Cross Cannonby wrote 'Kindly allow PC Bell to attend at a concert …on Thursday evening next…' (CRO, SCons 4 143: 2 Feb 1880). There were other letters of this type, but it is difficult to understand the exact purpose of the requests, or the authority of those writing: was this really a request, or an order, or an accepted part of policing?

But much of the correspondence to Inspector Grisdale at Maryport shows that most requests for police assistance related to areas of police expertise, and many were written by more humble members of the community. The Grayrigg occurrence books contain similar items of correspondence, but far fewer in number.

> *Whitehaven Sir, I lost my banjo yesterday. If you see a man wearing a straw hat, blue coat, brown tweed trowsers with same please detain him. Samuel McKie. (CRO, SCons 4 144, no date, a postcard.*[214]

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[214] The 1881 census shows only two persons who might be this Samuel McKie. They were father and son, Irish born, a mason aged 40 and his shipwright son, aged 15.

Some of the letters do relate to dishonesty but make no explicit accusation of criminality. For example, a letter from E Austin of South Kensington, states that an applicant for a situation with Mrs Lord has been supported by a glowing reference from a Miss Todd of Maryport, 'but of very doubtful orthography and evidently not written by an educated person.' Austin requested that Grisdale investigate (CRO, SCons 4 143, 28 Feb 1883). There are several letters of a similar nature; it is difficult to discover if Grisdale acted or replied, but one letter, from Widnes, seeking to check the *bona fides* of a business name and address at Maryport, bears Grisdale's jotting that there is no such business (CRO, SCons 4 144, 17 & 18 Dec 1884).

In one letter, the Inverness police thanked Maryport for advancing 30 shillings to Rebecca Williamson so she could return by train to Inverness. A postal order for 31 shillings was enclosed (CRO, SCons 4 144, 2 Oct 1883). There is no explanation of the circumstances, but Rebecca cannot have been an offender wanted in Inverness.

Since Maryport was a busy port, several letters are concerned with identifying bodies recovered from the sea. A letter from Kirkcubrightshire police reported the discovery of a sailor's body on their shore, and asked Grisdale to check if it was a Maryport man (SCons 4 14, 16 Oct 1883). A chartered accountant of Birmingham wrote to say he had learnt that bodies had been washed up at Maryport. He requested a description because his father was lost at sea and his body had not been found (CRO, SCons 4 143, 28 Oct 1883). An unknown suicide found hanging from a tree at Birkenhead had a hat made in Maryport. Grisdale was able to identify him from the description as John Craig, aged 50 (CRO, SCons 4 143, 11 Jun 1885).

The police were providing a public service in locating people. This was analogous with their duty to assist in the tracing of offenders, which duty generated copious correspondence. Some of this work was for other police forces looking for offenders, and some of it was for organisations such as poor laws unions, but a great deal of the correspondence was helping the general public. Although the letters are generally from the more literate, one letter shows how this was not simply a service for elite or respectable persons (CRO, SCons 1/1 1857).

> *Workington June the 25   Dear sir im in greate distress a Bout my hosbent its 5 Weeks sinc he Left the hematite he is a sailer he got his money from Captin bech of the hematite And he promist to Be Back in A haf our But never came Back …… its 9 weeks sinc he left me And 5 litel chilldren . im fritened my housbent has com By som foul plea so dear sir if you woud seek for my hosbent il verey thankfull to you …… pleas to rit Back as suin as you can to No 58 grifly street Workington Mary Jane hodgson (CRO, SCons 4 144, no year).*

This 'public service' role of the police was not part of the official instructions and orders, but it is clear that Grisdale, and the constables at Grayrigg, did assist where they could. This work was similar to some of the duties of the police in tackling crime, but this was not part of the management of offending. This was restoring order, not fighting disorder. It was, like the role of police in a modern 'risk society' (Ericson and Haggerty 1997), a service to help people and organisations to cope with the entropy of everyday life, and an example of police accepting a public responsibility simply because there was no one else whose duty it was.

Police prosecutions

The data from Maryport covers too few years to give an idea of the changing way in which the police took over the prosecution of cases, but Kirkby Stephen Charge Books and Petty Sessions Registers allow a twenty five year view. The trend lines on chart B.1 (appendix B: 360) show that the number of police prosecutions grew from an annual figure of approximately forty in 1874 to sixty in 1900, whereas in the same period the private prosecutions fell from forty to twenty. The cases which the police increasingly took on were theft and property cases. Assault cases remained in the main private prosecutions. This was not a Cumbrian phenomenon (Emsley 2005a: 191-3), and it could be that victims of crime sought to escape some of the risks of bringing a case by passing it to the police. There is however no doubt that it betokens increasing confidence in the police as the professionals who knew how to handle crime.

Complaining about disorder

Sources that record complaints from the public about disorder included court reports, Watch Committee minutes, the Register of Complaints, letters printed in the newspapers and letters written directly to the police. The great majority of these complaints concerned low level disorder. Letters were the source that gave the clearest and most detailed representation of the anxieties of the public, particularly the few surviving letters written directly to the police which were found in the paperwork from Maryport station. This is an example:

Burnside, Flimby, May 31 /85.   On Sunday last Whitsunday a number of boys were

in my garden. I caught a witness [sic] and took him to the Policeman's house but he

was not at home [the writer names two of the boys] and this morning another gang

have been in. Last year all my peas were stolen and I should like this sort of thing

stopped, they don't care for my Wife at all, when coming home from school they are a

nuisance. I suppose there should be a policeman round here sometimes, and I think

he would do no harm if he should stroll round <u>this</u> way about 12 & 4. ?? Saunders

Business address Wilson St Workington. (CRO, SCons 4 144: 31 May 1885)

Saunders' letter of complaint epitomised the disproportionate feeling of outrage over a trivial

offence. Typical of so many such complaints, it implied that the police were lazy (strolling

around) and ineffective, never managing to be in the right place at the right time. The press

often printed similar complaints.

- Respectable ladies abused by 'the insolent persons that usually flock, especially on a

  Saturday or Sunday evening to the Low Cross Corner' in Appleby (WMG, 25 Sep

  1855 p5).

- Three women assaulted in the centre of Kendal while policemen were drinking tea

  and gossiping in the station (WMG, 24 Oct 1873, 1 Nov 1873 p7).

- The Prosecution Bond complained to the Watch Committee about damage to fields by

  boys and young men playing football, Guinea Pig, pitch and toss, knurr and spell etc.

  on Sundays and in the evenings (KRO, WSMBK/1/21/1 box 8 1831-1903, May 1890).

- Farm servants who regularly threw sods and insults at a group of young people as

  they left a meeting in Stainton. The complainant wrote 'I myself know a young woman

who was grossly insulted by the leader, aided as usual by his gang…the police might be well advised to ambush these offenders' (WMG, 21 Oct 1893 p7).

- Dr Irving of Penrith reported PC Scott for failing to apprehend some boys who were trespassing in his garden. Scott, who was off duty and in bed at the time, referred the complainant to the police station (CRO, Scons 2/1 1857-1900, 14 Apr 1863).

These trivial complaints were of importance to the public, some of whom, like Dr Irving and Mr Saunders, had some social clout. The complaints 'focused attention upon the streets' and therefore upon the young people and the labouring classes for whom the streets and open places were used for social gathering and play (Rawlings 1999: 77).

The nuisance of 'slonks'[215] loitering in the public highways was again brought before the Court by the Chief Constable …Constable Clarke gave evidence that about twelve men were standing about the street, and he told them to move on but [three men] refused. Clarke saw them a second time and told them to move on … He saw them again a third time, and served a summons… (WMG, 13 Dec 1890 p6).

This report about 'slonks' in Kendal shows how the problem was defined. The day of this offence was a Sunday, the offenders young men hanging around with little to do. They did not need to do much to cause offence. As was explained in chapter seven, their behaviour was just as much an affront to the respectable working class as it was to the middle classes.

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[215] A 'slonk' was 'a lazy, slinking fellow' (Morris, n.d.). The word is etymologically linked with 'slake' and implies a capacity to absorb liquids.

The police were often addressing issues of working class culture when they dealt with such offenders. However, it is more precise to say that the differences in policing trivial offences in Grayrigg, Kendal, Kirkby Stephen, Kirkby Lonsdale and Maryport reveal that the police were imposing standards which derived from the communities in which they served. The examination of specific offences, such as drunkenness, stealing vegetables and street games, makes this clear.

Drunkenness

Drink offences, discussed in detail in chapter seven, led to most arrests for disorder. The records from Grayrigg and Maryport included precise and detailed descriptions of the events that led to arrests. Being drunk *per se* was not the reason for arrest. The consistent feature in these cases of drinking offences is that the offender has failed, or been unable, to conform to the standard of behaviour the policeman required. Petrow (1994: 183-217) explained how the crucial factor in cases where drunks were arrested was the opinion of the policeman, which was often swayed by the practicalities of effecting the arrest.

The police statements invariably described how the offender had been warned, or exhorted, to be quiet and go home, but had carried on behaving badly. For example, at Grayrigg, a publican sent for PC Auburn because a local man who was drunk would not leave the pub. He again refused to leave when Auburn asked him to, so Auburn put him out. A summons followed (WMG, 5 Mar 1898 p6). The reports from Maryport include similar narratives in which the offender refused to go home when told to do so. The charge followed the second refusal of a police request. It is likely that many more people complied when reprimanded by police or friends, and no court case ensued, just as nine of the 'slonks' did in the case above.

Banton observed this process working effectively in 1960s Scotland, and explained the importance of this procedure for officers who were members of the community which they policed (Banton 1964: 146-52). The policeman on the streets of Kendal or Maryport, or even in Grayrigg, was attempting to sort out rows between landlords and drinkers, or between groups of working men, and sometimes women. The occasions when these rows found their way into the records was when the policeman failed.

The Maryport records included several drunk and disorderly cases, in which the policeman's narrative in his report to the inspector was very carefully constructed. The same form of words is invariably used: 'mad drunk … a great disturbance … his coat off … he refused to leave … a large crowd of people … he was taken away by force by some of his friends … he returned … I advised him to go home but he refused … a great crowd of people were trying to get him away… he said he did not care if the police were there he would fight … I was obliged to put him out [of the pub] by force … he would knock my brains out … he continued for a very long time to throw himself down and strike everyone that came near him … he told me to go to hell'. The females charged were often 'cursing and swearing', using 'very bad language'. One female drunk was 'armed with a steel' (CRO, SCons 4/127 c1875-1885, SCons 4/128 c1875-1885). Not surprisingly, Maryport police patrolled the town in pairs.

There were very few arrests of people for being drunk and incapable. In the few cases that were found in the records, there was invariably an aggravating factor. For example, PC Auburn arrested a drunk and incapable vagrant woman who had with her a young boy (29 Apr 1899). This was the factor that led to arrest.

Storch (1976: 481) wrote that:

> *the monitoring and control of the streets, pubs, … was a daily function of the "new*
>
> *police"* [and must be viewed as]... *a direct complement to the attempts of urban*
>
> *middle class elites.... to mold a labouring class amenable to new disciplines of both*
>
> *work and leisure.*

This middle class imperative for working class discipline is not evident in the Cumbrian narratives described above. Nor is there any clear evidence of the middle class striving to impose middle class values at the Petty Sessions courts. A comparison of cases at Petty Sessions across four years (1897-1900) shows that more than twice as many drunkenness cases were dismissed at Kirkby Stephen (15.5%) than at Kirkby Lonsdale (6.7%).[216] If policing drunkenness were a middle class priority one might expect the magistrates, who were middle class, to consistently endorse police action with a conviction, but Kirkby Stephen magistrates were particularly lenient towards to those convicted of licensing offences (table B. 3, appendix B, p361), for although Kirkby Stephen police made many more arrests than their Kirkby Lonsdale colleagues, the magistrates in the town were far more likely to acquit. The driving force in the policing of drinking offences was the opinion of the ordinary citizens enacted by working class policemen, not the wishes of the middle class, whose views as evidenced in the decisions of the magistrates were more relaxed.

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[216] Data collated from charge books (KRO, WS/Cons 2/8 1897-1922, WS/Cons 4/11 1888-1915). Chapter seven explained how Kirkby Stephen had a far stronger temperance movement that was firmly rooted in the working class cultures of the East Ward.

Youth disorder

The exercise of police discretion was evident in their handling of disorderly young men and boys, and of young thieves. There were significant differences of approach between the town of Maryport and rural Westmorland. Table E.1 (appendix E) compares the number of charges brought against youngsters at Maryport and Kirkby Stephen: Maryport children were charged at a rate roughly four times higher than those in Kirkby. This section analyses the differences and connects them to the local cultures.

Loitering and unruly behaviour

Young men and boys hanging about the streets were frequently tackled by the police, but the confrontation was often muted, for the police preferred to defuse situations than arrest or summons. This was attempted in Kendal by PC Clarke in dealing with the 'slonks' (above) and by PC Williamson when he advised Airey to go home in the Groves case, which was introduced in chapter seven. So when PC Scott at Grayrigg received a complaint from Mr Gibson about boys throwing stones on Sunday afternoons at his house, causing damage, Scott lay in wait for the offenders whom he caught and warned, but did not seek to summon. They were locals, aged 20 to 16 (KRO, WS/Cons 9/1 1886-1889, 15 May 1887). In Kirkby Lonsdale, Inspector Armstrong spoke to four boys, aged 10 to 14, accused of assaulting two girls and the girls' mother decided not to prosecute (KRO, WS/Cons 2/8 1897-1922, 28 Dec 1898).

However, in Maryport, the police were more likely to prosecute youthful disorderly conduct than in Kirkby Stephen.[217] This section examines two street offences with which young men, typically miners, were frequently charged, offences relating to fireworks, and street gambling by playing pitch and toss.

Fireworks

In Maryport there were more than twenty persons charged with letting off fireworks in the street, all under 20 years of age. Typically, on 24th October 1884 nine boys (average age 13, youngest 10 years old) were each fined 5/- at Petty Sessions for a series of fireworks offences over the previous days. In Kirkby Stephen no one of any age was charged with letting off fireworks, but in 1898 Joseph Parkinson was charged with selling fireworks to children under the age of thirteen. He was discharged upon payment of costs. One cannot doubt that youngsters played with fireworks in Kirkby Stephen and were disciplined, but the only prosecutions were of adults whose actions were irresponsible.

There was in 1897 an incident in which two young men (18 and 19 years) were charged with lighting a bonfire on the High Street of Kirkby Stephen on November 5th. A third man (18 years) was convicted of rolling a lighted barrel on the High Street. Another four young men were acquitted of stealing a tree root, in a private prosecution. The men convicted were fined

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[217] Because the occurrence books of Maryport police have not been found, it is not possible to discover examples of discretionary lenience by the police in that town.

six shillings each, plus costs.[218] These offenders were significantly older than the boys charged with firework offences at Maryport.

It is an interesting example of the use of police discretion that Inspector Grisdale at Maryport used the Explosives Act 1875 (38 & 39 Vict., c17) to deal with fireworks.[219] To use this act was very unusual. Convictions in England under the Explosives Act were too few to require a separate heading in the judicial statistics of that year (PP, 1886). Other acts were available to deal with disorder of this kind, but perhaps Grisdale chose the Explosives Act because of the higher fines available – up to £5; he might have hoped to shock the accused. [220] Nonetheless, the magistrates imposed very light penalties.

Street gambling

Players of pitch and toss could be prosecuted under the Vagrancy Act. [221] Lancashire police were keen to deal with this 'problem' (Clapson 1989, ch.5) but prosecutions were less frequent in Cumbria. In Maryport (1883-88) nine young men and boys were charged with playing pitch and toss in the street (CRO, SCons 4/137 1879-1888), but very few offenders have been found in rural Westmorland.[222] The offences committed in Cumbria were almost all in towns on Sundays. In Kendal, all bar one of the cases found in the local press were on

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[218] This is an example of the police suppressing leisure pursuits that were declining in popularity (Emsley et al. 1991: 88). Slaughter (2002: 193-5) referred to 'the criminalization of custom.'
[219] This was the charge in the 1884 case above. Seven boys were similarly charged in December 1883.
[220] *A Police Constable's Guide* advised that the Town and Police Clauses Act (10 & 11 Vict., c. 89) should be used in such cases (Gregg 1919: 240).
[221] A simple gambling game, played by throwing coins (Chinn 1991: 16, 96-103).
[222] In Appleby two men were convicted for playing the game on a Wednesday (WMG, 2 Apr 1898) At Kirkby Stephen in 1874 two 24 year olds were convicted of playing pitch and toss, no date given for the offence (KRO, WS/Cons 4/10 1874-1888).

Sundays (KM, 12 Sep 1862, 15 Nov 1862, 18 Jul 1863, 5 Mar 1864, 11 Jul 1868, 17 Apr 1869, all p5. WMG, 15 Jul 1871, 14 May 1880, p8). The exception was when twelve men were convicted of playing the game on a Saturday in Fellside (KM, 10 Aug 1861). [223]

The pattern of Sunday policing was the same in the Carlisle district, where it is clear that the police were responding to public concerns: Superintendent Sempill (of the Constabulary) 'said there had been many complaints about lads playing at pitch and toss about the Cemetery, and he caused a watch to be kept' (CP, 9 Apr 1886, p9). In the city, the words of the Mayor made clear that it was seen as a Sunday problem:

The constable … watched the prisoners playing pitch and toss for about a quarter of an hour…. Why did you not stop us, when you knew we were going to commit crime…? (Laughter.) …[they were convicted] *…the Mayor remarking that they were determined to put a stop to the disorder on the Swifts on Sundays (CP, 29 Nov 1889 p2).*

Those charged were often described as boys. The ages of men, if given, tended to be young. In Maryport, the offenders were often miners. The charges were issued because of who committed the offences, where and when, rather than precisely what offences were committed. It was shown in chapter seven how relaxed Cumbrian opinion was on the question of gambling, and yet it was unacceptable to the police that these young men and boys should gamble on the streets or in public on Sundays. The respectable middle classes

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[223] This was a particularly large group, which may have invited more attention from the police. In other cases most of those charged were in groups of two to four.

and employers, if they had been aware of or greatly concerned about street gambling, would have expected the police to deal with it seven days a week, especially on working days, but on Sundays it was working class religious sensibilities (especially the Methodists discussed in chapter seven) that would be most irritated. This is what the police chose to tackle.

Theft by children

Theft was more likely to be treated leniently in rural Westmorland than in Maryport. For example, PC Auburn of Grayrigg received a letter in which Mrs Shaw reported the loss of an umbrella from her carriage. Auburn made enquiries and found that some boys from Kendal had picked up the umbrella and one had tried to sell it. He went to Kendal found the boy, spoke to his mother and retrieved the umbrella. No charges were brought, even though a charge of theft by finding might have been preferred (KRO, WS/Cons 9/1 1886-1889: 26 Sep 1889). More than thirty children in Maryport were charged with stealing vegetables or coal. No child was charged with either of these offences in Kirkby Stephen.[224] It is hard to believe that in twenty five years no child in Kirkby Stephen was caught stealing garden produce. In Maryport, by contrast, trivial pilfering often led to prosecution.

The essential difference between Maryport and the two Kirkbys or Grayrigg is that Maryport was a mining town with a large migrant population, many of whom were of Irish extraction.[225] A typical victim of theft of garden produce was Mr Saunders of Flimby (above: 324), a middle class gentleman living on the outskirts of the town. Farmers too suffered from Maryport child

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[224] The theft of coal would have been far easier in the coal mining districts of Maryport.
[225] The demographic details were considered in chapter four.

thieves. The Maryport police records include sixteen reports from constables detailing thefts of vegetables by children (CRO, SCons 4/77 1884-87). The wording of one report is significant:

> Report of Robbery. Stolen at 6pm 1st September 1886 from a field at Ellenborough the property of Benjamin Wood farmer of Ewanrigg Hall, One turnip Value 1d (recovered) By the person described below who was caught by PC No. 208 Shannon, coming out of the field with the turnip in her possession. The particulars were reported to Mr Benjamin Wood who will take out a summons for next Petty Sessions. Description: Janet Bell, aged 10 years, schoolgirl, Grasslot, Maryport.

When Shannon filed this report, he had little scope for expressing an opinion, but one cannot help but conclude that the word 'Robbery' was hyperbole used for sarcastic effect, to express an opinion that prosecuting a ten year old for stealing one turnip (recovered) is excessive. But Janet's theft was just one of a number of thefts from fields prosecuted that August and September (Janet was fined 5 shillings at the Petty Sessions on 4th September).

At Kirkby Stephen, 1876-1900, there were just eleven children under 16 prosecuted for theft. Most of these were police prosecutions for more serious thefts and larcenies, including an 8 year old pickpocket and four house or shop breakers. There were just two private prosecutions for theft at Kirkby, whereas at Maryport in almost all of the cases children prosecuted for for theft were privately prosecuted. At Kirkby, the child thieves were dealt with more leniently, despite the more serious offences: five were bound over, two not proceeded

with, two given short gaol terms, one birched and one fined ten shillings.[226] The tariff at Maryport for stealing a turnip was a 5 shilling fine.

Maryport was a divided community, the immigrant urban working class at odds with their gardening neighbours and local Cumbrian farmers. The Maryport police were caught between the two and in cases such as Janet Bell's, there was little room to exercise police discretion. The evidence from Westmorland suggests a much more cohesive society in which the policeman's discretion was effective. It is impossible to believe that no turnips were stolen in Kirkby and Grayrigg, but the evidence from the Grayrigg occurrence book sugests that trivial thefts, even the theft of an umbrella, by children could be handled with police discretion.

Young offenders: conclusion

Young men and boys were likely to throw fireworks, steal garden produce, behave offensively or to play pitch and toss in Maryport, Kendal and Kirkby Stephen. The difference in the number of charges in each of these places, the differences in the days when offences were committed, can be explained as differences in discretionary policing. In the more divided community of Maryport, victims of crime such as Saunders and farmer Wood were more likely to demand prosecution, whereas in rural Westmorland PC Scott, PC Auburn and Inspector Armstrong were more likely to be able to negotiate an outcome that avoided the courts. In dealing with problems such as pitch and toss and slonks, the motive force behind this

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[226] John Coates, 14years, farm servant of K Stephen, dwelling house larceny, fined 10/-, 5 Jun 1893.

discretionary action was often the respectable working class attitudes of the police and their communities.

Robust policing

The term robust policing is used by the author to describe the pragmatic approaches used by the police to deal with problems, sometimes by going beyond what was permitted. Robust policing refers to a policeman who was quick to decide that a person needed to be dealt with, and willing to be as forceful or aggressive as he believed the situation required. The euphemism 'taking charge efficiently' has been used to describe this approach (Chan 1996: 121).

The readiness of police to dish out violence has been covered here and in chapter seven. The aspect of robust policing covered here is another application of discretion: the rapid appraisal of persons to identify those who were to be arrested. An important criterion in the policeman's decision to make an arrest was his apprehension of suspicion in the person targeted. The Cumbrian police on occasion arrested persons with little reliable evidence of offending or of intention to offend. Certainly the standard of evidence presented would not have been acceptable in magistrates' courts today.

Sergeant Medcalf, whose reputation as a thief catcher was mentioned above (page 303), was often sent for if problems were reported. When Mary Harrison was seen at the February fair with a 'country man' and was being followed by George Williams, Medcalf was called. At 7pm he followed the two suspects into the Nags Head Yard and arrested them. The evidence of Medcalf and a mill worker was sufficient for the magistrates, even though Williams

remonstrated that it was all wrong: he had a wife and six children. He was sentenced to two months for loitering with intent: the implication was that he was a bully or pimp working with a prostitute (KM, 27 Feb 1880, p7).

In November 1884 Medcalf arrested three suspicious characters, one of whom was Mary Woods. The case against her for 'frequenting with intent to commit a felony' was weak. Medcalf testified that she was in company with two other pickpockets, that she had no business at the fair, had been seen behaving suspiciously and he knew her to be suspicious: these points would, if proven, support a charge of loitering with intent under the Vagrancy Act (Leigh 1975: 95). Woods was a Lancaster woman and claimed she had come to the fair to find a man who had wronged her daughter. She denied knowing the other defendants, whose previous convictions in other places had been proved (KRO, WS/Cons 10/2 1880-1910). Medcalf stated:

> *She was several times at the station, but never offered to go away by any of the trains … He was under the impression that they had had the woman before … the bench sentenced her to a month's imprisonment – Woods: Good God Almighty! Sending me away for a month for nothing! – Defendant was sent away making a great noise. (WMG, 15 Nov 1884 p5)*

Being 'under the impression' that they had seen her before was very unreliable evidence of previous convictions; one could hardly say that the conviction was safe. Mary Woods was not alone with her grievance. James Johnston was arrested at Appleby for loitering with intent. PC Stephenson gave evidence that Johnston was acting suspiciously on two occasions. Not

only was there no accusation of theft or attempted theft, the accused had a genuine pedlar's certificate to support his claim that he was selling things at the fair, there was no other witness to support the policeman's opinion and no evidence of previous convictions. Johnston argued his case strongly but was sentenced to ten days (WTPS/A 1851-1903: 2 Oct 1880).

In most cases it is impossible to guess why the policeman thought the person arrested was suspicious, but one striking case from Kendal stands out. Thomas Johnson, an American sailor, had been caught at midnight by Medcalf, who said in court that he saw the prisoner come out of a yard and try the doors of two shops. Medcalf took Johnson into custody, but he broke away and ran down to Aynam Road, where PC Goad caught him. Goad told the court that he too had seen Johnson trying doors. When Goad had seen Johnson earlier in the day, he told Goad he was looking for somewhere to sleep, so he directed him to Troughton's Lodging House. Johnson paid for and was given a bed by the assistant, but later that evening he was turned out by the proprietor. The two policemen's evidence was more than enough. Seen acting suspiciously by two policemen, at different times, in two different places, and attempting to run away, Johnson was convicted of frequenting with intent to commit a felony (WMG, 25 Jun 1892; p5).

As related here, the narrative is difficult to understand. Why had Johnson been ejected from the lodging house, when he had already paid? If he had been drunk, or troublesome, or had stolen something he could have been charged with that offence. The police photo book added a detail which is missing from the written narrative. His mug-shot shows that Johnson was an African American (KRO, WS/Cons 10/2 1880-1910). Although impossible to prove, it seems likely that the colour of Johnson's skin marked him as suspicious in Victorian Kendal,

and may have led to his ejection by the proprietor of the lodging house and his arrest that

night. However, there were limits to the magistrates' willingness to convict upon the word of

the policeman. In 1876, at 10pm on November 11th, Sergeant Hutchinson arrested a navvy,

James Laurence ('character: suspicious') on a charge of theft. Laurence had in his

possession several items of women's clothing, 'the property of some person unknown'. For

Hutchinson, this was suspicious and merited arrest, but the magistrates dismissed the charge

(KRO, WS/Cons 4/1: 12 Nov 1876).

Maintaining order

Laurence was arrested because he seemed suspicious, rather than for an offence he was

known to have committed. Hutchinson was acting here as 'a privileged interpreter of signs',

albeit unsuccessfully on this occasion (Puchner 2007: 182). One may draw a parallel with

present day ideas about 'zero-tolerance' policing, in which the targets were not engaged in

activities that were *per se* illegal, but were suspicious (Giuliani 2003: 41-3). The term 'police

property' has been used in contemporary studies to describe the targets of police intervention

(Choongh 1997: 50; Holdaway 1983: 86-9). Police clean up the streets by repressing 'sub-

criminal' behaviour (Wacquant 2008: 262).

In Cumbria, the police dealt with their targets by using the vagrancy laws, or the Explosives

Act, or by accusing them of disorderly conduct. For example, the Grayrigg constable arrested

Benson for sleeping rough, the Constabulary arrested prize-fighters at Tebay for breach of

the peace, Appleby police arrested Johnston and Kendal police arrested Johnson for

loitering. When the Maryport police charged young men who played pitch and toss, they were

bringing 'meaningless charges' against those who were considered suspicious (Harcourt 2001: 128). Police were 'criminalizing relatively innocuous behaviours' (Sousa 2010: 46-7) and arresting people not for what they were actually doing, but for being suspicious. These were charges that depended upon the discretion of the police constable, who might have ignored the offence, or warned the offender. The paradox of order maintenance policing is that although it may start as a top-down directive, it requires the highest level of discretion, and thereby empowers the constable (Wilson 1978: 85) . [227]

Sousa, in his research with New York police, found that officers regularly used their discretion to avoid arresting offenders (despite the policy often being described as zero-tolerance). One officer explained the decision not to arrest a rough sleeper with the words 'The "homeless" enforcement is not meant for him – it's meant for assholes.' (Sousa 2010: 53) It has been shown that the Grayrigg constable regularly ignored rough sleepers in lime kilns, he may have used a similar thought to rationalise his decision to ignore them. Kelling and Wilson observed that beat officers distinguished between 'regulars' (locals) and 'strangers' or off-comers, to use the Cumbrian term (Kelling and Wilson 1982: 2). The distinction was refined further by identifying the orderly and disorderly. One can observe a similar pattern in the Cumbrian police.

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[227] Dunne issued many top-down directives, especially regarding vagrants. This is covered in chapters six to eight.

Table 9.2   Hypothesising the Cumbrian police view of the public

Adapted from Harcourt (2001: 25).

	LOCALS	OFF-COMERS
ORDERLY	Respectable people of all classes	Visitors (character unknown)
DISORDERLY	Local drunks, 'slonks' and nuisances. Cock-fighters, brawlers, ranting street preachers, fireworks etc.	Criminals and vagrants: prize-fighters, card sharps, pick-pockets

A general prejudice against off-comers was revealed in the concerns about the railway which, according to Wordsworth, Ruskin and others, would bring the disorderly to the Lake District. The railway stations were regularly watched by police for suspicious visitors (see chapters four and eight). The railway was used by wrong-doers, as in the Netherby case, but many of those arrested after being observed at the station were detained before they had actually stolen anything.

There were in Victorian Cumbria both disorderly locals and disorderly off-comers. Disorderly off-comers were potentially the most dangerous category as far as the police were concerned. Local cock-fighters were treated far more favourably than the prize-fighters, itinerant beggars were far more likely to be gaoled than local beggars (see chapters six and seven). Disorder and crime were not seen as separate phenomena, but were considered as all of a piece. The obvious presence of loud or obnoxious persons caused them to be prioritised as problems by the public (Gau and Pratt 2008: 183), whereas (according to the narratives in the local press and the occurrence books) serious criminals who dissimulated

their true nature were spotted thanks to the professional diligence of men such as Kitchen, Medcalf and the men who attempted to stop the Netherby burglars.

Criticisms of order maintenance policing for its 'false promise' (Gau and Pratt 2008, Harcourt 2001; Thacher 2004) are not relevant in an historical study, but the criticisms do help us to understand the implicit assumptions upon which the Cumbrian police operated. Thacher concluded that the effectiveness of order maintenance policing could best be explored in the thick description that would emerge from an ethnographic study: this is what has been aimed at in this study (Thacher 2004:411-4). Order maintenance policing is based upon 'an uncritical dichotomy between disorderly people and law abiders' and 'fails to explore how policing itself shapes the categories of law abider and disorderly' (Harcourt 2001: 7). The policies and actions of the police in Victorian Cumbria bear out Harcourt's criticism. The Cumbrian police were defining and creating categories of offender, the most obvious being the slonks and vagrants, or more precisely persons arrested on vagrancy charges. Police actions were not subject to any clear scrutiny, neither within the police force nor by the public at large, so they could act against youthful miners playing pitch and toss, and slonks who were loitering in the streets on Sunday afternoons.

Summary

This chapter has explored the differences between the expectations of the public and those who were in charge of policing, and has shown how discretionary policing was effected within this context in Victorian Cumbria. The public expected the police to satisfy their needs and desire for a liveable environment (Tilley 2008: 21). This is apparent in the correspondence

from Maryport police station, particularly in the implications of Mr Saunders' letter of complaint about his peas and in the 'turnip robbery' report.[228]

It has been shown how police were criticised, disciplined or taken to court for what the public or those in command saw as the failings, errors or misdemeanours of the police. The police were praised for their actions in dealing with crime, whether it was serious, like the Netherby murders, or relatively trivial such as pickpocketing. In tackling these problems the police developed professional skills which aimed to pre-empt problems by identifying and arresting persons whom they decided were suspicious. Some policemen were determined in their dealings with supposed offenders, but these forms of robust policing did not attract significant disapproval from the public, their superiors or from the magistracy.

Without using the term, the Cumbrian police were using the methodology of order maintenance policing. Although some present day experts have extrapolated from order maintenance to zero tolerance policing, which implies a limitation on police discretion, in Victorian Cumbria order maintenance was entirely within the discretion of the men on the ground, the constables and sergeants of Kirkby Stephen, Kendal, Maryport and Grayrigg. This was the point at which the humble policeman deployed his own cultural values and experience to determine what policing was in Victorian Cumbria.

o The Policing of Petty Crime in Victorian Cumbria

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[228] Similar complaints have been mentioned; from Kendal, Appleby and Grayrigg (Chapter seven and this chapter).

The Policing of Petty Crime in Victorian Cumbria

Chapter ten: Conclusion

Validity

The contribution of this thesis to the historiography of policing is its detailed analysis of the role of the humble policeman. Other studies have considered the importance of the role of the ordinary policeman in the regulation of everyday life. A few of these studies have been based upon rural areas. However, none of these studies has focused in such detail upon the execution of the policeman's work in the most mundane of situations, nor has any study been of such a thinly populated and distinct region as Cumbria. The choice of Cumbria for this study is validated by the region's economic stability and its reputation for traditional and stability, which encouraged the idea that Cumbria was threatened by outsiders. The idea of this 'imagined community' shaped policing (chapter 4). Many historians have been concerned with the praxis of policing, that is, with how things were done, but this study has found no historian of policing who offers a model of how praxis developed and functioned. This study has drawn upon structuration theory in order to explain how the discretion of the ordinary police officer has always been crucial in the shaping of the practices of policing. Thereby it has been possible to relate mundane or 'low-policing' (Brodeur 1983) to the formation of the Victorian state, which was represented on the lanes of Cumbria by the humble police constable. This study has focused upon the trivial misdemeanours dealt with by the criminal justice system, such as drink related offences, vagrancy, petty theft and street disorder. These were the cases that were most likely to affect ordinary Cumbrians, whether they were

victims, offenders or merely affronted bystanders. Dealing with these offences, or watching for them while on patrol formed the main part of the constable's work, as is clear from the records of the Grayrigg constable (chapter 9). Serious offences like rape, murder and manslaughter have only been visited insofar as they inform us of the everyday processes of policing. This is exemplified by cases such as the killing of PC Groves and the murder committed by the Netherby burglars.

This conclusion first reviews how the theoretical framework of structuration has succeeded as a model for Victorian policing: it explains how police discretion concurs with structuration's resolution of the dilemma of agency versus structure, and how police discretion can be squared with state formation. The conclusion moves on to draw together several strands of the study to review its analysis of change and professionalism. This leads to the myth of a 'golden age' of policing, the bases of which this study has successfully challenged. The conclusion presented is that the myth relies upon a very selective reading of the history. Finally, this chapter considers areas of interest which arise from this study, and how these suggest further research which could be valuable.

Theoretical framework: agency versus structure

Throughout this study, the work of low-ranking policemen has been prioritised to explain how the ordinary men influenced the emerging systems of the criminal justice system. However, those in charge strove to impose a structure upon police forces. The Watch Committees and Chief Constable issued orders and directives to tell the men what to do, but there were other less specific demands made of them by magistrates and the public. The narrative of this thesis has examined points of agreement and disagreement, of convergence and divergence

between the men and their superiors, between the Chief Constable and the magistrates, and between the public and the police. Praxis emerged from this negotiation.

Structuration theory has enabled this thesis to reconcile the agency/structure dilemma. The Cumbrian evidence, particularly in chapter six, establishes that police were not free agents, nor were they the mindless tools of a system. The police in Cumbria were men who had an agenda, who had ideas of what should be done and how to do it, as is proved in chapters seven to nine, but they operated in a hierarchy that extended beyond the Chief Constable: they also served the public and dealt with offenders who themselves had points of view and some power to act. This study has concluded that structuration is the approach that offers the best theoretical explanation of the development of policing in Cumbria. Throughout, the empirical data presented in this study reveal the praxis of policing taking shape and being reshaped. This study has looked at the minutiae of policing, which has allowed an insight into the 'nuts and bolts' of the work, so that it has been possible to see structuration functioning in events like the killing of Groves in Kendal. This case showed several parties could take an active part in the development of the praxis: the Salvation Army, the street roughs, the Councillors, the county elites as well as the police themselves. The policing of vagrancy showed how the input of the Chief Constable was less significant than he might have wished, for outcomes depended upon local factors, including the cultures of the places policed, police interpretation or wilful disregard of instructions, and the evasions and tactics of the vagrants. The policing of vegetable thefts in Maryport showed how police were constrained to act at times in ways that they may not have liked, whereas at the fairs policemen were able to use their discretion to permit or ignore customary drinking practices that would not have been tolerated in other circumstances. There is some evidence that police were able to mete out

summary justice at the fairs. The Occurrence Books gave examples of how a policeman, like Sergeant Hutchinson writing about the drunken farmer Raw, could endeavour to impose his opinion by using the bureaucratic mechanisms of the force. All of these are examples of the complex structuration of policing in Cumbria, from which the praxis of policing emerged.

Themes

Structuration offers a theoretical model for reconciling the divergent themes of this study. The key themes of this study have been implicit throughout, and explicit in some chapters. They include state formation, bureaucracy, police discretion, culture and petty offending. These are not hermetic categories. Each item is implicated in the others, but structuration theory, which can encompass historical change, allows these elements to be drawn together in a diachronic study. The analysis of these themes permits the testing of the idea of a golden age of policing.

State formation, bureaucracy and police discretion.

This study has demonstrated that the role of policemen was vital in the systematic management of law and order in Victorian Cumbria. In this they contributed significantly to the process of state formation. The praxis of policing was central to how the wishes of Parliament, government, magistrates, gentry and people were satisfied at street level. The bureaucratic processes of the police reveal the systematisation of the management of law and order. Police bureaucracy, which provided many of the primary sources introduced in chapter three, represented the structure of policing which, using Giddens' phrase (page 37

above) delineated the authoritative resources of the police. Bureaucracy empowered the men.235

Police discretion is a central component of the praxis of policing. Chapters seven, eight and nine made it clear how the discretionary actions of the men contributed to the outcome of incidents such as the killing of PC Groves. Discretion largely determined the management of vagrants in rural Westmorland and significantly shaped the handling of pickpockets and offenders at the fairs. It also resulted in some orders, e.g., on 'scorchers', being less diligently carried out.

Culture and petty offending

Local cultures and petty offending were the areas where policing was likely to impinge most upon the lives of humble Cumbrians, whether they were victims or criminals, drunks or temperance advocates, vegetable thieves or farmers, cock-fighters or Methodists. Culture is central to this study. Chapter five demonstrated how state formation was culturally informed: the policeman used his discretion, as has been demonstrated in several chapters where the policing of fairs, drunks, vagrants, pickpockets et al. constitutes the narrative. The offence, and the reaction to it by police, public and courts, was culturally defined. This statement increases in validity as the offences become more trivial. The reaction of the offender to

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235 The bureaucratic systems of the Cumbrian police were examined in chapter six. The 'top down' control of the police was examined in chapter five.

police action was also culturally defined, and this reaction in turn contributed to the structuration of policing: this is most evident in the killing of Groves. Because the systematisation of the management of crime was built upon the myriad small deeds of many policemen, victims and offenders, the cultural milieu of the men and of those whom they policed was key in the structuration of policing. The cultural roots of policing in Cumbria were analysed in detail in chapter seven, but are apparent throughout the narratives of this study. The distinctive features of Cumbrian working class culture,[236] for example in sport and religion, played an important part in shaping the policing of the region, which is most readily observed at the micro-level. Examples presented in this study include the differences in the policing of drinking and vagrancy in Kirkby Stephen and Kirkby Lonsdale, the contrast between the uncontested rigour of the policing of prize-fighting compared with the difficulties encountered in dealing with cock-fights, the toleration of gambling at wrestling and other sporting events contrasted with the strict policing of young men playing with coins on Sundays, the policing of cruelty to animals by the middle class RSPCA rather than the police force, police toleration of disorderly drunkenness at the fairs contrasted with the stricter enforcement in the nearby towns, and the acceptance of violence used towards and by the police.

The five themes of state formation, bureaucracy, police discretion, culture and petty offending are linked together here in order to understand their relation with the structuration of policing.

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[236] These features were not exclusive to the Cumbrian working class.

Diagram 10.1   **A model to represent the structuration of policing in the 19th Century**
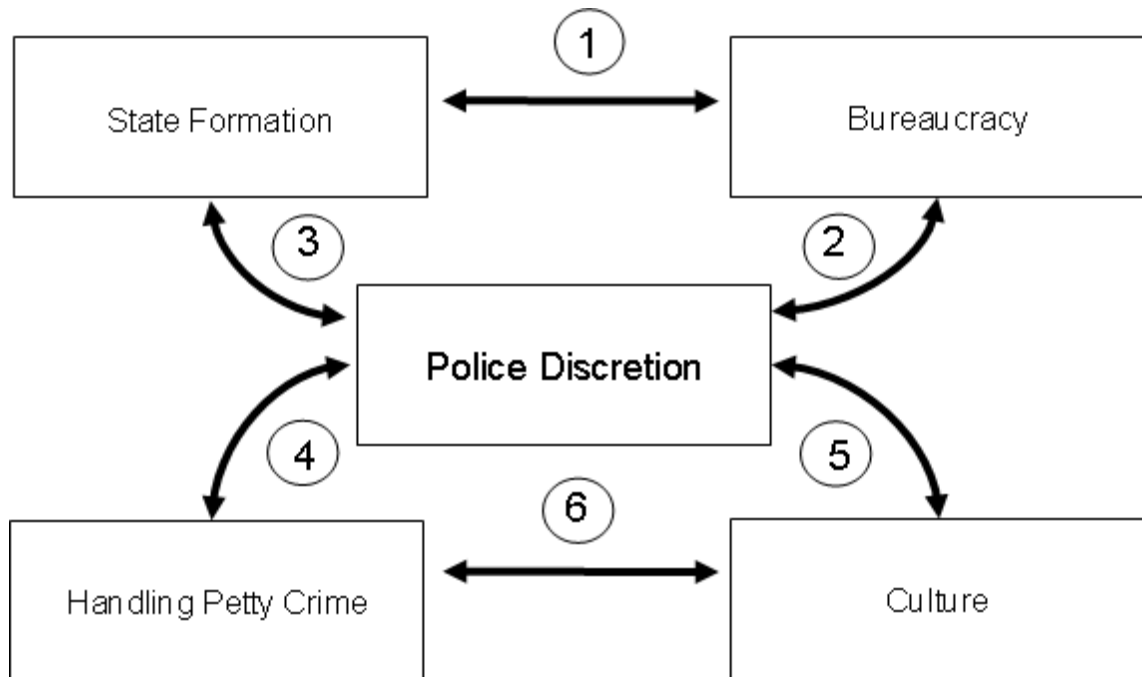
The diagram represents how the themes interact with each other. For example:

1. Bureaucratic technologies created the potential to advance the process of state formation. The organs of state deployed these technologies to achieve their purposes.

2. The police were tools and agents of the bureaucracy, which defined what they could do. However, insofar as the police managed the technologies of bureaucracy, the police shaped and controlled the bureaucracy.

3. The organs of the state, in all their diversity, created the police in order to extend the power of the state. Some discretionary power was handed to the police, who were thereby able to manipulate the process: they themselves were part of the diverse state.

4. The police systematised the management of crime and became the experts who defined crime and criminals. Offenders themselves manipulated and exploited situations to evade the actions of the police.

5. Local cultures shaped and influenced police opinions. The practicalities of policing influenced the cultural possibilities: cock-fighting, betting, begging, violence et al.

6. Crime tested the limits, defined what was unacceptable. Culture defined crime, for example, in advancing new standards in activities like drinking.

This thesis demonstrates that police discretion played an important role in the structuration of policing. Diagram 10.1 situates police discretion at the heart of this process. Every act was managed, controlled, delivered, negotiated or promoted through police discretion.

Change and bureaucracy

Change is a key component of several chapters, but has not been exhaustively handled in any single one. It is a problematic issue because of the significant continuities in this study, i.e. the relative stability of parts of Cumbria and the presence of John Dunne as Chief Constable for over forty years. The economic and social stability of Cumbria has been covered in chapters four, seven and eight. Nonetheless important changes and their impact on policing have been referenced, including the presence of navvies, the impact of the

railways upon the fairs and upon Cumbrian identity, migrants, growing tourism, and shifting

cultural attitudes in the context of temperance, religion and leisure. These chapters have

discussed the impact of these changes upon policing. Part of the narrative of change is the

developing professionalism of the police. Several examples illustrate the point. The police

were increasingly effective in dealing with suspicious persons. This could be presented as a

criticism of what this thesis has termed 'robust policing', but from the perspective of a

Cumbrian policeman of 1900, it might have been seen as increasing efficiency. The evidence

is qualitative. Cases such as Harriet Metcalfe exemplified the problems the police faced in

securing a conviction in the 1850s, but the arrests of George Cohen, Patrick Jenkins and

Cock-Eyed Billy illustrated how the police had developed the skills and abilities needed to

intercede at the right moment.

Professionalism was apparent in police willingness to accept responsibility for dealing with

crime. This is exemplified in the case of the robbery near Maryport (later shown to be a false

claim) which had not been reported to the police. Grisdale and Bell both acted expeditiously

to solve the puzzle of the unreported felony pages 300-1). Police prosecutions increased as

private prosecutions declined (page 322). The change showed again police willingness to act,

and may be taken as a proxy for the acceptance by the public of the police role.

Lax control and monitoring of policemen in the early years allowed the serious indiscretions of

Henshall and Charlton White, but this contrasts with the praise heaped upon Hutchinson (of

Low Row, p185-6), Kitchen and Medcalf in later years. It may be that indiscretions continued,

but they failed to appear in the press. Whatever the explanation, one may interpret this as

increasing professionalism. Either the police were working to a higher moral standard, or they were better at controlling their public image.[237]

A professional engagement with new technology was evident in the use of the ha'penny post, the telegraph, photography, letter copiers and bicycles were all deployed by the Cumbrian police. Despite the region's remoteness, Cumbrian policing was familiar with current developments.

The golden age?

If there was a golden age of policing in the first half of the twentieth century, its roots must have been in the nineteenth. The Cumbrian police, by 1900, generally seemed to satisfy the demands of their superiors, usually received a good press, addressed the concerns of the public, pre-empted problems by targeting those identified as suspicious and provided a public service which was used by all ranks of society. These points could be taken as a template for the 'golden age', as adumbrated in Herbert's assertion (chapter one) of the purpose of the PCC elections. However, these were matters of perception rather than quantifiable fact. The idea of a golden age was built on an imagined reality or myth: its power is drawn from the potency of the myth, which was itself to some extent the creation of the men in the police. The idea of a golden age is a retrospective creation, a cosy view that drew upon a belief that the work of the police was consensual, professional and effective. By emphasising these positives, writers such as Lee (1901), Griffiths (1901), Reith (1943) and

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[237] 'Image management' is also apparent in the Netherby burglary case, the reporting of which was very positive about the role of the police, though the critical reader can find serious shortcomings in their actions. (CRO SCons 3/1/1 1885; Griffiths 1901: 144-9).

Ascoli (1979) built a resilient myth which has served as an inspiration or totemic role model for politicians who seek to reform public services.

A useful myth must draw upon some truths. One can find evidence in this study to support the narrative of a benign, popular and efficient police. For example, Grisdale assisting the public at Maryport, Kitchen spotting and arresting burglars at Kendal, police at the fairs arresting pickpockets and card sharpers in order to protect farmers and naïve young farm labourers who were enjoying a day out, and Medcalf bravely carrying out his duty whatever the odds. However, this is a partial reading. An alternative narrative might make a quite different selection from the evidence in this study: policemen assaulting a drunk, picking on strangers for no obvious criminal offence, Hutchinson charging a vagrant who claimed relief when he had just one penny, Kendal police mishandling the arrest of drunk with fatal consequences, a gang of murderous burglars who slipped through police hands, and police struggling to enforce the law on cock-fighting in the face of local intransigence. [238] These are not examples of consensual policing that would be acceptable today.

Police failings did not attract much attention, because those on the receiving end were often outsiders who enjoyed little sympathy in the local press, and the magistrates in court usually showed complete confidence in the reliability of the police. No golden age grew out of the

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238 There were even more egregious examples of police failures, for example in the cases of Cornthwaite and Charlton White, but these were generally regarded as unacceptable.

systems and cultures of policing that had evolved or had been developed by the end of the nineteenth century. The police who were supposed to have created it were, in absolute terms, neither good nor bad, generally neither efficient nor incompetent, neither malign nor benign, neither esteemed not loathed by the public, but policing was the outcome of a process of structuration. The emergent praxis was the result of the negotiation or interaction of many persons, each aiming for ontological security by achieving their preferred outcomes. For example, at the fair a farmer may have demanded the elimination of pickpockets; a card sharper may have planned to exploit police inattention; the police, in plain clothes, may have been confident in their ability to spot and arrest their targets before they offended; the Primitive Methodist was probably sure that he/she was doing God's work in promoting temperance. They could not all be satisfied. The ordinary policemen were at the centre of this negotiation. This study shows that the negotiation was a messy process, but posterity has received a benign image.

Further research

There are potential areas for investigation to which this study has not given much space. This is in part because the focus has been upon issues that forefront the dominant cultures of the nineteenth century working class. For example, police work was a male-centred universe where the pre-eminence of masculine cultures was accepted without reflection, so that women, who were a very subordinated category in this world view, have rarely featured. Another example is that a narrative of unanimity within the police has been presented: the focus has been upon the habitus of policing, with little attempt to differentiate the actions of sergeants, inspectors and superintendents. These are both simplifications which another study, with a different focus, might address.

This study has touched upon issues which expose some shortcomings in current historiography. For example, the place of religion and the temperance movement in plebeian culture has been under-represented in many histories.[239] This study has revealed through its examination of cock-fighting that changes in attitudes towards blood sports were not straightforward and linear in their progress. Vagrancy has received little attention in historical research (chapter nine), but the focus of this study upon the most trivial offences and the least valued offenders has revealed how the police and police systems worked and has exposed the compromises which were necessarily made by the policemen working at street level.

A diachronic study of particular offenders' careers could analyse how, or to what extent, the police created offenders. People like Joseph Miller (chapter eight) would be suitable; there are many like him who feature regularly without ever being convicted for a serious offence.[240] These points indicate possibly rewarding areas for further micro-historical research.

The most striking and innovative feature of this study has been its successful application of structuration theory to a historical study. This achievement is valuable and could be applied

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239 For example, Savage and Miles (1994) do not refer to temperance, Methodism or the Salvation Army. Hopkins' (1979) only coverage of religion was to state that the 1851 religious census showed a decline in church attendance. This study has been able to contribute to the work of McLeod (1993, 1994), Hempton (1996), Nash (2004. in redressing the balance.

240 This idea draws upon the work of Godfrey et al. (2007, 2010) and would take a quite different direction from this work by looking at the product of discretionary policing, rather than its aim or rationale.

to other areas. The nineteenth century is an apt period, for it offers a growth of bureaucratic agencies and detailed records that allow the micro-historical approach. The methodology of this study could be applied to other areas which generated lively debate. For example, a study of the growth in public education provision in the nineteenth century, in which the diverse interests of many groups had to be reconciled to achieve what was generally accepted as a public good.

Summary

This work concludes that ordinary policemen played a crucial role in the formation of the Victorian state. Although an individual policeman may have been insignificant, collectively policemen helped define the state. The actions of Cumbrian policemen were informed by the local and distinct working class cultures of Cumbria. Moreover, because their role depended upon the exercise of discretion, the men were able to shape and influence the development of policing: policemen had a significant input into the praxis of policing. Structuration theory explains how this process operated. The police were not simply the tools of a system over which they had no control, nor were they, individually or collectively, free to act as they wished. The power the police exercised was negotiated with the public, with those in charge of the police, and with the offenders themselves. From this negotiation of power, which was implicit in the structuration of policing, emerged a functional and fairly professional system of policing. Although today, in a less sanguine age, the methods of men such as George Medcalf might be deemed less satisfactory, by end of the century the policing system was used and generally accepted by the public. The system was not perfect, but nonetheless
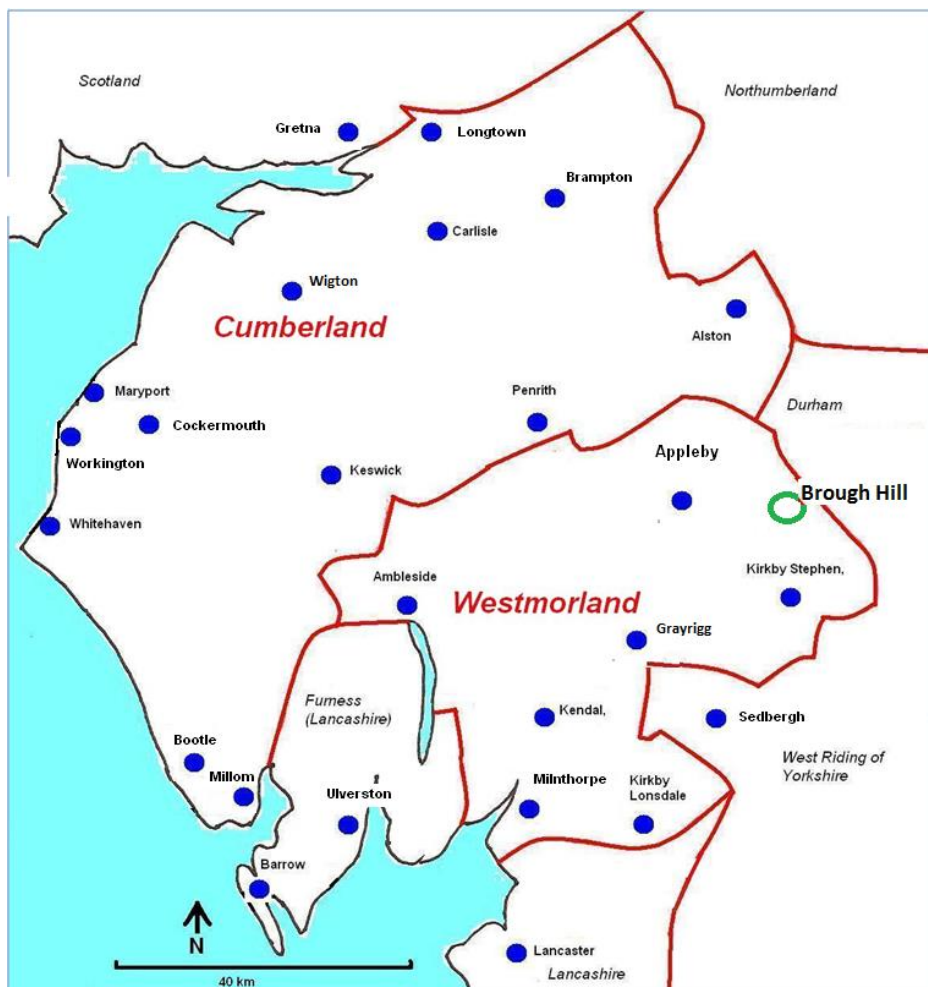
became mythologized as a 'golden age' of policing. This study has provided the evidence to

challenge the use of the term by policy makers and politicians today.

The Policing of Petty Crime in Victorian Cumbria

Appendices

Appendix A: Victorian Cumbria

Map A.1   Cumberland and Westmorland: Victorian boundaries

Table A.2 Population, Cumbria, 1851 -1911

	1851	1871	1891	1911
Westmorland	58387	65005	66098	63575
East Ward (inc. Appleby, K Stephen, Warcop)	13660	16938[241]	13727	12887
Kirkby Stephen parish	5384	7160	5574	4504
Warcop parish[242]	737	813	653	604
Appleby town[243]	1452	1680	1235	1736[244]
Kendal town	11516	13697	14894	14033
Kirkby Lonsdale[245](parish)	3951	4079	3970[246]	3446
Windermere/Bowness	2085	3478	4613	5147
Cumberland	195492	220253	266549	265746
Carlisle city	26310	31049	39176	46420
Whitehaven town	14190	18446	19236	21488
Maryport town	11887	15719	21349[247]	19686
Workington town	9695	13789	23749	25092
Keswick union	6502	6414	8160	7365
Penrith union	11016	12111	12329	12167
Alston parish	6816	5860	3384	3075

(PP, 1851,1861,1862,1871,1872a,1881,1883,1893,1903,1911,1912)

[241] The figures for 1871 were temporarily boosted by the presence of navvies constructing railways lines.

[242] Data from Shepherd (2003: 27) and the 1911 Census.

[243] Data from Shepherd (2003: 27).

[244] An increase in part the result of changes in the boundaries of the borough.

[245] The town of Kirkby itself had, in 1881, population of approximately 1500.

[246] The population of K Lonsdale was temporarily inflated by the presence of navvies building the Thirlmere Aqueduct, c1885-1894.

[247] Peaked during the construction of the docks in 1880 (Jackson and Jackson n.d.).

Appendix B: Prosecutions at Kirkby Stephen

Chart B.1   Police and Private Prosecutions at Kirkby Stephen Petty Sessions.

Prosecutions at Kirkby Stephen Petty Sessions, 1874-1900
Trend lines added for police and private prosecutions.
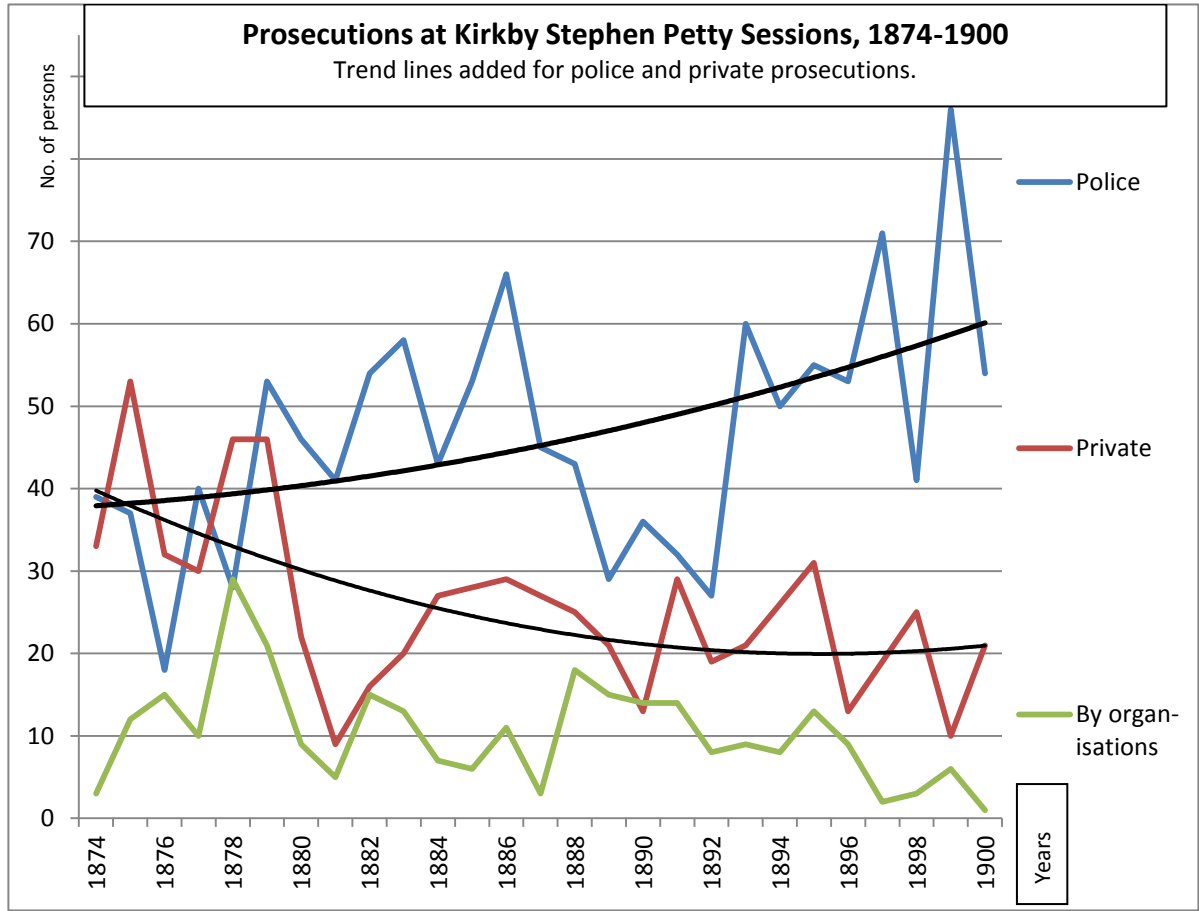
Organisations: School board, the Board of Guardians, the RSPCA, the River Eden

Conservancy Board (poaching), and Customs and Excise. The sources used are Charge

Books and Petty Sessions Registers, detailed in chapter three.

Chart B.2   Number of drink related charges brought by Kirkby Stephen police per annum, 1874-1900.
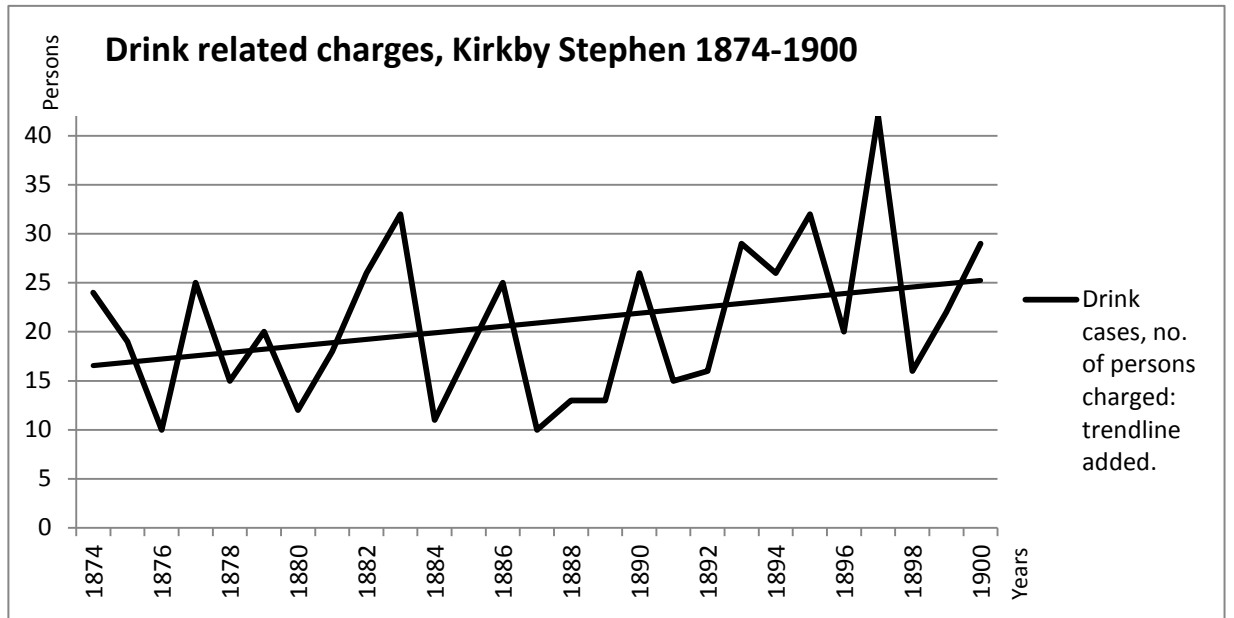
Drink related charges, Kirkby Stephen 1874-1900

Persons (y-axis), Years (x-axis)

Drink cases, no. of persons charged: trendline added.

Table B.3   Persons charged with licensing offences in Kirkby Stephen and Kirkby Lonsdale, 1897 – 1900

On licensed premises after hours, refusing to leave licensed premises, serving drinks after hours.

	Kirkby Stephen	**Kirkby Lonsdale**
Charged	37 persons, of whom 8 were innkeepers (14 separate incidents)	2 persons, both innkeepers (2 separate incidents)
Cases dismissed	15 persons, of whom 4 were innkeepers	None

Appendix C: Kirkby Stephen and Kirkby Lonsdale.

Table C.1 Kirkby Lonsdale and Stephen, population 1851 -1911

	1851	**1871**	**1891**	**1901**
Kirkby Lonsdale (town)	1675	1766	1802	1638
K. Lonsdale[248](Parish)	3951	4079	3970[249]	3446
K. Stephen (town)	1439	1871	1713	1656
K. Stephen (Parish, Brough, Stainmore & Warcop)	5384	7160[250]	5574	5246

(Sources used listed in appendix A)

The two towns were similar in many ways. They were in the same county, policed by the

same constabulary and were similar in size. Both places had railway stations, though Kirkby

Stephen was better served. The Lune is very difficult to ford, and the bridge at Kirkby

Lonsdale was the only one for many miles. The Eden at Kirkby Stephen had several bridges

and can be forded readily in normal conditions.

Both towns were market towns serving agriculture, which was very similar in both places.

Kirkby Stephen had a quarry, employing many labourers, less than two kilometres from the

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[248] The parish of Kirkby Lonsdale is geographically large, incorporating several townships. K Lonsdale Parish and K Stephen Union covered approximately the same district as the police stations.
[249] The population of K Lonsdale was temporarily inflated by the presence of navvies building the Thirlmere Aqueduct, c1885-1894.
[250] The figures for 1871 were temporarily boosted by the presence of navvies constructing the Settle Carlisle line through Kirkby Stephen.

town centre. Kirkby Lonsdale was already on the 'tourist route' in the 19th century, having featured in a famous Turner watercolour, the location of which was praised by Ruskin who said 'I do not know in all my own country, still less in France or Italy, a place more naturally divine.' (Kennedy 2011) Kirkby Stephen was at the centre of a strongly Methodist and Temperance district. By 1885, there were three temperance inns in Appleby, four in Kirkby Stephen, one in Brough. Kirkby Stephen had four Bands of Hope (children's temperance clubs), a Rechabite (Temperance) Friendly Society and a Temperance Hall. There was, in the town, an annual 'Temperance Demonstration' which grew steadily every year. In 1880, there were 3000 children present, eight brass bands, gymnasts, Highland pipers, juvenile dancers, and 3,300 people marched. These gatherings continued up until the 1990s (Shepherd 2003).

Kirkby Lonsdale did not have a temperance hall, nor a temperance inn, nor a Primitive Methodist congregation. The town did have one Band of Hope and a Church of England Temperance Society, and a small Rechabite friendly society (KRO WDSO 134/4, c1880 – 1914). Kirkby Lonsdale had, according to Bulmer's directory, attracted many wealthy families, and there were two schools for servants in the parish with more than a hundred places (KRO WDSO 134/4 c1880 - 1914, Bulmer 1885:660-8).

There were significant differences in the policing of each town.

Table C.2   Arrests and Summonses by the police, Kirkby Stephen and Kirkby Lonsdale

Kirkby Stephen and Kirkby Lonsdale, Jan 1893 to December 1900, shown as totals and expressed as a rate per 1000 of population (1901 census). Data from Charge Books; see Chapter 3.

	KIRKBY STEPHEN	KIRKBY LONSDALE
POPULATION IN 1901	5246	3446
ALL OFFENDERS	Total: 680 Per 1000 of pop. 129.6 Annualised figure: 16.2	375 108.8 13.6

LOCAL OFFENDERS	Total: 411
	Per 1000 of pop.: 78.3
	Annualised figure: 9.8
		182
		  52.8
		    6.6

OFF-COMERS	Total: 111 As % of offenders: 16.3	193 51.5

DRINK OFFENCES	Total: 216
	Per 1000 of pop.: 41.2
	Annualised figure: 4.8
		62
		  18.0
		    2.2

VAGRANCY OFFENCES (BEGGING AND SLEEPING ROUGH)	Total: 73 Annualised figure: 9.1	162 20.3
THEFT	Total: 53 Per 1000 of pop.: 10.1 Annualised figure: 1.2	11 3.2 0.4

Appendix D: Policing a cock-fight and a prize-fight

Both occurred near Kendal, were tackled by the police, and were prosecuted in the town.

	COCK-FIGHT AT CUNSWICK:1½ MILES FROM KENDAL TOWN	PRIZE-FIGHT AT GRAYRIGG:6 MILES FROM KENDAL
Date	16 May 1864	5 Feb 1867
Charge	Cruelty to animals, heard at Police court, Kendal	Breach of the peace, heard at Police court & Quarter Sessions, Kendal.
Defendants	*John Troughton* *Joseph Harrison* *William Wilkinson* *James Dixon*, Kendalians	*John Rooke*, publican, *Henry Allen*, gunsmith, both from Manchester
Justices at the Police Court	*G Wilson, W Wilson* *W.H.Wakefield, J Harrison,* *A.Shepherd, A Argles*	*G Wilson, W Wilson, W.H.Wakefield,* *J Harrison, J.Whitwell, E.Harrison,* *A Argles*
Police at the incident	*Superintendent Hibberd* and 2 PCs, from Kendal Boro'	*Sergeant Hoggarth* and 3 PCs from Kendal Boro'. *Superintendents Carson (Penrith),* *Taylor (Carlisle)* *Inspector Spencer (Shap)* And several PCs from Penrith
Police present in court	*Superintendent Hibberd* *PC Currie* (Kendal Boro' police)	*Chief Constable Dunne* *Superintendent Hibberd* *PC Currie* At Quarter Sessions: *PC Curry* (sic) & *Supt. Carson*
Behaviour of accused	They were surprised and did not escape, though others did. The four accused were defiant, obstructive and aggressive.	Attempted to run, but otherwise peaceful, compliant and cooperative. *Jem Mace*, the promoter, got away.
Outcome	*Troughton & Harrison*, case dismissed. *Wilkinson & Dixon*, acquitted	Referred to Quarter Sessions, Guilty, *Rooke* 3 months, *Allen,* 1 month.
sources	WMG 4 Jun 1884, p5	KM 2 Mar 1867, p5 WMG 2 Mar 1867, p5 KM 13 Apr 1867,p3

Appendix E: The work of a policeman

Table E.1   Charges brought against the young: Maryport and Kirkby Stephen

DATA FROM CHARGE BOOKS	TOTAL OFFENCES	YOUNG PERSONS (UNDER 16)
Kirkby Stephen, 1876-1900	2234	33
Maryport, 1883-1888	2476	133

(KRO WS/Cons 4/11 1888-1915, KRO WS/Cons 4/10 1874-1888, CRO SCons 4/137 1879-1888)

Table E.2[251] Charges brought by each policeman in Kendal in the year 1880.
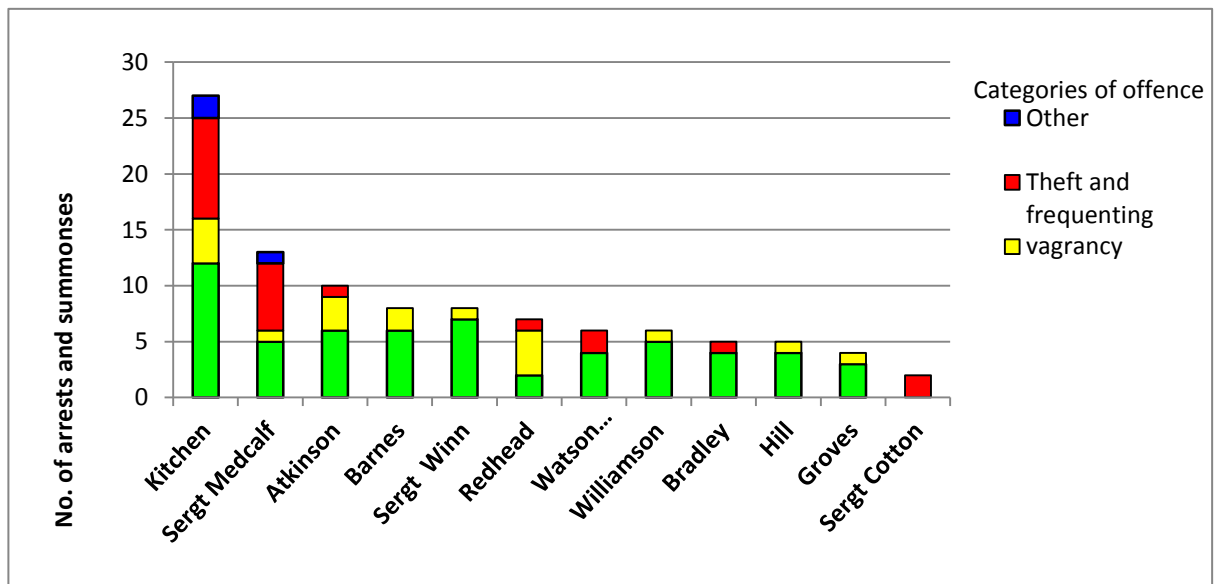
[251] Data collected from the two newspapers, Kendal Mercury and Westmorland Gazette. Because these data have been compiled from the local press, not all cases will have been included: full explanation in chapter 3

Appendix F. Glossary of terms

Assizes	Assizes heard the most serious cases, which had been referred to it by the Quarter Sessions. Cumberland and Westmorland held joint assizes, rotating between Carlisle and Appleby, the old county town of Westmorland. Assizes were held twice a year.
Borough	A town with a charter that allowed it to elect a council and run its own affairs.
Charge Book	A record of the arrests made and summons issued at a police station. The entries gave details of the person charges, the offences and the final outcome of the cases.
Common Lodging House	A house providing overnight accommodation at the lowest prices. They were required to be registered with the police.
Conference	A pre-arranged time and place for men on adjoining beats to meet. Officers also arranged conference meetings. This was a means of transmitting information.
Cumberland and Westmorland wrestling	A particular style of wrestling, very popular in Cumbria. The fighters stood to engage, and the loser was the first to lose his footing.
Detached station	A police station manned by one constable
Felony	A serious offence. 'Felony' was originally a common law definition. Convicted felons usually faced penal servitude.
Guides races	From the show field, the runners ran up a steep fellside and back.
Habitual Offender	A recidivist who was required, upon release from gaol, to report to the police and declare his/her place of residence and employment.
Hound trailing	A trail of ten or fifteen miles was laid across the fells by means of an aniseed and turpentine lure. The hounds were released from the show field, the winner being the first to return.

Indictable offence	A serious offence. Similar to felony, but the term described the form of trial required or permitted. Indictable offences were usually tried before a jury.
Industrial School	Young offenders could be sent for 'training' at an industrial school. The usual sentence was a short spell in gaol, with perhaps a flogging, to be followed by training until the age of sixteen.
Joint Standing Committee	The Joint Standing Committees took over the responsibility for the county constabulary from the Quarter Sessions in 1888. The JSC was half elected, half appointed JPs. They raised and spent local taxation.
Main	A cock fighting meeting between two places. Several birds would be matched against each other.
Occurrence Book	A record book kept in the police station. Policemen made entries as they considered necessary. Typical entries include house fires, sudden deaths, reported crimes, lost dogs, lost property and arrests made.
Off-comer	Cumbrian slang. Someone from outside Cumbria, an outsider
Petty Sessions	The lowest court, used for dealing with minor offences; felonies and indictable offences were referred to the Assizes or Quarter Sessions. Some were also known as Police Courts. Petty Sessions covered a fixed area, or Division, and usually met on set days. Sessions could be held at any time, if necessary. The local police superintendent was expected to attend.
Pitch and toss	A simple gambling game played in the street with coins
Police Court	See Petty Sessions
Poor Law Union	Several parishes joined together under the terms of the 1834 Poor Law Amendment Act for the purpose of providing for the poor.

Quarter Sessions	Three monthly meeting of a county's magistrates. They acted as a local authority with the power to raise and spend rates, and to supervise local officials. They assumed overall control of their county's police. They also acted as a court, with the power to try felonies and indictable offences. Some of their powers were lost to the joint Standing Committees in 1888.
Relieving Officer	An official who assisted destitute vagrants, usually providing 3d (old pence) for accommodation in a Common Lodging House
Slonk	Cumbrian slang. A man who hangs around on street corners and drinks
Vagrant Ward	Provided vagrants with overnight accommodation at the Workhouse. Conditions were punitive, basic and vagrants were required to work.
Watch Committee	A sub-committee of a town council, with responsibility for policing the town. This might include much more than the police. Street lighting, fire protection et al were usually their responsibility. The Mayor was an ex-officio member. It was often esteemed as the most prestigious sub-committee of the council.

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             Birmingham Daily Post, Birmingham, 1857 to date .

Chips   Illustrated Chips, Alfred Harmsworth, 1890-1953.

CJ   Carlisle Journal, Carlisle, 1798-1968.

CP   Carlisle Patriot, Carlisle, 1815-1910.

            Cumberland Pacquet, Whitehaven, from 1774.

DGM   Daily Gazette for Middlesbrough, 1869-81. Later, NEDG

KM   Kendal Mercury, Kendal, 1784-1917.

LG   Lancaster Gazette, Lancaster, 1801-1894

            Liverpool Mercury

            Lloyds Weekly Advertiser

MCA   Manchester Courier and Lancashire General Advertiser . 1825-1903

            Morning Post, London, 1722-1900.

            Newcastle Courant, Newcastle upon Tyne, 1710-1884 .

NEDG   North Eastern Daily Gazette, Middlesbough,1882-1900 .

            Northern Echo, Darlington, 1870 to date.

            Penrith Herald, Penrith

            The Standard, London, 1827 to date.

            The Times, London, 1788 to date .

WMG   The Westmorland Gazette, Kendal, 1818 to date.

WN   Whitehaven News, Whitehaven from 1852 to date.

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