

VOL. XVII. No. 2

APRIL-JUNE, 1944

The
POLICE JOURNAL

C O N T E N T S

	PAGE
WAR COMMENTARY	81
THE POLICE AND THE LAW	87
RECENT JUDICIAL DECISIONS	91
CRIMINAL LAW AND PRACTICE IN SCOTLAND	102
THE SCIENTIFIC EXAMINATION OF A CASE OF ARSON. BY C. G. DAUBNEY, M.Sc.	110
FINGERPRINT PHOTOGRAPHY: CHEMICAL REVERSAL. BY CHIEF INSPECTOR J. H. DUNCAN	119
THE LAYMAN TAKES A HAND	123
AN INTERESTING COINCIDENCE. BY INSPECTOR A. H. BRIDGES	126
INCIDENT CONTROL. BY INSPECTOR ARTHUR RAWSON	127
TO SEIZE OR NOT TO SEIZE. BY SERGEANT J. EDMONDSON	133
THE POLICE AND THE PUBLIC. BY INSPECTOR J. L. THOMAS	139
WHY NOT AN ENGLISH CRIMINAL CODE? BY W. O. GAY	147
APPOINTMENTS TO THE HIGHER RANKS OF THE POLICE SERVICE. BY JOHN PEAKE	156
THE COLONIAL POLICE	160

xx

VOL. XVII, No. 3

JULY-SEPTEMBER, 1944

THE
POLICE JOURNAL
A Quarterly Review for the Police Forces of the Empire

ISSUED UNDER OFFICIAL PATRONAGE

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7/- per annum (\$2.50 United States only), including postage to any part of the World.

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Publishers and Distributing Agents:

THE POLICE JOURNAL

46/7 CHANCERY LANE, LONDON, W.C.2

Telegrams and Cables—"NUFOTOG, HOLB. LONDON"
Telephone—HOLBORN 6201

American Agents:

PUBLIC ADMINISTRATION SERVICE
1313 EAST 60th STREET, CHICAGO, ILLINOIS, U.S.A.

xxi

The
POLICE JOURNAL

C O N T E N T S

	PAGE
WAR COMMENTARY	241
THE POLICE AND THE LAW	246
RECENT JUDICIAL DECISIONS	249
CRIMINAL LAW AND PRACTICE IN SCOTLAND	263
MURDER IN A SHIP'S CABIN. BY S. LAWRENCE, M.B.E.	271
WHAT'S IN A NAME?	283
POLICE AND POST-WAR PLANS. BY SERGEANT W. CLARK	285
POST-WAR TRAFFIC—ACCIDENT PREVENTION. BY SERGEANT O. V. THOMAS	289
CONSTRUCTIVE THINKING	293
WHERE WERE THEY STOLEN? BY DETECTIVE SERGEANT W. J. CANNON, F.G.S.	296
EXAMINATIONS FOR PROMOTION	300
SOURCES OF INFORMATION	302
A LEAF FROM THE SCOUTS' BOOK. BY CONSTABLE W. T. TREDWELL	307
LOTTERY CAMOUFLAGE. BY INSPECTOR K. E. STEER	312
BASIC TRAINING FOR POLICE RECRUITS BY SERGEANT RALPH DAVISON	314

THE POLICE JOURNAL

War Commentary

PRE-SERVICE TRAINING

REPLYING to a recent debate in the House of Lords on a motion calling attention to the part which service cadet training units may take in the post-war national youth training policy, the Government spokesman (the Earl of Munster) said that the strength of the cadet organisations had expanded to the figure of 400,000, and they performed not only their primary function of training for entry into the services but also a high civic function. They were undoubtedly instilling into the boys that self-discipline and sense of personal responsibility which, beside fitting them for His Majesty's services, did a great deal to check any tendency to juvenile delinquency. The future needs of pre-service organisations must necessarily depend on the post-war requirements of the three services, which, at the present time, could not easily be assessed. But he could say that it was the Government's intention to maintain the pre-service cadet organisations for the three services of the Armed Forces on a voluntary basis after the conclusion of the war. It was also intended to continue these corps as a valuable part of the national organisation for the service of youth in future years.

The part which the pre-service training organisations are taking already in this twofold purpose is daily more obvious. Not only is service in a cadet organisation an aid to personal proficiency and advancement of the individual cadet when he becomes a sailor, soldier or airman, but a distinct contribution is made to the solution of the problem of war-time crime. The lessons learned from the parsimony and official neglect of cadet organisations during the lean inter-war years should have sufficiently impressed themselves on our legislators to avoid the risk of repetition in the future. As was indicated in the debate, it is unlikely that any form of compulsory youth service will be introduced, and if voluntary service is to succeed, the organisations themselves must maintain a high place in the confidence of the people generally, and of youth in particular. The King's uniform must attract the boy, and retain a high place in the public affection.

It is generally recognised that a close link connects the police with organised training for youth. In many police forces, valuable work is performed by police officers who devote their leisure hours to instructional work and leadership in boys' clubs and youth organisations. Some policemen are rendering valuable public service as officers and leaders in the cadet organisations, and their efforts in these spheres merit official recognition and approval.

POLICE CADETS

The progress made by the pre-service cadet organisations, since they were taken under the wing of the respective service departments and given patterns of organisation, uniform, training and leadership, prompts a question whether a case is made out for a plan by which, in peace-time, a pre-police service cadet movement should be maintained. Generally a boy who wishes to make a career in the police force must take up another occupation between the years of his leaving school and the age of entry into the Force. In a small number of cases it is possible for such youths to obtain employment in police offices, with the designation of junior clerk, or cadet, in which valuable experience and knowledge of police station and office routine are gained during the two, three or four years before appointment as a constable on probation. Mere office experience, without physical and recreational training, is not the ideal form of preparation for the duties of a constable, particularly if the work lacks contact with the public. From such a background a youth may develop into a good clerk, but he may emerge as a poor policeman, and any qualities of leadership which are dormant in the boy may, through lack of experience in the handling of men, remain undeveloped in the man, or even die as he advances to higher rank. The fact that the majority of policemen are recruited from a variety of trades and occupations is a real asset in the organisation of a force or division for team work. No system of cadet pre-police service training organisation ought, therefore, to exclude from eligibility for recruitment the candidate who is qualified but does not make up his mind that he wishes to enter the Police Force until in his twenties. Subject to this qualification there are merits in a cadet, or pre-service, movement, and it may be that, properly examined and inaugurated, a police cadet scheme would justify itself. Now that the training of youth is accepted as a responsibility of the State, it may well be that the Police Service should march in step with other services and professions and prepare its plan.

The Police Auxiliary Messenger Service has provided a valuable war-time auxiliary for the Police. Many lads between 16 and 18 years of age who have served in its ranks have learned sufficient of the work

of the police to wish to return to the Force after their military service. Some have gained useful experience and have shown their fitness for appointment as constables.

THE CORPS OF MILITARY POLICE

The growing importance of the provost services in the Armed Forces has resulted in a number of developments in the organisation, training and duties of the Corps of Military Police. Military policemen have worthily upheld the high tradition of the Corps, taking their place in every field of operations abroad and military area at home. The Corps dates from 1877, when the Corps of Military Mounted Police was formed, the Corps of Military Police being added to the British Army five years later. Both corps were amalgamated into the Corps of Military Police in 1926. Not a few of the officers of the Corps who now hold commissions, or who are seconded for duties as assistant provost marshals, or in other capacities in the provost branch of the army, have passed distinguished careers in English, Indian, Dominion and Colonial Police Forces, and a broad basis thus exists for full collaboration with the civil police. Without co-operation from the military police, the task of the civil police in tracing soldiers whom they wish to interview, or who are otherwise involved in police enquiries, can be rendered difficult and unnecessarily protracted. Consultation with the nearest provost section commander, the A.P.M., or members of his staff, will frequently result in locating the soldier and accelerate the enquiries.

The distinction between the roles of the military and civil police can best be defined by stating that the C.M.P. are more particularly concerned with the observance by soldiers of military law and the protection of military property and security, while the civil police are concerned with the maintenance of law and order and the enforcement of the criminal law generally. A soldier who commits a crime for which any person may be proceeded against in the courts is liable to be dealt with, like any other citizen, in the magisterial or other courts. He may alternatively be dealt with, save where the offence is murder, manslaughter, rape, etc., under military law, and tried either by his commanding officer (for misdemeanours of a minor nature) or by court martial. As in the case of the civil police, the military policeman's role is "ministerial" not "judicial" in character. Reports of breaches of military law which are detected by a military policeman are transmitted to the offender's commanding officer, through appropriate channels, dependent upon the circumstances of the case.

The special investigation branch of the Corps is the C.I.D. of the Army, and growing recognition of the value of complete co-operation

between its officers and N.C.O.s and the police, particularly the detective branches of the forces at home, is producing results. The military policeman to-day needs, and has, many of the qualities of his civilian colleague and, as was shown in the gallant episode at El Alamein, wherever the British soldier is fighting the military policeman is essential to the smooth and rapid movement forward of supplies, guns, tanks, transport and all the impedimenta of the modern army.

THE TAXI-CAB PROBLEM

One of the minor war-time problems is that of the taxi-cab trade in meeting the demands of the public. In common with other forms of public transport, the petrol available for taxi-cabs has been severely cut, reducing substantially the mileage and the vehicles plying for hire. The solution of the matter is a responsibility for local authorities, though in most cities and towns where separate police forces are maintained, the licensing and supervision of vehicles and drivers are, for practical purposes, within the jurisdiction of the Chief Constable. Attempts to "ration" taxi-cab services are not easy, since the majority of vehicles are owner-driven, and not every proprietor and driver is a member of one or more of the protective and representative organisations maintained for the trade. Under existing law, the driver of a taxi-cab plying on a fixed stand must accept fares, and cannot discriminate or distinguish between the hirer who is on essential business and one who is proposing to use the vehicle exclusively for pleasure. Even "pub-crawling" cannot be resisted by a taxi-driver if his vehicle is lawfully hired in accordance with the by-laws or regulations applicable to the district.

The present practice of the petroleum departments of the Ministry of Fuel and Power appears to be to issue petrol coupons to authorise the consumption of petrol by taxi-cabs on a formula, according to the horse-power of the vehicle and whether the driver is whole-time or part-time employed. Thus a limited and equitable "ration" of petrol is made for taxi-cabs as a class of motor transport. To remedy the deficiency by increasing the number of vehicles licensed would defeat the object of Motor Fuel rationing legislation, but there is nevertheless a shortage of taxi-cabs in many areas which is a serious handicap to persons engaged on important business connected with war production and effort. The adaptation to war-time requirements of the machinery for the control and use of goods vehicles, in every class and trade, has been successfully co-ordinated by the Ministry of War Transport, and it may be that the only satisfactory means for "rationing" the taxi-cab is for analogous machinery to be applied. This might need a drastic modification of the existing law on the subject, but the possibility of

transferring the control to Traffic Commissioners was considered and, in some aspects, foreseen by the Inter-Departmental Committee on Cabs and Private Hire Vehicles in an interim report presented to the Home Secretary in 1939. The application of the Inter-Departmental Committee's recommendations to present-day conditions would seem to be called for.

The Police and the Law

EVIDENCE OF PREVIOUS CONVICTIONS AT PRELIMINARY EXAMINATION

THE Police are under as responsible a duty when they give evidence of the accused's previous convictions at the preliminary hearing before the magistrates as when they testify as to previous convictions after conviction on indictment but before sentence. At the former stage of trial the police evidence may decide whether the trial is to be a summary one or a trial on indictment; at the latter stage the evidence may help the judge to determine the sentence. It is well recognised that at the preliminary hearing of certain charges the magistrates may pay regard to previous convictions in deciding the mode of trial although, of course, such evidence is not admissible at the actual trial, as being unfair to the accused. But there has been little authoritative guidance on how the Police, for it is they who are chiefly concerned in the production of this evidence, should present their knowledge of the accused's criminal record to the magistrates. In the recent case of *R. v. Dyson* (59 *T.L.R.* 314) the Court of Criminal Appeal said that it might be worthy of consideration whether, when such evidence is given in a police court, it should not be submitted on a piece of paper, instead of being recited *viva voce*. The matter arose for consideration in the following way.

On a charge of larceny at Huddersfield Quarter Sessions the evidence against the accused was short and overwhelming. A shop assistant saw him take away a number of pairs of socks from the counter and put them under his coat. She and another assistant followed and overtook him in the street, when it was discovered that he had the stolen goods upon him. At the trial the accused set up no defence, did not give evidence, nor call witnesses. He was sentenced to eighteen months' hard labour. He appealed on the ground that, when the matter was before the justices on committal for trial, a formidable list of his previous convictions, some forty of them, was read to the justices, and as a result was also published in the local newspaper. The Court of Criminal Appeal pointed out that the justices are entitled, if not

actually bound, to hear the evidence of previous convictions. Nevertheless, their lordships continued, there are always risks that the previous record of the accused may, either through being read out in court, or, as in that case, through being published in a local newspaper, become known to the trial jury and prejudice his case when it comes before them. The fact that the previous offences were broadcast in one organ, at any rate, of the local press seemed to the Court to be a most unfortunate complication, and, in the special circumstances, the appeal was allowed.

R. v. Dyson is an outstanding decision in relation to the general question of newspaper publicity of preliminary proceedings. It has often been suggested that the freedom of the press requires a full report of trials to be possible, but not necessarily a full report of the preliminary examination. Indeed, at one time it was thought that publication of the preliminary hearing amounted to contempt of court. The law will not go back to this position now, but *R. v. Dyson* shows that some of the undesirable effects of full publicity at an early stage of a trial may be curtailed by a higher court. There was no suggestion that the newspaper was acting improperly, in the present state of the law, in publishing its report. But unless prosecutors wish to see their labours thrown away by a successful appeal on the ground of unfair publicity, when there is nothing to be said on the merits for the accused, they will take heed of the suggestion to communicate their evidence of previous convictions on a piece of paper, to be handed up to the magistrates.

Recent Judicial Decisions

JUDGE'S OPINION EXPRESSED IN SUMMING-UP
R. v. Meredith

WHILE the fate of the accused in a jury trial depends on the opinion of the jury it does not follow that the judge is entirely excluded from making his own opinion known to the jury during the course of his summing-up to them. On a matter of law, naturally, the judge is under a duty to tell the jury what the law is, but he is also free to let his view of the facts of the case appear, at any rate if the evidence points strongly in a certain direction. The general principle is that the judge must be fair to the prisoner, but fairness does not necessarily prevent a summing-up being adverse. This matter had been discussed very rarely in express terms by the superior courts before the decision of the Court of Criminal Appeal in *R. v. Meredith* (29 *Cr. App. R.* 40).

In this case one of the grounds of appeal of the appellants against a conviction of receiving stolen goods was that the judge's direction to the jury was unfair. In dismissing the appeal the Court of Criminal Appeal said, through the Lord Chief Justice, that it was true that the summing-up as a whole leant, if that was the right expression, against the appellants, but that "a direction in a criminal court cannot always maintain the precise balance which I suppose in theory people sometimes think a direction to a jury should preserve. It is within the experience of all of us that a learned judge finds it necessary, because the facts compel him, to direct the jury in such a way as to indicate to them his opinion, having told them that they are judges of fact. It is impossible to quash a conviction because a summing-up is adverse to a particular defendant. The only question is whether the case for the defence was fairly put before the jury." From this it appears that it would be wrong for the judge to let his opinion be seen unless it were strongly supported by the facts. In any other case it would be unfair to lay the jury open to be influenced by an opinion given by the judge. In any case, however, even in the strongest case against the prisoner, it would be wrong for the judge to give his view in specific terms, saying, for example, "I feel sure he is guilty." To do so would be contrary to the nature of a summing-up, which is a review of the evidence on both sides.

R. v. Meredith also dealt with the question of the evidence of accomplices against one another. This is considered very weak evidence. Those responsible for preparing evidence for the prosecution will find it useful to consider the direction to the jury given by the learned Recorder at the Central Criminal Court. His direction was approved by the Court of Criminal Appeal as being a proper direction and one that was fair to each of the appellants. The learned Recorder said: "I endeavour in this class of case, where there are a number of prisoners in the dock, always to warn juries that so far as possible they should not use any evidence given by a person who is accused when he is in the witness-box against any one of his co-defendants. So far as his evidence is concerned, use it for the purpose of seeing whether he gives you an explanation which may be true or an explanation which leads you to disbelieve him and therefore to convict him, but try as far as possible not to use any one prisoner's evidence as evidence against one of his colleagues." Such evidence is legally admissible and will not be rejected by the judge, but it is undesirable to rest the case for the prosecution on it, for the jury will be warned by the judge not to rely on it. It was also stated by the Court of Criminal Appeal in 1941 in *R. v. Garland* that that court would do nothing to weaken the force of those judgments in which it has been repeatedly said that it is most

undesirable that a judge, dealing with a case which involves the evidence of an accomplice, should not remind the jury of the danger of convicting upon the evidence of an accomplice, unless corroborated.

ATTEMPTED CRIME

R. v. Bloxham

If the law did not regard an attempt to commit crime as itself a punishable offence many criminals would go unpunished. A mere intention to commit an offence, a definite plan to commit a specific offence, or even an act of positive preparation towards carrying out the plan may be indulged in with impunity, but as soon as these preliminary stages proceed on to an attempt liability supervenes. The difficulty, therefore, is to distinguish an act of preparation from an attempt. If the Police step in too soon the would-be offender will escape liability. If it is undesirable for some reason to let him go so far as to commit the actual offence he should be stopped between the stages of attempt and commission, not earlier while he is merely preparing the crime. The nature of a criminal attempt is well illustrated by the facts in *R. v. Bloxham* (29 *Cr. App. R.* 37).

The appellant, an employee of a district council, took a woman to the premises of the council where a refrigerator belonging to the council was kept. He there agreed to sell the refrigerator to her for £30, and received from her a cheque for that amount. He told her that arrangements could be made later on for a van to be sent to the premises to collect the refrigerator and that he would arrange for a man to be at the premises when the van arrived so as to make certain adjustments and to hand over the refrigerator. The appellant took no steps to implement his bargain and did not return the money. He was prosecuted at the instance of the district council to whom the refrigerator belonged, the offence charged being attempted larceny of the refrigerator. He was convicted at Middlesex Sessions and sentenced to six months' imprisonment with hard labour. The conviction was quashed by the Court of Criminal Appeal. The Court approved of the statement of the law made in 1885 in *R. v. Eagleton*, a statement which has met with approval in other cases also. It was said then that "the mere intention to commit a misdemeanour is not criminal. Some act is required, and we do not think that all acts towards committing a misdemeanour are indictable. Acts remotely leading towards the commission of the offence are not to be considered as attempts to commit it, but acts immediately connected with it are." It may be added that there is no difference between misdemeanours and felonies as regards attempts.

It was remarked in *R. v. Bloxham* that it is very often very difficult

to distinguish those acts which are merely remotely leading towards the commission of an offence and those which are to be considered as attempts to commit it, being acts immediately connected with it. But on the facts of the case the court thought that there was no difficulty whatsoever. "The very essence of the offence of larceny is the asportation, and if the appellant had done anything which could amount to an attempt to take and carry away the refrigerator he would, of course, have been guilty of the offence with which he was charged. But the fact is that he took no step whatever connected either immediately or remotely with taking and carrying away the refrigerator. What he had done, according to the evidence, appears to have been to obtain from Mrs. L. £30 by means of false representations that he had authority to dispose of the refrigerator."

COMMITTALS TO THE CENTRAL CRIMINAL COURT

It is an erroneous but widespread idea that most important and difficult criminal cases are tried at the Old Bailey in London. The true position was described by the Lord Chief Justice when he made a protest, on October 5th, 1943, concerning the overloading of juries at the Central Criminal Court by committals for trial of cases from the provinces. He called attention to the number of cases which had been sent there for trial under section 14 of the Criminal Justice Act, 1925. That section gives power to magistrates to commit cases to be tried at assizes other than that to which they would ordinarily be committed, if it was more convenient to do so. During the past two or three years a practice has sprung up and was still growing, said Lord Caldecote, of sending cases from all over the country to the Central Criminal Court, solely on the ground that the cases would be tried sooner than if they were tried at the place to which the cases properly belonged.

Lord Caldecote was satisfied that section 14 of the Act of 1925 was never intended to permit this practice. It was primarily designed to prevent delay in cases that arose on circuit between one assize and another. No doubt the powers under section 14 could be also properly used in exceptional circumstances in sending a case to London for trial. It was obvious, however, that if the practice extended, the Central Criminal Court, which had of late been practically in continuous session, might be made the dumping-ground for cases from all over the country. That would be undesirable. For one thing, it would not be fair on the juries who sat at the Central Criminal Court. Moreover, it often happens that in these cases the parties apply for special days and times for hearing in order to get the evidence of witnesses who have to be brought up from the country.

The Lord Chief Justice did not wish to lay down any hard and

fast rule as to cases which should be sent to the Central Criminal Court under the provisions of section 14 of the Act of 1925. He said that he had not the power to do so, even if he were so minded, to set up a rule; but he hoped that it would be brought to the notice of benches of magistrates and their clerks that these powers should be used with discretion.

PRESUMPTION OF GUILT: "UNLESS THE CONTRARY IS PROVED"
R. v. Carr-Braint

In the previous issue of the JOURNAL (October 1943, p. 261) a decision was discussed illustrating a class of case in which the burden of proving certain defences rests on the defendant, contrary to the general rule of the presumption of innocence. Since then *R. v. Carr-Braint* (1943, 2 *All E.R.* 156) in the Court of Criminal Appeal has given a ruling on the legal strength of this exceptional presumption of guilt. Is the burden of proof resting on the defence as heavy as that ordinarily resting on the prosecution?

The appellant was charged with the offence of corruptly making a gift or loan to a person in the employ of the War Department as an inducement to show, or as a reward for showing, favour to him. The appellant was an agent for a firm which held a contract from the War Department, and he gave or lent to a garrison engineer a sum of £60 to pay for a second-hand car which the latter had agreed to buy from a dealer. The charge was laid under the Prevention of Corruption Act, 1906, and on such a charge the Prevention of Corruption Act, 1916, section 2, provides that a consideration shall be deemed to be given corruptly unless the contrary is proved. The trial judge directed the jury that the onus of proving his innocence lay on the appellant and that the burden of proof resting on him to negative corruption was as heavy as that ordinarily resting on the prosecution, that is to say, that he had to prove his innocence beyond a reasonable doubt. But the Court of Criminal Appeal took a different view, holding that the burden of proof required is less than that required at the hands of the prosecution in proving the case beyond a reasonable doubt. They held that the defendant may discharge the burden by producing evidence satisfying the jury of the probability of that which the accused is called upon to establish. This means that the defendant is in the same position with regard to proof as the plaintiff or defendant in civil proceedings; in civil proceedings the preponderance of probability is sufficient ground for a verdict. The general rule which in criminal cases requires the prosecution to go farther than this and prove the case beyond a reasonable doubt is exceptional.

The Court of Criminal Appeal relied, among other cases, on *R. v.*

Ward (1915, 3 *K.B.* 696), in which the appellant had been convicted of the well-known offence under the Larceny Act of having been found by night in possession of implements of housebreaking "without lawful excuse, the proof of which shall lie on such person." The implements were such as would form part of the outfit of a bricklayer, and the appellant was a bricklayer by trade. It was held that it was for the appellant to satisfy the jury that he had a "lawful excuse," the tools being admittedly bricklayers' tools. He had established *prima facie* that he had a lawful excuse for being in possession of them, as he was a bricklayer, and the onus was therefore shifted on to the prosecution to prove to the satisfaction of the jury, if they could, that the appellant was not in possession of the tools for an innocent purpose, but for the purpose of housebreaking. In the same way, the presumption of sanity at common law when the accused sets up the defence of insanity is rebuttable by evidence of insanity which would be sufficient in civil proceedings.

OFFENCES TAKEN INTO CONSIDERATION: SUBSEQUENT CHARGES
R. v. Browne

Over a long period of time the practice has grown up of taking other offences which the accused admits into consideration when imposing sentence, even though they are not charged in the indictment. The legal effect of this practice has never come before the superior courts for judicial review, although it was recently held in *R. v. Hobson* (see the previous issue of this JOURNAL, October 1943, p. 255) that however many offences are taken into consideration in this way the court may not pass a sentence greater than the maximum allowed for the offence actually charged. But in *R. v. Browne* the Bournemouth Recorder had, on October 4th, 1943, to consider the fundamental question of the legal effect, if any, of the trial judge's taking other admitted offences into consideration. It is not sufficient to say that there is "a gentleman's agreement" between prosecuting authorities and the accused to forget all about the offences which he admits, for it may not necessarily be unjust to resurrect these offences at a later date. The Bournemouth case was a case of difficulty on the merits as well as on the law.

The accused pleaded "Not Guilty" to charges of obtaining by false pretence two separate sums of £5 from branches of a bank. He had been previously convicted of two similar offences at the Hampshire Quarter Sessions in April of the same year, and had then admitted the two offences with which he was now charged, together with five others, and had asked that all these seven charges should be taken into consideration in his sentence. He was sentenced to 20 months' imprison-

ment and on appeal the conviction and sentence were quashed by the Court of Criminal Appeal. It was contended for the accused that because he had been previously convicted and, alternatively, because he had been previously acquitted on the two charges now before the court, he could not be "put in peril" on them again. A jury was empanelled to decide whether these special pleas should be upheld or not, and consequently whether the indictment now preferred should be proceeded with. The Recorder said that it was a principle of law that a man should not be put in peril twice in respect of the same offence. On the previous appeal the Court of Criminal Appeal had said nothing with regard to the outstanding charges. It was unnecessary that they should, because the sentence they quashed was for the two offences of which Browne had been found guilty at the Assizes. It was assumed that the sentence had been increased by the taking into account of the outstanding charges, but the outstanding charges were only taken into account as subsidiary matters and, in the opinion of the learned Recorder, went by the board entirely once the sentence was quashed. He accordingly advised the jury that they ought to find that, whether the plea was one of *autrefois convict* or *autrefois acquit*, the defence had failed to make out the pleas on either of these two charges. The jury, however, found that the accused had been previously convicted on the two charges and he was discharged. But the ruling of the Recorder is likely to find acceptance in the higher courts should this interesting point ever come before them.

THE FORM OF A PLEA OF "NOT GUILTY"

R. v. Emery

"It cannot be outside the experience of justices and their clerks that accused persons frequently do preface what they have to say when called upon to plead with the word 'guilty,' and then add something which in law and, indeed, in fact amounts to a plea of not guilty. Such an instance occurs in the case of a person charged with receiving stolen property who says 'Guilty but I did not know it was stolen,' which amounts to a plea of not guilty." The Court of Criminal Appeal in this way criticised one of the mistakes which had been made during the course of the proceedings in *R. v. Emery* (29 Cr. App. R. 47).

The appellant appeared before a court of summary jurisdiction at Kingston, charged with malicious wounding. When called upon to plead, he said "Guilty, in self-defence." This was treated by the court as a plea of guilty and he was committed to Kingston Quarter Sessions for sentence under section 10 of the Criminal Justice Administration Act, 1914, he being within the Borstal age. He appeared before the Recorder at the Quarter Sessions and it was then explained

what had happened before the justices. The learned Recorder thought that, instead of having before him a person who had been convicted in a court of summary jurisdiction he had, in fact, before him a person who had pleaded not guilty, whose case had not been investigated by the court of summary jurisdiction, and who had been wrongly sent to Quarter Sessions for sentence. The accused person was wrongly there, and therefore the Recorder ordered his discharge. Later, however, the Recorder changed his mind. Without inquiry into any circumstances of the case, without hearing any witnesses, without asking the appellant whether he desired to call any witnesses, or anything of that kind, he said: "The best way to deal with you is to order you to be detained in a Borstal institution for three years and then to give you a certificate of appeal, in which case you will provide a very interesting and difficult question in law."

The difficulty was soon settled by the Court of Criminal Appeal. The court of summary jurisdiction should have heard the case against the appellant as he had pleaded not guilty. They had not heard it and therefore he was never properly before Quarter Sessions; hence the purported sentence of the Recorder was a nullity.

CHARACTER REPORTS ON JUVENILES: THE RIGHT TO INFORMATION

There seems to be some ground for supposing that in some Juvenile Courts the magistrates act upon written reports which are not brought to the notice of the parties. The magistrate at Bow Street Police Court is reported to have said (October 1st, 1943) that such procedure was open to criticism in a case in which a man summoned before him for non-payment of contributions to his son's maintenance in an approved school complained that the Juvenile Court which committed the boy to the school were influenced in their decision by a probation officer's report which he did not see, and therefore had no opportunity of disputing.

The Bow Street magistrate explained that there was a rule that the substance of any written report by a probation officer bearing on a juvenile's character should be told to the juvenile and to a parent or guardian if present. He said that he had not the least idea whether the defendant's complaint in this particular case was well or ill-founded, and he was bound to observe that on the defendant's own statement he had appealed unsuccessfully against the finding of the Juvenile Court. He could neither review nor interfere with the Juvenile Court's decision, and he made an order for payment of the contributions claimed.

DIFFERENCE BETWEEN CONTEMPT OF COURT AND DEFAMATION

Debi Prasad Sharma v. The King-Emperor

In the judgment on this appeal to the Privy Council from the High Court of Allahabad occurs this passage: "No doubt it was galling for any judicial personage to be criticised publicly as having done something outside his judicial proceedings which was ill-advised or indiscreet, but judicial personages could afford not to be too sensitive. A simple denial in public of the allegation would at once have allayed the trouble. If a judge was defamed in such a way as not to affect the administration of justice he had the ordinary remedies for defamation if he should feel impelled to use them." The case turned on the difference between the law of defamation and contempt of court with regard to criticisms of a judge's conduct. The difference is important because under contempt procedure very summary action may be taken without a jury and without the possibility of appeal to a higher court, while defamation considered as a crime or civil wrong leads to an ordinary prosecution or action. If, therefore, the law of contempt of court is unduly extended to check criticism of judges the right of free speech and fair comment on public figures might be injuriously affected by the lack of the safeguard of trial by jury.

An Indian newspaper published criticisms of a Chief Justice who was alleged to have requested judges of subordinate courts to raise contributions for war funds. The case proceeded on the footing that no such request was made by the Chief Justice, the Chief Justice having stated that the information contained in the newspaper comment was based on untrue facts. Even so, the Judicial Committee held that the conviction for contempt of court could not stand. It was said by their Lordships that cases of contempt which consisted in "scandalising the court itself" were fortunately rare, and required to be treated with much discretion. In the present case there was no criticism of any judicial act of the Chief Justice, or any imputation on him for anything done or omitted to be done by him in the administration of justice. The appellants were not charged with saying anything in contempt of the subordinate courts or the administration of justice by them. If the facts were as alleged they admitted of criticism, but proceedings in contempt were misconceived. The appeal was allowed and the fine and the costs ordered to be refunded.

SPECIAL APPEAL TO QUARTER SESSIONS FOR COAL MINE OFFENCE

Walker v. Hemmant

Among the special rules relating to appeals to quarter sessions is a provision in the Coal Mines Act, 1911, section 104, which gives a

right of appeal against a conviction for an offence under that Act only where the fine imposed amounts to or exceeds one-half the maximum fine. In *Walker v. Hemmant* (1943, 2 All E.R. 160), an appeal by case stated by the Glamorganshire justices dismissing an appeal from a court of summary jurisdiction, the appellant had been convicted under the Coal Mines Act, 1911, and fined 10s., which was less than half the maximum fine which might have been imposed upon him for the offence. In view of the provisions of section 104 quarter sessions dismissed his appeal. On the other hand, the Criminal Justice Administration Act, 1914, section 37 (1), gives a general right of appeal to quarter sessions against a conviction by a court of summary jurisdiction to persons who do not plead guilty or admit the truth of the charge. The provisions of the Coal Mines Act, 1911, section 104, are not repealed by the Act of 1914.

In these circumstances the justices contended that the general provisions under the general Act of 1914 did not, in the absence of any repeal, affect the limitation on the right of appeal specifically enacted by the Coal Mines Act. The Divisional Court held, however, that the provisions of the Criminal Justice Administration Act were not prevented from applying to the case, extending the limited right of appeal against a conviction under the Coal Mines Act. The result was that the justices were ordered to hear the appeal. This interpretation was arrived at in spite of the rule of construction that wide, general words in a later statute are not to be taken as repealing particular provisions enacted in an earlier statute.

FIREARM PERMIT AND A.T.C. OFFICER

In a case in which an A.T.C. officer was summoned for being in possession of a Browning automatic pistol without a permit, the Huddersfield stipendiary magistrate adjourned the case (September 27th, 1943) to inquire into the status of these officers. He stated that they were recognised as commissioned officers in the service of the Crown and therefore, *prima facie*, not required to have a permit. But it was contended that the defendant did not have the pistol in his possession for his duty as an officer. He had had it since 1918, and it was his own property. The defendant had the pistol before he became an officer. The magistrate held that he was satisfied that the defendant was a commissioned officer, but he thought he was not entitled to hold a firearm just because he was a member of the armed forces unless his duties called for the possession of one. In his opinion there was not sufficient evidence put forward to establish that fact, and a fine of 7s. 6d. was imposed.

NON-PRODUCTION OF THE SUBJECT MATTER OF A CHARGE AND THE
"BEST EVIDENCE" RULE

Hocking v. Ahlquist Bros. Ltd.

An interesting case on the scope of the so-called best evidence rule came before the Divisional Court on November 9th, 1943, from a decision of the stipendiary magistrate at Manchester. In *Hocking v. Ahlquist Bros. Ltd.* six informations were preferred by the Board of Trade against a tailoring firm for breaches of the Making of Civilian Clothes Order, 1942, in that more than three pockets were put into a jacket and that restrictions regarding waistcoat buttons and straps and the width of trousers had not been observed. The magistrate dismissed the case because the suit in question had not been produced in evidence. No notice to produce the suit had been given to the defendant. The magistrate held that the prosecution had failed to discharge the onus of proof on them as the production of the garments was the best available evidence, and this had not been produced.

The principle of the best evidence has very rarely in recent years been supported by any decision, and in this case also the Divisional Court refused to act on this alleged principle of the law of evidence. In his judgment the Lord Chief Justice said that it was not easy to see how such a rule would work in practice. Counsel had said that it must equally apply whether the article in question was a coat or a battleship. It was held that though the non-production of the article in question might form a ground for observation, it only went to the weight of the evidence and not to its admissibility. It was much too late, even if it had ever been possible, to say that evidence of the nature of chattels could not be given by persons who spoke as to their condition. The contrary might lead to consequences which might show that the rule would be impossible in practice. In his lordship's judgment the magistrate should have heard the evidence tendered, quite apart from the production of the goods themselves, the condition of which might, of course, have been quite different at the date of the hearing from what it was at the material time of the charge. The case was, therefore, remitted to the magistrate to hear and determine.

Criminal Law and Practice in Scotland

BILLIARD CLUBS

IN a recent issue of this JOURNAL (Vol. XVI, p. 103) reference was made to the growth of billiard clubs, promoted to evade the requirement of a licence from the local authority and so escape the irksome

restrictions imposed as a condition of the licence—particularly the prohibition of Sunday opening. This development has suffered a severe check as a result of the decision of the High Court of Justiciary in a recent appeal from Dundee (*Brown v. Bell*).

The appellant, George F. Brown, had formerly held a licence for public billiards playing in respect of premises in Dundee, in which he had installed seventeen tables. On the expiry of the licence (which runs for a year) on May 15th, 1940, no application for renewal was made. Meantime, in March 1940, twenty-nine persons had met in the premises—on whose suggestion is not clear—declared themselves to be the original members of the King's Super Billiards and Snooker Club, adopted a constitution, appointed a committee of management, approved of a minute of agreement between Brown and the club, which defined the terms of let to the club of the premises and of the hire to them of tables, etc., and elected Brown as manager. At a meeting of the committee held immediately afterwards, Brown was elected president, with power to preside at all meetings. To mark the change in the conduct of the premises, there was painted on the lintel above the entrance in large gilt letters the word "Billiards" and in comparatively small letters the word "Club." On a lintel above the vestibule door appeared the club name and immediately above, "Prop. G. F. Brown."

By the club constitution the method of admission to full membership, at an annual subscription of one shilling, was set out and it was, *inter alia*, provided that "honorary members shall be allowed the privileges of the club for one day on payment of a fee of one penny."

Between the middle of September 1942 and the end of January 1943, many persons who were not full members of the club resorted to the premises to play billiards. All were asked, on entering, to sign a Daily Members' Book and, on doing so and paying one penny, each was issued with a ticket and allowed to play on payment of the usual charge per hour for use of a table. On the occasion of a police visit, all persons on the premises were able to produce either full membership cards or daily members' cards except one man who was in fact a full member but had not his card with him that day. Examination of the books revealed that there were practically 500 full members and that the number of daily members varied, during the months referred to, from 19 to 133 per day.

On proof of these facts before a local magistrate, Brown was convicted of keeping and suffering to be kept and used and using the rooms for public billiard playing without a magistrates' licence. He appealed, but without success.

In dismissing what one of the High Court judges characterised as "a hopeless appeal," the court rejected counsel's argument (1) that

the prosecutor had failed to prove that it was Brown, and not the club, who kept or suffered to be kept or used the rooms, and (2) that he had failed to prove "public" billiard playing. The magistrate had proceeded upon the view that Brown was the person truly carrying on the billiard saloon and that the club had no real existence, being merely a colourable pretext to evade the need for a licence. On the facts, this was the only possible conclusion. Any member of the public could go to this saloon and play billiards, just as he could go to any other.

WHY WERE THE POLICE THERE?

In leading evidence of observations made by the police, it is often necessary for a prosecutor to question the police witnesses on their reason for taking action; or it may be that a police witness volunteers the information, explaining why he was at a particular place at the material time, prefacing his narrative by some such phrase as "acting on instructions from headquarters" or "in consequence of a complaint from A.B. to the effect that . . ." Such an opening is generally unexceptionable. It prejudices no one and serves to make the situation intelligible to a magistrate, sheriff or jury. Where the evidence is led before an experienced sheriff or stipendiary, this opening may be dispensed with; such judges know perfectly well that the police usually act upon information received; but in a police court or a J.P. court, with a lay magistrate or justice on the bench, some such introduction to the main narrative is proper and necessary.

This practice, however, has its dangers. Unless care is taken by the prosecutor in the wording and range of his questions, and unless care is taken by a police witness who has been invited to tell his own story, the result may be that matter highly prejudicial to the accused is insinuated. The recent case of *Coventry v. Douglas* is exactly in point.

Mrs. Coventry, a resident in Perth, had been charged in the police court with two acts of dishonesty—(1) a completed theft from a money receptacle in a local canteen in the early morning of Thursday, February 18th, and (2) an attempt to steal from the same receptacle in the early morning of Thursday, March 4th. She pled not guilty and evidence was led. Among the facts proved by the prosecutor were these—that on several occasions before February 18th shortages had been found in the takings which, on the conclusion of each shift, were deposited in the receptacle referred to; that these cash shortages were, on every occasion, discovered at the checking of the cash on a Thursday morning; that the accused was regularly on duty in the canteen early on Thursday mornings; and that, in consequence of the shortages, the treasurer called in the police, who took up observation when the next Thursday arrived. Accused's solicitor "objected to the admissi-

bility of evidence as to cash shortages discovered at the canteen which led to action being taken by the police." (Note the limited nature of the objection and how he missed the point.) The magistrate repelled the objection, the case proceeded, other incriminating evidence was led and accused was convicted of both charges. She appealed, with partial success.

This report is concerned not with the merits of the appeal but with observations made by the judges, two of whom commented in strong terms on the possibility that accused had suffered prejudice by the introduction of evidence which at least hinted that she had been interfering with the cash drawings on occasions before those with which she was charged. The judges agreed that the prosecutor was within his rights in proving that, because of previous shortages, the police had been called in (and, therefore, that the agent's limited objection was invalid). To do so made it intelligible to the magistrate why, on February 18th, marked coins were placed in the receptacle and why, on March 4th, the police were keeping watch. It was, however, unnecessary to prove that accused had been present on each of the previous nights when shortages had occurred. Had the solicitor's objection been directed to this point, the magistrate would have been bound to sustain it.

The moral for police witnesses is clear. They are entitled to make it clear to the court why they were there and why they took the action which they did take—but not, in making this explanation, to suggest that the accused had committed a crime with which, for lack of conclusive evidence, she is not charged.

RECENT POSSESSION—WAS THE PROPERTY STOLEN?

In recent years, both the police and prosecutors in Scotland would appear to have become more keenly alive to the advantages to be gained by relying upon the doctrine of recent possession of stolen goods. Time and again, the dishonest appropriation of property has been brought home to an accused by proving (1) that the property was stolen, and (2) that shortly thereafter it was traced to accused's physical or constructive possession. (For an interesting case of merely constructive possession, see *H.M. Advocate v. Berkovitch*, reported in this JOURNAL, Vol. XV, p. 179.) On the authorities, it is now clear that, on proof to its satisfaction of these two facts—theft and recent possession—a court is entitled, in the absence of an explanation by the accused which commends itself to the court, to convict either of theft or of reset. The case of *Christie*, 1939, J.C. 72, silenced any doubts on this proposition.

What is not so generally appreciated is that a prosecutor's chief difficulty, in applying the doctrine of recent possession to particular

circumstances, is often not to prove accused's recent possession of the goods but to prove beyond challenge that the goods traced to him were originally stolen. This may be difficult because of the absence of markings on the goods which clearly identify them with the missing property. How often does one find that witnesses, when strongly pressed by the defence agent, can say no more than that the goods are "like" the missing articles or that they are of precisely the same type and marking but that identical goods, similarly marked, may be purchased or honestly come by elsewhere!

In the case of *Coventry v. Douglas*, already cited in another connection, the prosecutor relied, for proof of his first charge (theft of £4 from a money receptacle), upon recent possession. He persuaded the magistrate to convict, but on appeal the conviction, so far as referring to this charge of completed theft, was quashed. In the stated case, the findings relevant to the charge were—that the police, having been informed of cash shortages from a receptacle in a canteen, in which the drawings were deposited, placed in the receptacle marked coins and also bank notes, of which they and the treasurer took the numbers; that next morning a shortage of £4 was discovered; that the accused was present in the canteen at the time when the money went amissing; and that, when accused's house was searched under warrant a fortnight later, one of the notes was found in her possession. She gave an explanation—which apparently did not commend itself to the magistrate, for he convicted.

The reason for the quashing of the conviction on appeal was that the facts did not show conclusively that the bank note found in accused's house had been stolen. The shortage might have been wholly made up of silver money or of other notes, of which the numbers had not been taken.

It is not clear whether the prosecutor, in leading his evidence, failed to draw from his witnesses the fact that, on checking the contents of the receptacle in the morning, they found the notes to be missing or whether (the prosecutor having led this evidence and so clinched the matter) the framing of the stated case was faulty. Whichever it may be, the case is a warning to all concerned to remember that the doctrine of recent possession applies only to goods conclusively proved to have been stolen.

THE IDENTIFICATION OF THE ACCUSED

In the confusion which follows upon the occurrence of a road accident, it may happen that the bystanders may be unanimous in attaching guilt to the driver of a particular car but may have omitted to make a mental note of his features and appearance, with the result

that they are unable, when in the witness-box at the subsequent trial, to state positively that the man in the dock is the person whose negligent driving caused the collision. When this happens or (in Scotland) when only one witness can identify the accused as the guilty person, the prosecution must fail. "By the law of Scotland, no person can be convicted of a crime or a statutory offence, except where the Legislature otherwise directs, unless there is evidence of at least two witnesses implicating the person accused with the commission of the crime or offence with which he is charged" (*Morton v. H.M. Advocate*, 1938, *J.C.* 50). This doctrine, sometimes referred to as "the rule of two witnesses," has again been strongly affirmed by the High Court of Justiciary in the recent case of *Mackenzie v. Ross*.

Mackenzie was alleged to have driven a motor-car on the public road between Canon Bridge and Muir of Ord carelessly, in respect that, while approaching a bend, he attempted to overtake and pass another car immediately in front of him and so caused a collision. The details of the incident are unimportant. It is sufficient, for the purpose of this report, that there was ample evidence of carelessness on the part of the driver of the third of a procession of cars travelling towards Canon Bridge. The real question was—who was driving that car? Was it Mackenzie or someone else?

At the trial which followed in Dingwall sheriff court, the only witness who could positively connect the accused with the car in question was a police officer, to whom Mackenzie reported the accident immediately at a nearby police station. This officer understood, from what Mackenzie said to him, that Mackenzie was one of the parties involved. The car used by Mackenzie, when going to the police station, was that which had caused the collision. The police officer later went to the locus and there interviewed the principal parties involved. Several days later he charged Mackenzie with negligent driving, to elicit the reply "I did not see the other car." Apparently this police officer was unaccompanied at the time when Mackenzie was charged.

The sheriff convicted, but Mackenzie was successful in his appeal. "The court is satisfied," said the Lord Justice-General, "that if the evidence of the police officer had not been given there would not have been a particle of evidence to show that the appellant was the driver of the car which caused the accident and therefore the conviction must be quashed."

From a note appended to the stated case, in which the sheriff sought to justify his action in convicting, it would appear that he treated the police officer's evidence as to what happened at the police station as corroborating the same witness's evidence as to what happened later at the locus and at the charging of the accused. This will never do. A

witness cannot corroborate himself. The essence of corroboration is that it comes from a source independent of the witness whose evidence is to be corroborated.

MISUSE OF PETROL

The High Court of Justiciary appears to be determined to enforce strictly the provisions of the Motor Fuel Order, 1942, article 12: "no person shall use or permit the use of motor fuel in any private motor car or motor cycle for making any journey in so far as the whole or any part of such journey can be made by train or public service vehicle or partly by train or partly by public service vehicle; so however that it shall be a defence . . . to prove that in the particular circumstances it was not reasonably practicable to make the whole or, as the case may be, any part of the journey by train or public service vehicle or partly by train and partly by public service vehicle." In order to take advantage of the defence, the motorist must show that his use of fuel was a matter of necessity and not merely of convenience. This would seem to be the result of the decision on appeal in *Parker v. Macmillan*, in which a conviction obtained in the sheriff court at Ayr was sustained.

In brief summary, the facts were—that Parker, a farmer near Ardrossan, left his farm at 10.45 a.m. by motor-car to go to Kilmarnock, his purpose being to attend Kilmarnock market, where he had a horse for sale; that he reached Kilmarnock, which is about 15½ miles from Ardrossan, about 11.30; that he was required to show this horse in the market at this hour; that he found a purchaser about 2 p.m., delegated to a friend the completion of the transaction, including the formal delivery of the horse, and left about 2.45 p.m.; that he was stopped by the police on the way home; that on the return journey he stopped in Ardrossan to enable his wife, who accompanied him, to do some shopping, and that he reached his farm, which is two miles beyond Ardrossan, about 4.10 p.m. in time for milking; that the only person left on the farm was his daughter, who was suffering from an injured ankle; that the purpose of the journey fell within the terms of the grant of petrol coupons by the Ministry of Fuel; that there was no alternative means of transport between the farm and Ardrossan (*i.e.*, for the first two and last two miles of the journey), but that there were available two bus services between Ardrossan and Kilmarnock, which provided a bus roughly every quarter of an hour. In evidence, Parker said that he "could not leave the farm earlier than 10.45 a.m.," but does not appear to have given reasons in detail. He added that he had not thought of travelling by train or bus. (The train service available was admittedly less convenient than the bus service and the prosecutor,

by the terms of his complaint, perilled his case on proof that part of the journey could be made by bus.)

As has been already indicated, the sheriff convicted and the conviction was upheld on appeal.

MISUSE OF PETROL—BUT WAS IT PETROL?

Smith v. Clark

A farmer, who had been convicted in Forfar sheriff court of a contravention of article 4 (1) of the Control of Motor Fuel Order, 1942, appealed, arguing (1) that no evidence had been led, in the court below, to prove that, at the time when the police stopped him, he was running his car on "motor fuel" and (2) that no evidence had been led proving that, even if he was using petrol, that petrol had been obtained against the surrender of coupons and that the conviction could not stand. Admittedly, the police who stopped and challenged him in course of an improper journey did not take a sample of, and have analysed, the contents of his tank; nor did the prosecutor tender any evidence as to the source of the fuel then being used to propel the car. On the other hand, the motorist at no time suggested that his car was being run by any means other than the use of petrol.

The judges of the High Court of Justiciary, who affirmed the conviction, rejected this argument. Acceptance of the argument, said the Lord Justice-Clerk, would mean that in every case of this kind it would be incumbent on the prosecutor to have a chemical analysis made of the contents of the tank and to establish from what source, and in what circumstances, the petrol was obtained. To insist on this would be to make the Order unworkable in practice.

LENGTH OF POLICE OBSERVATIONS

Burgess v. Mill

In the issue of this JOURNAL for April 1943, at p. 106, the question was discussed of the period over which it was desirable that police observation should be maintained on a suspected brothel. The conclusion reached was that the period need not be prolonged, if it yielded satisfactory results and was brought to a head by a well-timed visit. That conclusion is not affected by the decision now reported. Where it is possible to convince a court that the essential elements of brothel-keeping were present, a period of ten days or even less is ample. Where, on the other hand, the prosecutor cannot prove brothel-keeping (*e.g.*, because only one woman was accommodating men on the premises), he may be thrown back upon a charge of knowingly permitting the premises, or part of them, to be used for the purpose of habitual

prostitution. In some ways, such a charge is more easily proved; in one respect—the frequency and regularity of immoral conduct—fuller proof is required; and, in order to set up a case of “habitual” prostitution, a longer period of police watch may be necessary.

Mrs. Burgess, the occupier of an area house in Edinburgh, was charged that, over a period of nine days, she did keep and manage her house as a brothel, *or alternatively*, over the same period, she did knowingly permit it to be used for the purposes of habitual prostitution—in contravention of section 13 of the Criminal Law Amendment Act, 1885. The magistrate convicted on the alternative charge. On appeal, the conviction was quashed.

The evidence on which the magistrate convicted was in the main the outcome of police watch on the premises during the period libelled—on nine successive nights—and of a visit on the final night. The watch and visit revealed that A. B., a woman of whose character as a prostitute there was sufficient evidence, was bringing men to the house, where she was living and had a small bed closet for her own use; that, on one of the nights, a soldier, whom she had brought to the house, was still there at 1 a.m.; and that on the final night, she picked up an airman on the streets, took him to the house, and there had immoral relations with him. There was evidence justifying the inference that accused knew A. B.’s character and that men were being brought by her to the house. There was no evidence of payment and no direct evidence of immorality except on the occasion of the police visit; but, if the soldier referred to stayed overnight in the house, it was a fair inference that he was accommodated in A. B.’s room as the rest of the house was fully occupied.

The argument for the appellant was that, even admitting that prostitution was knowingly permitted by her, there was no satisfactory proof that she knowingly permitted her house to be used for the purposes of *habitual* prostitution. This argument was accepted by the judges of the High Court, who, following the case of *Girgaway v. Strathern*, 1925, *J.C.* 31, held that the word “habitual” implied a plurality of instances. Two solitary instances—and that, at the most, was all that had been proved—did not establish habit.

The question was raised, but not decided, whether it was necessary for a prosecutor to prove payment.

Studies in Identification and Reconstruction. No. 14

By SYDNEY SMITH, M.D.

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WHEN a motor vehicle is involved in an accident it is, of course, carefully examined as a routine measure, but it is desirable always that immediate and minute examination should be made by an expert, for by this means a considerable amount of general information about the way in which the accident occurred may be obtained.

The following case, in which a motor bus was involved in collision with two pedestrians, illustrates this point:

The night of August 10th, 1940, was particularly dark and drizzling, and the bus, a single-decked passenger vehicle, was returning to Edinburgh from North Berwick. At about 11.20 p.m. it was proceeding westwards at normal speed along London Road when the driver, feeling a bump and thinking the bus had struck something, stopped “immediately” (driver’s statement). The conductor and the passengers had also felt this bump and noticed that the wheels had passed over something in the roadway. The occupants alighted and found a man (X) lying in the roadway behind the rear of the bus. He was carried to the pavement, where he was found to be dead. A police constable then arrived on the scene and the passengers went their ways. Shortly afterwards the driver of a tramcar, which stopped opposite the scene to allow two more police constables to alight, remarked that the bus was reversing. This statement was corroborated by the two constables, but they did not see the bus move.

A short time afterwards a second man (Y) was found lying severely injured in the roadway about 23 feet in front of the bus. The driver professed to have no knowledge whatever of the second man and denied that he had reversed the bus. If he were correct, then the assumption must arise that two separate accidents had occurred. The bus was on the south side of the road facing west; the front being about 8 feet 3 inches and the rear about 4 feet 2 inches from the curb, with the front wheels turned sharply towards the south pavement. The injured man (Y) was lying about 23 feet *in front* of the bus with his head about 2 feet 6 inches from the curb and his feet pointing towards the middle of the road. He had bled profusely and from where he was lying a track of blood extended diagonally eastwards under the bus, becoming less distinct until it terminated about 30 feet behind the bus midway

between the south curb and the tram rails. Pieces of glass found near the termination of this track were preserved.

The deceased (X) was lying about 70 feet *behind* the rear of the bus with his head about 1 foot from the tram rails and his feet pointing towards the curb.

The point to be decided was whether the two men were struck at the same time, X being killed on the spot and Y carried forward by the bus for about 100 feet, or whether there were two separate accidents.

A minute examination of the bus was made to see what information could be obtained to solve the problem. The following points were noted :

- (a) The off front headlamp mask was dented and pieces of the broken glass were missing. The glass found in the roadway was identical with the glass from this headlamp.
- (b) The foglamp which was on the nearside was bent backwards. Some minute fibres of blue wool were removed from it.
- (c) The nearside front mudguard showed evidence of scraping.
- (d) Grease had been wiped off the under surface of the offside axle.
- (e) There was a trace of blood on the offside of the radiator and the radiator guard was dented.

(f) The circumference of the inner side of the near front tyre showed smears and patches of blood, the disposition and appearance of which indicated that a blood-stained object had been in contact with the tyre whilst the wheel was revolving in a forward direction. In addition, it was observed that the blood stains were superimposed, indicating that more than one revolution occurred whilst this object was in contact with the tyre (photographs 1-2). This blood was Group A. In one of the patches of blood there were a number of human hairs which had been pulled out by the roots.

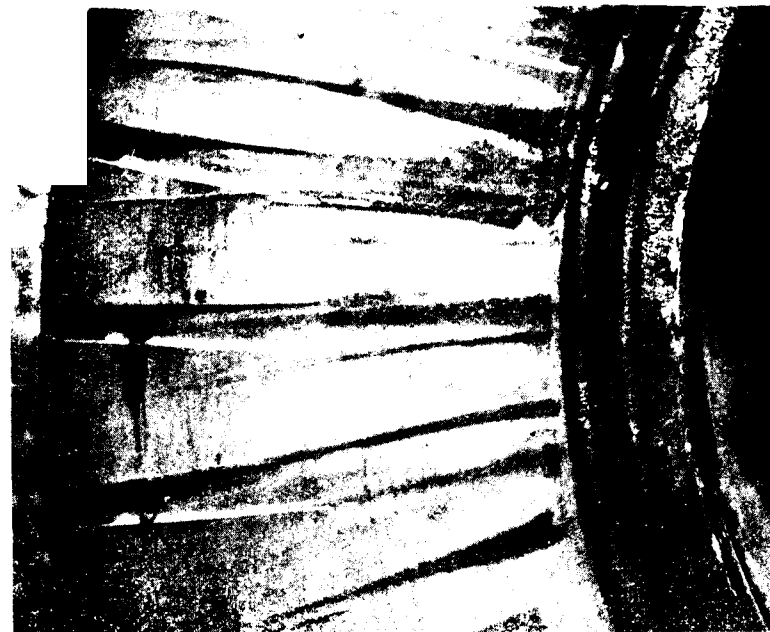
The overall width of the tyre was $7\frac{3}{4}$ inches and the tread contained five components; of these the middle three measured $4\frac{1}{2}$ inches. The track of blood referred to above was $4\frac{1}{2}$ inches wide and was of similar pattern to the middle three components of the tread of the tyre.

The injured man (Y), who, by the way, made a complete recovery, was found to have three severely lacerated wounds of the scalp, a gravel rash extending over the right cheek and right side of the forehead and similar damage on the right side of the thigh and right knee.

The deceased (X) was found to have extensive crushing injuries of the viscera, such as would occur by collision with a heavy vehicle or by such a vehicle running over him.

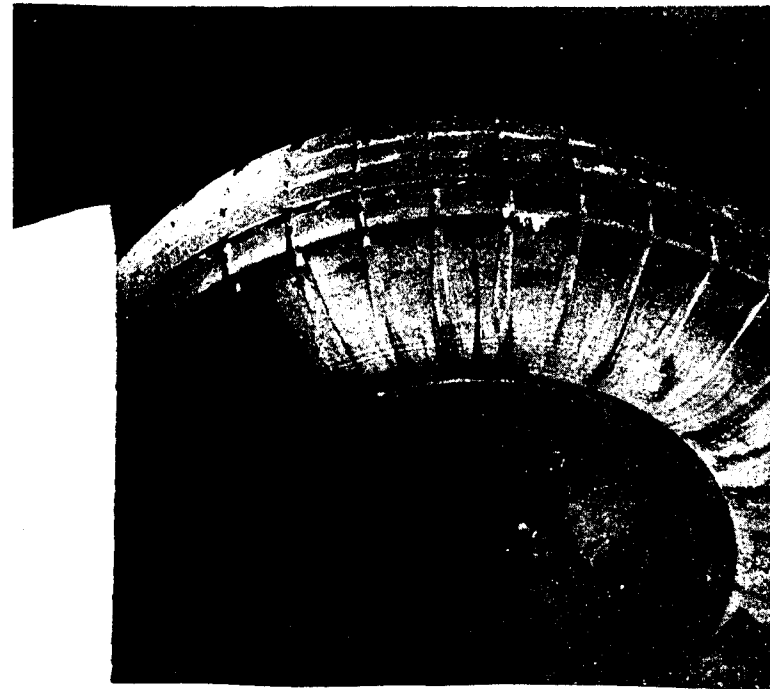
The clothing of the injured man (Y), which was of blue woollen material, was profusely stained with oil on the left side, whereas the

↑
Direction of revolution

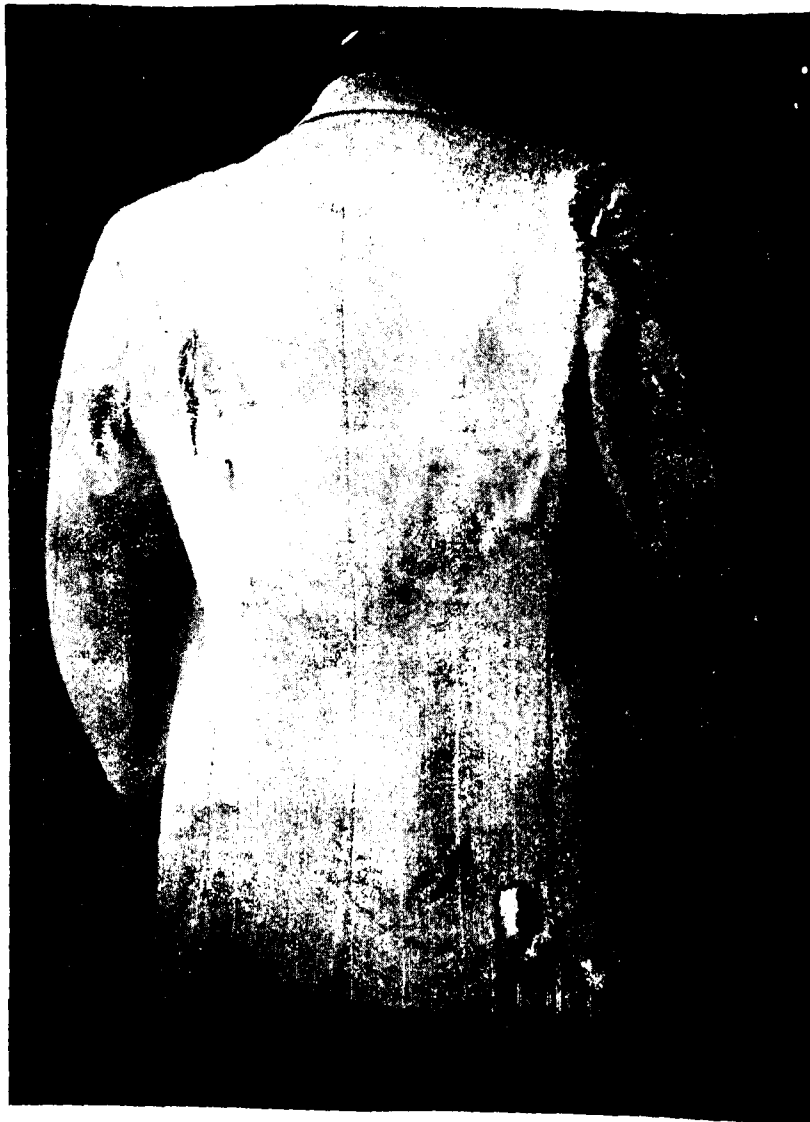


Photograph (2) showing bloodstains on inner wall of nearside front tyre. The shape of the stains shows that the wheel was revolving forwards.

(face p. 26)



Photograph (1) of a portion of the inner wall of tyre showing disposition of blood stains



Photograph (3) showing the jacket worn by the injured man. Note the destruction of material by rubbing on right shoulder and hip, and the tearing and grease marks on the left side.

right side was rubbed and torn over the back and both shoulders, especially the right. The material over the right hip was worn completely through, including the material of the pocket (photograph 3). The toes of both shoes were worn and abraded, the right shoe particularly on the outer side, and the left shoe on the inner side, such as would be caused by being dragged along on the right side. The tie was torn and a piece which was missing was found between the rear of the bus and the place where the body of A was lying.

The blood of X was found to be in Group O, and the blood of Y in Group A.

From the above findings how could a decision be given as to the course of events?

The site of the accident could be fixed with certainty, and it was approximately at the spot where the body of X was found. From the injuries on the body and the absence of any dragging marks of the clothing we can safely assume that X was struck on the offside of the vehicle and run over and killed forthwith. The blood marks on the road, therefore, were not produced from A's body. (They were in fact proved to be of Group A.)

The body of Y showed evidence of having been damaged by striking a bus and the marks on his clothing and shoes indicated that he had been dragged along a rough surface for a considerable distance. The blood found on the bus was in Group A, which was the group of the injured man (Y), and definitely excluded the dead man (X).

The hair on the inner side of the wheel was in every respect identical with the hair from the injured man and quite distinctly different from the hair of the deceased.

The fibres found on the foglamp were identical with fibres from the clothing of (Y) and quite different from the clothing of (X).

The sequence of events is therefore clear. The two men were struck at the same time; X was run over and killed, and Y was carried forward on the under side of the bus and with his head in contact with the inside of the wheel, for, as I have previously remarked, the superposition of blood stains indicated that the wheel had revolved in a forward direction several times before the bus stopped. The blood group and hair characters were identical with those of the injured man (Y). When the bus stopped the driver no doubt reversed and as he reversed the body of the injured man was disengaged, fell in the roadway, and was found 23 feet ahead of where the bus was standing.

The Defence naturally suggested that the blood on the wheel of the bus might have been caused by the wheel passing through the pool of blood where the accident occurred; but apart from the fact that it was of a different group from that of the dead man, the splashing of

the blood from the ground could not produce the smears running around the circumference of the tyre. These could only be made by a blood-stained object of some sort remaining in contact with the wheel while it was revolving in a forward direction.

This case shows the case with which a reconstruction of a series of events can be made if the materials are examined at once. Had the bus been washed and cleaned, practically the whole of the evidence would have been lost, and though in this case it might not have mattered whether there had been one accident or two, it is highly important from our point of view that a true interpretation should be made. It cannot be too strongly impressed upon all officers that in every case of motor accident an immediate and detailed examination of the vehicle should be made; secondly, that the clothing of the victims should be retained until the case is finished, for however dirty and dishevelled the clothes might be, they can ordinarily be depended upon to give a considerable degree of help in the reconstruction of events; thirdly, that a sample of blood should be taken in every case where a person has been killed and the blood submitted to two tests, one for its group and the other for its alcohol content. Finally, a sample of hair of the deceased person should invariably be taken and kept. Even though the whole of these exhibits may not be used in every case, they will be found to be of paramount importance in many instances.

The Education Officer

THE interest stimulated by the article on "Training and Man-power," which appeared at p. 119 of our last volume, justified renewed effort to focus attention on the importance of selecting and qualifying men for the role of teacher. This article is a plea for vision and enterprise to be shown when the time comes for drawing the plans for the training of new entrants to the Post-war Police Service. The criticism of present arrangements for training is in no way to be implied as reflecting on the efficiency of existing training schools or of their staffs. The service owes much to the latter, who, without recognition of their status, and operating under grave difficulties, have contributed more to the present efficiency of the Police than is generally acknowledged. Their only reward is the pride of the school-master who, following the careers of his former scholars, quietly reflects upon the foundations of character and learning to which he contributed so large a share.

In the months which preceded the war many people thought that an outbreak of a second world war would be immediately followed by

horrible and drastic events, in which the whole country would be involved. They were surprised to find that, for the general civilian population, transformation from peace- to war-time conditions was but a gradual process. It can equally be supposed that when fighting ceases in Europe the war will not be over. The transitional period may indeed be long and tedious, with severe strain upon the morale and steadiness of the people, and heavy loads will be heaped upon our already overburdened public services. A grave error will be made if in services which are permanent in character, like the Police, decisions are made now to postpone until "after the war" developments and improvements which, because of or in spite of the war, are crying out now for examination, planning and execution.

In the transitional period the public services of the nation, and particularly the Police, will require to adapt themselves and their organisation to the changing circumstances, but it will be a mistake if only the needs of the moment are taken into account. The best that history and tradition can teach must be handed on to those selected to be the policemen of the future, and short-term plans drawn now should be framed with a view to the emergence in due course of a long-term programme.

These observations apply with particular emphasis to the training of the Police, and in the education of new entrants, many of whom will be selected for service in the Police by reason of good records of service in the Armed Forces of the Crown.

Plans for post-war police education will doubtless proceed on the assumption that no drastic changes are to be contemplated in the structure of the Police Service. That is to say, the organisation, status and local control, aided by Government grant and oversight by the Home Office, will continue, with police forces varying in size from the very large to the very small. Defects in organisation and administration which the present system involve are well known, but their merits are equally recognised, and the planning and organisation of training can be adapted to meet the practical needs of the service. Co-operative and mutual understanding between the Home Office and police authorities, and responsibilities and duties shared between chief officers of police, can achieve all the aims and all the objects in these as in other similar spheres.

Police education can be divided simply into three branches: (i) *primary* training, for the new entrant; (ii) *specialist* training, for men selected for duties in such branches as detective work, administration and the aliens department; and (iii) *higher* training, for senior officers. If we analyse these in more detail, we realise that the *primary training* of a constable can best be dealt with in three phases. These are (a)

organised initial training on appointment as a constable on probation, under a standard syllabus and at a specific school; (b) by practical experience gained in the performance of duties and in which the learner gains by contact with experienced men; and (c) by refresher courses and "extra mural" training at subsequent periods which should be specified in the training programme. In both the first and last phases the skilled and qualified police instructor is essential to success. At present the quality of their skill as teachers, even where they are designated as such, and their status in the Police, are unspecified and undetermined.

Specialist training, of the nature required for detective work, had already, in the immediate pre-war years, made good progress at Hendon, Wakefield, Birmingham and Liverpool, on the syllabus for Detective Training drawn up by the Departmental Committee on Detective Work and Organisation. At the outbreak of war most Forces possessed officers who had passed through one or more of the detective training courses and, coupled with detective conferences, the C.I.D. was developing into a branch of police activity which could claim professional and specialist status. Save in this field no other specialist branch of police work has hitherto been equipped with an organisation for training the specialists employed. Until this is provided no uniformity in administration can be hoped for. As a result, every one of the Chief Constables of the 181 police forces in England and Wales prescribes his own forms for such commonplace and uniform matters as reports of road accidents, sudden deaths, offences reported for process, lost and found property, police pay sheets and the numerous report forms necessary in such domestic spheres as applications for leave, allowances, expenses and personal records. In rare instances, as in the case of report forms for use in the investigation of alleged breaches of the Discipline Code, and in furnishing extracts of police reports on road accidents to interested parties and their legal representatives, a common *pro forma* drawn up by the Home Office and generally agreed by Chief Constables is in use. Despite the recommendations of the Committee on Detective Work, progress is slow in securing adoption of a common system of crime records, crime filing and reporting. Progress is also delayed through the suspension during the war of detective training courses. Their resumption and further success will depend on the availability of qualified teachers, who in specialist training must not only be specialists, with technical knowledge and practical experience of their subjects, but *qualified to teach what they know*.

Higher training, for senior officers, was one of the aims of the Sub-Committee of the Police Council which, in 1930, recommended the adoption of a scheme for a Police College. The syllabus of training

which the sub-committee appended to its report has unfortunately never been retrieved from the proverbial pigeon hole to which it was consigned. It is thus impossible even to hazard an opinion as to what "might have been," if the police authorities had been given the foresight to try out the syllabus and give the Dixon Committee's proposals a reasonable experiment. The fact remains that the report was shelved. When consideration is again possible to the organisation of training for senior officers the recommendations of the Dixon Committee should be reconsidered. They may help in planning the role and status of the Education Officer, the drafting of the Training Programme, and the organisation of the Police Schools, which are steadily emerging as the principal requirements of our Post-war Police Service.

The Education Officer requires to possess three main qualifications: he must be, first, a good policeman; secondly, an organiser of training; lastly, he must be qualified to teach. Prospective teachers should be carefully selected with regard to the degree to which they possess the basic qualifications necessary for a good instructor. The first essential quality is that a teacher must know his job. He must be an expert in his field of work and should have demonstrated his skill to meet all reasonable demands which may be made upon a police officer. He must have the reputation of being "a good policeman" and all that the term means. Without this qualification a teacher cannot introduce into his lectures and teaching the anecdote and example which are so necessary to enable him to illustrate his points, and to drive home in a practical way the theory and the law and practice which he teaches. Another characteristic to be considered in the selection of a prospective teacher can be summed up in the statement that he must be "well-balanced." In other words, he must have the right personality. Personality, in this respect, may be defined as the combined effect of four principal groups of characteristics which any individual may be expected to possess in varying degrees. They are (i) the way a man deals with things; (ii) the way a man deals with ideas; (iii) the way a man deals with other people; and (iv) the way a man deals with himself.

The way a man deals *with things* is shown by the way in which he does everyday things connected with his job. If he is a mechanic it is reflected in his skill in the performance of his work, and the way he handles tools and materials. Some well-educated people are quite helpless in doing even the simplest practical things. A man who has ability to deal with things intelligently or, in other words, to use his hands and brains with some degree of skill, would measure up fairly well under this head.

The way a man deals *with ideas* is meant to suggest the degree to

which he possesses real intelligence or brains, as distinct from academic qualifications. Ability to deal with ideas means the ability to think straight, to reason things out logically, from cause to effect, and to reach sound conclusions, after weighing every consideration. A teacher needs this quality.

An ability to deal *with people* has been called an essential intelligence. In the essential work of a policeman the individual must be a mixer, adapting himself to the company in which he is at the moment, a conversationalist but not a bore. Some call it social intelligence. It also means that he must emerge when necessary as a "leader," able to sum up, to reach a conclusion, give a decision and, in doing so, show the sound judgment and common sense of the plain man.

Finally, there is the way a teacher deals *with himself*. What he is, rather than what people think he is. Breeding, self-confidence, and gaining the confidence of others. Personality may not, perhaps, easily be acquired. But it can be developed. The teacher who aims at the development of these qualities in himself may show others, better qualified than himself to judge, that he really possesses them. It is not only in the lecture-room that the personality of the teacher shows itself and leaves its impression on the scholar. On the parade ground, at drill, at demonstration, and when supervising outdoor and indoor physical recreation and leisure, the value to the trainees of the particular instruction depends largely on the leadership of the teacher.

An American authority has summed up the objectives of the prospective Police Instructor in the following order:

- (i) Securing an appreciation of the teaching job;
- (ii) Developing the ability to do a good teaching job;
- (iii) Developing the ability to plan instructional work;
- (iv) Developing the ability to prepare teaching material and to use it intelligently.

Logically, the development in the instructor of the ability to plan should precede the development of ability to do the job. As it works out in practice, the "ability to plan" is often developed later than the "ability to do." In short, the teacher must also be a planner, and he must know the capacity, limited more in some men than in others, of the learner. Planning must embrace the whole field, with one aim, which is to feed the Police Service with new entrants, and to retain new entrants in the Service who are not only of the personality and character which the Service needs, but whose learning and technical education are such as to command the respect of, and provide the best protection for, the public for whose benefit and protection Police are maintained.

These considerations may provoke the reply that few people are available for the role of teacher-trainer. But the creation of machinery for the purpose cannot be impracticable. The material is surely already within the Service, and direct help from outside sources should be unnecessary. But it is well to remind ourselves of the proposals made in the Government's White Paper (July 1943) on Educational Reconstruction. The general approval which the proposals have received seems to indicate that Parliament may be asked to implement the proposals by legislation as soon as opportunity offers. On the subject of the recruitment and training of teachers the observation is made that—

"The educational history of too many teachers is alike: school to training college and university and back to school, without any break. Few teachers, except those in technical colleges, have had experience of life other than as students and teachers. Plans must be laid to secure that the teaching profession represents, so far as is practicable, a cross-section of the interests of society at large. Travel, experience of affairs, participation in some form of social service—all these enhance the contribution which a man or woman can make to the schools. Industry, commerce and other callings should contribute their quota to the teaching profession; and it should not be so true as it is to-day, that once a teacher always a teacher. It is not reasonable to suppose that, if the country treats its teachers well, there will be any dearth of men and women of ability and character to meet the demands of a reconstructed educational system."

The views thus expressed from so authoritative a quarter should be taken into account in planning the status and functions of the Police Education Officer. In police work the field of education covers the whole service, and extends throughout every policeman's career. The staff of the training department of each Force must not, therefore, be limited to a few officers who, showing aptitude for teaching and selected for instructional duties early in their careers, become permanent instructors, remote from the work of the beat and out of touch with the practical problems of the Service. A period of teaching ought to be a phase in the career of many officers on their journey to senior rank, and in the course of time qualified teachers and former education officers should be distributed in good numbers amongst the senior officers of the Service. In this way the task of teacher-training will attract the ambitious as well as the adaptable and resourceful policeman, and ensure a proper flow of candidates from the general body of each Force for selection for instructional duties.

The practical means for achieving results would be to designate

an "education officer" in each Force, large and small, responsible to the Chief Constable for the organisation of training, in all its branches. In large forces, in which training schools are maintained, this designation is already present, though perhaps the nomenclature differs. In small forces the designation is equally necessary and justified, even if the officer holding the appointment combines the functions of education officer with other duties. In counties and large borough forces with a divisional organisation, a divisional education officer may well be justified, in either a part-time or whole-time capacity as the volume of educational work and its organisation demand.

In practically every profession to-day the educational and professional status of higher officers is signified by the award of degrees or diplomas which, within the service or profession concerned, as well as to the public at large, indicates professional capacity and the quality of the person holding the award. The Police Service has lagged sadly in this field, due mainly to the inherent reluctance in the past of police authorities and others, within and without the forces, to regard the Police as a "service" rather than as a collection of 181 individual police forces. It is wrong to suppose that such a conception indicates a tendency towards "nationalisation" or even the "regionalisation" or amalgamation of police forces. It implies and necessitates no changes in the present structure of the service, with its local control and central guidance. Events of recent years, and particularly the experience of war, have seen this narrow outlook steadily replaced by a conception of the Police as a "service," cultivating the tone and tradition of a service of the Crown, while preserving the best which is bred from territorial pride and from local interest, which count for more than we realise in our English way of life.

This progressive phase will be accelerated if those responsible for planning post-war developments will readjust their ideas to the needs of the nation on the one hand and of the individual policeman on the other.

Is it aiming too high to renew the plea, made some years ago in *THE POLICE JOURNAL*, that there should be a "Council of Police Education" comparable in status and purpose with the Council of Legal Education maintained for the English Bar, and with the academic institutions of professional organisations, serving to promote the learning and efficiency of the members of the professions concerned? The younger members of the Police Service, some of whom have faced big tasks, with credit, during the war, and others who will return from service in the Armed Forces with records of remarkable achievement and unique experience, will enter upon their post-war police duties with renewed ambition and enterprise, hoping that in the Police they

will find a career of usefulness and service. Most of the recruits to the Service will have served His Majesty in a variety of arms and services, all over the world. The task of adapting their lives to service in the Police Force will be difficult, but the high reputation of the Police in the public esteem is likely to furnish an abundance of applicants.

To those whose duty it will be to carry on the Service it is due that the plans drawn now for organising the education of the Police should ensure that, in the post-war years, the Police will retain and improve the respect and confidence which, in the war years, they have won, in greater measure than ever before, from a Public whose safety and protection it is their primary duty to secure.

"FORESIGHT."

The Colonial Police

The following appointments are announced by the Colonial Office :

BACON, Lt.-Col. R. R. M.	Superintendent of Police, Ceylon.
BALLANTINE, Capt. R. W. H., Deputy Inspector of Police, Palestine	Assistant Commissioner of Police, Gold Coast.
ERSKINE LINDOP, Colonel R. A., Commandant of Police, Bahamas	Deputy Commissioner of Police, Trinidad.
MCDONOUGH, C. L., Sub-Divisional Inspector, Metropolitan Police	Superintendent of Police, Ceylon.
MORTON, G. J., Assistant Superin- tendent of Police, Palestine	Deputy Superintendent of Police, Palestine.
O'ROURKE, M. S., Deputy Superin- tendent of Police, Palestine	Superintendent of Police, Palestine.
ORRETT, Lt.-Col. W. A., Deputy Commissioner of Police, Trinidad	Commissioner of Police, British Guiana.
RICHES, E. H., Chief Inspector of Police, Tanganyika Territory	Assistant Superintendent of Police, Tanganyika Territory.
WALDRON, J. L., Sub-divisional Inspector, Metropolitan Police	Superintendent of Police, Ceylon.
WARD, C. H., O.B.E., Superintendent of Police, Nigeria	Commissioner of Police, Sierra Leone.

The Formal Charging of Prisoners

BY SERGEANT J. L. THOMAS

City of Bradford Police

IT might well be supposed that a stage had been reached when practically the whole field of police activities had been thoroughly surveyed, and that any writer in this sphere would now be condemned to repetition. This is scarcely true so far as the routine followed in the charge room of a police station is concerned. Very little is to be found in print dealing with this important part of police work, and about the only time that the spotlight of publicity is focussed on it is when some irregularity in procedure is alleged, such as an unlawful arrest, a false imprisonment, or a breach of the Judges' Rules. As such allegations are, fortunately, very rare, the work that goes on in the charge room is for by far the greater part of the time cloaked in obscurity.

Stated briefly, what happens in most forces when a person has been arrested is that he is taken to a police station, where he is formally charged in the presence of a police officer whose duty it is to investigate all charges. In some forces, including the Metropolitan, this officer is called the station officer; in some other forces he is known as the officer in charge of the police station. Three courses are open to him: he can accept the charge, he can refuse it, or he can defer his decision until further evidence has been obtained, in which case he will bail the prisoner to return to the police station at a stated time. The last-mentioned procedure, called a "delayed charge," is provided for in section 45 of the Criminal Justice Act, 1925.

The preliminary investigation of the charge by the police is not a matter of general law, being merely a "domestic" arrangement, and it would be interesting to trace its origin. Its efficacy is recognised on all sides, and the Report of the Royal Commission on Police Powers and Procedure, 1929, had this to say about it: "We regard this immediate review, by an experienced officer, of all arrests made by individual constables as a valuable safeguard to the public, which largely offsets the hazard involved in a system which gives full powers of arrest to every constable from the day of his appointment."

The preliminary sifting of the facts of a case and the subsequent preferment of the appropriate charge by the police has been aptly likened to the administering of "first aid" treatment to the injured. The complaint must first be accurately "diagnosed," then properly labelled, before being passed on for professional treatment (from which stage onwards abundant guidance is to be found in countless

THE FORMAL CHARGING OF PRISONERS

37

learned tomes). This diagnosing process is of the utmost importance, for, as with "first aid" to the injured, irreparable damage can be done by faulty treatment in the initial stages.

The position occupied by the station officer is unique in more than one respect. For instance, the fact that he has to investigate *all* charges means that he sometimes has to scrutinise the actions of superior officers, and occasionally to refuse charges which they have preferred. On the face of it, this seems an anomalous state of affairs. A clue to the situation is to be found in an article* describing the organisation of the Edinburgh City Force, written some dozen years ago by the then Chief Constable, in which he said: "... serious cases are always inquired into by an experienced officer of high rank *who is directly responsible to me* for the manner in which this very important duty is carried out." (The writer's italics.) The peculiar position of the station officer in relation to his superiors is further exemplified by a recommendation contained in the 1929 Royal Commission's Report, that he should always be present when a prisoner is dictating a voluntary statement "whatever may be the rank of the officer in charge of the case, and even when, for instance, Metropolitan C.I.D. officers are called in by a local Police force to investigate a serious crime in their area."

For the successful functioning of this method of investigating charges, a number of things are imperative. The station officer, in addition to having a sound knowledge of the law, must possess acute judgment, have a good knowledge of the ways of the world, and be a man of few prejudices. Furthermore, he must be strong-minded enough to adjudicate impartially on cases brought by superior officers. The system works well in practice, police officers in general, whatever their rank, appreciating that the station officer has been specifically given the task of investigating all charges. In this connection, it is important that the station officer should be assured that those in authority repose their confidence in his judgment.

In some forces divided views are held as to what should obtain when detectives prefer charges. For example, in his book *Scotland Yard and the Metropolitan Police*, Sir John Moylan writes: "As regards the more serious crimes, the case will frequently be one in which the C.I.D. have effected the arrest, and are directing the action in the case, and the taking of the charge at the station by the station officer will be a formal matter." This statement is diametrically opposed to the recommendation contained in the 1929 Royal Commission's Report, the relevant portion of which reads: "If the arrest is effected by an officer of the C.I.D., the prisoner . . . should be handed over at

The Police Journal, Vol. III, No. 12.

once to the Uniform Branch, as represented by the station officer, who should require as full a narration of the facts, in the presence of the prisoner, when the charge is preferred by the C.I.D., as he would if it were being preferred by his own men." These two attitudes approximately reflect the conflict of views that exists in more than one force.

When it is remembered how exacting and delicate the detective's work can be on occasions, and how he frequently has to make up his mind on the spur of the moment whether or not to arrest a person, the desirability of surveillance of his actions becomes apparent. Especially is this so when the arrest has been effected by a young and zealous detective. It is all to the good that the review of the detective's actions should be undertaken by an impartial officer who specialises in the work. The station officer has often cause to be thankful for the valuable help he receives from senior detectives when difficult charges are being investigated, and it is particularly desirable that cordial relations should exist between them. But the former would be deluding himself if he supposed that he could transfer the responsibility of making the ultimate decision. It has been emphasised time and again that in deciding to imprison a man he undertakes a personal responsibility of which he could not divest himself, if his action proved to be illegal, by pleading the orders of a superior.

It need hardly be pointed out that the fact that substantial damages could be awarded against him were he to act contrary to legal precepts is an added incentive for the station officer to give the fullest consideration to every charge he enquires into. But whilst giving due regard to the niceties of the law, he has often to act with celerity. In the first place, he may be continuing the imprisonment of a man who has been unlawfully arrested. Secondly, it frequently happens that a number of urgent tasks await his attention, the investigating of charges not being a full-time job in the great majority of forces. Not for him is the leisurely perusal of various cases having a bearing on the one under review, with some "junior" to "devil" for him.

In investigating a charge, the station officer has a twofold task to discharge. Firstly, he must verify that the offence for which the prisoner has been apprehended is one for which power to arrest exists. Secondly, he must satisfy himself that there is some evidence to sustain the charge. If these two requirements are met, he can safely accept the charge. If the evidence is not particularly strong, if the case is "a bit thin," he can often dispel his qualms on this score by bailing the prisoner without delay, although this, of course, will not be practicable when further evidence can be obtained only if the prisoner is detained in custody.

Verifying the legality of an arrest can be an exceedingly perplexing business. If anyone doubts this, let him turn to *Stone's Justices' Manual*

and note the amount of space devoted therein to reviews of decisions in respect of the offences of false pretences and larceny trick, respectively, bearing in mind that power of arrest is restricted in the former case to where a person is found committing. The station officer is frequently confronted with sets of circumstances which do not conform to the examples cited in text-books, for new factors continually obtrude themselves to harass him. Small fear of his mind becoming torpid! Even when puzzling cases similar to the one under review have already been decided in the courts, particulars of the relevant decisions are not always available at short notice. The following two cases which cropped up recently in the writer's locality evoked much discussion:

(1) X told Y that he had a piano for sale. X took Y to the former's home, showed him the piano (which was really the property of X's mother), and sold the instrument to Y for £5. Y, without moving the piano, sold it to Z for £15. Z removed the piano. X was arrested and charged with stealing the piano. Was this correct? Or should he have been reported for false pretences?

(2) A youth sneaked into a warehouse during the daytime and disconnected from an inside wall the earth, aerial and electric current wires which were attached to a radio set in the premises. Being disturbed at this point, the boy ran away and was caught some distance from the premises by an employee of the firm owning the set, who had been working in an adjoining room. A policeman was sent for, and he arrested the youth, took him to a police station, and proposed charging him with attempted larceny. Was the policeman's arrest lawful?

Combinations of circumstances which cause the station officer to scratch his head and delve into law books could be multiplied *ad infinitum*. Some of those which at first sight appear to be trivial give rise, when more closely scrutinised, to the most awkward problems. And nowadays emergency legislation taxes his knowledge and resource to an even greater degree than hitherto, for here, as a rule, there are no precedents to guide him. The following incident, which happened locally, proved a poser at the time:

A constable was passing some business premises during the night when he heard someone inside shouting in a drunken voice. He pushed open the door and found a man lying on the floor just inside the doorway. The man, who was helplessly drunk, was bellowing forth with alcoholic vigour. No other persons were in the building at the time. The constable arrested the man, who said he was a fire-watcher, and took him to the charge room. Was the constable in order in making the arrest? If not, what could the station officer do with the man at this stage?

With regard to the second duty of the station officer, ascertaining

whether there is a *prima facie* case against the prisoner, a model procedure was laid down by the 1929 Royal Commission "in the hope that it may be made the standard procedure." This recommends that the constable should take his prisoner "straight to the charge room and there to narrate to the station officer his grounds for arrest." Later in the Report comes an even more explicit direction: "Every person arrested should, in all cases, be brought straight to the station officer for the preferment of the formal charge." In practice, as every experienced officer knows, it is often impossible to adhere rigidly to this procedure. For instance, a constable will sometimes bring to the charge room a man whom he has caught in extremely suspicious circumstances, although the constable is not sure of the exact offence committed. This sort of thing is particularly apt to occur in respect of offences against section 28 of the Larceny Act, 1916—being found by night either in possession of housebreaking implements without lawful excuse, or armed or disguised or in any building with intent to commit a felony; and the offences of being a suspected person or reputed thief loitering with intent to commit a felony. Often an interval between the arrival of the prisoner in the charge room and his being charged must necessarily elapse whilst enquiries are made at the scene of the crime and statements taken from anyone who can throw light on the nature of the crime committed, such as whether premises had been secured or articles moved at all. Even when all the relevant facts have been elicited, before the prisoner can be formally charged the station officer may have much ferreting out to do before the appropriate charge is eventually unearthed.

The model procedure referred to above stipulates that the constable arresting should narrate his grounds for making the arrest in the prisoner's presence, and that all statements by witnesses should also be made in the prisoner's presence. The instructions appertaining to the taking of charges contained in Sir Howard Vincent's *Police Code* are largely in conformity with these recommendations, and one of these instructions even goes so far as to say: "No statement relative to the charge should be made except in the hearing and presence of the prisoner."

While the procedure to be followed in investigating charges is not prescribed in law, one coming from such exalted quarters as that mentioned above is bound to command respect. To criticise it may savour of proving the truth of the adage which contrasts the intrepidity of fools with the wariness of angels; nevertheless, certain criticisms, based on experience, occur to the writer.

One can readily envisage a variety of circumstances where it would be most unwise for the police to reveal to the prisoner the full extent

of the incriminating evidence which they possess. For instance, this may include a tell-tale finger-print, or peculiar stains or dust found on the prisoner's clothing. Possibly someone may have even seen him perpetrate the crime. To relate everything in the prisoner's presence is tantamount to presenting him at the outset with the case for the prosecution. Many a criminal, when brought to a police station, must be very apprehensive as to how much the police "have got on him." He will wonder whether they are in possession of all the facts or whether their case is still incomplete. The method of charging prescribed above would furnish him with what he so badly wanted to know, thus giving him ample opportunity of countering it by means of fabrications which he would have plenty of time to devise. So long as the station officer is quite satisfied that a reasonable amount of evidence against the prisoner exists, there does not seem to be any necessity for him to arrange for the prisoner to be acquainted with the full extent of his knowledge. In practice, a station officer many times relies on written statements which incriminate a prisoner, and these, after all, are likely to be more exact and accurate than oral statements made in the distinctly unnerving surroundings of a charge room.

What is the object of this insistence that everything should be related in the prisoner's presence? Presumably it is to induce him to express agreement or disagreement with the allegations which are being made against him. Often, he would be moved to make interjections, to ask questions, and to indulge in counter-questions with witnesses; possibly to make admissions, or even a confession. It is pertinent to ask whether this practice of conducting what almost amounts to a court of preliminary enquiry does not run counter to the spirit of the Judge's Rule which forbids the questioning of prisoners whilst in custody.

It may be, of course, that the station officer is in a privileged position so far as this Rule is concerned, and is accorded somewhat more latitude than other police officers are. True, apart from an allusion to him in section 45 of the Criminal Justice Amendment Act, 1925, no mention seems to be made in law of the officer in charge of a police station, prior to the acceptance of a charge, and his powers would therefore seem to be no greater than those of any other constable. The restrictions imposed on the Police so far as the questioning of persons in custody is concerned are well known. In the oft-quoted words of Lord Brampton: "Neither Judge, magistrate, nor juryman can interrogate an accused person. . . . Much less ought a constable to do so." The Report of the 1929 Royal Commission was equally emphatic on this point. "We therefore recommend," it reads, "a rigid instruction to the Police that no questioning of a person in custody, about any

conduct of the police in the charge room is indisputable—the rareness of complaints by prisoners or magistrates bespeaks this—but, nevertheless, a greater degree of uniformity in the investigation of charges seems desirable. After all, some methods will inevitably be superior to others, and are therefore worthy of general adoption. This could be partially achieved by a wider interchange of information between different police forces. It might be considered advantageous, too, for station officers to be given the opportunity of examining the routine followed in forces other than their own. This would enable them to discuss problems which they had encountered in carrying out their specialised work, and possibly to gain a new angle on them. “Isolationism” is out of fashion these days, breeding as it does what has been called the “parochial outlook,” wherein local procedure is often considered of greater importance than the general law. The tendency to subordinate law to the demands of procedure is always liable to result in one of H.M. Judges pointing out the inherent superiority of the former, at the expense (literally) of some unfortunate station officer.

Although the formal charging of prisoners is not a subject which comes in for a lot of discussion, it must not be lost sight of that it is of first-rate importance from a police point of view. Too much emphasis cannot be laid on the necessity for charge room routine being closely scrutinised with a view to the elimination of any undesirable features, and for a constant guard to be maintained against irregularities creeping into the procedure followed there.

The Restoration of Numbers on Metal*

BY DETECTIVE-INSPECTOR P. LAW
Photographic Branch, New Scotland Yard

THE subject of the “Redevelopment of Latent Impressions on Metal” has been comprehensively dealt with by Mr. Gilbert Forbes, B.Sc., in the Home Office Forensic Science Circular, *Scientific Aids to Criminal Investigation*, No. 5, of March 1939. The following article is intended as a practical guide to those working in the Photographic Branch at any police headquarters.

Many cases come to the knowledge of police officers in which numbers or ciphers have been removed from metal articles in order to prevent their identification. The restoration of these numbers will

* This article has been prepared in the Photographic Branch of the Fingerprint Department at New Scotland Yard. Much invaluable assistance has been received from Mr. H. D. Murray, M.A., F.I.C.

go far to assist the investigating officer to trace the owners of the property. Removal of these marks of identification is fairly common in the cases of stolen cycles and motor-cars, and their restoration, while entailing a fair degree of labour, should not present any insurmountable difficulty to the officer possessed of the necessary patience and skill.

The usual means adopted to remove the numbers is by filing; but grinding, scoring, gouging or punching may also be employed. Where the original ciphers have been only over stamped it is sometimes possible from a study of an enlarged photograph to elucidate the first set of numbers without recourse to any further treatment. The same method can be used where the numbers have been scored through; but in the majority of cases a more involved treatment will be found necessary.

The principle to be adopted follows that used by metallurgists in the preparation of the surface of metal prior to microscopic examination of its structure.

The force used to stamp impressions on a piece of metal disturbs and alters the structure of the metal immediately below the stamping, and when this area, after proper preparation, is subjected to a chemical process called “etching,” the site upon which the numbers were stamped will react in a different manner from the surrounding metal, and in the majority of cases the ciphers which have been removed will be readable. Generally speaking, the restored numbers will be of a semi-permanent nature, that is to say they will remain visible for periods ranging from a few hours to several weeks, gradually becoming less distinct as time goes on.

Photographs of the restored numbers should be taken at the period of their optimum visibility, which as a rule is immediately following their restoration. Some cases will be met with where the restored numbers remain visible for a matter of seconds only. These fugitive numbers must be read off as they appear, but after fading they can again be rendered visible by a repetition of the etching treatment.

The process of restoring these numbers involves three separate operations, viz. (1) Cleaning, (2) Polishing, (3) Etching.

1. *Cleaning.* The area around the site and the site itself from which the numbers have been removed must be properly cleaned; all oil, dirt, grease and paint being removed with petrol or xylol. In dealing with cycles or other articles which bear signs of having been repainted, the paint should be removed from those areas where the number is usually to be found, these being, in the case of cycles, on the seat lug, seat-stay end-plate, bottom bracket, and bottom lug. Any signs of filing will then be more readily seen.

2. *Polishing.* This operation is by far the most important and the success of the process as a whole will depend on the skill and care

with which it is carried out. A thorough preparation of the surface of the metal will be amply repaid by the results obtained.

Where the original numbers have been removed and fresh ciphers stamped on the same site, effort should first of all be made to restore the original numbers without filing away the visible ones, as shown in Illustration No. 2. Where the site, however, has been left fairly smooth, polishing can be started straight away.

If the surface presents scores or scratches it should be rendered smooth with a fine file, taking care only to remove the barest minimum of metal. Follow this by polishing with a medium to fine grade of carborundum cloth, changing to still finer grades as the surface takes on a polish. Further polishing can be carried out, using the finest of grinding paste or flour, finishing off with rouge. All filing and polishing must be done in an up and down direction or straight across the site, never with a circular motion. This polishing process is sometimes tedious and may take anything from several minutes to two or three hours, depending on the hardness and granularity of the metal, but it must be persevered with if the mirror-like surface which is essential to the best results is to be obtained.

Time can be saved, however, by the employment of a mechanical polisher. The one in use at Scotland Yard is in the form of a small electric motor which can be held in the hand, and to which is attached a chuck (Illustration No. 1). In the jaws of the chuck can be inserted polishing heads covered with fine carborundum cloth. Other heads are composed of layers of compressed felt and are used to give the final polish in conjunction with the rouge. When using the mechanical polisher, avoid using the coarser heads as a grinding tool. Too much pressure will have a tendency to make the softer metals take on a concave surface. Experience with a large number of articles over a period of time shows, however, that the hand-polishing method secures the best results.

3. *Etching.* Having prepared the site the various "etchants" can be applied. Whether the metal should be heated prior to their application depends, of course, on the type of metal and the article from which the numbers have been removed. Such things as cycle frames and motor-car engines can safely be heated by means of a bunsen burner or blow-lamp. Heating should not be carried too far, being discontinued at the first sign of change of colour of the metal. Re-heating can be done at intervals as is found necessary. While the process can be worked cold, and a certain degree of restoration obtained, in almost every case superior results have been achieved here by the use of preliminary heat treatment.

The following list of "etchants," while not exhaustive, will be found sufficient to meet all likely requirements.

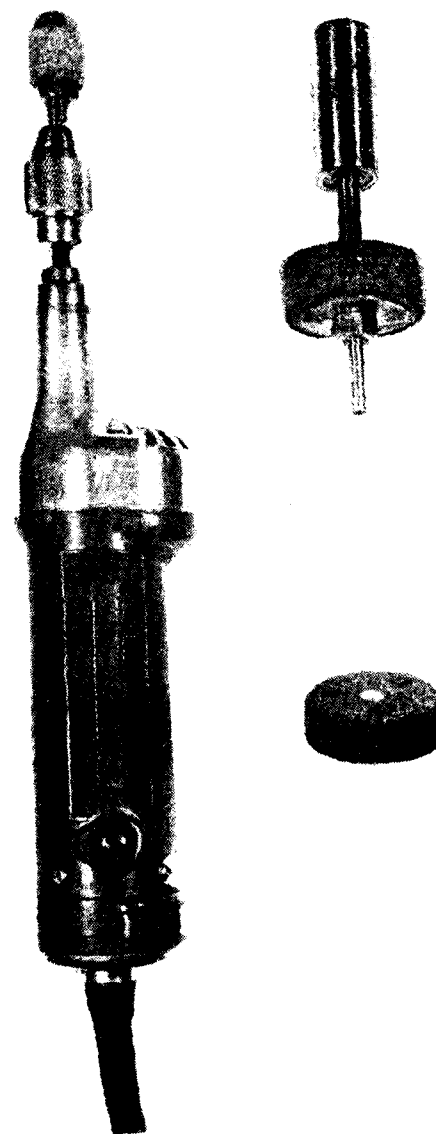


FIG. 1

LIST OF ETCHING SOLUTIONS AND THEIR USE WITH VARIOUS METALS

All-Iron and Steel except Cast Iron

1. Hydrochloric Acid ... 25% sol.
2. Ferric Chloride ... 10% "

Apply with a swab alternately.
Etching complete in any period from 15 minutes to 3 to 4 hours.

Cast Iron

1. Hydrochloric Acid ... 25% sol.
2. Ferric Chloride ... 10% "
3. Nitric Acid ... 10% "

Commence swabbing with the Hydrochloric, alternating with the Ferric and Nitric. After applying the Nitric effervescence will take place over the site and the numbers can be read off in the fine bubbles which appear. If this is unsuccessful discontinue the use of Nitric Acid and swab with the other two reagents. Polish the surface lightly occasionally. Restoration on this metal is often of a fugitive nature.

Copper

1. Methylated Spirit ... 1 part
- Hydrochloric Acid ... 1 "
- Ferric Chloride ... 1 "
2. Hydrochloric Acid ... 25% sol.

Swab alternately. "Etchant" works in about 20 to 30 minutes.

Brass

1. Hydrochloric Acid ... 25% sol.
2. Ferric Chloride ... 20% "

Alternate swabbings. Etching complete in about 20 minutes.

Stainless Steel

1. Hydrochloric Acid ... 25% sol.
2. Ferric Chloride ... 10% sol.

Alternate swabbings, Ferric Chloride being the main "etchant."

Tin

1. Hydrochloric Acid ... 25% sol.
2. Ferric Chloride ... 10% "

Alternate swabbings. Etching complete in about 10 minutes.

Zinc

1. Nitric Acid ... 5% sol.

Immerse metal in solution for periods up to 2 hours or more until etching is complete.

Lead

1. Nitric Acid ... 10% sol.
- Chromic Acid ... 20 drops of a 40% sol.

Continual swabbing will cause a black precipitate to form. Continue the treatment for 10 to 15 minutes, then remove the precipitate by swabbing with a concentrated solution of Nitric Acid. Repeat treatment until the numbers are readable.

Aluminum

- Sodium Hydroxide ... 10% sol.

or

- Hydrochloric Acid ... 10% sol.

Warm metal. Alternate the swabbings with washings of water. Fine bubbles will appear over the site, which are generally more easily read than the restoration obtained with the next reagent, notwithstanding their fugitive nature.

Swab continually. "Etchant" works in about 15 minutes, but may have to be applied for periods up to 2 hours or more. Not so easily read as the previous restoration but sometimes more permanent.

Phosphor Bronze

1. Hydrochloric Acid ... 25% sol.
2. Ferric Chloride ... 20% "

Heat metal; swab alternately, removing the black deposit by friction. Etching complete in about 15 minutes.



FIG. 2

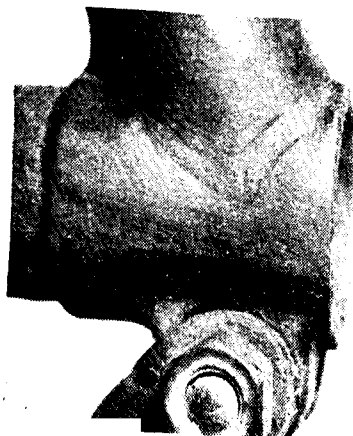


BEFORE



AFTER

FIG. 3



BEFORE



AFTER

FIG. 4

(face p. 47)

The ferric chloride solution mentioned in the above list should be prepared as follows and diluted to the required strength :

Ferric chloride	2 oz.	Methylated spirit	1 oz.
Hydrochloric acid	1 oz.	Distilled water to	4 oz.

For the information of those officers who are inexperienced in compounding chemical solutions it might be mentioned that acids must always be added to water and never vice versa. The use of distilled water is to be preferred. Hydrochloric and nitric acids are of a highly corrosive nature and should not be allowed to come into contact with the skin. Rubber gloves or finger-stalls should be worn when swabbing, which can conveniently be done by means of a pledge of cotton-wool held in a pair of substantial forceps.

While the strength of the aforementioned solutions will be found adequate for the majority of cases, they may be increased up to double the strength in stubborn cases.

The efficiency of the foregoing technique has been well proved. During the year 1942 successful restoration of numbers, etc., was accomplished on 95 per cent. of the articles dealt with, including bicycles, binoculars, cameras, guns, sewing machines, motor-car engines, typewriters, and on portions of oxy-acetylene safe-breaking equipment.

The photography of the restored numbers should present no special difficulty except that some care should be taken with the illumination. Flat lighting is generally useless, a fair degree of obliqueness being required. Used in conjunction with an emulsion of average speed a satisfactory result should be obtained. Illustrations Nos. 3 and 4 show portions of two cycle frames before and after treatment.

Women Constables

WITH unabated vigour the representative women's organisations, supported by dignitaries of the Church and bodies which concern themselves with questions of moral welfare, press for the appointment of a larger number of policewomen. With equal persistence many police authorities adhere to their decision not to employ policewomen. There remain a large number of police forces without women constables in their establishments, and others with but one or two women whose duties are exclusively engaged in the handling of women and girls concerned in offences, committed by or against them, in which indecency or other sexual behaviour is alleged.

The Home Secretary's views on the subject have been expressed to

Parliament on a number of occasions. He is willing to authorise the inclusion of a number of women constables in each police force, and he has from time to time invited police authorities to review the position. The Secretary of State has also made the Police (Women) Regulations, under Section 4 of the Police Act, 1919, prescribing the qualifications for appointment, ranks, conditions of service and rates of pay and allowances for women constables. But the control of police forces is a matter for police authorities, and not for the Home Secretary, whose function is limited (save in relation to the Metropolitan Police, for which he is the Police Authority) to ensuring efficiency, providing central guidance and the oversight on behalf of the Crown which accompanies the payment by the Exchequer of 50 per cent. of the cost of maintenance of police forces in England and Wales. While this, in theory, confers a considerable measure of power for the Home Secretary, so far no Home Office "pressure" has been brought to bear with a view to adding women constables to the strength of every County and Borough police force in anything like the numbers urged by those who want more women police.

Published reports of discussion on the subject of policewomen show much confusion of thought amongst people who are otherwise well informed on matters of social welfare and the public well-being; and, as not infrequently happens in the discussion of controversial questions, both sides tend to extravagant phrase and lack of perspective. This confusion is sometimes due to a misconception of the duties of the police. The rôle of the police is the maintenance of law and order, the enforcement of the criminal law, and within this framework the duties which may be assigned to policewomen are set out in the Police (Women) Regulations, as follows:

Patrol duty.

Duties in connection with women and children reported missing, found ill, injured, destitute or homeless, and those who have been the victims of sexual offences, or are in immoral surroundings.

Taking statements from women and children in cases of sexual offences.

Duties in connection with the conveyance of women and children to or from hospitals, poor law institutions, police stations, prisons, remand homes, and approved schools.

Watching female prisoners and women who have attempted suicide detained in hospitals, etc.

Attendance on women and children in court.

Searching and attending female prisoners.

Clerical work.

Plain clothes duty and detective work.

By Regulation 2 of the Police (Women) Regulations, the "authorised strength" of women in any police force is subject to the approval of the Secretary of State, and the numbers "shall be sufficient to provide women" for the carrying out of the duties mentioned above. A wide range of duties may therefore be assigned to women constables, but the duties do not extend beyond the scope of police duty. The variety of duties and functions discharged by probation officers, the functions of justices in the Domestic Proceedings Courts, and the moral welfare work undertaken by religious bodies, educational and public health authorities and women's organisations, are outside the ambit of a policewoman's duties, equally as they are outside the ambit of a policeman's, save in so far as immorality is related to crime, and the prevention of immorality, or the removal from immoral surroundings, are necessary acts for the prevention of crime. There is certainly a need, greater now than in peace-time and growing more acute month by month, for the closest possible co-operation between the police and all these religious, educational, moral and preventive influences.

In considering the rôle of the woman constable, it is necessary to bear in mind the difference between crime and immorality. Sometimes the distinction is very thin, particularly in relation to children and young persons who may be exposed to moral danger and in need of care and protection.

That immoral surroundings, and immorality itself, like drunkenness, are frequently linked with crime is undoubted. But the responsibility for preventing immorality, or rather the promotion of sexual morality, ought not to be defined as a duty of the police, save where immoral conduct and the opportunity for immoral acts, or their encouragement, are in public places or are made the occasion for gain or corruption. The promotion of chastity and preserving the sanctity of marriage are, of course, vital to the future of the nation, and the need for recognising this is more urgent under war conditions, when so many children are separated from their parents, and so many spouses from each other. The problem undoubtedly calls for redoubled efforts on the part of the religious and educational, as well as public health, bodies and authorities, and all who combine to promote the spiritual and moral, as well as the mental and physical, welfare of the people, especially the young.

In some of the duties which may be assigned to women constables, e.g. women found ill, injured, destitute or homeless, their conveyance to hospital or prison, watching suicidal patients in hospitals, and searching and attending female prisoners, it is undisputed that a woman, and

not a man, should be employed if the circumstances permit. On his beat a policeman must be prepared to handle any situation, and experience shows that his knowledge of first aid, his tradition for using his common sense, and his high personal character generally enable him to do the task well. Apart from incidents on the beat, for which women constables are seldom available, such work is carried out by "matrons," employed whole-time or part-time, according to the size of the station and the volume of work. Matrons have no designated status in the Police service, and their pay (frequently *nil*, as when performed by a constable's wife) and conditions of service are unspecified. This lack of status may have the effect of implying that these tasks are menial, and that this sphere of police duty is of no importance. It is true that the performance of such duties seldom requires the exercise of police "powers." It is open to question, however, whether this is a sound "police point of view." Such tasks are performed, in relation to male prisoners and patients, by policemen, and any suggestion that men other than constables should be employed for the purpose would be strenuously and rightly resisted. There is much to support the view that persons called upon to perform police duties should have the status of a constable, and that this applies to women equally as to men.

The other duties prescribed as appropriate to be assigned to women constables, including the taking of statements from women and children in sexual cases, are the subject of much contentious discussion. One view is that this work should be exclusively assigned to police-women, another that the work is equally or better undertaken by experienced policemen. Such work calls for skill, and is generally entrusted to officers of experience in detective work. When the evidence referred to in the statement is given in court there may be no women present beyond perhaps a probation officer and one or more members of the Bench. In the higher courts the judge or recorder would certainly be a man, though most juries to-day include one or more women. If the taking of statements is undertaken by a woman who is untrained and lacks practical experience the result is likely to be inferior, and the search for truth, which is the aim of all police investigations, will be impeded.

The detective and preventive duties, within the prescribed range, which individual women constables might be called upon to perform, should not be confined to cases of indecency in which women and girls are the victims. Successful detective work generally depends on the skill and experience of the officer engaged, not only in that particular class of offence, but in all forms of crime, which have brought him in contact with people drawn from all classes of society. In the same way, a woman constable whose duties bring her into close and common

touch with all classes of people, and all types of offenders, will develop her qualities of policewomanship, her knowledge of men and women, and improve her powers of discrimination and discernment which are important factors when conducting interviews with suspects and victims of both sexes. Comparatively few cases arise in which a woman or girl is not concerned as a witness, if not as victim. In housebreaking, the housewife is frequently an essential witness or informant; in shoplifting, the assistant is invariably a woman, and in many other cases the maxim of Hans Gross, "*cherchez la femme*," is a wise approach for the investigator. It is a fallacy to suggest that women in such cases should be interviewed only by a woman police officer. It is equally a fallacy to suggest that such interviews can be made only by male officers. The essential need is that the officer, whether male or female, should be competent to do the job.

One important defect in the policewoman is that, even in cases where the declaration of a constable has been made, she cannot be required to perform duties which necessarily involve the exercise of physical force and consequent exposure to physical danger, but the element of risk cannot be altogether removed. But war-time conditions have shown that, in a wide variety of employments and professions, women have proved their ability to shoulder many of the tasks which formerly were held to be exclusively a masculine rôle and responsibility. The Women's Auxiliary Police Corps have shown that a wide range of duties can be carried out with reasonable efficiency by women. Save in the physical demands of beat and patrol duties, in effecting arrests, and generally in maintaining law and order in troublous circumstances, auxiliary policewomen are proving themselves capable of performing numerous police duties. This fact may provide the answer to the problem which faces many chief constables who, though willing to appoint women constables, have great difficulty in finding the right type of women for the work.

Experience shows that, important though the qualifications of physique, education and intelligence may be in a candidate for appointment as a woman constable, the qualities most necessary are those of personality, deportment, adaptability and tact. This applies to women candidates for the Force equally as to men. It is extremely difficult, certainly hazardous, to assess these qualities from particulars furnished on a form of application, supplemented by a personal interview. They can, in fact, only be determined by personal acquaintance with the duties to be performed. For this reason, the recruitment of detective officers is made from the general body of constables, after the qualities of personality, deportment, adaptability and suitability for detective work have been tested by training and practical experience. Any other

system of recruitment for the C.I.D. would result in a number of "misfits," and in many men being returned to civil life who, though not adapted for detective work, make efficient policemen in the uniform or other branches of the Force.

At the present time every Force has a larger number of women serving in its ranks than ever before. Many are doing useful and important work in offices, stations, on traffic duties, in detective duties, and in other spheres. The opportunity is present for auxiliary policewomen themselves to see how the work of the police force is performed with its interior economy, conditions of service, discipline, and, above all, to get to know from the inside something of the important part which the policeman takes in the life of the community, and the respect in which he is held by the public. The opportunity is also present for responsible senior officers to examine the merits and suitability of individual women, otherwise fulfilling the conditions of appointment for women constables, who may well justify selection for, and themselves aspire to, a career in the Police Force. This experiment has already been tried with success. Women who before the war were book-keepers, shop assistants, or in other occupations, particularly those who came in close contact with a variety of types of women, demanding qualities of tact, personality and enterprise, have found through their service in the Women's Auxiliary Police Corps a new sphere in which the idealism and realism of public service are closely blended, and in which opportunities for a career would be welcomed. Obviously only a few of the auxiliaries can be selected, but the advantage of this from the point of view of the service is that the field of selection is widened.

No policeman or policewoman can make a success of the work unless he or she is known as a capable and competent officer. A woman constable who has the respect and professional confidence of her male colleagues, who share the work of office and station, and, more important, of the policemen who patrol the beats in the locality, is likely to be busy. Existing prejudices will disappear. Without that confidence in her professional and practical qualities cases will seldom be referred to her, however implicit may be the orders from higher authority on the subject.

Re-examination of the whole question of policewomen, with an open and unprejudiced mind, may result in modification of the several points of view, in which the needs of the situation to-day, and the equally difficult period which must be faced at the end of the war, may be squarely and fairly met.

F. T. T.

The Auxiliary Police Women Unit of the Mauritius Police Force

IN sending us the photographs of the recently-formed Auxiliary Police Women Unit of the Mauritius Police Force here reproduced, Colonel W. S. Dickens, O.B.E., Commissioner of Police, writes :

"Readers of THE POLICE JOURNAL may be interested to know something of the part played by the women of this remote Colony in the war effort of the Empire. With the additional duties and responsibilities imposed upon the Police Force in Mauritius, as well as in other parts of the British Empire, in consequence of the war, it has been found necessary to resort to the employment of women in certain posts to relieve man-power for more important duties. I must here say that the type of woman recruits available locally is of a very high mental and physical standard, and no difficulty is experienced with regard to recruiting.

"The employment of Auxiliary Police in this Force is at present confined to clerical duties, but they are required to wear uniform and, in addition to training in the various duties allotted to them, recruits receive extensive training in drill which is essential in the interests of discipline and, furthermore, will stand them in good stead should they be required to undertake executive Police work at a later stage. I am glad to say that this form of training has given excellent results and that the Mauritius Auxiliary Police Women are rapidly approaching the standard of smartness and efficiency of the women employed in the various Services in the United Kingdom.

"The Unit was formed on September 1st, 1942, and its present strength is one sergeant, one corporal, four lance-corporals, and sixteen A.P.W.s, distributed in four sections, each under the direct charge of a lance-corporal."

Gaming by Automatic Machines

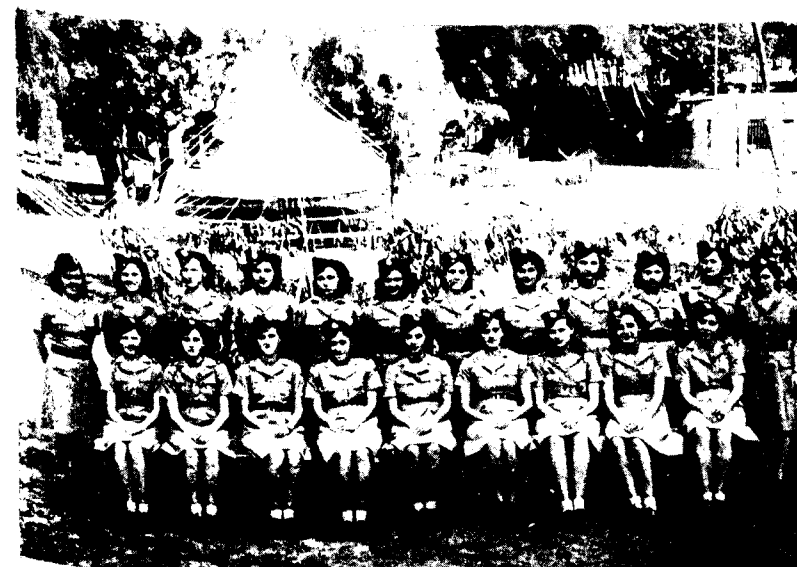
BY STATION SERGEANT WILLIAM GUTTRIDGE
Metropolitan Police

GAMING by means of automatic machines amongst children and adolescents has, at the present time, reached the stage where it is becoming a social and national evil. Since the outbreak of the war "Fun Arcades" and "Fun Fairs" have reaped a golden harvest, and

MAURITIUS AUXILIARY POLICE WOMEN UNIT



From left to right : L/Cpl. A.P.W. Pougnet, A.P.W. M. Fayd'herbe, A.P.W. C. Ribet, A.P.W. F. Allier, L. Cpl. A.P.W. R. Planel, A.P.W. L. Giraudeau, Sgt. A.P.W. S. Giraudeau, A.P.W. M. Mackie, A.P.W. I. Manuel, A.P.W. M. Whiting, A.P.W. A. Grant, A.P.W. R. Gelle, A.P.W. Y. Dumée, A.P.W. A. Gelle, A.P.W. O. Pilot, L. Cpl. A.P.W. M. Blancard, A.P.W. A. Duval, A.P.W. M. Lavoipierre, L. Cpl. A.P.W. J. Telere, A.P.W. M. Manuel, Cpl. A.P.W. G. Bouic.



From left to right (standing) : A.P.W. F. Allier, A.P.W. M. Mackie, A.P.W. A. Grant, A.P.W. I. Manuel, L. Cpl. J. Telere, A.P.W. M. Lavoipierre, A.P.W. A. Gelle, A.P.W. A. Duval, A.P.W. Y. Dumée, A.P.W. M. Manuel, A.P.W. O. Pilot, A.P.W. M. Fayd'herbe.

From left to right (sitting) : A.P.W. M. Whiting, A.P.W. L. Giraudeau, Sgt. A.P.W. S. Giraudeau, L. Cpl. A.P.W. M. Blancard, Cpl. A.P.W. G. Bouic, L. Cpl. A.P.W. R. Planel, L/Cpl. J. Pougnet, A.P.W. C. Ribet, A.P.W. R. Gelle.

their pernicious influence on the minds of the young is incalculable. The attractions of "something for nothing," or "a prize for a penny," held out as an inducement to play on automatic machines, operate on the minds of the young to a most serious extent. It is not going too far to state that the results of gaming, and principally gaming by means of automatic machines, are responsible for the majority of present-day petty larcenies by children, and the general increase of juvenile crime.

Gaming by automatic machines is an evil, and in the words of a former Lord Chief Justice of England (when dealing with a case of automatic machine gaming), "The law is perfectly clear. It depends only upon the vigilance and diligence of the Police to put an end to what can only be regarded as a pest and a most mischievous pest, because it operates on the minds of young persons and corrupts them in their youth." This pest can be eradicated by a firm and impartial Constabulary; but, firstly, a clear exposition of the law as it relates to automatic machines must be thoroughly understood.

All automatic machines are not unlawful or illegal. Their unlawfulness or illegality depends upon various circumstances, as follows:

- (a) the type of machine;
- (b) the purpose for which it is being used;
- (c) the place in which it is being used.

Machines which are clearly and legitimately used "For Amusement Only" cannot in any way be illegal; but in practice very little of such machines are used, for the obvious reason that the financial gain derived therefrom is infinitesimal. Such machines as "Model of an Execution," "Fighting a Fire," etc., where a working model of a particular event is operated in a glass-fronted case, *and nothing else takes place*, are clearly only for amusement, and no contravention of the law occurs.

It should be noted, however, that a notice exhibited "For Amusement Only" is of no value at all. It is the actual use of the machine which counts. Where a machine is played for "money or money's worth," or there is a possibility of the player winning a prize of any kind, the machine is brought within the scope of the law relating to gaming.

The Gaming Laws are at present in such a chaotic state that the exact legal position relating to the lawful and unlawful use of automatic machines can only be ascertained by referring to all the relevant statutes and a comprehensive amount of case law and Judge's rulings.

Firstly, gaming is either "unlawful gaming" or "gaming." "Unlawful gaming" is the playing of an "unlawful game" anywhere, or playing any game in a Common Gaming House; whilst gaming is playing any game in certain specified premises, such as licensed premises or refreshment houses.

Various games have been declared unlawful by various legal decisions, although not by present-day statutes. Such games are: ace of hearts, faro, basset, hazard, passage, roulette, every game of dice except backgammon, every game of cards which is not a mere game of skill, and any other game of mere chance (*Jenks v. Turpin*, 1884). Nobody apparently plays such games at the present day, but the definition is wide enough to include the present-day ingenious forms of gaming machines.

In addition to "unlawful games" it is an offence to play any game (lawful or unlawful) for money or money's worth in a Common Gaming House. A Common Gaming House has been defined as a house to which a large number of persons are invited *habitually* to congregate for the purpose of gaming. Every Betting House is by Section 2 of the Betting Act, 1853, a Common Gaming House. This would include the premises of a registered club (*Daniels v. Pinks*, 1931), or even a private house. It makes no difference if the game is confined to members of the club or even to a party of friends. If the game is "unlawful" the premises are a Common Gaming House. Similarly, playing any game for "money or money's worth" in premises which are deemed to be a Common Gaming House by reason of the habitual use of such premises, is "Unlawful Gaming."

Automatic machines to be brought under the definition of "Unlawful Games" must be games of pure chance, in which the chances are not alike favourable to all the players, including amongst the players the owner of the machine; not chance and skill combined, or skill alone. The machine must be operated for "money or money's worth." Cash must be returned to the player from the machine, or discs or tokens which are exchangeable for cash or prizes (even a few sweets).

"Money or money's worth" is the criterion whether the use of a machine is lawful or not. Machines which give some form of genuine amusement, and also sweets, in exchange for coins or discs inserted are being played for "money or money's worth."

The question of whether a particular machine is unlawful is one of law, not of fact. Also, whether a machine is a gaming machine or not is whether the machine is being used for gaming at the time of the offence, not how it might be used. An important point to bear in mind is that possession of *any* machine is not in itself an offence.

All prosecutions for unlawful gaming should be instituted under the Gaming Act, 1845. Search warrants should be applied for under Section 3, Gaming Act, 1845 (outside the Metropolitan Police District). In the M.P. District, the Commissioner of Police grants Orders in Writing under Section 6 of the same Act.

Various types of automatic machines have been declared unlawful

in stated cases. These machines are: "Clown" machine (*Bracchi v. Rees*, 1915), "Diddler" machine (*Gordon v. Dunlevy*, 1928), "Little Stockbroker" (*R. v. Brennard*, 1930), "Fruit" machine (*R. v. Kirby*, 1927, and *Daniels v. Pinks*, 1931).

It is important to bear in mind that where there is a governing element of skill in the operation of a machine, and the real consideration is the opportunity of exercising skill, the case is not within the Gaming Acts. This principle was clearly established in *Davis v. Parker*, 1931, where proceedings were taken under Section 4, Gaming Houses Act, 1854, respecting the use of a "Circle of Skill" in a Fun Fair. As skill was clearly used the case was quite rightly dismissed on appeal by case stated to the Divisional Court.

Where a prosecution is instituted under the Gaming Act, 1845, or the Gaming Houses Act, 1854, in respect of premises which are not a Common Gaming House, the unlawfulness of the game must be clearly proved.

Apart from the types of machines brought within the scope of the Gaming Acts, are those which require a varying amount of skill in their operation. Such machines are obviously those of the "pin-table" type, and the "Novelty Merchantman," the latter consisting of a miniature crane and grab operated in a glass case. These machines undoubtedly require skill in their manipulation, and whether their use is illegal or not depends solely on the type of premises in which they are used.

The playing of any game in a Refreshment House for "money or money's worth" is gaming, and skill is immaterial. It is not, of course, essential that the machine returns coins or discs. The operation of a machine where prizes are given for scores of a certain magnitude is playing for "money or money's worth."

Lawful and unlawful games are strictly forbidden under Section 79, Licensing (Consolidation) Act, 1910, in respect of licensed premises; Section 32, Refreshment Houses Act, 1860, regarding licensed refreshment houses, and Section 44, Metropolitan Police Act, 1839, in connection with premises (in the Metropolitan Police District) where refreshments are sold. (In practice this latter Act includes confectionery and "general" shops.) The offence is committed where any game is played for "money or money's worth," although the game be a lawful one, and one involving skill. Playing such games as billiards, darts, dominoes, cards, etc., for "money or money's worth" (even for drinks), if the play takes place on the premises enumerated above is an offence.

A prosecution of the use of a "Crane and Grab Machine" in a refreshment house instituted under Section 44, Metropolitan Police

Act, 1839, has been taken to the Divisional Court by way of case stated, and [the machine] there held to be illegal (*Ankers v. Bartlett*, 1936).

If machines operated by skill or skill and chance combined are used in places where refreshments, etc., are not sold, e.g. Fun Arcades, barber's shops, hairdresser's establishments, etc., they can be successfully prosecuted under Section 3 of the Betting Act, 1853. Skill is immaterial in prosecutions under this Act (*R. v. Peers*, 1917), although in all proceedings it is necessary to prove that there was a possibility or chance of the player winning a prize. Prosecutions under the Betting Act, 1853, may, of course, be instituted in respect of licensed premises or refreshment houses, and this point should be considered where penalties under other statutes are no deterrent.

In the case of machines which, for example, simply return a different coloured disc upon the insertion of a coin, such disc being exchangeable for varying quantities of sweets, such machine is a pure lottery, and proceedings should be instituted under Section 22 (1) (b), Betting and Lotteries Act, 1934, for "Selling chances in a lottery."

Seizure of automatic machines is authorised under Section 7, Gaming Act, 1845, which gives power to seize all tables and instruments, etc., of gaming. (Money is not an instrument of gaming.) This is the only statute which gives such power, although the Betting Act, 1853, is synonymous with the Gaming Act, and a warrant issued under this Act has exactly the same authority as a warrant issued under the Gaming Act. Machines may, however, be taken possession of for production as evidence in court. Recovery of such machines (if not legally destroyed) may be obtained by the owner applying for a summons against Police to the court which heard the case (Police (Property) Act, 1897).

Destruction of automatic machines may be ordered by a magistrate or justices under Section 8 of the Gaming Act, 1845. This is the only authority for the destruction of automatic machines. The machines may be destroyed if seized in respect of premises which were entered under a "Gaming House Warrant" (which includes a warrant issued under the Betting Act), and then only if the principal is arrested and taken before the court under such warrant.

When once the law relating to automatic machines is clearly understood, it will be realised that all machines operated otherwise than purely for amusement are within reach of the law, and vigorous action against this evil is greatly to be encouraged if only in the interests of the rising generation of England.

A Policeman Goes to the Pictures

A RECENT article in THE POLICE JOURNAL (October 1943, p. 304, "War and Crime: A Lesson in Determinism") stressed the fact that crime is not the product of any one factor or group of factors and indicated how certain mental factors predispose towards criminal conduct. All the elements of this "conspiracy of conditions," as it has been described by John Lewis Gillin, have been examined at some time or other. Much has been written, for instance, on the effects of poverty, unemployment, defective family relationships, alcoholism, and bad heredity. The present writer, prompted by his experience as a police officer, ventures to suggest that more attention might be given to a comparatively new factor—the cinema—which would appear to have some considerable influence on social conduct. It is intended in this article to present certain aspects of the problem rather than to suggest the answer, and it is also hoped that expression will be given to a few of the ideas that must have occurred to many policemen.

Opinions, ideals, beliefs, taste and fashion, and all the human foibles and fancies that manifest themselves in everyday life, can be influenced and moulded by the cinema, a contrivance which began as a scientific experiment, was converted into an entertainment, grew into a major industry, and is now the most popular recreation in this country and in many other parts of the world. The cinemas draw more people daily than all the dance halls, dog tracks, pin table saloons, billiard rooms, and sports arenas combined, and a few facts will serve to illustrate how important a part they play in the life of the community.

The first cinematograph exhibition in Britain was given in London in February 1896, and during the period that preceded the First World War great strides were made in technical development. It became very evident that the growth of the cinema as a public entertainment was to be very rapid. Between the two wars its progress was remarkable. By 1934 there were about 4,000 cinemas in the whole country; there are now over 5,000. In 1934 there were about 963 million attendances, the gross receipts being over £41 million; in 1941 the attendances (in spite of air raids) were in the region of 1,000 million and the receipts exceeded £83 million. These figures alone justify some curiosity as to the possible effects of a form of entertainment that occupies so much of the time and a good proportion of the pocket money of large sections of the population. Police officers who have been surprised by a Bogartian "O.K., I'll take the rap," from a boy aged eight, or have met with a sullen feminine obstinacy (with typical hair-style and

appropriate pose) reminiscent of Miss Garbo, will appreciate that the questions raised are not just idle speculation.

Doubts were expressed as to the desirability of the cinema as a form of entertainment for children long before the film industry as we know it really got into its stride. An article entitled "The Abuse of the Cinematograph," which appeared in *The Times* on April 11th, 1913, said with some finality:

Films depicting crimes—burglaries, robberies, suicides, and so forth—are more powerful for evil than the worst of the sensational literature which is so often deplored. There is a copious supply of mere horrors—massacres, railway accidents, motor-car smashes, fires on land and sea—all "faked," and even more blood-curdling than the realities they are supposed to represent. Children feast upon these exaggerated horrors when they ought to be going to bed; and they get home too tired and excited to sleep, and are unfit for their school work next day.

This was an opinion widely held at a time when the films were still very much the "flickers," when sound effects—other than orchestral—were unknown, and the emotional and dramatic appeal of the screen was strong, but, owing to technical limitations, was less effective than it is to-day.

There has been some sporadic research into the question chiefly in connection with juvenile delinquency. In 1931-2 the London County Council conducted an enquiry among 21,000 school children and ascertained that about 40 per cent. went to the cinema at least once a week. Similar enquiries in other parts of the country have shown higher rates of attendance. The attendance rate for adolescents is probably more than twice that of elementary school children, and the war-time figures, if they could be obtained and examined, would no doubt be very illuminating. The L.C.C. Report stated that:

... the film is no worse than the old-time "blood" universally read by the boys only a few years ago. It is no more falsely sentimental than many of the feminine equivalents of the "blood." What man of fifty has not been a pirate in his youth? These children at least seldom see anything on the film in which virtue and right are not merely ultimately, but immediately, triumphant. ... Evil, on the films, never pays. The crook is always frustrated, and the amateur, if not the professional detective, is always successful.

In 1938 the League of Nations published a pamphlet entitled *The Recreational Cinema and the Young* which concurred in the opinion expressed by the L.C.C. investigators and concluded that films were not morally harmful to children. It criticised, strongly, however, the films of the type now classified as "horrific."

A contemporary opinion is that of J. Macalister Brew, who writes in her book *In the Service of Youth* (1943):

It is true that gangsters, crooks, cat burglars and the like have featured in a large number of films, but most films are quite extraordinarily moral in their endings—the really bad come to a most sticky end, or else are moved to repentance, by circumstances, feminine wiles or childish innocence which in real life would leave less hardened criminals such as you or me stone cold. It is true that the general idea of many films may be harmful but there is practically no direct incentive to crime.

The writer then concludes:

... on balance it could be proved that the cinema, like so many other much-abused arts, does more good than harm, and it is very much open to question whether it has caused any young thing who was not maladjusted in the first place, to embark on a career of crime for crime's sake, though it might cause one or two more adventurous spirits to commit a crime for adventure's sake.

It is beyond dispute that many films are not only good, healthy entertainment, but also very instructive, and it can be argued that some of the possible effects of certain films are more imaginary than real. It is true it is very easy to exaggerate when dealing with such a subject, more especially when it has not been possible to obtain some solid data to serve as a basis for argument. Those who take too optimistic a view, however, tend to overlook, or at least evaluate incorrectly, two points in particular. In the first place, a film cannot be compared with a twopenny "blood," a novelette, or even a well-written crime novel. A picture of any kind conveys far more to the mind than the printed word, and a film scene, well acted and assisted by dramatic audible dialogue and realistic sound effects, will make a much greater impression than anything in print.

Secondly, the fact that a film story ends on a strong moral note may mean nothing at all to a child, who will often fail to follow the thread of the story and will recall significant episodes and exciting, isolated incidents rather than retain an impression of the whole film. If one is to judge from many conversations overheard in the street, bus, train, or the cinema itself, this is also true of many adults. Incidents that are essential to the development of the plot can be made very attractive although they may be morally reprehensible, and the climax of the film where virtue is triumphant can soon be forgotten. A compensating factor in the case of young children is the inability of the child, through lack of knowledge and experience, to appreciate the implications of certain film scenes so that incidents that might be considered harmful pass them by completely.

The influence of certain films on the mind of the adolescent is, it is submitted, a more serious matter. The cinema offers to boys and girls in their 'teens a welter of romance, adventure, comedy, and crime,

played out against a background of sybaritic luxury, crude desires, violence, and incredible artificiality. As Dr. A. E. Morgan observes in his book *The Needs of Youth* (1939), it is a "school of false values and its scholars cannot be unscathed." It is difficult to measure the consequences of this pictorial barrage which is directed, in accordance with the cultural standards of the box-office, against the minds of the younger members of the community during their most formative years. Some must surely experience a desire to share the life depicted on the screen, some may be envious, and others may not only be envious but eager to seek it for themselves. The cinema can be an escape, a realisation, or an incentive. The direction the incentive is likely to take should be of interest to every police officer.

Any police officer who visits a cinema might well wonder what the cumulative effect of such "conditioning" is likely to be. In some films a career of crime is made to appear precarious, but the subject is handled in such a way that sympathy is aroused for a despicable character and strong resentment is felt against the forces of the law engaged in bringing him to book. The advantages of a secure but less remunerative form of employment are, on the screen, outweighed by the more attractive prospect of money easily earned. Certain criminal characters are made fascinating heroes and their activities are pictured as a crusade against authority. Crime is in fact often shown to be not only very profitable but justifiable.

When the situations involving crime are woven into a story with a historical background the implications are probably swallowed up in a mass of detail related to a way of life which the audience appreciate is far removed from them in point of time and, for them, quite unattainable. Plots which centre round a modern desperado who laughs his way through larceny, robbery with violence, blackmail, and murder, to the arms of an exotic female who is no better than a prostitute, are something of a grim reality and must steer the thoughts of some of our young folk into very undesirable channels.

Viewed through the eyes of a policeman the screen would appear to be capable of giving the potential delinquent not only considerable encouragement but the final impetus towards the commission of a crime. The writer has seen films that were almost illustrated lectures on criminal technique. The following are a few of the hints and tips given repeatedly for the guidance of those members of the audience who might one day find a use for them:

- The importance of wearing gloves to avoid leaving fingerprints and of wiping off fingerprints that might have been left.
- Methods of entry into buildings and premises of all kinds.
- The use of various instruments for forcing doors and windows.

- Special opportunities for theft at hotels, stores, etc.
- Methods of operating certain frauds and confidence tricks.
- Suggestions for establishing an alibi.
- Use of disguise and impersonation.
- Selection of places of concealment for persons and property.
- Ways of escape and of eluding pursuit.
- Ways of disarming suspicion.
- Uses of offensive weapons such as knives, guns, knuckledusters, etc.
- Use of violence to intimidate witnesses.
- Falsification of evidence.
- Disposal of stolen property.

Police officers who are patrons of the cinema will be able to add considerably to this list, which is drawn from scenes featured in films exhibited all over the country during the last five years. It is interesting to note that Dr. Burt, in his famous book *The Young Delinquent*, states that "of recent years, the exhibition of criminal methods has been almost entirely excluded from films shown in the public halls," and he suggests that direct imitation of criminal plans and ruses by juveniles is "exceptional and rare." The limited survey upon which Dr. Burt based his opinion was made some years before the present War, and an enquiry over a wider field to-day would probably disclose a deterioration in the subject-matter of many films. Police records are not normally sources of information on the matter, but police officers could furnish from personal knowledge and experience some interesting examples of the influence of the cinema. Cases have been known, for example, where a series of juvenile offences in a particular district have been directly connected with a film shown in that district a short time before. Such cases are few, but even so a diligent officer cannot afford to ignore the programmes shown at the local cinema, particularly when the cinema is the focal point for young persons spread over a wide area.

In addition to an interesting and potentially useful insight into criminal methods the regular film-goer will also have learned that the police are not so wonderful after all. Ever since the days of the "Key-stone Cops" the film police officer has been portrayed consistently as a ponderous, slow-witted individual with little imagination and often no note-book and pencil. This characterisation seems to be a film convention and presumably follows faithfully the stage convention which dates back to Shakespeare, who burlesqued the peace officers of his day in the persons of Dull, Dogberry, and Elbow, and condemned their descendants to be billed for all time, like the last-named, "a simple constable."

The mechanism of detection displayed on the screen is never

impressive, and apart from the fact that the screen detective does not appear to have heard of the Judges' Rules his usual method of procedure leaves much to be desired. The professional detective is invariably the foil for the suave amateur whose routine is not only unorthodox but illegal. The police can enjoy a laugh at their own expense, but an unending series of police "stooges" is exasperating. This constant exhibition of detective inefficiency and constabulary obtuseness might not be a direct encouragement to delinquents, but honest members of the community who regard the screen in much the same way as they do the editorial of their daily paper might, when confronted with a real crime, consider it useless to report their suspicions to the police. This is not a frivolous proposition; the subtle influences of mass suggestion are in the long run more insidious than the more obvious ones.

Again, the general public are given a bad impression of the procedure followed in the courts, both British and American; accustomed to read of, and to some degree taught to respect, the dignity of the law, they are presented with a portrayal of the machinery of justice which is inaccurate and approaching caricature even when it is meant to be deadly serious. Judges, counsel, court officials, receive the same treatment at the hands of directors and script writers as chiefs of police, detectives, and other officers. Justice, it has been said, must manifestly be seen to be done. Very few people visit the courts to see things for themselves as they are entitled to, and ought to. Many take no interest in the administration of justice at all (until the newspapers unearth a "scandal" in some particular court), and the great majority are accustomed to watch, not the living bench but shadows on a screen. It is difficult to assess the consequences of this, but it might be thought to destroy the faith of the law-abiding equally as effectively as it aggravates the cynicism of the lawless. It cannot be too strongly emphasised that one of the worst aspects of the cinema is that its regular patrons are exposed to a process which in time makes it almost impossible for them to distinguish between fact and fiction. There is a marked tendency for film standards to be accepted as basic criteria.

The cinema cannot be discussed without touching upon the question of morality (in the popular, restricted sense of the term), and although, to quote the Report of the Royal Commission of 1929, the police are not "arbiters of contemporary morals," it is impossible for them to dissociate themselves from moral problems which are likely to develop into breaches of the criminal law. Sexual morality is closely connected with such offences as abortion, infanticide, concealment of birth, indecency, and rape, and it is necessary to consider in what way, and to what extent, the films can influence sexual conduct and contribute to sexual delinquency. No one who has worked with or for young

people for any length of time will deny that proper education in such matters is badly needed. At present the younger generation leaves school in ignorance, only to acquire from tainted sources a mass of misinformation and a plethora of crude ideas by what is really a process of trial and error. The pamphlet on *Sex Education and Youth Organisations*, issued by the Board of Education in November 1943, points to the need for action in this direction and will, it is hoped, do much to bring about an improvement.

The mind of the adolescent in particular is fertile ground for the powerful temptations of the cinema screen. All the passions and most of the vices are paraded before the eager eyes of vast audiences, and they appear fascinating rather than repulsive—for after all the cinema is meant to provide entertainment, not enlightenment.

In the book previously referred to, J. Macalister Brew comments, "surely love is no bad thing that we need become so excited about its continual presentation." The reply could be that an early and familiar knowledge of passion, violence, cruelty, and crime, is not good fare for the immature mind, and when these things are associated with eroticism the effect must be harmful. There is reason to know that some films are a source of sexual stimulation for a number of boys and girls and not a few adults. This is to be expected because, as Dr. Burt has said, "the intimate details of courtship, coquetry, and married life are given in ocular demonstration with far more vividness, particularity, and repetition than could possibly be provided in the printed book or on the stage." It is to be wondered how many of the complaints that reach, or ought to reach, the police, of unfortunate incidents in railway carriages and darkened streets are nurtured in the intimate atmosphere of the cinema.

Among delinquent girls nearly half the offences are sexual and many of the other offences have some sexual association. The extent to which cinema-going may be responsible is indicated by a brief extract from a report made by Doctors Blumer and Hauser of the University of Chicago in 1933:

Forty-eight per cent. of the 252 girls studied admit feeling like having a man make love to them after they have seen a passionate love picture. Thirty-nine per cent. stated that they invited men to make love to them and "pet" them after witnessing such pictures. Seventy-two per cent. stated that they improved their attractiveness to men by imitation of clothes, hair-dress, make-up, etc.; and 30 per cent. that they imitated techniques of flirting, kissing, or making love. Forty-nine per cent. acknowledged that movies made them want to live a gay, fast life; 41 per cent. admit that movies have instilled desires to go to wild parties, cabarets, and road-houses. Seventy-one per cent. reveal that motion pictures have made them

want fine clothes, automobiles, wealth, servants, etc.; and 43 per cent. indicate pictures have made them want to make a lot of money easily.

The conclusion reached by the American investigators, namely, that films definitely contribute to female delinquency, is of particular interest because most of the films exhibited in this country are of American origin, and it is reasonable to suppose that research on similar lines here would have revealed a similar state of affairs. The subject is of special interest to-day when cinema attendances are increasing and female delinquency is a serious problem.

The emphasis has been throughout on the impact of the films on the mind of the juvenile and the adolescent. The older members of the cinema audiences are not, however, immune. A large proportion of the subject-matter of the films shown is unfortunately very much in the nature of a dose of soporific medicine. The misconceptions, distortions, and half-truths digested weekly by millions of people are amazing. The result is a blasé, sophisticated, cynical, and apathetic outlook which might not cause crime directly but serves to create an environment in which crime can flourish. It would be unjust to label a cinema "Academy of Crime," but the façade might well bear the inscription, to adapt a famous admonition, "Abandon all Sense of Proportion all ye who enter here."

The cinema is a form of art, it is an entertainment, and it is here to stay. It has much to commend it, and it is not proposed to suggest in this article what should be done to check or control those of its activities that are conducive to social evil. People of all ages will continue to go to the cinema, probably in ever-increasing numbers. They will sit there in comfort, and look, and listen—they will, many of them, find food for thought. The writer has endeavoured to show that their train of thought might lead some of them, whether by a direct or a devious route will depend on other factors, to the police station. How important a factor in crime the cinema may be is, at present, a matter for argument and conjecture; but it is not to be denied that the question offers a field for research in which the police could co-operate most usefully.

W. O. G.

A Police Cadet Corps

BY DETECTIVE-SERGEANT P. F. FIFE
Special Branch, Metropolitan Police

AT the present time, when the question of youth is to the fore; when numerous youth organisations are being organised, co-ordinated and reconstructed under the ægis of the Government; when

youth is being asked to help in making the coming peace better and more secure than before, and the older generation is talking of handing over the reins to youth, it is disconcerting to discover that juvenile crime is on the increase.

This increase is, no doubt, partly due to the abnormal conditions prevailing during war-time; but the problem was existent, if not so acute, before the outbreak of war, and it calls for a permanent remedy. Various possible steps are being investigated and discussions are taking place in the Press and elsewhere with a view to the prevention, or at least the reduction, of juvenile crime, but little or no consideration has, apparently, been given to the formation of a Police Cadet Corps. Yet it is possible that such a corps would assist in the solving of that difficult and growing problem. We have an Air Training Corps, an Army Cadet Corps and a Sea Cadet Corps; would not the formation of a Police Cadet Corps have some effect in combating the increase in juvenile crime and educating the youth of this country in citizenship?

The Cadet Corps of the Armed Forces have met with phenomenal success and thousands of young recruits have poured into those organisations. The lads are given real interests, are taught the rudiments of the training which will assist them if, and when, they join one of His Majesty's forces, and the initial steps in those forces are rendered easier for those who have had some preliminary training.

Although many thousands of young lads of 14 years and upwards have been attracted into those cadet corps, there must be many more, unattracted, perhaps, by any existing organisations, to whom the idea of a Police Cadet Corps would appeal. Such a parallel as the Police Cadet Corps to the already existing Armed Forces Cadets would cultivate the early desire of the average boy to become a "policeman" and would direct it into a channel mutually beneficial to the cadet and to the Police service.

The question whether the suggested Police Cadet Corps should be formed on a national or a local basis is a debatable one, but as there is no central Police control (as is the case with the Fighting Forces) perhaps the founding and organising would be more easily and cheaply attained if based on the existing police districts. Difficulties can be envisaged, and many more would probably arise from time to time, but surely none which could not, with determination and energy, be overcome.

Provision of the necessary officers and instructors should present no obstacle, as there can be no doubt that in a service such as the Police, sufficient volunteers would be forthcoming to make the scheme a success. Large numbers of police officers are already giving much of their spare time to the training of youths in the various cadet corps of

the Armed Forces, and an appeal for officers for a Police Cadet Corps would not remain unanswered.

Within the limits of this brief article it is only possible to touch the fringe of the question, but if it opens up thought and discussion on the formation of such a corps, its purpose will have been attained. Although, therefore, a broad outline will be sketched and certain general police subjects suggested for training, conditions would probably need to be varied in the light of local conditions existing in various police forces.

Recruitment would normally be open to lads of 14 years and upwards, as is the case with the existing cadet corps, and the aim would be twofold—to produce good, law-abiding and law-conscious citizens, and to supply a constant flow of semi-trained material for the regular police forces.

The cadets would wear a modified police uniform, and their junior officers and sergeants would be chosen from their own ranks, under the supervision of serving or retired regular police officers.

An elementary training in various police subjects would be given, care being taken to prevent the little knowledge becoming dangerous. Rudimentary knowledge of first aid, highway code and traffic regulations, safety first and motor-car driving and running repairs are obvious subjects for such cadets. Foot drill, organised games and athletics and, perhaps, shooting, would also play a prominent part in their training.

From the general point of view, the advantages of such a Police Cadet Corps would be that the boys were taught self-control, their characters would be developed along the right lines; they would, in short, be trained for Citizenship.

By a natural process the training would reduce juvenile crime to a minimum by encouraging the cadets to deprecate serious boyish pranks by their comrades. Much juvenile crime arises from a desire on the part of boys to "show off," to do something which will be talked about, and to become a hero in the eyes of their fellows. Unfortunately, a good many boyish escapades, if unchecked, lead to more and serious pranks and, eventually, to crime. If such natural boyish desires to "show off" could be directed into the proper channels, boys who might, in certain circumstances, remain a debit to the country would be converted into a real asset.

The Police Cadet Corps would bring the lads into closer touch with the Police. They would cease to regard them as uniformed automats to be feared and avoided, and a slight knowledge of the multifarious duties and activities of Police would engender a feeling of respect for the men responsible for their training. The cadets would be encouraged to discuss problems and difficulties with their officers,

and many pernicious habits could thus be smoothed out before they develop into crime.

Provision of useful work and study for young minds as an antidote to aimless and, therefore, dangerous leisure has long been recognised, and the Police Cadet Corps would go far in filling that need. Much, of course, is being done in that direction by the Air, Army and Sea Cadet Corps; but training for armed service is not necessarily a training for citizenship.

The advantages to the Police service of such a scheme do not need elaboration, and the provision of such material for subsequent enlistment into the various police forces is beyond computation. Not only would the Police service gain by the recruitment of young men who had already had a rudimentary training in certain police subjects and felt attracted to the service, but the character and aptitude of the cadets for the specialised work of modern police duty could be closely judged and the recruitment of unsuitable types eliminated.

When the cadets had acquired a detailed knowledge of their elementary theoretical duties, it might be possible to attach the more advanced and promising ones to regular Police in much the same way as members of the Special Constabulary accompanied regular officers under pre-war conditions. The soundness of that policy has proved itself under the stress of war.

In the Police Cadet Corps the ideal of service would be inculcated: service to the country, to the public, and, above all, to the Corps. Lord Baden-Powell recognised that ideal when he formed the Boy Scout movement, and thousands of young boys, willing and anxious for service, have proved the breadth of his vision. The time is ripe for the formation of another great social service.

Something About Diamonds

By FRED E. ULLMANN, F.G.A.

MORE than 90 per cent. of the jewellery sold in the civilised world to-day consists of diamonds, so that the police officer is more likely to come into contact with diamond jewellery than with any other type. But before discussing diamond jewellery in the civilised world to-day, let us look back a thousand million years or so, when the earth's crust was still a molten mass, and see how diamonds came into being. The heat of the earth at that time was beyond human imagination or conception, but slowly, after the passage of thousands of years, gas pockets were formed in the gradually cooling mass of lava. As the cooling continued little crystals of carbon started to grow. These

crystals developed slowly, so slowly that many thousands, possibly hundreds of thousands, of years elapsed before they became their present size. The crystals, under incalculable pressure, were now caught in the mighty grip of the solidifying rock. Millions of years later the earth's crust hardened. Fantastic volcanic eruptions, releasing the mighty forces pent up under the still thin crust, occurred. Huge mountain ranges and vast oceans were formed, so that the face of the world was changed. The Continent of Africa received the full force of this metamorphosis, and one enormous crack was filled up with a vivid blue green rock which contained the diamond crystals. Erosion, caused by rains and floods, took place. Many more millions of years passed, until one day man was to discover that sparkling gem—the diamond.

Diamonds, however, were not first discovered on the Continent of Africa. According to British Museum authorities they were known in India about 200 B.C., although Indian diamonds to-day are mostly of historical interest. Diamonds were first mined in commercial quantities in Brazil in 1728, but the epoch-making discovery of the rich South African deposits in 1867 gave the diamond its present world-wide popularity.

The story of the discovery of the diamond fields of South Africa is fraught with romance. Fabulous fortunes were made by the lucky few, but there were many sad failures and much misery. There was fighting by savage mobs until, in 1870, Cecil Rhodes arrived on the scene. By his amazing personality he was able to unify the many rival claims and so found the De Beers Mining Company which to-day, with its many subsidiaries, controls over 90 per cent. of world diamond production.

Diamonds belong to the cubic system of crystalline symmetry and when found in the mines are usually octahedral in habit, that is to say they generally crystallise in eight-faced double-ended prisms. As diamonds are the hardest substance known to man, many difficulties are presented in cutting them, and it must of necessity always be a laborious process. This process may be divided into four stages. Stage One is to cleave the stone in order to remove flawed material, etc. Diamonds readily cleave or split in certain specific directions. This operation is performed by cementing the stone to a holder and giving it a sharp tap with a special instrument in a direction parallel to the octahedral face, known as "the cleavage plane." Stage Two consists of sawing. It divides the stone into rough shapes. The cutting instrument is usually a soft copper disc charged with oil containing diamond dust, which forms a cutting edge when it is rotating at 4,500 revolutions a minute. It takes about three days to saw through a medium-sized stone. Stage Three is termed "grinding," and is the method used for putting on the facets. A diamond is set on a lathe, and another stone in

a long holder is used as a grinding tool. The Fourth and most important stage is polishing, because on the successful result of this final operation the beauty of the stone will largely depend. A thickish horizontal metal disc, or "lap," charged with diamond dust and oil, is used; this rotates at 2,500 revolutions a minute. The stone is placed in a special solder at the end of a copper holder called a "dop," which is held in a clamp and pressed into contact with the revolving lap by means of applied weights.

The diamond cutting industry was traditionally Continental, with its main centres at Antwerp and Amsterdam. Just prior to the over-running of these cities by the Germans a number of skilled craftsmen fortunately escaped to this country and, thanks to the foresight of the Home Office and Board of Trade, a flourishing and important industry has now been established here.

Diamonds are usually brilliant cut and are thus generally termed "brilliants" by those who are accustomed to deal in them. In a brilliant the stone is divided into two parts, the "crown" and "base," or "pavilion." These two parts are separated by the "girdle"—which is the widest part of the stone. In the crown there are one octagonal table facet, eight triangular star facets surrounding the table, eight quadrilateral bezel facets, sixteen triangular "skew," or split, facets, making a total of 33 facets in the upper part of the stone. In the base there are eight pentagonal and sixteen skew, or split, facets which, together with the culet, a small facet at the extremity of the gem, make a total of 25 facets in the lower part of the stone, so that a brilliant cut diamond has 58 facets in all. The object of this cut, as the name implies, is to obtain the maximum brilliance or flash from any given specimen. In order to obtain the best results from this type of cutting, certain proportions and angles must be observed. The crown should occupy one-third of the total thickness of the stone and the base two-thirds. The table should be four-ninths the breadth of the stone and the culet one-sixth the breadth of the table. The angle between the crown and girdle must be 37 degrees, and between the pavilion and the girdle 41 degrees.

Diamonds are, and have been, cut in various other forms. Victorian and antique jewellery often contains "rose" diamonds. The "rose" has a flat basal plane with either 12 or 24 facets on the top of the stone; it is cut so as to terminate in a point. Baguette or baton diamonds, as well as octagonal and square-cut stones, are sometimes used in modern jewellery for the purpose of improving design.

The unaccountable and exciting whims of nature sometimes play mysterious tricks even with the majestic diamond, and stones are known to occur in a variety of delicate pastel colours. The yellowish type is

invariably scorned, but specimens of a blue or pink hue command exceptionally high prices. Until recently green diamonds were also eagerly sought, but it has now been established that exposure to radium radiations causes stones to assume this shade.

The colour in diamonds was always considered due to minute traces of metallic oxides acting as pigments, but experiments now being carried out by an eminent international physicist are leading to the belief that the colour is caused by a particular atomic structure occurring in some stones. The publication of a paper on this subject is anxiously awaited, although some of the effects of structure on crystallised carbon have been known for very many years. One of these is well illustrated by comparing the totally different properties of diamond and graphite, both carbon in its purest form.

Attempts have been made by various workers to synthesize diamonds, and extravagant claims have often been put forward. At a recent meeting of the Gemmological Association one of our famous mineralogists said: "Synthetic diamonds have never been manufactured. Man's ingenuity has failed to generate sufficient heat and pressure to cause the artificial crystallisation of carbon."

Diamonds are easily recognisable and no difficulty should be experienced in identifying them. There are many features found alone in this king of gems, such as its unrivalled surface lustre—so characteristic of diamond as to be termed *adamantine*, from the Greek word "*adamas*," a diamond—its brilliant polish and the perfect flatness of the facets themselves. For example, examine a convenient object, such as an electric light bulb, and note how it appears reflected at a short distance in the table facet of a diamond. Observe its almost complete lack of distortion, as compared with the reflected image of the same object in the table facet of any other stone.

Owing to its exceptionally high refractive index (power of bending light) practically all the light entering the surface of a diamond is totally internally reflected from the back facets, which act like a number of mirrors. On re-emerging, this light is split up into its beautiful spectrum colours to scintillate from the top of the stone in all directions. This unique flash radiated by a diamond is never seen to the same degree in any other gem.

It has already been stated that diamonds are the hardest known substance and advantage of this fact may be taken for identification purposes. A diamond is the only material which will not be scratched by "Carborundum" (SiC) and "Norbide" (B₄C), the two hardest commercial abrasives to be manufactured. It is on account of this supreme hardness that diamonds are so widely used as cutting agent and abrasives in industry to-day.

Diamonds, like stocks and shares and many other commodities, are usually marketed through the intermediary of a broker. In the distribution of diamonds tradition and ritual play an important part. The well-established diamond broker is the trusted friend of cutter, merchant, manufacturer and retailer alike. He knows the market and must be informed of available supplies and potential demands. He will take stones from a cutter or merchant and show them wherever he thinks a sale is likely to be made. If a sale is effected he receives 1 per cent. commission from both buyer and seller. Contrary to general belief, large profits are not made in the diamond trade. It is due to this fact, and to the control of supply, that diamonds have proved to be such a sound investment throughout the years. On an average sale 10 per cent. is considered a handsome profit, but the sums involved are large and much bargaining over a very few per cent. often occurs. It is here that the broker plays his all-important part. He will transmit offers from buyer to seller. Any stones under consideration are placed in an envelope, which is then sealed and on which the buyer writes his offer, so pledging himself to take delivery of the stones at the price stated. These stones are now termed to be "under seal" and the seller must consider if the offer is acceptable. He must on no account break the "seal." If he refuses to accept the price it is an unwritten law, accepted throughout the precious stone trade, that the prospective purchaser shall be given a further opportunity to re-examine the merchandise and increase his offer or not, at will.

Diamonds are sold by weight. The metric carat (one-fifth of a gramme) is the international unit employed. On the completion of a sale the stones are weighed in the presence of the broker, and the cash, cheque, or bill of exchange, handed over.

Towards the latter part of the nineteenth century, when diamonds first became really popular, design, as it is understood in modern jewellery to-day, was non-existent. One still sees the heavily mounted, silver-fronted objects of the late Victorian and Edwardian age. These monstrosities are now looked upon by the modern generation with horror. There was little real attempt at design, and the sole object of mounters appears to have been to display a few stones in hearts, crescents and other uninspired shapes. With the general advance of art in industry and trade education, modern jewellery now has real æsthetic value. Paris, with its traditional appreciation of the beautiful, did much—particularly after the last war—to stimulate a demand for artistic designs. This duly reacted on the manufacturers of this country who, just before the present war, were mounting and selling diamonds set as fine *objets d'art* which, both as regards craftsmanship and artistic merit, equalled or surpassed any in the world.

Of outstanding importance in the manufacture of modern jewellery is the metal, platinum. It shows off most stones to the best advantage. It is harder than silver and thus wears better. It takes an excellent polish and above all does not tarnish. Even after soldering this beautiful metal remains bright and clean.

The best general purpose alloy contains 99½ per cent. pure platinum, but for some types of work, such as brooch pins, clip backs, etc., this is too soft. Platinum is hardened by adding the precious metal iridium; a maximum hardness is attained without the alloy becoming too brittle when 25 per cent. iridium is added. The 75-25 per cent. platinum iridium alloy is most expensive and is consequently used only in small quantities when a particularly hard metal is imperative. It is interesting to note that American manufacturers are tending to use platinum alloyed with palladium or ruthenium. Such alloys, it is said, have certain advantages over the metals used in this country.

In 1938 Paris created an entirely new fashion for a magnificent type of floral jewellery. Exquisite designs were produced, using gold or gold and platinum as settings. This attempt to reintroduce gold as a jeweller's medium after its absence of many years was highly successful, and many tasteful creations of this type have been sold.

It is evident that modern jewellery is nowadays designed by artists and made by craftsmen. Diamonds are frequently set in wax and prearranged as models. This gives the designer a "third dimension," so that he has greater scope for his art than with the usual pencil drawing. The design having been completed, a piece of metal of the required size and thickness is given a matt finish by sand blasting or rubbing with a piece of pumice stone. The design is then traced with carbon paper on to the dull surface of the metal, and the process of manufacture started.

The metal is cut to shape and domed to give the necessary relief. Other pieces of metal are similarly treated and the various parts assembled by soldering. For this purpose a metal with a slightly lower melting-point than the work to be soldered is used. The joints are carefully cleaned and tied together with thin iron binding wire. Common borax and water mixed to a thin paste is painted on to the joints. This acts as a flux and helps to make the solder run. The solder is then cut into very small pieces which are placed contiguous to each other around the area to be joined. The whole is slowly warmed until the metal becomes red hot when, with a little additional heat, the solder will melt and run into the joint. The work is now filed, cleaned and provisionally polished ready for the stones to be inserted. For this purpose holes are drilled in the mount just smaller than the girdle of the diamonds to be set. A seating is cut a fraction below the top edge of the hole and the

stone placed in the seating. The metal round the edge of the hole is now turned over and pressed down with a special tool to hold the stone.

It has been stated that platinum takes a high polish, but to achieve this much labour is entailed. Owing to this fact practically all fine jewellery is rhodium plated on completion. This rare metal, although many times more expensive than platinum, can be deposited not as a thin film, but almost as a sub-microscopic amalgam on to the surface of the platinum at a relatively low cost. The result is a brilliant non-oxidising finish which will stand almost indefinite wear.

Poor quality diamond rings and other inferior articles are frequently mounted in either 9 or 18 carat white gold as a price-saving expedient. White gold is a nickel-silver-gold alloy and when rhodium plated is indistinguishable in appearance from platinum. To ascertain the nature of the metal employed, a simple acid test is available. Take 1¼ oz. concentrated hydrochloric acid, ¾ oz. nitric acid and 1/20th oz. potassium nitrate. Carefully mix these ingredients in a bottle provided with a glass stopper. Clean the article to be tested with methylated spirit to remove any grease on its surface. Make a small scratch on an unobtrusive spot and apply a drop of the acid mixture with a glass rod. Platinum will remain unaffected, 18 carat white gold will turn bright yellow, whilst 9 carat white gold will assume a brownish hue.

The foregoing is an endeavour to give the police officer a fuller understanding of diamonds and how they are mounted in modern jewellery. Many officers handle almost daily some sort of valuable article, and be it ring, brooch, clip or bracelet, an appreciation of its merits will stimulate personal interest and thereby increase individual effort to the benefit of the Police service and the public in general.

Some Notes on Slang

By CONSTABLE ROBERT M. GRANT
Northumberland County Constabulary

"Slang is language that takes off its coat, spits on its hands and gets to work."
CARL SANDBERG.

THE English language to-day is a miscellaneous collection of words derived from almost every language the world has known. A large share in the making of our language was contributed by the Vikings, who raided and settled the Northumbrian coast during the eighth to the tenth centuries. Their speech persists to-day as the Northumbrian dialect, with its strong Nordic flavour. These men brought with them one word which later became the English "slang."

When these raiders returned to their country, being fighting men, they probably introduced words they had learnt in England, as slang. Even to-day many new words are being assimilated into our language which were slang terms only a short time ago.

Cæsar's Legions must have adopted and used many words and phrases during their campaigns over Europe and the Middle East as our armies are doing now. Dorothy L. Sayers and Gerald Kersh have both shown us that it is not incongruous to hear the men of these Legions speaking in the slang terms of the present-day British Army. The Greeks, Persians, and Egyptians, and later the Vandals, Visigoths, and Huns, must have had, like all strong military nations, a virile, ever-changing slang vocabulary.

It is, however, much later in the world's history that we find any reference to slang in literature—to be precise, in the thirteenth century, when we find a reference to "*rotwelsch*" (vagrant's cant) in German literature of the period. This slang contained many Hebrew words taken from the Jews then wandering over Europe, and is still in use to-day in a very similar form. The word "*gäunersprache*" (thieves' slang) came into use much later.

It was, appropriately enough, during the period of François Villon, in the fifteenth century, that French literature contained references to slang terms for the scaffold, hanging and choking. The following century saw examples of English slang appear in our literature which were strangely similar to the "*rotwelsch*" of the same period, and must have been introduced by Continental vagrants. In the early part of the sixteenth century Martin Luther appended a tramp dictionary to his *Liber Vagatorum*, published in 1528. The European vagabond of that time was drawing on Gypsy and Hebrew words and phrases, while renegade clerics, fleeing before the Continental Reformation, were bringing Greek and Roman terms to the road, making slang much more complex than it had ever been before.

This increase in slang vocabulary during the insurrections and social upheavals of the Reformation period appears to be more than mere coincidence. At other similar periods of history, especially during the French Revolution, the pioneer period of America during the eighteenth and nineteenth centuries, the World War, and the present war, there has been a rapid acceleration in the growth and use of slang.

A large part of the vocabulary of slang is euphemistic—that is, substitute words are devised for those which the users dislike or hesitate to use, because of their distasteful or dread associations. This applies especially to "death-words," there being a strong resemblance between it and primitive man's tabu against proscribed words and objects connected with death, often only in the most remote way

which had to be described by circumlocution or by a substitute word. These modern euphemisms are, apparently, the true evolutionary descendant of the tabu of fear, firmly instilled into our subconscious mind through the ages, and, like superstition, being used long after the original motives for their use have been forgotten.

The Americans have a wealth of slang much richer and more colourful than our own. The nucleus from which this slang grows and spreads has a strong foreign element, the immigrants, tramps, the I.W.W. or Communist Party, and migratory workers. The admixture of races and the breaking of associations seems to be peculiarly suited to the development of this highly-coloured colloquial type of speech. Itinerancy also seems to be a necessary requisite of slang. The Ministry of Information's booklet, *Meet the U.S. Army*, claims that the wealth of slang in America is due, "partly because the U.S.A., being still a comparatively young country, retains an experimental and effervescent habit of speech which we have not had since the days of Elizabeth, and partly because her diverse racial ingredients, including the American Negroes, have all contributed something to the national language as well as to the national character."

It must also be remembered that firmly implanted in every single American since the Declaration of Independence is a rebellion against tradition and any restriction of his personal freedom, on which the Constitution of the U.S.A. is based. One of America's favourite books has as its theme the rebellion against civilisation, and especially against its traditions: "I reckon I got to light out for the Territory ahead of the rest, because Aunt Sally she's going to adopt me and civilize me and I can't stand it. I been there before." That is Huckleberry Finn, just "low down plain ornery."

A large part of everyday slang has been derived from the Army and Navy, but, during this war, the Royal Air Force, very much the junior service, and lacking the tradition and cant of its brothers, has produced an increasing flow of slang, amazingly prolific and experimental, which has left the other Services far behind. This young body of men, necessarily itinerant, formed by the breaking of tradition and association, has almost identical grounds with the Americans for the formation and growth of a novel, vivid and picturesque slang. Much of this new vocabulary, invented to meet contingencies never before known in the world, will, without doubt, find its way into our ordinary language.

The criminal, still a fertile source of slang, rebels against the traditions and associations of civilisation, and, rejecting the accepted order, refuses to conform to any laws but his own. Like Huckleberry Finn, he knows something about civilisation, and "can't stand it."

It is worth reflection that American slang introduced into this country since the Great War includes many examples of English thieves' cant of the seventeenth and eighteenth centuries, as shown in Godfrey Irwin's book, *American Tramp and Underworld Slang*.

Slang, though virile and increasing in growth, is a parasite, collateral to the natural language, and does not conform generally to the laws of language. All languages and their slangs are continually being altered and supplemented; they are, in fact, in a permanent state of evolution, and anthropologists claim that the little known of man's faculty for making new words is of importance in their study of human nature. This shows that the power to create original words is still existent, even among savages and children, but is seldom put to serious use, for every language has a suitable term, explicit and definite, covering almost any idea or thought of which the speaker is capable. The continual expansion of scientific knowledge necessitates an increasing vocabulary, the words for which are invariably created by scientists by the adaptation of Greek or Latin, the international bases of all scientific language. The frivolous side of man's faculty for making new words was exemplified to the most absurd degree by Edward Lear in his *Books of Nonsense* in the middle of the nineteenth century.

There has been a flood of new words and phrases into the English language since the Great War, the chief causes of which are: the greatly increased popularity of films and radio, new political movements on the Continent, economic depressions with their attendant political disturbances, the introduction of a brisk, racy type of reporting into the popular Press, revolutionary changes in modern warfare, the popular appeal of the crime novel, and even the strange phenomenon of swing music, which has an extensive and weird language of its own. A large part of this newly-invented vocabulary had a serious base, and was produced to meet new exigencies, but much of it was non-serious—in effect, slang—which proved so popular that it soon became part of the common speech. It is interesting to note the increase in the adoption of foreign words during war, especially from the enemy's language. The British people now use many German war terms, and our Armies in the Mediterranean area have a large and growing slang taken mainly from Italian and Arabic, but including some French and American.

There is no evidence to suggest that slang is peculiar to any special type, either physical, mental, or moral. There has been a suggestion that slang is due to a mental or educational inferiority, but J. Duncan, in his *Mental Deficiency*, states, "In skills into which words enter—in vocabulary, in facility in using words—oral and written expression, and in distinguishing fine relationships between words, a very dull

INTERNATIONAL CHRISTIAN POLICE ASSOCIATION 79

person is vastly inferior to a normal person." Although, according to Duncan, "a comparatively large number" of these mentally inferior persons commit crime, the quotation proves that they cannot be responsible for the creation of criminal slang, though their associations may cause them to use it.

The making of slang, then, is only a part of man's inherent capacity for language building, which, apparently latent during intervals of peace and prosperity, flourishes in the state of action and variety accompanying a breakdown of the *status quo*, and the ending of usual associations and connections, especially under conditions of war, revolution, habitual crime and migration. The unusual environment produces a strange psychological effect on man, reviving his primitive gift of creating language, and he delights in playing with words and sounds and in new invention and adaptation to enliven his language with colourful and forcible terms, which make slang contagious and irresistible.

This faculty is what the psychologists call a "normal unconscious psychic process," like the forgetting of names, word substitution, errors in speech, tabu compulsions and prohibitions (see tabu euphemisms above), and superstitious beliefs, which thrive under similar conditions. It is, however, beyond the power of the writer to determine the psychological motives, beyond the external circumstances, which actuate the alternating repression and stimulation of these processes.

International Christian Police Association

FOR the last sixty years the International Christian Police Association has sought to minister to the spiritual needs of the Police, not only in this country but in lands overseas. The Association has never wavered from this object, and in order that its influence may be more widely extended an appeal is being made through *THE POLICE JOURNAL* to police officers of all ranks, desirous of associating themselves with this work, to communicate direct with the Director, International Christian Police Association, 29 Denison House, Vauxhall Bridge Road, London, S.W.1.

Reviews

A POCKET MEDICAL DICTIONARY. By LOIS OAKES, assisted by THOS. B. DAVIES, M.D. Sixth Edition. (E. & S. Livingstone, Edinburgh.) Price 4s. 6d. net, illustrated.

IN reviewing the Fourth Edition of this most useful book in *THE POLICE JOURNAL* last year (vol. XV, p. 159), we remarked that it was "a book that

should be owned by every policeman, from chief constable to recruit. It is a veritable mine of information, lucid and concise." That criticism still holds good, and the sixth edition, now before us, is worthy of additional commendation. The text has been completely revised and a new key to pronunciation has been provided. The size of the book ($4\frac{7}{8} \times 3\frac{1}{4}$) makes it convenient for the pocket.

FIRST-AID COMPETITION TRAINING. By J. G. HORTON. (The Fountain Press, 46 Chancery Lane, London, W.C.2.) Price 9d. net.

This pamphlet of sixteen pages, by a Divisional Superintendent (R) of the St. John Ambulance Brigade who is First Aid Instructor for the Metropolitan borough of Wandsworth, will be helpful to all who enter for First Aid competitions. It might be described as a compendium of do's and don'ts—chiefly do's, and these are, every one of them, terse, lucid, pithy and common sense. For the Team Leader it will be especially useful. The contents comprise: Preliminary Advice to the team; Points to Watch in the competition room; Doctor and Ambulance, how to act; the Conscious and the Unconscious patient—how to handle, examine and treat; with general points and Stretcher Work. We commend it to our readers.

ARCHIBOLD'S PLEADING, EVIDENCE AND PRACTICE IN CRIMINAL CASES. Edited by T. R. FITZWALTER BUTLER and MARSTON GARSIA. Thirty-first Edition. (Sweet & Maxwell, London.) Price 3 guineas net.

It is interesting to recall that the first edition of this great legal classic was published so long ago as 1822. "Archbold," say the present editors in their preface, "is no academic treatise on criminal jurisprudence, but a text-book intended for the use of all concerned with the administration of justice in criminal courts." Our dictionary defines "text-book" as "a manual of instruction; a standard book in a branch of study." Certainly both these definitions apply to *Archbold*: we know of no other volume which contains such a vast amount of instruction in the criminal law of this country, and that it is a "standard book" is plain from the fact that it is now in its thirty-first edition. That a book has been prominently before practitioners for one hundred and twenty-one years is sufficient guarantee of its value, and this new edition is worthy of its predecessors.

This is undoubtedly an improvement on the previous editions; for substantial rearrangements have been made, and there are more sub-divisions; also the material germane to the various headings has been set out in a more logical and systematic form. Wisely, as we think, no attempt has been made to incorporate (except for an occasional footnote) the enormous volume of war emergency legislation in the text; but some of the most important changes which this legislation has introduced into substantive law and procedure have been summarised in an Appendix. It remains to add that the statement of law and cases referred to have been brought down to October 1st, 1942.

THE POLICE JOURNAL

VOL. XVII, No. 2.

APRIL-JUNE 1944

War Commentary

POLICE IDEALS IN INTERNATIONAL RELATIONS

A NOTABLE service has been rendered to the British Police by Mr. Charles Reith, whose third book, *British Police and the Democratic Ideal*,* made a timely appearance at the phase of the war when the steady advance of the cause of the United Nations prompted many to think of plans for post-war. Thoughtful people realise that much will depend on British leadership and more on British public opinion in world affairs in the period immediately following the cessation of hostilities, particularly in Europe, where the din of battle may pause, if not cease, some time before the fighting ends in the Far East and other distant theatres of this second world war. When that phase is reached the loyalty and undivided trust which the people of the Allied Nations have reposed in their leaders will be even more necessary, though more difficult to sustain, than has been possible during the long years of war. The errors and omissions of statesmanship which followed the last war, accompanied as they were by dissension in political thought and outlook, industrial unrest and a persistent inability on the part of the Governments of Europe to reach a common national and international understanding on which enduring peace could be founded, are increasingly recognised as evils which must be repressed during the period of armistice with the same determination as the common foe is being attacked in the field of war. Yet the intangible longing for enduring peace, for the enactment of a code of international criminal law and the creation of machinery for its enforcement, will this time impel those whose statecraft and generalship are leading the United Nations to victory to produce a "peace" which will prove more humanitarian and on a juster and more strictly ethical basis than has been effected after any previous war in history.

The late Captain Melville Lee wrote that "The English Police is not the creation of any theorist, but the child of centuries of conflict and experiment" and, in his *History of Police in England*, shows how

* Oxford University Press. 12s. 6d.

Police ideals developed through the centuries to emerge, during the last 100 years, as an organisation capable of securing the maintenance of "law and order" and of bringing to justice offenders "against the Peace." The ideal of Police has, indeed, so far been assimilated to the real that, where the British police hold their jurisdiction, "the Peace is preserved." When, over 150 years ago, Blackstone wrote that the duties of the Police are "to preserve the Peace, to keep watch and ward in the districts, and to bring criminals to justice," no claim could be made that the reality was anything like this ideal. To-day it is true. The necessity to invoke the Riot Act is to-day so rare that it is doubtful if one magistrate in a thousand, or one lawyer in a hundred, could even recite the law and the formalities which the textbooks hold should be resorted to before "force" is used in dispersing a hostile and uncontrollable mob. The disorders of the Gordon Riots, Peterloo, Cold Bath Fields, the Bread and Chartists riots, are remote history, the most recent more than a century old.

The credit for all this is attributed by Mr. Reith not so much to Peel, whose tenacity and parliamentary skill were responsible for the introduction of the New Police (in 1829), as to the policemanhip of the commissioners (Mayne and Rowan) who, in the face of acute difficulties and unjust criticisms, created the Metropolitan Police, the model of which was to be used throughout the Empire in the organisation of the force required for the preservation of peace, the maintenance of law and order, and the enforcement of the criminal law.

Policemen will be particularly grateful to Mr. Reith for his researches into modern English Police history. His quotation of numerous official documents, including reports and minutes which passed between the Commissioners of Police and the successive Home Secretaries during the first decade of the New Police, gives us an insight into the minds of those who shaped the force, and shows the origin of much of the tradition and customs which the Police Service follows to-day. Without the researches which Mr. Reith was able to make his subject would have lacked foundation, and one hopes that when tranquil times return opportunities will be afforded and used to bring out from their files some of the minutes and memoranda of a much later date than those examined and reproduced with such skill and aptness by Mr. Reith.

Mr. Reith's other books, *The Police Idea* and *Police Principles and the Problem of War*, dealing with the same theme as his recent work, propound the theory that no form of government, whether state, federal, imperial or international, can take effective shape without a police force, the scope and functions of which are analogous to those of the ideals and realities of the British Police system. Law and Order

must march together. Law without Order, if by "Order" we mean "Police," is impotent, ineffective; a Police system without Law is not police but military force.

WAR CRIMES

Considerable doubts continue to be expressed by eminent jurists on the efficacy of the present machinery of international law to deal with individual subjects of enemy countries who are proved personally to have been responsible for acts of murder, torture and atrocities which have filled law-abiding people with horror, engendering a determination grimly but rigorously to exact the penalties which these crimes merit. The confusion is partly due to the absence of any code or classified list of offences recognised as crimes against mankind, and partly to the lack of machinery for the enforcement of a code of international criminal law, if it were brought into existence. Generalisations are easy, but the problem grows more acute and complex when an attempt is made to define the crimes against mankind which daily come to notice from Poland and other enemy occupied countries. The massacre of civilians to serve no other purpose than that of extermination sounds so insane and purposeless that retribution, even vengeance, are demanded against not only the perpetrators but also the instigators of the crimes. It is clear that the conduct of future wars will depend largely on the action taken by the United Nations at the close of this one to bring to trial and punishment the individuals proved to be actively concerned in crimes against mankind, and one of the first measures to be enacted by any international legislative body, league of nations or similar assembly must be to plan for this contingency.

THE HEREFORD CASE

Rarely has the search for truth and justice been more baffling or protracted than in the case in which, on December 19th or 20th, 1942, St. Martin's School at Hereford was forcibly entered and a number of crayons, pencils and other things were stolen, to the value of 12s. 6d. A few days later, on January 1st, 1943, a store at a hostel was entered and a considerable amount of goods, valued at £35 14s., were stolen, while considerable damage to furniture and other goods was caused by the perpetrators to the value of £100 or thereabouts. These crimes engaged the attention of detective officers of the Hereford City Police, and on January 12th, 1943, at the Juvenile Court for the City, summonses alleging these offences were heard against two boys, Denis Harold Craddock, 11 years, and William James Payne, aged 13. A third boy, aged 10, was discharged. After an adjournment until January 26th, Craddock and Payne were each sentenced to receive four strokes with

the birch rod on charges of malicious damage. The charges of breaking and entering having been withdrawn, on the charges of larceny both boys were committed to the care of the local education authority till they were 18 years of age. The boys were immediately examined by the police surgeon, and in his presence and that of a superior police officer the birching was carried out at the police station.

On April 27th the Justices' Clerk received from a London solicitor, acting for Craddock, an application for a copy of his notes taken at the hearing, and these were supplied on May 5th. On July 20th, a few days before the six months within which an appeal can be lodged, application was made and granted by the Divisional Court for leave to appeal for an Order for certiorari to quash the "conviction" (*sic*), and Notice of Motion dated July 23rd was served on the Clerk to the Justices on or shortly after that day. Although the Supreme Court Rules require that, in addition to the Justices' Clerk, the other parties (in this case the Chief Inspector of the Hereford City Police who instituted the original proceedings) shall also be served with the Notice, this requirement was not complied with, and, indeed, the Police were kept in complete ignorance of the report of the proceedings in the Divisional Court on October 14th which appeared in the newspapers.

The severe criticism of the Hereford Justices and of the Chief Inspector which was contained in the judgment of the Divisional Court (Lord Caldecote, C.J., Charles and Hallett, J.J.), reference being made to this "deplorable case" and these "lamentable justices," received widespread publicity and the inevitable questions in Parliament.

On October 21st the Home Secretary informed the House of Commons that the matter had received the careful attention of the Lord Chancellor and himself and that Lord Justice Goddard had agreed to conduct a special inquiry. The debate showed the close interest taken in the case by Members of Parliament, and the tendency to prejudge the issue necessitated an appeal by Mr. Morrison that the House should suspend final judgment about the Justices (who had promised the Lord Chancellor that they would not sit at petty sessions pending the Inquiry) until Lord Justice Goddard had completed his Inquiry. In reply to a question, asking what action was being taken with regard to the Clerk to the Justices, and the police officer who acted as prosecutor, the Home Secretary said that the Justices' Clerk was now serving in the Royal Navy, and "with regard to the police officer, on the information I have at present I do not think I should be justified in taking any disciplinary action. That also should wait until the inquiry is completed. I want it to go forward dispassionately and fairly, and meanwhile I hope that the trial by newspaper will not be continued."

The Inquiry, held in public under the provisions of the Tribunals

of Inquiry (Evidence) Act, 1921, and constituted by resolution of both Houses of Parliament on October 28th, 1943, was held at Hereford on November 6th, and lasted four days. Lord Justice Goddard's Report (Cmd. 6485) was in due course presented and published.

From the aspect of the case in which the Police are interested, it is to be noted that Lord Justice Goddard called attention to two matters which in his opinion had a considerable bearing on the turn of subsequent events. The first was the lapse of time between the hearing of the case in the Juvenile Court and the application to the High Court. "The difficulties of recalling the details of a case six months after it had been heard must be obvious, and it is not surprising if honest people feel that their memories may have become defective." Both in their Affidavits and in their evidence before the Tribunal the justices had, in the absence of reliable notes of the proceedings, and regrettably omitting to consult the police officers in the case, found great difficulty in recounting what precisely had happened at the hearing of the Juvenile Court. The second and the more serious matter, to which Lord Justice Goddard called attention, "is that this Notice of Motion was not served on the Prosecutor. The Rules of the Supreme Court are quite explicit on the subject. . . . Apart from the plain words of the Rule it would seem elementary that if it is sought to have a conviction quashed the prosecutor upon whose information it was obtained, and who may become liable to proceedings if the conviction is quashed, should be informed so that he may be heard if he so desires. The explanation offered by the solicitor for his failure to comply with the Rule was entirely unsatisfactory. While I am unwilling to believe that it was deliberate, there seems to have been a regrettable failure to perform his duty as an officer of the Court. It is also to be deplored that the magistrates were not advised to obtain from the prosecutor and other police officers their recollection of what took place at the Court. The Police, in fact, knew nothing of the proceedings until they read of them in the newspapers, and this accounts for the fact that there was no affidavit from the prosecuting police officer before the Court. For reasons which will appear herein I think that had the Police been informed that the application was to be made a very different state of affairs might have resulted."

The Tribunal found that the Divisional Court which allowed the appeal was not informed that the Notice of Motion had not been served on the prosecutor. "For this Counsel for the applicant must accept some responsibility." (In the debate in the House of Commons on October 21st, when the decision to set up the Tribunal had been announced, Mr. Gallacher had referred to correspondence between himself and the Home Secretary in March, and enquired whether Mr.

Morrison would not pay a tribute to the great services of the Council of Civil Liberties in "bringing these undesirable proceedings to light.")

Summing up his masterly analysis of the facts, Lord Justice Goddard informed the Home Secretary that, as regards the judgments of the Divisional Court, "both the Affidavit filed on behalf of the Applicant and that of the Justices were such as to give the Court not only an incomplete but a wholly wrong picture of what took place, so far as the most serious of all the matters was concerned, namely, whether there was an admission of guilt as to all or only one of the charges. The magistrates have no ground for complaining, in these circumstances, that the Court passed severe strictures upon them. A full Inquiry has shown that there was in fact an admission as to all the charges; it has also shown that while there was not, in all respects, a literal compliance with the Rules of procedure, everyone concerned not only had the opportunity of putting before the Court all that they desired to submit, but in fact did so . . . I can find no irregularity on the part of the Police, but I think it desirable that police officers, when prosecuting, should refrain from suggesting and referring to possible sentences unless invited by the Court to do so. It would also be desirable, to prevent any possibility of mistake, that in future, if corporal punishment is awarded by the Court, a direct question should be put to the parents, if present, whether they desire to witness the birching or not. I have already ventured to express the opinion that the wording of the Statute creates a difficulty regarding the carrying out of a sentence of corporal punishment while there is a possibility of appeal. It is not so easy to envisage a remedy short of suspending the birching till the time for appeal has expired, a course which would probably not be regarded as in the interests of the child."

In the House of Commons on December 9th, while expressing appreciation of the public service rendered by Lord Justice Goddard, the Home Secretary declined to be drawn "on the threshold of dangerous and explosive matters" and preferred not to express opinions on the facts and conclusions which the Report contained. To a request for time for a debate on the report, Mr. Morrison expressed his view that the "report really effectively disposed of the matter." This view appears to have been acceptable to the House.

Newspaper reports later announced that each of the three justices had paid costs amounting to £50 following the judgment of "appeal allowed, conviction quashed, with costs against the justices" given by the King's Bench Divisional Court on October 14th, 1943.

That the police officers emerged from the searching inquiry into their conduct with credit to themselves and the Force to which they

belong is a matter for congratulation, coupled with an expression of sympathy for the "raw deal" to which they were undoubtedly subjected.

BIRCHING SENTENCES

Although, to their embarrassment, the Police are responsible for administering the "birch rod," in the rare cases in which nowadays Juvenile Courts resort to this form of punishment, there must be few constables who have seen a "birch rod" and fewer still who have administered it.

In reply to a question in the House of Commons on November 4th, the Home Secretary said that the number of birchings ordered by summary courts in England and Wales in 1942 was about 300, and there were no appeals. The Departmental Committee on Corporal Punishment (1938) reported that appeals are rare, and it has not been found necessary to adopt a practice of postponing the birching till after the expiration of the period within which appeal proceedings could be commenced. Incidentally, the Departmental Committee came unanimously to the conclusion that, as a court penalty, corporal punishment is not a suitable or effective remedy for dealing with young offenders. Although this conclusion was brought to the notice of magistrates throughout the country, a Court of Summary Jurisdiction which deals summarily with a child in respect of an indictable offence, has power to adjudge the child to be, as soon as practicable, privately whipped with not more than six strokes of a birch rod by a constable in the presence of an inspector or other officer of police of higher rank than a constable, and also in the presence, if he desires to be present, of the parent or guardian of the child. This provision in section 10 of the Summary Jurisdiction Act, 1879, was re-enacted in the Children and Young Persons Act, 1933.

As Mr. Morrison said, "the subject is a very controversial one"; but it is no part of the duty of the police to take part in the controversy.

The Police and the Law

AGENTS PROVOCATEURS

ALL who have heard sung the praises of English criminal law are familiar with the use of such expressions as "Star Chamber methods," "third degree," "justice behind closed doors," to condemn something which is deemed unfair and therefore "un-English." Such phrases are often used hastily without any clear appreciation of the legal situation. Among such terms is "*agent provocateur*." The sound is sinister and the language French; but the exact meaning is elusive.

The employment of the Police as so-called *agents provocateurs*, unfortunate words which immediately raise prejudice, has recently been a subject of magisterial and parliamentary discussion.

In a case heard on November 16th, 1943 (see *The Times*, November 17th), the North London magistrate dismissed charges brought under the Defence Regulations against a Dr. Goldschmidt and awarded ten guineas costs against the prosecution. It was alleged that the defendant gave three employees of an aircraft company certificates that they were incapable of following their employment when they were perfectly fit. Counsel for the Director of Public Prosecutions admitted that a trap was set for the doctor and that the stories which the men told him about their health were lies. A detective-sergeant of the Metropolitan Police said that he instructed the men on what they were to say. In reply to the magistrate he said he thought it was true that the term *agent provocateur* could be applied to each of the three men who had given evidence and obtained certificates. In dismissing the informations the magistrate said: "The police officer himself has agreed that the three men who went to this doctor were *agents provocateurs*. Not only ought such methods to be discouraged, but let me say for my own part that I hope no such cases, where such methods are employed, will be brought in this court." He went on to say that the very basis of the relations between doctor and patient was honesty, and that the doctor had reasonable cause to believe that the three certificates which he gave could be given in good faith because of the stories which were told to him by the men.

With the actual decision reached in this case one may or may not agree; certainly a patient's own statements are factors which a physician must take into account, and he is entitled to assume that such statements are true. The interesting aspect of the case is the apparent condemnation of *agents provocateurs* in general.

On November 23rd, in the House of Commons, the Home Secretary was asked what steps he proposed to take to prevent the Police acting in future as *agents provocateurs* "as they did in the case against Dr. Goldschmidt, which was heard at the North London police court on November 16th." The reply, given by Mr. Peake, Under-Secretary, the Home Office, was as follows:

"The limits within which the Police are justified in giving opportunities to a person to commit an offence to obtain evidence against him are set out in the report of the Royal Commission on police powers and duties, which recognised that there were certain types of cases in which it would be impossible for the Police to carry out their duty of enforcing the law without the adoption of such methods. The Police are, however, well aware that the courts will always scrutinise most

narrowly the evidence of any witness who can be represented as having encouraged or procured an offence which would not otherwise have been committed, and no action on the part of the Minister is required to remind the Police of the great care which must be taken in cases of this kind. I may add that I am not aware of anything in the case to which he refers which need cause anxiety to a doctor who accepts in good faith a statement made to him by one of his patients."

In reply to a supplementary question whether men were encouraged by the Police to make statements which they knew to be false, the Under-Secretary said: "I think there is a clear distinction, which is well understood by the Police, between incitement to commit an offence, which is wholly wrong and is a disciplinary offence, and the employment of subterfuges to obtain evidence where habitual offences are reasonably suspected, and there are no other means available to the Police of procuring the necessary evidence."

No reference was made by the Under-Secretary to another case (see *Manchester Guardian*, November 22nd) heard at the North London police court on November 20th, though by a different magistrate from the one who sat in the Goldschmidt case, in which the matter was also discussed. Two persons, Wilton and Solomons, were committed for trial on charges of conspiring to incite a witness in judicial proceedings to contravene the provisions of section 1 of the Perjury Act and to commit an offence against the Perjury Act. It was alleged that the first defendant practised as a dentist without being registered under the Dental Act. The witness arranged for extractions and paid a deposit, although she had no intention of returning for the extractions. It was alleged that the defendants told the witness that it would be worth her while to alter her evidence and that the first defendant later handed money to the witness.

Counsel for the Director of Public Prosecutions said that the only way in which an offence against the Dental Act could be discovered was by use of an *agent provocateur*. He said that one was employed in this case and that in view of the wide publicity given to a report that such evidence was not acceptable in that court it was only right that he should cite the law on which he relied. Counsel then quoted the words of Walton, J., in *R. v. Bickley*, where he said: "The fact that the woman was a police spy in no way invalidates her evidence. . . . As the law stands at present it seems established that a police spy does not need corroboration." Counsel added that a Royal Commission had advocated and commended the procedure. The magistrate said that he was quite satisfied and proceeded to hear the case.

There is a reasonable distinction between an incitement to commit an offence and the provision of an opportunity for a suspect to commit

an offence. It is well understood, of course, that the latter practice may be the only means of obtaining evidence against a person suspected of habitual offences. Food rationing offences are only a new instance of the old difficulty in obtaining evidence when private persons are reluctant to come forward and testify. Indeed, it seems that the term *agent provocateur* used to be confined to an actual inciter or provoker of an offence. And, furthermore, an *agent provocateur* was probably in origin more of a political device than a police practice. It seems to have been used to describe an agent employed for such purposes as provoking disorder or inciting to expressions of political opinion as an excuse for harsh measures or political changes. French history provides many examples. It would help to remove current misconceptions if the use of the term were confined to its narrower and, we submit, its proper meaning.

THE POLICE AS ADVOCATES FOR THE PROSECUTION

The right of the Police to conduct prosecutions varies with the nature of the offence charged. An interesting discussion of this matter is to be found in *The Solicitors' Journal* for September 25th and October 23rd, 1943, at pages 340 and 376. It is there reported that at Melksham, Wilts, on September 7th, the magistrates ruled that a police superintendent is not allowed to prosecute for an indictable offence in a case in which he is not the informant. In cases arising under the Summary Jurisdiction Acts only, however, the Police may conduct the prosecution. In many cases where the accused has an election whether to be tried summarily or on indictment, it appears that police officers in various parts of the country are in the habit of conducting prosecutions although the election of the accused to be tried summarily may not be exercised until the case for the prosecution has been closed. Under section 24 (2) of the Criminal Justice Act, 1925, the court may give the prisoner his choice of being tried summarily for an indictable offence within the second schedule of the Act at any time during the hearing of the charge. It is, therefore, a risk for the Police to conduct the prosecution's case.

Judges are not too favourably inclined to the practice of the Police conducting prosecutions even in cases where the law permits this. But probably the judicial attitude is more favourable now than it used to be. In the case of *Webb v. Catchlove* in 1886 (50 J.P. 795) Mr. Justice Denman "thought it a most unfortunate practice for police officers to be allowed to act the part of advocates in courts of justice. When witnesses they should be mere witnesses, and not be allowed to take up the position of advocates." And in the same case Mr. Justice Hawkins "said that he thought it a very bad practice to allow a police-

man to act as an advocate before any tribunal, so that he would have to bring forward only such evidence as he might think fit and keep back any that he might consider likely to tell in favour of the person placed upon his trial." On the other hand, Lord Alverstone, Chief Justice, in 1910, in *May v. Beeley* (1910, 2 K.B. 722), said that he quite agreed "that if the police officer advocate is a witness the expressions of judges disapproving of police advocacy are applicable. But there are cases where there may be no objection to the facts being brought before the court by a policeman."

Recent Judicial Decisions

ACCUSED'S SILENCE AFTER CAUTION COMMENTED ON IN SUMMING-UP: MISDIRECTION

R. v. Leckey

WHILE the law is quite clear that an accused person has the right to remain silent when confronted with a charge, it is not quite so clear how far the judge has the right, in his summing-up to the jury, to refer to this failure to make any statement to the police officer. This matter arose in *R. v. Leckey* (60 T.L.R. 50), in which the Court of Criminal Appeal allowed the appeal and quashed the conviction of a soldier who was convicted at the Central Criminal Court of the murder of an 18-years-old married woman who was employed as an usherette at a Folkestone cinema.

The appellant was questioned by a police officer in the course of police inquiries and given the usual caution in proper form. He was asked: "Do you care to give me an account of your movements late that day?" He replied: "I was with the girl. I want to be fair to you and to myself, and before I make a statement I should like to get advice." The appellant was again cautioned on a later occasion by another police officer after the charge of homicide had been brought. After some hesitation he replied: "Well, I have nothing to say until I have seen someone, a solicitor." At the trial the judge, in summing-up, referred three times to the fact of the appellant's silence after caution. Appellant's counsel suggested that his lordship's references were made in a way which suggested that the jury might infer the appellant's guilt, and that what the judge said amounted to saying that if a man says "I reserve my defence," then you may rely on that as evidence against him as showing that he is the man responsible for the crime charged.

One of the comments from the bench at the trial was this: "As I said before, it is not necessary for a man to say anything on such an occasion; but is it not a little difficult to see why, if a man is asked to

account for his movements and told what the inquiries were being made for, he should not say, 'I did not murder the girl; when I left her she was all right,' if that were the fact?"

The Court of Criminal Appeal held, following previous decisions of the same court, that a judge may, in a proper case, comment on the fact that the defence has not been disclosed on an earlier occasion, but that in *R. v. Leckey* the comments amounted to a misdirection of the jury. The court held that if this were not so "it must be obvious that a caution may be indeed a trap instead of being a means for finding out the truth in the interests as much of innocent persons as it is in the interests of justice against guilty persons. An innocent person might well, either from excessive caution or for some other reason, decline to say anything when charged and cautioned, and if it was possible to hold that out to a jury as ground on which they might find a man guilty, it is obvious that innocent persons might be in great peril."

In deciding to quash the conviction, the Court of Criminal Appeal placed particular reliance, among other precedents, on *R. v. Naylor* (1933, 1 K.B. 685). In that case Lord Hewart, C.J., pithily expressed the correct view of the law which is also supported by common sense. He said: "We do not think that the words of the caution can properly be construed in the sense that the prisoner remains silent after being cautioned at his peril and may find his silence made a strong point against him at his trial. In our view, the words mean what they say, and a prisoner is entitled to reply to the caution that he does not wish to say anything."

PRIVATE HIRE OF MOTOR VEHICLE: A BOOKMAKER'S JOURNEY

An ingenious point in the interpretation of the Motor Fuel (Hire Service) Order, 1942, was raised in the Divisional Court in November 1943, in a case relating to a Leeds bookmaker's journey in a hired car from his Cambridge hotel to Newmarket racecourse. The prosecution appealed from a decision of the Cambridge magistrates dismissing informations laid against a firm of bookmakers and its managing director alleging that the firm had allowed motor fuel to be used in a hired car wrongfully and that the managing director had aided and abetted the offence. He spent the night at an hotel at Cambridge with his clerk and proceeded the next day in a hired car to the Newmarket course.

It was found as a fact that there were other reasonably practicable means of travelling to the course and back so that *prima facie* the respondents had committed an offence against the Order. But they submitted, and the magistrates accepted their submission, that the car which was hired was not a motor vehicle within the meaning of the

Order as it was hired for the purpose of carrying the company's employees to and from premises on which the work of the company was carried on. The definition clause in the Order states that a motor vehicle is not one hired by an employer for the purpose of carrying his employees to and from the premises where they carried on their work. It was therefore argued that no offence had been committed.

The Divisional Court was not convinced by this reasoning. In giving judgment the Lord Chief Justice said that some importance had to be attached to the word "work" and where it was carried on. He said that it would be a misuse of language to say that the work of the Leeds bookmaking firm was carried on in Tattersall's Ring at Newmarket. The place at Newmarket and the hotel at Cambridge were not the premises at which the work was carried on. At the utmost they were places at which the employees did work. The case was sent back to the magistrates with an intimation that their finding in point of law was bad.

WHAT IS AN 'INCLOSED AREA'?

Knott v. Blackburn

It appears from *Knott v. Blackburn* (60 T.L.R. 92) that there was no previous authority on the precise significance of the word 'area' in section 4 of the Vagrancy Act, 1824, and that different meanings have been given to the word in different parts of the country. Section 4 provides that "every person being found . . . in an inclosed yard, garden, or area for any unlawful purpose . . . shall be deemed a rogue and a vagabond." This decision by the Divisional Court on appeal by case stated by the Warrington justices does something to clarify the word in question, but still leaves several points open.

The respondents were charged at the instance of the appellant, an officer of the London, Midland, and Scottish Railway Police, with being found in an inclosed area—namely, railway sidings—for an unlawful purpose. The sidings consisted of several lines of permanent way for railway traffic. They were fenced, so far as possible, to make them secure, and formed part of the much bigger area belonging to the company which was inclosed on all sides. They were, in fact, the kind of railway sidings with which all are familiar. The magistrates dismissed the charge, holding that the sidings did not constitute an area. They held that the word 'area' must be construed *ejusdem generis* with, that is so as to make it the same kind of thing as, the preceding words in section 4 of the Act. The section deals with "every person being found in or upon any dwelling-house, warehouse, coachhouse, stable or out-house, or in any inclosed yard, garden, or area." The Divisional Court

agreed with the magistrates' decision though each of the three judges added something of his own to the possible meaning or meanings of 'area.'

Lord Caldecote, C.J., thought that having regard to the preceding use of the words 'yard' and 'garden,' and bearing in mind that it was a penal section, the word should be construed in the special sense of a "basement area" lying within close confines of and enjoyed for direct use with a dwelling-house, warehouse or other specified building. "It is a word commonly used to denote the open space below the level of the ground which has been excavated for the purpose of building a house on the site." The appellant argued that it did not matter how large the space was provided that the space was inclosed. But this construction has been conclusively rejected.

Mr. Justice Macnaghten pointed out that in 1824 a basement area was a well-known feature of many houses in London and in the country. He preferred, however, to leave open for consideration whether the words "inclosed area" might apply to an inclosure which is not connected with a house. He added: "There are in some places small pieces of ground which are inclosed in connection with such things as waterworks and electricity works which might be 'inclosed areas' within the Act."

Mr. Justice Tucker equally rejected the appellant's interpretation which would make an inclosed area merely any inclosed space. But at the other extreme of construction he desired "to reserve consideration of the question whether an 'area' must always be an excavated piece of land."

MISUSE OF PETROL: FALSE STATEMENT BY PASSENGER

Smith v. Barkley

Among the broad rules of criminal liability introduced by the Defence (General) Regulations, 1939, is the important Regulation 82. In *Smith v. Barkley* (60 T.L.R. 79) the prosecution attempted to apply this regulation in a particularly far-reaching manner. The first part of the regulation deals in some detail with the offence committed by a person who uses with intent to deceive a document which he is under a duty to furnish. Then Regulation 82 (2) goes on: "If, in furnishing any information for the purposes of any of these regulations or of any order, rule or by-law made under any of these regulations, any person makes a statement which he knows to be false in a material particular . . . he shall be guilty of an offence against the regulation." This provision came before the Divisional Court for interpretation in the following way:

A friend of the appellant was convicted of unlawfully using, contrary to the Motor Fuel (Rationing) Order made under the Defence (General) Regulations, 1939, a quantity of petrol for a journey other than that to which the coupon authorising the supply thereof related. The friend had given the appellant and his wife a lift home after a dance, and in so doing he went beyond the permitted limit. In reply to a police officer, who said that he was inquiring into an alleged misuse of petrol by the driver of the car, but not that his inquiries were for the purpose of investigating an alleged breach of the Defence Regulations, the appellant made a false statement about the distance which he had been conveyed. He said that he was dropped from the car within the driver's permitted area. The justices convicted the appellant and fined him £5.

The defence raised before the justices was that the respondent did not specifically inform the appellant that the inquiries related to an alleged offence under the Defence Regulations and that the latter being penal regulations must be strictly construed. The justices thought that the statement by the police officer that his inquiries related to an alleged misuse of petrol constituted sufficient indication to the appellant that the information was required for the purpose of the Defence Regulations. It was held by the Divisional Court, composed of Lord Caldecote, C.J., Macnaghten and Atkinson, JJ., each of whom delivered a judgment, that the information was defective in that it ought to have specified the Motor Fuel (Rationing) Order, which was the Order alleged to have been infringed by the person who drove the appellant on the night in question. The appellant should have had this specific reference in the information. But the most interesting part of the case is the other and main ground on which the Divisional Court quashed the conviction.

Lord Caldecote, C.J., said: "I have formed a clear view that Regulation 82 (2) does not cover a case like the present. Even supposing that the view which I have formed is not as clear as I feel it is, it must be remembered that the provision is a penal one and must be construed strictly. I should hesitate long before I found the language of this regulation so clear as to make it an offence for a person not in any way connected with the commission of another offence, to make some statement false in a material particular about that other offence." It was held that the regulation did not deal with what may be called "third parties" at all, that is, persons not suspected of a substantive offence but who are only said to commit an offence because they have furnished or given information which is to be used for the purpose of prosecuting the party suspected of the main offence. The first words of Regulation 82 (2) are: "If, in furnishing any information . . ." These words seemed to the Lord Chief Justice to indicate primarily that the person, when

furnishing the information, is under some duty to furnish it. If the prosecution's argument were accepted it would lead to the somewhat surprising result that a person who has not the remotest connection with any offence committed under the particular regulation involved may be found guilty of an offence against that regulation because he has told a lie as to the evidence which he is in a position to give.

TRADING AT A MARKET SITE: THE MEANING OF 'SHOP'

Summers v. Roberts

Under the Shops Act, 1912, a shop is defined as including any premises where any retail trade or business is carried on. This definition is incorporated into the Pharmacy and Medicines Act, 1941, by section 17. In *Summers v. Roberts* (60 T.L.R. 102) the defendant regularly occupied twice a week outside Leeds City Markets approximately the same site, for which he paid a certain sum to Leeds Corporation. On the site he erected a stall consisting of two trestles across which he placed a board having no covering over it. On the board he placed the bottles of medicine which he sold and mixed on the spot. It was important to know whether he sold from a shop, because section 12 (2) makes it an offence to sell by retail substance recommended as a medicine unless the sale is effected at a shop.

The stipendiary magistrate found the charge proved and dismissed the information under the Probation of Offenders Act, 1907, on payment of 10s. costs. On the defendant's appeal the Divisional Court also thought that the scene of the sale of the medicines was not a shop and that therefore an offence had been committed. The court thought that what the statutory definition required was "a place defined by precise limits with some structure on it at which a retail trade is carried on." It was true that the Legislature meant to give an extended and unnatural meaning to the word 'shop,' a meaning that "went far beyond the popular and recognised meaning of the word" (*Wallace v. Dixon* (1917, 2 I.R. 247)); but the reference in the definition to 'premises' prevented a shop being a mere place of carrying on a trade or business. Further, apart from the Shops Act, the Pharmacy and Medicines Act, 1941, read as a whole, contemplated a permanent place where a regular business is carried on, and which has limits which can be identified precisely.

RIGHT OF ACCUSED PERSON TO CONDUCT HIS OWN CASE

R. v. Woodward

The case of *R. v. Woodward*, heard by the Court of Criminal Appeal on December 8th, 1943, was described as an unusual one because the

appellant complained that he was convicted after a trial at which, against his will, he was forced to have counsel to defend him. He was convicted at Birmingham City Sessions before the Assistant Recorder on charges of stealing and receiving and sentenced to twelve months' imprisonment with hard labour. Counsel had been assigned to him under the Poor Prisoners Defence Act, but had had to return the brief. The papers were then handed to another counsel, and after the appellant had been arraigned the counsel to whom the papers had been handed stated that he appeared for the appellant. The latter then said that he would rather not have legal aid and would prefer to conduct the case himself. The Assistant Recorder told him that he was in the hands of counsel, and the appellant said: "I think I ought to be allowed to conduct the case myself." He later twice interrupted to make observations or to ask questions of a witness, but he was again told that he was in the hands of counsel and would be very well advised to leave matters to counsel's discretion.

In allowing the appeal and quashing the conviction the Court of Criminal Appeal said that it thought that no person charged with a criminal offence could have counsel forced on him against his will. Of course, if counsel had begun to conduct a case and had dealt with a number of witnesses, still more if he had addressed the jury for the defence, a prisoner was not in a position to say that he wished to take over his own defence. But nothing of that kind took place in the present case. The appellant at the beginning of the case said that he wanted to defend himself, on the intelligible ground that he had not had the opportunity of seeing his new counsel. It was held that the refusal of the Assistant Recorder to allow the appellant to claim his right to conduct his own defence was wrong and resulted in an injustice to the appellant.

SETTING ASIDE A JURY'S VERDICT AS 'UNREASONABLE'

R. v. Dent

In this case (1943, 2 All E.R. 596) the accused was convicted of the offence of unlawful carnal knowledge of a girl aged 14 and of indecent assault on another girl aged 13. The testimony of the two girls was not corroborated as is required as a matter of practice though not of strict law in such cases. The trial judge at the Central Criminal Court gave the jury the usual warning of the practical necessity for such corroboration. The jury, after an absence of three hours, found the accused guilty in spite of the warning.

The Court of Criminal Appeal, in quashing the conviction, desired to make it plain that in taking, as they proposed, a very exceptional course

they did so because they regarded it, on the facts before them, as a very exceptional case, and not because they regarded themselves as initiating or applying any fresh principle. "Ordinarily speaking, there can be no doubt that where the jury have been given the proper warning, and notwithstanding that warning have convicted, this court will not interfere." The jury is essentially the tribunal of fact, and the judge only the tribunal of law. But there is the clear though infrequently applied provision in section 4 (1) of the Court of Criminal Appeal Act, 1907. That provision declares that "the Court of Criminal Appeal on any such appeal against conviction shall allow the appeal if they think that the verdict of the jury should be set aside on the ground that it is unreasonable or cannot be supported having regard to the evidence." It was on this ground that the court quashed the convictions in *R. v. Dent*.

The court did not think it necessary to analyse in detail the considerations with regard to the evidence which led them to the conclusion that section 4 (1) could be applied. The judgment concludes as follows: "These little girls, unfortunately, were plainly little girls whose credibility required very great scrutiny. One of the little girls was described by the doctor as presenting the appearance of a married woman, and for the reasons which I have indicated generally, though not in detail, we think that this is a conviction which cannot be safely allowed to stand."

This decision has a marked importance in the law of evidence and therefore in the considerations which must weigh with those responsible for the bringing of prosecutions. There are several classes of cases in which there is a firm practice of warning the jury about lack of corroborative evidence although it is not legally required. Convictions have been frequently quashed because this warning has not been given or not been given in explicit terms. But if a verdict is to be upset, even when the warning has been properly given, these classes of cases will approximate still more closely to those in which the law of evidence itself insists on corroboration.

BURDEN OF PROOF ON ACCUSED UNDER A FOOD REGULATION

R. v. Oliver

In an earlier issue of this JOURNAL (October 1943, p. 261) the case of *Buckman v. Button* (1943, 1 *K.B.* 405) was noted as providing an instance of the burden of proof being on the accused under certain sections of the Summary Jurisdiction Acts, 1848 and 1879. *R. v. Oliver* (60 *T.L.R.* 82) is a wider example of the same exceptional rule of criminal evidence, for the case was not concerned with the provisions of

the Summary Jurisdiction Acts which specifically lay down such an exception. This case dealt with the Sugar (Control) Order, 1940, though the principle of the Court of Criminal Appeal's ruling is of general application.

Paragraph 2 of that Order provides: "Subject to any direction given or except under and in accordance with the terms of a licence, permit or other authority granted by or on behalf of the Minister, no wholesaler shall by way of trade sell or agree to buy or obtain any sugar." The appellant was convicted at Middlesex Sessions with supplying sugar without a licence and was sentenced to three years' penal servitude and fined £8,500 with £150 costs. It was argued on his behalf in the Court of Criminal Appeal that the prosecution had not discharged the onus of proof resting on the prosecution to show that he had no licence to supply the sugar. This point was described by Lord Caldecote, C.J., as being wholly without merits inasmuch as no one knew better than the appellant whether he had a licence or not and he had not chosen to give evidence. But the point was an important one in view of the previous decisions. The court relied, among other cases, on the ruling in *Williams v. Russell* (49 *T.L.R.* 315) that "where it is an offence to do an act without lawful authority, the person who sets up lawful authority must prove it, and the prosecution need not prove the absence of lawful authority." The court also thought that it made no difference at all, as had been suggested in an earlier precedent, that the order was drafted as it now appeared instead of being in a form which absolutely prohibited the supply of sugar *except* as thereafter provided, with a later clause providing that if a person was supplied under a licence he should be excused. It was therefore held that the prosecution was under no necessity of giving *prima facie* evidence of the non-existence of a licence.

It was also held, following *Buckman v. Button* and an earlier wartime decision, that a new regulation which increased the penalties for offences relating to controlled goods was retroactive; it therefore applied to offences for which there was a conviction after, though the offences were committed before, it came into force. The appeal against conviction was dismissed and the heavy fines were allowed to stand.

IRREGULAR CALLING OF WITNESS

R. v. Browne

"A little regularity about the conduct of criminal proceedings and trial by indictment is not unbecoming. It is not right to regard the procedure as being in the nature of a committee of inquiry, where one member of the committee after another gets up and makes various

suggestions, and at various intervals people are called in to give evidence. There is a stage for the evidence of the prosecution. There is a stage for the evidence of the defence. Then there is a stage for the summing-up, and it is wrong, as has been laid down by this court before now, for evidence to be called at the end of a case when all the evidence available has been provided for the consideration of the court." These critical remarks were made by the Court of Criminal Appeal (Lord Caldecote, C.J., Asquith and Cassels, JJ.) about the conduct of a trial at the Hampshire Quarter Sessions at which the appellant was convicted of obtaining money by false pretences by means of a worthless cheque.

The defence raised at the trial was that the accused was suffering from loss of memory. No medical evidence was called by the prosecution or defence, but the defendant replied, in answer to a question by the chairman, that he had been examined by the prison doctor while in custody awaiting trial. After the summing-up, the jury, before they retired, requested that medical evidence on the defendant's mental condition should be called, but the chairman declined to accede to the request. The jury retired, and on returning into court repeated their request for medical evidence. The chairman then, despite a protest from defending counsel, called the prison doctor, who gave evidence. He testified to the effect that there was no medical term which could in truth be attached to the appellant, and that he was not suffering from loss of memory or from anything at all. The jury brought in a verdict of Guilty. The Court of Criminal Appeal held that if the prosecution desired to call the prison doctor, they should have applied at the end of the defence, and the chairman should have then ruled that the evidence was or was not admissible. Counsel for the defence, having had notice of that evidence, might well have objected to such an application.

A further reason for quashing the conviction was found in an inadequate summing-up. There was no attempt made to explain the word 'fraudulent' to the jury. "The word was simply left high and dry, and the jury were left to guess what it meant." This was a vital omission in view of the importance that a jury should understand that on such a charge the fraud must amount to the crime of obtaining money by false pretences, and inducing a person to act on that pretence, and that there must be an intent to swindle. So far as the most important part of the summing-up was concerned it was lacking in that direction which was most essential.

RECEIVER AND ACCESSORY: ALTERNATIVE CHARGES

When a suspect is known to have handled stolen goods the difficulty of bringing home a charge of "receiving" may make it convenient to

couple a charge of being an accessory after the fact to the theft. The legality of bringing such alternative charges has been upheld by the chairman of the Salford Hundred Quarter Sessions (see 107 *J.P.* 548). Three persons were committed for trial by the Rochdale magistrates on charges of receiving property, two others at that time being sentenced for stealing the property. For the prosecution it was said that alternative counts of being accessories after the fact had, since committal for trial, been inserted in the indictment. The prosecution relied on some observations of Lord Reading, C.J., in *R. v. Walton* (1916, 2 *K.B.* 385).

For the defence it was argued that the accused could not be put in peril on both charges because of the Accessories and Abettors Act, 1861, s. 3, which states that an accessory can be charged for the substantive felony or as an accessory after the fact. They argued that this meant one or other of those charges but shut out any additional charge arising out of the evidence, such as "receiving." But the chairman said that he was satisfied about the form of the indictment. Ultimately, all the charges of receiving were dismissed, two of the accused being discharged and one of them sentenced to four months' hard labour on the charge of being an accessory.

NO DUPLICITY IN CHARGE OF FAILING TO "KEEP OR CAUSE TO BE KEPT"

Field v. Hopkinson

Cases of alleged alternative charges in which the defence of duplicity in the indictment or information is relied on always raise points of nice verbal construction. *Field v. Hopkinson* (1944, 1 *K.B.* 42) is a further instance. A wholesale dealer in fruit was convicted under art. 9 (1) of the Soft Fruit (Maximum Prices) Order, 1942, on a charge of failing to "keep or cause to be kept an accurate record" as required by the Order. He appealed to Leeds Quarter Sessions, which quashed the conviction on the ground that it was bad for duplicity, the respondent having been convicted of two offences in the alternative. There was a further appeal, by case stated, to the Divisional Court on behalf of the Minister of Food.

In that court the Lord Chief Justice, with whom Macnaghten and Tucker, JJ., agreed, thought that it was a reasonably plain case. He said that he could express his view in two sentences: "If an enactment forbids the doing of act *A* or act *B*, it creates two offences and a conviction for both on one information would be bad for duplicity. But if the enactment creates a duty to do act *A* or *B*, there is only one offence—namely, a failure to do both acts." For this reason the decision of quarter sessions was held to be wrong and the case was sent back for a determination on that footing.

RECOVERY OF STOLEN GOODS AND INNKEEPER'S LIEN

Marsh v. Commissioner of Police

After a conviction for larceny there is not infrequently a contest between two or more claimants of the stolen goods. The Police (Property) Act, 1897, section 1, provides that an application may be made to the court for the possession of stolen property which is held in police custody. In *Marsh v. Commissioner of Police* (60 T.L.R. 96) there were two applications under this section to the petty sessional divisional court of Spelthorne, Middlesex, for the possession of a stolen ring: one application was made by the jewellers from whom the offender stole it, the other on behalf of the Ritz Hotel with whom he had left it as security for the payment of his hotel bill. The case turned on the peculiar right of innkeepers to exercise a lien over the goods of their guests.

An innkeeper by the common law is given a lien on, or a right to hold, the luggage or property which the guest brings with him to the inn and which the innkeeper receives as such. The lien is good to the extent of the bill for board and lodging and can be turned to account by selling the goods. In this case the guest, who was later convicted at the Central Criminal Court of larceny of the ring, did not bring the ring with him on first arriving at the hotel. He obtained possession of it from the jewellers a day or two later. He handed it over to the hotel as security for the payment of the bill which he was quickly asked to pay. The justices held that the hotel in these circumstances had made out their claim to a lien and ordered the ring to be handed over to them from the custody of the Police. But on a case stated the Divisional Court decided in favour of the jewellers, distinguishing between property received as part of the guest's luggage and the guest's other property. The Court held that the ring had never been received as part of the guest's luggage. The hotel was in the position of an ordinary pledgee of stolen goods. As the hotel had no special privilege by way of innkeeper's lien the true owner could interpose and get possession of his property.

Criminal Law and Practice in Scotland

WHEN MUST A SHERIFF DISQUALIFY?

Henderson v. Brodie

BRODIE, a motor driver, was charged, in the sheriff court at Cupar, that he was in charge of a motor lorry on a road while under the influence of drink to such an extent as to be incapable of having proper control of the lorry, in contravention of the Road Traffic Act, 1915, section 15. He tendered a plea of guilty through a solicitor who

CRIMINAL LAW AND PRACTICE IN SCOTLAND 103

proceeded to submit a number of considerations designed to influence the sheriff's mind both on the extent of the penalty and on the question of disqualification. In particular, the agent stated (1) that Brodie had been driving motor vehicles for ten years and during that period had no conviction under the Road Traffic Act recorded against him; (2) that he was not in the habit of taking drink; (3) that his taking drink on the date libelled was an exceptional instance; (4) that his employer was carrying on work of national importance in connection with the war and had endeavoured but failed to find a substitute for him; and (5) that the vehicle was stationary at the time when Brodie was arrested—by which, presumably, he meant that Brodie had not, while drunk, actually driven the car. The agent's statement was not contradicted by the procurator-fiscal and it is clear that the sheriff accepted it as a true statement of the facts.

A penalty of £5 was imposed, but the sheriff declined to order disqualification for holding a driving licence for a year for the reasons (1) that he was of opinion that the safety of the public on the roads would not be imperilled and (2) that the accused was engaged in work of national importance. The procurator-fiscal appealed, maintaining that, in the absence of "special reasons," the sheriff was bound to order disqualification, as directed by section 15. The appeal failed.

Refusing the appeal and affirming the decision of the sheriff, the High Court judges held that, on the agent's statement, the sheriff was entitled to reach the conclusion that the safety of the public on the roads would not be imperilled by failure to order disqualification and that, having reached that conclusion, he was entitled to have regard to the fact that Brodie's services were required on work of national importance in the present emergency. In deciding to remit the statutory disqualification, the sheriff was acting well within the rulings of the High Court in earlier decisions—notably *Adair v. Munn*, 1940, J.C. 69 (see THE POLICE JOURNAL for 1940, at p. 380).

PROOF OF RESET

Taplin and McCann v. Binnie

In the present volume of this JOURNAL, at p. 19, attention was drawn to the difficulty which a prosecutor may find in proving beyond doubt that property traced to an individual in suspicious circumstances was stolen. This difficulty may have the effect of preventing the prosecutor standing upon the doctrine of recent possession. The same difficulty, as appears from the case now reported, may arise where a charge of reset has been made against persons found intruding with property in suspicious circumstances.

Taplin and McCann were charged, in the sheriff court at Dumbarton, that, on a date stated, in a sand quarry near Balloch, they did reset 4,500 feet of high tension single strand insulated cable wire, the same having been dishonestly appropriated by theft. They pled not guilty and evidence was led. In very brief summary, the effect of the evidence was narrated below.

It appeared that about 7.30 p.m. on September 1st the two accused alighted from a lorry at the entrance to the quarry; made unsuccessful attempts to borrow a pick or shovel from the occupant of a caravan nearby and from a night watchman; secured a crowbar from another part of the quarry and proceeded to dig up a length of cable wire which had for some time previously been lying partly buried in the quarry. By the time the police arrived, the accused had disappeared, leaving the cable exposed on the surface. At 10 a.m. next day, the accused again appeared with the lorry, stopped at the entrance to the quarry but, for some unexplained reason, moved on. At 3 p.m. on the same day, the lorry was stopped by the police on the road outside the quarry; when the accused, who were on the lorry, were charged with reset. They gave the explanation that they had, on the previous night, required a crowbar to readjust the load on the lorry, which had shifted; that, on entering the quarry, they saw what looked like a piece of rope protruding from the ground and that they had dug it up to see what it was. It further appeared that, some considerable time before, the United States naval authorities had stores on a nearby estate; that in these stores there was a quantity of cable similar to that dug up by the accused; that the police had had many complaints of theft from these stores, including complaints of theft of such cable; that the cable is manufactured only in America but could be bought, before the outbreak of war, by the general public but, since then, only on permit; and that the cable did not belong to either of the accused or to anyone for whom they were acting. In addition, there was a measure of evidence, which the sheriff believed, to the effect that the accused had, before arrival at the quarry, primed the driver of the lorry to say, if the police challenged them, that the load had shifted.

On these facts, the sheriff found the charge of reset proved. On appeal, the conviction was affirmed, although the judges of the High Court regarded the case as a somewhat narrow one. In course of the debate, the court commented upon the fact that apparently the prosecutor was content to lead police evidence to the effect that complaints had been made of theft of cable from the stores and gave a strong indication that the proper evidence, in such circumstances, was that of those in control of the property and not of police officers who were speaking at secondhand.

One cannot help wondering why the prosecutor did not charge theft, instead of reset. Apart altogether from the question of whether someone had previously stolen the cable from the store and hidden it in the quarry, there would appear to have been evidence before the sheriff which would have justified him in convicting the accused of stealing (or, at the very least, attempting to steal) the cable from the quarry on September 1st. In order to bring home a charge of theft, it is not necessary to prove whose was the property stolen. It is sufficient to show that it did not belong to the persons who appropriated it (*Costello v. Macpherson*, 1922, *J.C.* 9).

THE "RULE OF TWO WITNESSES"

Lord Burgh v. H.M. Advocate

It is a fundamental rule of Scots law that no person may be convicted of a crime or offence on the uncorroborated testimony of a single witness. This does not mean that, in the absence of two eye-witnesses, the prosecution must fail—indeed, there may be no direct witnesses available—but it does mean that the accused must be implicated in the crime or offence charged by something more than the evidence of one witness, however credible. The determination of the Scottish judges to enforce this rule is illustrated by the High Court decisions in *Morton v. H.M. Advocate*, 1938, *J.C.* 50, and *Murphy v. Henderson*, of which a report appeared in the issue of this JOURNAL for July 1942 at p. 184. To the rule there are a number of statutory exceptions; e.g. section 119 (10) of the Road Traffic Act, 1930, operates to permit of the conviction of a person contravening section 49 of that act "on the evidence of one witness." Apart from such statutory concessions in relation to particular offences, the rule is absolute.

The heavy onus placed upon a prosecutor in Scotland by this insistence upon two witnesses or their equivalent was, in effect, substantially modified by the decision of the High Court of Justiciary in *Moorov v. H.M. Advocate*, 1930, *J.C.* 68, which was discussed in the issue of this JOURNAL for October 1938 at p. 414. The effect of that decision was to give full effect in the law of Scotland to the doctrine of mutual corroboration. Moorov was held to have been rightly convicted of a series of assaults of an indecent character upon women in his employment, although (except in two cases) the only witness to each individual assault was the woman concerned. The court reached this conclusion on the view that "there was sufficient interrelation in time, place and circumstances between the assaults to allow the evidence of one woman with regard to her experience to corroborate the evidence of another with regard to hers."

COMPENSATION FOR INJURY

The case now reported, although it hardly falls within the scope of these notes (which normally are confined to matters of criminal law and practice) is of such interest to police officers in Scotland that we go out of our way to comment upon it. Being directed, under war-time legislation, to work in a coal mine, a policeman sustained injury in circumstances which arose out of, and in the course of, his employment as a miner. Proceedings followed under the Workmen's Compensation Act—i.e. civil proceedings taken before the local sheriff substitute sitting in his capacity as a civil judge. The injured man was found, at the outset, to be totally incapacitated for his work and was, for a period, compensated by weekly payments on that basis. Later, he was found to be only partially incapacitated, with a consequent adjustment in the compensation payable. Finally, in November 1943, the medical referee reported that he had wholly recovered. At this point, the court's attention was pointedly drawn to the fact that the claimant was by profession a policeman, not a miner, and the argument was tabled on his behalf that compensation should not take end but should be suspended until the cessation of hostilities and his return to the police. This argument was rejected by the sheriff substitute, who regarded as irrelevant an averment of permanent handicap in the labour market. All that he was entitled to look to was a diminution of capacity to earn wages in the employment in which the workman was engaged at the time of his injury. In a claim under the Workmen's Compensation Act, an averment that a particular occupation might be closed to him was not enough—although, the sheriff was careful to add, it might have been enough had the claim been laid at common law (in circumstances which would justify such a claim). Compensation must end—a conclusion which the sheriff reached with regret; although, as had been pointed out in course of the debate, the claimant was in no worse position than a person disabled by wounds while serving with the armed forces. An army pension payable to a private soldier was the same whether his income in normal civilian employment was £1 a week or £2,000 a year. This opinion was delivered by Sheriff N. Maclean, K.C., at Dunfermline Sheriff Court.

STATUTE OR COMMON LAW?

It often happens that an offender lays himself open either to a charge at common law or to a charge of having contravened some provision of an act of parliament. Upon which should the police officer investigating the case rely? No general rule can be given; each case turns upon its own circumstances; but the following points are well worth keeping in mind:

In general, the common law is stronger than statute—especially in Scotland, where the common law retains its vigour and is much more frequently invoked than south of the Border. In most cases, a heavier penalty is exigible and, in most cases, there is a more drastic power of immediate arrest. In both these respects, a charge of breach of the peace is to be preferred to one of “drunk and disorderly”; for (1) the penalty for breach of the peace is sixty days' imprisonment, as against thirty days on the statutory charge, and (2) the right to arrest an offender in the act of committing a breach of the peace is beyond doubt, but no express power to arrest without warrant a “drunk and disorderly” is conferred by statute.

On the other hand—especially where immediate arrest is unnecessary and procedure by summons will meet the case—there is much to be said for using a statutory power which exactly fits the facts. To this a caution may be added—that, before committing oneself finally, one must be certain that all the elements desiderated by the statutory provision are satisfied. An illustration may make this clear.

A person who makes himself a nuisance in post office premises may lay himself open to a charge of breach of the peace—if he is disorderly or aggressive or if the assistants or members of the public are put in a state of fear, and/or to a charge of contravening section 67 of the Post Office Act, 1908, as amended in 1935. The act penalises any person who “wilfully obstructs, or incites any one to obstruct, an officer of the Post Office in the execution or whilst in any post office . . . obstructs the course of business of the post office.” An offender may be required to leave and, on refusal or failure, becomes liable to a further penalty. “All constables are required on demand to remove or assist in removing every such person.” The amending act, besides increasing the penalty, adds the offence of “molesting.” Before charging an offender with contravening these provisions, or any one or other of them, one would need to be sure that evidence would be forthcoming, on a plea of not guilty, to bring home to the accused the precise course of conduct at which the section strikes.

In practice, both in the earlier stages of an enquiry and later in court, the police or the prosecutor may keep the matter open by formulating an alternative charge—e.g., “You did, on . . ., in the Blank Street Post Office, obstruct the course of business of the Post Office, or alternatively, time and place libelled, you did conduct yourself in a disorderly manner and commit a breach of the peace.” In this connection, reference may be made to the useful provision found in section 52 of the Criminal Procedure (Scotland) Act, 1887, which (as applied to summary procedure) reads: “Where any act set forth in a complaint as contrary to any act of parliament is also criminal at common

law, or where the facts proved under such a complaint do not amount to a contravention of the statute, but do amount to a crime at common law, it shall be lawful to convict of the common law crime." Thus, where a man has been charged with a contravention of section 70, as being "drunk and disorderly," and, after the hearing of evidence, the magistrate is convinced of the disorderly conduct but has doubts of the accused's insobriety, it is open to him to convict of breach of the peace.

The Scientific Examination of a Case of Arson

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INTRODUCTION

THIS account of a case of arson is arranged in two parts: Part 1 being a brief connected history of events observed prior to the fire and of information subsequently elucidated by police investigations, and Part 2 being an account of examinations carried out at the Police Laboratory, Hendon, on materials and articles found at the scene of the crime.

Correlated information has also been included to illustrate some of the possibilities arising from the various types of analyses and examinations carried out.

PART 1

In October 1942 a farmer *A* sold his farmland to *B*. The farmland included several farms and buildings which can be designated Farm No. 1, Farm No. 2, Farm No. 3 and Farm No. 4.

The incoming farmer took up his residence at Farm No. 1 with his daughter and his foreman *C*.

According to the terms of the transfer of this property, it was agreed that *B* should thresh any and all stacks of wheat standing on the farm at the time of purchase, hand the resulting wheat back to the vendor *A*, whilst the straw remained the property of *B*. On January 19th, 1943, there were still six large stacks standing in a stackyard some 100 yards from the buildings of Farm No. 2.

That morning the foreman *C* arrived at Farm No. 2 to start ploughing. Later he called at the farmhouse and borrowed a large-toothed saw, which he returned in half-an-hour without stating the use to which the saw had been put. Subsequently it was recalled that a seven-foot bamboo pole which had been lying discarded in the front

THE SCIENTIFIC EXAMINATION OF A CASE OF ARSON 111

garden of the farmhouse for two years had disappeared after this particular visit of *C*.

That evening work stopped at 5 p.m., but at 5.45 p.m., as dusk was falling, a farm labourer living at Farm No. 2 had occasion to go out of doors and discovered the foreman *C* apparently searching for something in an old workshop some distance away from the house.

The following day, Wednesday, January 20th, 1943, the foreman arrived at Farm No. 2 at 8.30 a.m. to continue ploughing. Shortly after his arrival he was seen to visit the stackyard. He then returned and borrowed the saw as on the previous day, this time keeping it for a quarter of an hour. After returning it he crossed to the barn, picked up a square can, and walked out of sight. It was subsequently ascertained that for about three-quarters of an hour that afternoon *C* was the only individual at or around the buildings or stackyard of Farm No. 2.

That evening at 5.40 p.m., just before black-out, the occupiers of Farm No. 2 noticed the foreman visit the stackyard and disappear from their sight.

At 7.30 p.m. that same night a farm labourer and his family living at Farm No. 3 noticed a fire in the stackyard of Farm No. 2, some 1½ miles away. Making their way across very muddy country they roused the occupants of Farm No. 2, who were unaware of the conflagration, and together they went to the scene of the fire.

On arrival, at 8.30 p.m., they found four of the stacks burning fiercely, but from under each of the unburnt stacks they found and quickly removed an incendiary contrivance, thus preventing further fire.

The foreman *C* did not arrive on the scene until midnight, whilst the farmer *B* appears to have been absent from the district at the time.

The fire resulted in a loss of wheat valued at approximately £1,300. During this particular evening air raid warnings were sounded and aircraft were heard overhead.

The following day police officers visited the scene and took possession of the incendiary devices and many other articles from the Farms Nos. 1 and 2, the significance of which will be described below.

PART 2

The Scientific Examination of Exhibits

The scientific examination of the exhibits submitted to the Laboratory involved a comparison of the various components which formed the fire-raising contrivances with those articles collected from the farms.

In discussing the results, some account will be given of contiguous matter in order that the possibilities of such work may be the better

appreciated and to show how such common, every-day articles such as candles, paraffin, nails and the like, can provide valuable evidence.

A detailed description will now be given of one of the incendiary contraptions recovered from the stacks.

A $3\frac{1}{2}$ -inch length of bamboo of some $\frac{7}{8}$ -inch internal diameter had been pressed $\frac{1}{2}$ -inch into the earth at the base of a hollow scooped out of the side of the stack. Standing in this cane and supported by the pith joint half-way down its length was the stump of a candle some $1\frac{3}{4}$ inches long. This stump was pierced by a transverse hole, $\frac{1}{4}$ -inch in diameter, some $1\frac{1}{2}$ -inches from the butt. A rope 7 inches long had been threaded through this hole and so placed that the two ends touched a shield surrounding the candle and its holder. This shield was constructed of corrugated paper pinned together by means of a nail, thus forming a cylinder $7\frac{1}{2}$ inches high and 4 inches in diameter. Surrounding this shield and wedged in the hollow of the stack was a piece of sacking and also lengths of rope. When removed, all these articles except the candle appeared to be soaked with kerosene.

The second contraption was identical with the first except that a piece of wire instead of a nail had been used to pin the shield together.

Figure (1) illustrates one of the contraptions as re-assembled at the Laboratory, with the cardboard shield opened.

It was obvious that by such an arrangement the candle, once lit, would eventually burn down and set fire to the rope "wick," which in turn would ignite the shield and sacking and, finally, the stack. Once the stack was properly alight, no trace would remain of the device.

The other articles collected were as follows :

From Farm No. 1

- 2 nails
- 2 gimlets and twist bit
- 58 whole candles and one candle stump
- Paraffin from tractor tank
- Paraffin from household drum
- Paraffin from household can
- Paraffin from oil drum on lorry
- Corrugated paper
- 1 Small-toothed saw

From Farm No. 2—

- 2-foot length of bamboo
- Piece of wire
- 25-inch length of rope
- 3 pieces of rope
- Square can containing trace of oil
- Paraffin from storage tank

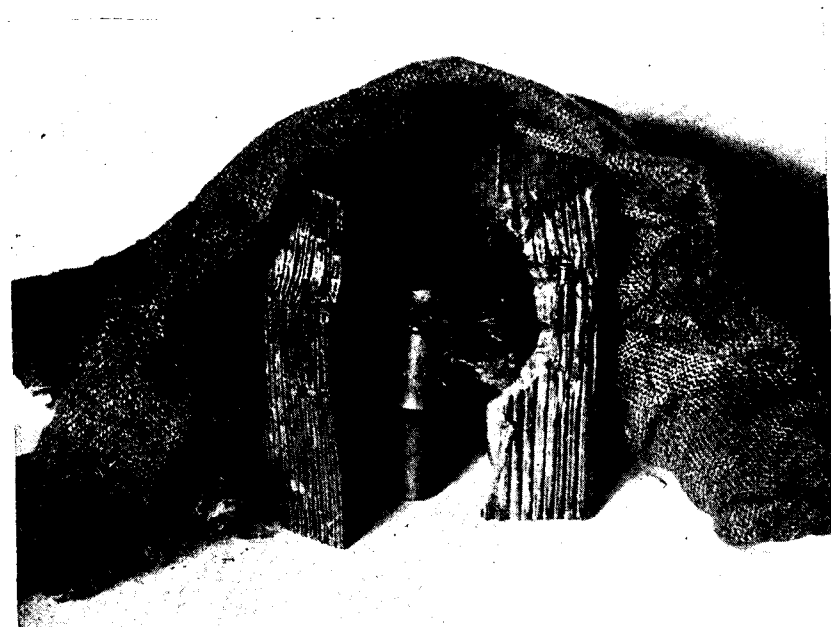


FIG. 1
Reassembled Incendiary Device

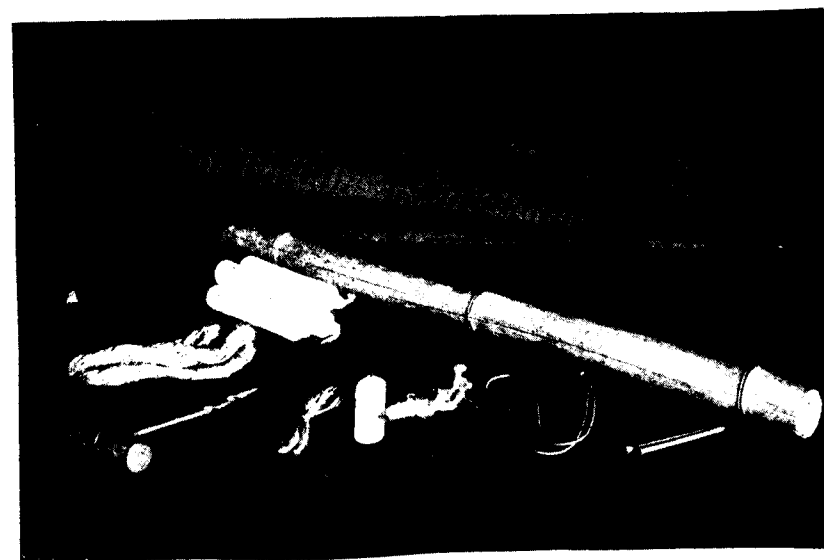


FIG. 2
Certain of the Articles found at Farms 1 and 2

(face p. 112)

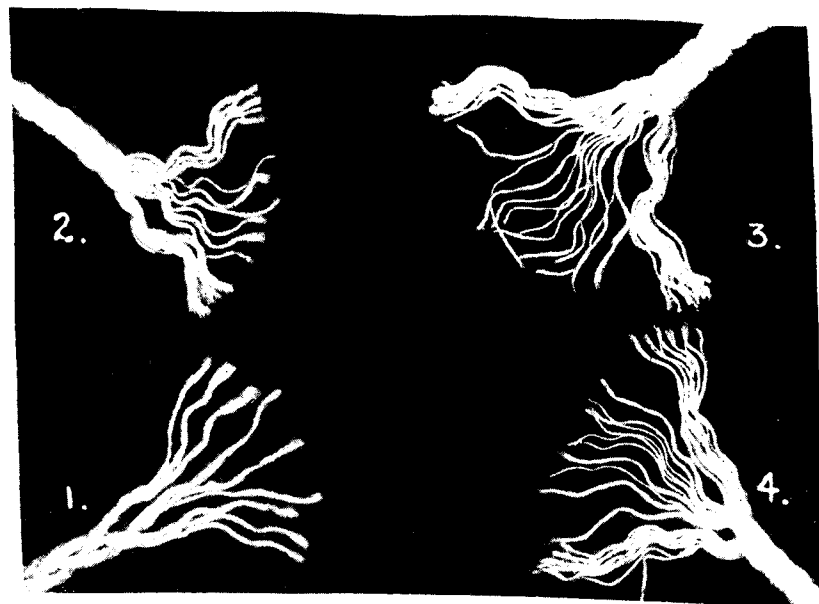


FIG. 3
Four Types of Candle Wicks: (1) $3/3$, (2) $3/6$, (3) $3/12$, (4) $3/10$

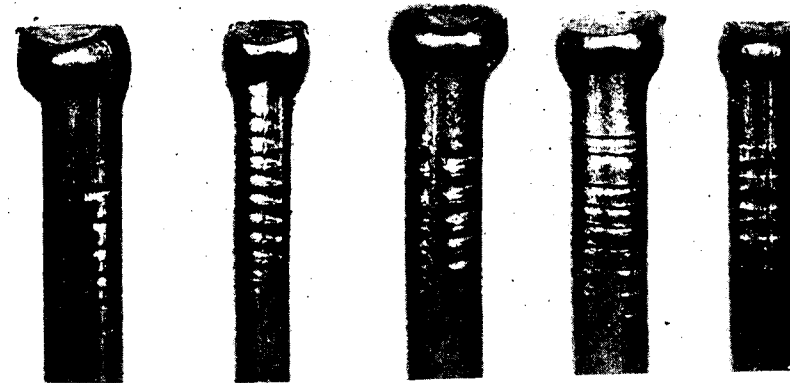


FIG. 5
Different Types of Cording on Oval Brads

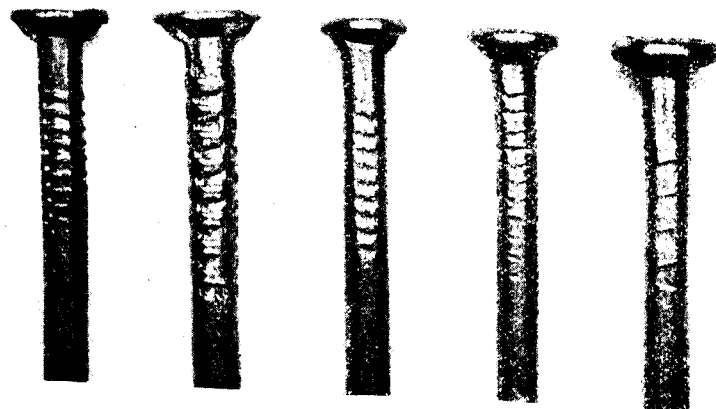


FIG. 4
Different Types of Cording on Wire Nails

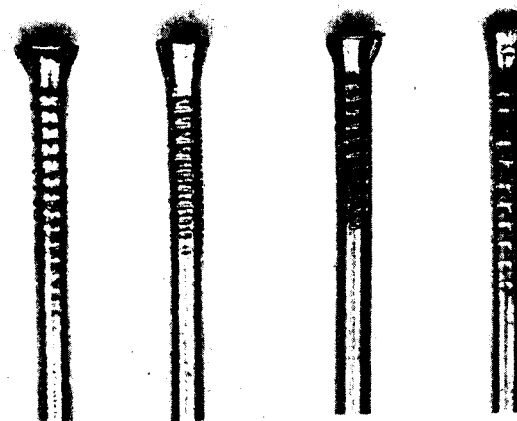


FIG. 6
Different Types of Cording on Panel Pins

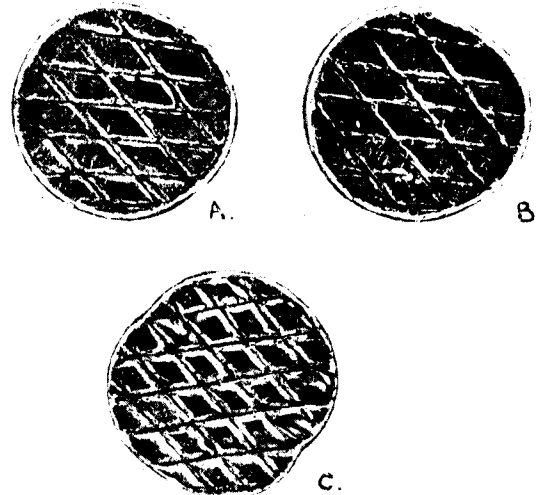


FIG. 7
A—Head of Nail attached to Incendiary Device
B and C—Heads of Nails found at Farm No. 1
B agrees with A

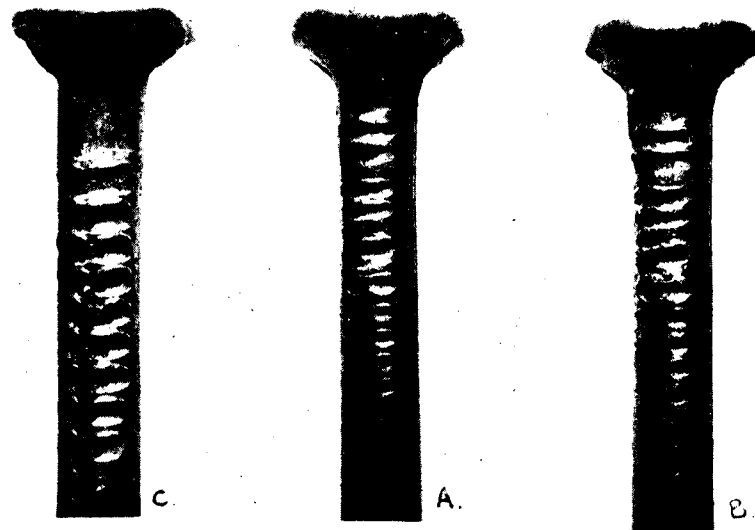


FIG. 8
A—Cording on Nail attached to Incendiary Device
B and C—Cording on Nails found at Farm No. 1
B agrees with A

- 1 large-toothed saw
- 1 wooden plough-scraper
- 42 whole candles

Some of these articles are illustrated in Figure (2).

a. Candles.

In the manufacture of candles, the rate of cooling and the presence of impurities in the wax have important effects on its opacity, crystalline state, gloss and colour when set. Thus the appearance of a candle has little or no diagnostic value and in fact considerable variation in these physical properties can occur in candles produced in the same batch.

On the other hand the wick, the wax and the shape of the tip (of an unused candle) can afford valuable information.

Candle wick is made of plaited cotton using a varying number of cotton threads in a threefold form. The total number of threads met with has been found to vary from nine up to forty-eight. To regulate burning, plaited candle wick is treated with at least one of a variety of chemicals. Tallow candles have a wick known as "Bump" or "Dip Cotton," which is twisted cotton. This type is not solutioned.

Figure (3) shows the construction of candle wicks of the $3/3$; $3/6$; $3/10$ and $3/12$ variety obtained from manufacturers.

The wax of candles of different manufacturers may vary according to the raw materials used, which is reflected in the variation of such properties as acid value, setting point, brittleness and odour. In war-time, shortage of supplies makes it impossible for a manufacturer to adhere rigidly to one type of wax, but in spite of this the waxes used by certain manufacturers have been differentiated.

The shape of the tip of a candle and the diameter of the stem are also possible distinguishing features.

The candles examined in connection with this case included the two, partly burnt, from the stacks, 42 unused ones from Farm No. 2, and 58 unused and a stump from Farm No. 1

Examination of the wicks, as a preliminary, grouped them as follows :

1. All the unused candles had wicks of the $3/12$ type, that is, 36 threads in all.
2. The stump from Farm No. 1 and that from one of the stacks were identical, having $3/3$ wick, that is, 9 threads in all.
3. The stump from the second stack had a wick distinct from either of the foregoing groups, being of the $3/9$ type, that is, 27 threads in all.

The similarity between the candles in Group 2 was further confirmed by the acid value and the setting point of the wax and by the

diameter of the stems. These properties also served to distinguish them from the candles in the other two groups.

The conclusion was drawn that the stumps recovered from one of the stacks and from Farm No. 1 were products of one and the same firm of candlemakers who are unique in their use of the 3/3 type of wick. The maker of the stump of the 3/9 wick could not be identified.

It was also important to ascertain the approximate time of the lighting of the candles under the stacks. Since the stumps afforded evidence of even burning and no guttering it was assumed that the shields had produced a condition of still air, or at least a lack of excessive draught. The mean time required in the laboratory for a standard candle of the 3/3 type, five inches long, to burn in still air down to the length of stump found at the stack was 3 hours 5 minutes, thus putting the earliest lighting time at approximately 5.30 p.m.

b. Nails and Wire

The three nails examined were all nails of circular cross section. On inspection it appeared that the question of showing whether the nail from the stack could be correlated with one or other from Farm No. 1 must rest on whether the pattern on the head, the shape of the bevelled shoulder and the marks on the shank—the 'cording'—afforded any distinguishing characteristics.

Wire nails are manufactured by feeding wire through a pair of dies so that sufficient length protrudes to form the head. The dies then close and bite into the shank, producing the marks known as the 'cording.' At the same instance a reciprocating hammer which is covered by a chequered head strikes the protruding wire to form the head of the nail. The 'cording' prevents the wire slipping during the blow. Almost simultaneously, cutters come together and cut off the nail at the required length, whereupon the dies open and the completed nail falls into a receptacle. This cycle of operations occurs many times a second.

Examples of 'cording' on the products of different nail-making firms are illustrated in Figures (4), (5) and (6).

An examination of the nails in question showed that although they were all 3-inch nails they were not identical, in appearance. The two nails from Farm No. 1 differed both as regards cording, pattern on the head and the shape of the bevelling. One nail from No. 1 closely resembled the nail from the stack. This similarity extended to imperfections in the head pattern and peculiarities in the cording to such an extent that it was judged that these nails were made in the same batch by one and the same machine. See figures 7 and 8.

From the shape of the nail head the maker was traced, and subsequent enquiries confirmed the fact that the two nails had been made

on the same machine. The diemaker identified the cording and gave the sequence in which the nails had been turned out. The nails were in all probability made within a week of each other.

The piece of wire attached to the cardboard shield revealed on examination that one end had a ragged, but recent, bright cut whilst the opposite end had a clean, but old, rusted cut. This wire was identical in gauge and appearance to the wire found at Farm No. 2. This piece of wire had ends which were ragged and recently cut.

It was not possible to get an exact fit between the ragged ends of the wire from Farm No. 2 and the recent cut on the other piece of wire. This was partly due to the nature of the severing and might also be accounted for by the fact that intervening pieces of wire may have been used in the contrivances destroyed in the burned stacks.

c. Oils

The search of the farm buildings resulted in the discovery of a variety of containers used for storing domestic and tractor fuels. These fuels were all examined as to their resemblance to the kerosene which had been used to soak the sacking, etc., found under the stacks.

Kerosene is an expression used to describe a wide range of hydrocarbon oils such as paraffin oil, kerosene or similar oil such as burning oil and vaporising oil, and white spirit. These different products are all petroleum products selected for a specific purpose and distinguishable by such properties as boiling range, refractive index and specific gravity as well as flash point and viscosity.

The boiling range is one of the most characteristic properties of members of the kerosene group of hydrocarbon oils, and its determination is carried out under strictly controlled conditions of distillation as laid down by the Institute of Petroleum Technologists. Briefly, a standard quantity of the oil is distilled in a special flask suitably screened so that the distillation proceeds at a specified rate. The vapours are cooled by passage through a metal tube of standard dimensions, surrounded by cold water. During the distillation the temperature is recorded at which successive portions of the distillate collect. When only small quantities of sample are available reproducible results can be secured by the use of micro-apparatus.

The various kerosene-soaked articles removed from the stacks were separately subjected to prolonged steam distillation and the recovered volumes of oil measured. These quantities ranged from 0.1 millimetre in the rope threaded through the candle to 32.0 millimetres in one of the pieces of sacking. Similarly, comparable volumes of the six different stocks of kerosene found on the farms were distilled. The boiling ranges, where possible, and the refractive indices of all these samples were then determined and compared.

It was found that not only were the samples from the farms distinguishable one from the other but that the kerosene used to soak the fire-raising impedimenta resembled the particular sample of kerosene found in the square can at Farm No. 2 and differed from the other five oils.

d. Tools and Timber

The presence of short lengths of bamboo acting as candle-holders at the stacks and the discovery of a 2-foot length of cane at Farm No. 2 required confirmation or otherwise that these pieces could at one time have formed part of a single cane.

The bamboo holders were approximately $3\frac{1}{2}$ inches long with an internal diameter of approximately $\frac{3}{8}$ -inch. Both had been cut so as to have a pith joint in the centre of their length, on which the candle rested. To produce such lengths from a single cane involved making a cut on either side of the joint and discarding the intervening section. For this reason it was not to be expected that the two holders would fit one on to the other or on to the 2-foot length; but from diameter measurements it was shown that the two short lengths and the longer piece might well have been part of one and the same cane. The appearance of all the pieces confirmed this.

The sawn end of the 2-foot length was badly cut, bearing many marks where the saw had slipped. These marks were reproducible by the large-toothed saw borrowed by C from Farm No. 2 and were not of the type made by the fine-toothed saw from Farm No. 1.

The large-toothed saw when received had some twenty particles of sawdust adhering to the teeth. Microscopical examination showed these to be a mixture of a hardwood and material consistent with bamboo. The complete identification of certain of the particles as bamboo was not possible owing to their high degree of fragmentation.

The presence of these mixed particles indicated the purposes to which the saw had been put at some time and was in agreement with the suggestion that it had been used to cut the bamboo cane.

The foreman C explained that he had borrowed the saw to cut a piece of wood to act as a plough-scraper. This implement on examination showed that the cut surface still bore the marks of a fine-toothed saw. These marks ran parallel to the direction of sawing and gave an indication of the number of saw movements involved in performing the cut. Experimental cuts made in the wood at the handle end showed that the large-toothed saw from Farm No. 2 was incapable of reproducing the fine-toothed marks and that the marks were consistent with No. 1. The saw from Farm No. 1 when received had a number of particles of sawdust adhering to the teeth. These proved to be

exclusively pine wood sawdust and might well have been pitch-pine. The plough-scraper itself was found to be a length of pitch-pine.

The two recovered candle stumps were each perforated by a clean-cut hole through which a piece of rope had been threaded. At Farm No. 1 two gimlets and a twist bit were found. Both the gimlets were of such a size that either could have been used to make the holes in the candles. Examination of the gimlets, however, showed that whilst one was free from grease and had probably been last used for boring wood; the other, though oily, failed to afford any satisfactory evidence of adhering candle grease.

e. Cordage

The term 'cordage' includes the whole range of products from string and twine, through cord and rope to cable and hawser, and all are built up of twisted fibres (excluding wire products).

In the manufacture of cordage of the required thickness and strength, the fibres are initially drawn out and twisted into yarn. A selected number of yarns may in turn be twisted into strands and three or more strands combined by further twisting.

The fibres commonly used can be divided into two groups: 'soft,' which includes cotton, flax, hemp and jute, and 'hard,' which includes manila hemp, sisal hemp, Mauritius hemp and New Zealand flax.

The 7-inch piece of rope threaded through each of the candles was shown to be built up of seven strands of hemp fibres and identical in character with the 25-inch length of rope found at Farm No. 2, except that the latter was not soaked in kerosene.

In the bundles of inflammable material surrounding the cardboard shield was found a quantity of kerosene-soaked, coarse, loosely-twisted rope made up of 8-strand jute fibres. This construction was further characterised by one of the eight being considerably thicker than the rest. Identical rope was discovered at Farm No. 2, except that this also had not been soaked in kerosene.

f. Cardboard

The corrugated cardboard forming the shields round the candles did not correspond with cardboard found at the farm, the former having more corrugations per unit length than the latter.

SUMMARY

The results of these investigations can be summarised as follows:

A hundred candles were collected from the two farms, but of these only the stump from Farm No. 1 was of the same make as one of the candles recovered from the stackyard. The second incendiary candle had no discovered counterpart on the farms.

There were two 3-inch nails identical with each other, made by the same machine and probably in the same batch. One was found at Farm No. 1, the other 3 miles away attached to an incendiary device.

The wire used to pin together one of the shields had been recently cut and the severing mark was similar to those found on an identical piece of wire in the workshop at Farm No. 2.

The only oil resembling that with which the incendiary devices had been soaked was that in a square can at Farm No. 2, a can similar if not identical with the one the foreman C was seen carrying.

The bamboo holders had been sawn and were of such a size that they could have come from the 2-foot length of bamboo in the old workshop at Farm No. 2. This piece was identical in appearance with a longer piece which had disappeared from the garden after the foreman's visit.

The foreman C was the last person to use the large-toothed saw and this saw had particles of timber adhering to it which resembled bamboo. The bamboo bore marks such as could have been made by this saw.

It was shown that the pitch-pine plough-scraper might well have been cut with the fine-toothed saw at Farm No. 1.

An oily gimlet was found which was of such a size that it exactly fitted the holes in the two incendiary candles.

The rope threaded through the candles and that surrounding the devices under the stacks were identified with pieces found in the workshop and stable at Farm No. 2.

Discussion

This case affords an interesting example of the value of scientific aids as applied to commonplace articles such as candles, nails, rope, tools, oil and wood. The number of articles examined was considerable and in fact any one of them would have been of value in assisting the investigation; yet when taken collectively their value as evidence was very considerably enhanced. Further, it will be clear that everyday articles often possess significant characteristics of which only the trained investigator or specialist may have knowledge.

In the course of the scientific investigations described above much useful information was obtained from manufacturers regarding the various commercial articles and products concerned; but it rested with the laboratory to assess the value of such information when applied to the particular problem in hand.

The evidence arising from the various exhibits submitted by the Police showed in its entirety that the incendiary contraptions were undoubtedly constructed from odds and ends found in and around the farms in question. To explain the results as due to coincidence would

be unreasonable. It must, however, be emphasised that it is only when a sufficiency of isolated facts dovetail into the whole pattern that such a definite conclusion can be arrived at. An identical brand of nail, a similar variety of oil, a few specks of wood, if taken alone and out of their context would have had little if any value as evidence; but taken collectively the conclusions were irresistible.

The laboratory evidence which showed that the contrivances for fire-raising were undoubtedly manufactured out of materials to be found on the farms, coupled with the information arising from observations and interrogations by the Police, resulted in the foreman C being charged with Arson and attempted Arson. Apart from opportunity, many inconsistencies in statements made to the Police by C pointed to this man, of all the employees or inhabitants of the farmland and neighbourhood, as being responsible.

To the charge, the foreman C pleaded "Not Guilty" at the Assizes; but he was found "Guilty" on both counts and sentenced to four years penal servitude.

I wish to thank the Director of the Metropolitan Police Laboratory, Hendon, and Captain F. R. J. Peel, C.B.E., M.C., B.A., Chief Constable of Essex, for permission to publish this paper, and Detective Inspector Barkway for his assistance in the compilation of the historical facts.

Fingerprint Photography: Chemical Reversal

By CHIEF INSPECTOR J. H. DUNCAN
Lancashire Constabulary

IT is well known to officers engaged on scenes of crime fingerprint work that, irrespective of the colour of powder used to develop latent casual impressions, the finished photograph must show the impressions as being darker in colour than their background. That is necessary because the photograph is required for comparison with fingerprints which have been made by impressing inked fingers on white paper.

When *visible* casual impressions are found, they are frequently darker than their background, as are also latent impressions which have been developed on light coloured surfaces by the application of dark coloured powder or by chemical action. In photographing such impressions, there are two operations, *viz.* :

1. Making a negative image on a photographic plate by exposure, in a camera, to the original impressions ;
2. Making a positive image on paper by printing from the negative image. The positive image is then a replica of the original impressions and therefore shows the fingerprints on a lighter coloured background, as is required.

But when *latent* impressions are developed by the application of a light coloured powder, and in practice most casual impressions are so developed, the required result cannot be obtained by simply making a negative and then by printing a positive from that negative. An intermediate operation must be introduced.

Hitherto, the intermediate operation has been to make a *transparency* from the negative, and then to print from the transparency on to paper. And in order that the ultimate print on paper would not be laterally inverted, it became necessary to load the first plate in the camera with its sensitive side turned away from the lens and thus to expose it through its glass or film base. Failure to observe that precaution has often resulted in photographs of fingerprints being accidentally inverted, thus showing the impressions as they would be seen in a mirror. If that mistake passed undetected, the impressions could not possibly be identified on search in a fingerprint index.

For some time the writer has been using the process of *chemically reversing* the first image, *i.e.*, the image obtained on the plate which is exposed in the camera, and so obtaining on that plate an image corresponding to that which was hitherto obtained in the intermediate transparency. The process will be familiar to all who have knowledge of processing sub-standard cinematograph film.

This method has the following advantages over the first described method :

1. All negative material is loaded in the camera as for ordinary photography, *i.e.*, with its sensitive emulsion facing towards the lens. This reduces the risk of obtaining laterally inverted photographs ;
2. Better definition is obtained as, by cutting out the transparency operation, irradiation in the emulsion is reduced ;
3. The time required for processing is almost halved, as transparencies are not now required ;
4. Negative material with anti-halation backing can be used, thus increasing the variety of plates available for this work ;
5. Only half the amount of negative material is used.

The method gives consistently good results on all types of negative material, but, of course, the characteristics of the plates used do affect the ultimate result. Thus, excessively contrasty plates will yield excessively contrasty images. The best results are obtained from the

use of thinly coated, fine grain plates or films of medium contrast, the emulsions of which are rich in silver bromide.

THE PROCESS

Outline. The plate is exposed in the camera sufficiently long to allow a latent image to be formed in the emulsion, and the latent image is then developed in the usual way. That developed image must now be removed from the plate, leaving only silver bromide which has not been affected by light during the exposure in the camera. This residue of silver bromide is the basis of the desired reversed image on the plate so that, if the plate is now freely exposed to white light, the reversed image can then be blackened by re-immersing the plate in the developer.

Exposure. As in any other photographic process, success will largely depend on the initial exposure in the camera being correct, *i.e.*, within the latitude range of the plate which is used. Under-exposure will yield reversals which are dense and which will not record the fainter details of the subject impressions ; while over-exposure will result in thin reversals. It is better to err on the side of full exposure than on that of under-exposure.

Development. Any M. Q. developer may be used which is recommended by the manufacturers of the plates. The writer has used the developer described in Formula No. 1 with success on plates of widely differing characteristics. Development time must be ample to allow all exposed silver bromide in the emulsion to be reduced to metallic silver. Using the developer as Formula No. 1, this will take from 3 to 5 minutes according to the type of plates. Multi-coated plates require longer development than do thinly coated plates.

When development is complete, the black negative image should be seen through the back of the plate.

Bleaching. The black negative image must now be removed, and this is done in the bleaching bath, Formula No. 2. The plate should be left in the bleaching solution for about one minute after the black negative image has apparently disappeared which also takes from 3 to 5 minutes.

Clearing. The bleaching bath will have stained the gelatine of the plate, and the stain should now be removed in the clearing bath, Formula No. 3. The plate will be cleared of stain in from 2 to 3 minutes.

Blackening. The foregoing operations will have taken place in 'safe' illumination, but the next operation, that of blackening the silver bromide which remains on the plate, must be carried out in ordinary lighting. The white light is accordingly turned on and the plate is returned to the original developer, Formula No. 1, in which it should be left till it has completely blackened. This will take about 3 minutes.

Fixing and washing. A small quantity of un-reduced silver bromide will still remain in the emulsion and, to remove it, the plate should now be treated for about 5 minutes in a normal acid fixing bath, after which it should be thoroughly washed.

All the solutions should be as nearly as possible at one temperature, between 60 degrees and 65 degrees Fahrenheit, and the plate should be rinsed in clean water between baths.

Described in writing, the foregoing may appear to be a somewhat complicated process. Actually it is not and, if the directions are followed, it can be carried out successfully by anyone who is familiar with ordinary processing technique. Here is a summary of the operations :

1. Develop 3 to 5 minutes
Rinse
2. Bleach 3 to 5 minutes
Rinse
3. Clear 2 to 3 minutes
Rinse
4. Blacken about 3 minutes
Rinse
5. Fix and wash 20 to 30 minutes

FORMULAE

- No. 1. *Developer* Metol $\frac{1}{4}$ ounce
Hydroquinone $\frac{3}{4}$ "
Sod. sulphite (crystals) 8 "
Sod. carbonate (crystals) 8 "
Pot. bromide $\frac{1}{4}$ "
Water, to 80 "

For use : 1 part of the above solution to 2 parts of water

- No. 2. *Bleaching bath* Pot. bichromate $\frac{1}{4}$ ounce
Water, to 10 "
Then add Sulphuric acid (conc.) $\frac{1}{2}$ "

For use : 1 part of the above solution to 3 parts of water

- No. 3. *Clearing bath* Sod. sulphite (crystals) 2 ounces
Water, to 10 "

For use : 1 part of the above solution to 3 parts of water

The Layman Takes a Hand

IT is not often that the layman is able to "put the Police right" and the story which I am about to relate is not without its moral. For in this particular instance an "inside knowledge" of procedure in commerce, banking and accountancy, together with a little amateur detective work, was able to provide the Police, after six months' fruitless investigation, with a clue that brought to book an "old hand" and two newer ones. It concerned the theft of nearly £5,000, in one-pound and ten-shilling notes, from an office safe. When eventually the criminals faced a Judge, counsel for the prosecution, in opening the case, remarked: "If I may so describe it, for two years this remained what was always thought to be impossible—the perfect crime."

It was a case of plain theft, but for nearly a year after it was committed it was not known whether it was an inside job or whether the criminal was an outsider who was working alone or in collaboration with a member of the staff. The fact that the safe showed no signs of rough handling and that its locks were in perfect order made the investigation more difficult, for plainly someone had opened the safe in the way in which its makers intended it to be opened. It was a modern, large, wall safe that required two keys to open it. One key was kept by the chief cashier and the other by the assistant cashier. These officials ordinarily retained the keys on their persons, and both had to be present at the same time to open and re-lock the safe. When each went on his summer holiday, or was absent through indisposition, his key was handed to and carried by another member of the cashier's staff of six.

For several years past a record had been kept showing in whose possession each key was every day. An inspection of this register showed that only one person had ever had both keys in his possession, and then never at the same time—in fact, a long period had elapsed between the two events. That, generally speaking, was the only clue of any apparent value, and it led to a suspicion that the individual in question might be the culprit. It had to be assumed that during the different periods when he had temporary possession of both keys he had had duplicates made. But against this was the forcefully expressed opinion of the makers of the safe that duplicate keys could not be made by anybody but an expert. They asserted that it was extremely unlikely any other firm of safe-makers could make keys which would operate the locks so perfectly as those which had opened the safe to allow the thief to abstract the money; and that even if another first-class firm could make such keys they would not do so without the authority of

the owner of the safe and would probably require a reference to the actual makers, in order to make sure that the request had emanated from the firm to whom the safe had been supplied.

Personally, I did not like the absolute certainty with which this statement was made. It gave me the impression that it was uttered in order to counter or turn aside any suggestion that the locks of their safes could possibly be picked. This impression was strengthened when the safe-maker suggested that the money must have been stolen when the safe was legitimately unlocked—this implying, of course, when the cashier and his deputy were the robbers working in collusion, or at least that both had left the safe unlocked and had gone away while somebody else committed the actual theft. My impression proved to be right, but it did not lead to anything tangible in the way of discovering the thief or thieves. The safe-maker's suggestions were doubtless made in a *bona fide* way, but they tended to deflect the investigation from the actual thief to an innocent man or men.

There were no falsifications of records, no spurious documents, and nothing was missing from the safe other than the one-pound and ten-shilling notes. The firm's books and papers did not, and in fact could not, help.

After an investigation which lasted for six months the Police came to the end of their enquiries. I then approached them with a new line of thought and suggested a course of investigation which I had meanwhile developed with the aid of our bank manager. The Police were, as always, most helpful; they at once began enquiries afresh on the new line and carried the case forward with much assiduity, with a result which I shall presently relate. My suggested course of action was based on the following discovery.

I had found that the staff salaries were paid monthly by cheque, and the payee's signature on these cheques acted both as an endorsement and a receipt. Therefore the cashed cheques were returned regularly by the bank, to act as receipt vouchers for the firm's auditors. I caused the whole of the paid salary cheques for the past year to be sent to my office. I had *all* the cheques sent to me so that no suspicion could be aroused by my request, which would have been the case if any particular ones had been selected.

On examining these cheques I noticed that since the date of the robbery, but not before, the cheques of the person suspected had been cashed over the bank's counter and that the teller had roughly written on their backs the form in which he had effected the payment. For example, when the cheque was for £18, a ten-pound bank-note and a five-pound bank-note had been issued, together with other notes and coins to make up the balance; or, quite frequently, two pounds had

been paid in in cash (together with the cheque for £18) and a twenty-pound bank-note or two "tenners" handed over in exchange by the teller. This struck me as being rather strange, especially as the practice had started immediately after the theft, and I wondered why a man in receipt of so small a salary should want bank-notes of such high denominations. He would have some difficulty in using them to pay domestic bills. But perhaps he wanted to flourish them before his associates in order to impress them and make them think that he was a man about town possessing greater wealth than they would otherwise have thought him to possess. That would be no crime. Discreet enquiries, however, showed that that was not the case; he must have drawn the bank-notes for quite a different purpose.

At this point the bank manager was approached, in confidence, and a scheme was evolved whereby he would let me know, thenceforward, the numbers of all the notes of £5 and upwards that were handed over the counter to the suspect.

Doubtless the banker could have approached the Bank of England with a view to tracing the channels through which the notes subsequently passed; but the bank was not concerned with the theft and it was decided that further action had better be taken by or through the Police. So the detectives were again approached. I gave them the information that had been supplied to me by the banker, and from time to time I had meetings with one or other of them, but always at a different place and never on or near the premises from which the money had been stolen. Further interviews with the bank manager were also necessary, and these had to be held away from the bank premises, lest any curiosity should be aroused.

Bank-notes continued to be paid out on the salary cheques of the suspect, and these were traced to several places. During the ensuing months enquiries showed that the notes (which, over the period, totalled only about £200, a small fraction of the sum stolen) had been used, *along with many more notes*, to buy a house and to open several banking accounts in different names with substantial balances. Where had the "many more notes" come from?

With the aid of the managers of these other banks we discovered that each of these establishments had at times exchanged £5 and higher denomination notes for £1 and 10s. notes as counter transactions, that blocks of £1 and 10s. notes had been paid into these banks, and that, later, amounts had been withdrawn in higher denomination notes. The course of these exchanges and payings-out were checked up. They amounted to a considerable sum. The detectives also checked up on the sources whence the suspect could have derived any legitimate income.

It soon became reasonably clear that the suspect was our man, and an arrest was made, followed by a criminal charge. On the premises of the master hand (a man upwards of 60 years of age with an imposing crime record) was found an apparatus for making keys, and in court this artist described himself as "a locksmith of no mean order"! "Artist" he assuredly was! Conviction followed, and the old hand and his two accomplices received sentence.

Though the numbers of the one-pound and ten-shilling notes which had been stolen from the safe were not known—they were not consecutive runs of new notes—and therefore it was impossible to trace them, the slender clue provided by the suspect's method of cashing only half a dozen salary cheques enabled me to point the way to an investigation which led eventually to the discovery and imprisonment of a clever thief and his even more clever accomplices.

ACCOUNTANT.

An Interesting Coincidence

BY INSPECTOR ALBERT H. BRIDGES
Bedfordshire Constabulary

"NEVER take anything for granted" is a good rule in police work. Police experience teaches us not to jump to conclusions, and shows us that coincidences sometimes serve to emphasise the maxim that truth is often stranger than fiction.

The following account of a recent case, concerning the larceny of a bicycle which occurred in this county, serves as an interesting illustration of how far the long arm of coincidence may reach in even minor matters of criminal investigation.

On June 25th, 1943, Mr. A at Dunstable reported to the police that his bicycle had been stolen, whereupon the usual enquiries were made. Several weeks later the police at Dunstable were informed by Mr. A that he had seen his bicycle being ridden in the town of Dunstable by a man who, it transpired from brief enquiries, was Mr. B. The police interrogated Mr. B, who satisfied them that he had purchased the bicycle as the result of an advertisement appearing in the local Press. The advertiser, a Mr. C, was interviewed and he proved to the police that he had purchased it from Mr. D in London, and the bicycle proving too small for C the latter had decided to dispose of it by advertising.

Mr. D in London was interviewed, and he gave an account of his purchase in London of the same bicycle from Mr. E, who was unknown to D, but E's description was forthcoming. Extensive enquiries ensued

in the Metropolitan area, in an endeavour to discover Mr. E, who is *prima facie* the thief. Police enquiries so far have failed to establish Mr. E's identity.

The unassailable facts are that Mr. A at Dunstable had his cycle stolen on June 25th, 1943, and it was taken to London by someone whose identity is unknown, there sold, taken by the purchaser to the town of Luton, Beds, sold again by an advertisement, taken by the third purchaser to Dunstable, and there seen on August 10th, 1943, by the owner not many yards from the spot whence it had been stolen nearly two months previously!

On August 10th, 1943, the bicycle came into the possession of the police. Mr. C, a few days later, paid £6 10s. to Mr. B as recompense, and Mr. A sought restitution of his bicycle, leaving the police a pretty little problem of the immediate disposal, or otherwise, of the bicycle!

Incident Control

BY INSPECTOR ARTHUR RAWSON, A.R.P.S.,
Civil Defence Training Officer, Scarborough Borough Police

THE new method of Incident Control calls for additional training in the Police and Civil Defence Services, but the delay in publishing the Incident Control Manual has, in some instances, rather slowed down the progress made to date.

The general need for Incident Control remains the same, but the necessity of control being established more quickly after the fall of bombs is recognised in all quarters.

The old system of control was often not established until the majority of the Civil Defence Services had arrived on the scene; the result was, in most cases, chaotic, and the first task of the Incident Officer was to try to get order and system.

In most of the provinces, at any rate, police officers were in charge of Incident Control, but the new method now recommends wardens to be trained in Incident Control so that they may at least start control at an incident on the right lines immediately bombs fall, thereby obviating any confusion such as arose in the past.

I would like the reader to assume that a patrolling police officer or warden sees and hears H.E. bombs falling in the area he is patrolling, and as a result he sends a message from his Warden's Post to the Report Centre Post, giving the area or location as near as possible without actually pin-pointing the damage. As a result of this message, which is known as a "Preliminary Report," the Controller will send to the

THE POLICE JOURNAL
INCIDENT OFFICER'S REPORT FORM
Form of Report to Report Centre

Position of Occurrence
(State Occurrence No. if known)

Position in relation to:

Fire (spreading or under control)

Casualties—	Dead	Serious	Slight	Missing	Total
Cleared					
To be cleared					

Coal Gas

Water

Electricity

Telephones

Roads

Property (State if Factories or Warehouses,
Food Shops or other property,
including residential)

Poison Gas

Remarks:

Date (Signed)

Time Incident Officer.

INCIDENT CONTROL

scene one Rescue Squad which, of course, now incorporates First Aid Parties, and one ambulance.

The senior warden or police officer at this stage takes charge, and together with a number of wardens and police, goes to the scene of the damage and sets up Incident Control.

A favourable position is selected for an Incident Post, if possible in a prominent position, bearing in mind the wind direction and the direction from which Services will approach. The necessary markings and equipment are kept at Wardens' Posts and would be brought along after sending off the "Preliminary Report."

The Incident Officer, who will be either a warden or police officer, now selects an assistant and directs a warden to each point where bombs have fallen. The warden reconnoitres the site to which he has been detailed, completes the Warden's Report Form (A.R.P./M.1), and returns to the Incident Officer with all available information. It is recommended that one Incident Officer can control three occurrences which are within an area of approximately 200 yards.

The Incident Officer now collates the information from the three wardens' Report Forms on to the form known as A.R.P./M.2, which he dispatches to Report Centre when completed.

When compiling A.R.P./M.2, the main seat of damage should be given as "Position of Occurrence" and the total number of casualties from all three incidents entered in the appropriate place.

In the "Remarks" column each seat of damage must be entered, *i.e.*:

H.E., 7 Black Street. Dwelling-house.

H.E., 30 White Street. Grocer's shop.

I.B.s, Fire. George and Dragon Hotel.

The position of the Incident Post must also be given in the "Remarks" column and also an estimate of the services required to handle the situation.

The cordoning off of the area is, of course, the responsibility of the Police, and I submit that this must be effective in order to keep sightseers out of the area.

The selection of a parking-ground and loading-point is the responsibility of the Incident Officer and, compatible with prevailing conditions, the loading point must be as near to the casualties as possible to prevent unnecessary carrying of stretchers.

The system requires the services of many wardens, messengers and police officers—wardens to obtain information from each incident and thus keep the Incident Officer posted with developments, and messengers to carry such information from the warden to the Incident

Officer and from the Incident Officer to the Report Centre or, if the telephones are not damaged, to the nearest Warden's Post.

A warden is required at the parking ground to meet ambulance attendants and drivers of sitting case cars on their return to the car park, to obtain particulars of persons removed to hospital or first aid post.

In case of fire a warden is required to be posted to the N.F.S. Control Point (usually a van) to pass relevant information to the Incident Officer.

The Police are required to supervise traffic and prevent or detect cases of larceny.

May we now assume that the Incident Officer has sent off his A.R.P./M.2 to control, has directed each individual to his respective work and is himself awaiting the arrival of further services (one Rescue Squad and one Ambulance will already have arrived following the "Preliminary Report"). Whilst awaiting the arrival of services the Incident Officer must decide where each service must work and he completes what is known as the "Allocation of Services Form."

This form, when completed, gives the position of each incident and its priority of attention, the particulars of the damage and casualties, the services required to handle each incident and the position of the loading and parking points.

When services report to the Incident Officer, their arrival is entered on the form in the "Services Present" column against the incident to which they are directed.

It will be seen, therefore, that it is essential for an Incident Officer to complete his "Allocation of Services Form" (*see opposite*) as soon as possible after sending off his A.R.P./M.2, and thereby be quickly able to allocate each service to its particular incident when the leader, who should approach on foot, reports to him.

A log has also to be kept (*see page 132*) and this is the responsibility of the Incident Officer's Assistant; he will record all callers and the nature of their business together with the time and date. Other work, such as supplementary messages for further assistance, progress reports for the Controller, etc., fall to the lot of the Incident Officer's Assistant, under the direction of the Incident Officer.

Welfare Centres are selected by the Incident Officer and are used as assembly points for homeless persons prior to their removal to a Rest Centre. Any good building, not too far from the incident, such as a schoolroom, may be utilised and a warden or police officer placed in charge.

The Salvage Officer takes charge of any found property which may have been handed to the Incident Officer.

ALLOCATION OF SERVICES

Position	Casualties and Damage	Services		Priority and Remarks
		Required	Present	
		Rescue Repair Decon. Fire		
		Rescue Repair Decon. Fire		
		Rescue Repair Decon. Fire		
Ambulance and Sitting Case Cars		Amb. S.C.C. Amb. S.C.C.		
Parking at				
Mobile First Aid Post		L.M.U. M.F.A.P.		
Position				
.....				

SKETCH OF SCENE OF INCIDENT

Another side of Incident Control arises following heavy raiding in a particular area; this is known as "Area Damage." The system of control previously outlined has to be adjusted to meet extraordinary conditions and a rendezvous for all services must be selected, usually at the Warden's Post serving the area in which the damage has been sustained.

The Officer in charge of a rendezvous is referred to as a Rendezvous Officer.

The Rendezvous Officer must notify the Controller that he is setting up Area Control, giving the address of the Warden's Post, and from that stage he becomes the Controller's representative on the spot.

Messages to the Report Centre should be preceded by the words "Post Area Damage."

The Rendezvous Officer details wardens to obtain particulars of damage and casualties by allocating, say, two or three wardens to a street or small area.

When the necessary information is received from the warden by the Rendezvous Officer, the required services are sent into the street in question with instructions to leaders to split their parties if necessary so that more than one incident can be dealt with at the same time.

All requests for services required at the scene of damage go to the Rendezvous Officer, who obtains through the Controller the services he estimates will be required to handle the incidents under his control.

The services so obtained are parked near to the rendezvous and dispersed as required. One party is not expected to deal with damage or casualties from more than three bombs even if the three bombs have fallen close together.

Wardens are required to keep the Rendezvous Officer informed of progress and in turn the Rendezvous Officer forwards such information to the Controller in the form of a progress report.

Should there be an outstanding incident in a heavily raided area, such as a parachute mine, the Rendezvous Officer will delegate an Incident Officer to set up control and deal independently with the occurrence.

This article is only intended to give a broad outline of Incident Control; details which would arise in a course of training obviously cannot be given in such limited space.

INCIDENT OFFICER'S LOG

Date	Time	Subject Matter	Remarks

To Seize or Not to Seize

BY SERGEANT J. EDMONDSON

Bacup Borough Police

MANY statutes set out clearly and definitely the powers of individuals respecting their right to seize and detain certain articles, whilst others give similar powers subject to limitations. Among the former, we find the Betting Act, 1906, in which power is given to a constable to seize and detain any articles liable to forfeiture under the Act, and in the latter class we have the Firearms Act, 1937, wherein power is given to a constable to demand from any person whom he believes to be in possession of a firearm or ammunition to which Part I of the Act applies, the production of his firearm certificate, *and failing the production, etc., of such certificate* a constable may seize and detain the firearm or ammunition.

Unfortunately, from a police point of view, the majority of statutes are silent on the point of seizure and detention, and we may well find recruits asking such questions as "What are we *entitled* to seize as evidence?" and "What are we *required* to seize as evidence?"

Regarding the former question, we are able to obtain a very valuable and explicit ruling by referring to the judgment of Mr. Justice Horridge in the case of *Elias and Others v. Pasmore and Others*. Readers will remember that the facts in that case were that two police inspectors entered certain premises, of which the plaintiffs were the lessees, for the purpose of executing a warrant by arresting one, Hannington. In addition to arresting Hannington the police officers seized a number of documents and removed them to Scotland Yard. On the same day a number of these documents were returned, and others were returned on subsequent days; but the rest, contained in a bundle marked 2 (A), some of which were marked as exhibits and used on the trial of the plaintiff Elias on a charge of inciting Hannington to commit the crime of sedition, were retained by the police. Although the trials of Hannington and Elias had been concluded none of the documents in bundle 2 (A) had been returned, and the plaintiffs claimed damages for trespass to the premises and the return of the documents in bundle 2 (A), and damages for their detention.

On behalf of the plaintiffs it was argued that the police had no right to search the premises and seize documents which had no relevance to the charge against Hannington, as no search warrant was granted, nor could it have been granted, the case not coming within the purview of any of the statutes which give a right to search. The prosecution of

Hannington and Elias had been concluded, so that in any event the police, even assuming a right to seize the documents, had no right to detain them: *Gorden v. Chief Commissioner of the Metropolitan Police*.

On behalf of the defendants it was contended that when a prisoner is arrested the police are entitled to search him, and the right to seize documents, recognised in *Dillon v. O'Brien*, is based on the paramount interest of the State in the seizure and detention of evidence for the trial on a criminal charge of the person arrested or any other person. It was further submitted that *Crozier v. Cundey* shows that a police constable, under a warrant to search for specific goods, may seize goods not named therein if likely to furnish evidence on the charge. Apart from authority, it would be ridiculous if the police had to reject evidence against a suspected criminal merely because they happened to find it while arresting somebody else.

The goods seized having been produced in court it was right that they should be retained for the purpose of justice until the conclusion of the trial, and that when the trial is concluded the goods are still lawfully detained by the police until appropriate proceedings with regard to them are taken under the Police (Property) Act, 1897.

In the course of his judgment Mr. Justice Horridge said: "It therefore seems to me that the interests of the State must excuse the seizure of documents, which seizure would otherwise be unlawful, if it appears in fact that such documents were evidence of a crime committed by any one, and that so far as the documents in this case fall into this category, the seizure of them is excused. The documents coming within this description were all the documents contained in bundle 2 (A), which were marked as exhibits and which were used at the trial of Elias. In my opinion the seizure of these documents was justified because they were capable of being and were used as evidence in this trial.

"As to the fourth proposition, that the police are entitled to retain property the taking of which is excused until the conclusion of any charge on which the articles are material, Wright, J., says in the case of *Reg. v. Lushington, ex parte Otto*: 'In this country I take it that it is undoubted law that it is within the power of, and is the duty of, constables to retain for use in court things which may be evidences of crime, and which have come into the possession of the constables without wrong on their part. I think it is also undoubted law that when articles have once been produced in court by witnesses it is right and necessary for the court, or the constable in whose charge they are placed (as is generally the case), to preserve and retain them, so that they may be always available for the purposes of justice until the trial is concluded.'

"In this case, however, both the trials of Hannington and Elias

have been concluded, and I think there is no answer now to the claim for their detention after demand or for the £10 claimed as damages for their detention."

Having regard to this decision and citation, which, *mutatis mutandis*, I think can be applied to articles as well as documents, it might appear at first sight that all our difficulties in this direction have been surmounted, and that we may seize and detain everything and anything we require, or think we require, in the way of evidence for clinching the case for the prosecution. On reflection, however, it would appear that in practice the position is not so easily disposed of. For instance, it might be quite as important in a prosecution for driving a motor vehicle with badly worn tyres to produce those tyres, as it is to produce glasses and liquor in a prosecution for a breach of the Intoxicating Liquor laws. How many of us, however, would be so bold as to strip a vehicle of its tyres? Not many of us I am sure, yet most of us would be audacious enough, in the case of a licensing offence, to seize and detain any liquor we might be fortunate enough to find in front of probably erstwhile customers. Why, therefore, should we lack uniformity in the application of an implied right, if it is a right, in the two instances quoted?

Before deciding this issue, let us for a moment look at the legal requirements applicable to *real evidence*, i.e. evidence of things other than documents. In the case of real evidence, it is submitted that the production of the original is not strictly necessary, and a witness may describe the original without notice to produce it having been given. In support of this contention let me briefly outline the facts of, and leading to, the recent case of *Hockin v. Ahlquist Bros. Ltd.*:

At a court of summary jurisdiction at Manchester, six informations were preferred by the appellant, Hockin, on behalf of the Board of Trade, against the respondents, Ahlquist Bros. Ltd., for that they, being a person carrying on the business of making certain articles specified in column 1 of the schedule to the Making of Civilian Clothing (Restrictions) Order, 1942, on or about February 17th, 1943, in the course of making a blue striped jacket, failed to comply with the restrictions specified in column 2 of the schedule in that that jacket had more than three pockets, and that they also failed to comply with other provisions in the schedule with regard to waistcoat buttons, straps, and the width of trousers.

An enforcement officer of the Board of Trade gave evidence at the hearing that on February 17th, 1943, he visited the respondents' premises and inspected a number of articles of civilian clothing, either made or in the course of manufacture, which failed to comply with the provisions of the Order. No notice to produce the articles had been

given to the respondents, upon whose behalf it was contended that, as the articles themselves had not been produced in court, the best available evidence with regard to them had not been given, and that oral evidence of their condition was not admissible. The magistrate was of the opinion that the contention of the respondents was right, and that the appellant had failed to discharge the onus of proof. He accordingly dismissed the informations.

In allowing the appeal, Viscount Caldecote, C.J., during his judgment said: "In my judgment, it is much too late, even if it was ever possible, to suppose that evidence about the nature of chattels cannot be given by people who have seen them and speak of their condition. To suppose that there ought to be produced in court all articles about which issues are raised in a great variety of cases would lead to consequences which would show how impossible the alleged rule would be in practice."

It follows, therefore, in the two illustrations given, that neither the tyres nor the glasses and liquor need be produced in court, since they are not documents, and from the dovetailing of the data we have so far considered, I think we can safely say that before seizing and detaining anything we are not by statute entitled to seize and detain, we should have regard to such considerations as (1) Are the goods or articles relevant to the charge? (2) Can the prosecution be imperilled by, or rightly criticised, for their non-production? (3) If the prisoner is convicted would the property in or possession of the articles pass from him? (4) Is it imperative that the goods or articles be identified by a third party, or has ownership to be established?

If the answers to these questions are in the affirmative, then it would appear there is ample justification for the seizure and detention of the articles or goods, etc., in question. If the answers are in the negative, then I think we would hardly be justified in taking possession of property against the will and, probably, in some cases, business interests of individuals. By way of illustration, let me revert to the two hypothetical cases of the badly worn tyres, and the licensing offence. In the former case I think it will be agreed that, in the absence of very exceptional circumstances, there is no justification for seizing and detaining the offending tyres, since every manufactured tyre carries its own separate, distinct and legible identifying number, and if care is taken to make note of such a number on each tyre of which complaint is made, any jeopardy that the prosecution might be placed in by the defence producing in court tyres which they untruly claim to be the ones seen on the vehicle at the time in question, can be circumvented by the prosecution tendering, either as evidence in chief or as rebutting evidence, the identifying numbers of the tyres as taken at the time.

In the licensing case, the whole crux of the prosecution may rest on our proving that the liquor sold, supplied, or consumed, as the case may be, was in fact intoxicating liquor, and for this reason it would appear desirable to seize and detain any liquor we might be fortunate to find in glasses, etc., the position of which affords reasonable suspicion of their connection with the alleged offence. Some forces, I believe, eliminate this suggested necessity by an officer of the raiding party tasting the contents of any partly filled glasses, etc., found, and later testifying as to the *brand* of the intoxicating liquor, that is, assuming the contents are intoxicating.

So far we have dealt with the seizing of the *liquor* only, and I think similar action in the case of the *glasses* depends largely on the co-operation or otherwise of the publican. If the number of glasses is large and the deprivation of them until the court hearing would impede the publican in his legitimate business—and this may actually be the case in the smaller country beerhouses with a limited valuation—there would appear to be no reason why, if the publican is willing to supply a sufficient number of empty bottles, the liquor should not be transferred to the bottles: a course which would facilitate greatly the more safe transportation of the liquor to headquarters or other place of detention.

Where the publican does in fact make the above-mentioned contention and offer, it would appear both improper and unnecessary to seize and detain the *glasses*, since if we have the liquor the glasses might be deemed irrelevant, and under the decision of *R. v. Barnett* the seizure of irrelevant articles cannot be excused. Where no liquor is found, then it may be necessary for any glasses with froth adhering to the sides to be seized, since it might be difficult and perhaps unwise to attempt to transfer froth from one receptacle to another.

Before proceeding to consider the seizing of documents, let us for a moment consider the legal requirements relative to the production of documentary evidence. Subject to a few exceptions, no witness can describe or produce a copy of a document until the absence of the original has been satisfactorily accounted for. If the original is in the hands of the opposite party they should be given the opportunity of producing it by serving a notice to produce. Where after due notice the original is not produced and a *proper explanation* is given as to its absence, then secondary evidence, which is evidence that may be given in the absence of better evidence, may be tendered. For instance:

(a) The defendant has in his possession a document which the prosecution require to be produced in court for the purpose of evidence. After due notice to produce, the defendant fails to produce the document; then, subject to the court's being satisfied that notice to produce has been given and of the defendant's refusal to produce, the document

may be described or a copy thereof produced on behalf of the prosecution.

(b) The original document is in the hands of a third party, who after being served with a subpoena to produce the document, *wrongfully* refuses to do so. In this instance, the document *cannot* be described or a copy thereof admitted.

Why the difference in procedure in the two instances (a) and (b)? The explanation is this: The court will, in general, never compel a defendant in a criminal prosecution to produce evidence against himself. Therefore, secondary evidence is rightly admitted in illustration (a); but where a stranger or third party wrongfully refuses to produce the original after being served with a subpoena to do so, secondary evidence cannot be admitted, as such person can be compelled to produce the original (*R. v. Inhabitants of Llanfaethly* (1853)). I have italicised the word 'wrongfully' because a document may be in the hands of a third party who is, on the grounds of privilege, not compelled to produce it. In that case secondary evidence may be produced, as in the case where the original has been lost or destroyed.

From a review of the cited cases it would appear that the question "What is a document?" presents some difficulty. It has been said that tallies without any words on them are documents. The article may bear upon it words or inscriptions, such as flags or banners, or a notice-board in a wood against trespassers (*Bartholomew v. Stephens* (1839)), and still not be a document. The rules as to documents do not apply where the thing is an article as well as a document, e.g. a driving licence or certificate of insurance.

Having regard to these legal requirements, it would appear that where a statutory right is given to seize and detain documents it should invariably be exercised. Perhaps one of the commonest examples is s. 34 of the Road and Rail Traffic Act, 1933, which states: If a police constable, examiner or certifying officer has reasonable cause to believe that a document carried on a motor vehicle, or by the driver thereof, is a document in relation to which an offence under this section (*which relates to forgery, etc., of licences*) has been committed, he may seize the document. (The expression "document" shall include a plate, and the power to seize shall include power to detach from the vehicle.)

Where no such power is given by the legislature, it would appear that every document, relevant to the point at issue, found in the possession of the defendant should be seized *if it does not readily admit to subsequent identification and/or of which a copy cannot conveniently be made*. Other documents, of course, might be seized according to the seriousness of the circumstances. Let us take two examples:

(a) A driving licence which, when produced to a police constable,

is found to have expired. Obviously in this case there is no need to seize the driving licence, as it is readily identifiable by the number, etc., and no undue waste of police time would ensue from taking a copy of it. As mentioned previously, a driving licence is an article as well as a document, and there is no need to serve a notice to produce on the defendant.

(b) As in the case of *Elias and Others v. Pasmore and Others*, the circumstances are that police officers enter premises for the purpose of arresting one H. Whilst there, evidence, in the form of documents, is elicited against one E. In this case it would obviously be impracticable at this juncture for the officers to proceed to take copies of a number of documents, even assuming they were none too lengthy and readily admitted to subsequent identification; nor would it be wise to assume that the documents if left there until the prisoner had been safely lodged in a police station would remain unharmed by others, in order that the officers might return for the purpose of taking copies.

In the words of Mr. Justice Horridge, "In my opinion the seizure of these documents was justified."

The Police and the Public

BY INSPECTOR J. L. THOMAS

City of Bradford Police

AT every big police station there is an almost continuous stream of callers, and the modern police station is designed to facilitate the holding of intercourse with them. Locally, for instance, near to the entrance of the building are situated two large, open offices, much like a bank or post office. This arrangement not only enables the clerical staff to be centralised, thereby effecting a saving in manpower, but members of the public can also be more promptly interviewed at the long counters which flank these offices. Neon-lighted glass sign-plates, displayed over the counters, indicate the location of the several departments, which are as follows: Lost and Found Property; Key Depository; Summonses and Warrants; Hackney Carriages; Petroleum and Carbide Stores; Occasional Licences for Music, etc.; Accidents; Pedlars and Street Hawkers; Missing Persons; Coroner's Officer; Aliens; Reports of Crime; Explosives; Firearms; General Enquiries. Incidentally, this list, although by no means a complete catalogue of police duties, serves to show why the phrase "the policeman's multifarious duties" has become a cliché.

Now if one examines the calls coming under "General Enquiries" one gets a fairly accurate idea of the miscellaneous matters about which

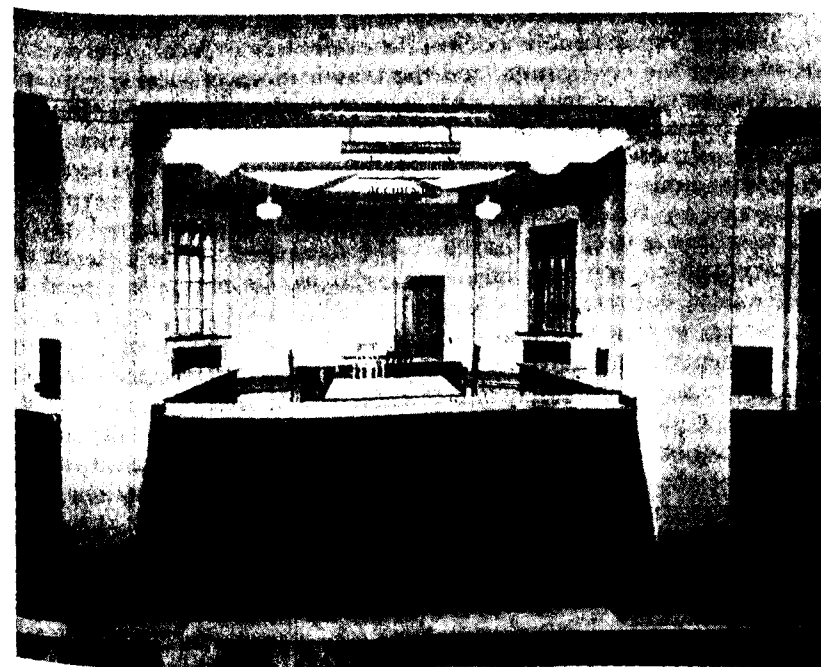
the public are wont to consult the police. This is an aspect of police work which is largely overshadowed by such major problems as crime and traffic control. A brief survey of the callers in this category, who, after all, constitute a cross-section of the general public, will reveal some little-publicised facets of the relations between the police and the public.

Anyone examining the record of callers at a police station could not but be impressed by two features. Firstly, the great variety of subjects embraced by "General Enquiries," and secondly, how comparatively few of them, strictly speaking, come within the ambit of police work. People would not dream of visiting the electricity department except about a matter appertaining to electricity; similarly with the other municipal departments. But the range of subjects broached in the police office knows no such rigid boundaries: a thousand-and-one matters arising out of our increasingly complex way of living are brought there. And it must not be supposed that they all take the form of a direct enquiry. On the contrary, a police officer may have to listen to a complicated set of circumstances, unconnected with police work, in order to decide upon the appropriate agency to deal with it. In this way, the police station of to-day operates as a clearing-house. It follows that those working there must have a fairly extensive knowledge, comprising such diverse subjects as the functions of various public bodies, the machinery of local government, the work of the civil courts, and the ramifications of local commerce.

The number of enquiries has increased enormously as a result of the war. Such a spate of regulations, forms, permits, licences, and the like has come into being that even the humblest and most secluded of persons finds some of them impinging on his life. The perplexity occasioned by this war-time fungus is frequently transferred to the police station, there, it is hoped, to be dissipated. The absence on the military service of many husbands, who would normally attend to these affairs, encourages the practice.

Again, if a person wants to know the whereabouts of a certain firm or department, or the address of the nearest veterinary surgeon, or is at a loss to know where to take out letters of administration, where to institute divorce proceedings, or where a particular licence or permit may be obtained, then what more natural than that he should enquire of the police? Thus, the police station also functions as a kind of universal enquiry bureau.

Legal advice, too, is much sought there. It is not generally realised that the duty of the police is only to administer the law, not to interpret it, and consequently people look askance when advised to consult a solicitor. Nevertheless, those who cannot afford this expense



receive considerable assistance. The day may come when legal advice will be available to those needing it, either gratis or on somewhat the same lines as medical benefits are now obtainable, thereby lightening the lot of the officer in charge of a police station. Or would such a service operate from the police station?

Not infrequently the questions raised relate to civil law—business disputes and private grievances, for example—and the dividing-line between this and criminal law has constantly to be borne in mind. When the latter is not involved, applications for the services of the police have to be refused. Not a few callers, when this is pointed out, display ingenuity in amending their story so as to incorporate some element which would justify police action. In marginal cases the yard-stick of common-sense is employed, care being taken that this is not done on such a scale as to put any lawyers out of business!

A caller might even resort to subterfuge to secure the services of the police, as happened here recently, when a man handed in a parcel which he desired to deposit as found property. It contained a pair of men's trousers and a set of dentures. Upon being questioned, he eventually disclosed the circumstances in which they had been found. It transpired that on returning home from work he discovered another man in bed with his wife. The aggrieved (but resourceful) husband thereupon took possession of the trousers and dentures belonging to the Don Juan!

Numerous complaints, embracing a wide variety of subjects, are made at the police station. Not all of them are pertinent. Only recently a householder objected to the continuous nocturnal braying of a donkey, whilst another man, who was engaged on intricate research work, protested at the volubility of his neighbour's parrot. And during the winter it is by no means uncommon for householders to report the bursting of water-pipes in their homes.

Most of the complaints, however, call for police action, and the officer-in-charge has to assess their gravity in order that appropriate attention may be given. This may amount to sorting the wheat from the chaff. For instance, where neighbours are involved, petty spite can often be discerned. Again, just after "closing-time," persons redolent of the public-house are in the habit of coming to lay complaints. As can be imagined, their stories, oft-times embellished by exaggeration and sprinkled with irrelevancies, are not noteworthy for their coherence: not for nothing was the saying "It's the beer talking" coined. It has been noticed, too, that the offending incident may have occurred several weeks previously, but has rankled in the complainant's mind, until, fortified by liquor and urged on by his cronies, he unburdens himself to the police.

The commonest type of complaint is that of children causing damage or making a nuisance of themselves in other ways. It is understandable why these should be more numerous during the summer evenings, and reach a climax during the school-holidays. Most of the aggrieved persons would be content if the police would give the culprits "a good frightening." It is not without significance that complaints of annoyance by children generally emanate from elderly people, especially spinsters.

Probably the largest single class of callers is that of women seeking advice about problems which arise out of domestic discord. Bullying husbands, wayward daughters, step-parents, "the other woman," illegitimate children—these figure prominently in the tales of woe that are unfolded. They reveal that sordid side of life, a segment of which is mirrored for the respectable citizen in certain Sunday newspapers. Many call to mind the words of the poet Cibber: "Oh! how many torments lie in the small circle of a wedding ring!"

So involved are some of them that they might have been culled from the pages of a magazine wherein female Solomons glibly resolve the most intricate and intimate domestic problems. (The police officer may claim that his task is harder than that of some of the magazine oracles, since he never *devises* the problems!)

What help can be rendered to these callers? It may be possible to give them timely, practical advice, especially when the policeman interviewing them is himself a married man with children of his own. Perhaps the services of the N.S.P.C.C. Inspector, the Probation Officer, the Court Missioner, or some other social welfare worker can be legitimately recommended. But alas! in the great majority of cases an application for the issue of a summons or order is plainly indicated. As a rule, however, the troubled women are exceedingly loath to set the wheels of the law in motion. Convinced that there must be a less drastic way out of their tribulations and that the police will eventually reveal it, they return to the police station time and again with pathetic persistence.

People are sometimes apt to wonder at the calm, detached manner adopted by an experienced constable when listening to stories alleging some form of domestic cruelty, gross neglect, or other reprehensible conduct. They do not appreciate that this attitude, occasionally mistaken for indifference or even callousness, is due to there being implanted in his mind the age-old truth that there are two sides to every question and for him experience has bred the conviction that in no instance is this truer than in domestic disputes. In order to evaluate the truth of a story which is being so feelingly related by one of the parties concerned, he constantly tries to visualise the other side.

A surprisingly large number of persons suffering from mental disorders visit the police station. They may at first appear to be perfectly rational, and a tyro will listen unsuspectingly to the story told by one of them, which begins sanely enough but into which are later introduced such startling elements that the constable begins to imagine himself on the threshold of a great crime discovery, or something equally sensational. Rapid is his disillusionment when an older constable appears on the scene and whispers: "It's only Maggie M...—she's potty!"

Border-line "mental" cases, which include persons who cannot be permanently detained in an institution because the state of their mind periodically reverts to normal, are an ever-recurring problem. In dealing with them, a number of courses are open to the officer-in-charge, depending mainly on the extent of the sufferer's aberration. Would it be safe to humour him and send him on his way? Or would the better course be to hand him over to the care of relatives? Perhaps it will be necessary to have him removed to an institution for observation. Some guidance may be forthcoming from the person's doctor, if he can be contacted, whilst it is always an advantage to work in close co-operation with relieving officers, who have a wide experience in this field.

It is an interesting fact, recognised in the medical world, that people suffering from delusions tend to associate with the latter some modern invention. Nowadays, the radio occupies this rôle. A little while ago an elderly couple called at the local police station and the woman, who did all the talking, soon began referring to malicious "wireless rays." The husband was beckoned to one side in order that he might be asked about his wife's mental history. Whereupon such an idiotic grin lit up his face that it was patent his mental condition was very much akin to that of his wife; in addition, he was stone-deaf.

Probably none of these unfortunate people causes more trouble than do the victims of hysteria. Locally there is one such woman who makes a practice of visiting the police station. After speaking in normal tones for a few moments, she quickly achieves a sustained crescendo of hysterical shrieking, giving everyone within a wide radius the impression that she is being most cruelly maltreated. And she is adept at selecting the busiest times to stage these scenes.

The police station, of course, has an ever-open door, and people who are stranded and in possession of little or no money invariably turn their steps thither at night. They range from those who are genuinely stranded owing to unavoidable mishaps, to those who have only themselves to blame for their plight but who are nevertheless

confident that the police will provide them with shelter. In the latter category come "old lags" who demand a night's "kip" as though a right, as well as people who, after recounting details of their predicament, naively add: "Now I put myself completely in your hands"—as though conferring a favour. When, as often happens, the stranded person is a woman who has a young child with her, the onus on the police to help is greater, a situation which some women, although entirely to blame for their plight, are not averse to exploiting.

Not long ago a woman living in Liverpool quarrelled with her husband and, in a fit of pique, left him and came to Bradford to seek her sister. She brought her baby with her. The woman had no idea of her sister's address, but, with superabundant faith in the omniscience of the police, presented herself at the police station.

A happening of a different kind was when a blind man who lived alone in Newcastle-upon-Tyne set out to pay a visit to a friend in Bradford. He did not know his friend's address, but had it written down on a piece of paper. When he arrived in Bradford he pulled the paper out of his pocket to show it to someone in order to seek directions. The paper blew away and was lost. The man was piloted to the police station as a matter of course.

These quandaries can occasion much hard thinking, and may demand more ingenuity and resource than do some major tasks, which are largely a matter of routine. Many questions have to be asked, burgess rolls and directories searched, telephone calls made, and all sorts of devious avenues explored with a view to getting the person to his destination. Not only do these dilemmas take up an inordinate amount of time, but if an impasse be reached they are apt to prove a distracting influence to the officer-in-charge when he is performing other duties. There he is, saddled with a woman and child, perhaps, and one of his canons is that all callers must be disposed of expeditiously. The smooth running of his job demands this.

Few police stations have suitable accommodation for persons in these straits, and the difficulty has become accentuated by reason of depleted travelling facilities. Persons who are unable to obtain transport home are continually seeking assistance at night. In a town near Bradford last summer, scores of would-be passengers failed to secure places in the last homeward-bound 'bus. A newspaper report of the incident mentioned that among them was a woman who had six children with her. It concluded by saying that she had finally sought assistance at the police station, as though she were thereby automatically relieved of her troubles. But what of the officer-in-charge to whom these troubles were transferred?

Those who find themselves in predicaments of this nature are

invariably short of money. The following is a case in point. Two youths left their homes in Northumberland to try their luck in London. Like many other would-be Dick Whittingtons they were soon disillusioned, and, being without money (their parents could not advance any), they decided to "hitch-hike" home. They arrived in Bradford late on a Saturday, and were allowed to spend the night at the police station. The next morning, Sunday, although it was raining heavily and a gale prevailed, there was no alternative but to turn them out and send them on their way, after a shilling or two had been given to them.

This is by no means an isolated instance of the advancing of money by the police out of their own pockets. Admittedly the necessity for a "whip-round" is not nearly so frequent as it used to be, but if a small sum of money were available for the officer-in-charge to dispense at his discretion it is certain that no money would go to more deserving cases or yield a higher dividend. It is not too much to claim that a shilling or so given at a critical juncture could mean the difference between a man's turning into a criminal and his continuing as a law-abiding citizen.

In addition to the helping of persons who are stranded, many more problems and duties which are apparently nobody's business seem inevitably to gravitate towards the police. How does this come about? Well, for one thing, fortuitous circumstances are forever combining to thrust someone or other into a quandary, and this is often of such a nature that the victim cannot conceive of any agency that could possibly help him. The obvious thing to do then is to apply to the police. The different combinations of circumstances are without limit, and scores of examples could be given of people who were urgently, even desperately, in need of help.

In recent years there has been a marked tendency for these conundrums to be brought to the police on a Sunday. This is due to a number of factors. People who are busy during the week generally have some time to spare on Sunday. Furthermore, much visiting is done on this day: people who work away from home return there at the week-end, and others visit relatives who are lodging in another town. When, after discussing a problem they have encountered, they can make no further headway, they repair to the police station. The absence of telegraphic facilities is another contributory cause. But the principal reason why such a variety of problems is brought to the police station on a Sunday is probably because it is one of the very few buildings open on this day.

It was on a Sunday that the harassed landlady of a boarding-house reported that the electricity supply at her house had failed and

could not be restored because the main fuse-box was situated in the adjoining house, which was empty, the owner living some sixty miles away. On the same day a man who was in charge of a number of elephants and other animals was held up at the railway station and was unable to get in touch with the management of a theatre in a neighbouring town to inform them that he would not be able to unload the animals before black-out. On another Sunday an anxious father sought help in procuring a teat for his baby's feeding-bottle. More deliberately contrived was the problem that confronted the man who, after a quarrel with his wife, stayed away for a couple of days and returned home on a Sunday, only to find that she had had a new lock fitted to the door, thus preventing his entry.

There is no doubt that the public has come to expect from the police an unlimited number of miscellaneous services. The performance of these is a potent factor in strengthening the ties between the two parties. It has earned for the policeman the title "the handyman of the community." But the ever-increasing number of specific police duties leaves less and less time for oiling the wheels of daily life in this manner. There is, too, a possibility—it can be rated no higher—that the modern policeman, cognisant as he is of the boundaries of police duty proper, will tend to an ultra-rigid adherence thereto. His predecessors cannot be accused of making any academic distinction on this score, and it was they who originally won the goodwill of the public.

The persons who visit a police station belong to all classes in the social scale, and comprise all types. Hence it is important that the men working there should be sufficiently versatile to deal fittingly with them. The need is really one of practical psychology. Even persons known to be rogues, bullies, thieves, and liars, are not averse to visiting (voluntarily) the police station, and in dealing with them shrewdness is an invaluable asset.

But the average citizen has a deep-rooted desire to have as little as possible to do with the police. This is easily understandable. It arises partly from the fact that only too often dealings with the police connote some kind of trouble, and partly from the fact that many people have never completely dispelled a fear of the police station which is a legacy from childhood. Only dire necessity will drive them there, and they enter the building with nervous trepidation. Mindful of this, the experienced constable takes pains to put them at their ease, so that they might the better explain the nature of their business. If a caller is courteously treated and the matter he raises dealt with efficiently, then his confidence in, and regard for, the police will inevitably increase; and *vice versa*. Every caller is therefore a

potential ally. Moreover, he will describe his treatment to his friends, so that his reactions will become diffused. Thus is the fabric of public opinion woven.

The police, of course, can only function with the accord of the public. That the authorities appreciate this cardinal truth is evidenced by the following quotation from Sir John Moylan's *Scotland Yard*: "In the years 1926-28 it was necessary to have several inquests into Metropolitan police matters. . . . Underlying them all was perhaps something in the nature of a general questioning of police methods and an idea that the relations of police and public were not as cordial as they used to be."

To take for granted the goodwill of the public would be folly: rather is it something to be continually merited. It is a heritage bequeathed by policemen of the past, not to be put in jeopardy through any fault of policemen of to-day. Having on occasions to enforce an unpopular law and having to perform a great many restrictive duties inevitably entail the loss of a measure of popularity. This can be largely offset by a manifest readiness to help the public in extraneous matters as far as is compatible with the efficient discharge of specified police duties. In short, by remembering that besides being a servant of His Majesty a policeman is also, within reason, the servant of His Majesty's humblest subject.

Why Not an English Criminal Code?

"The law of England is notoriously formless to a degree unparalleled in Europe."—THOMAS ERSKINE HOLLAND (1835-1926).

"O, reform it altogether."—*Hamlet*, Act III, Sc. 2.

PEACE, advancement, and reform are much discussed at the present time, and it remains to be seen whether Barlow, Beveridge, Scott, Uthwatt and others will be known to future generations as names inscribed on monuments erected to mark the resting-place of dead endeavours, or on milestones along the road of social progress. In view of the sense of change that pervades contemporary affairs it would seem an appropriate time to revive for discussion and positive action a matter that was the subject of many reports before the authors of those named above were born; a matter that should be of interest and concern to all policemen in England, not merely because it has engaged the attention of eminent men at various periods of our history (and during the last century and a half in particular), but because, if given practical

effect, sweeping changes would be necessary in the legal education and training given to policemen in this country. Lest this statement should cause undue alarm to men already struggling with sections, statutes, and innumerable statutory rules and orders, the writer hastens to add that such changes would be very much to their advantage and that this article will deal with nothing more revolutionary than the codification of the criminal law.

A police officer is expected to know the law and his duties under it, and the acquisition and application of that knowledge call for great patience and perseverance. He can appreciate how severe is the presumption that ignorance of the law is no excuse. A brief comment on this rule will not be out of place. The Roman lawyers considered that the law was definite and knowable; the great English lawyer, Blackstone, maintained that everybody may know, and is bound to know, the law; it has also been said that when a man breaks the law he may not know that he is doing so, but he does know, as a rule, that he is doing something dishonest or unjust. In the last analysis, however, convenience and public policy provide the justification.

It must be admitted, nevertheless, that to the man in the street (not always excepting the man on the beat) much of the law is a maze and a mystery. This is an unhealthy symptom in a developing community. Mystery means incomprehensibility which can lead to suspicion and lack of confidence in the efficacy and impartiality of the law. Life is so complicated under our present system of society that it is too much to hope that the whole body of English law could be codified satisfactorily; but there would appear to be no good reason why the highly developed branches of the law should not be reduced to terms that, if not simple, are intelligible, and why the law should not be made accessible so that those who seek to know it can at least find it. Ignorance of the law would then be less understandable and the presumption more reasonable.

The greatest opposition to any reform in the law always comes, as history shows, from the legal profession; for lawyers, in common with the members of other professions, are proud of their tradition, and guard jealously their privileged position as interpreters of the law. It is no easy matter to persuade them that any change is desirable.

It must also be said, however, that anything in the nature of simplification and rationalisation that has been achieved has been brought about by members of the legal profession who succeeded in influencing a small but vocal section of the public and a smaller but even more active section of the legislature at a time when the leaders of their profession (the famous Lord Eldon, for instance) were strongly opposed to any progressive measure. The story of the struggles,

achievements, and noble failures of men like Sir Samuel Romilly (*d.* 1818), Sir James Mackintosh (*d.* 1832), Jeremy Bentham (*d.* 1832), Lord Campbell (*d.* 1861), Lord Brougham (*d.* 1868), Lord Westbury (*d.* 1873), and Sir James Stephen (*d.* 1894), should be read and studied by all whose duty it is to make, administer, and enforce the law. They will perceive that nothing makes for more injustice and hardship than a complacent assumption, aggravated by ignorance, that our law is, or ever has been, beyond reproach.

English law has much to commend it, as all the world knows, but English lawyers have never displayed an aptitude for advocating the removal of obvious defects. Tradition has so successfully stifled reform that some abuses have only been remedied after generations of agitation by a far-sighted few. It is unfortunately true that nothing is more difficult than to stimulate a healthy public interest in the administration of the law. Attention may be temporarily directed to minor irregularities by the Press, but interest in important questions, such as codification, is almost dead to-day. Fifty years or so ago it was a very live issue; it could be again, and should be, in the post-war years.

Codification, a term popularised by Jeremy Bentham, means the methodical arrangement of the law, both statutory and non-statutory, in the form of a systematic statement of general principles and rules. The object of a code, said Bentham, is to ensure that "everyone may consult the law of which he stands in need in the least possible time." The idea that rules of law can be converted into a legal dictionary as accurate as a mathematical table is probably illusory, and Bentham was on much firmer ground when he attacked the bulk and complexity of the law and the stranglehold of precedent. One comment of his is not inapplicable to-day. "A case was brought to me for my opinion," he said. "I ransacked all the codes. My opinion was right according to the codes, but it was wrong according to a manuscript unseen by me and inaccessible to me; a manuscript containing a report of I knew not what opinion, said to have been delivered before I was born, and locked up as usual, for the purpose of being kept back or produced according as occasion served."

The great lawyer, Sir Edward Coke, writing in the early seventeenth century, estimated the volumes of law reports then in existence at fifteen. Towards the end of the eighteenth century a lawyer complained that "when he was a student he could carry a complete library of books in a wheelbarrow, but that they were so wonderfully increased in a few years that they could not then be drawn in a waggon." Sir Frederick Pollock estimated in 1895 that the reported decisions in English superior courts filled about eighteen hundred volumes. "English lawyers," he remarked, "have to form a habit of rapid

observation and intelligent selection in dealing with books as well as with facts." Forty years later, Professor W. M. Geldart said, "the wealth of detail and the fact that the rules of law are to be found scattered over some 1,000 volumes of law reports, make the law extraordinarily cumbrous and difficult to learn and apply." Lawyers are provided to-day with excellent text-books and digests that make the task of hunting precedents much easier than it used to be, but year by year the reference books get fatter and heavier. Policemen, who are normally compelled to look for their law with greater urgency and in less comfort than the average lawyer, should warmly approve of any measures likely to ease their burden.

It is interesting to note that the *Annual Practice* and the *County Court Practice* used by solicitors have approximately 3,500 pages and 2,800 pages respectively. Those two colossi, *Stone's Justices' Manual* and *Archbold's Criminal Pleading*, stuffed with orderly masses of indispensable information, are also indicative of the growth of the law. *Stone* was originally published in 1842. It consisted then of 192 pages, with an index of 20 pages, and contained references to 17 cases. The 1942 edition consisted of 2,842 pages, with an index of 188 pages, and dealt with about 1,400 statutes and 8,750 cases. The 1943 edition piled on the agony and added 17 statutes and 120 cases. The book is intended chiefly for the use of magistrates and their clerks, but is thumbed anxiously and read avidly by policemen everywhere. At its present rate of growth the book will soon have to be divided into separate volumes—unless something is done to reduce much of the law to manageable and understandable proportions.

Archbold deals primarily, and most effectively, with indictable offences and has, in consequence of the inexorable pressure of growth, waxed fat on the wordy wisdom of our lawyers and law-makers. It was first published as a book of moderate size in 1822. The latest edition (1943) contains 1,530 pages of text, an index of 100 pages, references to 640 statutes and 3,000 cases, and 6 pages of references to law reports and text-books.

The earliest statutes recorded in *Stone* and *Archbold* were enacted in the thirteenth century. They are still good law. No one regrets more than writers of books on any legal subject the fact that the sturdy oaks and flourishing saplings in the forest of English law are obscured by so much dead wood.

Throughout the nineteenth century the influence of Bentham and his followers was reflected in the legislation dealing with all branches of the law. Much was done to mitigate the severity of the criminal law and to simplify and improve the whole process of criminal law administration. It is the fate of all progressive proposals to be referred to

Commissions "for enquiry and report," and the necessity for reform having been clearly demonstrated a series of Commissions was appointed to consider the consolidation and improvement of the criminal law and of statute law generally. Thus, in 1833 a Royal Commission was set up to review the criminal law; a second Commission was appointed in 1836; a third in 1843. Several Reports were issued and in 1848 a bill was drafted "for consolidating and amending the law as to crimes and punishments." In 1849 another bill was prepared dealing with criminal procedure. Lord Brougham, the prime mover in the matter, introduced the first bill, but neither that nor its successor was ever passed.

Something was achieved during the first half of the century, however; for Sir Robert Peel (d. 1850) piloted through Parliament a series of statutes dealing with larceny, coinage, forgery, and other offences. As a result hundreds of separate statutes were reduced to the compass of comparatively few pages. Shortly after Peel's death further progress was made (against stiff opposition), culminating in the passing of the statutes of 1861 (still in force in whole or in part) dealing with malicious damage, larceny, offences against the person, and accessories and abettors.

In the course of the next twenty years it seemed as though the codification of the criminal law would be finally accomplished. Largely through the untiring efforts of Sir James Stephen, who had had practical experience of codification in India, the matter became a prominent feature in Parliamentary debates. Stephen prepared a digest of the criminal law which he suggested might be converted into a code. The proposal was favourably received by the Lord Chancellor (Cairns) and the Attorney-General (Sir John Holker), and in 1877 Stephen was instructed to prepare draft bills for a penal code and a code of criminal procedure. The measures were introduced in the Parliamentary session of 1878. The Lord Chancellor, the Attorney-General, and the Solicitor-General were "enthusiastic" in their approbation. A Commission consisting of Lord Blackburn, Lord Justice Lush, Mr. Justice Barry, and Stephen himself was appointed to consider the draft bills. The Commission sat for five months and discussed, said Stephen afterwards, "every line and nearly every word of every section." No defect in the code was disclosed. A change of Government in 1880 held up the bills: in 1882 the part relating to procedure was announced as a Government measure in the Queen's Speech; but the House was busy with more exciting matters. The code failed to materialise by one of those accidents of history for which we have still to be compensated. If it had passed it would not only have made the criminal law more concise and definite but would also have revised and recast the distinc-

tions between felonies and misdemeanours, modified the law of homicide, and simplified the confused law relating to larceny and fraud.

The tendency of modern times has been towards codification and in this respect English criminal law, with all its virtues, has not kept pace with the law of Continental countries. Thus, Lord Bryce (*d. 1922*), the eminent statesman and jurist, wrote, "criminal law has everywhere grown out of custom and has in all civilised States been largely dealt with by direct legislation. In most civilised States it has been codified by statute, to the general satisfaction of the people; and the conspicuous success of the Indian Penal Code shows that English criminal law is susceptible of being so treated."

Portugal adopted a criminal code in 1852, Belgium in 1867, Sweden in 1864, Holland in 1880, Norway in 1905; Germany had a model code before the advent of the Hitler régime; Japan has a code based on a study of American and European systems; in 1926 Turkey adopted a code based on that of Italy. Various attempts at codification have also been made in the United States. It is significant that no country, having once adopted a code, has ever reverted to its original system. The famous *Code Napoléon* had a great influence on the legal systems of Continental countries and in fact served as a model for most countries where English is not the official language. If English law were easily ascertainable it would have been a strong competitor in the international field.

Certain sections of the English common law have been codified and the results are to be found, for example, in the Sale of Goods Act 1893 and the Bills of Exchange Act 1882. The complete reform of the criminal law having been neglected as already stated it is not surprising to find that the question has been dealt with piecemeal and hesitantly in the customary English manner. The method adopted has been consolidation, as in the Perjury Act 1911, the Forgery Act 1913, and the Larceny Act 1916. Consolidation reduces into shape the law as already written in many existing statutes; codification not only does that but also incorporates the common law as laid down by judicial decisions.

It has been argued that codification would deprive English law of its two great advantages, flexibility and certainty. It is open to question whether the law is as flexible and as certain as is alleged: in any event, codification does not imply the complete abolition of case law. No draughtsman is clever enough to anticipate every eventuality, and a carefully controlled case law would serve to interpret and develop the principles set out in the code. It follows that the code would have to be subjected to periodical revision in the light of cases that had occurred since its inception. It is reasonable to suggest, however, that

WHY NOT AN ENGLISH CRIMINAL CODE? 153

a well drafted criminal code, having regard to the present state of the criminal law, would not require any serious revision for many years.

It is possible to attempt to codify the law too soon and a representative view on that point is that of Professor J. L. Brierly, who has said, "a danger of indiscriminate codification is that it may tend to petrify the law at the particular stage of growth that it happens to have reached at the time." Another strong argument against codification is summed up in the words of the German jurist, Savigny (*d. 1861*), "you incorporate your ignorance with your knowledge."

It is submitted that these arguments are no longer valid in the case of English criminal law. It has been tested by long experience, its main principles are well established, and drastic modification is not required. Codification would remove anomalies and anachronisms, rationalise contradictions, and resolve controversial issues. It would put into systematic and authoritative form principles and rules at present buried (alive) in a confused mass of statutes and judge-made law. The fact that the fundamental doctrines of our criminal law have taken definite shape is recognised. Many academic writers could be cited in support of that statement but preference will be given to two practical lawyers of wide experience. Writing in the *Law Quarterly Review* in 1936, Mr. Roland Burrows, K.C., Recorder of Cambridge, said, "substantially the system rests in 1935 on the same principles as in 1885." About the same time, Mr. T. R. Fitzwalter Butler (the learned co-editor of *Archbold*) wrote in the *Law Times Journal*, "criminal law has attained a greater degree of certainty than any other branch of law, and few points of law now fall to be decided." The position to-day is really the same as it was when Sir James Stephen said that "though English law is unsystematic, ill-arranged, and superficially wanting in scientific accuracy, it does, in fact, represent a body of principles worked out by the rough common sense of successive generations, and requires only to be tabulated and arranged to become a system of the highest excellence." In short, the substance of the law is sound; the shape of the law needs to be remodelled by expert hands.

Any policeman can point to sections of the criminal law that require attention. A number of defects have been ably dealt with in earlier issues of *THE POLICE JOURNAL* (vd. Vol. XIV. at p. 172, "Felony and Misdemeanour" and Vol. XVI. at p. 156, "Consolidation of Powers of Arrest"). It will suffice here to say that the artificial distinctions between felonies and misdemeanours criticised by Sir James Stephen still remain, that there exists a position in which certain misdemeanours are more serious than some felonies, and that the powers of the Police are more restricted in the case of certain serious offences than in lesser ones. Certain statutes designed to aid the police authority in the

prevention of crime have outgrown their historical background. To cite only one instance, the preventive measures set out in the Vagrancy Act 1824 ought to be exercisable by day as well as by night, and the premises given special protection by the Act should be enlarged in scope and clearly defined. The power of arrest directed against that priceless English heritage, personal liberty, and only to be used with discretion, is embedded in numerous acts spread over many years. These acts are so confused that an elaborate system of cross reference is necessary before all the relevant information can be ascertained. The question of bail in certain cases needs to be considered; there are matters relating to larceny and false pretences, obtaining credit by fraud, and related offences that call for attention; the betting and gaming laws are indefinite, to say the least; and further, although not finally by any means, the law relating to road traffic is a wilderness through which none but a wanderer with the stoutest heart and the greatest patience can find his way.

Lord Westbury estimated that a complete digest of English civil law could be completed in three years. The civil law has grown enormously since his day and it is impossible now to say how long such a task would take. But a Royal Commission for the Codification of English Criminal Law and Procedure, or some other properly constituted body, could prepare a draft code of the criminal law, existing and tested, proposed and recommended, in twelve months at the very most. The result, as already pointed out, would not be a small volume to which any person could fly to find a set answer to every criminal law problem, but the advantages of such a scheme would be incalculable to those citizens whose privilege and duty it is to live under the law of this country, to learn it as students, and to apply it as magistrates, lawyers and police officers. Those who now look upon codification either as an irreparable break with tradition or as the means of depriving them of a source of income would have no cause for regret.

Assuming codification is decided upon at some future date, what form would the code take? The writer will not presume to do more than make a few tentative suggestions. The code might open with a statement of the fundamental principles of our criminal law, defining clearly the rights and duties of all citizens, and setting out boldly for all to see the inviolable rules that every person must be given a fair trial, that every person shall be regarded as innocent until proved guilty, and so on. Then would follow, perhaps, the rules governing incapacity and exemption from liability. Next, the classification of offences. This question has given rise to much discussion in the past, but it is probable that a majority opinion would favour a classification on much the same lines as that followed by leading teachers of the law and by text-book

writers and, in fact, by most countries that have adopted codes. Broadly, this is, firstly, offences against the Crown and Government, against public justice, public peace, public morals, public trade, and police; secondly, offences against the person, which would include homicide, rape and other sexual offences, assaults and so forth; thirdly, offences against property, which would include larceny and all cognate offences, malicious damage and forgery. Lastly, the rules of evidence and the details of the organisation of the criminal courts, their jurisdiction, and procedure.

One happy consequence of the introduction of such a code would be that offences of a like nature would come within the scope of the same part of the code. Thus, it is probable that three separate offences at present covered by three different statutes spread over more than fifty years and complicated by references to more statutes would be cited as offences contrary (say) to sections 7, 11, and 14 of Part 2 of the English Criminal Code 1947. On and from the operative date of the code it would not be necessary for any purpose other than historical research to refer to any statute or precedent in force before that date. It sounds much too good to be true, but it must be realised that the system is capable of achievement. The only opposition likely to be encountered in police circles, it is felt, might be from elderly officers who have spent their service careers amassing a knowledge of scores of statutes and hundreds of sections that would no longer be required—at any rate, not in the form and order in which they had been learned.

To conclude, is there any serious reason why, as soon as the war is over, a Commission should not be appointed to undertake the specific task of preparing a draft code for submission to Parliament? Sir Frederick Pollock answered that question many years ago. "There is no reason," he said, "why it (codification) should not succeed in England when public education is sufficiently advanced to demand it, and competent English lawyers are set to do the work instead of discussing whether it is possible." Public education has advanced, but a vacillating public opinion will have to be enlightened and directed before anything can be done; and what is perhaps most difficult of all, the legislature will have to be stirred from what Sir James Mackintosh called its "wise and masterly inactivity" where legal matters are concerned. But it *can* be done and it is to be hoped that if in due course a Commission is appointed room will be found for experienced police officers to assist in the planning of measures that will protect not only the interests of offenders but also the persons against whom offences are committed.

W. O. GAY.

Appointment to the Higher Ranks of the Police Service

By JOHN PEAKE*

Ex-Chief Superintendent, Sheffield City Police

MANY ideas exist in the minds of those interested in the changes necessary to ensure improved efficiency in Police administration. Planning is an interesting mental experience. To be worth while, however, I suggest that it should not be of the type which recommends the repair of an old garment with a patch of new material. In certain domestic spheres the patching of old garments is a necessary economic proceeding. In that most important domestic sphere which is concerned with the lives and property of the citizens of Britain, the safety and security of which are so largely dependent upon the labours of those who keep 'the King's Peace,' the standard of efficiency required in the personnel of the body to whom this duty is delegated cannot be guaranteed by any system of patchwork, however delicate or attractive the design may appear. In my submissions, therefore, upon the subject title of this article I wish to emphasise that my purpose is not to patch up an old system, but rather to suggest a new approach to a subject which, in practice, has not provided the results hoped for by many.

The fairest minds, both within the Police Service and among the general body of citizens, support the ideal that those best fitted to discharge the responsibilities associated with good government at its highest level should reach the positions associated with responsibility. This ideal is not Utopian; it is a striving to express the summit of excellence which should distinguish public administration in all its forms in a Democracy—and Britain is such a Democracy in the best sense of that term. For this reason I believe that those in whom is vested the responsibility of National government are capable of ensuring the emergence of the best minds in the service of the State.

For the purpose of clarity, therefore, I must define *efficiency* as this relates to Police administration. To me, this efficiency implies that combination of mental excellence and immutable moral character, demonstrated in service, in default of which no person can hope justifiably to excel over his competitors.

It may be said that without the possession in a marked degree of the qualities mentioned, individuals have been known to secure preferment. If this is correct then it might also be stated that disasters

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APPOINTMENT TO HIGHER RANKS OF THE SERVICE 157

have punctuated the record of history, due to the cause mentioned. Upon this point, it cannot be to the detriment of good government to suggest that the emergence of the best fitted will tend greatly to reduce the possibility of such disasters.

How, then, can such an emergence be ensured?—for it is an obvious truth that in a world of practical politics only that which contains the ingredients likely to improve the health of the body politic is worth considering.

Here I come to a suggestion that may startle not a few. In making it I shall be excused the accusation of advocating any procedure such as might be dictated by self-interest, for my days of active police service are over. Had my proposed plan, however, been in operation in the time of my active service I gladly would have welcomed it. It is made, therefore, in the interest of that 'emergent evolution' which still can raise the Police Service to higher levels of intellectual and moral worth, and enable that Service to retain its place as a model to be copied by the other nations of the world.

At the present time, as laid down in the regulations to the Police Acts, promotion in the Police Service depends, in normal times, on the passing of a qualifying examination. To this may be added the consideration of other recognised factors, such as the zeal and efficiency of the candidate, his adaptability, and the like.

It is not inapt to enquire if this method has assured that what might be termed 'the cream of the Service' has risen to the top. My own experience prevents me from accepting this happy state of affairs as existent. Rather is it the case that the cream has been disturbed on occasions by the untimely emergence of the less well fitted. When this has taken place, one result has been to afford opportunity to the dis-appointed to become lax and lethargic. The Service necessarily suffers, because it is contrary to all practice upon which progress and safety depend that the vision which is impaired is the one that should be entrusted with the responsibility of leading rightly those whose vision is not affected.

Upon this point it is of profound importance to remember that in human society, as in the lower forms of animal life, the one who by accomplishment is proved to be best fitted to lead is accepted and followed. In human society a leader is supported and followed by all who are able to recognise outstanding merit; in the lower forms of animal life the leader of the flock or herd or pack attains his position by his superior strength or prowess or cunning; in either case the leader has demonstrated his superiority over his fellows. Thus in time of stress or danger the majority of human beings are prepared to trust those of proved ability for the leadership necessary to deal with

the emergency. It is of importance to enquire, therefore, if the system of the qualifying examination has proved thoroughly satisfactory in securing the evolution of the type required.

Upon this point it might be commented that in the many distinct Police Forces of Britain, different standards of excellence are required to be attained by candidates for promotion, while members of the Statutory Police Authority responsible for confirming appointments may possess their own philosophy as to the value of other factors required to be possessed by the candidates. It is also accepted as a truism that while in the past battles have been lost owing to friction between commanders, so also have the fortunes of splendid men been affected adversely because of unreasoned prejudice.

In many cases, also, the effect of success in an examination qualifying for promotion has been to induce a state of mind which assumes that an obstacle has been surmounted, that it cannot be met with again, and that relaxation from further effort is therefore justified, secure in the knowledge that the examination has been passed. In such circumstances it is possible to recognise, not the incentive to further effort that success should supply, but the tragedy attendant upon the loss of such incentive owing to the absence of an impelling stimulus.

Thus it becomes necessary that a satisfactory stimulus should be afforded by which may be recognised the truth that talents must be traded with and used in further activities, if profit and pleasure are to be achieved.

I suggest, therefore, that the time has arrived for the introduction of the competitive examination as the test for all aspirants to the higher ranks of the Police Service. In support of this suggestion I submit, first of all, that such a system would reveal outstanding mental qualities possessed by an aspirant and his capability for leadership, and it would secure the emergence of those best fitted intellectually to sustain that continued efficiency so necessary in an administration intimately concerned with the lives and liberties of the people. When allied with undeviating moral character, proof of the possession of outstanding brain power, demonstrated in open competition with his fellows, cannot but engender the respect of all but the abnormal, and secure alike from the best minds acquiescence in advancement gained by pure merit.

It is not my purpose here to suggest the type of examination which should be adopted; but experience leads me to the conclusion that whatever academic subjects may be included, the principal factors in any test to discover police ability are those connected with that profession. Thus aspirants for the higher ranks must, of necessity, keep abreast of developments in the administration of the Criminal Law,

and the rights and privileges of citizens as set down in General Statute Law and the Common Law.

Such a test, in which all competitors would start from a mark common to all, would be known to a police recruit from the day he became a member of the Police Service. Thus failure to prepare his mind for a test so certainly inseparable from advancement would declare his acceptance of the position that such failure was not the fault of a system imposed from without.

At this point it may be urged by some that the test of the competitive examination would not reveal certain qualities so useful in the make-up of a successful police officer, or that qualities of tact, initiative, and sound judgment could not be disclosed as a result of written examinations.

To this I would reply that to be able to convey thoughts and impressions successfully in writing is one of the principal arts in the armoury of the modern police officer. To entertain seriously, therefore, the idea that candidates taking such examinations would be unable satisfactorily to reveal to the examiners convincing evidence as to the possession of tact, initiative and the like, would be to deny such examiners the possession of that knowledge of psychology upon which their questions were framed and their conclusions based from the answers given. For this reason it appears futile to oppose the fact that, to-day, the real quality of mind of a candidate in any examination is not beyond the skill of a competent examiner. On this point it is sufficient to adduce the fact that, during the past twenty years in particular, entrance scholarships to the universities of Britain have been awarded to students from all classes of the community who, with brain power as their principal stock in trade, have proved to the examiners the possession of that capacity to absorb knowledge which in the years that followed have enabled splendid service to be given to the Nation and Empire in its different departments.

It may also further be urged by some that the institution of a competitive system of examination would be difficult of application, by reason of the existence in Great Britain of so many distinct Police forces.

Upon this point I suggest that fundamentally a police officer—and consequently the Police Service—is the servant of the British constitution, notwithstanding that by the Police Acts certain powers are delegated to local Police Authorities. Intrinsically, therefore, Parliament, through the department of the Home Office as regards England and Wales, and the Scottish department as regards Scotland, is the final authority in those matters vital to the continued efficiency of the Police Service.

It might also be recalled that in the interests of this efficiency Parliamentary action brought about the merging of certain areas of the country in 1943, for the purposes of Police administration. I can see no reason either to doubt that this grouping will prove eminently successful, or that it will endanger the preservation of traditional British liberties. Rather does it appear probable that the stern exigencies of war will reveal the necessity for the continuance in peace-time of such administrative changes as have proved to be of undoubted and permanent value to the purposes of government, but which would have been considered retrograde had they been suggested in pre-war days. And these changes, I suggest, are not derogatory to the continued existence of Local Government in its proper sphere, or to the deep-rooted and highly prized democratic traditions of Britain.

To sum up, therefore, I suggest that the competitive examination as the test for advancement in the Police Service would establish the principle of ascendancy of outstanding ability, would provide a recognised mark from which all would begin the race, and would be interpreted by the body of democratic public opinion as evidence of that progress, desired by all right-thinking men, towards an ideal in civil government. Finally, and not least important, it would serve to convince the personnel of the Police Service of the reality of the dictum that, as the knapsack of the private soldier may contain the baton of a Field Marshal, so also may the man who first of all carries a lamp on a 'beat' some day exchange his lamp for the baton of a Chief Constable.

The Colonial Police

The following appointments are announced by the Colonial Office:

APTHORPE, C. H. F. (Senior Assistant Superintendent of Police, Nigeria)	Superintendent of Police, Sierra Leone.
CLARK, J. H. HERVEY (Inspector of Constabulary, Jamaica)	Superintendent of Police, British Honduras.
DRAKE, T. N. (First Class Inspector of Police, Jamaica)	Superintendent of Police, Trinidad.

THE POLICE JOURNAL

Vol. XVII, No. 3.

JULY-SEPTEMBER 1944

War Commentary

PERTINENT PARALLELS

DESPITE the differences and distinctions between their respective functions, policemen and teachers provide several interesting parallels and comparisons. Each of the two branches of public service is administered by a department of Local Government which is set up under its own peculiar Statutes, the cost of administration in each case being shared equally by the taxpayer and the ratepayer, and therefore with an equal degree of supervision on behalf of the Central Government—in the one case the Home Office, and in the other the Board of Education. Historically the teaching profession and the police developed with much in common between them. The education of the community and the developing national realisation of the need for domestic "law and order" are, indeed, closely related. Towards the end of the last war the Burnham Committee planned for teachers and the Desborough Committee planned for policemen a status, rates of pay and conditions of service which ran along parallel lines; but, although the Burnham and Desborough Committees respectively remain the foundation on which the machinery has been built, many changes and digressions have emerged, in some of which there is a failure to appreciate the parallel and close association which these two branches of public service should provide for the good government of the community.

The Ministers responsible to Parliament for law and order on the one hand, and education on the other, have widely divergent tasks assigned to them in the supreme duty of governing the State. The President of the Board of Education, who is now to assume the designation of Minister of Education, is concerned only with the education and well-being of children and young people during their school life. He is not even encumbered with the responsibility for the solution of problems relating to the pre-school infant, and in only a limited way with public health. He and his Department devote their undivided attention to the work and administration

of Local Education and other authorities in the field of teaching, and even under war conditions it has been possible to make immense progress in the planning of post-war education. The final stages of the passage of the Education Bill evoked loud applause from all sections of the House of Commons. The procedure adopted in enacting the Education Act, 1944, may be regarded as a model in parliamentary tactics. Initiated by the statement of the Government's policy in the White Paper issued in July, 1943 (Cmd. 6458), and implemented by the Reports of a number of Committees, notably the Norwood Committee on Secondary Schools, and, more recently, the Report of the McNair Committee on the supply and training of teachers, public opinion was informed, sympathy and interest were enlisted, and legislation achieved with a minimum of difficulty, save for the freak defeat of the Government by one vote on the question of "equal pay for the sexes." The Department's achievement may have been due primarily to the single-minded role of its Minister. The passage of the Education Act enables the teaching profession to envisage with reasonable clarity the prospects of status, employment, conditions of service and remuneration in the post-war years.

The Police may well envy the teachers whose post-war programme is now envisaged and given a reasonable assurance of fulfilment. The pressure of war-time duties appears to frustrate any effort to examine and plan for "after the war" for the Police. It is clear that after hostilities cease, "law and order" will be the prime need of the nation, since without law and order and the organisation of Police—which is implied with Forces which are contented, well disciplined, courageous and adequate—no other department of government and domestic security will succeed, or even have time to shape its policy. The situation calls for vision and enterprise. Given the right leadership and direction the police service can be relied upon to shape its plans for post-war, which will secure for the nation the tranquillity needed for its greater part in shaping the future of mankind.

EXECUTIVE POWERS

The persistent expansion of the volumes of each succeeding edition of the Defence (General) Regulations, and the numerous orders, directions, authorisations and by-laws issued thereunder by the various Ministers, has inevitably provoked fears, expressed in Parliament and outside, that the authority of Parliament as the law-making authority is being increasingly ignored or side-tracked. The Home Secretary, who has probably exceeded any other

Minister of the Crown in the prolific issue of Statutory Rules and Orders, has again shown his flexibility of mind by acceding to the demand of the House of Commons for closer Parliamentary scrutiny of proposed departmental and emergency legislation. It is quite obvious that no civil servant—and certainly no police officer—wishes to add to the volume of Emergency Legislation, since every new order or direction issued, whether or not it creates a penal offence, implies and involves additional work, generally for the police and the various enforcement agencies of the Control Departments, and invariably both for the police and the public. Any measures centrally inaugurated, therefore, which will tend to reduce the spate are to be welcomed, and the work of the scrutinising body will be followed with interest and hope.

CIVIL SERVICE TRAINING

The close relationship between the police and the civil service gives reason for special interest in the Report of the Committee on the Training of Civil Servants recently issued (Cmd. 6525), in which a planned training scheme within each Department is recommended. About the proposal for a Civil Service Staff College, the Committee consider that the idea for a central institution where the training of all civil servants would be carried on is impracticable. The Report points out that the training requirements of the civil service are in the main given most readily and effectively by the Department in which the civil servant is employed. For the clerical grades the Committee can see no exception, and for the executive and professional grades very little, to the conclusion that no new centralised or institutional training is called for. The case of the administrative officer is rather different, but the Committee cannot recommend the Government to associate itself with the establishment of a Staff College.

The executive duties and functions of civil servants are, of course, different from those in the main performed by the Police; but, on the administrative side, the administration of a police force has many parallels with the administration of a Government Service or Department. The rejection of the proposal for a Staff College is interesting, and it will be pertinent to compare the Committee's Report with the plans which presumably will later be made for consideration by the Secretary of State on the question of the future of the Metropolitan Police College, Hendon, either in its pre-war organisation as a training ground for officers selected for accelerated advancement to senior rank, or merely as a Staff College.

The Police and the Law

THE RIGHT OF ARREST FOR "UNLAWFUL POSSESSION OF GOODS"

TWO judgments of considerable interest to the Police were pronounced in the Court of Appeal in *Dumbell v. Roberts* (60 T.L.R. 231) on the right of arrest both as it exists at common law and under statute. Before discussing the legal rulings the substance of the case may be shortly noted. The plaintiff appealed from a decision at Liverpool Assizes in which his action for false imprisonment against two police officers was dismissed. He had been arrested by them under the provisions of the Liverpool Corporation Act, 1921, there being no warrant for the arrest, and was charged under that Act with being in unlawful possession of a quantity of soap-flakes. This charge was dismissed by the city magistrate without any reflection on the accused's conduct or character. The Court of Appeal held that the police officers had purported to act only under the powers conferred by the Act of 1921; that they had not complied with the conditions laid down by the Act; that the power to arrest without warrant was statutory only; and that the trial judge was not entitled, as he did, to decide the case on a common law plea of justification, for no such justification was pleaded. The defendants were held to be liable and a new trial was ordered, limited to ascertaining the amount of damages to which the plaintiff was entitled.

The facts as disclosed by the evidence were that the plaintiff was arrested about 10.30 p.m., while he was riding home on his bicycle from a garage where he was employed. Police officers overtook him and, having stopped him, inquired about his rear light and then asked him what was in a bag or sack which he was carrying on the frame of the bicycle, and on being told soap-flakes (which they knew was a rationed article, though he did not) asked where he got them. He replied, from his mate. The latter was the regular driver of the ambulance of the Merseyside Hospitals Committee, of which the plaintiff was the regular attendant and he was dressed in their uniform. The officers and the plaintiff went back to the garage. It was in dispute whether the plaintiff invited them to go to the garage or whether the officers decided of their own motion to go back with him. It was alleged that they did not ask the plaintiff's name and address before arresting him. The garage was the garage of the Merseyside Hospitals' Committee and some eighteen men were employed there. It was further alleged that the officers arrested the plaintiff outside the garage on his telling them that his

THE POLICE AND THE LAW

165

mate was not there, and before making any enquiries inside the garage. He was charged that night with having "unlawful possession" of some 12 or 14 lbs. of soap-flakes.

THE STATUTORY POWERS

Section 507 of the Liverpool Corporation Act, 1921, makes it an offence for a person to be in possession of anything which there is reasonable ground to believe or suspect has been stolen and does not account to the satisfaction of the court for his possession of the same. And "stolen" means not only stolen but also unlawfully acquired or obtained. Section 513 authorises a constable to arrest and detain without warrant any person whose name and residence shall be unknown to him and cannot then be ascertained by him for, among other things, an offence against section 507. But the case of *Dumbell v. Roberts* is of wider interest than that of the construction of a local statute, for similar powers are given to the Police by other local acts. Section 507 is in substance identical with section 24 of the Metropolitan Police Courts Act, 1839. That section is supplemental to and is to be read with section 66 of the Act of 1839, which seems to have been the first Act to enact the offence commonly called "unlawful possession."

In the proceedings the matter was throughout treated solely as one of unlawful possession: the arrest, the charge at the station and the charge before the magistrate. Moreover, although one of the constables said in his evidence that he suspected the goods were stolen he never said that he suspected the plaintiff had either stolen them or received them knowing them to have been stolen. Nor, it was held in the Court of Appeal, was there enough in the evidence to justify such a suspicion. At common law no one could arrest merely on suspicion of illegally obtaining goods. None the less the trial judge purported to decide the case as on a common law plea of justification and disregarded the provisions of section 513 of the local Act, imposing express conditions precedent to the right conferred by the Act on the Police to arrest without warrant for a misdemeanour under section 507. The trial judge was in error in not confining himself to the local Act.

The Court of Appeal held that the Police had made no real attempt before arrest to ascertain the plaintiff's name and address, and had thus failed to comply with the condition imposed by section 513. The Court further held that the constable arrested the plaintiff before he had even asked him for his name, and he never asked him for his residence. After the arrest of the plaintiff he was asked for his name, and the police sergeant went inside the garage and asked

if Dumbell's mate was on duty; he never asked if anyone could identify Dumbell, as perhaps somebody there could have done; or if anyone knew his address, which it is probable someone would have been able to give. But whether these particulars would have been forthcoming or not, the Police were unable to say that they could not ascertain these facts since they had not attempted to do so, and in fact they never said they could not ascertain them. As there was opportunity for inquiry, clearly it was the duty of the police to make such inquiry. If a person refuses his name or says he has no residence, it is, of course, another matter; but in *Dumbell v. Roberts* the evidence showed that the Police had gone back to the plaintiff's place of business and had not asked for information about him.

ARREST ON SUSPICION

Lord Justice Scott in his judgment in *Dumbell v. Roberts* discussed and analysed the kind of suspicion which justifies an arrest without warrant in the two cases of a common law and a statutory power. He said that the power possessed by constables to arrest without warrant, whether at common law for suspicion of felony, or under statutes for suspicion of various misdemeanours, provided always they have reasonable grounds for their suspicion, is a valuable protection to the community; but that the power may easily be abused and become a danger to the community instead of a protection. His lordship said that the Police were not required before acting to have anything like a *prima facie* case for conviction, but that the duty of making such inquiry as the circumstances of the case ought to indicate to a sensible man as, without difficulty, practicable, does rest on them; for to shut your eyes to the obvious is not to act reasonably.

"The duty of the Police," his Lordship went on, "when they arrest without warrant is, no doubt, to be quick to see the possibility of crime; but equally they ought to be anxious to avoid mistaking the innocent for the guilty. The British principle of personal freedom, that every man should be presumed innocent until he is proved guilty, applies also the police function of arrest—in a very modified degree, it is true, but at least to the extent of requiring them to be observant, receptive and open-minded and to notice any relevant circumstance which points either way, either to innocence or to guilt. They may have to act on the spur of the moment and have no time to reflect and be bound, therefore, to arrest to prevent escape; but where there is no danger of the person who has *ex hypothesi* aroused their suspicion that he probably is an 'offender' attempting to

THE POLICE AND THE LAW

escape, they should make all presently practicable inquiries from persons present or immediately accessible who are likely to be able to answer their inquiries forthwith. I am not suggesting a duty on the Police to try to prove innocence; that is not their function; it is their duty to act on the assumption that their *prima facie* suspicion may be ill-founded. That duty attaches particularly where slight delay does not matter because there is no probability, in the circumstances of the arrest or intended arrest, of the suspected person getting away. The duty attaches, I think, simply because of the double-sided interest of the public in the liberty of the individual as well as in the detection of crime."

THE LEGALITY OF TAKING FINGER-PRINTS

The case of *Dumbell v. Roberts* also provides some interesting remarks by Lord Justice Scott on the practice of taking the finger-prints of a suspect. He said that he believed there was no statutory sanction for the practice disclosed in the evidence in *Dumbell v. Roberts* of the Police taking finger-prints of a person under a charge before he is convicted or even committed for trial. "Such treatment is inconsistent with our British presumption of innocence until proof of guilt; and it is natural for it to be regarded as a slur on a man's character. Without free consent it involves trespass to the person; and, following on an unjustifiable arrest, it may become an element in the false imprisonment and then, if found on the facts to be a consequence of the arrest, it may properly be taken into account on the assessment of damages." As to why it is 'natural' for the taking of finger-prints "to be regarded as a slur on a man's character" his Lordship does not inform us; often it is the means of safeguarding an innocent man.

TUBERCULOSIS AS A REASON FOR A POLICE PENSION

Under the Police Pensions Act, 1921, section 2 (1) (c) if a member of a police force is incapacitated for the performance of his duty by infirmity of body occasioned by an injury received in the execution of his duty without his own default, he shall be entitled on a medical certificate to retire and receive a special pension for life. A claim to a life pension under this provision was made in the case of *Garvin v. Police Authority for City of London* (1944, 1 K.B. 358). The facts were that a constable was on duty in the City of London during the air raids in 1940 and 1941. In October 1942 he was discharged from the force on the ground of incapacity for the performance of his duties due to pulmonary tuberculosis, and was awarded a gratuity of £45 10s. under section 2 (1) (d) of the Police Pensions Act, 1921.

There were two points of law for the decision of the High Court. The first one was whether or not tuberculosis was an injury within the meaning of the section. This point was held to be rightly decided in the affirmative by quarter sessions. The Court was not aware of any legal principle or canon of construction which would prevent tuberculosis from being described as an injury occasioning infirmity of body. Pulmonary tuberculosis is induced by an infection of the lungs with a bacillus. Medical men speak and write of the 'lesion' of tuberculosis, and a lesion is defined as a wound or injury. Similar decisions had often been given in construing the meaning of 'injury' in the Workmen's Compensation Acts.

In this case the medical evidence was to the effect that the onset of the disease was subsequent to 1939 and that probably about September 1940 was the earliest probable date of infection. The claimant himself gave no particulars of any unusual conditions of service which did not apply equally to other members of the City Police Force. The surgeon to the City Police Force gave figures showing that tuberculosis had not increased in that force since the war. Mr. Justice Humphreys thought that the evidence for the claimant was slight and said that he might have hesitated himself before coming to the same conclusion as quarter sessions. But there was some evidence and on the evidence the decision of quarter sessions was final. The claim to a special pension for life was accordingly upheld.

Recent Judicial Decisions

THE DEFENCE OF PROVOCATION ON A MURDER CHARGE

R. v. Gauthier

R. v. Gauthier

IT is common for the prisoner to argue that he was provoked when there is a sexual element in a charge of murder, but the kind of provocation which is sufficient to reduce a homicide from murder to manslaughter is narrowly defined. Perhaps the courts in recent years have been more generous than they used to be in dealing with the defence of provocation. In *R. v. Gauthier* (29 Cr. App. R. 113), however, the defence failed and the Court of Criminal Appeal defined the limits of the defence in unmistakable terms.

The appellant was convicted of murder at the Central Criminal Court, the judge having withdrawn the issue of manslaughter from the jury. The prisoner was a French Canadian soldier, aged 25, who had for some two months been the lover of the deceased, the wife of a British prisoner of war. He had quarrelled with a Canadian sergeant, a former lover of hers, when he returned after an interval to the neighbourhood. On the night of the crime the prisoner took a loaded Bren gun and hid it in a field opposite the woman's house. He then entered the house in which she did not like him but in conversation. She told the prisoner that she did not like him but loved the sergeant. The prisoner slapped her face; she slapped his. He then left the house, saying: "I go; but you know what is going to happen." He went outside, picked up the gun, carried it to the front door and knocked.

Another woman opened the door and, seeing the gun, close the door in the prisoner's face. He then fired at the door, and on the back of the house and entered through the back door. He called on the deceased who was upstairs to come down. She asked him for his word of honour that he would not shoot, to which he replied: "Yes, come down at once." He saw her coming downstairs and fired. She slipped down and he fired again, killing her immediately.

The prisoner then put the gun at the back of the sitting room and removed the magazine, which he placed on the woman's dead body. He ran out of the house and was stopped in the road by a member of the Home Guard. There was evidence that he was when stopped: "It was a Bren; I did not mean to miss. Take it easy; I have done what I wanted to do. I took the gun up the

ment for each other. In consequence it was arranged that they should be transferred to separate stations. Distressed by this they made a mutual agreement to commit suicide, and to carry out that agreement they went in the evening to a summer-house in the grounds of an hotel. The evidence of the appellant was that he took his service revolver with him; that he loaded it in every chamber; that he sat with the deceased woman in the dark well into the night; that the deceased then shot herself in the chest, but that the wound was not fatal; that he left the summer-house to get help, leaving his loaded revolver in the summer-house; and that when just outside he heard another shot and went back to find that the deceased had shot herself through the head and was dead. On this evidence the jury convicted of murder.

One of the grounds of appeal against conviction was misdirection of the jury by the judge in directing them that the mere agreement of two persons to commit suicide was sufficient to constitute the survivor of them an accessory before the fact, although he was not present when the other carried out the agreement. It is true that in the reported cases on this subject the prisoner was present at the time and was charged as an aider and abettor, the distinction between aiders and abettors and accessories before the fact being that aiders and abettors are present and accessories before the fact are absent. It was impossible before the Aiders and Abettors Act, 1861, to have a case in which an accessory before the fact could be so treated if it were a case of suicide because, before that Act, it was necessary that the principal felon should have been convicted first, and, as the felon had already died, he could not be convicted. The appellant's argument was rejected, the court holding that the mutual agreement amounts to such a counselling, procuring, inducing, advising or abetting as constitutes the person who agrees an accessory before the fact even if he is not there when the other party to the agreement commits suicide. The words of description of an accessory before the fact are very wide and cover this situation.

It was also argued that the summing-up should have pointed out the possibility of the agreement to commit suicide having been put an end to or countermanded as, before the second and fatal shot was fired, the appellant had left the summer-house. The Court of Criminal Appeal held that a person, in order that he should not be held guilty as an accessory before the fact, must give express and actual countermand or revocation of the advising, counselling, procuring or abetting which he had given earlier. The circumstances could not have been reasonably held to amount to such a clear countermand as would discharge the appellant if that which

occurred was the result of what he had done before. All he did, according to his evidence, when the deceased shot herself through the breast and cried out in pain and told him to get some help, was to put his hand to her breast and then get out of the window. He never said anything to her which could have removed from her mind the effect of the counsel which he had given her before. He did not say that he said anything to her, and he left her wounded, possibly fatally wounded, with the revolver loaded. That conduct could not be held to be such a countermand or determination of an agreement to commit suicide as would entitle the appellant to an acquittal. His appeal was accordingly dismissed.

THE CRIMINAL LIABILITY OF A COMPANY: GUILTY INTENT

Director of Public Prosecutions v. Kent and Sussex Contractors Ltd.

This case, in which the Divisional Court (60 T.L.R. 175) surveyed the general question of the criminal liability of companies and other corporations, was an appeal by case stated by the Director of Public Prosecutions from the decision of Glamorganshire justices at Aberdare, dismissing two informations against the respondent company for petrol offences. If any person, for the purpose of obtaining coupons under s. 12 (1) of the Motor Fuel Rationing (No. 3 Order), 1941, provides, with intent to deceive, information which is false in a material particular, contrary to Defence Regulation 82 (1), or makes any statement which he knows to be false, contrary to regulation 82 (2), he is guilty of an offence. The company was charged with these two offences.

It was proved that the company sent to the appropriate authority a fortnightly vehicle record purporting to relate to the journeys made by a specified vehicle during the preceding fortnight. The document was signed by the transport manager of the company. The justices found that the record was false in material particulars in that it misstated the journeys and mileage done by the vehicle, and that it was known by the servants of the company to be false in the respects alleged. It was contended on behalf of the company that a body corporate could not, in law, be guilty of the offences charged, as an act of will or state of mind was implicit in the commission of them, and that the company was, therefore, not guilty. The justices accepted that contention and dismissed the informations. But the three judges in the Divisional Court, each of whom delivered a judgment, were of a different opinion. The case was sent back to the justices for their determination on the facts with this ruling on the law.

The usual red herring of the requirement of *mens rea* on the

part of the defendant was drawn across the appellant's argument; but the Divisional Court refused to be side-tracked. Lord Caldecote, C.J., said that there were offences in which *mens rea*, which he understood to mean criminal intention, was not material, but which stated the sole ingredients of the offences, as in this case where a necessary ingredient in one of the offences was intent to deceive. The difficulty of attributing *mens rea* to a corporate body was not, therefore, an obstacle to a conviction. And although a company cannot be found guilty of certain criminal offences, such as treason or other offences for which it is provided that death or imprisonment is the only punishment, the law has been stated in a way which has made it clearer as time has passed that there is a number of criminal offences of which a company can be convicted. The principle on which a company can be convicted is that if the company's agents or servants—and a company can only act through agents—have a certain intention or knowledge when doing an act, that intention or knowledge, or whatever mental state it may be, can be imputed to the company.

"Once it is decided that this is one of those cases where a principal may be held liable criminally for the act of his servant, there is no difficulty in holding that a corporation may be the principal. No *mens rea* being necessary to make the principal liable, a corporation is in exactly the same position as a principal who is not a corporation." This is a statement made by Mr. Justice Atkin, as he then was, in *Monsell Bros. v. L. & N.W. Railway Co.* (1917, 2 K.B. 836) and was relied on by the Divisional Court among other authorities which they reviewed. The fine-spun metaphysical arguments for absolving a company which obtains the benefit from the liability for a crime are swept away by this reasoning. A company is treated like a principal who is liable for the acts of his agent. And a company can, in the nature of things, only act by giving an agent authority. It is becoming more and more difficult for a company to escape criminal liability to a fine in cases in which there has for a long time been no doubt of its civil liability to pay damages.

JUDGE'S COMMENT ON ACCUSED'S SILENCE AFTER ARREST: MEANING OF "SUBSTANTIAL MISCARRIAGE OF JUSTICE"

R. v. Haddy

The appellant in this case (60 T.L.R. 253) was convicted before the Recorder of the City of London of stealing an attaché case containing £2,000 and was sentenced to three years' penal servitude. The issue at the trial was one of identity. The defence was that he was not concerned in the theft and was wrongly identified as being

the man who had stolen the case. He alleged at the trial that at the time of the theft he was in a cinema some few miles distant from the place where the theft was committed. On the appeal it was contended by the appellant that the Recorder at the trial wrongly invited the jury to infer his guilt from a consideration of his silence after having been cautioned. In one part of his summing-up the Recorder said: "Of course, a man is not obliged to say anything at all, but if he does it is sometimes of great assistance to him if he at the first moment gives his explanation."

The Court of Criminal Appeal held, following the recent case of *R. v. Leckey* (60 T.L.R. 50) noticed in the April issue of this JOURNAL (at page 91), and other cases, that the Recorder's comments amounted to a misdirection to the jury. They offended against the rule so often laid down that a prisoner, on being cautioned, was entitled to reply that he did not wish to say anything.

But this ruling in the appellant's favour did not decide the result of the appeal. The main interest of *R. v. Haddy* is in the interpretation given to the rule that the Court of Criminal Appeal "may, notwithstanding that they are of opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if they consider that no substantial miscarriage of justice has actually occurred": Court of Criminal Appeal Act, 1907, Section 4 (1), proviso. Whether this proviso should be applied against the appellant depends on the circumstances of each case. In *R. v. Leckey* the court declined to apply it and the appeal was allowed. In *R. v. Haddy* the court thought fit to apply it and the appeal was dismissed. On the evidence, the court was satisfied that no reasonable jury properly directed throughout would, or could, have come to any other conclusion, and that no miscarriage of justice had actually occurred when the prisoner was convicted of larceny.

The court had to consider various authorities on the scope of the proviso to section 4 (1) and these authorities are not free from ambiguity. The appellant contended that the court could not give effect to the proviso unless they were prepared to hold that no jury properly directed *could* have acquitted the appellant. This contention was based on a passage in the judgment of Lord Sankey, L.C., in *Woolmington v. Director of Public Prosecutions* (1935 A.C. 482) to the effect that the court could not say that "if the jury had been properly directed they would have inevitably come to the same conclusion." It was the word 'inevitably' in that sentence on which the appellant's argument in *R. v. Haddy* was chiefly based. But Mr. Justice Humphreys in delivering the judgment of the court said that to accept that argument "would be to render the proviso prac-

tically otiose, for it can never be said with certainty in any criminal case, however strong the evidence for the prosecution, that no jury could be found to acquit. We are satisfied that Lord Sankey was not referring to a jury who might return a perverse verdict, but to a jury of sensible persons anxious to do their duty, which is, in the language of the juror's oath, to return a true verdict according to the evidence." Mr. Justice Humphreys went on to say that the word 'inevitably' was merely an adverb of emphasis designed to express the necessity for the absence of any doubt on the part of the court that a reasonable jury properly directed would have returned the same verdict.

STATUTORY NUISANCE AFTER AIR-RAID DAMAGE

Turley v. King

The common law offence of nuisance is more vaguely defined but on the whole narrower in scope than the various forms of statutory nuisance. That criminal liability for a statutory nuisance under the Public Health Act, 1936, is a strict one is shown by the decision in *Turley v. King* (60 T.L.R. 197). Two houses in Birmingham twice suffered damage by enemy action so that they came within section 92 (1) of the Act which provides that a statutory nuisance includes "any premises in such a state as to be prejudicial to health or a nuisance." The tenants of the houses complained of the condition of the roofs because of the penetration of damp. The landlord, by virtue of the lease, was liable to repair the premises, but this liability was taken away by the Landlord and Tenant (War Damage) Act, 1939, because the need of repair was caused by war damage. But the chief sanitary inspector caused an abatement notice to put an end to the nuisance to be served on the landlord. In default of his compliance with the notice a complaint was made under section 94 (1) of the Public Health Act, 1936, and a summons was issued.

The Birmingham justices dismissed the complaint, holding that the Act of 1939 absolved the landlord from criminal liability for nuisance as well as from his civil liability under the lease. But the Divisional Court took a stricter view. They held that the Landlord and Tenant (War Damage) Act, 1939, did not relieve the respondent from liability for statutory nuisance, and the appeal of the chief sanitary inspector accordingly succeeded.

DEFECTIVE INFORMATION: PLEA OF 'AUTREFOIS ACQUIT' ON SUBSEQUENT INFORMATION

Halstead v. Clark

In *Halstead v. Clark* (60 T.L.R. 189) on a case stated by the Luton justices the question was raised whether a plea of *autrefois*

acquit was sustainable in the following circumstances. Regulation 82 (2) of the Defence (General) Regulations, 1939, provides that if, in furnishing any information for the purposes of these regulations, any person recklessly makes any statement which is false in a material particular, he shall be guilty of an offence against the regulation. The word 'recklessly' was omitted from an information, preferred against the respondent under regulation 82 (2) charging him with contravening the Control of Rubber Tyres (No. 4) Order, 1942. At the end of the case for the prosecution it was submitted for the respondent that the summons disclosed no offence known to the law, and that if an application were made to amend the information by adding the word 'recklessly' it should be refused because there was no evidence to support a charge of recklessness. The justices refused leave to amend and dismissed the information. A subsequent information was brought containing the word 'recklessly' in respect of the same matter. He pleaded *autrefois acquit* and this plea was upheld by the justices.

The Divisional Court held that they were right to dismiss the second information on this ground. It was held to be clear that at the first trial the justices really refused leave to amend the summons on the ground which had been argued before them—namely, that it was useless to amend it having regard to the evidence which had been given for the prosecution, which did not satisfy them that any offence had been committed. Hence the respondent had been in peril of a conviction because the justices might have taken the opposite views and have held that there was evidence that the respondent had recklessly made a false statement in connection with the rubber tyres which were the subject of the charges. It is to be noted that the Divisional Court did not find it necessary to decide whether or not the justices at the original hearing had the right to make such an amendment of the information and summons at that stage.

Criminal Law and Practice in Scotland

CARELESS DRIVING—SIGNAL TO FOLLOWING TRAFFIC

Sorrie v. Robertson

THIS appeal, recently heard by the High Court of Justiciary, arose out of a street accident occurring in the following circumstances. A farmer named Sorrie was driving his motor lorry along the main street of a small town in Aberdeenshire at a moderate rate of speed. His intention was to take his lorry into a garage on the opposite side of the street—a manoeuvre which would necessitate his taking

a right-hand turn across the line of traffic. Following the lorry, at a distance of some 50 yards, was a motor cyclist with a pillion passenger. This cyclist had come on to the crown of the road and was gradually overhauling the lorry, which he intended to overtake and pass. When about 50 yards away from the point where he must execute his turn into the garage, Sorrie extended his right arm as a signal to the cyclist, whom he could see in his driving mirror. Unfortunately, the cyclist failed to observe the signal and maintained his speed. Having given this signal, Sorrie withdrew his arm, concentrated his attention on making the turn, and, when nearly opposite the garage, turned his lorry across the road. By this time, the cyclist was close behind, on the point of overtaking and passing. A collision occurred and the cyclist was injured.

A prosecution followed and, after hearing evidence, the Sheriff at Aberdeen convicted Sorrie of a contravention of Section 12 of the Road Traffic Act, 1930. He appealed, but without success. Affirming the conviction, the High Court (per Lord Carmont, who delivered a judgment in which his colleagues concurred) took the view that the Sheriff was justified in his finding. The driver of a vehicle, when he intended to turn across the main stream of traffic, had, in the opinion of the Court, a duty not merely to give a signal, but to make sure that his signal had been appreciated by the driver of a following vehicle of whose presence he was aware. If he did not do so and an accident occurred, he might lay himself open to a charge of careless driving.

COMPULSORY BILLETING—FAILURE TO PROVIDE MEALS

Macmillan v. Wright : 1944, S.L.T. (Sh. Ct.) 5

Among the most important of the wartime duties of the police are those connected with the billeting of members of the forces. In carrying out these duties the police have exercised tact and discretion, smoothing out difficulties and reconciling occupiers of premises to the irksome demands made upon them. When satisfied that a civilian would have real difficulty in honouring the demands made upon him, they have frequently modified the demands or made alternative arrangements. In recent months a fresh cause of friction has appeared, viz., shortage of domestic staff. The case now reported is typical of the sort of situation which may arise, and for which the police and the military should be on the lookout.

Henry Wright, a hotel proprietor in Ayrshire, was charged, before the sheriff at Ayr, with refusing or neglecting to furnish to three airmen the accommodation demanded—lodging, attendance

and food. The billeting arrangements had been made early in 1942 and had worked without difficulty until about March 6th, 1943. For the most part the airmen had been attended to by a domestic servant who was liable for National Service, but for whom deferment had been obtained. Further deferment had been refused by the authorities, and the girl had been ordered to report on March 12th. Meantime, the proprietor's wife had obtained a medical certificate in strong terms, the effect of which was that she was unfit, without help, to attend to the airmen. Between March 6th and 17th the airmen remained at the hotel, being given lodging but no meals—although the servant did not leave until March 8th. In these circumstances the sheriff convicted Wright in respect of refusal to provide the required food and attendance on March 6th, 7th and 8th.

The following comments by the sheriff, made in course of his judgment, are instructive. "I am not prepared to accept the contention for the respondent that refusal means only refusal to furnish the whole accommodation required, and that he is entitled to succeed in respect that he was willing to furnish, and did furnish, lodging. I am equally unable to agree with the prosecution that impossibility is no defence or that the provisions of Section 106 (2) or Section 108 (3) exclude evidence showing a practical impossibility or inability to implement the billeting order. To do so would be to read the words 'refuse or neglect' as being equivalent to 'fail.' In my opinion, the offence of refusing or neglecting can only be committed by one who refuses or neglects to do what in a practical sense he is reasonably capable of doing. I am further of opinion that to refuse or neglect involves an element of conscious volition." The sheriff added that, with a little more understanding on either side, the prosecution need never have been brought.

"TO SEIZE OR NOT TO SEIZE"

Under this heading there appeared, in the issue of this JOURNAL for April 1944, a most instructive article by Sergeant Edmondson, of the Bacup Borough Police. This article was written against a background of English experience and in the light of English law and practice. For our Scottish readers the following comments may be of service :

(1) The decision of an English Divisional Court in *Elias v. Pasmore*, 1934, 2 K.B. 164, round which the article was largely written, goes further than any Scottish decision and may not be an authority upon which the Scottish police can rely. The nearest Scottish case is that of *Pringle*, 5 Macpherson (H.L.) 55. In that case the police, acting upon complaints from a local minister, who had been subjected to

threats by letter and near the window of whose manse the bush of a cartwheel had exploded, entered Pringle's premises in possession of a warrant to search for pieces of wood and pieces of a fusee. While carrying out their search the police officers discovered certain documents implicating Pringle in the charge under investigation. They took possession of these and arrested Pringle. In dealing with the police action, the Lord Chancellor said: "Now, it may be said that the constable, having a warrant to search merely for pieces of wood and pieces of a fusee, had no right whatever to go beyond that, to ransack the house, and to endeavour to find something which might implicate the pursuer in the charge which was preferred against him. But, supposing that in a search which might have been improper originally, there were matters discovered which showed complicity of the pursuer in a crime, then I think the officers, I can hardly say would have been justified, but would have been excused the result of their search." In comparing this ruling with that in the case of *Elias v. Pasmore*, one must note that the police had a warrant of search, and not merely a warrant to arrest; that the articles seized were discovered in the premises covered by that warrant; that they were evidence of the very offence under enquiry; and that they implicated the person already under suspicion and not a third party.

(2) Having made an arrest without warrant on a charge of murder, a Scottish police officer may, without warrant of any kind, search the premises at which the suspect has been living and take possession of incriminating articles related to the charge; but this may be done only if, in the judgment of the investigating officers, there is urgency and if the ends of justice might be defeated by the delay involved in procuring a warrant. (*H.M. Advocate v. McGuigan*, 1936, *J.C.* 16.) How far does this ruling go? In the opinion of the present writer, it has no application to a relatively trivial charge and none to circumstances in which there is little reason to anticipate that the delay involved in seeking out a magistrate and procuring a search warrant would result in the loss of valuable evidence. It does not justify the ransacking, without warrant, of the house of a person arrested for shoplifting on the offchance of recovering articles stolen, on some previous date, from the same or another shop.

(3) In Scotland a statutory power to declare articles forfeited (e.g. section 44 of the Summary Jurisdiction (Scotland) Act, 1908, which authorises forfeiture of instruments or other articles found in an accused's possession used or calculated to be of use in the commission of the offence) carries with it a right of seizure; but this right is confined to police officers, or other officials charged

with the execution of the particular statutory provisions, who are present at the time of the commission of the offence (or, it is thought, arrive immediately thereafter) and who, without search, see the articles. The best authority on this point is *Mauchline v. Stevenson*, 1878, 4 *Couper*, 20, in which a water bailiff was held entitled to seize salmon roe used illegally by a fisherman which, on his arrival, he saw in a bag suspended from the offender's person. Although the Gaming Machines (Scotland) Act, 1917, contains no express power of seizure, constables arriving immediately after the commission of an offence against the Act would be well within their powers in seizing a machine, used in the commission of the offence, which they found lying openly on a shop counter. If, however, the police enquiry was not made until next day, or if, arriving some little time after the offence, the officers could see no sign of the machine (which meantime might have been locked away in a cupboard by the shopkeeper), it would be safer to apply for a warrant.

(4) The writer knows of no Scottish authority to justify the assertion made by Sergeant Edmondson (p. 138 of the previous issue) that, in the event of the refusal of a third party to produce a document held by him, such refusal being grounded upon privilege, secondary evidence would be admissible.

INTERROGATION BY THE POLICE

H.M. Advocate v. Parker, 1944, *S.L.T.* 195

In December last, Harry Parker was charged with murder before Lord Moncrieff and a jury. In course of the trial, Frederick Parker, an older brother of the accused, was tendered as a Crown witness. The sole purpose of examining him would appear to have been to prove certain statements made to him by the accused while in prison after arrest. Objection was taken to the leading of this evidence, on the ground that the occasion was privileged and that statements made by an accused in prison to his older brother should be regarded as confidential. The objection was repelled.

From the police point of view, the significance of this case lies in the comments made by Lord Moncrieff in disposing of the objections. The following excerpts from his judgment may prove of service to police officers in Scotland.

"While the accused was in prison awaiting his trial, he was visited from time to time by his elder brother. On one occasion he made certain statements to his elder brother which seemed to the brother to raise a matter of anxiety as to what his own conduct with reference to them should be. He, accordingly, disclosed these statements to the major in command of the unit at the camp where

he was stationed; the major, using a discretion with which he was fully vested, passed on the information to the police; and the police then called the elder brother before them and asked him what statement the accused had made to him in prison. With a very natural and human reluctance as a brother, the witness demurred to answer that question and said he would prefer before answering it to be advised by a solicitor. Had he himself been accused of crime, that would have been his unanswerable right; and I think that it might have been more prudent had that application been regarded by the police as one which, in the circumstances in which it was made, it was both expedient and proper to grant. The presence of a solicitor would have given confidence to the witness and need not have embarrassed the police. The superintendent, however, instead of encouraging the witness to maintain his request for advice, said to him, 'Well, if you have anything to say you had better tell me,' or used words to that effect. While he gave counsel to that effect, he did not, however, use any inducement or offer any threat; yet the witness (a young lad who is, moreover, as a Canadian soldier, not familiar with our procedure) may well have thought that he had no option in answer to that application but to disclose the statements which the brother had made, without the support of the advice for which he had applied. . . . Had the police questions been addressed to someone who had been charged with crime, I do not doubt that, had such a person even been urged to answer before he had obtained legal advice (more especially after this had been applied for), the evidence would have fallen to be excluded, because there is in all cases a strictly limited right to put in evidence information which has been obtained by the police from the accused after he has been charged with a crime or after he has been arrested. In the case of one who is questioned merely as a witness, on the other hand, had such a police enquiry not taken place at all, and the question been addressed for the first time by counsel for the Crown to the witness when he appeared in the box, no general rule is applicable and the presiding judge must in each particular case consider in substance whether the witness has any right to refuse to reply. That is the only question which now falls to be determined, and I fail to see how the answer to that single question can be affected by anything which took place in the enquiry by the police. . . . Had the witness been the solicitor of the accused, his right to refuse a reply would have been unanswerable under the well-established doctrine of the confidentiality of the relationship between solicitor and client relative to the affairs which are to be put in issue at a trial. Again, had the witness been related by marriage

to the accused, then, as a single exception, so far as I know, in the whole of the range of blood relationship or relationship by affinity, the husband or wife, in like manner, would have been entitled to plead confidentiality and might indeed have been excluded from giving the answer. Except, however, in these two cases, I know of no relation in which those who become aware of circumstances relevant to the investigation of a crime can claim to be protected from giving evidence under any doctrine of confidentiality. It is part of the public duty of citizens to facilitate the work of the police, and I think in most cases, if not in every case, in the absence of undue inducement or threat to disclose what has come to their knowledge which may be relevant towards enquiry into a crime." The brother's evidence was admitted.

The following comments may be made: (1) When Lord Moncrieff uses the phrase "related by marriage to the accused" he obviously means "married to the accused." (2) In reading the opinion, it must be realised clearly that there was at no time any suggestion of tendering as a witness the police officer to whom the brother disclosed his information. (3) Generally, police officers have not merely a right, they have a strong duty, to ask questions. Faced by circumstances pointing to the commission of a crime or offence, a police officer is well within his rights in approaching a member of the public and interrogating him in a fair manner. "If policemen were not entitled to make enquiries when they believe a crime has been committed, the due discharge of their duties would be seriously hampered" (*Costello v. Macpherson*, 1922, *J.C.* 9). But, apart from such statutory exceptions as are found in the Official Secrets Act, 1920, section 6, and the Road Traffic Act, 1930, section 113, the person interrogated need not answer. (In Scotland, however, as distinct from England, the criminal authorities may insist on an answer. They may cite the witness for 'precognition' by a public prosecutor and failure to attend or, having attended, to speak out may involve a penalty.) It is because, in normal circumstances, a person interrogated by the police has a right to refuse information that he has also a right to adject conditions to his answering. He may say, "I refuse to answer," and equally he may say, "I am prepared to give you a statement, but only in the presence of a solicitor."

Lord Moncrieff's opinion is not, in the writer's view, to be taken as suggesting any general duty, on the part of investigating officers, to suspend their enquiries until the person to be questioned has the moral support of a law agent's presence. On the other hand, it is good practice, where circumstances allow, to take statements from very young children in presence of a parent or guardian.

THE BACKING OF WARRANTS

A warrant to arrest granted by a sheriff, justice or magistrate in Scotland has, without the further step of backing (indorsation), no effect beyond the bounds of the sheriff, justice or magistrate signing the warrant. This is the general rule; but, in modern practice, it has been so whittled down that (when the warrant is to be executed within Scotland) the backing of a warrant is practically unknown. No backing is required, within Scotland, for a warrant of the High Court of Justiciary, for the warrant of a court of summary jurisdiction, or for the warrant of a sheriff issued against a person charged with a crime to be tried upon indictment—provided that, in the last of these cases, the warrant is to be executed by a messenger-at-arms or an officer of the court of the sheriff granting the warrant. In practice, the proviso is usually ignored and the arrest made without the formality of indorsation.

Where, on the other hand, a warrant has been issued by a Scottish criminal court for the arrest of a named individual and that individual is located in England (and equally in the converse situation), backing is always essential. How is it effected? Strictly, no doubt, a fully-backed warrant ought to be in the possession of the English police before an arrest is made; but, in practice, a wanted person is normally taken into custody by the police in the locality in which he is found on information of the existence of a warrant from the police of the jurisdiction in which the warrant has been issued. In the subsequent procedure, two alternative courses are followed, the procedure varying in different districts.

(1) A common procedure is that the officer who intends to go to England for the prisoner attends with his warrant before the court from which the warrant emanates and there makes (before a sheriff, justice or magistrate, as the case may be) a declaration of handwriting in statutory form. This done, he goes to England with the warrant and declaration in his possession. On his arrival at the police station at which the wanted man is detained, he presents these documents. The documents are presented, by a local officer, to a justice, by whom the warrant is indorsed and the prisoner is handed over to the Scottish escort.

(2) In other districts, the Scottish officer takes with him the warrant only. On arrival, he himself goes before a justice and there deposes on oath to the handwriting of the sheriff, justice or magistrate by whom the warrant is granted. The warrant is indorsed, the documents presented to the officer in charge of the station at which the prisoner is detained, and the prisoner is handed over for removal to Scotland.

In the opinion of the present writer there is little to choose between these two courses. Both observe the essentials. In neither case is the prisoner surrendered by the English force without the presentation to them of an indorsed warrant—and that is all that matters. Whether the declaration of handwriting is completed in Scotland or in England is quite immaterial.

A Case of Safe Breaking

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THIS case illustrates the value of precise examination, as a result of which the guiltiness of two men was proved beyond reasonable doubt. The points of the case are discussed as they came to hand.

Soon after 9 p.m. on Saturday night, August 21st, the Police were informed that an electrician's shop in North Charlotte Street, Edinburgh, had been broken into. The occupier had closed the shop at 1 p.m. and had returned to the premises for a few minutes at 5 p.m. He returned again at 9 p.m. and found the shop had been broken into. The premises had been entered by inserting a jemmy or other similar tapering instrument between the door and the doorpost opposite the yale lock and large lock, and then forcing the door open with pressure, which had forced off the bosshead of the yale lock. A cash register in a small office in the front of the shop had been opened; and a safe which had been standing on a wooden platform in the back room was found face downwards on the floor (Photograph 1). The back of the safe had been torn partially off, and the packing was lying about the floor. The inner lining had been prized up in a similar fashion, and the drawers were lying on the floor amongst the packing. Money missing from the safe consisted of several one pound and ten shilling notes. Lying amongst the packing there was a hammer, a drill, a lathe tool and a gauge, the wooden handle of which had been split. These instruments were the property of the shop, and had been kept in a wooden tool-box which was found lying on the safe. Examination for fingerprints showed impressions of woollen gloves on the safe and other articles.

From the method used it appeared to the Police that the job may have been done by two local men, Patrick Lamond, a sailor, and Terence McGuire, a soldier. Both these men had police records, and Lamond had previously been sentenced for safe breaking. It was

known that at this time Lamond was in town and was an absentee from his ship, and the two men had been seen together two days previously. The following morning, Sunday, August 22nd, a visit was made to Lamond's house in Jamaica Street, where Lamond and McGuire were found. They were arrested as deserters and a search of the house was made. A jemmy was found hidden under the mattress on the kitchen bed, while a roll of one pound and ten shilling notes was found behind the wireless in the same room. At this time both men denied all knowledge of the safe breaking.

During the enquiry it was learned by the occupier of the shop that two of his friends had passed the shop at about 5.50 p.m. on Saturday, August 21st, and had seen a soldier, a sailor and a civilian standing outside the door. A soldier and a sailor had been seen also by a woman employed in premises adjoining. In an identification parade later, Lamond and McGuire were identified by these three witnesses.

The clothing and shoes were taken from Lamond and McGuire soon after their arrest, and three sixpenny National Savings Stamps were found in Lamond's hat.

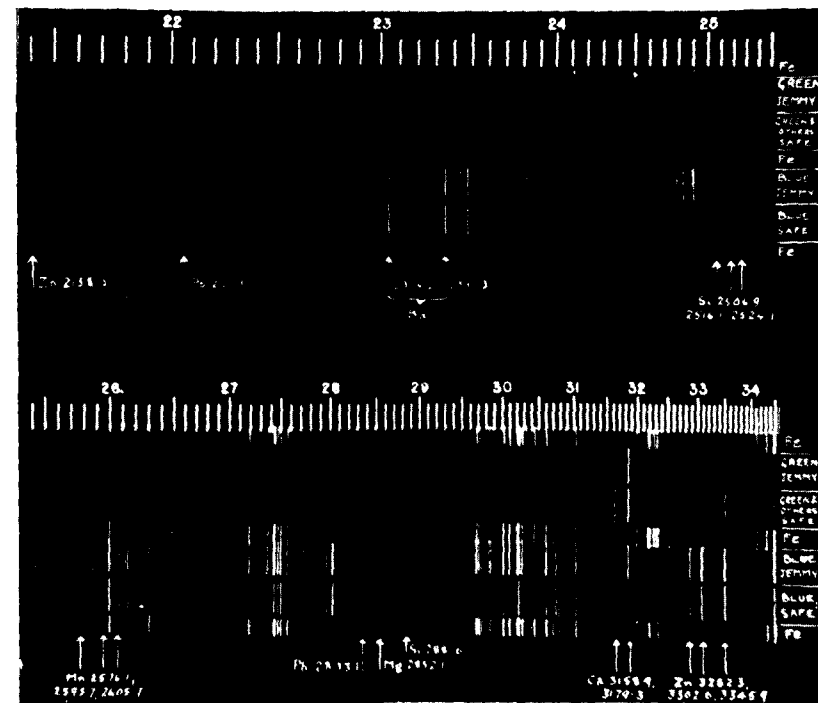
On Monday, August 23rd, it was reported to the Police that during the week-end the premises of a Business College in Hanover Street had been entered, and also that an attempt had been made to enter an antique shop in Queen Street. Entry to the premises in Hanover Street had been effected in a similar manner as in North Charlotte Street by inserting a jemmy and forcing back the bosshead of the yale lock. A locked desk and cash box in these premises had been forced open and £2 1s. 3d. and three sixpenny National Savings Stamps had been stolen. It will be recalled that three similar stamps were found in Lamond's hat. The cash box was examined for fingerprints, and woollen glove impressions were found similar to those found on the articles from the shop in North Charlotte Street. The attempt to enter the antique shop in Queen Street was made in a similar manner to the entry into the other two premises.

Lamond and McGuire were accused of entering the premises in North Charlotte Street and in Hanover Street and of attempting to enter the premises in Queen Street.

From an examination of all the articles involved, the following information was gained. The jemmy (Photograph 2) found in Lamond's house was in fact a tyre lever, 16½ ins. long, and the shaft was ¾ in. in diameter. At one end it was curved and had a special lip for gripping the beading of tyres. The other end tapered for 3½ ins., the edge being approximately 7/16 in. broad. One corner



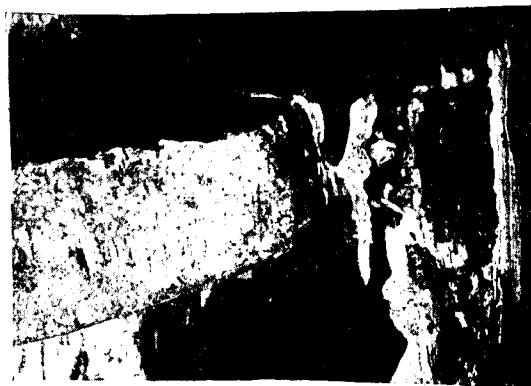
PHOTOGRAPH NO. 1



PHOTOGRAPH No. 4



3 C



3 B



3 A

PHOTOGRAPH No. 2

of the edge was slightly rounded, and there was a small portion missing from the other corner. The edge of the tyre lever fitted precisely the jemmy marks in the woodwork about the locks of the doors of all three premises (Photographs 3 (a), (b), (c)). On one flat surface of the pointed end of the tyre lever there was a considerable quantity of light blue paint similar in colour to the drawers and the inside surface of the safe. Samples of this paint from the tyre lever and from the drawers were submitted to spectroscopic analysis, and they were found to be both of the cellulose lacquer type and both contained precisely the same elements in similar quantities. There was a small amount of dark green paint on the shaft of the tyre lever. The paint on the outside surface of the safe was in three layers—the outer layer was dark green similar to that on the tyre lever. These three layers could not be separated, but the two samples were submitted for spectroscopic analysis and the same elements were present in both, though in differing amounts. Thus the composition of these two samples was entirely consistent with the dark green sample from the tyre lever being derived from the dark green layer from the safe (Photograph 4). In addition to the paint, some pale blue fibres adherent to the shaft of the tyre lever were found to be precisely similar to fibres removed from the damaged inner lining of the safe.

The safe was so constructed that the back, which was riveted, could not be 'sprung' before the metal plates constituting the sides had been partially reflected. This had been done and the side and top had been reflected and torn in two places, and a jemmy or similar instrument forced under the back and the rivets 'sprung' (Photograph 1). The packing had thus been exposed and some of it cleared before the inner lining could be reflected and the drawers removed. Fibres were removed from the free edge of the inner lining. Some were dark blue wool precisely similar in colour and appearance to fibres from the naval uniform worn by Patrick Lamond. Others, occurring in groups, consisted of brown, yellow and colourless wool, precisely similar in colour and appearance to the brown, yellow and colourless wool constituting the army uniform worn by Terence McGuire.

The shoes of both men were examined and the soles and heels showed the presence of metal filings. These were of iron, copper and brass. The iron fragments were bigger than the copper and brass fragments and had been worn smooth. Sweepings from the floor of the premises in North Charlotte Street showed the presence of copper and brass filings similar in appearance to those removed from both pairs of shoes. There were numerous transverse lines

indentations across the instep of each of the four shoes. On the instep of Lamond's left shoe there was a number of scratch marks, in one of which there was some blue paint similar in colour to the blue paint from the drawers and inside surface of the safe. Similar coloured blue paint was found on Lamond's left heel and on the sole and instep of McGuire's left shoe. In addition, some sawdust removed from the welt of McGuire's left shoe was precisely similar to the sawdust constituting the safe packing.

From the examination there was little doubt that these two men had forced entry to all three premises by using the tyre lever, which had been used also to open the back of the safe.

It will be observed that in addition to the same method of entry being used in each case, the three premises were all in the same district and were entered between 12.15 a.m. on the 21st and 7.45 p.m. on August 22nd, 1943.

Lamond and McGuire both pleaded guilty and were sentenced to four months' imprisonment.

I am indebted to Dr. J. Davidson, Director of the Metropolitan Police Laboratory, Hendon, for carrying out the spectroscopic analysis; and to the members of the Fingerprint and Photographic Department of the Edinburgh C.I.D. for their co-operation.

A Review of the Tests for Drunkenness at Present in Use

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INTRODUCTION

"CONSUMPTION of intoxicating liquor and efforts to control C anti-social results are well-nigh universal phenomena. From the laws of the ancient Hebrews and the discourses of the Greek philosophers to the Anglo-Saxon dooms, and down to the present time, control of the harmful social effects of drunkenness has been a matter of public concern." (Hall, 1941.)

The importance of alcoholic intoxication to all members of the community has been greatly enhanced by the invention of the internal combustion engine, the mass production of relatively inexpensive motor-cars, and the consequent increase in the numbers of vehicles on the roads. Until the advent of the motor-car age the intoxicated

individual was more of a danger to himself than to others and consequently no drastic measures were called for to safeguard members of the public. According to the Licensing Act, 1872, s. 12, the penalty for being drunk while in charge on any highway or other public place, of any carriage, horse, cattle or steam engine, is a fine not exceeding 40s. or imprisonment with or without hard labour for not exceeding one month.

A mechanically propelled vehicle capable of relative high speeds can, in irresponsible hands, become a lethal weapon of great potentialities, and the law has now very wisely made provision for the severe punishment of anyone who jeopardises public safety by being in charge of such a vehicle while suffering from alcoholic intoxication.

When being "drunk in charge of a car" became a relatively serious offence it became customary to have expert medical evidence on one or both sides. The principal purpose of a medical examination in such cases is to eliminate illness as a cause of the accused's apparent drunkenness, and there is no doubt that this is valuable. After some experience of this type of work I realised that the verdict given by the medical practitioner concerned is entirely a matter of opinion, based on his own observations of a series of clinical tests, and perhaps unconsciously coloured by his views on alcohol in general. It is highly unsatisfactory when two doctors examine the same individual, at the same time, and form divergent opinions as to his fitness to drive. This leads a bench of magistrates to lose faith in expert evidence, and it would be a great advantage if some completely accurate mechanical measurement of drunkenness could be elaborated which would be an adjunct to the clinical examination.

REVIEW OF THE TESTS

Up to 1927 there was no uniformity throughout the country in tests for drunkenness, each individual examiner utilising those for which he had a personal preference. In order to try to clarify the position and to establish uniformity the Council of the British Medical Association, on October 21st, 1925, appointed a committee with the following terms of reference:—

"To consider and report on the present tests for 'drunkenness' with recommendations as to their modification or improvement."

The Committee reviewed the tests in use at home and abroad at that time, and in their report (1927) recommended a selection of tests to be employed in this type of work.

One very important contribution made by the Committee was the formulation of a definition of the word 'drunk.' There is no

statutory definition of this state, and it was desirable that the public, and particularly magistrates and solicitors, should have some authoritative definition which would meet modern requirements.

The interpretation of the expression 'drunk' by the bench trying a case, if that word is introduced in the evidence, may affect their decision very materially. It is expected by some that only if the accused is helplessly intoxicated will a conviction be recorded. This view may have been satisfactory towards the end of last century, but it must be realised that relatively small amounts of alcohol may seriously affect the efficiency of the driver of a motor-car and, therefore, he need not be grossly under the influence of alcohol to become a danger to his fellow road-users.

The Committee lays stress on the fact that "there is no single test which taken by itself would justify a medical practitioner in deciding that the amount of alcohol consumed had caused a person to lose control of his faculties to such an extent as to render him unable to execute safely the occupation on which he was engaged at the material time." They furthermore emphasise that "there is no single symptom due to the consumption of alcoholic liquor which may not also be a sign of some other pathological condition."

The Committee recommended a number of tests for general use. These tests are numerous and this very fact indicates the present unsatisfactory state of affairs. In addition they are subject, in actual practice, to individual interpretation, and a person's unfitness to drive is not at the moment capable of any sort of scientific proof. Defending solicitors are able to make considerable capital of this fact, and often a skilfully executed defence may extricate the accused, when, in fact, it appeared he should have been convicted.

From the point of view of the medical witness these cases are most unsatisfactory as he has nothing beyond a more or less vague expression of opinion that he can offer to guide the court.

Some workers are so dissatisfied with the recommended tests that they advocate dropping them altogether. After over 25 years' experience as a Divisional Surgeon of the Metropolitan Police, Fairlie (1937) holds that in many instances the tests are either unfair to the person tested or prove nothing. He maintains that "many persons say and do things perfectly well in the ordinary courses of life, but, when suddenly called upon to do them, especially if they know they are being observed, their performance may be very faulty. On the other hand, many drunken persons are able to perform extraordinary acts successfully, particularly if they are accustomed to similar actions in everyday life. The fact that they are able to carry out these particular acts creditably is no proof of sobriety."

A REVIEW OF THE TESTS FOR DRUNKENNESS 191

Fairlie recommends that merely an ordinary routine medical examination should be conducted. If the examination is exhaustive, and includes a careful clinical examination of the central nervous system, this will meet the case, because in the course of it the accused's powers of co-ordination will be estimated and most of the tests to which Fairlie objects are pointed specifically in that direction. One objection to this suggestion is that the result depends entirely on the thoroughness of the examination, and a perfunctory examination of the pupils, heart, and lungs, is of no value. Unless some definite routine is laid down in which students can be instructed, no uniformity will be achieved, and a practitioner unaccustomed to this type of work will find himself at a loss when confronted with a case.

In my opinion, one of the most valuable tests is an enquiry into the memory of the subject for incidents within the few hours previous to the examination, and his estimation of the passage of time. All normal persons should be able to give an account of the happenings of the preceding three or four hours in a sensible and satisfactory manner, and this most alcoholics fail to do.

I use one test which is not recommended by the British Medical Association Committee. This consists of asking the subject to copy simple diagrams on squared paper. This test can be satisfactorily passed by a child of eight or ten years and I find it valuable for two reasons. In the first place it requires no particular skill or educational attainments, and can be applied to the relatively illiterate, and, in the second place, it provides one piece of concrete evidence which can be placed before the court and on which it can draw its own conclusions.

During the last quarter of a century an enormous amount of experimental work has been done on the question of the metabolism of alcohol, particularly in Sweden, Denmark, Germany and America.

Miles (1924) gave a number of men of different body weights the same dose of alcohol. The one with the highest urinary alcohol showed the greatest clinical manifestations and he concluded that there is a relationship between the alcohol effect, urinary concentration, and body weight. The man with the lowest body weight showed the greatest alcohol effect and the highest urinary concentration. This however, did not apply in the whole series of cases, so that probably there is some other factor such as the differences in individual absorptive powers. Body weight and tolerance, both inherent and acquired, are undoubtedly factors of importance.

Miles found that the toxic symptoms and the urinary concentration do not run absolutely parallel. There is a proportionate rise in both; but towards the end of the period, and in fact during most

of the down-gradient, the decrease in toxic symptoms exceeds the fall in the urinary alcohol, *i.e.*, there is a sudden diminution of intoxication. This corresponds to Mellanby's findings (1919). He draws the conclusion that descent of the alcohol curve not only means improvement but "the improvement may be so pronounced that a man may apparently be more sober than on occasions when less alcohol is present in the blood." The explanation of this probably lies in the fact that the intensity of the stimulus given to the central nervous system governs the degree of the response. Once the nervous system has become stabilised the disturbing element is not nearly so potent in its effect. Mellanby also confirms the influence of body weight on the blood alcohol concentration. He found that if a dog varies in weight, then, if it receives the same volume of alcohol on different occasions, the amount in unit volume of blood is inversely proportional to its body weight.

Blood alcohol tests have been used as a routine for several years in cases of traffic accidents in different countries. This has resulted in a mass of data being available relating the results of such tests with the clinical diagnosis regarding the presence or absence of intoxication in persons involved in road accidents. The published findings for different countries are on the whole in striking agreement. A very useful summary of recent work is embodied in the Report of the Medical Research Council (1938). According to this publication "an analysis of 3,000 cases by Hansen of Oslo (1938) showed that 1,126 of these had a blood alcohol concentration between 0.15 and 0.2 per cent. This is in accordance with the opinion expressed in Germany by Strohmayer (1937) that the blood alcohol concentration most conducive to accidents is about 0.18 per cent. Clinical examination of Hansen's cases showed that 41 per cent. of the subjects with a blood alcohol concentration of 0.10 per cent. and 91 per cent. of those with a concentration of 0.2 per cent. were affected by alcohol. These proportions agree closely with similar figures published previously by Widmark (1932) and Jungmichel (1935). Psychological tests on the competence of motor drivers after taking alcohol indicate, however, that driving may be affected by concentrations of alcohol smaller than those needed to affect the behaviour in ordinary clinical tests. Sachsenberg (1938) reported that about half the subjects of his experiments were incapacitated for safe driving by a blood alcohol concentration of 0.05 per cent., and that none of those tested was capable of driving safely with a blood alcohol concentration exceeding 0.14 per cent. Strohmayer (1937) made a careful analysis of 106 accidents and concluded that in concentrations in the blood of less than 0.11 per cent. alcohol could rarely be blamed for the accident,

and that this was true of some cases where the alcohol content was as high as 0.14 per cent. He suggested that 0.18 per cent. was a particularly dangerous concentration since the driver might not be obviously drunk but was very likely to do the wrong thing in the event of an emergency; for example he noted that the accident histories showed that drivers in this condition nearly always swerved instead of applying the brakes. He concluded that clinical examination was not really reliable because it estimated the outward appearance of a person and did not determine his capacity to manage a motor in traffic emergencies. Huber (1938), as a result of the analysis of 500 cases, came to a similar conclusion.

These writers therefore claim that the ordinary clinical tests for alcoholism are unsatisfactory in that they do not detect derangements of function that are sufficient to be a contributory or even the major cause of traffic accidents. According to this view 10 per cent. of persons with 0.2 per cent. of alcohol in the blood who were found unaffected by alcohol on clinical examination, although not affected sufficiently to change their ordinary behaviour, were nevertheless likely to be dangerous in traffic emergencies. Sachsenberg's results indicate that anyone with a blood alcohol concentration of 0.14 per cent. or more is affected by alcohol, and in the United States a similar definite limit (1.5 per mille) has been accepted by a committee of the National Safety Council. This simple rule expresses a strong probability, but it can be criticised on scientific grounds in that it takes little account of individual variation in response which has been found in all cases when the actions of drugs have been accurately studied on large populations. Alcohol does not constitute an exception to the general rule. This variation can easily be demonstrated in populations of mice, and Newman and Card (1937) showed that different dogs may exhibit a widely varying degree of drunkenness at the same blood alcohol level. They also showed that habituation to alcohol raised the alcohol level at which drunkenness appeared. A comparison of the results of the blood alcohol tests and clinical examination suggests an individual variation in the case of alcohol at least as great as that found with most drugs whose action on large populations has been studied. There is general agreement that there is a variation in the effect of small doses of alcohol and that some persons with a blood alcohol concentration below 0.1 per cent. may be dangerously under the influence of alcohol. If this be admitted then it follows either that alcohol is an exception to all the known laws of variation, or else that variation occurs in the other direction also. This criticism implies that the rule holding good for the average individual may be subject to occasional exceptions. As regards the

average individual, however, all the available evidence supports the view that blood-alcohol estimations correctly indicate the extent to which he is under the influence of alcohol.

Any form of alcoholic liquor can cause drunkenness if such a quantity of it is taken at once or within a short time as will lead to the presence of the drug in the blood above a certain proportion, which, in the case of the average healthy adult, may be put provisionally at from 0.15 to 0.20 per cent."

Newman and Fletcher (1940) while admitting that there is a high correlation between alcohol concentration and intoxication in any large series of cases, emphasise the unfairness of setting a theoretical blood alcohol level above which unfitness to drive can be presumed, because of the factor of individual variation. In those States in America where the level of 150 m.g. per 100 cc. of blood is accepted as the critical level on the recommendation of the National Safety Council, this fact is lost sight of. In order that a man may be convicted of drunken driving because his blood alcohol concentration is over 150 m.g. per 100 cc. it is essential that this blood alcohol concentration be shown to produce legal intoxication not in a majority of individuals but in every individual. Failing this it is inevitable that certain convictions will be unfairly obtained.

Bogen (1927) found a high degree of correlation between the breath and urinary alcohol concentrations and the degree of clinical intoxication. According to his figures with alcohol concentrations below 100 m.g. per 100 cc. none was adjudged intoxicated, with 100 to 200 m.g., 50 per cent. were intoxicated, with 200 to 300 m.g., 75 per cent. were intoxicated and with 400 m.g. and over, almost all were intoxicated. From this he concludes that tissue alcohol concentration is the best criterion of drunkenness. Yet the variation in tolerance to alcohol is apparent from his own figures, which show that at alcohol concentrations of from 100 to 200 m.g. per 100 cc. half the individuals were intoxicated while some few were not so diagnosed with over twice this concentration, and if we were to subscribe to the limit of 150 m.g. per 100 cc. laid down by law in certain American States at least 25 per cent. of the accused persons would have been wrongly convicted of drunkenness on the basis of tissue alcohol concentration.

Jetter (1938) obtained similar results in a large series of cases. Considering only his extreme readings he found 10 per cent. intoxicated at a blood alcohol level of 50 m.g. per 100 cc. and 93.3 per cent. at 400 m.g. per 100 cc. Thus an occasional individual was not considered intoxicated at a blood alcohol concentration eight times as high as that at which 10 per cent. were judged intoxicated.

Smith and Stewart (1932) are more conservative, considering the test of value in determining how much alcohol has been ingested but not in the diagnosis of the degree of intoxication.

Chemical tests for drunkenness may be based on the blood alcohol concentration, the urinary alcohol, or on the alcohol in the expired air. In the opinion of Smith and Glaister (1939) "it seems likely, on the whole, that urine contains alcohol in concentration about equal to that of the blood at the moment the urine is secreted. During the post-absorptive period, the blood alcohol concentration is steadily falling. Hence, of the urine which has accumulated in the bladder and is passed at a certain time, most has been secreted at a time when the blood alcohol was higher than at the time the urine is passed. The urine alcohol, in fact, represents the average concentration in the blood during the whole time the urine has been accumulating. Consequently, if samples of blood and urine are obtained simultaneously, the latter usually contains the higher concentration of alcohol. This is particularly true of urine secreted entirely during the post-absorptive period. Since the time during which the blood alcohol rises is relatively short, it still holds, though in lesser degree perhaps, for urine secreted over the whole period of two or three hours subsequent to ingestion. A figure fairly generally accepted for the (average) ratio of urine alcohol to blood alcohol is 1.35 to 1.00, but we believe this figure to be subject to considerable variation according, *inter alia*, to the time of collection of the urine. In the expired air, the concentration of alcohol appears to be approximately a tenth of the concentration in the blood, but though this is capable of affording a rough guide to the amount of alcohol in the body, it does not permit calculation with the accuracy obtainable from blood analysis."

When an estimation of the blood alcohol concentration is carried out the blood tested is venous blood. It may well be that the concentration of the alcohol in the urine, at the time it is secreted, approximates more closely to the alcoholic concentration in the arterial blood.

From this review it is quite obvious that while statistically there is a close correlation between the concentration of alcohol in the tissues and the clinical condition, the fact of individual susceptibility is so serious that it is highly improper to establish a fixed level of blood or urinary alcohol above which an individual is to be judged unfit to drive. The figures quoted above indicate clearly that this would lead to serious miscarriages of justice in both directions. It is a mistake to carry over the apparent tendency of individuals with the highest blood alcohol concentrations to exhibit the greatest loss

of skill, into the arbitrary setting up of a fixed blood alcohol concentration, at which a majority of persons are intoxicated, to apply to all individuals equally. If any blood alcohol concentration is to be accepted as absolute proof of intoxication in the legal sense, it is essential that it be one at which experience has shown that no man, regardless of his inherent or acquired tolerance, would be adjudged clinically fit to drive a car. Such a figure would have to be so high that many grossly intoxicated individuals would escape detection if the chemical tests alone were used.

The present position seems to be that chemical tests for tissue alcohol are of value only as an indication of alcohol intake with the possibility of estimating the amount consumed.

The only conclusion which can be reached is that the present position is highly unsatisfactory from the point of view of all concerned. However, in the absence of any improved technique, the best possible use has to be made of the accepted methods at present available.

It cannot be too strongly emphasised that the examiner's opinion must be based on the results of all his observations both clinical and chemical, and that isolated tests are of no value. Chemical tests can no more be considered alone than any of the clinical tests recommended by the British Medical Association Committee on Tests for Drunkenness, and the results of any analysis made must be assessed in conjunction with the clinical condition. In view of the fact that an opinion must be based on the consideration of a mass of data any additional fact which can be added to the sum total of evidence is of importance.

Even though it may be possible, at some future date, to establish a scientific test for fitness to drive which is acceptable to the courts, illness or injury as the complete, or partial, explanation of the accused's condition will always have to be eliminated by clinical examination.

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Co-operation

BY DETECTIVE CHIEF INSPECTOR T. RUSHWORTH
Bradford City Police

- (a) *Between the C.I.D. and other branches of the Force.*
- (b) *Between the Police and the public.*
- (c) *Between adjoining Forces.*

CO-OPERATION is the working or acting together for a common end. To make co-operation effective it is necessary to create mutual interest in the matter which is to benefit by the co-operation.

The common end to be achieved by the three sub-headings of this article is the efficiency of the Police Service and its usefulness to the general public.

To deal with the sub-headings as they appear, there is little doubt that the first is the most important, as the other two cannot function properly if the first does not exist.

After the protection of life and property, the basic function of the Police Force is the prevention and detection of crime. It is well known that since this definition of police duties was first declared, the innumerable statutes, regulations and orders which have been made have, in effect, made the detection of crime a matter to be dealt with almost exclusively by the C.I.D., the ordinary beat constable being fully employed with non-criminal matters. This tends to make co-operation much more difficult, because, whilst the common end (*i.e.*, the efficiency of the Police Service) remains, the matters which would appear to make for that efficiency are different.

The C.I.D. man is concerned solely with the prevention and detection of crime, whilst the other departments of the Police Force are weighed down by the burden of the innumerable statutes, regulations and orders dealing with non-criminal matters.

Whilst there is little that the C.I.D. man can do to assist in the

burden mentioned, it is common knowledge that any policeman who is worth his salt is eager to assist in detecting crime. It therefore seems that co-operation between the C.I.D. and other branches of the Force must be a one-sided affair with the C.I.D. reaping all the benefit.

On the face of it that may be the case; but in fact the benefit is mutual, because work in connection with the detection of crime gives a police officer a wider scope for the use of discretion than when dealing with non-criminal matters, and helps to develop self-confidence to a higher degree.

Accepting the foregoing as fact, it would appear to follow that the responsibility for inviting and developing co-operation must rest with the members of the C.I.D., who must at all times show that they are willing and anxious to give to members of the other branches any information which will be of use to them and to assist them at all times when it lies within their power to do so, and particularly when they are dealing with any matter which is peculiar to the C.I.D.

But in the first place, the C.I.D. man must create an atmosphere of mutual trust. For some reason, which perhaps has its origin in the "good old days," the C.I.D. man is regarded as a snob. Where this feeling does exist, the only person who can effect a cure is the C.I.D. man himself, who must prove by his conduct and intercourse with the other branches of the Service that he is not a snob and is fully aware of the fact that he is a policeman the same as they are. Having created that atmosphere, there is little doubt that the other branches will be eager to co-operate at every invitation.

Whilst the allegation of snobbery is an obstacle to successful co-operation, perhaps a bigger obstacle is the lack of knowledge by members of the other branches of the Police Force of the workings of the C.I.D. This lack of knowledge is not confined to the junior ranks of the other branches, and it causes numerous misunderstandings which militate against successful co-operation. This could be overcome if something like the following could be adopted:—

- (i) All recruits to the Police Force to spend a portion of their training period in the C.I.D., and be shown as much as possible of the work done.
- (ii) All constables who pass the examination for promotion to be attached to the C.I.D. for a period of six months.
- (iii) All sergeants who become eligible for promotion to have a further course of six months and spend a good portion of this time examining reports and depositions and being shown the work of supervision generally.

If a scheme of this kind were adopted, promotions between the branches could be considered with a mutual benefit to all.

All possible information regarding crimes committed should be given to the members of the Uniform Patrol Branch. This can be done by publishing Crime Information Sheets and supplemented by talks to men when they congregate at drill or when they parade at police stations. Loose leaf albums containing photographs and all known information, on one page, of persons wanted and suspected can be used as a method of developing and maintaining interest in criminal matters. An album could be deposited at various places, such as police stations, to be available for all ranks to examine, the leaves being changed from Headquarters as required. These pages should be clearly marked "WANTED" or "SUSPECTED" as the case may be, to avoid confusion. If this is done it is bound to stimulate interest in all but the absolute slacker.

All this would appear to bear out what was said earlier, that the C.I.D. would reap all the benefit from the co-operation: but once the atmosphere of mutual trust was established on the lines indicated, there would be no limit to the assistance which all the branches could give to each other.

CO-OPERATION BETWEEN POLICE AND PUBLIC

The second sub-heading has something in common with the first in the matter of atmosphere. The majority of the general public are anxious to avoid contact with the police, because the word "police" conveys to them some kind of trouble. Many of them have good reason for thinking so, having been prosecuted for some offence, whilst many others have that opinion owing to some contact which they have had with the police in which they have not received the courteous and considerate treatment which they have a right to expect from public servants. On the other hand there are many members of the public who have received courteous and considerate treatment from police officers, and they have shown their appreciation whenever possible.

It is pretty obvious that, in addition to educating the public to make more use of the Police Service and thereby obtain their co-operation, something must be done to ensure that all members of the public, irrespective of station in life, are treated in a civil and courteous manner whenever they seek the assistance of the police. Much could be done to attain this if the common term "not a police matter" was abolished.

People come to the police for advice because they do not know of any other place to go, and if they are merely given the phrase quoted

above—and they frequently are, with an air of finality which leaves no room for argument—their opinion of the usefulness of the Police Force as a public servant will not be improved.

In practically all cases where an enquiry is made, either at a police station or from a constable on the beat, it should be possible, even if it is not a police matter, to give some useful information, or tell where such information can be obtained, or in any case to deal with the enquiry in such a way as to give the impression that there was a real desire to be of assistance.

The police officer must remember that he is a public servant and act accordingly. If he does not favour that view, let him look at the matter from a commercial aspect where the success of his business depends on satisfied customers.

In his dealings with the public, the police officer must not have too much regard for personal inconvenience, as occasions will arise where he must suppress personal feelings. A member of the public who has the misfortune to commit some minor offence is thereafter a friend or an enemy of the police according to the treatment he receives. He may at the time lose his temper and make himself a nuisance, and it may seem to be a natural thing for the police officer to retaliate either by word or deed, and derive a feeling of personal satisfaction at the time; but in the long run the Police Service will suffer because that member of the public will have a grievance and will tell others of his experience.

It is therefore the duty of police officers not to allow personal feelings to prevail on such occasions, and to accept any personal inconvenience or indignities as part of their duty.

The co-operation of the public is essential when dealing with crowds of people. When the crowd is collected for some procession or other outdoor function, the co-operation can be effected by constables maintaining an even temper and a good humour. When crowds collect in industrial disputes it is not so easy, and constables on such occasions should use the utmost amount of tact and not display any partiality in the dispute.

The vast majority of the public are proud of our Police Service and the reputation it has gained throughout the world, and this pride tends to increase their feeling of disappointment if they do not receive the treatment which they have a right to expect.

The common end to be achieved by co-operation between the police and the public is the maintenance of law and order which is vital to the well-being of the State, and if the atmosphere of trust and confidence can be inspired by the conduct of the police generally, there is little doubt that the public will reciprocate.

Whilst the remarks made up to now deal mainly with the adult public, some attempt to create the desired atmosphere could be made by allowing police officers to attend and give short talks at schools and youth centres, dealing mainly with the relations between the police and the public, but introducing sufficient matter of actual police duty to make the talks interesting.

CO-OPERATION BETWEEN ADJOINING FORCES

The third sub-heading is of major importance, particularly in connection with the detection of crime. The improved methods of transport have had the effect of increasing the number of travelling criminals, and various attempts have been made to increase the co-operation between Forces to deal with this, with varying degrees of success. There is no doubt that the average police officer is anxious to co-operate with his neighbour whenever possible, but he rarely has the time to spare in which to do this. The result is that unless there is a branch engaged solely on "foreign enquiries," the amount of assistance actually given is based on what will be expected by H.M. Government Inspector when he next examines the Force.

The amount of work which the average detective is called upon to do, more or less rules out the possibility of a successful voluntary system of co-operation. Therefore any system which will be of mutual benefit must be properly organised and compulsory. The answer in the first place would appear to be a mutual agreement by all Forces to have a Foreign Enquiry Branch of sufficient strength to give adequate attention to foreign crime.

The spirit of co-operation is best promoted by mutual interest, reciprocation and personal contact. Personal contact could be improved by an interchange of personnel between adjoining Forces for short periods, particularly when there is some big function taking place which may attract criminals from neighbouring towns. There should also be more interchange of information both of crimes committed and the movement of known criminals.

The personal contact could be improved by the organisation of sporting and social functions between neighbouring Forces.

Some benefit may be derived from inviting a guest delegate to attend meetings of the Police Federation of an adjoining Force. Conferences of officers of the various ranks could also be beneficial if a suitable agenda was drawn up in advance.

Consideration could also be given to the interchange of pupils in recruit classes.

Mutual interest as between Forces is a problem which is not lessened by the present method of publishing yearly figures of crime

detected in the various police districts. The publishing of such figures is apt to cause a competitive feeling likely to promote a kind of selfishness which is not compatible with a spirit of co-operation.

National figures are now kept and are available if required, and although it is doubtful if any serious regard is paid to figures by the local authorities, it is certain that the figures are regarded seriously by the members of the various Detective Departments. If local figures were discontinued, then there would be a mutual interest in the national figures.

Reciprocation is a more or less natural reaction, and bears close relationship to personal contact. Much can be done to further this if care is taken to see that visiting officers are given proper attention and made to feel that there exists a genuine desire to co-operate. If this principle is maintained, reciprocation is bound to follow.

There is room for much improvement in the matter of co-operation in the case of murder and other serious crime.

The present method is very unsatisfactory, and in cases where such aid has been asked for and given, much valuable time has been lost.

There would appear to be a reluctance in calling for aid, which is quite likely due to the fact that no recognised scheme exists.

The use of wireless by the Police would now appear to be an established fact, and a very useful and simple scheme of mutual aid could be devised, to operate in the present police areas, making use of the existing wireless facilities.

Each Force should delegate 10 per cent. of its C.I.D. strength, including a senior officer, to form a "Mutual Aid Force," or "Area Flying Squad." Each Force would provide for its contingents, a car, or cars, fitted with wireless receiving sets, to be immediately available when the scheme is put into operation.

The scheme would function in all serious crimes, and the Chief Constables' Conference would provide a definition for "serious crime" as it would apply to the scheme. They would also decide on the manner in which the scheme could be put into effect by the Chief Constable in whose area the serious crime occurred. This could be done by obtaining the consent of a given number of Chief Constables in the area, or there could be a sub-committee in existence to decide. When the scheme is put into effect, all personnel deputed for the scheme will be called on duty, and will stand-to with wireless car, at their own headquarters. They will take their instructions from the senior officer investigating the crime, who will be in wireless communication with all cars. He may either call them to the scene of the crime, or use them to follow up lines of enquiry in their own

areas. Wireless communication would be in speech with the use of a code for any secret messages, and a key to the code would be kept in each car. Each car would also carry such other equipment as might be required.

If wireless communication was only one-way, the receipt of all messages would be acknowledged by telephone, or by local transmitter if such were established.

To review the whole matter, having dealt with it under sub-headings, it would appear that the human element is the factor on which co-operation is mainly dependent. If all concerned would, on all occasions, try to see things from the other fellow's point of view, it would go a long way towards making co-operation, in all cases under review, an accomplished fact.

Handwriting Analysis and the Police Officer

BY SERGEANT DOUGLAS GRANT

City of Glasgow Police

IT has been my experience, especially since the advent of National Registration Identity Cards, that a knowledge of the methods of handwriting analysis can be of great assistance to the Police, but it is also my experience that very few police officers, including detective officers, know much about the subject. A possible explanation may be that the majority find the text-books too technical and, bearing that in mind, I have endeavoured to outline the principal characteristics only. The following article also includes a reference to the history of writing and the difference between graphology and modern analysis, and, therefore, should be of interest and assistance to police officers in general.

The art of writing dates back to earliest times and is known to have been practised in Britain as early as A.D. 596. In those early days the writing was known as Saxon, but after the Norman Conquest a mixture of Saxon and Roman script was adopted. The *media* used to record writing have varied throughout the centuries, ranging from stone to parchment and the various grades of modern paper. Parchment and paper were, however, discovered many centuries ago. In Rome, for instance, parchment was common during the first century, and the Chinese made paper of rags and hemp, etc., in the

second century. It was not until the 14th century, however, that the pen (in its proper sense of quill from *penna*, feather) was used. Prior to that, 'pens' were made from reeds, although the Romans are known to have used bronze pens. The art of writing is, therefore, of great antiquity, and its influence on human activity and relationship is best expressed by quoting the words of James H. Breasted in *The Conquest of Civilisation*, published in 1926, wherein he says—"The invention of writing has had greater influence in uplifting the human race than any other achievement in the career of man."

PAST AND PRESENT INTERPRETATIONS

The first work dealing with the interpretation of handwriting characteristics was written by an Italian, Camille Baldo, and was published in 1622. In 1792, and again in 1823, two publications appeared dealing with the same theme, the first by the German historian J. C. Grohmann and the second by an Englishman named Stephen Collet. Towards the close of the 19th century many works were published, particularly in France and Germany, under the title of Graphology; indeed, one periodical named *La Graphologie* continued to appear in France until 1925. In all these publications, however, the authors concerned themselves with the examination of handwriting from a psychological rather than a physiological standpoint, their aim being to discover traces of the writer's character therein. Modern handwriting analysis, on the other hand, is not concerned with character reading but confines itself to a purely scientific analysis of the characteristics disclosed. Therefore, graphology and handwriting analysis from the viewpoint of criminal investigation are two quite different things.

In *Modern Criminal Investigation*, by Messrs. Söderman and O'Connell, 1935 ed., chap. 23, the authors say: "Examinations of handwriting in former days were almost exclusively based on the calligraphic method, i.e., the comparison of the outer shapes of the letters. It is, however, precisely these which the forger seeks to imitate, and it was only natural that the experts should sometimes make mistakes." In direct contrast to the above, the modern analyst, in addition to giving a detailed explanation of his findings, utilises the enlarged photograph and the document microscope. He also examines the various shades and tints of ink; he can determine which line was written first when writings are superimposed; and he uses delicate instruments to determine line width and similar graphic details. According to Osborn,* the examination of ques-

* Albert S. Osborn: American Handwriting Analyst and author of *Questioned Documents*.

tioned handwriting has now attained such a scientific character that the chance of two complete handwritings being identical is in the region of 68 trillions to one against.

The confusion and doubt which, however, still exist in the minds of many persons to-day regarding the value of handwriting as evidence of identity can, therefore, in my opinion, be attributed to the publicity given to those earlier attempts at character reading, plus the fact that comparatively few people ever witness any demonstration of proof.

THE PRINCIPLES OF MODERN ANALYSIS

The principles of modern handwriting analysis can be best summarised by referring to the works of those who can justly claim to be authorities on the subject. Permit me, then, to quote from the works of Captain Arthur J. Quirke, B.A., Handwriting Analyst to the Department of Justice, Irish Free State, and Dr. Hans Gross, for many years Professor of Criminology in the University of Prague.

In the preface to *Forged, Anonymous and Suspect Documents*, Captain Quirke says: "The student who reads 'pen' in hand and who strives to find practical exemplification of the principles of handwriting analysis by closely studying the everyday writings of his friends and business associates will get much further than his colleague who spends much time and money on technical publications, all of which he reads without seeing for himself. Further, the man who concentrates upon the physiological analysis of his own handwriting will get furthest of all. The value of studying one's own manuscript lies in the fact that here the student is in a position to investigate at first hand the interrelation of cause and effect in the creation of characteristics of shading, movement, basic slope, speed, angle values, muscular co-ordination and so forth.

"In studying the writings of others, the novice can indeed recognise and analyse characteristics, but he must needs be ignorant of the causes which produce these phenomena. Therefore any analysis of handwriting which bases itself wholly upon a comparison of graphic forms and which ignores physiological principles is an utter waste of time."

In that superb book, *Criminal Investigation*, third ed., chap. 5, Dr. Gross, in a reference to handwriting, says: "He who in comparing two writings only places them side by side in order to find resemblances or differences will discover absolutely nothing, or if he does discover anything it will be an exceptionally easy case. The only correct method is to study, examine, and determine the characteristics of each writing apart and then to compare the results, but not the writings themselves."

KNOWLEDGE AND APPRECIATION OF METHODS OF IDENTIFICATION

It would be true to say that the average Police Officer is seldom invited to express an opinion regarding the common authorship of handwritings, and the same would be true with regard to the identity of finger-prints. In both instances, comparisons and opinions are the province of those specially trained and experienced in these subjects, and therefore the majority of Police Officers may assert that a knowledge of such matters is unnecessary. On the other hand, it is my opinion that no Police Officer can fully appreciate the value of any means of establishing identity unless he is first conversant, if only in a limited way, with the methods used. The majority of Police Officers to-day have, however, some knowledge of the finger-print method of identification and the same should apply to any means adopted by the Police.

As proof of the fact that some Police Forces are aware of the value of handwriting as evidence, witness the establishment at Glasgow and Nottingham of classified collections consisting of samples of handwriting taken from persons previously convicted of various forms of fraud, embezzlement, writing threatening letters, etc. To return, however, to the methods adopted to determine whether or not two writings have a common author, the reader will have gathered from the preceding extracts that the analysis is based upon an interpretation of the characteristics disclosed, and, before proceeding further, a brief explanation of what is meant is considered necessary. In handwriting analysis, 'characteristics' are peculiarities, disclosed in the execution of the writing, which are characteristic of the writer, and which assume many and varied forms. For example, the method of connecting letters; failure to connect certain letters; location of pressure emphasis and differences thereof; variations in slope and alignment; variations in inter-letter and inter-word spacings; the placing of 'i' dots and 't' bars; elaboration or simplification of graphic forms, and so forth. Add to that the hundred and more known ways of forming each letter of the alphabet and the reader will perhaps agree that, although the writings of different persons may appear similar, it is well-nigh impossible for them to be identical in every respect.

SCHEME OF ANALYSIS

Form : First of all examine the writing as a whole and determine whether it can be classed as angular or rounded. In the former type, an angular form of base connection will be observed, whereas in the latter the form is garland or rounded. In addition to the

connections an angular style will be most noticeable in the formation of the letters 'm,' 'n,' and 'u,' where the junction of upstrokes and downstrokes will disclose angles instead of curves. Other letters will, perhaps, show similar features although not to the same extent.

Shading : Shading is determined according to the difference in width between the upstrokes and the downstrokes, and may be classed as light, medium or heavy. In some writings there is little or no difference, while in others it is most marked. In shaded writing, the manner in which the writer holds his pen will be disclosed according to whether the downstrokes or sidestrokes are shaded. In the normal pen-hold it will be the downstrokes, while in the lateral type it will be the sidestrokes. Special attention is also directed to differences in pressure emphasis in the formation of ovals.

Size of Writing : Any given specimen of writing can be classed as small, normal, or large, according to the size of the small letters 'i,' 'm,' 'n' and 'u,' these being known as the basic letters. If the basic letters average between $\frac{4}{50}$ ths and $\frac{1}{10}$ th of an inch in height, the writing is classified as normal. Writing which does not reach $\frac{4}{50}$ ths of an inch is classified as small, and over $\frac{1}{10}$ th of an inch as large. To complete the analysis, the double-space letters 'b,' 'd,' 'g,' 'h,' 'j,' 'k,' 'l,' 'q,' 't,' 'y' and 'z,' and the treble-space letters 'f' and 'p' are also measured. The decisive factor is, however, the variation which is disclosed in the maintenance of size between the double-space and the treble-space letters on the one hand, and the small letters on the other hand, and between the small letters themselves. Attention is also directed to size variations between upper and lower projections, and between projections at the beginning, in the middle and at the ends of words.

Connections : According to the German Graphologist, Robert Saudek, the manner of carrying out connections is the most important psychological symptom of all graphological features; firstly, because it is least observed by the writer and least subject to arbitrary modification, and secondly, because, if it should be arbitrarily modified, modification cannot be maintained in a lengthy document without lapsing into the original manner.

The impulse is always to connect letters in a manner peculiar to the individual, and the forms of connection between the letters 'i,' 'm,' 'n' and 'u' and the following letters in the interior of a word should be studied carefully. There are four forms of connection in writing—Arcade, Angular, Garland, and Thread-like; but as no writer can write a purely arcade—angular—or garland—connected writing throughout, we find that the writing consists of a

combination of these forms. The analyst, therefore, pays particular attention to the bigrams between which each form of connection predominates. The word 'NUN' provides a good illustration of some of the forms referred to.

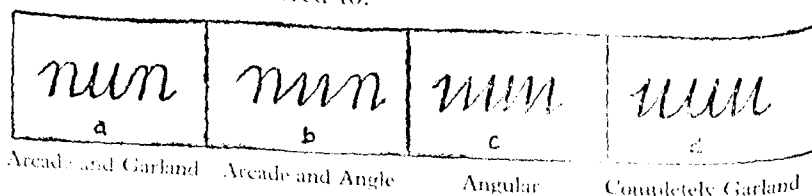


FIGURE 1

Slope : In Britain and on the Continent all writing was vertical until the 16th century when, during the reign of Queen Elizabeth, slanted writing became the practice of the legal profession. To-day, vertical writing is taught in all British schools, but it would appear that in later life the majority of writers soon adopt some degree of slant. That there are many different degrees can be ascertained by anyone who cares to examine the writings of different persons; some are almost vertical, others are inclined at an angle of almost 45 degrees, while the remainder are inclined at angles varying between these extremes. The great majority of writings are inclined to the

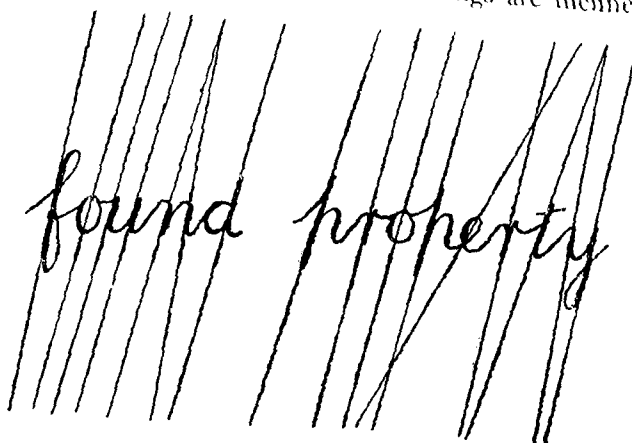


FIGURE 2

right, but there are writers who adopt a backhand style with considerable skill and these, too exhibit varying degrees of slope. According to Quirke, the degree of slope adopted by each individual is constant for any given mental state.

The angle of slope is determined by first making a tracing of the writing, using tracing paper, and with the aid of a pencil and straight edge, extending the staffs of the letters. The axes of loops and ovals are treated in a similar manner. Secondly, a protractor is used to record the angle of slope as it affects each letter and, finally, the mean slope of the writing as a whole. Particular attention should be paid to differences in slope between adjacent letters of different types; between letters at the beginnings of words and those at the ends of words; and especially between doubles, e.g., 'dd,' 'ff,' 'gg,' 'll,' 'mm,' 'pp,' 'tt,' etc.

Alignment : Many writings, whether written on ruled or unruled paper, exhibit some astonishing peculiarities of alignment. All will have seen, especially on unruled paper, examples of the rising base-line, and, less frequently perhaps, of the descending base-line. When ruled paper has been used we find, for example, that some writers commence words on the line, place the succeeding two or three letters above the line, and finally return to the line. This is particularly noticeable in words containing six or more letters. Others, again, commence words above the line and finish on the line. It may also be noted that these peculiarities affect certain letters, or groups of letters, only. When unruled paper has been used, peculiarities of alignment can best be observed by first selecting words of four or more letters, then by joining the bases of all the small letters and, with the exception of the letters 'f' and 'j,' those parts of the remaining letters as illustrated. Alignment may then be classed as horizontal, inclined upward, inclined downward, arched, troughed, or stepped.

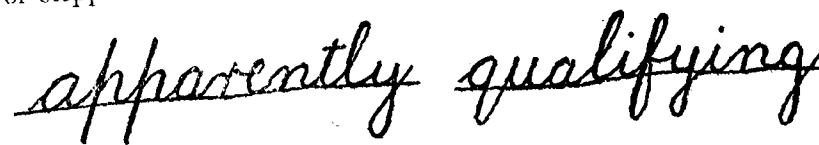


FIGURE 3

Lateral Expansion : This refers to the distance traversed by the pen in forming words and is frequently indicative of the speed of the writer. For example, writing which is inclined to sprawl, and where words are connected, indicates speed in execution, whereas that which is narrow and cramped and with no inter-word connections indicates slow writing. In determining the degree of lateral expansion, however, two things fall to be considered: firstly, the proportion of width to height in respect of certain letters, and, secondly, the width of the inter-letter spaces. Take the basic

letter 'n' for instance. An examination of several samples of this letter will provide much interesting data in respect of size proportions, as will other letters if similarly treated. It is possible, therefore, to describe letters and spaces as being narrow, normal, or wide and to analyse as follows:—Can the writing as a whole be described as narrow, normal, or wide; or are the letters narrow and the spacings wide, or *vice versa*? Note whether certain letters only are very narrow or wide compared with the other letters; whether very narrow or wide spacings occur between certain bigrams only, and whether expansion tends to increase or decrease towards the ends of long words. Examine the inter-word spacings also and note whether they can be classed as consistent or variable.

Hiatus: The habit of many writers to dispense with connections before or after certain letters is a characteristic of particular interest and may be attributed to one of the following causes, viz.:—A form of writing movement known as 'finger movement' (movement confined to the thumb, fore and middle fingers only), which necessitates the writer pausing momentarily every time the wrist is moved, as it must be, to continue the writing, or pausing in the middle of words to dot 'i's and cross 't's. It is admitted that there are fast writers of high standard who succeed in timing the wrist movements to coincide with the ends of words, but their number is small compared with those who, quite unconsciously, leave letters unconnected for the reasons stated.

In some writings hiatus is very discernible, while in others much closer scrutiny is necessary. What concerns us here, however, is to observe which bigrams are affected, and whether the same bigrams are habitually affected. Do not confuse hiatus with a drying up of the pen.

Diacritics: The placing of 'i' dots and 't' bars is another interesting phenomenon and a further indication of writing speed. Dots placed above and well to the right and bars placed well to the right of the respective letters indicate fast writing, whereas dots placed slightly before or immediately above, and bars placed before, or immediately above or through letters, indicate slow writing. Viewed through an ordinary reading glass, 'i' dots assume a variety of forms; furthermore, some writers consistently omit them, others never do so, and some omit them in certain instances only. In writings of the latter type, note if the omissions can be attributed to hiatus, or to the disclosure of other 'i's or 't's in the words affected.

'T' bars, on the other hand, besides varying considerably in length, may be horizontal, inclined upward, inclined downward,

arched, troughed, or formed by retracing the staff and disclosing a loop on the left side. Observe whether all 't's or some only are crossed, and, if the latter, whether the letters affected appear at the commencement, within, or at the ends of words.

Elaboration and Simplification: Elaboration consists in adding strokes, flourishes, loops, etc., to the writing in order to create an impression of beauty although the reverse is frequently the result. Elaboration may be angular or rounded; it may tend to increase the breadth and influence the angle of the writing; and it may or may not impair legibility.

Simplification consists in omissions or modifications in the formation of letters, and, while omissions of unimportant parts only may tend to enhance legibility, deterioration of the forms will, as a rule, greatly impair it. Note whether the writing as a whole discloses elaborated forms, or if the capitals only are affected. Are the small letters only affected, or are the capitals elaborated and the small letters simplified, or *vice versa*?

The above scheme of analysis includes some of the principal characteristics of handwriting, but makes no reference to the examination of graphic forms; i.e., the outer shapes of the letters. By that it must not be assumed that the formation of letters is unimportant, because any analysis which did not include their examination would be incomplete. It is, however, the formation of letters that the forger seeks to imitate, and the purpose of this article is to direct attention to those characteristics which the forger and the anonymous letter-writer, etc., are apt to overlook.

This knowledge will prove invaluable in many cases, especially to the detective officer who, admittedly, has more opportunities for applying it than has his colleague in uniform. At the present time, however, every adult is the holder of a National Registration Identity Card which should bear his or her signature, but as the production of an identity card does not necessarily prove identity, the significance of some dissimilarity between the holder's signature and that on the card produced will be appreciated. This aspect of the application of a knowledge of handwriting analysis to everyday Police work should, therefore, be borne in mind by all officers when interrogating any person reasonably suspected of having produced an identity card with intent to deceive.

In conclusion, I wish it to be known that I am indebted to the work of Captain Arthur J. Quirke, B.A., whose methods of analysis I have both studied and practised, and to those wishing to pursue this study further I would recommend his book, *Forged, Anonymous and Suspect Documents*.

The Godalming Wigwam Girl Murder

BY DR. ERIC GARDNER,

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THIS case, which was the first in which the reconstructed skull of the victim has been produced at a murder trial for demonstration to the judge and jury, provided such a remarkable example of the information to be gained by the patient reconstruction of body injuries from what was described as "a rag and a bone and a hank of hair" that it will remain a classical case of scientific criminal detection.

At 10.20 a.m., October 7th, 1942, two Royal Marines training at Thursley near Godalming saw a human hand projecting from a mound of earth on the highest point of the heather-clad waste of Hankley Common. The police were informed, and Supt. R. Webb, in whose division the body lay, and Det. Supt. T. Roberts, in charge of the Surrey Constabulary C.I.D., who later visited the scene, at once decided that this was likely to be a criminal case of some magnitude in which the pathological examination ought to start in a scientific disinterment of the body, a view with which the Chief Constable of Surrey, Major G. Nicholson, concurred. The wisdom of this decision became increasingly apparent as the investigation proceeded. At 12.15 p.m., on October 8th, the body was examined by the authors at the place where it lay, buried except for the projecting R. forearm and hand by a thin covering of local sandy soil, turf and heather which had been turned over across it from a mound by its side. (Fig. 1.)

The projecting forearm and hand were dry and partly mummified by their exposure, and the thumb, index and middle fingers had been bitten away at their roots as by rats, teeth marks being present. As the body was uncovered it was found to be very heavily infested with maggots, so heavily indeed that it became clear that it had lain exposed to air and flies for some time, perhaps one or two days, before burial. The body itself lay prone, with the L. arm folded under the chest and so riddled with maggots that no soft tissue remained. The head and neck were in the same condition, all soft tissues excepting a fragment of scalp and a wisp of hair having disappeared. It was clear, however, that the back of the head had sustained some blunt crushing injury, for the skull was split into innumerable pieces by fractures which were centred over the back

THE GODALMING WIGWAM GIRL MURDER 213

of the head. The condition was not one of mere decomposition and falling away of the skull bones from their natural sutures; nor had the skull been crushed, for in spite of its many fractures it had retained its shape.

A kerchief lay around the neck, with a loop of 21½ ins., showing that it had been worn as a piece of headwear and not been used for purposes of strangulation. The body was lightly clothed in a patterned green and white frock with lace worked collar stained around the neck with slime and blood, together with a slip, a vest, brassiere and french knickers. Each foot was covered by a woollen sock in blue striped with red, and tears were noted in the ankle region of the R. sock which were later related to post-mortem injuries of a dragging character on the R. lower leg.

The tissues covering the trunk were rather better preserved (Fig. 2), though adipocere had commenced in both breasts and another centre of maggot infestation was found excavating the R. hip, vulval and anal regions. Some heather on which the body was lying was still green, with its bloom only fading, and bearing this, and the heavy maggot infestation, the site of burial, and the time of year, in mind, it was considered that death had taken place about five weeks previously. The body was removed, with the permission of the Coroner, Mr. G. Wills Taylor, to Guy's Hospital, where it was immersed in a carbolic tank preparatory to further study. It was considered unlikely that any difficulty would be experienced in the identification of this victim in view of the clothing present, and as this proved eventually to be so no further remark will be made of this aspect of the case.

POST-MORTEM EXAMINATION

Autopsy was, of course, limited to the examination of the few soft tissues which remained, and of the skeleton. The internal organs had, with exception of the tough uterus, been entirely eaten away. The condition of the uterus was such that it was possible only to say that it was a uterus, and no positive or negative evidence with regard to a pregnancy (which circumstantial evidence later indicated as probable) could be given.

The skull was reconstructed by cleaning the fragmented bones, sorting them into major fragments which were reassembled by wiring and minor fragments which were too small to enable them to be given a correct position. (Fig. 3).

Four groups of injuries were found:

- (a) *Stabbing wounds*, directed at the head and warded off by the R. forearm and hand (and possibly also by the L. hand:

the absence of soft tissues on this arm precluded proof of this).

- (b) *Blunt injuries to the mouth* in keeping with a fall on to the face.
- (c) *A single heavy blunt injury to the back of the head*, as from a single blow of very great violence from a bough or stake or bar or some such object. . . these injuries (a), (b) and (c) being sustained in life, and (d) dragging injuries to the R. foot, sustained after death.

Their nature made it reasonable to suppose that they had been sustained in the order described.

A. STABBING WOUNDS

These consisted of three wounds to the L. side of the top of the head (Figs. 4, 5), as from an assault by a R. handed person from in front, directed downward on to the head and tending to glance to the deceased's L. They were accompanied by seven protective wounds of the same kind to the R. forearm and hand.

The wounds showed one character in common. They penetrated along a narrow track suggesting a sharp pointed weapon like a knife or a marlinspike. In the case of two of the protective wounds there had been a hooking out of the tissues upon withdrawal which showed that the point of the weapon was itself hooked or sharply curved. From one wound in the R. forearm (Fig. 8) a tag of muscle protruded, and from a similar wound between the crook of the first and second fingers a tendon was found hanging out, clearly dragged from the finger before it had been bitten off by rats as described. The five other protective wounds on the R. hand were mere punctures incapable of affording more evidence of the nature of the weapon. These wounds as a whole, being protective in character, and showing vital changes microscopically, made it clear that deceased was alive and able to raise her arm in defence at the time of the assault.

The stab wounds to the head were studied with great care in relation to a number of possible weapons. They are seen in Fig. 4, and their individual details are enlarged in Figs. 5A, B, C. Some pointed weapon had clearly run a glancing course down on to the head as shown by the track leading obliquely downwards in Figs. 5A and B, the point entering deeply into the skull vault and eventually penetrating through the inner shell of the bone. Some rotating movement of the weapon resulting from twisting of either the victim or the weapon (or both) had caused chipping of the bone in a shelving manner around the central hole, the process being a kind of rimming. The shape of the hole at the point where it penetrated through the inner shell of the skull was either round or oval (as in Figs. 5C and B),

and in the case of the wound (Fig. 5A) it appeared to have been doubled as by a withdrawal and restabbing process in the same hole. It was clear that a hooked point could lie in these holes, and it might be that the point could form the trough which ran into two of them. The hooked point of a knife would, of course, be likely to fit even better with the knife edge of the blade lying in the line of the trough. Neither of us had seen such a knife, but when at a later date, as will be described, such a knife (Fig. 7) was brought to us by Chief Inspector Greeno to compare with the wounds, it was at once evident that here lay precisely the very unusual kind of weapon, hook pointed and knife edged, which not only could have caused the stabbing injuries found, but in fact bore precisely the peculiarities demanded by those wounds.

The facts that these wounds so accurately corresponded with this peculiar knife and that the knife was intimately connected by circumstantial evidence with Sangret must have gone far to convince the jury of his responsibility for the crime.

B. A BLUNT INJURY TO THE MOUTH

A single crushing injury which had dislodged the two upper central front teeth (breaking the root of the R.) and also the L. lower canine (eye) tooth was clearly to be interpreted as the result of a blow in the mouth from either a fist or a fall on to the face. The difficulty of distinguishing between the two arose from the absence of soft tissues, but it was considered likely in view of the nature of the principal blunt injury to the back of the head about to be described that deceased had, in fact, stumbled to the ground, faint perhaps or blinded by blood from the head wounds just received, and had broken her teeth in falling.

C. A SINGLE HEAVY BLUNT INJURY TO THE BACK OF THE HEAD, as from a single blow of very great violence indeed from a pole or stake or bough or rounded bar measuring about $1\frac{3}{4}$ ins. in diameter. An oblique depressed fracture of the skull 5 ins. in length and averaging $1\frac{3}{4}$ ins. in breadth was set across the L. side of the prominence of the back of the head (Fig. 3). Six fissure fractures radiated from it in all directions over the skull, three of them lying closer together on the under aspects of it indicating that this was the direction (downwards) in which the main brunt of the blow had been absorbed. The principal central hole remained when all but the smallest, most shattered, fragments of the skull had been fitted and wired together. It afforded an excellent example of the value of this somewhat tedious method of reconstruction: it is slow, but certain to result in a picture which reveals at once the main features of any material head injury.

Such a blow would clearly cause immediate unconsciousness, and death would follow very shortly after.

A crush fracture of the right check bone—clearly set apart from the face injury—suggested that deceased had in fact fallen to the ground (as suggested by the injuries) and was lying there with the right check on the ground when this fatal blow to the back of the head was struck. The R. check bone was fractured by counter pressure from the ground as the head bore the weight of this terrible blow. No one could doubt that such an injury would be certain to cause death: it was a murderous blow.

These principal medical findings were communicated to the Police on October 10th and 11th.

D. DRAGGING WOUNDS TO THE R. LOWER LEG

Dragging wounds, clearly sustained after death, since unaccompanied by any evidence to the naked eye or microscope, of bleeding into the tissues, consisted of two parallel tears running obliquely across the outer aspect of the R. lower leg. They corresponded with the tears in the sock and were of a ragged kind such as might be caused by dragging the body across open ground studded with stones and stubs of heather.

CRIMINAL INVESTIGATION

The Chief Constable of Surrey decided to ask for the co-operation of Scotland Yard on the day the body was uncovered, October 8th, and Chief Inspector E. Greeno and Detective Sergeant F. Hodge went down to Godalming to assist in unravelling the crime.

The ground in the neighbourhood of the body was systematically searched and stage by stage, as the medical and these ground findings became established, the nature of the crime became clear. On October 12th a R. shoe was found 330 yds. from the body, lying in the grass and heather: a L. shoe lay 25 yds. further away and close by this on the bank of a small stream a canvas bag containing a rosary and some soap. 16 yds. away from the L. shoe, at about right angles to the line between the two shoes, a heavy birch stake was found on the ground (Fig. 6). It was 38½ ins. long, tapering slightly from a circumference of 4½ ins. to one of 5½ ins., weighing 39 ozs. or almost exactly 2½ lbs. About 6 ins. from the thicker end the bark was bared from the stake, and over this point the police at once identified a number of fine hairs caught in the splintered bark and wood surface. Microscopy later showed these to be identical with hairs taken for comparison from the dead girl's scalp. The medical interest of this as a weapon lay in the fact that it was a

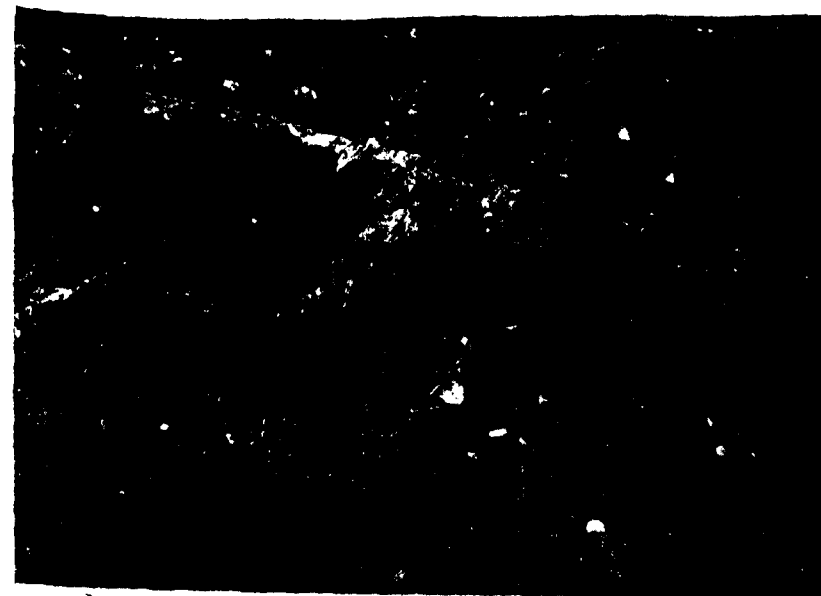


FIG. 1
View of Body as uncovered on Hankley Common

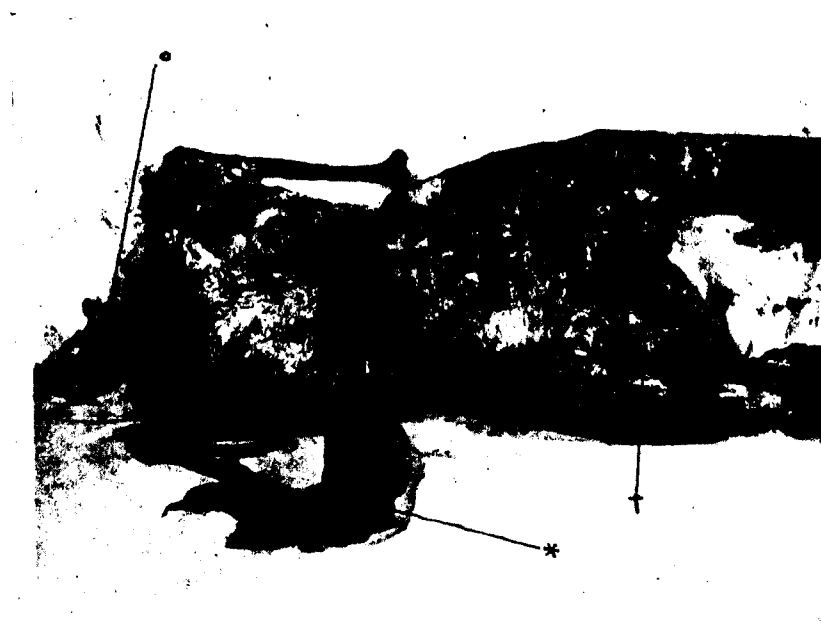


FIG. 2: THE BODY AFTER CLEANING
o = disintegration of head and neck tissues
* = preservation by drying up of exposed right arm
† = destruction by vermin of sex organs

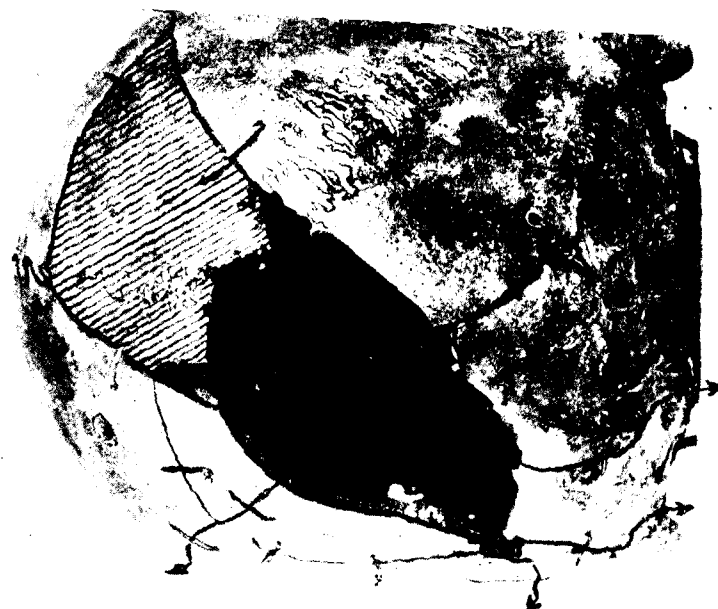


Fig. 3
Reconstructed skull showing outline of principal blunt and radiating fractures. Shaded area to be included with principal wound. Unfilled area composed of fragments for reconstruction.

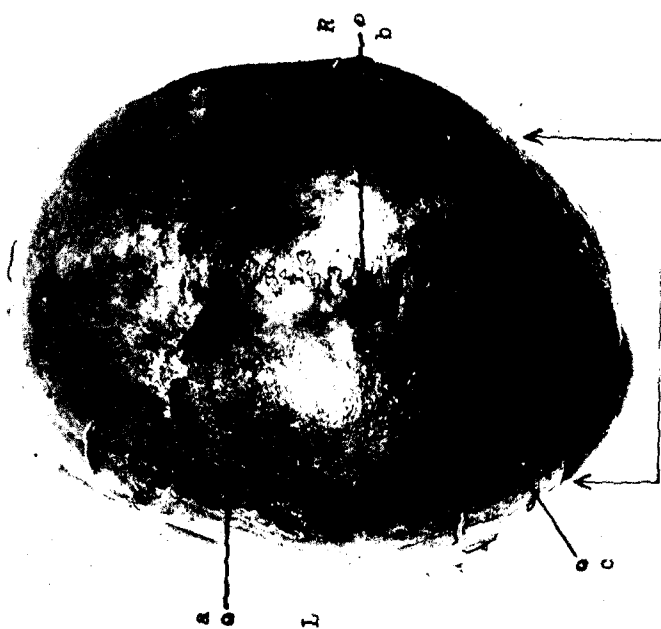


Fig. 4
View of top of reconstructed skull showing stabbed wounds of vault and principal wound of back of head.



Fig. 6
Section of birch stake with hairs adherent

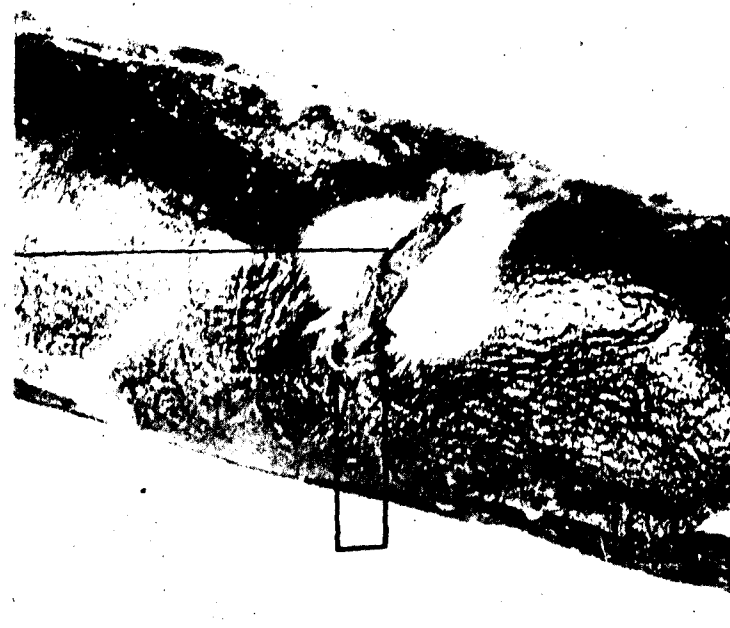


Fig. 8
Stabbing (protective) wound of R. forearm showing tag of muscle hooked out by withdrawal of weapon

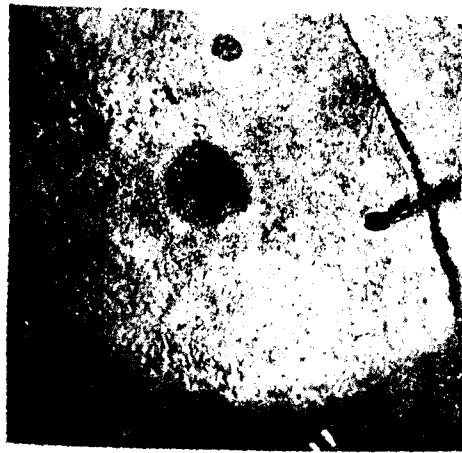


FIG. 5 C



FIG. 5 B



FIG. 5 A

Enlargements of stabbed wounds A, B, C, from FIG. 4

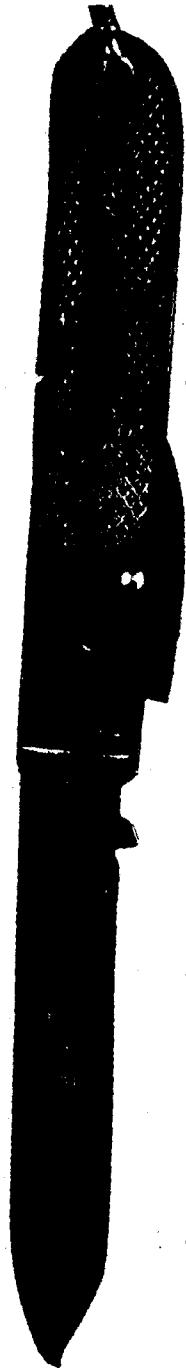


FIG. 7
Knife recovered from blocked wash-house drain

stake of precisely the character and transverse diameter ($1\frac{3}{4}$ ins.) as that demanded by the character of the principal head wound.

No doubt could now exist but that this was the weapon which had caused death. It was later established that the dead girl had been living in the neighbourhood of the camp in huts or "wigwams" constructed from birch wood with the assistance of August Sangret, a Canadian soldier. She was known to have kept a rosary among her belongings. No weapon capable of causing the peculiar stabbing wounds of the head or the hooking wounds of the R. arm and hand was found during this search, and the reasons for this were made clear in a most dramatic way only at a later stage of the investigations.

On October 15th, in a dell in the woods up a hillside 103 paces away from the small stream beside which the canvas bag and rosary had been discovered, there were found strewn among the bracken and dead leaves an identity card bearing the name of Joan Pearl Wolfe, a National Health Insurance card in the same name, a religious tract, a paper bearing the words "proposed wife." "Date and place of birth" (a document later shown to be similar to one handed to the Canadian soldier who had been living with the dead girl by a Major Gray of the Canadian Army), a green purse, an elephant charm, and a letter from Joan Pearl Wolfe to Sangret telling him she was pregnant and hoping that he would marry her. Lower down the hillside was her silver crucifix.

Examination of the interior of a cricket pavilion which these two had used as a rendezvous showed pencilled inscriptions on the wall which linked the name of Joan Pearl Wolfe with that of August Sangret in terms which showed her anticipation that he would marry her.

Little doubt existed by now regarding the identity of the dead girl. Supt. Webb was able to identify the frock after it had been cleaned, together with the head kerchief and the rosary as having been worn by a girl of the same name who was interviewed by him at Godalming Police Station in July and again in August of that year. Her age, height, and certain irregularities of the front teeth also corresponded with those found in the body.

On October 12th Chief Inspector Greeno interviewed August Sangret. He excused himself whilst awaiting this interview in the guard room, and visited a wash house adjoining. On November 27th the "U"-piece of a foot basin in that wash house was cleared of an obstruction which had prevented its use for some four weeks, and a knife which was subsequently identified as Sangret's property was found lodged in the pipe. It was (Fig. 7) hook or beak-pointed and fitted the head wounds perfectly. It was the case for the Prosecution

that Sangret had endeavoured in this way to dispose of a weapon of which he alone *at that time* knew the significance. Chief Inspector Greeno said he wanted the prisoner to tell him all about his association with the girl Joan Pearl Wolfe. He merely said, "Tell me all you know of it." Sangret had not been told of the way the girl had been found or even that she was dead. Yet at the end of a long statement in which he described an intimate association with her he said, "I guess you have found her. Everything points to me. *I guess I shall get the blame.*" He had, in the course of the statement, mentioned a knife which he said he had left stuck in a tree near a shack where he had slept with the girl on August 20th, which had been found on August 21st, and handed to him by a fellow soldier on August 26th and which, according to this soldier, he had accepted as his own. This was later identified as the same knife which had caused the drain in the wash house to become blocked. The knife was not a standard Canadian Army issue, but bore peculiarities which justified its being recognised as the property of an individual. It had precisely the remarkable peculiarity in the tip of the blade which had been demanded in an instrument responsible for the peculiar characters of the stabbing wounds. The evidence associating it with Sangret was overwhelming, and its peculiarities fitted the stabbing head wounds so remarkably that the double inference was hardly to be resisted by any jury.

In the statement made by Sangret he described an association during which he had lived on intimate terms with the girl Wolfe in various shacks in the woods near his camp from July 17th, 1942, until September 14th, 1942. According to him she had failed to keep an appointment on that evening and he had never seen her again. Sangret had in fact been seen with her on September 13th, the last occasion on which she was seen alive.

Sangret never reported her disappearance to the civilian police, but some time about the third week of September he did report her as missing to the military provost sergeant, saying, "If she should be found and anything has happened to her, I do not want to be mixed up in it." On September 14th Sangret took a friend with him to a local cricket pavilion which had been a rendezvous of his "to look for Joan." His friend thought he was "behaving very strangely." On September 15th Sangret remarked that his clasp knife was missing and he thought Joan had taken it, and at the end of September he told another friend that he had "sent Joan home" as she had no clothes. He also told another friend that she was "in hospital." These circumstances were suggested by the Prosecution to show an anxiety on the part of Sangret to explain the dis-

appearance of both the girl and the knife in a way which could not reflect upon him.

One other piece of circumstantial evidence conformed with the established facts in a way which further strengthened the case against Sangret. It was established that he had washed his uniform at about the time the girl Wolfe was last seen alive, and examination of his army issue blanket showed that this also had been washed. Sangret denied this, but a group of stains which soiled the blanket were not explained by him. They had precisely the appearance of washed and much faded bloodstains and were distributed in three places on the blanket in precisely the positions which would follow were a person injured in the head and R. hand to have been laid and wrapped for concealment in that blanket prior to burial. This kind of open air concealment prior to burial was, it will be remembered, demanded by the extremely heavy maggot infestation found in the body.

A reconstruction of the crime made following a later visit by us to the scene in company with Chief Inspector Greeno and Supt. Webb suggested that an attack with a knife was made on the girl near the shack in the woodland at the top of the steep slope where the identity card and other articles belonging to the dead girl were found; that she, by then wounded and bleeding, ran away through the wood down the hill side, losing her crucifix on the way down and falling at the bottom across a military trip-wire laid along the side of the stream smashing her front teeth; that lying there, just beyond the stream, and close to where her shoes and canvas bag were found she was murdered by the principal blows on the back of the head, the stake being flung a short distance away; that after being wrapped up in a blanket the body was hidden for a day or two and was then dragged nearly 400 yds. up hill to be buried on the top of the common.

The value of a visit to the scene after medical and police findings had been established was made amply clear. This reconstruction was not questioned by the Defence, and it seemed likely to have differed very little from the facts which accused alone knew.

When charged with murder on December 6th by Supt. Webb, in the presence of Chief Inspector Greeno, Sangret said, "No, sir. I did not do it. No, sir. Somebody did it and I will have to take the rap." And after being cautioned he added, "She might have killed herself."

The trial took place at Kingston Assizes from February 24th to March 2nd, 1943, before Mr. Justice Macnaghten, and after two hours' discussion the jury returned a verdict of guilty. Sangret was executed at Wandsworth on April 29th, 1943. It had been remarked repeatedly during trial that there was no question of

contesting identity, or that this was in fact a case of murder, the issue being whether Sangret was responsible. The circumstantial evidence which had accumulated as a result of patient criminal investigation had left little doubt that the verdict was just.

We are indebted to the Chief Constable of the Surrey Joint Police, Major G. Nicholson, C.B.E., M.C., for access to the records in the case and for permission to publish it in this form.

Proceedings in Respect of Automatic Gaming Machines

BY STATION SERGEANT WILLIAM GUTTRIDGE
Metropolitan Police

IN order that proceedings may be successfully instituted against owners of automatic gaming machines, and the keepers of premises where such machines are installed, it is essential that Police Officers should be able not only to recognise a gaming machine on sight, but also to know how it is operated, and be able to explain such operation to the Court before whom the case is presented.

The machines in common use at the present time are as follows :

'FRUIT' MACHINE

R. v. Kirby, 1927 ; Daniels v. Pinks, 1931

A Fruit Machine resembles a National Cash Register, and is known generally as a 'Bell' Fruit Machine, although it is sometimes called a 'Fruit Vending Machine,' or a 'Mint Vendor.' These machines, which were first introduced into this country at the beginning of 1926, are usually found in small cafés and clubs and are operated in the following manner :—A penny or a metal disc is inserted in a slot at the top of the machine. The player then pulls a lever on the right hand side of the machine, which causes three circular drums in the front of the machine to revolve. On these drums are painted pictures of different kinds of fruit (apples, pears, berries, etc.), and also a picture of a bell. When the drums cease to revolve a bell rings (sometimes) and according to the combination of 'fruits, etc.' showing on an indicator at the front of the machine a certain amount of pennies or discs are returned to the player from a scoop at the bottom of the machine. The object of the player is to obtain a combination of three similar kinds of fruit, such as three apples, three berries, etc. The highest score possible is that of 'Three Bells,' when in addition to the highest prize (about 2s. 8d.),

the 'Jack-Pot' (a reserve kept in the machine for such emergency scores, and into which a proportionate amount of the machine's takings are diverted) is returned to the player. 'Controls' or 'Stops' fixed to the machine make no difference to its illegal use.

A 'Totalisator' Machine is similar in construction and use to a fruit machine, but the indicator records numerals instead of pictures, and prizes are paid out according to the progressive score recorded.

A 'Domino' Machine (also of similar type) has pictures of dominoes on the indicator, and prizes are paid according to the different groups of dominoes recorded.

'CLOWN' MACHINE

Bracchi v. Rees, 1915 ; R. v. Peers, 1917

This machine consists of a glass fronted case about 2 ft. square, in which is the figure of a clown holding his hat in his hand, the hat being inverted. The whole figure is fixed to a movable bar which is under the control of the player. A penny is placed in a slot, which releases a metal ball from an aperture at the top of the machine. The ball falls to the bottom of the machine, its progress being retarded by groups of metal pins. The object of the player is, manipulating the 'Clown,' to catch the ball in the clown's hat. If successful a disc (value 2d.) or twopence in cash is returned to the player from an opening at the bottom of the machine.

'ALLWIN-DE-LUXE'

Fielding v. Turner, 1903 ; Thompson v. Mason, 1904

This machine is of similar size to the 'Clown' Machine, and is operated in the following manner :—A penny is inserted in a slot on the machine and becomes available for play. A spring worked by a handle on the outside of the machine is then operated by the player. The spring is drawn back by the player and released, which causes the penny to be projected to the top of the machine. Seven slots are situated in a row near the top of the machine. If the penny falls into the centre slot (the 'bull's eye') the operator receives a metal check entitling him to twopennyworth of sweets. If the penny falls into the two slots on either side of the 'bull's eye,' it is returned to the player, but if it falls into the four remaining slots it is retained by the machine.

There are a number of variations of this machine, such as the 'Little Wonder' and the 'All-Wyn.' In some of them a metal ball is substituted for the penny, and in others actual cash is returned to the successful players.

PIN TABLES

Easily the most common type of automatic gaming machine. pin tables rejoice in numerous high sounding names, such as the 'Corinthian,' the 'Acme,' etc., but their appearance and method of operation are very similar. The machine consists of a large flat case about 5 ft. in length, and 2 ft. in width, with a glass top, and is supported on a stand or trestle making it about 4 ft. in height. A penny is placed in a slot, which automatically releases ten balls for play. These balls fall into position for play one after each other. By operating a spring trigger the balls are propelled in turn around the machine, and drop into different pockets. These pockets are numbered, and the object of the player is to obtain a certain score, with a view to obtaining a prize, usually a packet of cigarettes. In some cases the balls make electrical contacts, and the progressive score is recorded on an illuminated electrical indicator at the top of the machine.

BAGATELLE

This machine is somewhat similar to a pin table only smaller. A penny is placed in a slot which releases three balls for play. These balls are propelled independently around the machine by means of a spring. There are seven numbered cups on the table top of the machine, and if the balls fall in cups the aggregate number of which exceeds a certain total, prizes of cigarettes are given.

'NOVELTY MERCHANTMAN,' OR 'CRANE AND GRAB'

Ankers v. Bartlett, 1936

Very common in London six and seven years ago, this machine is about 6 ft. in height, and consists of a miniature crane and grab enclosed in a glass case, the crane and grab being operated by a motor. The object of the grab is to pick up articles, such as clocks, pipes, cigarette cases, etc., and sweets, which are laid out in the bottom of the machine. If the player is successful the article or sweets are returned through a scoop at the front of the machine. A handle at the front of the machine enables the player to move the crane into one of three positions (left, centre, and right), after which, to start the machine, the player must insert a penny. Once the penny is inserted the player has no control over the crane or grab. The machines usually bear a notice:—

'This machine is for amusement and exhibition only. You pay your coin to see it work. Candy represents gravel. Favors represent rocks.'

'ROTARY MERCHANDISER'

This machine consists of a large circular wheel about 3 ft. in diameter enclosed in a glass-topped case. The wheel is rotated by electricity, and is set in motion on the insertion of a penny. Various articles, such as watches, shaving brushes, clocks, etc., are placed on the wheel which is stopped at the option of the player by pushing a button. If the player is successful in stopping the wheel at the right place, an arm projects forward from the side of the machine, pushes one of the articles through an aperture in the centre of the wheel, and it is delivered to the player from a metal scoop at the front of the machine. Once the player has stopped the rotation of the wheel by pushing the button he has no further control over the operation of the machine.

THE 'AUTO-SKILL SHOOTING MACHINE'

This machine (which is not very common) consists of a glass-sided box (30 ins. by 20 ins. by 10 ins.) fitted on a stand. On one end of the machine is a pistol-like apparatus which is movable and under the control of the player. A penny is inserted into a slot on the top of the pistol, a spring is pulled back by the player, and the penny is propelled from the pistol by depressing a trigger which releases the spring. The object of the game is to discharge the penny into one of three circular apertures, about $1\frac{1}{2}$ ins. in diameter, and about 18 ins. from the pistol. If successful (a rare event) the player receives a packet of cigarettes from a slot at the front of the machine.

During the present war, numerous machines of the 'Clown' type are again prevalent in clubs and refreshment houses. One of these is the 'Cresset,' installed by the Cresset Automatic Machine Company. It is operated in the following manner:—A penny is inserted, which releases two balls for play. These balls are projected separately to the top of the machine by means of a spring and handle operated by the player. On reaching the top of the machine the ball falls downwards through a series of metal pegs, which partially retard its progress. Two metal cups are affixed in the centre of the machine on a bar which is under the partial control of the player. It is possible to catch the ball into one of the cups, when a disc of varying value is received from a slot on the left of the machine. If the ball is not caught in one of the cups it is lost.

This machine usually bears a notice stating that a prosecution for gaming was dismissed at a Provincial Police Court some years ago, and therefore the machine is a game of skill and consequently legal. This notice of course has no bearing on the use of the machine.

Also in use at the present time is the 'Elite Amuser,' in which

a ball is projected around the machine and travels round in a circle either once or twice, and then falls downwards towards seven apertures coloured either red or green, there being four green and three red set in a line alternately. If the ball falls into a red aperture the successful player receives a check from an opening at the bottom of the machine. The checks are usually of varying values from one penny to one shilling. In addition to the check received, four more balls are released for play. If, however, the ball falls into one of the four green apertures it is lost.

For the successful institution of proceedings against owners and keepers of premises where these pernicious machines are used, casual observation is necessary at the places devoted to their use. Such observation should not be prolonged, but be of short duration sufficient to ascertain the type of machine, whether it returns coins or discs, and if the latter, whether such discs are exchanged for "money or money's worth." A note should also be made of the types of persons using the machine, and whether such use is habitual or only at infrequent intervals.

The type of premises where the machine is installed will decide what subsequent action is necessary. In the case of amusement arcades, hairdressers' shops, etc., full reports will usually have to be submitted with a view to action being taken by superior officers by way of entry under a Gaming or Betting Warrant, or (in the Metropolitan Police District) under an Order in Writing issued by the Commissioner.

If the machine is kept in a refreshment house or small café (and it often happens that it is out of sight in a back room), the premises should be entered immediately it is ascertained what type of machine is in use, and what are the circumstances of play. Remember that Police have a very wide power of entry to all licensed refreshment houses under the provisions of Section 18 of the Refreshment Houses Act 1860. The assistance of another officer should be obtained for corroboration (if possible), and the premises should naturally be entered whilst persons are playing on the machine. The players will not stop playing on the entrance of Police (it is surprising how many persons still imagine the use of machines to be legal). One of the officers should interview the shopkeeper, whilst the other takes particulars of the machine and the players. Full names and addresses of the players should be obtained, and a note made if any were seen to win money or exchange discs over the counter. A full description of the machine is necessary, *including the number*. The shopkeeper should be asked to open the machine (in most cases he cannot unless he is the owner). The money found

in the machine should be counted and handed back to the shopkeeper. The shopkeeper's particulars should be recorded, including details of his Refreshment House Licence (if any), and also particulars of alien registration if applicable (the number of alien refreshment house keepers in London alone is surprising). The machine should not be seized merely because the owner is unknown, but may be retained for subsequent production in Court as evidence of the offence, if such procedure is considered necessary.

One of the most difficult points in automatic gaming machine prosecutions is that of successfully taking proceedings against the actual owner of the machine. Most automatic machine owners are thoroughly conversant with the law relating to the use of gaming machines, and know that whilst in most cases it is easy to convict the shopkeeper, they themselves are usually safe from proceedings. It should, however, be realised that it is the owner of the machines who is the responsible person. They usually instal their machines by wrongfully informing the shopkeeper that their use is legal, draw the lion's share of the machine's takings, and often remain aloofly in the background whilst the small shopkeeper is penalised for his own gullibility.

In all cases the shopkeeper should be carefully questioned in an endeavour to ascertain the *true* owner of the machine as opposed to an 'agent.' The shopkeeper often has only a telephone number to refer to, and "a man comes and empties it once a week," so persevering inquiries are necessary.

It should be borne in mind that there must be some admissible evidence to prove ownership. This evidence may either be an actual admission by the owner, or any other evidence tending to prove that a certain person is the owner. Evidence that the machine has been let on hire purchase is sufficient. Statements made by the keeper of the premises are not evidence against the owner of the machine unless made in such owner's presence. If a machine is played with discs, to convict the owner evidence must be produced to prove that the owner knew that the discs were exchanged for "money or money's worth" (a most difficult proceeding).

It will be seen that prosecutions against owners of machines bristle with difficulties, which can however be overcome by the persistent officer with the satisfactory result that one more machine is removed from the district, and also away from the temptation of the young, which is really the object which was aimed at in the first instance, an object which can only be achieved by prosecutions, cautions having proved in the majority of cases to be as unavailing as ignoring the machines altogether.

The Craft of the Pilferer

By WILLIAM O. GAY, M.A. (Oxon.)

Junior Assistant to Chief of Police, Great Western Railway

"I'll example you with thievery."—*Shakespeare*

PRESS reports, magisterial comments, and public pronouncements by bishops and other persons who are, or think they are, qualified to make authoritative statements on the subject, remind us at intervals that there has been a breakdown, or at least a decline, in the national standards of morality since the beginning of the war, and point to the spread of pilfering among men and women employed at ports, on the railways, and in shops, warehouses, stores and factories, as symptomatic of this decline. The increase of petty larceny should surprise no one. When the State resorts to war and proceeds (quite properly and strictly according to law) to violate most of the basic principles of human conduct, it is an inevitable consequence that many normally law-abiding citizens will not refrain from taking advantage of the opportunities that the conditions of war provide. The reasons for their conduct are better left to the psychologists; the results, unfortunately, require the attention of the Police at a time when they are urgently needed for more important matters.

To pilfer, according to the dictionaries, is to steal in small quantities. The individual pilferer does take small things, but the cumulative effect of pilfering by a large number of people can be—is, in fact—a serious matter. At the present time the losses sustained by traders, merchants and transport undertakings—and ultimately the community—are so extensive as to be a factor calculated to prejudice the maintenance of a fair distribution of essential commodities that are controlled or in short supply. Thousands of pounds' worth of stolen goods finds its way in small quantities through illegal channels to not only the black but the open market in the course of a year, and although no figures are available it is probable that the petty thefts of dishonest employees exceed in volume and value the more ambitious efforts of their professional counterparts. If the figures* supplied by the main line railways are an index to the situation—and the railway companies, it must be remembered, own numerous docks and warehouses, and engage in various ancillary businesses—the foregoing statement is certainly true. It is, further, well known that the big multiple firms that

* In 1943 the compensation paid for losses attributed to theft amounted to £1,417,535 for freight train traffic and £459,070 for passenger train traffic.

THE CRAFT OF THE PILFERER

227

trade in foodstuffs, clothing, cigarettes, and other commodities variously regarded as necessities or luxuries, write off a percentage every year for losses attributable to pilferers and shoplifters.

There have always been pilferers and the interesting thing is that throughout recorded history there has been little variation in their methods. It is unlikely that the cargoes carried by the quinquiremes of Nineveh or the stately galleons of Spain reached their final destination any more secure than that of Masfield's "dirty British coaster" of to-day. Similarly, whether the merchandise be carried by chariot, pack-horse, wagon-train, motor-lorry or railway van, or whether it be displayed in an oriental bazaar, a warehouse in Britain, or an American chain-store, the temptation is always the same. The petty thieves of Bagdad, Birmingham and Brooklyn have much in common.

To refer to something more definite and less remote, it is appropriate to recall that at the end of the eighteenth century, in consequence of the widespread activities of dock thieves and pilferers, the famous magistrate, Dr. Patrick Colquhoun,* prepared, at the request of the London merchants, a treatise on the policing of the River Thames. This resulted in the establishment of the 'Marine Police,' the first effective police force (in the modern sense of the term) in the country. The methods of stealing described in his book (published in 1800) show that the thieves of our time are no more adept than their ancestors. Again, the evidence given before the Royal Commission of 1839 by many experts, including convicted thieves and receivers, has a familiar ring, and the accounts of how silks and expensive cloths could be extracted from bales without leaving a trace, and how chests of tea and casks of wine and spirits could be broached and forwarded without any obvious defect, indicate that little new has developed in the last three or four generations.

Pilfering is a problem with which railway and dock police are probably better acquainted than members of other forces. It is thought, therefore, that some account of the difficulties encountered by these officers in protecting the vast quantity of merchandise that passes through the ports and over the railways of the country will be of interest to those readers of the *POLICE JOURNAL* who may not have had the opportunity to study the subject at close quarters.

While pilfering is not confined to any one branch of industry or commerce and while much of what follows obviously applies to pilfering everywhere, there are certain features peculiar to the theft which are committed on the railways and at the ports. Thus, it is

* Better known, perhaps, for his work *On the Police of the Metropolis* (1796)

necessary to distinguish between a theft *from* a package and a theft of a complete package; that is to say, the extraction of, for example, four packets of cigarettes from a carton containing several hundred packets is, from the point of view of the investigating officer, a very different thing from the theft of the whole carton. The total loss could only have occurred at one place (not necessarily known), whereas the four packets might have been stolen at four different places. It is not uncommon for a railwayman or dock worker at point *A* to remove one article from a damaged package and so create the opportunity for another man at point *B* to do the same thing, more thefts occurring at other points *en route*, culminating in a theft by the carman who delivers the consignment (although there might still be a theft by one of the consignee's staff in anticipation that the loss will be attributed to theft on the railway!).

When transit thefts of any kind occur the most difficult thing to establish is the place where the theft was committed. If a warehouse in a city is entered and property stolen therefrom the city police always know the first essential, the place, and usually, the approximate time. The detectives investigating rail transit losses can only establish those points by careful enquiry. Losses that recur over certain routes are recorded, classified, and studied, and when they appear to be systematic, and convergent or divergent routes are involved, suspicion is directed in the first instance to the 'common point' which may be a junction or a marshalling yard. The elimination of all likely places and the gradual preparation of a case against a particular station or depot through all the stages from possibility, to probability, and finally to complete certainty, take a great deal of time. Pilferages committed at a railhead warehouse or a dock warehouse after goods are known to have arrived there intact are somewhat easier to deal with: the location is known, and enquiry followed by a check at the exits usually has a satisfactory result.

The consignments most subject to pilferage are those comprising foodstuffs, tobacco, cigarettes, wine, spirits, clothing, and toilet requisites such as razor blades and soap. At all places where such goods are accumulated pilferers among the staff operate regularly. They are swift to take advantage of the opportunity offered by a damaged box, carton, cask, or case, and some of them will, of course, see to it that the protecting packing is damaged.

The pilferage of goods immediately consumable is a problem all on its own. Fruit, for example, is packed in a way that invites, and receives, the attention of the pilferer. Cherries, plums, strawberries, apples, tomatoes, and other fresh fruits and vegetables are consigned in open baskets, 'chips,' and 'sleps,' and are a temptation

to a man who would not think of interfering with any other goods and would not under any circumstances open up a carefully packed parcel. The temptation—especially when fruit is scarce—is often irresistible. It is possible to criticise the manner in which such goods are packed in much the same way as magistrates comment upon the temptations offered by the display counters in big shops. Mr. Paul Bennett, V.C., the West London magistrate, stated a few months ago,* for example, that in his opinion 95 per cent. of all shoplifters had no intention of stealing when they entered the premises but were attracted by the array of articles exposed for sale.

The same temptations are experienced by all men and women who handle attractive articles in the course of their work. The methods of packing goods for despatch by rail are, however, largely controlled by trade customs which are not easily altered and, in the case of fruit in particular, experience has taught the growers and merchants that apart from the risk of pilferage the containers used are the most satisfactory for keeping the produce in good condition. Human weakness where such goods are concerned is recognised to some extent and a railway or dock worker detected in a trivial pilferage is often dealt with by an accepted disciplinary procedure rather than by prosecution in a police court. When perishable and consumable goods are stolen they are invariably eaten on the spot. The evidence of pilferage is to be found in the form of skins, pips, stalks, and wrappings lying on the floor of the warehouse or on the platform. To find the traces is one thing, to trace the thief or thieves quite another.

The whole question of pilfering indicates that if, as Pope said, every woman is at heart a rake, it is also true that under certain conditions every man is a thief. During the present war, when oranges began to arrive in the country after a long absence, there were few men who could resist the temptation to steal one, two, or more from the boxes and crates they were handling at the docks and on the railways. Many men have been convicted for such thefts—in some cases men who would probably not have contemplated any other type of theft. It may be that such men salve their uneasy conscience with the thought that "one or two won't be missed." Unfortunately, once a crate has been broached pilfering tends to spread alarmingly. A typical case of this occurred not long ago at a large railway goods depot. Railway police made a gate check as the staff were leaving and seven of the first nine persons questioned were found in possession of stolen articles. The word was passed round in no time that the police were in action and when a search was made

* See the *London Evening Standard* for March 6th, 1944.

of the premises later the officers found that pots of jam, pots of meat paste, packets of butter, and other foodstuffs, all easily carried on the person, had been 'dumped' in empty trucks, lavatories, and other suitable places. It was evident that nearly all the staff had shared the contents of some damaged boxes. Incidentally, lavatories are most useful for pilferers who want to sort over their booty, put on some stolen clothing, or to dispose of some incriminating labels or wrappers—a faulty flush has led to more than one successful detection.

Wines and spirits are a perennial temptation and many a bottle, broken by accident or design, is shared out. The expert and persistent pilferer will sometimes remove a bottle from a case, pour out the contents, substitute water or cold tea (or even urinate in it), and replace the bottle. The whisky pilferer is of course betrayed on occasion by his breath, or, if he has had too much, by his conduct. At a Welsh port recently one man drank so much whisky that he had to be removed from the hold of a ship on a stretcher and died shortly afterwards in hospital. The old-established and apparently universal method of drawing wine or spirits from a cask or barrel is known as "sucking the monkey." This involves boring a small hole with a gimlet or similar instrument and sucking out the liquor through a straw. The hole might be bored underneath one of the hoops which is moved for the purpose, the hole being neatly pegged and the hoop replaced so that no obvious trace remains. A variation of this is "blowing the monkey" which requires two holes, the rest of the operation being explained by its description.

Observation to catch pilferers during loading or unloading is extremely difficult because most warehouses, stores, railway depots, and ships are not constructed according to police requirements. The presence of a uniformed officer is something of a deterrent, although it is easy for would-be pilferers to watch his movements. In certain areas, however, the mere sight of a policeman is sufficient to provoke manifestations of ill-will which have been known to develop into labour 'troubles.'

Loose cigarettes and tobacco, especially the popular brands, can be pilfered and smoked on the spot. It is impossible to say that the cigarette being smoked came from a particular packet that has been pilfered although it might be possible to connect a particular packet with a particular carton. If the pilfered cigarettes are of a rare or very expensive brand the situation is rather different, but even here the hoary excuse of the "man in the pub" has been invoked with success.

It is important to distinguish between the persistent pilferer

and the casual pilferer, that is, the man or woman who, while handling some attractive article, experiences a very natural desire to have it, and takes it; petty thefts of this kind arise from a desire for something to smoke, drink, or eat, and are committed with no consciousness of doing wrong and with no thought of the possibility of detection and punishment. Pilferers of this type will seldom steal goods in any quantity for subsequent sale or distribution among their families and friends. The theft simply satisfies an immediate need. Other isolated thefts occur when the thief is able to fulfil some very special need. In one such case a man stole a tennis racquet frame and attempted to smuggle it out the depot where he worked by putting his arm through the frame up to his shoulder and covering the frame with his overcoat which he wore (as he thought) in the normal way. He intended to string the frame for one of his children who had been pressing him to buy her a racquet for her birthday.

In a few rare cases a man pilfers articles of little market value and apparently, of no use to him whatever, and he will hoard them at his home for the police to find when he is, in due time, detected and arrested. The motive for some thefts of this kind is not to be attributed to mere eccentricity, or to some perversion of the acquisitive instinct, but rather to an aspect of human behaviour best explained perhaps by reference to the researches of Krafft-Ebing, Freud, and their successors in the same field.

The most troublesome pilferer is the person who steals regularly, for instance, to raise money for the purpose of drinking, betting, gambling, or wenching (*cherchez la femme* is a good maxim for the detection of pilferers as well as other offenders). These pilferers learn by experience (or example) and work systematically. They know what the contents of certain packages are likely to be and they know the best method of extracting what they require from any case, carton, box, or parcel, however securely packed. Not the least of their achievements is the removal from a parcel, through a hole about $\frac{1}{4}$ in. in diameter, of silk stockings, underwear, and other easily compressed articles by the skilful use of a piece of wire, which can also be used for 'fishing' through the knot-holes in wooden packing cases. They will also steal small things from cardboard boxes by a careful flattening process which forces out the ends and makes it easy to restore a box to its normal shape. While handling a large carton a well-directed and apparently accidental kick with the toe of a heavy boot can be used to make the necessary point of entry; an obstinate wooden box can be dropped heavily to make the nails spring. When such ruses are adopted pilferages can take place no matter how close the supervision. When a railway van, or a closed

motor van, is being loaded it is not difficult for the practised pilferer to filch something from a package and then pile other consignments on top of it in order to prevent the theft being discovered before the van is sent forward.

In the case of valuable consignments and goods specially liable to pilferage the railway vans are sealed at the sending station after examination to ensure that the load is intact. The seals are then checked at the destination station to ascertain if any interference has taken place on the journey. Where practicable the seals are also examined at intermediate points and in this way it is possible to eliminate likely places of interference and determine eventually the actual station or depot where thefts are being committed. The presence of seals on a van also serves as a deterrent, because some persons who would not hesitate to open a van door to see what the van contained would not go so far as to break a seal to satisfy their curiosity.

The problem that faces every persistent pilferer is the removal of the stolen property from the warehouse or other premises where he is employed. In most cases he tries to conceal the property about his person in such a way that to all but the trained observer his appearance is quite normal. It is essential that he should avoid any unusual bulkiness when he has to pass through the exits of a dock or depot manned by police. An awkward gait or a certain clumsiness of movement will sometimes betray a thief even when his outward appearance is all that could be desired. Experienced officers are very successful in intercepting thieves who aroused their suspicion in the first place not because their pockets were bulging or because their appearance suggested that they might have something concealed on their person but because their manner or their demeanour provided a clue. Such officers are successful not because they are 'lucky' but because they are able, so to say, to put 'two and two together.' Thus, a man stole a long and very stiff 'bend' of leather (suitable for repairing shoes) and he placed it underneath his shirt and along his back in such a way that it extended from his neck to his waist-line. He was detected by a keen-eyed officer who noticed that although he entered an almost empty railway compartment and had a considerable distance to travel to his home he made no attempt to sit down. The fact was that the leather was so rigid that he was unable to bend his body into a normal sitting position.

If articles of clothing—shirts, underwear, socks, and so forth—have been acquired, a common practice is for the thief to substitute the stolen article for the one he is wearing, the latter being thrown away, or to wear the stolen garment underneath his own clothes. A

change of clothes is not favoured by an experienced pilferer because an observant officer might, for example, notice that a man started work wearing a khaki shirt and went off duty wearing one of an entirely different pattern. Silk stockings, ties, and similar articles are sometimes fastened round the waist, or round the legs well above the ankle, while small objects can be inserted under the sock suspenders.

Razor blades and other flat articles such as cigarette cases, petrol lighters, and watches, can be concealed in the lining of a jacket or overcoat, or carried in the arm-pit. Gramophone records have been smuggled out by threading a piece of string through the holes, tying it, slipping the loop over the head (underneath the waistcoat or shirt) and then arranging the discs so that they lie flat on the back and chest. A theft of this kind was discovered when a fellow workman gave the thief a record-breaking 'hail fellow, well met' slap on the back!

A ruse adopted when the pocket is not large enough or too conspicuous is to tie a piece of string round the bottom of the sleeve of an overcoat, fill up the sleeve through the arm-hole with stolen articles, fold the coat, and then walk out carrying the coat over one arm. A bottle of spirits can be tied to the braces and allowed to hang inside the trousers; tea or sugar can be packed in small quantities inside the lining of a cap. Such methods of concealment can be quoted indefinitely. Two more are worth special mention, the thief in both cases being a railway guard. In the first case the guard was suspected of stealing some currency notes from a passenger's luggage and when questioned insisted on the officers satisfying themselves as to his innocence by searching him. They accepted his invitation but failed to find the missing notes. One officer then picked up the guard's flag and discovered to his surprise (and relief) that the notes had been carefully folded and pushed into the seam of the flag. In the other case, the guard stole a postal order, slit the peak of his cap lengthwise, and neatly inserted the order.

More obvious methods, employed usually by men who believe themselves to be above suspicion, are packing things in cycle saddle-bags (or even inside the tubular handle-bars), in food cans, or (less common now) in an empty respirator case, the respirator being left at home to make more room. Vehicles are also used to convey stolen goods, but these thefts are on a large scale and beyond the scope of this article. Mention must be made, however, of one popular depository for pilfered articles—a horse's nose bag.

The female pilferer is no less ingenious than the male and in many

ways the female of the species is more difficult to deal with. In view of the large number of women employed on the railways it became necessary very early in the war for the railway police forces to recruit a considerable number of women police and these officers have done, and are doing, some valuable work at docks, goods depots, and passenger stations all over the country. A surprising amount of stolen property can be concealed on a corseted figure and persistent female pilferers are not above securing the legs of their knickers firmly to the body by a piece of string or some other means and filling them with pilfered articles as far as the waist-line. Furthermore, the anatomy of the female form is such that small objects, jewellery for instance, can be very cunningly, and at times, short of a medical examination, almost irretrievably concealed.

When a pilferer is found in possession of articles which would appear to have been stolen from his place of employment it is sometimes difficult, if not impossible, to prove a specific loss in order to substantiate a larceny charge. There might be, for example, thousands of packages from which the articles could have been stolen, or the pilfered package might have been despatched with many others to some distant town. In these cases the railway police are able to prefer a charge under a special railway Act* which throws the burden of proof on the pilferer. Further, at certain docks and harbours scheduled as 'Protected Places' it is an offence against the Bye-laws made under the Defence Regulations merely to remove anything from the premises without the permission of the Approved Authority—a provision which does much to discourage pilfering and has obvious advantages from the police point of view.

The foregoing account has been brief and necessarily discursive, but it is hoped that it will have indicated to some extent the problems with which officers of the railway and dock forces in particular have to deal almost daily. It will have shown, at least, that the detection of thefts which, in the aggregate, are not so petty, calls for a good deal of patience, keen observation, intelligent anticipation, and—it must be admitted—a modicum of good luck.

It is very obvious that it is much more effective, under present conditions, to encourage and improve preventive measures rather

* e.g., Section 53 of the G.W.R. (Additional Powers) Act 1923 provides that at harbours, docks, stations, and other premises in certain county boroughs, boroughs, and urban districts any railway employee "who shall be brought before a court of summary jurisdiction charged with having in his possession or conveying in any manner anything which may be reasonably suspected of being stolen or unlawfully obtained and who shall not give an account to the satisfaction of such court how he came by the same shall be deemed guilty of a misdemeanour and shall be liable to a penalty not exceeding five pounds and in the discretion of the court to imprisonment with or without hard labour for a term not exceeding two calendar months."

than to attempt to effect a cure. Deterrent sentences would seem to be useless and magistrates who deliver themselves of admonitions such as the popular "This pilfering has got to stop. The next man who appears before me will, etc." are apt to be disconcerted when another man appears before them the following morning and proves to be the forerunner of an apparently endless succession. At the large seaport towns and railway centres the futility of such threats from the Bench is very obvious. The views of magistrates, like the methods of pilferers, have not changed much in the last hundred years. In dealing with a case of railway theft in 1846 a magistrate declared, "I trust that all persons who are concerned in pillaging railways will understand that in every case of conviction of that offence a sentence of transportation will invariably follow." He sentenced the prisoner to seven years.* The crime records of the time reveal that a sentence of seven years was as effective as a sentence of six months to-day.

It is desirable to conclude with a few remarks that are intended to correct an impression that may have been given. Pilfering on the railways, like pilfering elsewhere, is largely an internal matter—that is, the employees are responsible. There are more than four hundred thousand railway employees, and the vast majority are honest and hardworking public servants. There are always black sheep in every flock and it is encouraging to be able to record that in so large a flock, few, comparatively, fall from grace. In 1943 the railway police prosecuted 6,690 persons for larceny and of these only 2,000 were employed on the railways and allied undertakings. Some pilferers undoubtedly evade detection, but the figures given do nevertheless put the matter in its true perspective. At a time when there is much irresponsible and inaccurate comment on matters of public interest it is very necessary to do that in order to ensure that the great mass of railway men and women do not incur a measure of opprobrium that is quite undeserved.

Training by Films

BY INSPECTOR A. H. BRIDGES

Bedfordshire County Constabulary

POST-war training is exercising the minds of the powers that be. The young policeman of the future will have a much higher degree of training at the *beginning* of his career than ever before. The old order of haphazard graduation will not do.

* See *Illustrated London News*, May 16th, 1846.

It may be true that "experience keeps a dear school, and fools will learn in no other," but there is no room for fools in the Police Service, and the embryo policeman must be taught his job at the outset, that is, before he practises upon the public, which expects and demands full knowledge and absolute efficiency of its police servants.

How is this to be effected? The older servants in the police forces, who have graduated in the hard school of experience, will be called upon to pass on to the recruit that which has been learned over many years, and these must keep up to date and have ability to teach. Instructors will be a matter of selection, for experience is not the only criterion of a good teacher. Instructors so selected should also be schooled, to teach them how to impart their knowledge.

They should have at their full disposal the resources of science and invention, and to implement the latter expert lecturers apart from policemen should be available at schools to instruct on forensic matters, e.g., doctors, lawyers, scientists, and technical experts.

I suggest that school equipment should include a cine projector and a good range of films on all branches of police work. A 16 m.m. projector incorporating sound track can be a most valuable means of instruction, and our post-war scheme might well include a police "Film" centre, where exclusively police films are produced, dealing with such matters as:-

Detection of Crime, *Modus Operandi*, Finger Prints, Scientific Aid, Safety First, Road Accidents, Inquests, Court procedure and Diseases of Animals.

I visualise that interesting and instructive films could be made on these subjects and would go far to familiarise the police recruit with his duties before he has to deal with the real thing. I have specially mentioned "talkie films" as an adjunct to our post-war training, because such a method combines visual and audible reception, and in my view is a practical form of training.

It is reported that the Somerset Standing Joint Committee have sanctioned the purchase of a sound film projector, the purchase price of which is £400. The Chief Constable of Salford also has had produced, under his direction and based on his book with the same title, a Road Safety all-colour film called "Road-sense for Children." This film was shown for the first time at a meeting of the local branch of the Royal Society for the Prevention of Accidents at Manchester Town Hall. The film, which runs for three-quarters of an hour, is probably the most elaborate road safety propaganda film ever produced in this country. The education and transport authorities assisted the Police Traffic Department in staging the various episodes, in which children, varying in age from two to seventeen years, are featured.

During the war we have had considerable instruction by films, in some cases having a show put on at a local cinema when the police, N.F.S., and Civil Defence have all attended to view films on "Bomb Reconnaissance" and "Air Raid Precautions."

In this force films have been shown by means of a 16 m.m. sound track projector, to instruct in Air Raid Precautions and Fire Guard Training.

The police do recognise the educational value of the film, but the possibilities may not yet have been fully realised.

To instruct and educate, interest must be stimulated and maintained, and I think it will be increasingly evident that in police spheres as in others, the properly produced and scientifically managed cinematograph must play its part in Post-War Training.

Rent and Other Allowances: The Income Tax Question

DURING the past year or so there has been much controversy on the subject of income tax on rent allowances made to members of a Police Force in lieu of quarters. No fair-minded person can fail to see the injustice caused to those who, instead of being found living accommodation have to take money instead. Were it not for the heavy burden of taxation, that would not ordinarily cause a grievance, since the recipient of cash could use it as he thought best. But the existing taxing laws give rise to a number of inconsistencies.

One consolation, however, is that the Police are not the only people who feel the injustice. In all walks of life the man who receives cash to an extent calculated to be the equivalent of, say, rent and rates of premises in which he is to reside, is not so well off as his colleague who, drawing the same amount of pay in all other respects, is given free quarters. For instance, hospital staffs, caretakers, domestic employees and those in many other occupations, suffer in the same way.

THE PROBLEM DECIDED IN THE COURTS

The question has been fought out in the Courts on numerous occasions. Two such cases illustrate the point very well, and are here mentioned in case any readers care to look up the details. They are: *Cordy v. Gordon* (1925, 9 T.C. 304) and *Machon v. McLoughlin* (1926, 11 T.C. 83). In both, it was held that sums which were deducted from salaries of officers in mental hospitals because they "lived in," must be

added to the cash receipts in order to enable the amounts to be assessed to income tax.

HOW MEMBERS OF THE POLICE FORCE ARE AFFECTED

Few, indeed, are they who would not agree that everybody willing to do his or her daily task is entitled to a commensurate remuneration. The sum should, undoubtedly, be adequate. The times through which the country is passing necessitate a heavy call on our purses as well as on our bodies and minds. We do not shirk our obligations however burdensome, provided they are allotted on fair lines. Doubtless when the relevant Acts of Parliament were framed, comparatively few of those who received part of their remuneration in a form other than money were liable to pay any income tax at all. Events during the past twenty-five to thirty years have led to great changes in the Statutes imposing income tax, and people in the category alluded to have almost automatically been brought within the taxing net, while the circumstances governing the pay of remuneration in kind have remained largely unchanged.

The trouble lies, not in providing quarters for some or not in being able to do so for others, but in the application of general Acts of Parliament to one type of income, while disregarding the other.

TWO SIDES TO THE QUESTION

Just as the police officer, who is given additional cash to enable him to rent a suitable dwelling, feels a definite grievance when he compares his financial position with that of a colleague who "lives in," so should the latter admit that, in comparison, he is better off. The proper course seems to be that the full value of all income, whether received in money or in other form agreeable to the recipient, should be aggregated for income tax assessment purposes. It is not, however, suggested that those items of income which, by Statute, are specifically exempt from taxation for special reasons should be included, *e.g.*, disability pensions from H.M. Forces, accretions to National Savings Certificates and so on. At the same time the total remuneration should be adequate. It may be that pay, etc., plus free quarters on the present scale would be too little, if it were decided that the value of the latter should be taxed. If so, the remedy is obvious.

It is contrary to all that is fair that some should escape income-tax liability on a part of their income while others do not, yet that obtains in regard to millions at the present time—not only police, fire force, prison, and institution officials, caretakers, bank managers living on the bank premises, certain ministers of religion, and so on, but to those in the different branches of H.M. Fighting and Non-Combatant Forces.

The police are entitled to equitable treatment and, it is submitted, that would be obtained if the foregoing principle were adopted. If a man "lives in," an equitable assessment of the value of his quarters (taking rates, fuel, etc., into account) should be made and deducted from his total emoluments. If he is not provided with quarters, no deduction would fall to be made on that score. Incidentally, this would be entirely consistent with decisions of the courts on the point at issue, and equally so with the statement made by the Home Secretary in his explanation to the delegates at a recent annual conference of the Police Federation that the rent allowance is just part of the policeman's pay. No amendment of the tax laws would be necessary to secure equitable treatment, and the question of compensation claims for rent and the like would not arise.

It might well be borne in mind that in the case of those who occupy free quarters, if it were not regarded by both the Revenue and the Rating Authorities that the occupation is that of the Police Authorities *and not that of the individual occupier*, the police officer would be assessable to Schedule A income tax and to local rates.

Something could also be said in support of the making of a deduction for the value of uniform since that "covering" does save wear-and-tear of civilian clothes which, in the case of the non-uniformed man, have to be paid for out of his only income—his wages packet. That is not, however, an important part of the theme of this article.

Perhaps when the war is over and the Fighting Forces' portion of the problem is out of the way, somebody will tackle the matter with sufficient ability and firmness to ensure that real justice will obtain all round.

INCORPORATED ACCOUNTANT.

Organisation of New Constabularies in North Africa

BRITISH, Jewish and Arab officers and constables of the Palestine Police Force have been loaned to the British military administration in Tripolitania for service in organising the new constabulary there.

Officers, N.C.O.s and men of the Palestine Police have also been instrumental in reorganising the Police Forces in Libya, Eritrea and Italian East Africa.

Three hundred new British constables, recently arrived from England, were inspected by the High Commissioner at the Palestine Police Training Depot on Mount Scopus, where they had completed training for the Palestine Police in which they have now entered.

Juvenile Crime a Hundred Years Ago

We reprint the following from a magazine called *The Mirror*, No. 308, published on April 19th, 1828 :

"*Juvenile Criminals.* Of the extent of crime among the youth of the metropolis an idea may be formed from the fact that while in the last year the number of prisoners who passed through Newgate above the age of twenty-one was 1,262, those under that age amounted to 1,669. It is also lamentable to state that in the House of Correction at Brixton more than one-half the number of prisoners were lately found to be under twenty-one.

"The causes of the evil may be briefly told. Nothing tends more powerfully than pauperism to weaken the natural affections and destroy the sense of parental obligation; whatever, therefore, contributes generally to create indigence among the poor at large operates with peculiar severity upon their offspring. Of the crowds of boys who inhabit our prisons and infest our streets, the depravity of an immense proportion may be traced to the want of care and to the neglect and criminality of their natural protectors. Numbers are without a parent or friend, and derive their subsistence by mendicancy and theft. They are frequently committed to prison for short periods; on being discharged, their depredations are renewed both from habit and necessity, until, becoming the associates of old and desperate offenders, their career is at length terminated by transportation or capital punishment."

The Colonial Police

The following appointments are announced by the Colonial Office :

ABRAHAM, A. L., Superintendent of Police, Barbados	Superintendent of Police, Fiji.
CHARLTON, G. E. C., Deputy Superintendent of Police, Palestine	Senior Assistant Superintendent of Police, Palestine.
HOLMES, K. T. M., Assistant Superintendent of Police, Kenya	Superintendent of Police, Kenya.
MILLER, W. A., Assistant Superintendent of Police, Palestine	Senior Superintendent of Police, Aden.
SPENCER, J. H., Assistant Superintendent of Police, Leeward Islands	Superintendent of Police, Fiji.

THE POLICE JOURNAL

VOL. XVII, No. 4.

OCTOBER-DECEMBER 1944

War Commentary

" D-DAY "

" . . . I was fortunate to have the honour of being among the first troops to land on the beaches on D-Day . . . I hope it will not be long before I change my khaki for the blue. . . ." This extract, typical of many in letters received from policemen serving in the Armed Forces, provides an interesting sequel to the decision which Mr. Herbert Morrison announced to Police Authorities in a circular issued from the Home Office in April 1942, that the Government had decided to release the younger policemen to the Armed Forces. The circular added that the high standard of physique and intelligence of the Police made them particularly valuable for the most active forms of combatant service, of which the Armed Forces were in special need. Mr. Morrison was assured by the Service Departments that the policemen made available would be used to the best possible advantage in active forms of service. Those who wished to fly would be given an opportunity of volunteering for flying duties in the Royal Air Force or the Fleet Air Arm. Those who expressed a preference for Naval Service would meet an urgent need for seamen and marines; while those who were posted to the Army would, subject, of course, to the aptitudes which they showed during the initial periods of training, be selected for units which demanded high physique and offered scope for initiative and resourcefulness.

Accordingly, the Police Service delivered to the Armed Forces a large percentage of its energetic and intelligent young officers, who, following initial training, have rapidly permeated the commissioned and non-commissioned ranks of those varied arms which make up the modern assault force. Disciplined, intelligent, adaptable, and not lacking in personal and moral courage, they provide the type of junior leader which gladdens the hearts of Commanding and Staff Officers, who, in many battles, have learned that new tactics and new weapons succeed only if the platoon commander and the platoon sergeant are men of initiative and strength. In most of these young policemen the

From *The Times*, July 17th, 1944

CARTER. On July 14, 1944, at Stoneridge, Tavistock, LIET.-COL. JOHN FULLIS CARTER, C.B.E., late Assistant Commissioner Metropolitan Police, beloved husband of Gwendolyn Marjorie, aged 62. Funeral at Whitechurch, Tavistock, 11 a.m. to-day (Monday). R.I.P.

To the Editor of THE POLICE JOURNAL

DEAR SIR,--In *The Times* to-day was announced the passing of Lt.-Col. J. F. C. Carter, C.B.E. May I call your readers' attention to the big part he played in starting THE POLICE JOURNAL? For years many of us serving abroad had felt that what we needed to keep us up to date in, and informed of, modern methods in all branches of Police work were two things: (a) courses of instruction held in England for officers coming home on leave; (b) a police journal on the lines of the Services journals. Colonel Carter, when he was at Scotland Yard, organised the first Courses of Instruction, which were attended by officers of the Indian and Colonial police forces. They were a great success and the officer who did a great deal to make them 'go' was Sir George Abbiss, Assistant Commissioner, Metropolitan Police, who at that time was Superintendent in charge of Peel House. It was Colonel Carter who was chiefly instrumental in getting THE POLICE JOURNAL going. He persuaded his friend Philip Allan, who was in the publishing trade and had served in the Military Intelligence Directorate during the War, that there was a very real need for such a journal, and together they secured the services of Sir John Cumming as the First Editor. To Colonel Carter and Philip Allan the Police Service overseas will always be extremely grateful for the big part they played in this new enterprise. --H. L. DOWBIGGIN, July 17th, 1944.

(Sir Herbert Dowbiggin is quite right: it is to Colonel 'Jack' Carter that the inception of this JOURNAL is due. But tribute must also be paid to Sir Arthur L. Dixon, whose foresight and wise guidance enabled the project to come to maturity, no less than to Sir John Anderson, G.C.B., the present Chancellor of the Exchequer, who accorded the venture his approbation and encouragement.--ED.)

latent quality of leadership has emerged at the supreme moment of the war. Yet, fortunately for the Police Service, it seems that few of them are reluctant to return to Police duty; the large majority yearn, like the correspondent noted above, to doff the khaki and don the blue uniform of police duty. That in itself is a tribute to the tradition and comradeship of the Police Service, but more is required.

Much is being said about the need for making the Service—its conditions and pay, with prospects of promotion and advancement, and, not least, by the provision of its equipment—one in which those who serve in its ranks will find a career of usefulness and pleasure in the service of the public. There is no doubt that, by and large, the public expect this; the public generally realise that a contented, efficient and well-organised police force will be the bedrock of tranquillity in post-war years. In fundamentals the public outlook changes but little both in stating the ideal and in securing its conversion to the reality: "Next to the blessings which a Nation derives from excellent laws, ably administered, are those advantages which result from a well regulated and energetic Police, conducted with parity, activity, vigilance and discretion. Upon this depends, in so great a degree, the comfort, the happiness, and the security of the People, that too much labour and attention cannot possibly be bestowed in rendering the system complete." These words were written in 1797 by Patrick Colquhoun, the magistrate at Bow Street, in urging the reforms which finally matured thirty years later in the creation of the Metropolitan Police Force.

It is due both to those who come back from War Service and to those who have carried the burden of police duty at home that the planning for the future of the Police should be wise in conception and expeditious in execution.

WAR CASUALTIES

The enactment of the Police and Firemen (War Service) Act, 1944, has cured a number of defects in the Principal Act which, passed at the outbreak of war, was designed to make suitable provision for members of Police Forces disabled in consequence of wounds or disease received or contracted whilst serving in H.M. Forces.

The new measure has tidied up the old, with retrospective effect in a number of benefits, one of its chief merits being to provide a widow's pension for the widow of a constable who dies on service before he has completed five years' approved Police service. The Home Secretary found himself unable to ask Parliament to convert the discretionary power to make up pay and allowances into one of obligation, and the anomalous position remains that policemen serving side by side in the Armed Forces are liable to receive different treatment, merely by virtue

of the fact that one belongs to a Police Force with a Police Authority exercising its discretion in one direction, and the other constable belongs to a Police Force in which the Police Authority exercises its discretion otherwise and declines to follow the precedents set by the Secretary of State in his capacity as Police Authority for the Metropolitan Police.

Parallel situations of this kind all too frequently arise in Police administration, and the Home Secretary escapes responsibility by reminding Parliament that, Police Forces being under the control of Local Police Authorities, he can do no more than "set the pace" with regard to the Metropolitan Police and hope that Police Authorities generally will follow. The problem is complex, and there is precedent and wisdom in following the cautious policy of refraining from interference in local decisions. But the need for a "well regulated and energetic" which implies a contented police "service" should be weighed and uniformity secured in those matters on which so much of the contentment of the Service depends.

CIVIL AFFAIRS

The record of the success of Civil Affairs units in restoring civilian law and order among the civilian population in the towns and villages in Italy, in Normandy and southern France as the Allied Liberation Armies widen and deepen their advances, augurs well for the success of the work which Civil Affairs officers seem likely to be called upon to undertake when the liberation armies have passed through the occupied countries into Germany itself. It is known that a proportion of officers engaged on Civil Affairs are specially selected British Police Officers who after training and study of the special tasks which they are likely to be called upon to perform, have slipped easily and readily into a rôle which the several Commanders-in-Chief in the field have acknowledged as successful. The B.B.C. have informed listeners of the forward operations of Civil Affairs, of their going into action with the assault troops, and of their success in obtaining quickly the loyalty and labour of civilians and peasantry who have been fed on German propaganda and rations for over four years. While censorship requirements prevent immediate publication, it is to be hoped that a record is being preserved for purposes of history and future study.

ROAD ACCIDENTS

The baffling problem of casualties through road accidents refuses to be solved. Debates in Parliament, intensive propaganda by Government Departments and other available resources, and indefatigable efforts on the part of the Royal Society for the Prevention of Accidents

all seem to end in frustration. A loyal and widespread observance of good plain manners enunciated in the Highway Code for the several classes of road users seems incapable of fulfilment.

As he silently patrols the roads on his beat, representing law and order in the midst of chaos, the policeman contemplating the road user may indeed become cynical as he observes the lack of collaboration amongst the departments of Government and local highway and planning authorities which share the responsibility for maintaining and improving roads. Cynicism turns to bewilderment when we compare the safety of the railways with the dangers of the roads.

The Annual Report of the Chief Inspecting Officers of Railways, issued recently, shows that in the year 1943, only one train accident involved fatalities to passengers, namely four. This was the lowest for seven years, notwithstanding increases in railway traffic of 20 per cent. in the number of passengers carried (excluding season ticket holders) and of 50 per cent. in average distance travelled, compared with pre-war. By the end of 1943, freight railway traffic was also higher than before the war by no fewer than one million ton miles for every hour of every day. Among passengers the liability to casualty in train accidents was one killed in some 440,000,000 carried, and, with regard to railway servants, the passenger and freight train miles worked were about 77 million to each fatality.

Exactly comparable statistics are not available with regard to fatalities and accidents on the roads, but it is clear that if the problem is to be solved drastic changes and curtailment in the freedom of the road user in his use of the road are called for, as well as a strict curtailment in the freedom of the road frontager to build as he wishes, without regard to the need for planning for the safety and convenience of the traffic using the road. Safety on the railways is secured mainly by adhering to the principles of (i) segregation, and (ii) control of traffic. These principles may be impracticable of application to all the roads, but it is idle to deny that, if a determined national effort were made, both segregation and control could be applied over some hundreds of road miles, including many which now are vulnerable to accidents in which the different classes of road user are acutely involved. Economically the widths required for segregation may seem unsound, but a start could be made on the roads with less expensive frontages but carrying a heavy tonnage and volume of traffic.

Control of traffic on the roads may not be practicable to the same degree as is applied on the railways, namely by an efficient signal system which prevents two mobile units being on one track at the same time, but, in principle, an augmented control arranged mechanically and manually would soon justify the restriction on liberty in road move-

ment, and, when all the factors were weighed, prove economically sound.

The efficiency of strengthened personnel in control of road traffic was strikingly demonstrated in the vicinity of the embarkation areas before and after D-Day. Of some tens of thousands of vehicles (the record is known but cannot be quoted) arriving at one important port of embarkation, each convoy being led by Corps of Military Police (Traffic Control) either British or U.S. personnel, and with military and civil police supervision at appropriate points, no accidents occurred in the built-up area within the vicinity of the port during the vital month.

The Police and the Law

PROSECUTION OF OLD OFFENDERS UNDER THE PREVENTION OF CRIMES ACT, 1871

THE familiar principle that a man is presumed to be innocent until he is proved guilty is subject to certain qualifications and none of them is more striking than that contained in section 7 of the Prevention of Crimes Act, 1871. As a matter of ordinary experience a hardened offender is more likely to commit crime than a person with a clean record, yet normally his legal position is just as strong as that of any other person and, in general, his past record cannot be brought up against him. But under the Act of 1871, which is concerned with the preventing of crime and not merely with its punishment, Parliament thought it wise to take away from some classes of persons with previous convictions certain of the privileges of the ordinary suspect. Section 7 brings within the ambit of the criminal law forms of conduct on the part of previous offenders falling short of completed crime. In the recent case of *R. v. Goodwin* (60 *T.L.R.* 324) the Court of Criminal Appeal had to consider one of the provisions of this far-reaching section.

Section 7 provides that where any person is convicted on indictment of a crime, and a previous conviction is proved against him, he shall, at any time within seven years of the expiration of his last sentence, be guilty of an offence in certain circumstances. The third of these sets of circumstances is as follows: "If he is found in any place, whether public or private, under such circumstances as to satisfy the court before whom he is brought that he was about to commit or to aid in the commission of any offence punishable on indictment or summary conviction, or was waiting for an opportunity to commit or aid in the commission of any offence punishable on indictment or summary conviction." This is an unusual provision of the criminal law in that

it requires that the jury shall know that the accused is a criminal and a man likely, from what is known of him, to commit the very crime with which he is being charged. In most cases it is precisely about that that the greatest possible care is taken to prevent the jury knowing anything. Further, the conduct described in section 7 (iii) is not serious enough to be a normal offence; such conduct falls short of being a criminal 'attempt.'

R. v. Goodwin

In this case the indictment alleged, first, that the appellant had been convicted at the Central Criminal Court of a crime in 1940, and his previous conviction had been then proved against him; it was then alleged that within seven years immediately after the expiration of that sentence—namely, on December 2nd, 1943—he was "found in certain public and private places, to wit, Portsea Hall and Clifton Court in the County of London, in such circumstances as to satisfy the Court before whom he was brought that he was about to commit an offence punishable on indictment—namely, larceny." It is important to note that the appellant was not charged with "waiting for an opportunity to commit" an offence; if he had been, his appeal against conviction would probably not have succeeded.

The evidence in the case was of a familiar kind. The appellant, being known to the Police, was watched. He was seen to go from Edgware Road to a block of flats called Portsea Hall. He went up to the second floor, examined the locks of two of the doorways there and came down again. Having left Portsea Hall he went by bus to Maida Vale—he was followed there—and did very much the same thing of examining the locks and door of a block of flats called Clifton Court. He was arrested very shortly after getting into the street on leaving Clifton Court.

One of the points taken on behalf of the appellant was that to come within the terms of section 7 (iii) he should be arrested at the place, whether public or private, where it is alleged that he was about to commit the offence. It was held by the Court of Criminal Appeal, however, that the word 'found' in the Act is not equivalent to 'arrested,' and that actual apprehension on the premises was not necessary to constitute the offence. Thus the Police having discovered or seen him in the buildings were quite entitled to stay their hand and make the arrest after he had gone into the street. For a variety of reasons it may be desirable to postpone the arrest for a period. The Court followed the case of *Moran v. Jones* (75 *J.P.* 411) in which it was held that the offence under the Vagrancy Act, 1824, section 4, of being 'found' in a dwelling-house, et cetera, for an unlawful purpose does not require actual apprehension on the premises in question.

But the point which gave the Court of Criminal Appeal the most difficulty in *R. v. Goodwin* was concerned with the evidence. Was the evidence sufficient to indicate that the appellant was 'about to commit' the offence of larceny? Mr. Justice Humphreys, who delivered the judgment of the Court, said that because of the unusual nature of the offence "whenever a charge is brought against a person under section 7 the presiding judge and everybody concerned in the case should be meticulously careful to see that the man is not convicted as the result of the appalling prejudice which must, in such circumstances, be brought against him, but that he is convicted on clear and unmistakable evidence that he has committed the particular charge named in the indictment, quite irrespective of whether he has committed any other offence." His lordship remarked that it might be that there was ample evidence in the case of the accused's "waiting for an opportunity to commit" an offence, but that was not the charge brought.

On the charge of being 'about to commit' larceny the evidence was held to be insufficient. Mr. Justice Humphreys said that if the accused had been interrupted, no doubt no difficulty would have arisen in proving that he was about to commit an offence. But he was not interrupted. The evidence was that having tried the locks of the flats he went away. If, when he was found, he was about to commit the offence why did he not commit it? Nobody stopped him, but he did not commit it. He may have had the intention to commit it, but under the section an intention to commit an offence is not enough. It might be that his idea was that, if he could find a lock suitable for him, and he had a piece of celluloid in his pocket, he would come back later that day or that night and commit an offence there. But this is not sufficient under the section. The conviction of the appellant was accordingly quashed on the ground that there was no satisfactory evidence and that there was no sufficient direction to the jury on this intricate matter.

In the judgment it is said that the requirement that the man must be about to commit an offence "may mean much the same thing as attempted to commit an offence. It is clear that there was not enough here to justify a conviction for attempted housebreaking." It may be observed, however, that the nature of a criminal attempt is narrowly defined by a long series of decisions which distinguish carefully between an attempt and mere preparation. In an attempt the accused must have taken some direct and active step towards carrying out the specific offence. A man may surely be 'about to commit' an offence without having gone so far as this. He may be about to pick your pocket without having moved a finger in that direction. We respectfully suggest that an analogy with an attempt may prove misleading and unduly limit the provision in the Act.

The judgment of the Court in *R. v. Goodwin* concludes with this observation: "The Court would add, without making any general observation about this section, that they think that the Police and those who have to deal with these matters, including Courts of Justice, would do well to remember that, if the facts of a case are such that a man may equally be charged with two offences, one of which involves proof to the jury that he is of bad character, and the other requires no such proof, it is always desirable that the latter should be selected as the charge to be made against him. Once a jury know that a man is given to committing a particular class of crime, it must be extremely difficult for them to treat him in the same fair and impartial way as they would if they knew nothing whatever about him."

The prosecuting authorities may set against this point of view the firm policy adopted by Parliament in 1871 of attempting to prevent crime by submitting the old offender to exceptional rules. But an impartial jury must always be a high desideratum. The difficulty is that under section 7 the essential previous conviction is alleged in the indictment which is read over to the jury. If this information were withheld from the jury they would have a completely open mind. It would seem to be of no importance that they should realise that the conduct alleged of the accused would be criminal in the case only of a former offender. There is an instance of withholding certain parts of an indictment until after verdict in the case of a charge of being a habitual criminal. If this analogy were applied to section 7 of the Prevention of Crimes Act the danger of prejudicing the jury would disappear.

Recent Judicial Decisions

DIRECTION TO JURY ON ALTERNATIVE CHARGES OF STEALING AND RECEIVING

R. v. Lincoln

"IT is not the business of the trial judge to decide whether of two alternative verdicts one or the other is the more appropriate in a case. His duty is to leave to the jury everything in the indictment on which there is evidence to go to the jury. He may, of course, point out to the jury what his own view is of the matter, but he must leave it to the jury, and direct the jury on the law relating to every count in the indictment on which he is leaving it to them, as he is bound to, to find a verdict." Mr. Justice Humphreys made these

remarks in delivering the judgment of the Court of Criminal Appeal in *R. v. Lincoln* (60 *T.L.R.* 250), a case in which the jury did an incalculable thing in finding the accused guilty on a count which prosecutor, accused, and judge had, probably rightly on the evidence, chosen to ignore.

Three counts of the indictment charged the appellant with stealing three separate articles, there being three alternative counts that he received the articles well knowing them to have been stolen. The trial proceeded on the issue of stealing only, to which issue the appellant confined his evidence, and the Chairman of the County of London Sessions directed his summing-up to that question alone. The jury returned a verdict of not guilty of stealing, and, when required by the Chairman to return a formal verdict of not guilty on the alternative counts of receiving, declared a verdict of guilty on one of the counts of receiving. He was therefore sentenced to nine months' imprisonment. The appeal was allowed, the whole proceedings being held unsatisfactory. The appellant had not had an opportunity of giving evidence on the question of receiving at all, which he never mentioned in the course of his evidence, and had had no opportunity of addressing the jury on it.

APPEAL TO QUARTER SESSIONS AGAINST SENTENCE: NO EVIDENCE HEARD

Paprika Ltd. and Black v. Board of Trade

The procedure with regard to the production of evidence at Quarter Sessions on an appeal against sentence only was considered by the Divisional Court in this case (1944, 1 *K.B.* 327) in which the County of London Quarter Sessions Appeal Committee confirmed the penalties imposed on the appellants by the Bow Street magistrate on charges of unlawfully acquiring rationed goods otherwise than against the surrender of the appropriate number of coupons. The appellants pleaded guilty and appealed to quarter sessions against the sentences imposed. No evidence was called or admissions made on the appeal which was heard solely on the basis of the evidence before the magistrate. No objection to this course was made at the time by the appellants' counsel, and when this procedure was questioned in the Divisional Court by the appellants that Court was informed that it is the general practice in London not to call evidence where the appeal is only against sentence.

In upholding this practice the Divisional Court pointed out that it was certainly the practice in the High Court that the same strictness of proof was not demanded in matters relevant to sentence as in

matters relevant to conviction. In so far as there was any legal difficulty it lay in the fact that an appeal to quarter sessions has always been treated as a rehearing, although there appears to be no statutory provision to that effect. Mr. Justice Lawrence thought that this practice must have had its origin in the presumption of innocence which in appeals to quarter sessions is continued even to a convicted man, but that this presumption and the onus of proof on the prosecution which results from it did not apply to matters of sentence. On the charge itself innocence is then impossible, and guilt on previous occasions becomes for the first time relevant. There is accordingly no onus on the prosecution to prove anything, though it is convenient, as was done in this case, that the prosecution should inform the court of matters which may be relevant on sentence. Sentence is the concern of the court and not of the prosecution, and it is the universal practice of the High Court for the Court to accept admissions by counsel for the convicted persons on matters relating to sentence. Hence the appellants could not be heard to say that the sentence imposed could not stand. The appeal was dismissed with costs, the fines of £2,000 each not being interfered with.

CLERK OR SERVANT: AN ESSENTIAL OF EMBEZZLEMENT

R. v. Stearman

Whatever other offence an accused may have committed he cannot be guilty of embezzlement unless he was the clerk or servant of the prosecutor at the time of the alleged offence. Insufficient attention was paid to this factor in *R. v. Stearman* at the trial at Norwich City Sessions, which the Court of Criminal Appeal (March 6th, 1944) described as "eminently unsatisfactory from many points of view." The appellant had been employed as secretary and general manager of a dairy company up till the end of June. After June, in the hope of keeping the company going, he helped in an unpaid capacity by delivering butter and collecting accounts. The charge concerned sums of £2 5s. and £1 10s. which he collected on October 9th and which, it was alleged, had not been handed in.

A submission was properly made that there was no evidence that the appellant was a servant of the company at the time of the alleged embezzlement. "That submission having been overruled on grounds about which the less said the better," declared Mr. Justice Humphreys in the Court of Criminal Appeal, "there was not a word addressed to the jury in the summing-up on the question whether Stearman was a servant of the company. Assuming that there was any evidence it was a question of fact for the jury. From beginning to end the

trial was not conducted in the way in which such proceedings should be. It would be quite impossible for us to say that this man was rightly convicted or that the jury ever had before them the really material matters for their consideration." The conviction was quashed.

AIDING AND ABETTING CONCEALMENT OF BIRTH

R. v. Field

Before concealment of birth is made the subject of a charge the prosecution ought to consider carefully the exact nature of the evidence, for nice points are liable to arise on such a charge. *R. v. Field* (29 *Cr. App. R.* 151) is an instructive decision in this respect. The appellant pleaded guilty at Warwickshire Quarter Sessions to aiding and abetting the concealment of the birth of the child of one of his two daughters, who were charged with actual concealment. The indictment read that he "with knowledge of the misdemeanour aforesaid, did maintain secrecy thereof and did receive, harbour, and maintain the said 'girls,' well knowing that they had lately before secretly disposed of the dead body of the said child." The three defendants lived together and the appellant first learned of the disposal of the body of the child, which was stillborn, some eight hours later when he returned from work. He then told one of the daughters not to say anything about it. He stated that he did not know that his daughter was expecting a child.

The conviction of the appellant was quashed, he having done nothing more than the negative acts of failing to turn his daughters out of doors, or of failing to give some information to the police. The Court of Criminal Appeal said that the wording of the indictment apparently charged him with aiding and abetting the concealment of birth. But, on the judgment on the appeal, it need hardly be said that the disposal of the body is an essential factor in the offence of concealment of birth. There was held to be no evidence upon which the appellant could have been held to have aided and abetted the disposal of the body and he could not have been charged as an accessory after the fact, as the offence was a misdemeanour, not a felony.

THE RIGHT OF CHALLENGING THE JURY IN WAR TIME

Emergency legislation has affected a number of the incidents of trial on indictment and was considered by the Court of Criminal Appeal in a case reported in 1944 *W.N.* 6. The appeal was brought against a conviction of murder at the Central Criminal Court. There were two indictments for murder against the appellant, one in respect

of the death of a woman and the other in respect of that of her child. Before the first indictment was proceeded with, the appellant was arraigned on the second indictment. He was not informed of his right to challenge the jury, that is, to object to the presence of individual jurors and to require them to stand down. The right of peremptory challenge or objection made without sound reason was suspended by the Defence (Administration of Justice) Regulations, 1940, reg. 13, but the right of challenge for cause remained. The Court of Criminal Appeal was informed, however, that at the Central Criminal Court the customary intimation of the right of challenge which should have been given to a prisoner about to be tried was omitted. This was mentioned as a matter which should receive consideration with a view to the practice at the Central Criminal Court being brought into line with the passage in that ancient authority, Hale's *Pleas of the Crown*, vol. 2, c. XL, where the form of the words to be used was set out.

The prisoner was held on the facts to have suffered no injustice by the omission, nor was he prejudiced by being arraigned on the second indictment before he had been tried on the first. But the court stated that in ordinary circumstances it would be improper to put the second indictment to the prisoner before he had been tried on the first.

A "DWELLING-HOUSE" UNDER THE VAGRANCY ACT: ENTRANCE HALL OF BLOCK OF FLATS

Hollyhomes v. Hind

With the rapid increase in recent years of blocks of flats, the entrance halls and passages of which the wrongdoer is often able to enter almost at will, the decision in *Hollyhomes v. Hind* (60 *T.L.R.* 376) is of considerable importance. It settles a point on the construction of the term dwelling-house in the Vagrancy Act, 1824, which must often have raised doubts in the minds of those who were considering the bringing of a charge.

The appellant in the Divisional Court was convicted before the justices on an information preferred by the respondent, the Chief Constable of Bath, charging him with being found in or upon a certain dwelling-house "in the occupation of Lilian Williams at No. 8 ——— Buildings, for a certain unlawful purpose—namely, feloniously to steal the goods and chattels" of Miss Lilian Williams, contrary to section 4 of the Vagrancy Act, 1824. The facts were that the appellant was in the afternoon found by police officers in the inner part of the entrance hall, near a door indicating the name of Miss Williams, at

No. 8 ——— Buildings. In answer to questions by the police officers he stated that he had entered the premises for the purpose of keeping an appointment with Miss Williams with a view to the purchase of certain silver and other goods which she contemplated selling. Among the appellant's possessions were three keys of the skeleton type which did not, on investigation, correspond with the appellant's attempted explanation of their presence. Miss Williams had no silver to dispose of, nor had any appointment with the appellant or anyone else, and she was in fact absent on holiday at the time.

The difficulty in the case was that Miss Williams occupied the flat under a lease which did not extend to the entrance hall; she had the use of that and other common landings, staircases and passages in common with occupiers of other parts of the building. The landlord was responsible for the upkeep of the entrance hall and the other parts which were shared by the tenants. On the appeal to quarter sessions the Recorder held that the appellant was found in the entrance hall for the unlawful purpose of stealing, and the conviction was upheld. But the Recorder stated a case for the opinion of the Divisional Court on the question whether the information was correct in describing the entrance hall as part of a dwelling-house in the occupation of Miss Williams.

It was held by the Divisional Court to be unnecessary to discuss the question whether the entrance hall was covered by Miss Williams's tenancy. From the point of view of the liability to pay rates it might be true that the three separate flats in No. 8 were separate dwelling-houses, thus leaving the entrance hall in an extremely dubious legal situation; but it was held that from the general point of view the whole building, No. 8, was quite clearly a dwelling-house in itself. As Mr. Justice Humphreys said in giving judgment: "It may be said to be three dwelling-houses, but that does not prevent its being a dwelling-house. It is so used and occupied."

So far so good. The remaining difficulty was that the information described the dwelling-house as in the occupation of Miss Williams while her lease covered only the occupation of one flat. It was held, upholding the ruling of the Recorder, that the words "in the occupation of Lilian Williams" might be disregarded as being mere surplusage. No one doubts the necessity for there being sufficient accuracy and detail to enable an accused person to know exactly what is the place in respect of which it is said that he was found; otherwise, if he were charged with the same offence later on he would not be able to prove that he had been already convicted of that offence. But no one could doubt that sufficient description was given of the dwelling-house when it was described as No. 8 ——— Buildings. It was quite unnecessary

to add that it was in the occupation of a particular person. Therefore, even if the description of the occupier was inaccurate it did not matter. The appeal was dismissed.

DEFENCE OF CONSENT ON CHARGE OF RAPE: CROSS-EXAMINATION AS TO PREVIOUS CONVICTIONS NOT PERMISSIBLE

R. v. Turner

Among the exceptions to the rule that the accused who gives evidence at his trial shall not be asked questions tending to show previous convictions or bad character is that in which "the nature or conduct of the defence is such as to involve imputations on the character of the prosecutor or the witnesses for the prosecution": Criminal Evidence Act, 1898, s. (1) (f) (ii). If the accused does not wish his own dark past to come to light he must take care not to besmirch the character of the prosecutor or his witnesses. It has been a matter of some doubt whether the accused on a charge of rape loses the protection of the rule when his defence is that the woman consented to his act. In a court consisting of five judges specially convened by the Lord Chief Justice the Court of Criminal Appeal in *R. v. Turner* (1944, 1 K.B. 463) held that in such a case the accused is protected from cross-examination as to previous convictions.

On charges of rape and indecent assault it often happens that the accused is known to the prosecution to have a bad character with regard to women or to have been before the courts before on similar charges. As his defence frequently is that the prosecutrix consented it is important to know the extent to which the prosecution can reveal his record as it is known to the Police. In *R. v. Turner* the appellant was sentenced at Bedfordshire Assizes to four years' penal servitude on a charge of rape. He gave evidence that the woman consented to the act and that she also committed an act of gross indecency on his person. She denied these allegations. The trial judge allowed counsel for the prosecution to ask the accused if he had had a previous conviction of an offence of this kind and he admitted that some three years earlier he had been convicted at Anglesey Quarter Sessions of an assault with intent to rape and sentenced to nine months' imprisonment.

The Court of Criminal Appeal conceded that to allege of a woman that she permitted a man other than her husband to have intercourse with her would be regarded by most people as an imputation on her character and that therefore, at first glance, the accused's own character was laid open to attack under the terms of the Act. But the Court held that wider considerations were involved in the solution of the problem. On a charge of rape the Crown has to prove two things

—intercourse and non-consent of the woman. What is commonly referred to as the defence of consent in rape is in truth nothing more than a denial by the accused that the prosecution has established one of the essential ingredients of the charge. For centuries the law has jealously guarded the right of an accused person to put forward at his trial any defence open to him on the indictment without running the risk of his character, if a bad one, being disclosed to the jury. It was thought that Parliament could not have intended to take away this right because the accused chose to give evidence denying one of the essentials of the charge. It was therefore held, following the majority of assize rulings on the point, that the allegation of consent did not expose the appellant to cross-examination as to previous convictions.

But there was the further point in *R. v. Turner* that the appellant did not confine himself to a bare allegation of consent but cast certain other reflections on the prosecutrix's behaviour on the occasion in question. In fact it was these suggestions of filthy conduct which led the trial judge to allow cross-examination about the previous convictions. The Court of Criminal Appeal took a different and broader view. It held that the appellant's evidence did not go beyond the defence of consent; it did no more than state the details or particulars of the woman's conduct. The new topic, if it was new, was so closely connected with the defence of consent as in effect to form part of it. Both points were decided in favour of the appellant. The Court was asked to apply the rule which allows an appeal to be dismissed, even when the appellant succeeds in his contentions, on the ground that no miscarriage of justice has actually occurred. The Court agreed that the case against the appellant certainly appeared to have been a very strong one, but as it was a case of a wrong decision on a question of law the appeal was allowed and the conviction quashed.

CONSPIRACY : IGNORANCE OF THE LAW NO DEFENCE

R. v. Jacobs

A criminal conspiracy has been defined as an agreement between two or more persons to do an unlawful act. In *R. v. Jacobs* (1944, 1 K.B. 417) the conspirators were assumed to be ignorant of the illegality of the act which they had agreed to do, but their conviction was none the less upheld. They were indicted for conspiracy to contravene the provisions of section 1 of the Prices of Goods Act, 1939, which makes it unlawful to sell price-regulated goods in excess of the permitted price. Another defendant, who did not appeal, had sold razor blades to the appellants, who conducted a chemist's business, in excess of the permitted price. The prosecution did not set out to prove that the appel-

lants knew what the authorised price was or even that they knew that the price which they paid was a wrong one. The trial judge held that such knowledge was unnecessary, and his ruling was supported by the Court of Criminal Appeal.

The Court stressed the fact that the count in the indictment did not charge any offence against the Act of 1939 or any other Act, nor did it even involve the proposition that any such offence had been committed. It charged the common law misdemeanour of conspiracy. The unlawful act alleged to be the subject of the conspiracy was the selling of price-regulated goods at an unauthorised price. It was no defence to say that the appellants did not know the terms of the orders regulating the prices of the goods in which they dealt. As the Court of Criminal Appeal said, "*Ignorantia juris neminem excusat*." "Ignorance of the law excuses no one" is the accurate way of expressing the rule so often put in the loose form : "Everyone is presumed to know the law."

CRIMINAL RESPONSIBILITY OF COMPANY : CONSPIRACY TO DEFRAUD

R. v. I.C.R. Haulage Ltd.

The decision of the Court of Criminal Appeal in *R. v. I.C.R. Haulage Ltd.* (60 T.L.R. 399) is likely to become a leading case on the subject of the criminal responsibility of companies and other corporations. With the great increase in the activities of companies the attitude of the courts to this branch of the law has undergone a process of development of which this decision is the culmination. The appellant company, together with the managing director, was convicted at Kent Assizes on a charge of conspiracy to defraud certain employees of the company and other persons. The appeals of all the defendants were dismissed and the Court of Criminal Appeal put into writing its judgment on the point of law raised on behalf of the company—namely, that an indictment alleging a common law conspiracy to defraud cannot lie against a limited company.

The case for the appellant company rested on the old argument that an indictment against a limited company for any offence involving as an essential ingredient *mens rea* in the restricted sense of a dishonest or criminal mind must be bad, for the reason that a company, not being a natural person but only a legal entity, cannot have a mind honest or otherwise, and that consequently though in certain circumstances it is civilly liable for the fraud of its officers, agents or servants, it is immune from criminal process. The Court, naturally, agreed that there were some offences for which a company cannot be indicted,

but these were treated as exceptions to a general rule of criminal responsibility and as arising from the limitations which must inevitably attach to an artificial entity such as a company. Included in these exceptions are the cases where, from its very nature, the offence cannot be committed by a corporation, as, for example, perjury, an offence which cannot be vicariously committed, or bigamy, an offence which a company, not being a natural person, cannot commit vicariously or otherwise. A further exception, but for a different reason, comprises offences, of which murder is an example, where the only punishment which the Court can impose is corporal: the basis on which this exception rests is that the Court will not stultify itself by embarking on a trial which, if a verdict of guilty is returned, no effective order by way of sentence can be made.

The Court of Criminal Appeal did not approve of the assize decision in *R. v. Cory Bros. & Co. Ltd.* (1927 1 K.B. 810), which is so frequently quoted in the textbooks on criminal law. In this case the judge quashed an indictment against a company for manslaughter and for an offence under section 31 of the Offences Against the Person Act, 1861, the offences being punishable with imprisonment or penal servitude. But the Court in *R. v. L.C.R. Haulage Ltd.* points out that both these offences can also be punished with the infliction of a fine and that "if the matter came before the Court to-day the result might well be different." The Court approved of a recent decision of the Divisional Court, *Director of Public Prosecutions v. Kent & Sussex Contractors Ltd.* (1944 1 K.B. 146), already noted in THE POLICE JOURNAL, holding that a company could be guilty under Defence Regulations of an offence involving an intention to deceive.

In concluding its judgment the Court of Criminal Appeal made it clear that it was not deciding that in every case where an agent of a company acting in its business commits a crime the company is automatically to be held criminally responsible. The decision only goes to the invalidity of the indictment on the fact of it, an objection which is irrespective of the facts of the particular case. Whether in any particular case there is evidence to go to the jury that the criminal act of an agent, including his state of mind, intention, knowledge or belief is the act of the company, must depend on the nature of the charge, the relative position of the officer or agent, and the other relevant facts and circumstances of the case.

BIGAMY: INVALIDITY OF FIRST MARRIAGE *R. v. Shaw*

If the accused on a charge of bigamy seeks to defend himself on the ground that the earlier marriage was invalid he must prove its

invalidity. There is a presumption of the validity of the marriage. This rule is well illustrated by *R. v. Shaw* (60 T.L.R. 344). The applicant, who had been convicted of bigamy at the Central Criminal Court and sentenced to twelve months' imprisonment, applied to the Court of Criminal Appeal for leave to appeal against his conviction and to call further evidence. He had married a woman in 1942, and in 1943 he went through a form of marriage, describing himself as a bachelor. The first woman gave evidence of her marriage to the applicant, as did also her mother, and the marriage certificate was produced. The detective-sergeant in charge of the case was asked in cross-examination whether the applicant had told him that at the time of the first marriage he had already been previously married in Canada. The detective-sergeant replied that the applicant had made a statement to that effect but had given him no details whatever.

It was submitted for the defence that in view of the admission by the Police witness a burden rested on the prosecution to prove that the 1942 marriage was entirely valid. The Common Serjeant held that this marriage must still be presumed valid and his ruling was upheld on appeal. The applicant did not give evidence at the trial to rebut the presumption. It was held to be too late for him to come to the Court of Criminal Appeal and ask for an opportunity of proving something which it was perfectly open to him to have proved at his trial, if he could, something which might entitle him to a formal acquittal on that particular charge, but would at once lead to his being prosecuted for having committed bigamy twice instead of once. The application for leave to appeal and to call witnesses was dismissed.

NO BAIL PENDING APPEAL BY CASE STATED BY QUARTER SESSIONS

Ex parte Blyth

If bail is not granted pending an appeal and the appeal succeeds, an innocent man may have served the whole sentence by the time the conviction is quashed. On the other hand, if bail is granted pending an appeal and the appeal fails, a guilty man may have escaped his whole sentence by the time the conviction is affirmed. To meet this position there are special statutory rules governing bail pending most forms of appeal. For example, there is an express provision ensuring that if an appeal by case stated by petty sessions should be unsuccessful, the appellant released on bail will not be benefited by obtaining any remission of his sentence merely as a result of having made an unsuccessful appeal. But it appears from *Ex p. Blyth* (60 T.L.R. 353) that, whether by an oversight or not, no express provision deals with bail pending an appeal by case stated by quarter sessions.

In this case there was an application to Mr. Justice Hallett for release on bail pending the hearing of the applicant's appeal by case stated by quarter sessions which had imposed a sentence for non-payment of fines and also confirmed a sentence of imprisonment by petty sessions. As there was no statutory authority to grant bail in such a case the application had to be decided by the common law. The judgment contains a long review of the common law and statutory law of bail, beginning with the distinction between granting bail before conviction and granting bail after conviction. The common law allowed offences to be bailable before conviction but not after, and the conclusion finally reached by Mr. Justice Hallett was that the old rule still applied to release pending an appeal by case stated by quarter sessions. He held that he had no jurisdiction to grant bail. There had been one or two instances of the granting of bail pending an appeal by *certiorari*, but the question had never been fully argued before *Ex p. Blyth* and these previous and unsatisfactory instances were not followed. His Lordship concluded by remarking that it was a matter for consideration by the appropriate authorities whether, having regard to the policy of the statutes regarding most other criminal appeals, some alteration was not now desirable in the case of an appeal by case stated by the appeal committee of quarter sessions.

APPLICATION FOR CASE STATED : TIME LIMIT

Chesterton Rural District Council v. Ralph Thompson Ltd.

This decision (1944, 1 K.B. 447) is important as containing some guidance about the time allowed to a party in which to make up his mind to appeal by case stated from a decision of quarter sessions. On May 21st the appeal committee of quarter sessions in deciding the issue between the parties affirmed the decision, given on March 11, by a court of summary jurisdiction, but said nothing about their judgment being subject to a case stated, nor were they asked on that date to state a case. But the appellants applied in writing on May 28th asking for a case to be stated. The application was granted. When the case came into the Divisional Court the respondents argued that it had no jurisdiction, on the ground of the week's delay in applying for a case to be stated.

There is no general time limit laid down by statute, but the respondents were able to quote a text-book opinion to the effect that an appellant should ask for a case at the time judgment is given. The Divisional Court, however, refused to adopt this opinion as the case before them had been stated on a request made 'within a reasonable time.' The appeal committee was still in power, not *functus officio*,

when the application was made, as an appeal committee's jurisdiction is 'continuous' under the terms of the Summary Jurisdiction (Appeals) Act, 1933, s. 7 (2). What period longer than a week is a reasonable time remained an unanswered question, but at least the decision does not force a prospective appellant to make a hasty decision on the advisability of appealing on what may be nice legal issues.

THE LICENSING OF FUN FAIRS

Allen v. Emerson

The checking of the abuses associated with fun fairs has been a police problem for some time, but it may not be universally realised that local Acts frequently contain powers which can be used for this purpose. Thus it appears from *Allen v. Emerson* (1944 1 All E.R. 344) that in Barrow-in-Furness under a local Act "no theatre or other place of public entertainment" can be used as such without a licence from the local authority, and penalties are provided for breach of the enactment. The justices dismissed informations brought against ten persons for a number of alleged offences in breach of this provision, and the town clerk appealed by case stated to the Divisional Court. The respondents operated fun fairs of the usual kind containing automatic machines, the public being admitted to the premises without charge.

One of the legal points taken by the respondents was that 'public entertainment' involves the existence of entertainers and persons entertained and that, where persons resort to premises where there are no entertainers and entertain themselves by means of the machines provided, the place is not one of public entertainment. The Divisional Court was not convinced by this reasoning. The Court thought that a satisfactory definition of public entertainment was "a place open to members of the public without discrimination who desire to be entertained and where means of entertainment are provided." It was held that automatic machines operated by the public themselves were such means. It was also held that it made no difference that no charge was made to the public for admission to the premises.

The rule of statutory interpretation known as the *ejusdem generis* rule was also raised. It was argued that 'place of public entertainment' must be interpreted as being a place of the same genus as (*ejusdem generis*) 'theatre,' the preceding word in the section of the Act. This rule of construction is frequently relied on in the criminal courts as so much modern legislation contains lists of words of the same type followed by some concluding general phrase like 'or other.' In *Allen v. Emerson* the Divisional Court refused to apply the rule so as to limit the wide meaning of the words 'place of public entertainment.' The

Court held that not only was the tendency of the more modern decisions to attenuate the application of the *ejusdem generis* rule but that no case had been cited in which a genus had been held to be constituted, not by the enumeration of a number of classes followed by the words 'or other,' but by the mention of a single class (in this case 'theatre') followed by those words. The appeal was accordingly decided in favour of the appellant, the prosecutor.

OFFENCES COMMITTED 'RECKLESSLY'

Williams Bros. Direct Supply Stores Ltd. v. Cloate

The Divisional Court in this case (60 T.L.R. 270) gave a useful ruling on the manner in which offences are committed 'recklessly,' a qualifying word which has been applied to a variety of criminal acts. The magistrates convicted the appellants of recklessly making statements false in a material particular contrary to art. 30 (1) (a) of the Rationing (General Provisions) Order, 1942. It was found by the magistrates that the appellants, who were shopkeepers, by reason of carelessness and inattention sent on several occasions fewer than the stated number of coupons to the Food Office. The Divisional Court upheld the view that the discrepancies between the number of coupons surrendered and the statements made by the company's officers were such as to show very clearly that there must have been carelessness and inattention.

But did this amount to recklessness? The Court agreed that it was not in every case that mere carelessness and inattention was the same thing as recklessness. " 'Recklessness' means a state of mind which does not care whether the statement is true or false." It is not necessary to show that there is any knowledge that the statements are false in a material particular. It was held that the carelessness and inattention might well be of such a degree and character as to justify a finding that the persons who were careless and inattentive really did not care whether the result was true or false. That was the position in this case. The appellants really did not address their minds to the question whether their statements were true or false. They made them not caring whether they were true or false: or, in other words, they made the statements recklessly. The convictions were upheld.

PRETENDING TO EXERCISE CONJURATION OF SPIRITS AT SÉANCES

R. v. Duncan

In *R. v. Duncan* (60 T.L.R. 470) the appellants were charged with conspiring 'to pretend to exercise or use' a 'kind of conjuration'

contrary to section 4 of the Witchcraft Act, 1735. The matters out of which the prosecution arose took place at spiritualist séances. It was emphasised by the Recorder at the trial at the Central Criminal Court that the prosecution did not seek to prove that spirits of deceased persons could not be called forth or materialised or embodied in a particular form. Their task was much more limited and prosaic; it was to prove that the appellants had been guilty of conspiring to pretend that they could do these things, and therefore of conspiring to pretend that they could exercise a kind of conjuration to do these things. The main ground of the appeal to the Court of Criminal Appeal was that the jury ought to have been told by the Recorder that only a pretence to hold conversation with wicked and evil spirits was forbidden by section 4 of the Act of 1735.

The appellants sought to find support for this argument in a consideration of the terms of still earlier statutes which had been abolished. There had, for example, been a statute of James I which spoke of the 'conjuration of evil and wicked spirits.' This statute, however, had been repealed by the Act of 1735 which referred in general terms to the pretence to exercise or use 'any kind of conjuration' with no reference to evil spirits. The Court of Criminal Appeal held that the words of the Act of 1735 were the all-important words and that, therefore, the offence could not be limited to evil spirits. Any kind of conjuration was aimed at. The appellants' suggested distinction "would raise an issue of fact incapable of determination and based on no intelligible principle of law or religion." What was aimed at was that ignorant persons should not be deluded or defrauded by the pretence to exercise or use any kind of conjuration. The appeals against conviction and also against sentence were dismissed.

Criminal Law and Practice in Scotland

KEEPING A HACKNEY CARRIAGE FOR HIRE

Blythwood Taxis Ltd. v. Adair

THE successful appellants in this case, a limited company operating in Glasgow, have an office and a garage in Possil Road, a street some considerable distance away from Queen Street railway station. At the beginning of the present year, they embarked on a new venture by opening a second office in Dundas Street. On a window of this office facing the exit from Queen Street station there appeared the words "Taxis Day and Night." On January 18th, two members of the police headquarters staff, acting on instructions, kept observation at the station

exit. About 3 p.m., one of the company's cars, VD 9080, drew up at the office and remained stationary on the street some four yards from the office entrance. The driver immediately left the car and went into the office—for an unascertained purpose. A few minutes later, the officer and clerkess who had been observing went into the office and asked the driver if the car on the street was for hire. He replied in the affirmative. The constable then asked the driver if he would take him and his friend to St. Enoch station, and the driver, on a nod of assent from one of the company's directors, who was also in the office at the time, agreed to do so. He conveyed the constable and clerkess to St. Enoch and charged the constable for the journey. The vehicle was not a taxi. It was registered, under the Roads and Finance Acts, as a hackney carriage. The company had no licence from the magistrates' committee to keep, use or let the vehicle as a hackney carriage.

On these facts, the company was convicted, in the local sheriff court, of contravening section 184 of the Glasgow Police Act, 1866, in respect that they did "keep, use and let for hire a motor vehicle, viz. hackney carriage VD 9080, without a certificate or licence granted to them by the magistrates' committee of the Corporation of Glasgow." On appeal to the High Court of Justiciary, the conviction was quashed, the court holding (by a majority of two judges to one) that it had not been satisfactorily proved that the vehicle in question was, within the meaning of the local police act, a "hackney carriage," nor had it been proved that the company kept, used and let it for hire.

In the Act of 1866, a hackney carriage is defined as every wheeled vehicle (other than a stage carriage or stage coach), whatever be its form or construction, which shall stand on hire, or ply for a passenger for hire, within the city, "except a carriage let out to hire as a job carriage by the day, month or other longer period, or a carriage kept by the proprietor within his own premises unyoked for the purpose of being let out to hire as a job carriage for any shorter period." Parties were agreed that the vehicle figuring in the present case was neither a stage carriage nor a stage coach and that it did not fall within the exceptions allowed by the definition. The short point, therefore, on this part of the argument, was whether the vehicle was standing on hire or plying for hire within the city. Again, parties agreed that it was not plying for hire; so that the question came to be whether it was, at the time of the police observation and action, standing on hire. "The Solicitor-General," said Lord Mackay, "put his argument as succinctly and as clearly as this; he said the vehicle, in the office no doubt and by a director of the office and not by the driver in charge, was subjected to a contract of hiring or letting and that at the moment it happened to be standing on the street and before the office door. Put the two to-

gether, said he, and you have the conviction. I am of opinion that this reasoning is fundamentally fallacious . . . The words 'stand on hire' have, and ought to be given, a reasonable and rather technical significance. What is intended is that the vehicles instead of plying occupy a standing place, a stance, in such a way that they invite the public, and indeed commit themselves to the public, to be at the public's disposal whenever they lift a finger or an umbrella." The facts proved, in the view of the court, were "perfectly consistent with innocent and legitimate trading."

Even had it been proved that the vehicle involved was a hackney carriage, within the meaning of the local Act, there remained the question whether the company had been proved to keep, use and let it for hire. In the opinion of the majority judges, these words, read in their context, pointed to "an habitual or regular business use" of the vehicle. Such use might be inferred from a significant single instance, but the instance of hiring proved to the sheriff was not significant. It was open to the construction that the police desired a special hiring of the vehicle and that "they did not, in any true sense, apply as members of the public who felt themselves invited, either by a vehicle plying in the streets or by a vehicle standing at a stance on the streets, to take it at a regulation and regulated fare. A relevant fact was that the vehicle was not provided with a taximeter."

This decision has, we think, a double significance for the police. (1) It illustrates the need, in cases of this sort, for prolonged observation before bringing matters to a head by active police intervention. Had the officers kept watch on the vehicle, seen it hailed and hired, on more than one occasion, by passengers emerging from the station with luggage, and then themselves procured a hiring while both the vehicle and driver were on the street, the result might have been different. (2) It serves to drive home the inadvisability of perilling a prosecution on police evidence alone in circumstances in which, with a little patience, civilian evidence in support might have been made available to the court.

RENEWAL OF FIREARM CERTIFICATES

On occasion, the Scottish police may be approached by the holder of a firearm certificate granted in Northern Ireland with a request for renewal—the applicant being now resident in Scotland. How is such an application to be dealt with? Have the Scottish police power to renew? If so, for what period? Assuming that renewal is granted, what is the result if the holder returns to Northern Ireland?

The difficulty arises because the granting and renewal of firearm certificates in Northern Ireland still rests upon the Act of 1920, as that

Act applies there. By section 18, the maximum period during which a certificate may remain in force is one year. In Scotland, on the other hand, certificates are now granted and renewed under the Firearms Act, 1937, and "a firearm certificate shall, unless previously revoked or cancelled, continue in force for three years from the date when it was granted or last renewed, but shall be renewable for a further period of three years by the chief officer of police for the area in which the holder resides" (sec. 2 (4)).

The solution of the difficulty is to be found in the proviso to the sub-section just quoted, read along with the definition of "firearm certificate" which appears in section 32. The proviso is to the following effect—"provided that, subject to the power of renewal conferred by this sub-section, a certificate granted or last renewed in Northern Ireland shall not continue in force for a period longer than that for which it was granted or last renewed." The definition provides that a firearm certificate is a certificate granted either (a) in Great Britain under section 2 of the Act of 1937 or under section 1 of the Act of 1920 or (b) in Northern Ireland under section 1 of the Act of 1920 or any enactment passed by the Parliament of Northern Ireland amending or substituted for that section.

To apply these enactments to a specific case—imagine that A.B., the holder of a certificate originally granted in Northern Ireland, last renewed for one year on October 20th, 1943, comes to reside in Scotland. On October 19th, 1944, he approaches the chief constable of the force covering his residence with a request for renewal. What is the correct attitude of the police? In the present writer's opinion (1) because of the proviso quoted above, the certificate must be regarded as on the point of expiry; unless some positive step is now taken, it will cease to be in force next day; (2) the Scottish police have power to renew, because the certificate, through the operation of the definition quoted above, comes within the scope of the Act of 1937; and (3) the proper period for which it should be renewed is three years.

If, within the period of three years, A.B. should return to Northern Ireland, we think that the authorities there would accept as valid the renewal granted by the Scottish police and that, on the expiry of the three-year period, they would (if A.B. were still resident in Northern Ireland) deal with an application for renewal.

A word of caution. Before dealing with an application for renewal of a certificate issued in Northern Ireland, the Scottish force to which the application is made should be careful to satisfy itself that the applicant now truly "resides" in Scotland. If he is merely here for some temporary purpose, his home being still in Northern Ireland, the correct procedure is to advise him to make written application for

renewal to the chief of police in the area in Northern Ireland covering his true permanent residence.

"TRESPASSERS WILL BE PROSECUTED"

Paterson v. Robertson

The widely held impression that in Scotland there is no law of trespass is unfounded. There are many circumstances in which the civil courts may deal with an act of trespass and some in which trespass is a matter calling for prosecution. While this is so, it is a good general rule that, where the trespass is not accompanied by some act of malicious mischief (such as trampling upon growing crops), the police should be content to refer parties to their civil remedy.

If, however, premises, as distinct from open land, are involved, the position may well be different. The Trespass (Scotland) Act, 1865, penalises every person who lodges in any premises, being private property, without the consent or permission of the owner or legal occupier. The context shows that this enactment was designed primarily to get at vagrants (tramps, tinkers and the like) who, being caught by darkness on the open road, seek a night's rest in some outhouse, stackyard or the like. This view is borne out by the careful definition of "premises" to include only "any house, barn, stable, shed, loft, granary, outhouse, garden stackyard, court, close, or inclosed place." Clearly, such a provision is inappropriate in circumstances where the lodger enters the premises in good faith and certainly where he is under an impression that he is in the position of tenant or sub-tenant of the premises.

The case now reported (*Paterson v. Robertson*, recently decided by the High Court of Justiciary) arose out of the let of a Glasgow house to A.B. in terms of a missive of let which expressly prohibited sub-letting. A.B. was called to the Forces in 1939 and was later reported missing. His wife, C.D., continued to occupy the house for a period but eventually found that she could not maintain it. In 1941, she let the house furnished to a Mr. and Mrs. Paterson, who took occupation and lived in the house for two and a half years. C.D. did not inform the factors that, in contravention of the original terms of the let, she had sub-let the house. All went well until April of this year when C.D. decided to give up the tenancy. She informed the sub-tenants of her intention. On April 14th, while the Patersons were absent, the furniture was removed from the house, which was then locked up. Next day, C.D. called at the factors' office with a letter terminating her tenancy of the house, the rent of which had been paid up to April 28th, and handed over the keys. She then disclosed for the first time that there had been a sub-let. On April 17th, a clerk

from the factors' office called at the house; found Mrs. Paterson there and asked her how she had obtained access. Mrs. Paterson replied that she "had obtained the keys from a neighbour." She was warned to remove. On the following day, she and her husband were found to be still in occupancy. The police were informed and the Patersons were formally charged with a contravention of the Trespass (Scotland) Act, 1865. They replied that they had no other place to go to. On these facts, a local magistrate found the Patersons both guilty of a contravention of the Act of 1865. They appealed, but without success.

The judges of the High Court, who were unanimous in refusing the appeal, agreed that the Act of 1865 was intended to deal with trespassers or squatters and was not to be invoked as a convenient means of bringing to an end a let of premises, where parties were in dispute. If the police had intervened on April 13th, their action would have been incompetent. On April 14th, however, circumstances changed. From that date, the Patersons were no longer in the position of sub-tenants with an ostensible title to remain. They were dispossessed and, when they had procured the key and re-entered, they knew perfectly well that they were doing wrong. They were squatters effecting an entrance at their own hand and, as such, were amenable to the criminal law. Verbal notice to quit was sufficient to terminate a furnished let of urban subjects and so to break continuity of possession. The re-entry, on the night of the 14th, was a fresh lodgment and lay the appellants open to a prosecution.

We agree; but we think that the police should be chary, and should proceed with the utmost caution and only after full enquiry, when asked to take action against persons whose occupancy of premises starts in good faith.

"GIVEN IN CHARGE"

One sometimes finds prefaced to the formal charge in a police report submitted to a public prosecutor the words "Given in charge." No doubt this is a convenient practice. It serves to draw a distinction—especially in cases of breach of the peace—between those cases in which the police take action on their own observations and those others in which they arrive in response to a civilian complaint. No harm is done, so long as it is realised that no real distinction in principle is involved and that police powers and duties are unaffected by the presence or absence of a civilian complaint; that the duty of the police to be satisfied that the charge is supported by sufficient and competent evidence is as strong in the one circumstance as in the other and that the power of arrest without warrant does not turn upon the manner in which the offence alleged reaches police knowledge.

These comments are prompted by the writer's experience over a number of years, in course of which he has formed the impression that here and there one may discover a police officer upon whom the words "given in charge" would appear to have a magical effect and who, when an offence is reported to him by a civilian, is too readily put off his guard, too easily satisfied with evidence of doubtful quality and too easily persuaded to resort to drastic action. The duty of a police officer to whom a complaint has been made is to sift the facts, to assess both the quantity and the quality of the evidence available in support of the charge made and to take only such action as the law permits in the circumstances disclosed. The presence of a civilian complaint grants him no special immunity and does not shift the responsibility of his decision to the shoulders of the complainer.

An illustration may serve to underline this view. Some months ago, a police officer in a Scottish city was approached by a civilian who pointed out to him three women then walking on the other side of the street and said that he had reason to anticipate trouble. One of the women was the occupier of a house in a tenement next door to that occupied by the complainer. According to the complainer, she was in the habit of packing her house at a late hour with her friends, who indulged in singing and shouting into the early hours of the morning. The women appeared sober but were carrying bottles of beer. The constable noted the complaint and the complainer went off down the street, following the women, in the direction of his home. Some fifteen minutes later, the complainer returned and reported to the same officer that a disturbance was in progress in the house next door to his. The officer secured assistance and, along with two other constables, went to the stair in question. All was quiet; but the police, having heard the statements of the complainer and one other resident in the stair, who said that he had been in bed and was awakened by the disturbance, entered the house occupied by the woman referred to and took her and her companion into custody. (The third woman had apparently left the other two before they reached this stair.) Next day, the two women appeared in the local police court on a charge of breach of the peace. They pled not guilty and, after the leading of evidence on a later date, the charge was found not proven.

For our present purpose, the importance of the case is that at least one of the constables involved appeared to think that, standing the complaint, he was bound to accept it; that his only duty was to find one witness who would corroborate the complainer's story; and that he would be failing in his duty if he did not take the women to the police station. In point of fact, a careful enquiry on the spot would have made it clear that the corroborating witness had not seen

either of the women; that he knew, and could recognise the voice of, the woman who occupied the house next door; but that he did not know, and had never spoken to, her friend. The complainer was a man with a long criminal record and a man strongly suspected of having, at an earlier period, lived off the immoral earnings of the woman next door, with whom he had quarrelled. The constable to whom the complaint was made did not know this; but he should have been put on his guard by the complainer's statement that he anticipated trouble; by the shortness of the interval between this statement and the outbreak of the alleged disturbance and by the absence of any disorder at the time of the arrival of the police. The wise course would have been to wait at the foot of the stair or in the near neighbourhood to see if the disturbance was renewed and certainly to take a careful statement from the corroborating witness before taking the drastic step of immediate arrest. The whole matter could perfectly well have been dealt with by summons. "If from the circumstances it appears to be an unfounded charge, the constable is not only not bound to act on it, but he is responsible for so doing" (*Hogg v. Wood*, 1858, 3 H. & N. 422). Naturally, the less serious the nature of the complaint, the more careful must be the enquiry made before arrest. Had the allegation been of a serious crime, the duty of the police might well be to make an immediate arrest, even in the absence of corroboration.

ASSEMBLING FOR GAMBLING

At least one of the local police Acts in Scotland penalises persons who assemble together in a street for the purpose of engaging in gambling. The word "Street," in this context, is defined to cover a common stair, common passage, back green and other types of private or common property, as well as all public places within the city. The section is used to meet cases of gambling schools where such games as banker or pontoon are played with cards for money and also to deal with the playing of pitch and toss in places where the accompanying noise or obstruction may cause annoyance—although the proof of annoyance is not essential to the offence.

In a recent prosecution, a plea of not guilty was tendered. The only witnesses for the prosecution were two plain-clothes constables who deposed that, on a Sunday afternoon, they observed a number of youths (the four accused and another, who escaped) in a back green behind a tenement in a housing area. A game of pitch and toss was in progress. Each of the accused in turn threw a coin towards a pre-arranged mark. The player whose coin landed nearest the mark then tossed all the coins and the result of this "round" of the game depended upon the turn of the coins—heads or tails. During a period of

about ten minutes' observation, this cycle of operations was repeated about eight times. When challenged, the accused made no reply. When the police came forward, they found four halfpennies lying on the ground and one of the players handed over four pennies, which he had in his hand.

The accused did not deny that the account given by the police was substantially accurate. They agreed that they had been taking part in a game of pitch and toss and that the normal procedure of first throwing coins towards a mark and thereafter spinning them was followed. They maintained, however, that they were playing "for fun" and that their intention was that, at the end of the afternoon's play, any money won should be restored, so that each participant would end up with the same amount of money as he had at the start of play. In a word, they were playing with money, but not for money—an ingenious, and (in the writer's experience) unique defence. In the Concise Oxford Dictionary, which was quoted in court, "gamble" is defined as "to play games of chance for money."

The magistrate convicted, on the view that the defence tabled was a pure afterthought. He considered that, from the police evidence that accused were indulging, without any marked departure from normal practice, in a game notoriously played as a means of gambling, he was entitled (especially in the absence of a protest made at the time of the formal charge) to draw an inference of guilt.

Murder in a Ship's Cabin

THE VALUE OF CIRCUMSTANTIAL EVIDENCE

By S. LAWRENCE, M.B.E.

Acting Deputy Chief Constable, Salford City Police

A RECENT murder on board a ship at the Salford Docks affords an interesting example of how the Police, with very slender clues, may, by diligent enquiries, be fortunate enough to build up a chain of circumstantial evidence sufficiently strong to convict the murderer.

The motor vessel *Pacific Shipper* arrived at the Salford Docks on April 1st, 1944. As is the usual custom the crew was paid off and most of the officers went on leave, their places being taken by relieving officers. The vessel, which is of 3,062 tonnage, carried three Radio Officers. The Second and Third Radio Officers left the ship and went home, but the Chief Radio Officer, a man named James William Percy, whose home was in Canada, stayed aboard ship.

The saloon and Officers' quarters were situated amidships in a block comprising the first and second decks (see Fig. 1). The three Radio

Officers' quarters and the Wireless Room were situate apart in a block on the bridge deck. These quarters had been improvised and it was necessary to pass through the Second Radio Officer's cabin to enter the Chief Radio Officer's cabin.

About 9.30 p.m. on Saturday, April 8th, the Third Mate, who was checking the ship's 'black-out,' visited the bridge deck and noticed that a light was burning in the Second Radio Officer's cabin, the door of which was open allowing the light to stream out. He went to close this door and then noticed a foul smell coming from inside the quarters. He stepped inside and had a look round but was unable to discover the source of the smell. He noticed that the Chief Radio Officer's cabin was closed and padlocked on the outside. He did not attach much significance to this smell, and after attending to various deck lights he returned to his room.

About 11 p.m., on going to the lavatory in the Officers' quarters, the Third Mate noticed dark red stains, which appeared to be congealed blood, on the floor and ceiling. Knowing that the Chief Radio Officer's cabin was situate over the lavatory, and having regard to the smell he had noticed earlier, he obtained the keys of the Wireless Quarters. (It was the custom for a duplicate of all keys of the ship to be kept in the First Mate's room.) On opening the Chief Radio Officer's cabin he found the body of Percy lying on the floor of the cabin, as shown in Figure 2.

The Police were informed and officers visited the ship shortly after midnight. An examination of the cabin showed no signs of a struggle having taken place. The deceased was lying on the cabin floor and the head and face were covered with congealed blood; his clothing was extensively blood-stained, as was the floor of the cabin. Severe injuries to the deceased's head and face were at once apparent and it appeared that he had been dead some considerable time as the body was in an advanced state of decomposition. The temperature in the cabin was very high due to the fact that the port-hole was closed and screwed down, and the steam heating full on.

The Police Surgeon had been summoned to the ship and he reported that despite the advanced state of putrefaction, the body was quite warm due to it having been in a small, closed, over-heated room. The temperature of the body was that of a man who had just died, but the decomposition of the body was that which one would expect to find after about ten days' post mortem in the open air. Having regard to the heat of the room and all the circumstances, he was of opinion that death could not possibly have taken place later than the evening of Thursday, April 6th.

After the removal of the body to the mortuary, a careful search

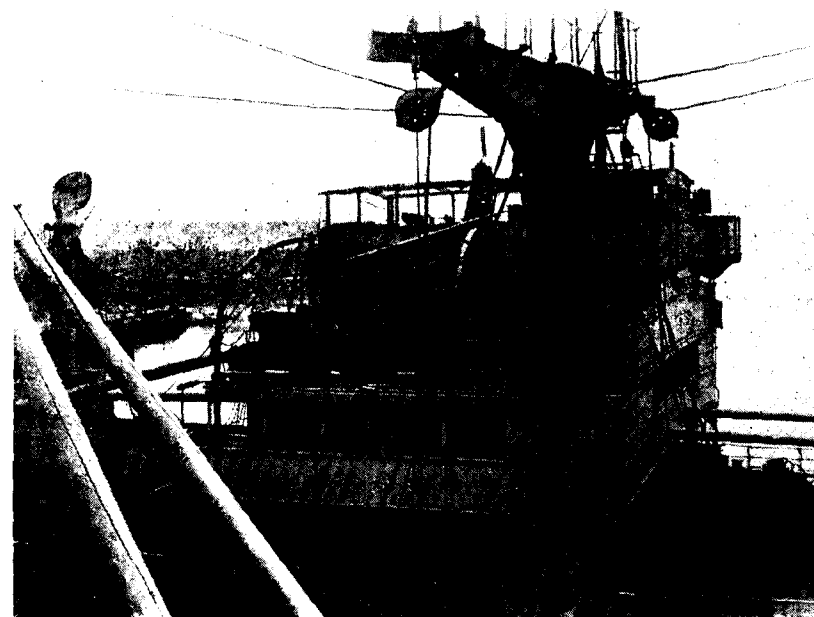


FIG. 1

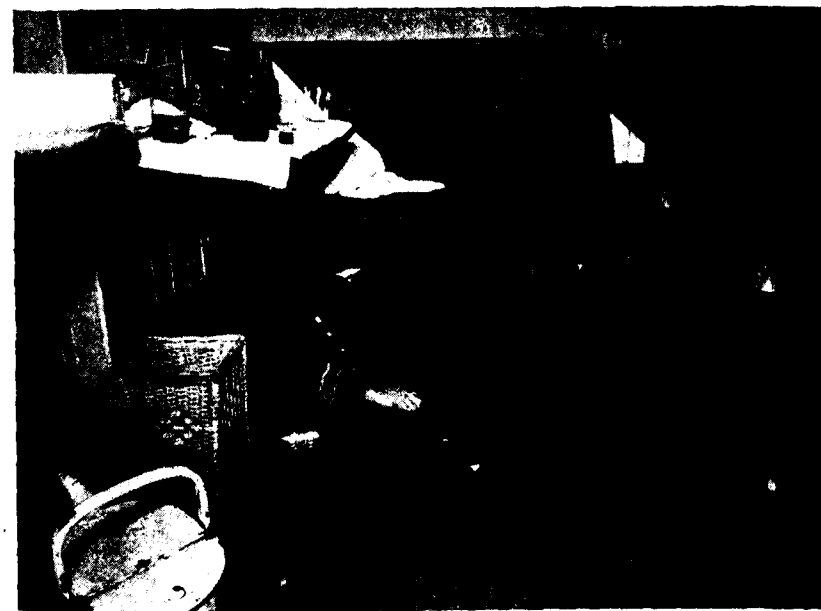


FIG. 2



FIG. 3



FIG. 4

was made of the cabin and an inventory taken of all articles and property therein. The deceased's personal papers were found in the top drawer under his bunk, but money only to the value of 4s. 7½d. was found. It will be seen from Figure 2 that on the cabin table there were two full bottles of beer, three empty beer bottles and two drinking glasses. On these articles a number of fingerprint impressions were found.

Enquiries were made from all persons aboard the ship with regard to the dead man's habits and associates. It was revealed that the deceased was a widower with no known relatives in this country, and that when the ship was in port he was strongly addicted to drink and was often absent from the ship for several days. His absence had therefore caused no comment. Several members of the crew had seen the deceased in licensed premises in the city in the company of a local woman known to them as "Maureen" earlier in the week.

The Second Steward informed the police officers that, whilst in a licensed house on the 5th instant, he had met Percey and the woman Maureen. Percey had handed to the Second Steward the key of his cabin and asked him to switch on the radio set, which was situate in his cabin and which relayed the B.B.C. programmes to the officers' and crew's quarters throughout the ship. He stressed to the Second Steward that his keys should not be handed to anybody else as he had over £65 in his cabin.

The woman Maureen was known to the Police and when interviewed she stated that Percey was never out of her company from the evening of the 4th instant until 2 p.m. on Thursday, the 6th instant, at which time he was very drunk and he left her to return to the ship to collect more money, as he had then spent all the cash he had with him. He arranged to meet her again in a café adjacent to the Docks at 5.30 p.m. that day, and the last she saw of him was when he was making his way towards the Dock entrance. He did not keep the appointment and although she searched all his known haunts in the locality of the Docks that evening and on the following two days, she had not seen him again.

Enquiries aboard the ship had elicited the fact that Percey was last seen aboard at 3.30 p.m. on Thursday, the 6th instant, when he had returned in a drunken condition accompanied by a man dressed in the uniform of a Chief Steward of the Merchant Navy. Together they had visited the Second Steward and had purchased from him six bottles of beer, which they had then taken away in the direction of Percey's cabin. Percey had invited the Second Steward to join them in his cabin for a drink.

About 4.30 p.m. that day an employee of the Marconi Marine Company visited the Radio Officers' quarters in the course of his duties

and found Percy's door closed and padlocked on the outside. The Second Steward, who had been invited for a drink, visited the cabin at about 4.45 p.m., and he also found the door padlocked. Evidence of further visits to the deceased's cabin between that time and the finding of Percy's body was obtained and on each occasion the door had been found padlocked.

From the evidence so far obtained it appeared that Percy was murdered between 3.30 p.m. and 4.30 p.m. on April 6th, and that the last person to be seen with Percy was the Chief Steward who came aboard with him about 3.30 p.m. that day. His description was accordingly circulated and extensive enquiries were put in hand at all licensed premises, cafés, and likely places in the Docks area, and visits were paid to all other ships in the port, with a view to tracing or establishing the identity of the Chief Steward. These enquiries were somewhat handicapped by reason of the fact that it was Easter week-end and many people who could normally have been contacted at the Docks and in the vicinity on Sunday, the 9th, and Monday, April 10th, were on holiday. Accordingly the assistance of the Press was enlisted to give publicity to the details and the description of the Chief Steward, and a poster was printed and liberally displayed on and around the Docks.

A fairly good description of the suspected Chief Steward was obtained from several witnesses, and it was also established that he had been seen by a member of the crew, in local licensed premises, when the *Pacific Shipper* was last in this port about six months previously. It therefore appeared that if he was in fact a sea-going Chief Steward, he was off a ship that was now in port and was also in port when the *Pacific Shipper* was last there. This was quickly tested and disproved. The evidence therefore pointed to the fact that the suspected Chief Steward was on the Shipping 'Pool' awaiting a ship, and had been for some time, if in fact he was a Chief Steward at all. A list of all Stewards on the 'Pool' was obtained containing 61 names.

During the course of the enquiries on the ship it was ascertained that the deceased, whilst in conversation with the Relieving First Mate on Monday, April 3rd, had stated that he was that day going to Liverpool to collect the balance of his pay for the voyage from the Marconi Offices, and also to draw some money in respect of compensation for loss of effects when a previous ship on which he was serving had been torpedoed. Detective Officers were accordingly despatched to Liverpool where it was ascertained that on April 3rd Percy had drawn approximately £22 in respect of balance of pay for the voyage and a further £66 from the Mercantile Marine Office in respect of the loss of effects. Further enquiries at the latter office and at the bank disclosed that the cashier from whom Percy had drawn the £66 had commenced

that day's payments with a bundle of new one pound notes, the serial numbers of which were supplied as A.88.H.514001 to 514500, and that it was the cashier's habit to pay all sums over fifty pounds in new notes.

It will be remembered that when a minute search of the cabin and the deceased's effects was made only the sum of 4s. 7½d. was found, which was in the pocket of the clothes worn by the deceased, and therefore robbery now appeared to be the motive for the crime.

Intensive enquiry was still being made to establish the identity of the Chief Steward, but by Tuesday, April 11th, the enquiries had not met with any success. On that day, however, officers detailed to make further enquiry of all persons who had been employed on or near the ship were successful in locating a Cargo Supervisor who had been employed on the *Pacific Shipper* on the afternoon of April 6th and who had seen Percy, in company with the Chief Steward, ascending the steps to the bridge during that afternoon. This witness at first could give no information to assist in identifying the Chief Steward other than to confirm the description which had already been supplied by several others. He also had seen the Chief Steward on odd occasions in various licensed houses in the Docks area. He was pressed for any other information which would assist to identify the man, and some time later he remembered that he had once seen the suspected Chief Steward in a licensed house in conversation with another Chief Steward whose ship was then in the Docks. This Chief Steward was immediately located and he was able to say that the only Chief Steward he had had a drink with in the named public house was a man named Galbraith.

Reference to the list previously obtained from the Shipping Offices furnished the full name and address of a Chief Steward named James Galbraith, whose home was just outside the boundary of this City.

Photographic negatives of the finger impressions found on the bottles and the glasses in the deceased's cabin had been forwarded, together with the fingerprints of the deceased for elimination, to the headquarters of the West Riding Constabulary, Wakefield, for expert examination and comparison generally. Following the development in identifying the suspected Chief Steward as the man named Galbraith, the Wakefield Police were asked to compare the finger impressions on the bottles and glasses with those of James Galbraith, whose record and finger impressions were already known. Within an hour a reply was received from the Fingerprint Department at Wakefield that a small portion of a finger impression found on one of the drinking glasses bore seven points of comparison with a fingerprint of James Galbraith in their files. Whilst this fact strengthened the information

then available, it was made quite clear that a fingerprint expert could not be called from Wakefield to give definite evidence that the impression on the glass was that of one of Galbraith's fingers, as the number of points of comparison was insufficient for the purpose of giving evidence in the Courts.

Enquiries were then made at Galbraith's home, where it was elicited from his mother that her son had not returned home on the night of Thursday, April 6th, but had returned about 11.30 a.m. on Friday, April 7th. He then told her that he had been working all night victualling a ship; that the ship had sailed and that he had got good pay and bonus from the Captain for getting it victualled in time. He did not say how much he had drawn but his mother said he produced to her a wad of one pound notes from which he gave her £2. She stated that on arriving home her son looked soiled and tired but that after pressing his trousers and changing certain articles of clothing he prepared to leave the house, stating that he was meeting some friends and going to stay with them at a bungalow for a few days.

It is perhaps interesting to note that after Galbraith had changed his underclothing his mother washed the shirt he had taken off. This day was Good Friday—not a normal washing day—and although there must have been other soiled articles in the home, the shirt was the only article she washed. In explanation she said she had done so because her son might have required a clean shirt after the week-end!

Galbraith's mother was unable to supply any information regarding the friends with whom he was supposed to have gone to the bungalow other than that he had made their acquaintance at a wedding reception on April 1st. Subsequent enquiries of persons attending this wedding reception led the police officers to the home in Fallowfield, Manchester, of a young married woman named Mrs. X., in whose company Galbraith had spent his time at the wedding reception. Mrs. X., when seen by the officers later in the evening of the 11th April, stated that she had returned home that evening from a few days' visit to Liverpool with Galbraith and that he had left her house to return to his own home about half an hour before the Police called on her. Throughout that evening, therefore, detectives were engaged searching licensed premises and other known haunts of Galbraith's, but he was not traced until his arrival home shortly before midnight, when he was detained and brought to Police Headquarters.

Outside his home Galbraith was put into a waiting police car and was told by the officers that they were making enquiries into the death of a man named Percey, the Chief Radio Officer of the *Pacific Shipper*, who had been murdered in his cabin on Thursday, April 6th. Galbraith, who from the time of his detention until the end of his trial

displayed the utmost confidence and composure, made what might be regarded as a surprising mistake at the outset, particularly in view of the fact that he had had a day or two in which to prepare himself for an interview with the Police in the event of them tracing him as the man who had been aboard with Percey. When told by the officers for what purpose he was being detained, Galbraith said that it had nothing to do with him, that he had met Percey on the road, shown him the way to No. 9 Dock, but had not been aboard the ship. Whilst in the car on the way to the Police Headquarters, and after a lapse of some minutes, Galbraith then volunteered the information that he was the Chief Steward the Police were looking for; that he had had a drink with Percey on board the ship and he then added "It looks as if you have found my fingerprints on the glass."

On arrival at Police Headquarters Galbraith gave details of what he alleged were his movements on the day of the murder, and after outlining his movements during the morning, he said that he left a public house between 2 and 3 p.m., when he met the deceased, who was very drunk and who asked him the way to No. 9 Dock. He said that he had taken him to No. 9 Dock and was then asked by the deceased to go aboard for a drink; they bought some beer from the Second Steward and went to Percey's cabin. Whilst there Percey had told him of his appointment with Maureen at 5.30 p.m., and as he was very drunk and in need of a shave, Galbraith had shaved him. He said that he was on the ship with Percey for about an hour and a half, and he then outlined his supposed movements after leaving the ship for the remainder of that day until about 11 p.m., when he went to stay the night with a prostitute.

During this interview he was asked whether Percey had given him any money and he replied "No, why should he? I don't know him, I had never seen him before; all I got was beer; I never saw any money." He was then asked if he cared to say what money he had spent since Thursday and he said "Well, the prostitute cost me over four quid—that's with the booze, going on the fair, the taxi and what I paid her—I have spent about three quid since." He was told that there was reason to believe that he was drawing only between £3 and £4 per week from the Shipping 'Pool,' that he had given his mother £2 on the Thursday, and had accounted for spending about £7 since then, and he said, "I had six or seven quid saved up."

Galbraith was then told that notes had been made of all he had said, and he was asked if he would sign them but he declined. Some two hours later, however, he said to the officers by whom he was being detained that he had been thinking things over and had decided that he would himself write down in a statement all that he had done on

April 6th, and, after signing the usual caution, he wrote out the following short statement:

"I went to the M.N. Pool at about 11 o'clock on Thursday, April 6th, 1944. I left there and went to the Salisbury Hotel and had a few drinks. I left there between 2 o'clock and 3 o'clock to go home. On my way home I met another seaman who wanted to go to No. 9 Dock. I went with him to show him the way as he was a little drunk. I went on board the ship and had a drink with him. He said he was going out at 6.30 p.m., (*sic*) and I gave him a shave. When I left him he was going to change and have a sleep—that was about 1½ hours after I had met him. He was alright when I left him.

"I had never met him until this day."

Mrs. X., when first interviewed, had not given a full and truthful account of her association with Galbraith. She subsequently made a full written statement, which proved to be the truth, and which contained, in addition to details of their movements, an interesting and important piece of evidence. She stated that on Monday, April 10th, whilst staying together at an hotel in Liverpool, they looked through the morning paper. After leaving the hotel Galbraith asked her whether she had read about the murder at the Salford Docks. She replied that she had, and Galbraith then said to her that he knew the dead man, and, in fact, had had a drink with him the previous week, and he then asked her whether she had noticed the description of the Chief Steward at the bottom of the paragraph. She had jokingly asked him whether it was him the Police were looking for and he replied that it could be in view of the fact that he had been with Percey the week before. Mrs. X. then suggested that he should go to the Police and give them what information he could, but Galbraith replied that it was the Salford Police who were investigating the murder and he would go when he got home.

Mrs. X. in her statement went on to say that after breakfast the next day, Tuesday, they were unable to get a newspaper in the hotel, but immediately on leaving Galbraith bought a paper and, after glancing through it, said to her that the Police were still looking for the Chief Steward.

Following the detention of Galbraith exhaustive enquiries were made at all likely places in the Docks area; in the vicinity of Mrs. X.'s home and in Liverpool where they had spent the week-end, with a view to getting a complete picture of his movements at all material times. These enquiries were particularly successful, and the Police were able ultimately to account for the whole of his movements following the

murder until the time of his arrest, with the exception of one short gap of about three hours.

It was also ascertained during the course of these enquiries that Galbraith had, for a considerable period, been short of money and had been in the habit of obtaining from the officials at the Merchant Navy Shipping Office loans or advances of his 'Pool' money and that on April 5th—the day prior to the murder—he had attempted to borrow from a 'Pool' official the sum of £1 but had been successful only in borrowing 10s.

Piecing together his movements after leaving the ship, it was ascertained that Galbraith, at 4.30 p.m., visited a ship's outfitters adjacent to the Docks, where he bought for himself a new bridge coat which cost £7 12s. 10d. His movements are then obscure until 7.30 p.m., when he was in licensed premises in the area of the Docks and where he met a prostitute with whom he ultimately stayed the night. With her, another woman and a seaman, he visited various licensed houses, where he spent money freely, and in one of them, where dancing was taking place, he bought several rounds of drink for the whole of the band. In addition he repaid the drummer in the band a loan of £1 which had been made to him about four years previously and which the drummer had pressed for from time to time.

On leaving this hotel he and his friends went on to a fairground where he again spent money freely, and then he and the prostitute went to her room. As stated earlier, after leaving her the following morning he went home, washed and changed, and then went to Mrs. X.'s house and was with her there and later at Liverpool until Tuesday, the day of his arrest.

Enquiries were made at the various shops and licensed houses which he had visited, with a view to tracing any passing by him of £1 notes in the series A.88.H.514001-514500. Detective officers reported that amongst the takings at some of these places new one pound notes in the series A.88.E.514001-514500 were found. In view of the similarity in the serial numbers of these notes and those first reported to the Police, a further enquiry was made at the bank in Liverpool and it was then ascertained that the Bank Teller had erroneously furnished the serial numbers A.88.H.514001-514500 for A.88.E.514001-514500. This mistake was unfortunate and but for this there is no doubt that the Police would have traced many more notes than was actually the case. Nevertheless it was possible to recover a total of nineteen one pound notes in this series from seven different points of contact where it was found that the prisoner had been spending money, and in addition to the recovery of actual notes, it was possible to prove that the prisoner, between the time of the murder

and the time of the arrest, had had in his possession approximately £55. One of the notes in this series was actually recovered from the prostitute with whom Galbraith spent the night after the murder. Lavish spending by Galbraith was traced in the area of the Docks; in the district where Mrs. X. lives; and in Liverpool where they had spent the week-end together. A few of the major items of expenditure may be of interest, namely:

		£	s.	d.
<i>Salford :</i>				
Bridge coat for self	...	7	12	10
Payment to prostitute, drink, etc.	...	4	0	0
Repayment of loan	...	1	0	0
<i>Fallowfield :</i>				
Coat and dress for Mrs. X.	...	7	0	8
Shoes for self and Mrs. X.	...	2	5	0
Shirt and collars for self	...		12	0
Flowers for Mrs. X.	...		12	0
Drinks in licensed premises	...	1	0	0
<i>Liverpool :</i>				
Railway and taxi fares	...	1	5	0
Handbag for Mrs. X.	...	5	12	6
Hotel, meals, etc.	...	4	7	6

To return to the scene of the crime, careful examination of the cabin immediately after the removal of the body revealed no sign of a struggle nor any weapon that might have been used by the murderer. On the pillow of the bunk there was a reddish-brown outline approximately rectangular in shape. In the depression formed by this outline, there were particles of a reddish-brown dust and minute flakes. On the top sheet (See Fig. 3), below the pillow, there was another reddish-brown mark—triangular in shape. On the ceiling of the cabin on one of the beading strips, there were two marks (See Fig. 4), apparently recently made. Doctor Firth, the Director of the North-Western Forensic Science Laboratory, was summoned to the ship and he removed the dust and flakes from the depressions on the pillow and sheet, and also cut away the section of the ceiling beading containing the marks previously mentioned. A search of the adjoining Second Radio Officer's cabin revealed a large axe underneath the mattress of the bunk. This also was taken possession of and passed to Doctor Firth.

The post mortem examination was made at 3 p.m. on April 9th, when it was found that the injuries sustained by Percey consisted of several large lacerations to the head, particularly the right side, each laceration extending down to the bone. An examination of the bony skull showed compound fractures and splintering. Two of the injuries

formed a clearly defined depressed fracture, approximately $3\frac{1}{4}$ in. by 1 in., one end of the fracture terminating at the outer angle of the right eye. In the opinion of the surgeon conducting the post mortem examination, Percey had died a few days before April 9th as the result of fractures of the skull. These injuries had been produced as the result of very forcible blows from a heavy, blunt-edged instrument.

After the arrest of Galbraith, the clothing which he was then wearing, together with other clothing taken possession of at his home, was sent to the North-Western Forensic Science Laboratory. From his examination of the various exhibits sent to the Laboratory, Doctor Firth was able to report that the head of the axe, although coated with red paint, was rusting and that the paint readily flaked away. Reddish-brown dust and minute flakes taken from the pillow and sheet were shown by spectrographic analysis to agree with the rust and flakes of paint from the head of the axe. The head of the axe was blood-stained, most pronounced at the blunt end. The shaft of the axe was hickory. Amongst the particles taken from the pillow of the bunk were minute white flakes which again agreed with the white paint from the ceiling, and also there was a small fragment of wood which was hickory, similar to the shaft of the axe. Measurements of the head of the axe and the depressions on the pillow and sheet corresponded almost exactly. Doctor Firth also expressed the opinion that the depressed fracture found in the skull of the deceased corresponded with the measurements of the blunt end of the axe and that the marks on the ceiling beading were consistent with having been made by the axe striking against it.

The only other items of significance from the examination of the numerous articles of clothing and exhibits were that small reddish-brown fibres on the cap of Galbraith were identical with the fibres from the cushion of the seat in the deceased's cabin, and that two hairs taken from the greatcoat of Galbraith (this greatcoat was one recovered from his home and not, of course, the one purchased by him after leaving the Docks) showed general agreement with the hair of the deceased and differed from the hair of the accused. It will be seen, therefore, that had Galbraith continued in his denial of having been aboard the ship, the scientific evidence would have been sufficient to prove he had been in Percey's cabin, and would have compensated for the insufficient fingerprint evidence.

Galbraith was charged with the murder of Percey, and at the police court his solicitor called no witnesses and reserved his defence. In view of the wholly circumstantial nature of the evidence, it was necessary for the prosecution to call over forty witnesses. The evidence produced by the prosecution followed closely, but, of course, in fuller detail, the circumstances outlined in this résumé. With the exception

of the following point, no matter worthy of comment arose at the police court. Galbraith had said in his interview with the Police, and later in his written statement, that he had given Percey a shave. Evidence was produced to prove that the body showed considerable growth of stubble on the face, and medical evidence was called to prove that hair does not grow after death. Galbraith alone, of course, knew why he stated he had shaved Percey, and the fact that it was proved he had not done so must have told against him at his trial. He may have put this forward as an explanation for any spots of Percey's blood that might later have been found on his clothing, or, on the other hand, to account for the hour and a half during which he was in Percey's cabin.

Galbraith was committed to take his trial at the Manchester Assizes, and it is interesting to note that after his committal there was much speculation as to whether a conviction could be obtained on the evidence available, and grave doubts in this respect were expressed by experienced lawyers.

The trial at the Manchester Assizes took place on May 9th, 10th and 11th, 1944. During the hearing the only new evidence produced was when Galbraith went into the witness-box to give evidence on his own behalf. He strongly denied having committed the murder and stated that Percey was resting when he left him. He did, however, admit in evidence having seen Percey's money in the top drawer under his bunk and having stolen the bulk of it whilst Percey was momentarily absent from the cabin. His original denial of having seen any of Percey's money; the abundant proof that Galbraith had spent many of the actual one pound notes paid to Percey; and the lateness of his admission of this theft, were obviously points which were not missed by the Court.

At the conclusion of the case, the jury, after a brief retirement, returned a verdict of guilty and Galbraith was sentenced to death. He appealed to the Court of Criminal Appeal on July 10th but this appeal was dismissed.

Following the dismissal of the appeal, Galbraith's counsel submitted a memorial to the Home Secretary seeking leave to appeal to the House of Lords. This was refused and sentence of death was carried out on July 26th, 1944.

What's in a Name?

IT is inherent in English institutions to resist change, and in the matter of nomenclature to retain names long after they cease plainly to describe their object. After long and insistent efforts a real attempt is now to be made to call courts of summary jurisdiction by their modern name, "magistrates' courts," to cure the public conception of their use as "police courts" and to refrain from popularising the terms "petty sessions" and "summary courts." The point is frequently and correctly made that the importance and volume of the work of magistrates' courts is far from "petty," while "summary" implies a brevity and expedition which can easily be misunderstood by people whose contact with the work of justices is rare and remote. The term "police courts" naturally descends from the days when local government and control of the police were largely in the hands of magistrates, and from a purely police point of view it is undesirable that the word "police" should be used to label any organisation or institution which is not part of a police force or under the control of its chief constable. Many police, only remotely connected with the work of the Police Force, in the capacity of specialists, take pride in adding the label "police" to their business or professional qualifications, and while there are no statutory inhibitions on the subject it is desirable that, as a descriptive adjective, "police" should be jealously watched and sparingly used.

In certain directions in recent years Parliament has seen fit to alter the description of things and statutory definitions, in order to avoid stigma for individuals and misconception or misunderstanding in the minds of members of the public. Instances are to be seen in legislation dealing with poor and mentally unsound persons. By the Mental Treatment Act, 1930, "asylum" was changed to "mental hospital," "pauper" to "rate-aided person," and "patient" replaced the descriptions formerly legally and popularly called lunatics, boarders and the like. The Mental Treatment Act prescribed that the word "lunatic" (except in the phrase "criminal lunatic" and in relation to persons detained as lunatics outside England) "shall cease to be used," and "person of unsound mind," "patient" or similar expression as the context may require.

Public opinion was ripe for these changes, and those engaged in the administration of public assistance and mental treatment would be among the first to claim that these changes in nomenclature have been invaluable in improving public sympathy and confidence in their work.

Similar statutory changes in terms and descriptions have been made elsewhere. Only recently in the Education Act, 1944, the President of

the erstwhile "Board" of Education has been given the correct title of "Minister" of Education.

In the interest of public relations it is desirable that modern institutions and units of public administration should have a label which indicates clearly to the public what they are and stand for. In the field of police administration few members of the public know precisely to what body they are referred by the newspapers when the deliberations of a "Watch" Committee are the subject of news or comment. If a work of reference of local history is examined, doubt changes to cynicism when it is discovered that the inefficient and often corrupt Town Watch, for the control of which the Watch Committee was originally appointed, was superseded by the borough constables brought into being by the municipal reforms of 1835. The Watch Committee retained its name as the responsible police authority for the appointment of the borough constables, and the name has stuck consistently in all subsequent enactments.

A similar criticism can be made in respect of county police forces. When in 1888 the Local Government Act created the machinery by which, in counties, the responsibility for financing and maintaining the county constabularies was shared between magistrates elected by county quarter sessions and an equal number of representatives of the county council, "standing joint committee" was a good description for the newly created police authority for the county. To-day the same term is used to define a variety of bodies which exist for other purposes.

After the war it will doubtless be necessary to obtain Parliament's approval to various reforms in police administration. Despite the large number of consequential amendments required to the several Police Acts passed since 1835 a case is made out for the inclusion in legislation of a revised schedule of definitions of "police authorities." What new descriptions will be most apt and expressive, informing the public and the police of the machinery by which the police service in England and Wales is controlled and administered? If there must be one set of laws for the administration of the policeman in the village, and another set for the policeman in some of the towns and not in others (and the reason why is incomprehensible to the man in the street), then the descriptions must be distinct and different for county and borough. "County police authority" and "Borough police authority," superseding "standing joint committee" and "watch committee" respectively, suggest themselves as the obvious choice. "Police committee" is to the point, and would probably be welcomed by the committeemen, while at the same time indicating clearly the constitution and purpose of the Committee. It would at least help to avoid the satire and ignorance which too often creep into reports of debates and public discussions of

alleged cases of maladministration and irregularity, which unhappily have occupied much space in the newspapers in recent months.

The question may also be asked whether the nomenclature of police ranks, for which statutory prescription is to be found in Regulations 1 and 2 of the Police Regulations, 1920, as amended, has not suffered by the practice by which in recent years the same terms have been copied by numerous organisations and branches of the public service. "Inspector" and "Superintendent" are to-day widely used to describe inspectors of gas meters, public service vehicles, drains and in other spheres of public utility, while numerous industrial and similar concerns have "superintendents" in charge of various departments or supervising work. The National Fire Service succeeded in creating ranks and designations which cannot well be imitated in other spheres. It is a defect, which seems incapable of correction, for the police to be powerless to prevent other services from encroaching upon their preserves.

F. T. T.

Police and Post-war Plans

BY SERGEANT W. CLARK

Colchester Borough Police

POST-WAR reconstruction is in the air, and it may be that THE POLICE JOURNAL with its authoritative standing may be willing to be the medium through which police officers can ventilate their opinions on sundry police matters with a view to their consideration by those who will be responsible for police organisation in the near future. If this is so, we suggest in the first place that the Journal itself should be published monthly instead of quarterly; space might then be found for more articles describing the methods of the Police in our Dominions in handling the "common or garden" incidents in their districts, such as their outlook on drunkenness, their licensing regulations, whether their public houses are tied; their methods of dealing with traffic offenders; whether they have anything comparable with our Judges' Rules; whether they make use of our delayed charges (C.J. Act, 1925, s.45); what is their outlook about women police, and the many other daily details of common interest.

It is thought too that our own people should have a juster appreciation of the Police and the law, and that the first approach to this might be in the schools now that the school leaving age is to be raised. After all, instruction in law is surely as important as instruction in singing and botany. In this connection too perhaps a Cadet Training School,

for young men finishing their Naval, Military or Air Force training, would do much to raise the general standard of applicants to the Police Service. It is an interesting point whether the Regional system brought into use for the war might not be continued with considerable advantage to various aspects of police work.

It may be thought that this plea for a central cadet training school might be leading up to an argument in favour of a national police force, but such is not the case; there are two very important points which should not be ignored—the first is local knowledge by the police and the second is local knowledge of the police. A constable stationed in one town during the whole of his service gets to know all the people who matter to him in connection with his work; all those in fact who commit crime together with their friends; all those who are likely to give information about thieves; local habits, and everyone and everything likely to assist him in the course of his duty. The people also get to know their local police and to trust them to a far greater extent than if they were strangers, and it must not be overlooked that in small towns a newcomer remains a stranger for a long time—local prejudices require a lot of beating down. It is also a fact that co-operation between public and police is at its highest in those places having the advantage of a local police force; the history of the Police Service shows that its success is mainly due to its essentially local character.

Local politics are very real and important. People feel that they have the right to have a say in all local matters, and Police must be considered to come under the heading of local matters. It therefore appears that, even if the directing Authority were centralised, it is essential that the actual control should always be in the hands of 'the man on the spot'; in fact that a local police force should continue to act in the manner for which it was originally formed.

For years past the tendency has been for our laws to become increasingly complex, with the result that recently it has been necessary to issue explanatory notes as a guide to the meaning of the particular law to which the note refers. It is certainly time that means were found for expounding the law in plain language, and not necessarily basic English at that. The majority of our people have received their education at elementary schools, which means that they can understand English as printed in our newspapers. This style of English, non-technical as it is, is sufficient for all practical purposes and it should not be beyond the wit of man to adapt it to all our laws. In any case it would be of advantage to simplify many of our recent laws; those laws which affect the lives of ordinary people but are not understood by them. The ideal to aim at is that if people are presumed to know the law it should be presented to them in a form they can understand.

Still heard to-day is the expression "one law for the rich and another for the poor," and this seems to be firmly implanted in the minds of many people. In point of fact the only reference the writer can bring to mind is to be found in the Profane Oaths Act, 1745, s. 1, where offenders are referred to as being below or above the degree of a gentleman, but their financial status is not mentioned. However it is a fact that many people by reason of their lack of means are debarred from legal process to redress wrongs or enforce rights, or even in some cases to pursue what they believe to be an incorrect decision by Petty or Quarter Sessions. There is no need to labour this; it is too well known; but the question is, why should people be debarred from obtaining justice merely by reason of their lack of money? The result in effect is that in some cases justice is for the man of means only, and it is quite certain that such a state of affairs must be repugnant to those who administer the law in our courts of justice.

If justice were really free to all it is obvious that the courts would be overwhelmed. Yet unless it is free many people cannot obtain the redress they seek and to which they are entitled. Therefore some method must be found to overcome both these difficulties. The writer thinks that the only way is for a panel of lawyers to be in session in every town to examine applications and to decide whether or not the applicant "has a case." If he has a case then the panel would put it forward for him. This of course means that the panel would be paid from Borough or State funds; but this is no more than is done at present by the State for public health, and would certainly not be as costly. That most excellent institution the Citizens' Advice Bureau could with advantage be continued after the war for that very purpose.

With the return after the war of much of our civilian traffic, road accidents are certain to increase, and the question of preventive measures should now be faced. A large number of articles have been written on this subject; statistics have been compiled for many years, and we are driven to the conclusion that human failing is the root cause of these accidents. We should not be led astray by the outcry against motorists, and the stressing by pedestrians that speed and speed only causes accidents; that is not true, for accidents happen in the absence of vehicles when pedestrians bump into each other. They also happen on our most modern roads, thus proving that road layout is not always a factor. In any case it would not be possible immediately after the war to replace our existing road system, nor even to do so for many years to come, and the increase of traffic will not wait for improved roads.

School-children are being given drill of the "stop, look and wait" variety before crossing a road, which cannot fail to have good results.

Why not have something similar for vehicle drivers, and for all road users? That hoary old veteran, the Offside Rule, keeps rearing its head, and it certainly seems that now, while traffic is not heavy, the rule could be made law to come into force when the war is over but before traffic increases. It is quite certain that the rule, if applied to all road users, would cause a reduction in the number of road accidents, and it is equally certain that without such a rule they will increase. The writer feels it is impossible to stress too much the value to road safety of this simple rule and knows of no valid argument against it.

Finally a few comments about the policeman himself may be thought not out of place here. First he considers that when he joins the Police he makes an honourable contract. He himself is expected to keep it faithfully and he asks that faith may be kept with him. He is told that he will live rent and rates free; he finds that he does not do so; he finds that the amount of his rateable deductions are arbitrarily altered, and that increases of pay to keep up with the cost of living have all the appearance of being given grudgingly. Widows' pensions also have been a sore point for years and seem as far away as ever from a satisfactory solution. Is it realised that a constable pays 4s. 6d. a week, a labourer 1s. a week, yet in both cases a widow receives the same basic pension? The constable knows that certain restrictions may be advisable in his profession but he wonders whether it is really necessary to obtain the consent and approval of the Chief Constable before he can marry, or why his wife should not go out to work if she wishes to do so. Adjustment of these pinpricks would do much to add to his contentment and efficiency. As to this last it is suggested that a constable's increments should be on a graded scale and they should depend on the percentage of marks obtained in the qualifying examination which should be carried out on a regional basis and for which he should be required to sit again after a reasonable period. But why stop at that? Why not have the examinations themselves graded so that the constable can enter for one after the other on the style of the Army educational examinations, and if he is successful in the final examination grant him a "Degree of Police Law"? If this were done it would make for greater efficiency in the service generally; individuals would have something worth working for; and it would give the service that extra tone so necessary to attract the right type of recruit.

These few inadequately expressed points are written in no carping spirit. This article will have served its purpose if it induces others to express their genuine views and aspirations in *THE POLICE JOURNAL*, and so give responsible authority a purview of the Police Service *from within* as a basis on which to consider many aspects of police reorganisation.

Post-war Traffic—Accident Prevention

By SERGEANT O. V. THOMAS

Metropolitan Police

MUCH thought is being directed just now to the problems that will confront us upon the cessation of hostilities. It was the poet Milton who in 1652 wrote "Peace hath her victories no less renowned than war." This is true to-day, and hence the schemes devised for the betterment of the world in the post-war period—schemes or plans for the feeding of the population, plans for employment, etc. Yet nothing very tangible has materialised upon the saving of life and avoidance of accidents when our roads again become congested with motor traffic.

We have all followed with interest the discussions that have taken place in the Commons and the indications made by the Minister of Transport respecting a proposed Post-War Highway Improvement Scheme. At the same time we realise that a speed limit of 20 miles per hour in Built Up Areas is not beyond the bounds of possibility.

Whilst I have no information respecting any post-war scheme or improvement which might have been already prepared, or decided upon, by the Metropolitan, or other Chief Officers of Police, I venture to advance my observations from practical experience in connection with traffic work as a Mobile Police Officer since its inception, including many years as an Instructor at the Motor Driving School, Hendon, training Police drivers.

In the first instance, let us consider the present-day accident figures. Since the outbreak of war civilian traffic has been reduced; but in spite of this, accidents 'fatal and serious' are considerable in proportion to the volume of traffic.

The present-day toll of the road is causing a good deal of concern and anxiety in Parliament. Every effort has been made by using propaganda; 'Accident Flashes' and various other bulletins have been broadcast at intervals on the wireless, but unfortunately with little or no result.

On May 5th, 1944, Mr. Noel Baker (Parliamentary Secretary to the Minister of War Transport) gave the following information in the House of Commons regarding Road Casualties:—

Killed and wounded on all war fronts since the outbreak of hostilities, 370,000.

Killed and injured on the roads during the same period, 588,000.

The position at the present moment is really serious and calls for 'bold and definite action.' To this end, Chief Officers of Police will be a vital wheel in the machinery.

Motoring organisations and other public bodies have put forward all kinds of theories. A very large percentage of the non-motoring public point out that the cause of road accidents is the 'lust for speed.' The Brains Trust discussed the matter recently and concluded that there should be some form of segregation and that minor roads should be reserved for pedestrians and cyclists. It would, however, appear that the answer to the question of heavy traffic unsuitable for existing roads is that such traffic might with advantage be transferred to the railways, thus saving many millions of pounds in the construction of highways for such vehicles.

I emphatically agree that the roads in this country are sadly in need of improvement, but I still contend that *any* improvement made will not reduce the accident death rate, as the authorities seem to anticipate. Therefore let us go to the root of this serious and desperate problem and analyse some of the causes of accidents which occur with the present-day volume of traffic.

I contend that the following are, if not the chief, the contributory causes :—

- (a) Provisional licence holders at large on the highway, without adequate supervision.
- (b) Lack of training of drivers, including those of many years' standing.
- (c) A large number of military and civilian drivers having little or no conception of the elementary principles of safe driving.
- (d) Lack of concentration when driving, resulting in failure to anticipate contingencies.
- (e) Speeds of vehicles incompatible with existing traffic conditions.
- (f) Inability by drivers to estimate, with any degree of accuracy, the speeds of approaching vehicles.
- (g) Drivers driving beyond the limit of their vision.
- (h) Drivers having no idea of stopping-distances in relation to the speeds of vehicles. (See (g) above.)
- (i) Little or no consideration given by drivers to changing road surfaces, resulting in unnecessary accidents, more particularly to motor cyclists.

The average motorist glancing over the causes mentioned above would probably dismiss the subject with the usual claim of having driven for 20 or 25 years without accident. In many cases this cannot be denied, but it is still possible that many such drivers have been most fortunate in avoiding accidents and that their good fortune is frequently due, in point of fact, not to their skill but to the skill of other drivers in avoiding them. In other words they have merely sat behind an engine. Any experienced Patrol would undoubtedly agree

that the antics of such drivers in traffic and on the open road obviously indicate that they have not the least conception of even the elementary principles of the correct driving technique. This is largely due to ignorance and stupidity on their part.

During the investigation into the cause of a fatal accident at Portsmouth on March 4th, 1944, when a tank was being driven along the road by a member of H.M. Forces, the driver, who apparently lost control, collided with a column of troops on the march, killing one soldier and causing personal injury to several more. It was, however, disclosed that the tank driver, although he had handled and driven these vehicles in Lybia and Italy during war operations, was given only two hours' driving instruction in the first instance and was not proficient in manœuvring the vehicle in limited spaces. The Coroner, Mr. H. M. Foster, remarked : "Soldiers must be trained and risks must be run; but I hope that the Army Authorities will consider whether it is necessary for tanks to go on to crowded main roads with inexperienced drivers."

On the same date a boy was knocked down and fatally injured at Hillingdon (London) by an R.A.F. lorry. The driver was a learner with only a few hours' experience.

On March 23rd, 1944, a fatal accident occurred at Camden High Street between an omnibus and a cab. The cab driver was the unfortunate victim. The Coroner, Mr. W. Bentley Purchase, said: "This accident ought not to have happened."

These are but a few of the accidents that occur daily; what, therefore, are we to expect during post-war years, when there will probably be a greater volume of traffic using the roads than we at present even anticipate, other than an enormous increase in the number of road casualties?

The House of Lords Committee on the prevention of road accidents, whose report was published a few months before the outbreak of war, considered that the education of school children was one of the most important remedies they proposed and expressed their disappointment that the Minister of Transport and the Board of Education had made so little progress in carrying out recommendations that had been put forward for their guidance by the Departmental Committees on Road Safety among School Children. After all, they say, school children are the motorists, cyclists, and pedestrians of the future.

The Commissioner of Police of the Metropolis in his Annual Report in 1940 made the following remarks regarding the increase in the number of road accidents :—

"A large number of drivers, motor cyclists, and cyclists are quick

to take advantage of any slackening of police vigilance. The results of the unavoidable withdrawal of police vigilance during the worst period of the blitz have convinced me that there is a considerable number of people who can only be made to behave decently by constant fear of prosecution."

The finding of a remedy that will prevent chaos and slaughter on the roads is a responsibility that cannot be shirked; therefore the authorities should not hesitate to take any steps that may seem necessary, even though such steps may, during the initial stages, meet with disapproval. During pre-war days it was generally agreed that the British were a conservative people and were very reluctant to accept any new idea until it had proved itself to be successful. This war has proved us to be very much to the contrary, and I am positive that after the end of hostilities the accident question will be capable of being successfully fought.

The following suggestions are worthy of consideration:—

- (1) Universal adoption of correct driving technique.
- (2) Each point to be clearly defined and published in Booklet form similar to that of the Highway Code.
- (3) The points summarised to be given legal status, rendering drivers liable to prosecution for non-observance.
- (4) Teaching. All motor driving schools to be under the supervision of Examiners appointed by the State, so as to ensure uniform and correct teaching.
- (5) One syllabus of training to be adopted and made compulsory.
- (6) All driving Instructors and State Examiners to be qualified for such posts. They should receive an Advanced Course of training, and refresher courses at intervals of at least 5 years.
- (7) The eyesight of each driver to be tested, by a competent authority, as to his, or her, ability to read Index Marks at 25 yards distance, prior to the issue of a Provisional Licence.
- (8) All accidents resulting in personal injury or serious damage to be the subject of an enquiry at Traffic Courts, instituted for the investigation of such accidents. (The Court adopting the Booklet mentioned previously as their guiding principle.) Should the Court find that the accident is due to non-observance of the correct driving system by one or both drivers, a summons should be issued under sec. 11 and 12 of the R.T. Act, 1930.
- (9) Suspension made compulsory for every driver convicted under sections 11, 12 and 15 of the R.T. Act, 1930, even if only for a period of two weeks or a month.
- (10) Zones of danger and those of invisibility to be restricted in

relation to the degree of danger they present, e.g., 10, 15, or 20 miles per hour limit on sections of roads that call for such reduced speeds.

Any driver who carries out the correct driving system would have no objection to such restrictions, as this is already observed by him in practice.

The question of correct teaching cannot be over-emphasised, as the pre-war method of teaching carried out by any Tom, Dick, or Harry holding a licence (for more than 2 years under the R.T. Act, 1934), left much to be desired.

I am sure that the Superintendent and Senior Instructor of the M.P. Driving School, Hendon, at the outbreak of war would agree with me on this point.

Nothing is more urgently required than a reduction in road accidents: therefore any additional expense involved by the introduction of legislation and other points mentioned above would not only be amply justified, but appreciated by every section of the community.

Constructive Thinking

I HAD the privilege recently of attending a meeting of a Civil Defence Discussion Group. The subject—"What will happen six months after Hostilities cease?"—was discursive to say the least of it. From demobilisation to industry, to housing, education, unemployment and the policing of occupied countries, there was scarcely a subject of post-war reconstruction that was not touched upon and eagerly discussed by a small group of men and women representative of all shades of thought and professions. Apart from being impressed by the keen interest displayed, one came away with the feeling that although perhaps nothing concrete had been achieved in the form of forwarding resolutions to an appropriate authority, here was a form of constructive thought being practised which was indicative of better things to come. The bland acceptance that 'what has been' must continue on very much the same lines as before was being questioned. There was a suggestion that policy and system were shaped by a minority which did not necessarily have the support of the majority. And gradually each member of the group seemed to realise that his own responsibilities were not limited by what he or she did at home or during their work, but that the whole structure of being a good citizen was based on a desire to take part and promote constructive changes which were for the ultimate public good.

It was not a far cry to think of a good citizen in the terms of a good policeman. What movement had we in the Police Service to compare with this Discussion Group idea which has been so assiduously fostered in the Civil Defence Services by the Ministry of Home Security since 1942? * There is the Federation, it is true. But the purpose of the Federation is not so much to educate in the sense of extending knowledge by discussion, but rather to redress grievances and improve the welfare of their own particular Forces. Moreover, if a comparison could be made at all, Federation meetings are too frequently charged with an atmosphere of frustration. There may even be a fear of victimisation, which leads to inarticulateness and prejudice. To be constructive there must be a complete absence of these conditions, above all absence of self-interest; and this is perhaps where this Civil Defence discussion group scored so heavily. The 'limelighters' who could be distinguished by their extreme volubility were quietly checked and brought into line by the leader or chairman referring to some authoritative source of information. By the end of two hours the whole group had learnt to control their feelings, to express and clarify their views on subjects which hitherto had been of little or no personal importance.

Besides being an object lesson in the training of mind and character, this was a form of pooling ideas which was both educational and progressive. Why then had it not been encouraged in the Police Service as a whole? It is true that the need for education is too frequently associated only with promotion examinations, and progress regarded as something to be ignored rather than encouraged. But the roots seem to lie even deeper than that. Somewhere in the background of Police life there is a belief that radical thought may interfere with the efficient discharge of one's duties. It is revealed by the petty restrictions that exist in many of the provincial Forces which seek to prohibit all activity outside the scope of Police work. Many of them are the result of a limited outlook, made by men who perhaps were ambitious to extend their education and interests at the outset of their careers, but who have since become hidebound by a tradition which has always stifled initiative and enterprise.

This is a hard criticism; but Police duty is a means not an end, and retirement from it should bring a desire to follow up interests which have been developed during the period of service. The fact that so many retire long after their service has been completed suggests that outside interests have never been acquired. There goes, one might say as these retirements are announced, a possible Prime Minister, Lord Chief Justice, skilled parliamentarian, economist,

* Home Security Circulars Nos. 105/1942 & 96/1943.

inventor, sportsman, lawyer, all of whom are doomed to end their lives in obscurity because of the economic circumstances of the time which compelled them to accept a rigid adherence to rules and regulations forbidding participation in matters outside the sphere of Police activities.

To consider the future, whether in connection with Discussion Group movements as a means of promoting constructive thought or reform within the Service, we have also to consider the past and to remember that in the light of the history of this country the Police Service in its present form is of comparatively recent origin. It was born at a time when crime and disorder induced by the industrial revolution were at their height, and violence the only known form of awakening the ruling classes to the sense of their responsibilities. It was essential then that if these classes were to survive at all there must be an adequate system of controlling this increasing disorder while steps were taken to meet the much-needed social reforms. A Civil Police Service which countered blows with staves instead of arms was the first move. It served to reassure the discontented populace of the Government's peaceful intentions, and if the new Police were greeted with stones and brickbats, were labelled spies and traitors, only subsequently to achieve a world-wide reputation as 'wonderful,' it was because the public gradually came to realise that "Liberty," as Dr. H. A. L. Fisher so aptly quoted, "depends on the preservation of order."

From spy to becoming a national symbol for law and order in the course of 115 years is no mean achievement. But when the symbol is mounted on a pedestal, admired from a respectful distance and waits as Mr. Micawber did 'for something to turn up,' it is time something was done to stimulate him to greater activity in the realm of progress and to restore his pride and rights of citizenship. It cannot be for want of fuel that he refuses to move. The precept of greater social security for all, with all its accompaniments of better economic conditions, better health and better housing, and not forgetting the four freedoms in the Atlantic Charter, are a sufficient indication of the intention of the Government to remove the root causes of the purpose for which the Police originally existed. It is at long last being recognised that the main contributory causes of crime are economic conditions and lack of education. And law, instead of acting as a deterrent or retributive measure, is rapidly becoming a reformatory force, designed to create conditions in which character can be trained and developed rather than restricted or destroyed.

It is useless to say that as the guardians of law and order the

Police will be unaffected by this development. Efficiency is dependent on adaptability to changing conditions. Given their rights as citizens, first to participate in matters which affect the common good and secondly to assist in framing a police policy which must be suited to the social conditions of the future, the possibilities are unlimited. The beginning of it is discussion and the end construction, both subjects worth thinking about and acting upon when attempting to foresee 'What will happen six months after Hostilities cease?'

AUDAX.

Where Were They Stolen?

GEOLOGICAL DETECTION

BY DETECTIVE SERGEANT W. J. CANNON, F.G.S.

Finger Print Bureau, City of Glasgow Police

GEOLOGY has been rather neglected in this country in recent years, but since the war the experts in this branch of science have achieved such far-reaching results that its real potentialities have at last been realised. It appears impossible that geology will ever again fall into the limbo of forgotten things, and with its increasing usefulness in the various branches of commerce, it behoves police officers to enquire into its possibilities as a weapon in their war against crime. An actual example of what can be done is worth a ton of theory at any time, and it is for this reason that the following particulars are given of a recent Glasgow case in which the Police co-operated.

During August, 1943, a warehouse in Glasgow received, for repair, two wireless sets, the property of the N.A.A.F.I. authorities. After servicing, the sets were packed in a large cardboard carton and taken by an employee of the warehouse to a certain dock for despatch by sea to Fort William. The carton lay for a short time in a shed on the dock, from whence it was taken directly aboard ship. It was carried aboard by two dockers (under the supervision of one of the ship's officers) and placed on top of the cargo in the main hold. Immediately afterwards the vessel cast off.

The steamer made four intermediate calls before tying up at Fort William. These halts were at Greenock for an hour, at Port Ellen for forty minutes, at Luing for twenty minutes, and at Oban for some two hours.

On arrival at Fort William the first packet discharged was the cardboard carton, which was carried ashore by two members of the crew again under the supervision of an officer. It was placed in a shed on the pier owned by the shipping company.

Two days later the carton was despatched by lorry to the agent who had sent the sets to Glasgow. The box appeared to be in perfect condition and the seals were unbroken when it was received at his warehouse.

Two weeks later the carton was opened and found to contain a bag of sand and nothing else.

Enquiries were immediately instituted by the local Police, who, having satisfied themselves that the theft had not taken place within their jurisdiction, communicated with, and sent a sample of the sand to the Glasgow Police.

The difficulty facing the detective officer who was put in charge of the case in Glasgow was where to start with his enquiry. In other words, where did the crime take place? The warehousemen in Glasgow were emphatic that the sets had been despatched from their premises immediately after packing. The consignee was taking action against the shipping company, and the master of the vessel had implicit faith in the honesty of his ship's company, who had sailed with him for many years.

The detective officer brought a sample of sand from the carton, together with another from the Glasgow warehouse and a third from the main gate at the dock, to the Finger Print Bureau for examination. The samples were labelled respectively: Specimens Nos. 1, 2 and 3; but it was obvious from their appearance that they were totally dissimilar.

The Police at Fort William were communicated with and samples of sand were procured from above high-water mark on the seashore (Specimen No. 4), from the shed on the pier (Specimen No. 5), and from the agent's warehouse (Specimen No. 6). Again it was obvious that none of these was identical with the sand from the carton.

Samples were procured from two heaps of sand on Clyde Street Quay not far from the warehouse (Specimens Nos. 7 and 8), from a roadway sand-box ten yards distant (Specimen No. 9), and from a similar box on the route to the dock (Specimen No. 10). Again the comparison was negative.

The purser of the ship was communicated with and he procured sand from the pier at Port Ellen (Specimen No. 11), this being the only port of call with the exception of Oban at which it would have been possible for a member of the crew to procure sand in the time at his disposal.

A visual examination was all that was necessary to show that this specimen was absolutely different.

The Argyllshire Police procured samples of sand from Loch Sunart (Specimen No. 12) and from Onich Bank (Specimen No. 13) in the West Highlands, these being the localities from which the Glasgow Corporation obtain sand for use in the city. They also sent a sample from the beach at Oban (Specimen No. 14) where the ship had berthed for two hours. Once again there was no similarity.

Having thus covered all but one of the probable areas from which the sand could have been procured, attention was turned to the dock, and the officer in charge of the case asked permission from the Clyde Navigation Trust to take samples from the A.R.P. sandbags at the doors of the dock sheds. This permission was granted and seventeen samples were taken (Specimens Nos. 15 to 31). It was immediately apparent that a number of these were very similar to No. 1, and they were therefore examined in greater detail.

Specimen No. 1 contained a number of fragments of horse and common mussel shells, and this was of the greatest assistance in speeding up the visual examination, as practically all these samples contained fragments of shells but almost all were of the banded cockle and pointed bulin species.

This left four samples (Specimens Nos. 16, 17, 21 and 23), and these were examined for comparison of their rock content. It was found that one of the specimens (No. 23) did not contain any fragments of a red granite (quartz and pink felspar) which was present in the other three and in Specimen No. 1.

Further examination disclosed in Specimens Nos. 16 and 17 particles of an andesitic or basaltic lava which was not present in Specimen No. 1.

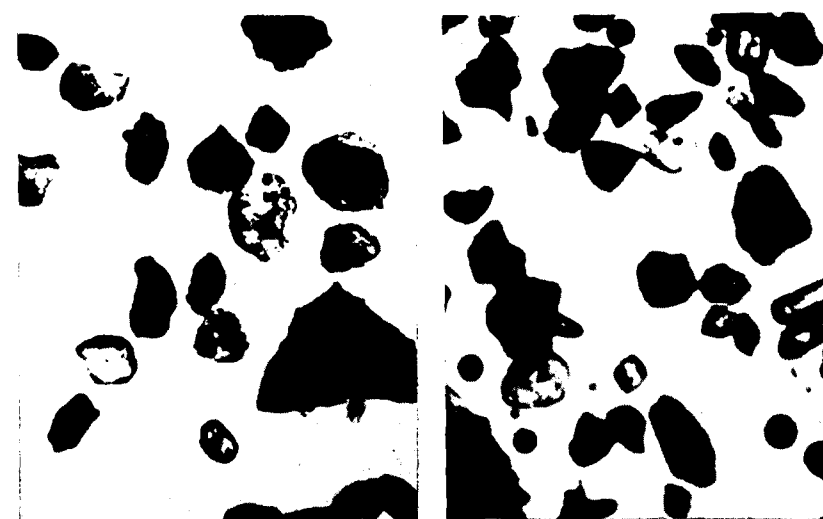
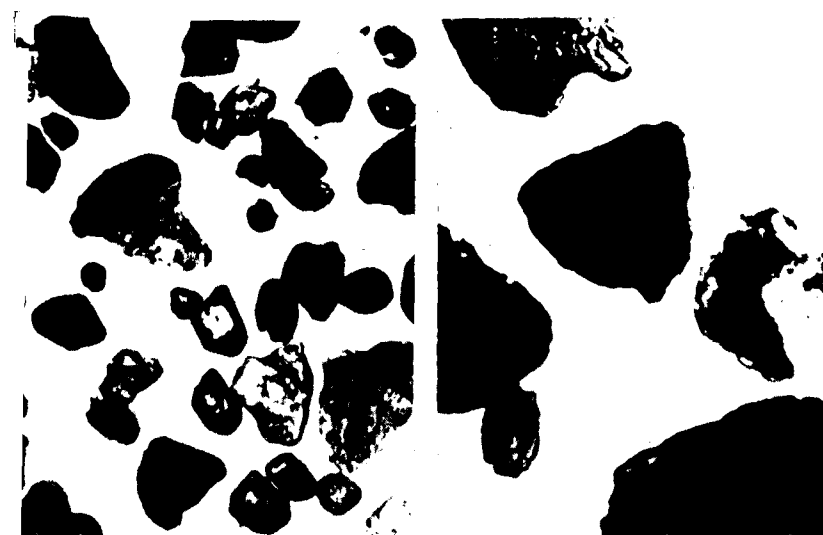
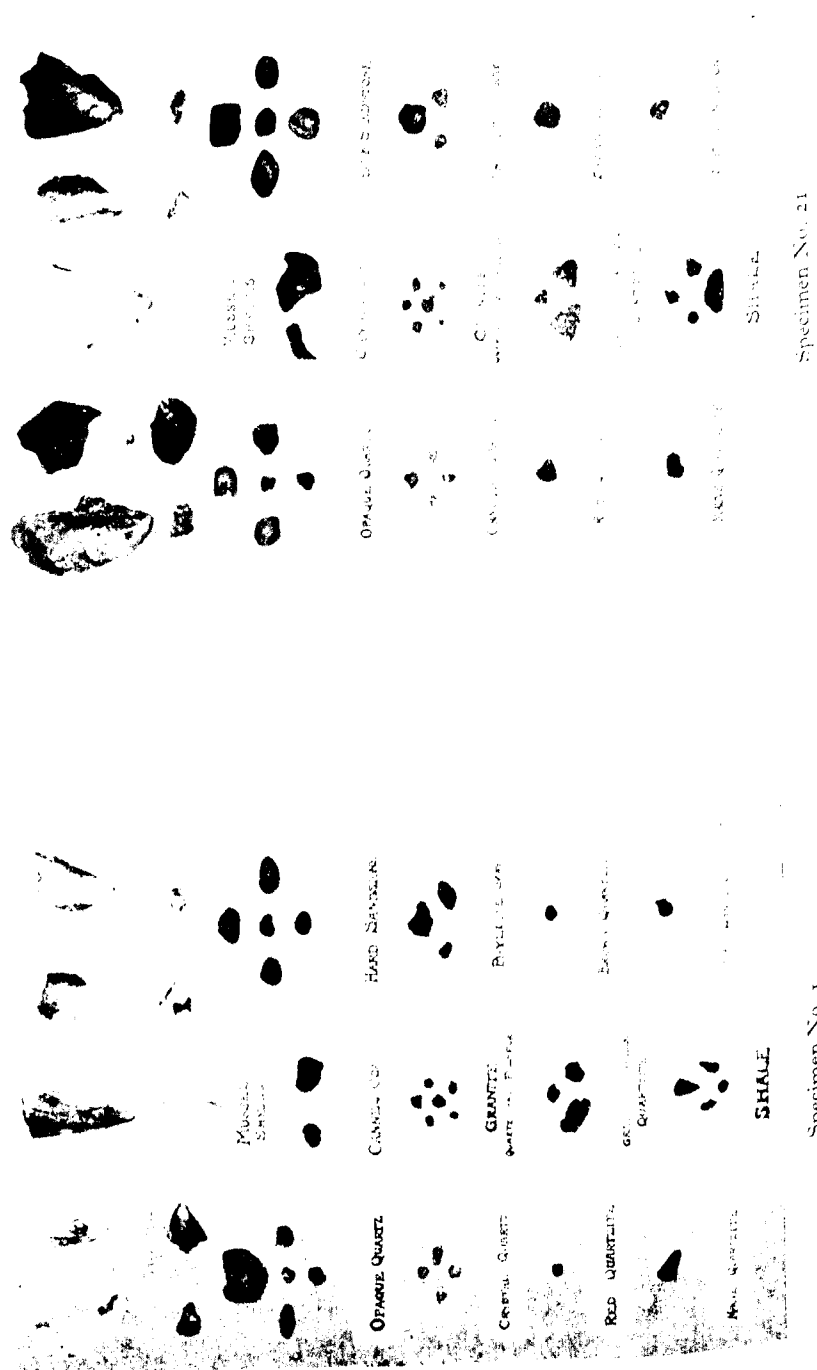
It was found that the remaining specimen and the original appeared to be identical in so far as their rock content was concerned. They were then examined microscopically and the grains were found to be of identical size and shape.

Thus it became obvious that in Specimen No. 21 lay the clue to the problem of the locus of the theft, and nothing remained but to confirm this decision, if possible by another more precise method.

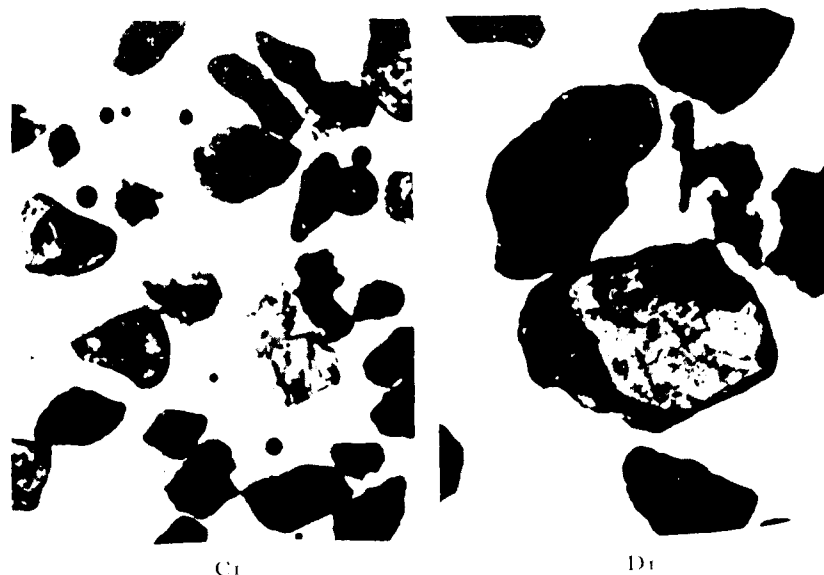
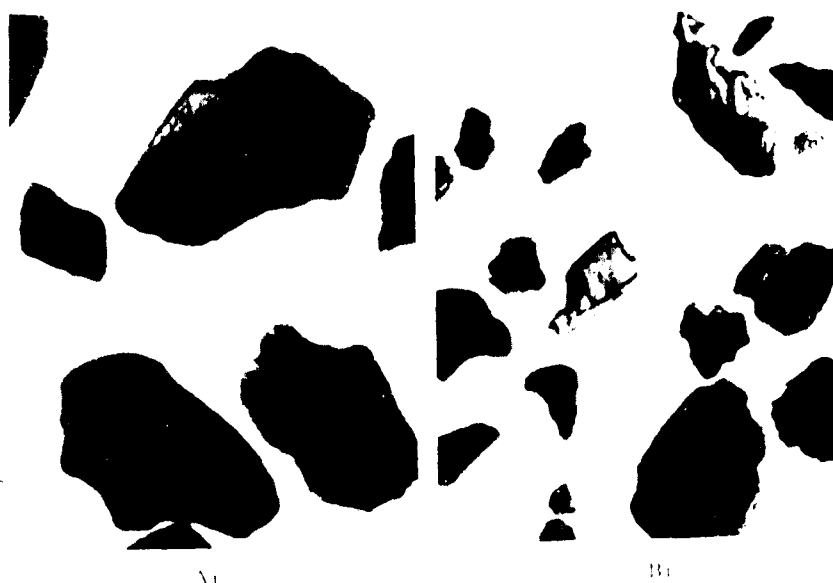
It is not generally known that it is possible with very little difficulty to isolate the rarer constituents of sand. Any sample of sand taken from the seashore, a river, or a sand pit, will generally consist of a very high percentage of quartz, the remainder being composed of rare minerals. These rare minerals vary considerably in different areas even within very short distances and thus provide very satisfactory evidence of identity.



Specimens of sand from Loch Sunart, Oban, Onich Bank, Glasgow Corporation, and A.R.P. sandbags.



Photomicrographs of the non-magnetic separations
 A—Specimen No. 1
 B—Specimen No. 4
 C—Specimen No. 11
 D—Specimen No. 21



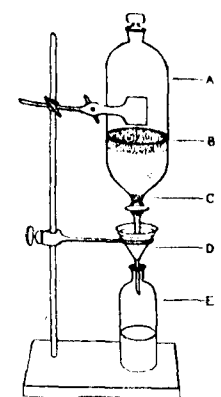
Photomicrographs of the magnetic separations
A1 - Specimen No. 1
C1 - Specimen No. 11

B1 - Specimen No. 4
D1 - Specimen No. 21

(face p. 299)

WHERE WERE THEY STOLEN?

299



A—Separating bottle.
B—Light residue. C—Heavy grains (rare minerals).
D—Funnel with filter paper.
E—Bromoform bottle.

The method employed in the separation is a specific gravity test, and is made possible by the use of a heavy liquid in which the lighter (quartz) grains float, while the heavier grains of the rare minerals sink. The test in this particular case was carried out thus:—A sample of the original sand (Specimen No. 1) was passed through a 1 mm. sieve and a portion of it weighing 20 gms. was taken. A separating bottle was half-filled with bromoform (specific gravity 2.88 to 2.9) and the 20 gms. added to it.

This was allowed to stand for some considerable time, occasionally being stirred to assist the settling of the heavy grains. After a time it was seen that a band of grains had formed at the top of the liquid, the centre portion was clear, while at the bottom of the funnel some sediment had formed. This sediment (heavy grains) was run off into a funnel lined with filter paper. It was then washed with carbon tetrachloride to remove the bromoform, and the filter paper with the heavy grains (the rare minerals) dried. These grains were then weighed, and the percentage of the heavy residue was found by calculation to be just under 1 per cent. A similar procedure was gone through with the light residue (the material at the top of the funnel).

The magnetic and non-magnetic portions of the heavy residue were then separated by means of an electro-magnet, and samples of both, together with a sample of the light residue, were mounted on microscope slides. A similar procedure was adopted with Specimen No. 21 and with two other specimens, Nos. 4 and 11. The analyses of specimens Nos. 4 and 11 were carried out purely for the guidance of the Court.

Specimens No. 1 and No. 21 were found to contain an identical percentage by weight of rare mineral content, while Specimens Nos. 4 and 11 contained a higher percentage.

The slides containing the rare minerals were then examined under the microscope with the following summarised results:—

NON-MAGNETIC

- | | |
|-----------------|--|
| Specimen No. 1. | Zircon and Tourmaline present in profusion. |
| " No. 21. | Zircon and Tourmaline present in profusion. |
| " No. 4. | Shell fragments the most obvious characteristic (Aragonite). |
| " No. 11. | Apatite predominant mineral. |
- (Photomicrographs A, B, C and D.)

MAGNETIC

- | | |
|-----------------|--|
| Specimen No. 1. | Coloured garnets very numerous. Colourless varieties absent. |
|-----------------|--|

The percentages required for a pass vary considerably in different Forces and range from 50 to 75 per cent. Candidates should be informed, when the date of the examination is announced, the qualification required for a pass, and it is unsatisfactory when percentages demanded in different Forces vary and when even the percentages in a particular Force vary with successive examinations. A candidate who gains 70 per cent. marks, and is notified that he has failed the examination because the percentage for a pass has since been fixed at 75 per cent., is bound to feel a sense of frustration. If in the examinations for the previous year the qualification for a pass was 65 per cent., his feelings may well turn to disgust and despair. Yet the same candidate may be next detailed to attend a Bomb Reconnaissance Course, in which he gains 70 per cent. marks, and his Chief Constable informed that the candidate "passed with credit."

Examinations and qualifications for promotion are matters of general application in which there should be uniformity within the Service, and as between Force and Force equality of opportunity is an essential ingredient in promoting general efficiency. This will never be achieved unless the conduct of Police examinations is carried out on businesslike lines and with the impartiality which the importance of the matter deserves.

A. E. T.

Sources of Information

"I keep six honest serving-men
(They taught me all I knew):
Their names are What and Why and When
And How and Where and Who."

RUDYARD KIPLING.

A NOTABLE feature of the relationship between police and public in this country is the great confidence of the individual citizen in the ability of the first policeman he encounters to answer any question he likes to put. The assumption seems to be that a policeman's knowledge is, like Mr. Weller's knowledge of London, "extensive and peculiar." It would be too much to suggest that the answer so readily given is always correct, but the questioner can always rely upon it being polite, and at a time when public manners are said to be deteriorating the general acceptance of the policeman as something of a "Quiz Kid" is a matter for congratulation. There must, however, be many an occasion when a few winged words, prompted by a particularly fatuous question, have to be suppressed in order to maintain the reputation of the force for courtesy and tact.

A policeman must possess a good general knowledge, for in the course of his daily routine he is called upon to exercise his mind with problems which would appear to be far outside the official limits (if there are any) of his duties. Asking questions is the simplest method of obtaining information for child and adult alike, and a variation of a formula which can be both harassing and embarrassing is currently enjoying considerable popularity. It is hard to say whether the thirst for knowledge exemplified by the success of the B.B.C. 'Brains Trust' and of the 'How Much do you Know' and 'Your Questions Answered' columns in the newspapers is really a healthy sign or merely another expression of a desire for some escape from the exigencies of war, the emphasis being on entertainment rather than enlightenment. Whatever the reason there is certainly a demand for people who can answer questions spontaneously and fluently, if not with complete accuracy. What is surprising is the number of questions which, like so many fired at the man on the beat, could be easily answered by the questioners themselves if only they could be persuaded to show a little initiative. Incidentally, those of us who are beaten by questions involving, for example, a recollection of names, dates, and places, are apt to be too easily impressed by the facility with which some people can produce a prompt answer. We ought not to be discouraged or experience any sense of inferiority. Every one of us has stored away somewhere a piece of information, an item of knowledge which we might well produce at the appropriate time to confound an expert. The man with a specialised knowledge often has a chink in his intellectual armour which the man with a general knowledge and a capacity for independent thought can penetrate. It is perhaps for this reason that lecturers and instructors experience a few qualms when they throw down the gauntlet by saying, "Are there any questions?"

If we are asked a question and cannot supply the answer immediately the great thing is to know *where to find it* and, if it is upon some matter capable of practical application, to look it up at the first opportunity. The secret is to know the sources of information. "Knowledge is of two kinds," said Dr. Johnson; "we know a subject ourselves, or we know where we can find information upon it."

Information can be obtained by observation or by enquiry, and since enquiry covers questioning people with the necessary knowledge and also searching for the required information in a book, it follows that a very useful person to know is a man with a good knowledge of books. In this few can excel a librarian. A police officer within reach of a good library should cultivate the acquaintance of the librarian and through him get to know thoroughly the reference section of the library. Every library worthy of the name has a reference section which

might be useful in connection with the identification of property apart from other uses which suggest themselves. A good librarian should be able to produce or obtain any of these for your inspection. There are 'bibliographies' of almost every subject under the sun, and librarians are trained in the use of them.

Books likely to be of interest to an officer who wishes to polish up his English composition or perhaps merely to decide whether he is justified in splitting an infinitive or ending a sentence with a preposition are Fowler's two books, *Modern English Usage* and *King's English*. If he wishes to acquire a wide and varied vocabulary he cannot do better than refer to Roget's *Thesaurus of English Words and Phrases*. There are many books designed to facilitate the search for suitable phrases 'to point a moral or adorn a tale.' Among the most useful are Brewer's *Dictionary of Phrase and Fable*, Stevenson's *Book of Quotations*, Bartlett's *Familiar Quotations*, Benham's *New Book of Quotations*, and finally, one which is very compact and quite cheap, the *Everyman Dictionary of Quotations and Proverbs*. These books are usually found side by side on the library shelf.

It is important to remember that there is a reference book for every conceivable subject. In order to facilitate research and study therefore it is not surprising to find that there are guide books to reference books. There is, for example, John Minto's *Reference Books: A Classified and Annotated Guide to the Principal Works of Reference* published by the Library Association and also an excellent American publication, Mudge's *Guide to Reference Books*. Two little books which might be more useful to an officer who wishes to begin with something less elaborate are *Facts and How to Find Them* by William A. Bagley and *How to Find Out* by L. McColvin.

A word of advice on the use of an index. An index, obviously, is a guide to the contents of a book, yet so many people thumb through a book with no sense of direction when a brief glance at the index would have led them to the right page and probably the right paragraph in a matter of seconds. The index is provided for a special purpose and it should be used; it should not, however, be confused with the Table of Contents, which merely gives various chapters in their appearing order.

If you visit a library for the purpose of obtaining some information do not wander aimlessly round the shelves. Tell the librarian or his assistant the type of book you want or the nature of the information you require and, if it is your first visit, ask him to explain the lay-out and the system of classification. It will save much unnecessary waste of time.

It might be helpful here to refer to a part of the page of a book that is sometimes overlooked or if noticed is passed by because the reference is not fully understood, that is, the footnote. The eye of the

reader is often directed to the foot of the page by a small figure or by a reference mark such as an asterisk or a dagger, only to find that the note is obscured by a mysterious abbreviation, usually in Latin. Here are the most important of them, with their meanings: *Vd, vide, see*; *ante*, before; *infra*, below, farther on in the book; *supra*, above, earlier in the book; *et seqq., et sequentes*, and the following pages; *cf, confer*, compare; *op. cit., opere citato*, in the book or work cited; *ibid., ibidem*, in the same place; *in loc. cit., in loco citato*, in the place cited; *et al., et alibi*, and elsewhere; *sic*, so (often placed in brackets after a word or phrase to show that it is quoted exactly although its absurdity would suggest that it is not).

Although this article has indicated where the answers to many questions may be found it must not be supposed that the man who reads a lot of books is necessarily well-informed. On the contrary, too much indiscriminate reading can make a man what Alexander Pope called, "the bookful blockhead, ignorantly read, with loads of learned lumber in his head." In any case most policemen, particularly in the trying times through which we are passing, are unable to read as much as they would like. But they can, and should, know where to find recorded information on any topic when they want it, and it is hoped that this article will have indicated the range and scope of the sources available.

W. O. GAY.

A Leaf from the Scouts' Book

BY CONSTABLE W. T. TREDWELL
Metropolitan Police

FOR a long time there has been at the back of my mind a persistent idea that many of the jobs which constitute the working life of a policeman call for personal qualities very similar to, if not even identical with, those which the boy scout 'movement' tries to cultivate in its adherents. If this idea is well founded, as I firmly believe it to be, I think some use could be made of it which would prove to be beneficial to the Police Service. Most readers of this JOURNAL will already have their own views as to what are the desirable attributes of a good policeman, and undoubtedly their individual opinions would, on the whole, have a good deal in common. Some readers, however, are probably less familiar with the objects and methods of scout training, so a brief outline of these matters may be appropriate.

Fundamentally, the professed aim of scouting is "to develop good citizenship among boys by forming their character—training them in habits of observation, obedience and self-reliance—inculcating loyalty and thoughtfulness for others—teaching them services useful to the public and handicrafts useful to themselves—promoting their physical, mental and spiritual development" (*Policy, Organisation and Rules of the Boy Scouts Association*). It will be observed that the popular notion of scouting as something to "keep the boys off the streets" hardly meets the case!

Turning to the individual scout's practical training, it will suffice for present purposes to consider the case of the boy who joins the scouts at the age of eleven or twelve and remains a member for the next four or five years; thus leaving out of account the preliminary training of the wolf cub (junior) section, and also the advanced work undertaken by rover scouts (*i.e.*, young men of seventeen years and upwards) in pioneering, physical fitness, public service and the study of 'civics.' Even before being admitted as a mere 'tenderfoot,' a recruit must know and understand the 'Scout Law'—a moral code which is not so much a set of rules as a definition of the scout's attitude to life; he must be able to make and recognise certain symbols used in laying and following a trail; have some knowledge of the make-up of the Union Jack; show skill in using his staff for several different purposes; and tie correctly, and know the uses of, about half a dozen knots. The relevance of such activities to the official aim just quoted is not difficult to see. The scout then goes on to qualify for the second-class badge, which entails tests in simple first aid, signalling, tracking, observation, open-air cooking and general pioneering. More advanced skill in these and other subjects—swimming, estimation of heights and distances, map-reading and the use of an axe—is required for the award of the first-class badge, and as a culminating test the scout is sent, usually with a companion of similar age and ability, on a twenty-four hours' journey, on foot or bicycle, taking with him all his personal requirements, finding his own way by means of map and compass, cooking his own food and selecting a suitable place to pitch his tent for the night. The satisfactory accomplishment of such a feat by a lad of fourteen or fifteen years of age is a real test of his physical stamina, self-reliance and practical intelligence.

In addition to these badges of grade, a scout may also qualify for a number of 'proficiency' badges in almost any subject in which he is interested as a hobby, a prospective career or a specialised line in scouting. Altogether there are about seventy of them, ranging from rabbit-keeper to tailor, from musician to athlete, and from journalist to explorer. A first-class scout who has earned four out of a limited number of these proficiency badges with special 'public service' value

(ambulance man, pathfinder, interpreter, etc.) is entitled to dub himself a 'King's Scout.'

A few words must be said about organisation. The local unit is the troop (under the charge of a scoutmaster), which is divided into patrols, each consisting of six or eight scouts, one of whom is appointed patrol leader. The patrol leaders collectively form a 'court of honour,' whose function is to deal with internal matters affecting the troop, such as camps, competitions, finance and discipline. In principle, the patrol system is simply an adaptation of the instinct which (as most policemen know only too well!) impels youngsters to form themselves into small gangs when they set out for mischief or any other kind of adventure. It thus makes use of a natural team spirit, and it also bestows upon a considerable number of boys the responsibilities as well as the privileges of leadership. To an adult it is indeed enlightening to see how much enthusiasm and wisdom can be displayed by quite young boys in conducting the affairs of their own organisation.

It is obvious that the system of training I have tried to describe cannot be adequately carried out by class-room methods of teaching. Some instruction and study are, of course, necessary; but much more depends upon the experience which a scout gets by his own individual effort and by his effective participation in patrol and troop activities. Success also depends largely on the ability of the scoutmaster to devise an almost infinitely varied programme of activities, including games and other forms of competition, calling for a combination of physical agility, quick thinking, technical proficiency and good team organisation. Scouting is primarily an out-door occupation, with camping as one of its most important as well as one of its most popular features. It is in the corporate life of the camp, where opposing influences are least obtrusive, that its values in character training are best observed and developed.

It may well be asked whether the scout system does in fact—and if so to what extent—achieve its purpose of so moulding a boy's character that he may become a worthy member of the community in which he lives. It is not possible to estimate its effects in every individual case with any degree of precision, for owing to the complexity of human nature one cannot always reliably ascribe any specific development of personality to any observable cause. I for one do not claim that every boy scout needs only a pair of wings to transform him into a little angel! Neither would I have it so. Taken by and large, however, I think it can fairly be said that there is ample testimony, from many people in very diverse walks of life, to show that scouting does help a boy to make good use of and to develop those moral, mental and physical qualities which give significance to his character, and that it thereby enhances his opportunities of becoming a happy, healthy and useful citizen.

My present concern is to consider the value of scout training to a young man who seeks a career in the Police Service. In my opinion (and there is reason to believe that I am not alone in this) a first-class scout, given the necessary physical and scholastic qualifications, has a very good chance of becoming a first-class policeman. I would go further and say that, other things being equal, a King's Scout badge is at least as good a recommendation for admission to the Police Service as a school-leaving certificate. A well-trained scout already has a good working knowledge of some of the subjects he will be called upon to study at the police training school, and of many others which he will inevitably find of practical use in his capacity as a policeman. Furthermore, he realises the importance of keeping himself fit in body and alert in mind, and the need for cool-headedness in moments of stress or emergency. More important still, he is a fellow who can be relied upon to tackle any situation which may arise, to act with intelligence, resourcefulness and courteous consideration for the needs and feelings of other people, and to give an honest and straightforward account of his actions. These, I think, are some of the 'desirable attributes of a good policeman' about which I ventured earlier to opine that there would be a measure of common agreement among readers of this JOURNAL.

As far as I know, membership of the boy scouts organisation has never been officially recognised as a qualification for admission to the police forces of this or any other country. The present time seems opportune for the question to be considered, and I accordingly suggest that when normal recruiting for the Police Service is restarted, candidates should have an opportunity (by means of a suitable heading on the form of application) of giving an account of their achievements as boy scouts—duration of service, promotion, badges and other decorations won, etc.—in the same way as they are required to give particulars of their school education, previous employment and public service, and that any such achievements showing merit should count in their favour. Perhaps the scope of this suggestion would be widened (and my own bias to some extent corrected) if applicants were invited to give details of their association with any youth organisation.

Another suggestion I venture to make is that one or two subjects which form part of a scout's training should also be included in the curricula of police training schools. The most obvious is the cultivation of the habit of observation (in which I include the use of the senses of hearing, smell and touch as well as sight), together with the ability to remember and describe accurately objects or incidents observed. It would be difficult to overestimate the importance of such qualities among the personnel of a profession as exacting as the Police Service, and some of its members do acquire them to an almost phenomenal

degree; but I think the general standard would be greatly improved if every candidate underwent a course of training with the specific object of developing his powers of observation, memory and verbal description. Such a course would not be difficult to devise; it might well start with what in scouting is known as 'Kim's game,' in which each participant tries to make a complete written list of a number of assorted articles after one minute's observation. This could be varied by the recognition of substances (e.g., poisons commonly used for suicidal purposes or chemicals used in first aid) by their smell, or of articles handled but not seen. After a little practice more elaborate feats could be attempted—a sketch plan of the contents of a room or a written description of a person seen for only a few seconds, with a longer time interval between the observation and the report. Eventually, incidents involving several people, with rapid action and plenty of conversation, could be staged; and, conversely, incidents could be reconstructed from evidence found at the scene. All this may seem to have a strong Sherlock Holmes flavour, but the accurate observation of detail and correct deduction therefrom still play their part in the solution of crimes and other police problems.

Closely related to this kind of sense-training is the estimation of distances, heights, numbers and weights—another scouting subject which often comes in useful in police work. Most people can acquire a reasonable degree of accuracy with a little concentration and practice.

First aid to the injured is, I suppose, universally taught in our training establishments (and most policemen are certainly proficient in it), but I would like to see it augmented with more practical exercise, in as realistic an atmosphere as can reasonably be secured, in methods of rescue from drowning, fire, various kinds of obnoxious gas and other emergencies with which we sometimes have to deal. There is a world of difference between merely reading or being told how to effect such rescues and actually carrying them out when the need arises; their efficient performance requires promptitude, resourcefulness and dexterity which are best acquired through previous practice. Quite often, too, the ability to tie reliable knots with improvised materials is also called for—a subject which is given prominence in scout training.

The time which a candidate spends at a police training school is, admittedly, already very fully occupied, and it might be difficult to introduce any additional subjects. I suggest, however, that something of the kind I have indicated could very well be substituted for foot-drill, which is of little if any utilitarian value in the ordinary course of police work. By contrast, the activities which I have recommended should be adopted from scouting would be doubly beneficial; during the actual training period they would provide an effective antidote to

the necessary, precise lectures on criminal law and police procedure, and afterwards they would often be of considerable practical value in the rendering of efficient service to the Public.

Lottery Camouflage

BY INSPECTOR K. E. STEER

Chief Clerk, Exeter City Police

"There is no limit to the ingenuity of the devisers of projects such as this, and there is, accordingly, no end to the variety of schemes which may constitute a lottery."

"There is no magic in the word 'distribution.' The word 'payment' will do just as well. There is no magic in the word 'prizes.' 'Commission' or 'reward' will do just as well."

"It seems utterly immaterial whether a specific article was or was not conjoined with the chance and as the subject matter of the sale."

READERS who have made a study of the many cases which have been decided under the law relating to lotteries will recognise the above extracts from the learned judgments.

The prosecution of Victory (Imaginary) Pools before the Justices at Exeter brings to light yet another example of the ingenuity of lottery promoters. The proceedings were brought under Section 22 of the Betting and Lotteries Act, 1934, and were taken against the promoter, the offences alleged being as follows:

1. During the month of July, 1944, in connection with a lottery known as Victory Imaginary Pool for Saturday, July 29th, 1944, promoted in the City and County of the City of Exeter did unlawfully sell chances in a lottery, contrary to Section 22(1)(b) of the Betting and Lotteries Act, 1934.
2. During the month of July, 1944, in connection with a lottery known as Victory Imaginary Pool for Saturday, July 29th, 1944, promoted in the City and County of the City of Exeter did unlawfully use the premises No. 6 ----- Road for purposes connected with the conduct of the lottery, contrary to Section 22(1)(f) of the Betting and Lotteries Act, 1934.

Summonses were also issued in regard to similar offences on the preceding Saturday.

Informations for the summonses were laid following the execution of a search warrant granted under Section 27 of the Act, and the police officers executing the warrant were so fortunate as to arrive at the premises while the "draw" was in progress.

LOTTERY CAMOUFLAGE

In opening the case for the prosecution, the Chief Constable of Exeter said:

"In my submission to you this scheme is a flagrant contravention of the Betting and Lotteries Act, 1934, conducted entirely for private gain by the defendant in the most barefaced manner, the camouflage which has been put over the scheme being of the flimsiest possible nature, but sufficient to indicate that the defendant in applying it evidenced that he was fully aware that he was contravening the law."

What was this scheme and the camouflage? The defendant, during the summer months when no football matches were being played, working through some 76 agents, distributed membership cards to participate in the lottery, a payment of sixpence being required for each card. There was no limit placed upon the number of cards any one person might purchase. Each card bore a "code number," taking the form of three pairs of numbers and representing three teams. At the headquarters of the lottery was a bag containing the names of fifty football teams numbered 1 to 50 consecutively; in another bag were a number of discs bearing numbers from 0 to 9 inclusive. When the "draw" was made, a team was drawn from one bag and a number from the other, the latter representing the number of goals scored by the team. Prizes went to the holders of codes representing the three teams scoring the highest number or predetermined combinations of goals. Of course, no teams played, and no goals were scored, hence the word "Imaginary" in the title of the Pool!

So much for the scheme. The camouflage, which the prosecution described as being of the flimsiest character, amounted to the suggestion that the chance in the lottery was gratuitous and that what the participant paid his sixpence for was a racing tip. Each week the agents distributed to the members of the Pool a small printed sheet bearing the names of the football teams which were supposed to be playing on the following Saturday, and giving the results and certified dividends for the previous Saturday. Across the top of the sheet, in small type, was printed a "Nap Selection," the name of a horse reported to be running on the Saturday, with the name of a second horse if the first was "absent." The promoter admitted in evidence that he had between fourteen and fifteen thousand members, each of whom would receive the "Nap Selection"; in addition to this the police found the "Nap Selection" exhibited in a café, where any backer of horses might have availed himself of the racing tip quite gratuitously, and furthermore, they found that on several occasions the horses recommended never ran!

Justification of the prosecution's submission that the lottery was conducted entirely for private gain is evident from an examination

of the rules of the Pool. From the total "investments," agents' commission of 3s. 6d. in the pound on the amounts they collected was first deducted; the promoter then deducted ten per cent. of the remainder for expenses, plus an extra five per cent. for printing expenses, the remainder being available as prize money. The weekly investments averaged £400!

The Justices found the cases proved and inflicted a fine of £100. The £500 odd seized by the police when executing the warrant was, of course, declared forfeit, and all documents ordered to be destroyed.

In the course of his opening statement to the Justices the Chief Constable gave a timely warning to every person taking part in illegal lotteries. "In the event of your finding that this was an illegal lottery," he said, "all the people who took part in the Pool would be liable to prosecution and substantial penalties." No doubt many of the fifteen thousand entrants were unwitting or careless of the peril in which they had placed themselves, but there must have been many who were uneasy in their minds during the few days following the conviction of the promoter.

Basic Training for Police Recruits

By SERGEANT RALPH DAVISON

Liverpool City Police

ONE of the most important tasks which await the responsible Police authorities at the conclusion of hostilities is the post-war reconstruction of these Forces by recruiting on a much larger scale than for many years past. Coupled with this task is that of training the recruits, and on the efficiency of that training will depend to a large extent the future efficiency of the Police Service. The war years, during which recruiting has completely stopped, have provided a break with the methods of the past, and the interval has provided an excellent opportunity for preparing a new and much more useful system. There has been plenty of evidence in THE POLICE JOURNAL and other police periodicals of the interest which all ranks are taking in this matter, and no doubt it is receiving adequate attention by the authorities; yet in the light of experience gained both in school-teaching before joining the Police Service and in work connected with the training of Policemen for promotion examinations since, I have ventured to devise a scheme of training suitable to post-war conditions and outline it here in the hope that it may prove useful as a foundation for others to build on.

GENERAL CONSIDERATIONS

There are current at present many excellent though ambitious schemes connected with the training of police recruits, and sometimes it appears that each Force is going to have its own Hendon College for the benefit of every recruit and not only for the benefit of those intended for the higher ranks. This is certainly a laudable ambition and one which we hope will eventually be achieved, but in considering it there are two vital factors which must not be excluded from our minds:—

1. Our Police Forces, as a result of this war, are so depleted in strength that recruiting will, for a period, have to take place at an abnormally high speed. A lengthy period of training will of necessity slow down the rate of recruiting and, since the first essential will be to rebuild our Forces rapidly, it will obviously be impossible.
2. The old system of giving a recruit all his training at the beginning of his career is clearly not the best, since he has then no conception of what his job will really be and his mind does not get the best value from theoretical instruction. How many of us, after one or two years of service, would have appreciated a further course of instruction, which we could have viewed against a background of practical experience? Surely it is better at the outset to give the recruit a simple course of instruction, so that he can go on the streets prepared with the most essential knowledge, and then after one or two years of service return him to the Training Centre for further study of the more intricate details of Police Law and Procedure.

Happily both these important factors can be satisfied by one system, *viz.*, by splitting the recruit's usual term of training into two periods, one to consist of an initial elementary or basic course to be given at his entrance to the Service in order to prepare him for his duties, the other to consist of a much more detailed refresher course, to be given probably when he has completed his probation. For example, if the usual term of training provided is three months, a six weeks' course could be given to the recruit at his entrance, followed by a further six weeks' course at the end of two years when experience has taught him the value of theoretical knowledge. Not only would this ensure rapid recruiting and the maximum value from the three months' training period, but also the expense of training the men who leave the Service before they have completed their probation would be halved.

THE INITIAL ELEMENTARY COURSE

Although no other profession demands such a high degree of versatility and such a wide range of general knowledge as ours, there is

no system of pre-vocational training provided for us. Would-be book-keepers, carpenters and engineers can all attend night schools to prepare for their careers; but our recruits, entering a profession which is much more complex and every bit as essential, get no help. In the past largely owing to our unsatisfactory methods of instruction, recruits were plunged from an ordinary civilian life into the Police Service without any proper preparation. They were young and they learned slowly because everything was so different. Their efforts to adapt themselves and their knowledge to their new life were sometimes clumsy and laughable, but always very tedious. They found that their only tutor was experience. They got very little help in this sense from anything else. The Training Centre was only concerned with teaching them Police Law, and it is small wonder that we all say it takes ten years to make a policeman.

Therefore the aims of the initial elementary course must be not only to teach the recruit facts about Police Law but to prepare him to learn his job more rapidly. It is an old precept in teaching that new knowledge must never be imparted without first being linked with something already known, and the recruit's initial course must be designed to lead him gradually from old ground to new. Since it will be, possibly, of only six weeks' duration it must be planned thoroughly beforehand and must be carried out with the utmost care and efficiency if it is to produce the best results. It is very evident that in such a short course only material of proved value can be included.

SUBJECTS TO BE TAUGHT

To arrive at the subjects which the police recruit must study we should first consider the qualities which help to make a good policeman. An analysis of these qualities will show us which subjects are most likely to cultivate them.

1. The good Policeman must have a sound knowledge of the law and his powers.—*Subject : Police Law.*
2. He must understand clearly the importance of his occupation and the part he plays in the community.—*Subject : Civics.*
3. He must be able to express himself clearly both in writing and speech.—*Subject : English* (coupled with some form of *elocution* and practice in the writing of *reports*).
4. He must know thoroughly the area in which he works and its relation to the country as a whole.—*Subjects : Geography (and Topography).*
5. He must be alert mentally and quick in his calculations of speeds, distances, times, etc.—*Subject : Arithmetic.*

These, then, are the subjects which should be dealt with in this

initial course; but they must not be dealt with as isolated and separate items. They must be planned with foresight, so that the instruction develops along the lines most useful to a policeman, and all must gradually fit into the general scheme. There is nothing revolutionary or grandiose about the subjects chosen. They correspond closely with the subjects outlined in Police Regulations for the Promotion Examinations and not by accident, since these are the subjects which matter to the policeman. It is possible to be a good policeman without a knowledge of French or a Law Degree; but it is utterly impossible to be a good policeman without a thorough understanding of these subjects.

The new part of this suggested scheme is not the material chosen so much as the way in which that material is to be taught. By the judicious planning of the scheme the recruit, whatever his educational attainment, can have his old knowledge, which may have grown rusty through years of war service, revised and be led gradually and easily to a study of the aspects of old and new subjects most useful to him in his future career.

THE SUGGESTED SCHEME

It may be thought difficult to cover all this ground satisfactorily in the space of six weeks; but it must be remembered that much of it consists of revision for introductory purposes. To show quite clearly how such a scheme should be worked out I have presented it in table form, illustrating briefly the syllabus in each subject and how it fits into the scheme as a whole. I have also shown a possible time schedule for each subject, from which a weekly timetable can easily be prepared.

The following points should be noted carefully while studying this suggestion.

1. The relative values in instruction time allowed for each subject.
2. The gradual transition in such subjects as Arithmetic, English and Geography from the general to the particular aspect.
3. The fact that at the end of the third week all the chosen subjects have a definite Police value.
4. The recruit commences his studies on very familiar ground, which gives him every chance to feel his feet.

Several minor points must also be noted with regard to the planning of the time schedule:—

- (a) Time is allowed for daily Physical Training instruction and for instruction in First Aid.
- (b) As shown in the timetable, time is allowed for "breaks," and arrangements are made for giving a limited amount of "home-work."

THE POLICE JOURNAL

THE WORKING OF THE SCHEME

The working of the scheme within the framework shown should present no real difficulty. Much will depend on the ingenuity of the instructors; but it should be obvious that many up-to-date devices can be included which will help to make the whole course interesting to both recruits and instructors. A few suggestions are the showing of instructional films; the use of the "Tactical Table," now familiar in A.R.P., for instruction in dealing with traffic accidents; the arranging or "framing" of typical occurrences and Court scenes; the reporting of the arranged "occurrences" as if they are the real thing; and many more simple but useful ideas which will suggest themselves to the instructors as practice is gained.

With regard to the instruction in Police Law and Procedure, every effort should be made to have the lectures given by the Force's expert on the particular points being studied. For example, lectures on Crime Detection should be given by members of the C.I.D.; on Traffic Law by members of the Motor Patrol Department; and on street or beat duty by experienced patrol officers. The interest of the recruit will be more easily roused by lecturers who are practical policemen and who can illustrate their points by personal experience.

CONCLUSION

It must be borne in mind that this is a "basic" course designed for the particular circumstances which will exist when the war is over. It is true that many of our more ambitious ideas in training are not included; but they have not been forgotten; they have merely been postponed until the arrival of a more opportune time. The course outlined here is as full and complete as the conditions for which it is designed will allow, and it will at least ensure that the recruits will be well and efficiently prepared for their new careers.

By the time the first recruits have completed their probationary periods two years will have elapsed and the first urgent rush to get back to strength will be over. Conditions will be more settled, and it will then be possible for the second part of the training to be given. By reason of the care taken with the earlier course and the understanding which the recruits will have gained by virtue of their experience, the second period of training can be devoted entirely to Police Duty in all its phases, and then will be our opportunity to introduce the type of advanced training which we all hope to see as soon as possible. Then, and only then, shall we be in the position to do this and call to our aid the scientific experts and technical devices which we consider so essential to the future well-being of the Police Service. In the meantime nothing will have been lost, and the fruits of a planned system of basic training will show themselves and leave us with no cause for regret.

SYLLABUS OF SIX WEEK COURSE OF TRAINING FOR POLICE RECRUITS

SUBJECT	ARITHMETIC	GEOGRAPHY	ENGLISH	CIVICS	ELOCUTION	FIRST AID	POLICE LAW AND PROCEDURE	REPORTS	PHYSICAL TRAINING
TIME : WEEKLY TOTAL	3 Hours 18 Hours	3 Hours 18 Hours	4 Hours 24 Hours	3 Hours 18 Hours	4 Hours 24 Hours	3 Hours 18 Hours	12 Hours 72 Hours	4 Hours 24 Hours	3 Hours 18 Hours
1st WEEK	1st Four Rules. Simple and Compound.	The World in general. World Communications.	Rules of Grammar (1). Parts of Speech. Essays.	Survey of British History.	Reading aloud in Class with attention to Dictation and Expression.		Crimes and Offences. Powers of Police. Offences against the Person.	Use and Care of Notebook.	
2nd WEEK	Ditto (continued).	Position of British Isles. Physical Features.	Rules of Grammar (2). Formation of Sentences. Essays.	Growth of Municipal and Parliamentary Institutions and Laws.			Offences against Property.	Rules of Correspondence of this Force. Stationery.	
3rd WEEK	H.C.F. and L.C.M. Fractions.	British Isles. Population and Communications.	Rules of Grammar (3). Punctuation. Essays.	Reasons for Laws. History of Formation of Police Force.		As laid down in "First Aid to the Injured."			
4th WEEK	Percentages and Statistics.	Physical and Political Divisions of British Isles. Police Forces.	Common Grammatical Errors. Writing of Evidence.	Position of Police in scheme of country.	Arrangement of scenes for play-acting part of Police in street occurrences. witness-box in Court, etc.		Miscellaneous offences. Licensing.	Exercises in preparing notebook entries and reports in connection with scenes enacted under "Elocution."	
5th WEEK	Scale Plan Drawing. Problems.	District covered by this Force. Physical Features, etc.	Evidence continued. Statements.	Duties and Obligations of Police.			C. & V.P. Act. Road Traffic.		
6th WEEK	Police Arithmetic. Plan drawing. Statistics and Problems.	Detailed consideration of above. Towns, Routes, etc.	Ditto.	Lectures on correct demeanour as Policemen.			Extra Regulations and Revision.		Systematic Physical Training and Drill Course.

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