The words belong to Margaret Thatcher, spoken at the 1977 Conservative Party conference. They echo dozens of similar remarks from senior Conservative politicians and Fleet Street editorials over the past decade. For they all agree that once again in the late 1970s, as from senior Conservative politicians and Fleet Street editorials over Conservative Party conference. They echo dozens of similar remarks put forward by Margaret Thatcher’s wing of the Tory party, and a decade earlier, ‘law and order’ had become a deep popular worry, that this was why it then became a central plank in the radical platform put forward by Margaret Thatcher’s wing of the Tory party, and remained a spicy ingredient of the Party’s revival at the end of the decade.

Many would argue, quite specifically, that ‘law and order’ was one of the key election issues in May 1979. The echoes of the Selsdon Toryism of 1970 had never died away, though it was now refocused. The assassination of Airey Neave MP and major street confrontations involving National Front election meetings pitched forked the subject back into centre stage during the campaign itself. The Police Federation, which represents all police officers up to chief inspector rank, stirred the pot with an unprecedented ‘law and order’ manifesto which appeared as an advert in almost every daily paper. The former Metropolitan Commissioner, Sir Robert Mark, hit the front pages with an outspoken attack on the trade unions. And Margaret Thatcher went out of her way to stress her keenness to give parliament a quick opportunity to bring back the death penalty, while making no secret of her personal support for the return of hanging.

The polls show that three-quarters of us worry deeply about something called ‘law and order’. A recent survey of post-war opinion polls on the subject concluded: ‘the trend of public concern over law and order is unmistakeable.’ The polls show that three-quarters of us want the death penalty back, that 93% of us want heavier sentences imposed for violence and vandalism, and that only 25% of us have ever felt uneasy about anything the police have done. And in a period when corruption in their ranks has rarely been out of the news, the police’s reputation for honesty and ethical standards remains five times higher than that of trade union officials.

Perhaps we may suspect the value of such surveys, but no amount of monkeying about with figures can disguise the fact that the overall serious crime rate has quadrupled over the last quarter century and that one’s chances of being a victim of violent assault have increased in the same period.

However, ‘law and order’ isn’t that simple. It is a subject which stirs strong feelings and, often, strong prejudices. As a result, most discussions on the subject generate heat rather than light. Think of the public attitude to any mention of Brady and Hindley, the ‘moors murderers’, for instance. In the rush, vital facts are frequently overlooked.

‘Seen objectively against the background and problems of 50 million people, crime is not even among the more serious of our difficulties . . . In 1976, there were only 565 homicides in England and Wales, including deaths from terrorism, and 548 of these led to arrests.’ This is the judgment not of some devil-may-care libertarian ‘do-gooder’ but of Sir Robert Mark, who is certainly no law and order dove.

It is vital to get the crime question into perspective. International comparisons show how lucky this country remains. The murder rate in England and Wales, for example, remains significantly lower than that in the city of Detroit alone. Britain’s overall reported crime rate has gone down for two years running. The police remain markedly less powerful, violent and, indeed, less corrupt than in many other advanced capitalist and socialist societies. The courts are under heavy pressure to avoid sending offenders to prison. And, by no means least, the liberal legislation of the 1960s (on abortion, homosexuality, hanging, censorship and so on) has stood very firm against repeated and well-marlshed farts to which, in what some have called a ‘law and order society’, it might have been expected to succumb.

What is law and order?
So what is meant by ‘law and order’? First, it is a policy area covering crime and justice. Within this, it is also a group of big state-run ‘agencies’ — like the police, courts and prisons. It is also some specialised agencies, like the immigration control and security services. In England and Wales, at any rate, it is therefore the part of the state which is administered by the Home Office.

But, second, it is a much broader idea or attitude — even a sanction. It is a belief in and practice of discipline in attitudes, behaviour and choices in the home, the streets and the workplace. Stuart Hall and others have described the way that the first has broadened into the second as ‘legitimising the recourse to law, to constraint and statutory power’ under which society is ‘toned up and groomed’ for the routinisation of control. To support this thesis, they point especially to the use of legal constraints on the labour movement and, in particular, to the Heath government’s Industrial Relations Act, 1971.

The problem with this analysis, it seems to me, is that while it rightly defines ‘law and order’ in terms outside the narrow limits of crime and justice policy, it pays insufficient attention to the concrete changes within that crime and justice field. These changes, which mainly concern the autonomous development of the ‘agencies’, and their readiness, willingness and ability to dictate what is and isn’t law
and order', provide the chief thrust of the growing intervention in political and social events.

This article will therefore try to show how it is inadequate to speak of 'law and order' in purely crime and justice terms (and will analyse the specifics of the Tory and Labour records in government). But it will also show how internally-generated changes within the 'agencies' largely define the scope of the disciplinary sanctions invoked against wider society.

**LAW AND ORDER: THE TORY AND LABOUR RECORDS**

There were four specific 'law and order' commitments in the 1979 Conservative manifesto. They may have been vote winners, but their real combined effect would always have been limited and has, in any case, been moderated since the election.

1. The commitment to a free parliamentary vote on hanging at an early point in the new session was always carefully hedged. It was nothing more than a pledge to test the parliamentary temperature. And when the test was taken, on 19 July 1979, there was a majority of 119 against reintroduction (one of the largest majorities in recent times). In spite of Thatcher's personal support for it, 94 Conservatives voted against hanging, led into the lobby by the new Home Secretary himself, William Whitelaw.

2. The commitment to a tougher regime in detention centres for young offenders — the headline-grabbing 'short sharp shock' — was a pledge merely to introduce an experimental tough regime. It is now being tried out, at two detention centres, and it remains very doubtful whether it will ever be extended wholesale. Apart from anything else, it is an experiment whose success or failure is very difficult to assess either quickly or at all. And, in addition, the scheme has little support within the Home Office or among the people responsible for supervising it.

3. The commitment to a wider range of sentences for offenders — especially for young offenders — certainly sounded tough. In reality, there is only one specific pledge, to change the Criminal Justice Act, 1961, to allow the courts to send young offenders to prison for less than three years. For the most part, though, the Government's sentencing policies have centred concentrated on urging courts to impose non-custodial sentences (ie, not sending people to prison), suspended sentences (ie, not sending them to prison unless they reoffend) or, if prison sentences must be given, to make them shorter.

4. "Would such a change really create so much difficulty?" Whitelaw asked in July. On reflection, it would have been far more threatening if the manifesto had pledged a narrower range of sentencing.

4. The commitment to tighten the immigration rules probably affected the lives of more people than any of the proposals. Even so, because of the strictness of the controls already in operation, the maximum numbers whose chance of entry into the UK would have been lost under the new proposals would have been 4,000 a year. Even so, significant parts of the package were dropped after the election. The plan for a register of dependants and for annual quotas (measures long advocated by Enoch Powell) were abandoned after civil service pressure. And the controversial 'foreign husbands' rule was naturally made a proud boast of it at last autumn's party conference. It called forth great indignation from the unions and from the Left. And yet, all that the Conservatives had done was to bring forward by a couple of months a pay award which had been already agreed by their Labour predecessors.

The absence of a real break between the two governments also shows in more substantive matters. The Criminal Justice (Scotland) Act, 1980, which (among many other things) strengthens police powers by legalising the practice of detention for questioning, may seem like a trial run for similar changes in England and Wales and like proof of a 'pro-police' policy. Both are true, but Labour introduced an almost identical bill at the back end of its term of office, which only fell because the general election was called.

changes in criminal procedure south of the border as well. They will
cover the police’s powers to search, detain, interrogate and prosecute;
it will be the most significant legislation in this field in modern times.
Yet it won’t be a ‘Tory Bill’. The changes will be drawn from the
report of a Royal Commision on Criminal Procedure which was set up
by James Callaghan and on which Labour too would undoubtedly
have legislated. And if the Conservatives finally reject some of the
Commission’s recommendations (like the radical proposal to reform
the prosecution system) it will not be because of a Conservative Party
line.

This is because the Home Office (in the person of its civil servants)
has its own line, quite independent of any party line, even that of the
Conservatives. This line is largely dictated by its need and desire to
sustain the agencies which it, nominally, controls. But, of course, it is
heavily dictated to by the agencies themselves. And if they put their
foot down, then so will the civil servants and so too (as their records
show) will the Home Secretaries who, again nominally, run the
department.

In the prisons, recent restructuring of management and
administration announced by Whitelaw was wholly based upon the
proposals of the May Committee of Inquiry set up in 1978 by Labour’s
Merlyn Rees. And the Government’s 1980 White Paper on the
reduction of pressure on the prison system gives just as little ground
on internal reform as did the Home Office under Rees when the Select
Committee report to which the new White Paper is a response was first
published in 1977. In both cases, it is the Home Office’s own view
which has prevailed, not any party view.

The reluctance of the Conservatives to respond positively to the
Select Committee on Prisons calls to mind its equally grudging recent
reaction to an all-party Select Committee proposal to abolish the ‘sus’
law. In this case too, the official dead bat is characteristic not so much
of the Party’s policy as of the deep resistance to outside enforced
change which dominates the Home Office.

Labour’s record, too, is littered with the corpses of forgotten radical
reports. It was Labour which capitulated to the furious front-page
denunciations of the Sun and buried the 1978 report of the Advisory
Council on the Penal System (now cut down in the quango cull) which
called for wholesale shortening of prison sentences. It was Labour
which failed to legislate on the basis of the Devlin committee on
identification evidence. It was Labour which came to power in 1974
committed to reform of the Official Secrets Act and then dropped the
idea because of Home Office opposition, and Labour which later
failed to introduce the safeguards on personal information called for
by the Lindop report on data protection.

Labour’s lack of a libertarian tradition
In the 1960s, it was perhaps possible to draw real distinctions of
substance between Conservative and Labour Home Office policy —
distinctions which were personified in the contrast between Henry
Brooke’s inhumanity and Roy Jenkins’s liberalism. By the 1970s,
these distinctions had beyond question been reduced to mere matters
of degree. Jenkins’s second term at the Home Office (1974-6) was far
less innovative than his first; its main legacy, ironically, being the
‘temporary’ Prevention of Terrorism Act, brought in after the
Birmingham bomb atrocities of November 1974. His two successors,
Merlyn Rees and William Whitelaw, share a personal friendship and a
schooling in consensus administration at the Northern Ireland Office.
Now they have brought these traditions to the Home Office, too.

One major reason why they were able to achieve this consensus and
continuity is the absence of a living alternative libertarian tradition in
the modern Labour Party and in the labour movement generally. E P
Thompson has suggested that this absence is due in part to a
‘profoundly pessimistic determinism’ within the Left about law and
the state. Crudely put, it is based on the simplistic notion that the sole
function of the state under capitalism is to defend the capitalist system
and that any attempts to reform it are mere glosses. It sanctions the
notion, as Thompson puts it, that ‘if all law and all police are utterly
abhorrent, then it cannot matter much what kind of law or what place
the police are held within.’

For the most part, the Home Office has also been regarded by the
Labour Party at best as a wholly marginal department to the economic
and spending departments, at worst as a ministry which seems to be
doing a necessary job. The only break in this pattern came in Jenkins’s
first term (1965-7) and was influenced by a group of articulate
professionals (mainly liberal lawyers) outside the mainstream of the
movement.

The result has been that the central policy areas in the Home Office
— policing, prisons, criminal procedure and (to the Left’s shame)
immigration — have been allowed to develop autonomously. They are
treated as administrative areas, within which substantive political
disagreement is not only unlikely but also even undesirable.

In part, this stems from a worthy, and almost Enlightenment
notion that the workings of a fair system of legal procedures should be
free from executive or ‘political’ interference. But it also reveals a
black hole in the theory of the peaceful transformation of the state.
And it has allowed the state agencies which operate these policy areas
to develop and expand their own definitions of the proper boundaries
of their work and to lay down a deep-rooted autonomy within these
boundaries. This process lies at the heart of the ‘drift into a law and
order society’ under which law and order takes on its wider meaning
and begins to involve every one of us.

LAW AND ORDER AND THE STATE AGENCIES
The autonomy of agencies is especially marked within the prison
system. Here there has been, for several years, a massive crisis of
internal conditions — largely created by ever-rising numbers having
to be housed in a finite number of inadequate buildings. There is, too,
a crisis of regimes, created by the officially acknowledged failure of
the ‘treatment’ model of imprisonment (which claimed that prisons
should aim to make prisoners into nice citizens) — now to be
superceded by ‘positive custody’. Above all, there is a crisis of
control, as the courts on the one hand, and the prison administrators on the other, manoeuvre against the militant, hard-line prison officers.

Yet these crises have festered behind closed doors, both literally and metaphorically. The Home Office Prison Department and the prison officers are locked in battle but parliament, press and most members of the public have voluntarily excluded themselves from any part in it.

This is partly because the law gives so much administrative licence to the department. The courts are unwilling, and to some extent, unable to intervene. As a result, British prison practice has to be challenged further afield, by using the European Convention on Human Rights. Parliament consistently fails to make good the courts' reluctance. Informal attempts to exercise some control from outside interference given sanction by the laissez-faire approach to the teachers and probation officers. But all are met with deep and, so far, effective antagonism from the two warring factions. Like the police, the prisons are able to rely upon and exploit a tradition of non-interference given sanction by the laissez-faire approach to the doctrine of law and order.

Immigration
The same goes for the immigration process. Here, too, the system is closely controlled by a department within the Home Office. The courts are content to endorse and extend the administrative autonomy of the Secretary of State (and hence of immigration officers). The day to day practice of immigration control at ports of entry is jealously screened from independent supervision.

But with immigration, autonomy is not the only important issue. Sanctioned by the all-party consensus on illegal immigration (a term that has been greatly widened by the courts), and bolstered by periodic bouts of hysteria about 'swamping', the immigration service and the police with whom they work enforce a system of checks which relegates all non-whites to the margins of the law and order society. Immigration practice, and the ideology which underpins it, place all black people at risk by constantly questioning their right to be in this country.

In so doing, immigration control consistently negates and frustrates the aims of race relations legislation. This is not the view of both the major parties, however, who assert that firm control provides the atmosphere of reassurance to the white population that will enable good race relations to prosper. In fact, the reverse is the case. Even the government backed Commission for Racial Equality has tried to mount a major inquiry into the government's own immigration department — an inquiry bitterly opposed by the Home Office.

Thus law and order grinds into everyday life. The immigration system provides a classic example — though by no means the only one — of the process by which these unsupervised agencies have been able to tighten the social disciplinary screw by extending their regulatory powers into speculative surveillance over much larger groups than they were originally set up to control.

The police
Far and away the most powerful engine in this movement is the police force. The police have never been solely concerned with catching criminals. As every speech and publication celebrating last year's 150th anniversary of the police pointed out, they see their major task as prevention — creating the conditions in which crime will not take place. But as Robert Peel's original instructions to the Metropolitan Police in 1829 pointed out, their goals are not merely the prevention of crime, but also the prevention of disorder.

Thus, from the first, the police have been involved in social conflict as well as crime. The process has ebbed and flowed through the past century and a half but there is no doubt that the past two decades have witnessed a renewed expansion of these terms. In particular, with the growth of the modern state, a range of social problems have been redefined in policing terms. One example would be the Notting Hill Carnival — a community event now redefined as a big policing 'problem'.

Robert Mark is rightly most associated with this process, but he has left a widespread legacy. Sir James Crane, the chief inspector of constabulary for England and Wales, sums up the current official assessment in his latest annual report: '1979... heralded the end of a decade of unprecedented economic and social problems and technological change, with accepted standards and values of behaviour being strongly questioned and severely tested by some sections of society.'

Alderson and Anderton
In terms of prevention, these lessons have led the police in different directions. On the one hand, there is the 'proactive' community policing advocated by the eloquent John Alderson, chief constable of Devon and Cornwall. This concentrates on evolving a common strategy among social services, community groups and voluntary organisations — all coordinated by the police — to identify and carry out crime prevention needs at grassroots level. This form of policing reaches out to penetrate the community in a multitude of ways. ... It seeks to reinforce social discipline and mutual trust in communities.

On the other hand, there is the highly technologised political surveillance side of prevention. This is notably associated with James Anderton, the hard-line chief constable of Greater Manchester, who informed TV viewers last year: 'I think that from the police point of view that my task in future, in the ten to fifteen years from now, the period during which I shall continue to serve, that basic crime as such — theft, burglary, even violent crime — will not be the predominant police feature. What will be the matter of greatest concern to me will be the covert and ultimately overt attempts to overthrow democracy, to subvert the authority of the state and, in fact, to involve themselves in acts of seditious designed to destroy our parliamentary system and the democratic government in this country.'

Even in the traditional areas of policing, criminal catching, the preventive principle is being invoked to justify the extension of boundaries. The proposals made by Sir David McNee, the Metropolitan Commissioner, to the Royal Commission on Criminal Procedure in 1978 would make it easier for the police to question and search suspects at an earlier stage of their inquiries. They would allow the police to have access to information on more members of the public through banks and fingerprint checks. A more speculative approach to policing would be legitimised, and all in the name of the great god, prevention.

The contrast between the Alderson and Anderton approaches is frequently made. In fact, the two are different sides of the preventive coin, as Anderton has acknowledged in his most recent annual report when he observed that 'neither is complete, sufficient nor appropriate

6Stuart Hall, Drifting into the Law and Order Society.
7Committee of Inquiry into the United Kingdom Prison Services, Cmnd 7673 October 1979.
9John Alderson, Communal Policing 1978.
in itself and both complement the middle ground. It is also recognised by Alderson who, although he has frequently and bravely criticised the seduction of police thinking by the ‘quasi-military reactive concept’, still presides over a force which contains all the specialist reactive squads — like the Special Patrol Groups and Police Support Units — more associated with the Anderton approach.

'Prevention' — and the spread of policing
The elision between crime and disorder is fundamental to an understanding of the spread of the preventive policing concept and, indeed, to the whole festering power of law and order ideology. It isn’t confined to Britain, of course. Spiro Agnew once said ‘When I talk about troublemakers, I’m talking about muggers and criminals in the streets, assassins of political leaders, draft evaders and flag burners, campus militants, hecklers and demonstrators against candidates for public office and looters and burners of cities’. The law and order creed embodied in this bracketing of killers and demonstrators is a feature of all western countries.

British politicians and police are just as practised as Agnew. A 1977 police ‘field manual’ by a senior London officer advises new recruits to watch out for people who ‘although not dishonest in the ordinary sense, may, owing to extreme political views, intend to harm the community you have sworn to protect,’ and continues: ‘While there are subtle differences between these types of extremists and thieves, it is difficult to put one’s finger on material distinctions.’

These attitudes are institutionalised by a variety of routine police practices. Almost every aspect of police work is subjected to a routine - an important point to remember when occasional repressive practices come to light. The most important general practice is the centralisation within each police force of local intelligence through the collator system. Collators maintain personal files on people of interest to the police, and are not restricted to those who have been charged or convicted. The computer records of one force — Thames Valley — are computerised in a Home Office experiment which may be extended nationally later this year — though if it is, the decision to do so will be taken without advance parliamentary discussion. The sort of material held in these records is frequently trivial and unsubstantiated, as well as irrelevant to any conceivable crime fighting police — like whether a person lives in a squat, for instance.

Police records are like a giant sponge, gradually soaking up all sorts of information. But it is information for action. In the case of the Special Branches, it is political information, collected both for the use of the security services (MIS) and for police operational use against demonstrations and strikes. The SB has quadrupled in size in the last decade and is now 1,600 strong, maintaining files on over 1% million people. Each of the country’s 52 regional police forces has its own SB. One of their acknowledged targets is ‘subversion’ — and government admissions have now confirmed what most of us assumed anyway, that this label applies to socialist and industrial activists and others who are also engaged in completely legal oppositional activity.

Some police will assert that this whole marginalisation and delegitimisation of sections of the community has been forced upon them by the growth of terrorism. There is no denying that there is some truth in the claim. Terrorist actions in Britain have compelled a trained police response, some of which, had it not been for terrorism, would not have been developed otherwise. However, there is no real doubt that the response penetrates far beyond the threat, that it was developed well before the threat materialised in the early 1970s and that the marginalisation process has, in any case, many causes, such as immigration control, in addition to terrorism.

Police opposition to demonstrations
Since 1968, the year in which street demonstrations against the Vietnam war reached their peak, the police have engaged in a long-term attempt to destroy the legitimacy of public protest. They have been at the forefront of the attempts to impose legally binding advance notice conditions on marches, and to extend other legal curbs over large crowds. This drive has not been based upon any fear of excessive violence. It rests upon the police’s growing opposition to demonstrations as such.

The Association of Chief Police Officers (ACPO) — the chief constables’ ‘union’ — has said, for example: 'Today the right to demonstrate is widely exploited and marching is the most chosen form of demonstration adopted by protesters. Irrespective of the peaceful nature of the processions, the numbers involved bring town centres to a halt, business is severely disrupted and the public bus services thrown out of schedule. In short, a general annoyance is created to the normal process of daily life.'

The police use any violence which does occur on demonstrations to back their campaign — though, in doing so, they arbitrarily single out this aspect of the danger of the officer’s job. They constantly harp on about the alleged financial cost of their public order policing — often with highly dubious figures. And on the streets themselves, tactics such as mass policing, the use of the Police Support Units and SPGs, unnecessary cordoning off of routes, surveillance from rooftops and helicopters all help them to draw more firmly the frontier between ‘the normal process of daily life’ and political protest.
were it not for this factor. It helps to explain the harassment of language activists in the wake of the recent second-homes arson campaign in Wales. As experience of the Prevention of Terrorism Act has shown, the original aim of catching those responsible for specific crimes soon degenerated into wholesale monitoring of the movements and activities of entire communities.

At the same time as the state agencies extend their spheres of influence under the sanction of law and order, they have resisted every single outside attempt to control them. Thus the osmosis of law and order works all the while against democracy, because its inherently authoritarian character is incompatible with debate, discussion, participation or accountability. At local and national level, in the prisons, the immigration service, the courts and the police, the resistance to control has been consistent.

Law and order ideology drives this determination. It encourages the police and their like to condemn every criticism of them as both politically motivated (i.e., left-wing) and 'anti-police'. Whoever criticises them is, by definition, anti-law and order and hence not a part of that ‘society’ from which the police claim their authority. Margaret Thatcher herself gave the clearest possible proof of this process when, in a short, sharp remark following criticisms of police attitudes to the National Front by Lewisham councillors last April, she ordered that what the police need 'is support and not criticism.'

THE LABOUR MOVEMENT RESPONSE

The police are most effective at encouraging the press to take up this attitude. When the criticisms mounted earlier this year over deaths in police custody and the Blair Peach murder, an article immediately appeared in the *Daily Mail* entitled 'This sinister plot to knock our police.' The Labour Party has done little to distance itself from the authoritarian backlash. A hawkish motion on law and order was pushed through the 1978 Party Conference at James Callaghan's instigation, to ensure that Labour couldn't be accused of being soft on law and order in the coming election. And six right-wing Labour MPs' response to the criticisms of the police this year was to put down an early-day motion 'abhoring political propaganda from any source designed to weaken and discredit the police.'

But there are now slight indications that the tide is turning. Groups like the Labour Campaign for Criminal Justice, chaired by former Home Office minister, Alex Lyon, have been formed to counteract the hawkish response on policing, prisons and sentencing which all too often comes from the Party. Several Labour parties have begun to tackle the question of police accountability and in London a 'Campaign for a democratic police force' has been established. The Labour national executive has set up a study group on the security services, the Special Branch and surveillance techniques such as telephone tapping.

None of this constitutes a reform movement on the scale or of the significance of police reform movements in some other countries, notably Italy's 'Nuova Polizia'. It has made no inroads into the police themselves, nor even managed to legitimate a real dialogue with the police or the other agencies. But it must be the shape of things to come, and it must be a process in which the whole of the Left — the Labour Party, the Communist Party and others — is involved, to which it must now address itself seriously, basing its views on the growing body of serious socialist writing on these subjects. If it does not do so, the dramatic force of the autonomous development of the law and order agencies can only gather further momentum during the coming recession.

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18 *The Times* 18 April 1980.