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Text of a lecture delivered at St. Catherine's, Cumberland Lodge, Great Windsor Park, at a conference held on the subject, 'The Public and the Police: a better structure for the police in the 1990's.'

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THE POLICE AND THE PUBLIC IN WESTERN EUROPE: A PRECARIOUS COMPARISON

I. Introduction

The key-words of this conference are, on the one hand, the structure of the police and the police system and, on the other hand, the relationship between the public and the police. In addition, the organizers expect me to deal with these two topics by comparing the situation in Great Britain with the state of affairs in other European countries. It is impossible to accomplish this task within such a short time, so I draw your attention to the fact that the theme of this gathering, if it is somewhat reformulated, is connected perfectly to the classical debate on policing on the Continent. In that debate too the discussion on the position of the police in the edifice of the state goes hand in hand with the discussion on the power and methods the police should have at their disposal. In other words there is a valid basis for a comparison between Great Britain and the Continent on this point. In his recent book, *The Governance of Police*, Lustgarten has already demonstrated that this is indeed the case.² However, he isn't the first British author who has made some comparison in this respect. In the course of this century various British and American authors have written about the differences and similarities between the police on the Continent and in Great Britain, so it isn't surprising that the first part of my lecture consists of an exposition on past literature about policing in Western Europe. The second part is devoted to a contemporary comparison between the police in Great Britain and the police on the Continent in the matter of their structure, powers and methods. The relation with the public will, as far as possible, be treated as an essential complement to these organizational features.

II. The Distorted Discussion In The Past.

The first important comparative study of the police systems in Western Europe has been made by an American writer: R. Fosdick with his *European Police Systems*, 1915³. In this book, Fosdick came to the conclusion that the British police substantially differed from the police in Germany, France and so on in several respects. First of all he underlined

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² LUSTGARTEN, L., *The Governance of Police*, London, Sweet and Maxwell, 1986.

³ FOSDICK, R., *European Police Systems*, New York, Century, 1915.

that, notwithstanding the essential similarity of their tasks in general, the continental police forces were not only far more engaged in the formal regulation of social life than the British, or, in general, the Anglo-American police forces, but also performed their duties in a far more authoritarian way, that is to say without much participation of, let alone control by, the people. Closely bound up with this issue, Fosdick underscored the organizational differences. In his opinion the continental police forces were in general much more centralized and specialized than the British police forces, and had a more military character. Fosdick explained these differences by pointing at social and political contrasts between Great Britain and the Continent. Notably, differences in the relationship between the state and the citizens and in the socio-economic power structure. On the Continent, the citizens were above all subordinates and not constitutional members of the state, and the state in her turn was mainly the produced part of the ruling classes.

Around World War II a view on the police in Western Europe was put forward by Reith. In his book *The Blind Eye of History* this influential writer expressed his opinion in a trenchant way.⁴ Reducing the continental police to the *gendarmarie*-forces he didn't shrink from writing that:

“*Gendarmerie* police have normally depended for their power on their ability to inspire fear by the tyrannical practices which they are allowed to exercise. In most countries where they function they are regarded by the public without respect or admiration, and with contempt and dislike, but they have usually succeeded in providing an effective solution to the problem of enforcing laws in spite of their manifest defects (...). This system passed, intact, into the hands of the people's law-making representatives who, ever since, when faced with the necessity or difficulty of making unpopular laws and, on many occasions, of keeping themselves in power against majority will, have secured themselves by using the despotic law enforcement machinery at their disposal; by increasing the powers of the *gendarmarie* police and, particularly, their power of inspiring fear (...). Too often, in Europe and in Central and South America, especially, a country calling itself a democracy and trying to combine democratic law-making institutions with wholly undemocratic, *gendarmarie*, law enforcement machinery can be seen to be a house divided against itself which cannot be relied upon to stand”.

The ideas of Reith concerning the British police evidently go into a totally opposite direction. It is in his opinion a model of a democratic and civil police that performs its tasks in strong agreement with the people.

What can I say about this antithesis? - policing by power versus policing by consent - that dominated, implicitly or explicitly, a lot of the English literature on the police into the seventies? In a well-known article, *Ideology as History*, Robinson in 1979 showed that not only Reith but also T. A. Critchley and L. Radzinowicz pressed the history and the reality of the British police into an ideological corset, modelled on the ideas of J.

⁴ REITH, Ch., *The Blind Eye of History*, London, Faber and Faber, 1952.

Locke concerning the relationship between the state, the society and the people.⁵ They borrowed from him, for example, the notion "that the police are the public and the public are the police". In the past ten years several British historians, moreover, have demonstrated on the basis of firm research that the vision of the British police as it has been disseminated by Reith really is a myth and, in direct line with this, that the historical opposition between the British police and the continental police was never as great as these writers suggested. Lastly, it wouldn't be so difficult to nullify the antithesis of the traditional Anglo-Saxon police historians on the basis of the modern historical research on policing that has been done on the Continent. However, such an action would be too time-consuming at this moment.

To start with the work of the actual British historians, I want to mention the comparative study Emsley has made on *Policing and Its Context, 1750-1870*, from which he drew the conclusion that in the eighteenth and nineteenth centuries, in countries like England, France, Prussia and the United States, a common framework of political, social, economical and cultural conditions evolved, within which professional, bureaucratic police forces could, or even had to, be developed.⁶ But if to this extent there was a common framework, Emsley rightly adds that national traditions and experiences were also crucial to the framework within which police developed in different countries. The traditions of *la police générale*, of the military nature of policing and policemen, all of which went back at least to the seventeenth century, were maintained within the French police system, which emerged from the reforms of the Revolutionary and Napoleonic period. Traditional attitudes towards English liberty which influenced both the rules and the rulers meant that such elements were discouraged, or at least played down, in English police forces. Emsley in this manner showed that the British police force was and is less unique than Reith and the 'ideologists' pretended. Other historians convincingly proved that, at least in some respects, the British police too stood continuously or temporarily on the side of the state and/or the ruling classes. I think of the studies which have been written on the urban police forces, by B. Porter; by R. Allason on the history of the Metropolitan Police Special Branch and by R. Geary on *Policing Industrial Disputes: 1893-1985*⁷. I may point also to the fact that the history of the provincial police forces in England too testifies to less harmony, consensus, and agreement with the people than Reith probably could have believed. The work of C. Steedman, *Policing the Victorian Community*, is a clear piece of supporting evidence for this view.⁸ Reiner deserves for the rest our recognition for organizing, in his study *The Politics of the Police*, these

⁵ ROBINSON, C., *Ideology as History*, Police Studies, 1979, vol. 2, no. 2.

⁶ EMSLEY, C., *Policing and its Context, 1750-1870*, London, MacMillan, 1983.

⁷ PORTER, B., *The Origins of the Vigilant State*, London, Weidenfeld and Nicolson, 1987; ALLASON, R., *The Branch*, London, Secker and Warburg, 1983; GEARY, R., *Policing Industrial Disputes: 1893-1985*, Cambridge, Cambridge University Press, 1985.

⁸ STEEDMAN, C., *Policing the Victorian Community*, London, Routledge and Kegan Paul, 1984.

new insights in a thoughtful historical-sociological perspective on the rise and fall of the legitimacy of the British police in the periods 1856-1981.⁹

Looking back, I would like to finish this part of my introduction by saying that the general organization of the British police in the past indeed heavily differed from its continental counterparts. In particular, the absence of an outspoken central military police force like the French or Belgian gendarmerie has always been a characteristic feature of the British police. That does not mean, however, that consequently it was essentially more democratic and so on than the police on the Continent. To defend this thesis, a much more detailed comparison between the police system on this side of the Channel and on its opposite side is required. Nevertheless, I believe that the British police in general could be far more lenient, more orientated towards the beliefs and feelings of local authorities and local people, than the continental police. And this is because of the simple reason that her country was never the battle-ground of wars, revolutions and coups d'état. In other words - for a long time Great Britain could permit herself a far more decentralized and less repressive police than, for example, Germany, France and even Belgium and the Netherlands.

III. The Actual Situation on Both Sides of the Channel.

Everybody knows that in the last 10 to 15 years the British police service has undergone drastic changes. Looking at the general literature on the police in Great Britain I would summarize her changes in this way. Concerning her governance, - (see the books of L. Lustgarten and R. Reiner quoted) the most important ones, in my opinion, are on the one hand the increasing role of the central government, directly and indirectly - by means of the Inspectorate, and the parallel decreasing influence of the local police authorities, and on the other hand the creation of an independent Crown Prosecution Service and the ensuing division between investigation and prosecution. In relation to the operational organization of the police, the most striking changes in my opinion - and this opinion rests on the books of R. Baldwin and R. Kinsey, and B. Fine and R. Millar¹⁰ are on the one hand the nationalization of the maintenance of public order and of criminal investigation, and on the other hand the "localization" of the performance of the daily and every-day tasks. The introduction of protective equipment and offensive tactics has provided the British police with a much more 'military' image than ever before. If the powers of the British police, in a strict sense, have been extended by the Police and Criminal Evidence Act and other statutory laws, it is a difficult question. It seems to me however, that in no case have they been diminished by these laws, as can be concluded from the study of St. John A. Robilliard and J. McEwan.¹¹

⁹ REINER, R., *The Politics of the Police*, Brighton, Wheatsheaf Books, 1985.

¹⁰ BALDWIN, R. and KINSEY, R., *Police Powers and Politics*, London, Quartet Books, 1982; FINE, B. and MILLAR, R., *Policing the Miners' Strike*, London, Lawrence and Wishart, 1985.

¹¹ ROBILLIARD, St. John A. and McEWAN, J., *Police Powers and the Individual*, Oxford, Basil Blackwell, 1986.

Looking now at the police on the Continent, my first remark corresponds with the historical comparison made by Emsley, namely that, properly speaking, it is impossible to make only one 'transcontinental' comparison: policing in the different continental countries doesn't undergo the same developments. Secondly, one must underline the fact that the research and literature concerning these developments and discussions quantitatively and qualitatively varies considerably from country to country. Whereas in the Netherlands in the past 30 years something like a police research tradition has evolved, no such evolution can be perceived in the Scandinavian countries or in countries like Spain, Italy, France and even Germany. That is to say that in the case of most continental countries the building-stones for a thoughtful comparison are lacking. However, the situation isn't entirely hopeless.

Studies, such as those made by A. Funk, U. Kausz and Th. v. Zabern edited by J. Roach and J. Thomanek and the *Report of the European Police Summer Course 1989* clearly indicate that as far as the formal institutional structures are concerned the British police still differs considerably from the police systems on the Continent, albeit that the differences are smaller than they were 10 to 20 years ago.¹² Notably I make five points. Through the creation of a nation-wide system of more or less armed mobile units, the resemblance of the British police to the continental police has greatly increased but Great Britain still doesn't have the dual police structure that is so common on the Continent, let alone a real third force like the gendarmerie or the German Bundesgrenzschutz. The second point is that whilst the nationalization and centralization of the British police indeed has increased enormously, the central authorities in London still do not dispose their own national police force as do the authorities in Paris, Bonn, Brussels, The Hague and so on. My third point is that the formation of the Crown Prosecution Service has greatly diminished the institutional difference between the British police system and the police systems on the Continent, although the fact that the Crown Prosecution Service formally has no power on the police remains an important distinction. In the fourth place, one cannot deny that notwithstanding these and other general formal differences, the internal organization of British police forces bears a strong resemblance to that of the great continental police forces: the division of tasks, the role of staff units, the equipment and so on. Lastly, the Police and Criminal Evidence Act has provided a statutory basis for certain police actions which as far as its completeness is concerned does not exist anywhere else in Western Europe. I believe that, all in all, British police powers are on the same level as those of continental police forces, although on specific points striking differences do exist.

¹² FUNK, A., KAUSZ, U. and ZABERN, von Th., *Die Ansätze zu Einer Neuen Polizei; Vergleich der Polizeientwicklung in England/Wales, Frankreich und der Bundesrepublik Deutschland*. In: Blankenburg, E. (ed.), *Politik der Inneren Sicherheit*. Frankfurt am Main, Suhrkamp Verlag, 1980, pp. 16-90; ROACH, J. and THOMANECK, J. (eds.), *Police and Public Order in Europe*, London, Croom Helm, 1985; *Report of the European Police Summer Course 1989*, Apeldoorn, Nederlandse Politie Academie, 1989.

To move to the relation between the police and the public is not easy. Not only because the correlation between this on the one hand and the organizational changes of the police system on the other is at least a very complicated one, but also because in general the research on the Continent about the 'public relations' of the police lies far behind that carried out in the last 15 years in Great Britain. Nevertheless I have to tackle the problem and shall permit myself the following reflections.

In Great Britain, absolutely speaking, not so much research has been done into the relation to the public and, as far as I know, most of what has been done relates to the situation in London. Yet I believe the results are to some extent applicable to the situation in several continental countries, in particular their big cities. This belief rests, on the one hand, on the results of surveys carried out in the Netherlands since the Seventies, (beside Great Britain the only European country that has a certain tradition in this matter), and on the other on my familiarity with public discussion on the police in Germany, Belgium and France. Taking the British research first, I would venture to say that the relationship between the police and the public has deteriorated in the course of the Seventies and Eighties, especially in London.

In any case, comparing the results of the research of W. Belson from 1975 and those of the well-known studies of D. J. Smith and J. Gray, and of T. Jones, B. Maclean and J. Young, my firm impression is that the general public has developed a more unfavourable opinion of the police: on the one hand it questions positively its effectiveness and on the other is highly critical about its fairness. Furthermore, the qualities of the individual officers are no longer valued so highly.¹³ I hurry, however, to add to this that the situation outside London (and other big cities) probably looks better. This in any case could be deduced from J. Shapland and J. Vagg's book on *Policing by the Public*¹⁴. In the second place the literature indicates that in urban areas notably the relationship between some segments of the (ethnic and white) minorities and large parts of the police are lastingly and deeply disturbed, and that all over the country big strikes, for example, the miners' strike, and protest demonstrations, for example against the new tax system, have put pressure on the relationship between the police and wide sections of the British people. Lastly, may I take the liberty to say that the problem of the "public relations" of the British police is not only situated on a functional, operational level but has also brought into question her whole organization, certainly where governance, accountability and control are concerned. In other words: the legitimacy of the British police, which for writers like Reith was self-evident, out of question, is a huge political problem at this moment.

I have said that the results of the British research are to some extent applicable to the situation on the Continent. My intention was to suggest

¹³ BELSON, W., *The Police and the Public*, London, Harper and Row, 1975; SMITH, D.J. and GRAY, J., *Police and People in London*, Aldershot, Gower, 1985; JONES, T., MACLEAN, B. and YOUNG, J., *The Islington Crime Survey*, Aldershot, Gower, 1986.

¹⁴ SHAPLAND, J. and VAGG, J., *Policing by the Public*, London, Routledge, 1988.

that whilst for example in the Netherlands and Belgium the general public does not perceive the police very positively and, indeed, some segments foster lastingly or temporarily a really hostile attitude against police, these days violent clashes between the police and minorities in the cities are a usual phenomenon all over Europe. In the named countries the general organization of the police is seen as an important political problem too, but... for totally different reasons than in Great Britain. While in Great Britain the actual role of the police, or at least public debate on its role in the maintenance of public order during social, industrial and political conflicts, has undermined belief in the existing police system, in Belgium especially, the successive big scandals in the matter of public order (the Heizel disaster!) and criminal investigation (the Nyvel-bandits!) have led to a hot debate on the general structure of the police system. In Holland the ongoing discussion about the division of power between the police authorities and the effectiveness and efficiency of the actual police forces has created a very delicate national police problem.

If one now wants to join the question of the organization of the police to the question of her relation to the public in a comparative way, one should set the problem on two different, but interrelated levels. The first level is the level of the state and concerns the position of the police in the edifice of the state. On this level, the relation between the police and the public is more or less an indirect one... by way of the authorities which govern, direct and control the police. In other words, on this level the relation is absorbed into the general question of the institutional division of political power in society. On the one hand this does not mean that it is unimportant for the direct relation of the police to the public as to how this division on the police structure actually looks. It goes without saying that to a great extent it determines the room for shaping that direct relation. For example, it makes a big difference in this respect how local authorities dispose power on the organization and/or functioning of the police. On the other hand this clearly means that it is nearly impossible to transplant straight away police structures, even internal structures, from one country to another one. It is the history, the structure and the culture of the whole edifice of the state in a particular country that is the determining factor for her police structure. In this sense, any comparison between Great Britain and the Continent on this point is necessarily of little practical importance. Take, for example, the British experiment with consultative committees to reinforce policing by consent and to control the police budget. This is a really innovative experiment, not only in Great Britain, but in the whole of Western Europe. However, it is an experiment that does not fit in to the structures and conceptions of the state and in the way of the police which are dominant on the Continent. In other words, it is an experiment that only can be introduced in a country in which, in any case on an ideological level, policing by consent has a longstanding tradition. I hurry to add that on the basis of the continental experience with policing one may ask oneself if it would not have been a better idea to reinforce the power of the existing police authorities and to decentralize as far as possible than to create this

entirely new but essentially powerless consultation mechanism. But perhaps the division of power between the great political parties at the local level offered no other solution than this one to sustain the old image of the British police...

The second level on which the problem can be set, is the level of the internal, operational organization of police forces. On this level one has to differentiate in my opinion between the general basic structure of policing and the specialist forms of policing. As far as the basic structure is concerned I believe that the British police - compared with their counterparts on the Continent - really can be seen as a highly innovative police. It can be claimed that long before Germany, France, Belgium and even the Netherlands began discussions on team-policing and so on, in Great Britain the system of unit beat policing was already in progress and the debate on community policing was in full swing. And so far as I can see, apart from the Dutch police, the British police is among the few in Western Europe which have converted the ideas concerned into police practice on a relatively large scale and in this way have made an important effort to improve relations with the public in daily police work. Concerning the specialist forms of policing, the organization of the British police in the matter of criminal investigation for a long time was ahead of that in several continental countries, although my impression is that at this moment the differences are not so great. More important, however, in the context of this lecture, is my observation that in Great Britain the pro-activation of criminal investigation by means of special tactical units, technical devices and operational techniques has put pressure on relations with the public, mainly because through scandals some negative aspects/effects of this development have become clear. The creation and subsequently the actions of officers trained in riot control have been most important in this respect. The reasons for this are obvious - mass confrontation inevitably results in segments of the people involved forming negative, even hostile views even if police brutality and less reprehensible forms of disproportionate police action do not arise. It should, however, be admitted that the British police, longer than any other police on the Continent, has postponed the establishment of a riot police - at least in Great Britain; Northern Ireland is another story! In my opinion this fact underlines the relatively unique historical position of the British police in Western Europe. Perhaps this is also one of the main reasons why the riot police in Great Britain is so severely criticized, at least compared with that kind of police on the Continent: one wasn't used to it (happily!). But however that may be, at this moment the British police force has the same problem as its Continental counterparts in using riot police in the least harmful manner. Maybe it can learn in this respect from the Continental police, although I cannot help in this respect.

IV. Some Final Remarks

The foregoing reflections, I hope, have demonstrated that, looking in a comparative way at the police system in Western Europe, the relationship

between the public and the police in Great Britain is more and more taking the same shape and substance as in continental countries. This means that an exchange of ideas concerning this relationship, its problems and solutions, across the Channel could be more fruitful than hitherto, although one shouldn't (in Great Britain) foster too high expectations. Not only is 'the police' always a political question and thus related to the specific division of power in a country, but in the case of the British police it must be said that it has already invested a lot in its relationship, with the public, more at least than many other continental police forces.

Besides, one should not lose sight of the fact that the relation between the public and the police is only to a certain extent a police question. If, for example, the social, economic and political oppositions in a country become very great, are not dissolved in a political manner and in this way discharge themselves in riots, strikes and so on, then the margins in which the police can maintain a good relationship with 'the' public or can improve this relationship, are small. This in any case is the main lesson I deduced some years ago from the Scarman Report.

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