

THE CASE FOR PRIVATISING THE POLICE

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Privatising the Police is at the moment, I confess, a libertarian fantasy. Its advocates can only be found on the extreme fringe of the Conservative party. But that is where most of the successful policies of the past twelve years began their life; and the time has probably come when this one too must move onto the political agenda. There is much to recommend it. It would at a stroke raise the standard of criminal justice in this country. It would make us, the honest majority, safer about our daily business.

POLICE RIDDLED WITH MISCONDUCT

The faults of our present policing system come broadly under two headings. First, it does not discharge its most basic function, of protecting life and property. There are about 140,000 Police officers in England and Wales. That is a fifth more than in 1979. Their cost in real terms has risen still more steeply. They are incomparably better equipped than twelve years ago. Yet, at the same time, the number of reported crimes against property has doubled. In Greater London, indeed, less than one in twenty burglaries is now cleared up - and this rate is artificially boosted by the inclusion of those offences the courts are asked to take into con-

sideration before passing sentence on convicted thieves. Because of this, many crimes are not even reported. It is only for insurance purposes that many of the rest are reported. If we have a lower crime rate than the United States, it is more because of our greater honesty than the superiority of our Police.

Second, at least in our larger cities, the Police are riddled with corruption and other types of misconduct. It is now notorious throughout the world how, in the 1970s, they knowingly lied in court to secure the conviction of ten Irishmen. Nor, save with regard to their publicity, were these cases at all exceptional. The best metaphor is not so much the usual talk of "one rotten apple" as "the tip of the iceberg". I have sat through many criminal trials. It is my own experience that the Police lie in these almost as a matter of course. They lie to convict the innocent, and to heighten a case against the probably guilty.

Juries are less naive than they used to be - as can be seen from their growing tendency to reject unsupported Police testimony. But Judges and Magistrates lag conspicuously behind in this tendency. For all they usually doubt what the Police tell them, a framed accused is about as likely to find justice by pulling coins out of boiling water as by going into court.

It may be a good idea, as the Home Secretary has recently announced, to appoint a Royal Commission to look into reforming the trial and appeals procedures. Personally, I doubt this. Considering what was effected in the last two Criminal Justice Acts, and what is currently proposed in the Criminal Justice Bill, I suspect that all likely changes will be for the worse. Effort will be more profitably directed to an examination of the Police. Some means must be found to discourage them from lying and to give the courts less reason for believing them. The surest means to this will be privatisation.

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FOR LIFE, LIBERTY AND PROPERTY



BRINGING MARKET PRESSURES TO BEAR

I propose that we should abolish the whole policing system as it has developed since 1829. Local authorities are not to employ their own policemen, as at present. Instead, they are to put policing contracts out to tender at fixed intervals - just as the more enlightened Conservative administrations do for cleaning and maintenance services. Private companies are to be formed, and will argue their own merits before the local police committees. Or perhaps the existing security firms will widen their activities. The criteria for selection are to be honesty, efficiency and economy.

None of this would lead to the creation of a crime-free society. We must not delude ourselves on this point: there will always be crime. But it would bring market and other institutional pressures to bear on enterprises that now are effectively insulated from any but the most extraordinary pressures. And it would be hard to put less productive effort into catching criminals than at present. As for misconduct, consider:

At the moment, when a Policeman fabricates evidence, it is very hard to punish him. He belongs to an order that perceives itself as separate from - where not actually above - the rest of society. Unless he has been unusually wicked or unlucky, his colleagues will close ranks around him. An entire force cannot be punished. Even an individual squad will be disbanded only rarely. Once privatised, an entire force can be punished: it can lose its contract at the next renewal date. Its managers will have every reason to deter misconduct among the lower staff; to seek it out and help punish it as a demonstration of honesty.

THE COURTS SAVED FROM BIAS

Again, at the moment, the courts have a certain interest in overlooking Police misconduct. The Police are an integral part of the system. Discredit them, and the whole system comes into doubt. Certainly, the Judges would deny this cynical gloss on their actions. Quite often they will reject Police evidence, and in the most embarrassing manner. Recall, for example, the trial of one of the Broadwater Farm rioters. Here was a thirteen year-old boy, charged with murder. The best evidence was his own confession. This had been obtained by keeping him, alone and almost naked, for three days in a police cell. On this occasion, the trial Judge directed an acquittal. Nevertheless, other indications are disturbing. Recall Lord Denning in 1980, when dismissing an application by the Birmingham Six for the right to sue their arresting officers for assault:

If the six men win, it will mean ... that the confessions were involuntary and were improperly admitted in evidence and that the convictions were erroneous. This is such an appalling vista that every sensible person in the land would say: "it cannot be right these actions should go any further".

This is not cited as a judicial endorsement of misconduct. But it does show a certain inability to conceive how anything could be wrong with the system.

The Judges would have no more reason to shield a privatised police force from public obloquy than they have now to shield a bad expert witness in a civil case. The courts would in this respect be saved from the most unconscious taint of bias against the accused.

COMPLAINTS ENDANGER THE CONTRACT

Privatisation would also diminish one of the most controversial problems of criminal procedure - whether to accept improperly obtained evidence. In the United States, the courts apply a strict exclusionary rule. A case can be dismissed if an accused is not told his rights at the time of arrest. Here, usually only the most severe lapses - of the sort described above - can endanger a case. Both solutions have their disadvantages. Under the one, the guilty are able to evade justice on the slightest technicality. Under the other, the Police are encouraged in their sloppiness. But our inclusive rule would not have this effect on a privatised force. Within reason, the evidence would be accepted, and would be accompanied by complaints from the Bench that, repeated often enough, could endanger the force's contract.

It must not be supposed that police by private tendering would bring changes of force every few years. It is most likely that one firm would gain and keep the contract in each area - that, indeed, there would only be one firm in each area. Change would be the exception rather than the rule. It is a misunderstanding of how markets work to believe that all competition is a jostle of cut-throat bidding. My local chip shop has no competitors within a mile; yet its prices and standards are acceptable. This is because if it slipped, a competitor would open nearby and tempt its customers away. It would be the same with privatised policing. To be an effective discipline on a contract holder, competition would need only to be potential rather than actual.

IT MUST BE GIVEN A CHANCE

There is nothing impractical about what I propose. Policing is already put out to tender in several hundred areas of the United States, most notably in part of Los Angeles. It works well there. The costs are generally lower, the detection rates generally higher. It must be given the chance to work here.

Like the mines and railways, our police forces are a nationalised industry. To be sure, they differ in that they belong properly to the State, and are not remnants of some passing fashion of the late 1940s. Nevertheless, their current organisation renders them liable to the same faults - of sloth and contempt for a public to which they are not in any real sense accountable. Privatisation would go far to repairing this defect. It should at least be considered.