

respects certain theories have useful insights which aid our understanding of crime, and, through our critiques of the theories, the extent to which they are all fundamentally deficient for a whole range of reasons, perhaps most predominantly that they do not accurately analyse and describe the real nature of society.

In short, they are not based in social reality.

In the following, third section, we outline more concretely our analysis of the nature of crime and its causes, reaching back where necessary into both of the preceding sections into the dualistic nature of our social organisation and the incomplete and misleading picture of our social organisation offered by conventional criminology.

SECTION III

The View of Crime and Its Causes

As we noted earlier, crime is a social phenomenon, therefore, an understanding of it must be grounded in an understanding of the aggregate of social relationships within which it occurs: society.

A. Contemporary:

There are two basic ways to conceive of crime in society: Conventional Criminology is based on certain assumptions:

- (i) that society is essentially free from basic socio-economic divisions and,
- (ii) that crimes are essentially irrational deviations by those who have failed, for one reason or another, to adjust to a social situation with which few are basically discontented and from which few would like to depart.

B. Alternative Criminology analyses society differently and therefore sees the explanation of crime differently. This approach stresses

- (i) the duality of our society, the division of society into those who have enormous power and wealth and those who do not and,
- (ii) flowing from that the system which has produced that duality, crimes in general represent rational

responses to the competitiveness and inequality of day-to-day life inside that system.

Illustration

Australian society, like all other Western societies, has substantial differentials in wealth and power, and a considerable degree of gross inequality. (Although nothing like that in America where the Government figures have for decades consistently indicated well over 30 million in poverty, particularly amongst minority groups. In the United States, massive urban unemployment, particularly for blacks and other minority groups, has been a constant fact for the entire period. Since the Korean War, crime has reached quite extraordinary levels in that time, so that most urban public areas are quite unsafe. Thus police are stationed on underground trains, in schools and patrol ghetto areas in squad cars virtually as a heavily armed army of occupation.)

What is the socio-economic situation in Australia?

A sample of recent studies of Australian society is indicated below:

1. Groenewegen noted (in an analysis he suggests "tends to understate inequality") that "about 11% of the population owns nearly 40% of the wealth, while at the other end more than 15% of the population owns less than 5% of the wealth". (P. Groenewegen, "Consumer Capitalism" in J. Playford and D. Kirsner (eds) Australian Capitalism, 1972 P. 102)
2. In the first Henderson Report it was stated that -

"Our overall increase of poverty, in terms of adult income units, shows that on an annual income basis, 10.2% were "very poor" and 7.7% were "rather poor", and this in a country with the fifth highest G.N.P. in the world."
(Australian Commission of Inquiry into Poverty, First Main Report) (April, 1975, page 14).

3. As in other Western countries, poverty has not been disappearing in Australia. With regard to the Australian situation, Roe comments:

"A similar sized, if not identical group over seventy years has not achieved or been allocated the relative increase of shares to get it out of the ... ghetto despite vastly augmented national wealth and a transformed pattern of income distribution."

(J. Roe "Social Policy and the Permanent Poor" in E. Wheelwright and K. Buckley, Essays in the Political Economy of Australian Capitalism, 1975 p. 148)

4. That there has not been an identical group in the ghettos does not suggest that, it is just a matter of time, for example, that each new ethnic minority has simply had to wait its turn to become upward socially mobile. From observation it is clear that there are still many Aborigines, Australians of Anglo-Irish background and a mixture of ethnics living in poverty and as Parkin has written, the concept of social mobility is not limited to the upward direction: many people continue to filter downwards into poverty.

(F. Parkin, Class Inequality and Political Order.)

It is generally recognised that there is structural unemployment built into capitalist societies and that this creates pockets of, and cultures of, poverty, out of which it is nearly impossible to scramble.

Analysis:

The data above, while only a sample of the great amount now available, is sufficient to show the inaccuracies in the assumptions made by conventional criminologists about Australian society. Since conventional criminology ultimately rests upon a consensus view of society which has no basis in real world facts, the "explanations" of criminal behaviour offered by conventional criminology cannot be accepted as valid.

At this point then we have isolated the fundamental social reality of Australian society - it is not a monolithic system in which everyone has a "fair go", but a dual system wherein a dominant minority have power based on a disproportionate share of wealth and, given the present state of development of human nature, they will do literally anything to maintain that position: And that includes consigning many human beings to an animal-like existence in prison.

Given this state of affairs, two questions now suggest themselves:

Q(a) Why do people behave in the way they do in this society?

Q(b). What is the nature of the system which ensures that acts which are defined as criminal are those, generally speaking, of the poorer sections of the community and ensures that those sections of the community continue to commit such acts.?

5. Why do people behave in the way they do?

This appears to be a complex question. Again there are two approaches -

Conventional Criminology has no answer, although over the years it has produced many "causal explanations", each of which has ^{been} taken up and subsequently discarded. Then, "multi-factor" (non) explanations were used to underline the complexity and, it should be added, ensure a continuous flow of research funds (see David Brown "Criminology and Prison Research: Who Benefits" Paper given to P.A.G. Conference, 1975).

Finally, despairing of any socio-psychological explanations, some neo-lombrosians have turned to "real science" - prediction, which is a kind of "rigid determinism" or "abstracted empiricism". (See M. Lopez Rey, "Some Misconceptions to Contemporary Criminology" - G. Mueller, Essays in Criminal Science (1961) pp. 16-28).

Alternative criminology believes the answer is relatively simple, fundamental and logical given the nature of the society we live in. It has been phrased in the following manner:-

"Most crime is directly or indirectly related to (the ultimate value of property) whether it is the unlawful taking (theft or related), the failure to possess (vagrancy), behaviour which results from not having or rebelling against the need or pressures to have it (drug use of various kinds), behaviour which results from obsession with it (various forms of gambling and speculation), behaviour which results from an inability to separate the concept from social relationships (rape) and so on".

(G.H. Boehringer "Alternative Criminology and Prisoners' Movements: Partnership or Rip-off" Alt. Crim. J. Vol. 1, No. 1, 1975 page 40).

We have shown that Australian society does have substantial social and economic inequality. If, as we believe, power, organized mainly and directly through the agencies of social control belonging to the State - police, courts, prisons, etc. - is what determines criminality, then it follows that power will be exercised fundamentally on behalf of those who have it - the dominant economic group - and against those who do not - the lower economic class.

Recent sociological work tends to support the view of the Alternative Criminologists. In a review of MacDonald's recent book, The Sociology of Law and Order (Faber and Faber, 1976) Professor Colin Bell of the University of New South Wales commented:

"Her findings ... were persistently contrary to the predictions of consensus theory. The arguments and empirical data assembled to support them are complex, yet she powerfully demonstrates that what is termed conflict theory, in which the factor of power is given prominence in the explanation, does fit the facts much more closely than consensus theory".

(The Australian, 22.11.76)

6. What is the nature of the system which ensures that the poorer sections of the community continue to commit those acts defined as crimes.

Contrary to the basic assumption made by conventional criminology there isn't a monolithic social system in Australia. While there appears to be a single consensual system operating in the best interests of us all, from which only a few criminal elements deviate, the reality is much different. There is a dual system operating in Australian society, beneath the surface of what Pearce calls "the imaginary social order". The dual system is an objective reality - it does not depend on people's motives or intentions, it does not require a grand conspiracy. It has been thrown up by and functions on behalf of the Australian political economic structure. An understanding of the dual system and how it functions is crucial to an understanding of crime in Australian society.

The dual system is made up of institutions and processes which provide differential opportunities and outcomes - life experience - in the two main strata in this society: the dominant group with power and wealth and the rest (composed of the majority, but split into sub-strata determined essentially by one's place in the work force, or outside it as the case may be).

To understand the way in which the dual system works is to understand the social problems it creates, and the objective intractability of those problems in a society so organized. It is to give the lie to the moral justification of criminalization and incarceration. It is also to give the lie to humanitarian ideas about the possibility of substantial reform of the criminal justice system and its terminal depot - the prison.

Illustration

If a person is born, or migrates into Australian society, that person will immediately become a member of one of the two major strata in the dual system. (This can be exemplified by the difference between Pymble and Punchbowl). In general and on aggregate, that

contingency of entry into one strata or other will determine the kind of life that a person will experience. By and large, very little crossing over from one part of the system to the other occurs: Australian society, through its dual system, offers two quite dissimilar life experiences.

There is no attempt here to evaluate the different segments of the dual system, but to exemplify how it determines the overwhelming mass of social experiences Australians participate in.

The following is a comparative description which suggests the nature of and contrast between experiences in the two segments of the dual system. It is subjective, but could be substantiated by an honest appraisal of one's own social reality, and an analysis of the alternative social reality as described by those who have lived it, for example, in plays, films, novels, biographies, etc.

The description which follows is meant to illustrate some aspects of the dual system, and how it creates what is defined as a "criminal problem".

(a) Life in the upper strata

If one lives in an affluent suburb, one has an abundance of those things our society promises: plenty of space, fresh air, light and the family home of top quality with hygienic conditions provided; one has a stable home environment with regularly employed parent, or parents; there may be siblings, but not too many to prevent ample time, money and attention to be paid to one; there is always ample in the way of good food, toys and entertainment; books and other cultural materials are made available early and one becomes confident with them and realizes their importance in symbolizing intelligence, humanity and success: there is private space in which to explore, to experiment with various forms of exciting behaviour - sexual and otherwise: there is transportation available - the bicycle, family car, one's own motorbike or car; there is the clean neighbourhood - homes and streets, neatly attended properties in every direction: there is a good school not over-crowded and well staffed:

nearby there are parks, playing fields, swimming pools, tennis courts etc. If one becomes ill, there is easily available and high quality medical care; and if one's problems become too much to bear, school or university a hassle, there is the possibility of taking a bit of a rest, perhaps overseas. Alternatively, there is the possibility of psychiatric therapy (on a voluntary basis with a local psychiatrist perhaps) - expensive, but not beyond the family budget. As one grows up in this environment, the pressures applied - through the media in particular but more generally as well - to consume and keep consuming are relatively easily met. A steady income from the assured job provides the resources to meet the social and psychological demands created by the needs of this society based on ownership of property and consumption. However, if through mismanagement, over-commitment or whatever, the affluent suburbanite should commit an act which is anti-social, it will not necessarily be a criminal act because the criminal law does not apply to all anti-social behaviour. A great deal of social injury results from acts or omissions by powerful and wealthy corporations which are of course the responsibility of the affluent, but are not defined as criminal (the criminal law tends to concentrate on simple isolated acts, and these are mainly committed by lower strata people).

If an upper strata person does commit a criminal act, self-report surveys show that it is very likely it will not be discovered. If it is discovered, because of the nature of much of the criminality of the affluent and the circumstances in which it is carried out, it may not be laid on the correct person's doorstep; if the correct person is identified there may be no prosecution because of his/her standing as a respectable member of the community; if prosecuted it will be likely that no conviction results - top quality lawyers will be available as will respectable witnesses in the defence. Also, the affluent make good witnesses, confidently carrying the mantle of respectability and veracity. If unfortunate enough to be convicted he/she will be likely to receive special consideration by the court (unless it is a blatant case,

highly embarrassing to the upper strata). Once delivered into the penal system, again, special privileges are not uncommon. Alternatively, he/she may opt for mental care or hospitalization as a way of getting around the full rigour of the law, and within the mental institution, it is likely that no untoward measures such as ECT will be allowed to interrupt the comforting round of discussions or group therapy, very much a middle class picnic. If the affluent suburbanite reflects backward in life, he or she will be able to recall all of the joys of living - opportunities to earn at a job self-selected and providing rewards both financial and social-psychological. He/she will have had access to the best that the world and money has to offer in terms of entertainment, travel and the consumption of the "goodies" churned out inexorably by the world of industry, finance and commerce within which he ^{she} has been allowed to play a significant part. His or her sexual desires have been satisfied in one way or another, but importantly, discreetly and in private. It has been a good, full and "law-abiding" life, or more importantly, it has appeared that way. If not law-abiding, he or she has been protected from the rigours of the full enforcement of the law. Not for him/her the unseemly behaviour of those criminal elements now languishing - and rightly so - in prison. It's a good life, protected from them in person and property. Little more than animals - ignorant, violent and crazy, or just plain greedy.

(b) Life in the lower depths (apologies to Gorki)

If one is born into the lower segment of the dual system, the reality of social existence is fundamentally different. The entire environment suffers in comparison to the affluence of the upper strata. One lives in a polluted atmosphere, perhaps in an unhealthy and overcrowded house; there is uncertainty about employment, very often only periodic employment for parents and children; the older people are perhaps crippled from long years of physical labour, if still alive; health care is poor and there are no rest cures, let alone trips overseas. Mental treatment is occasionally taken up, often involuntarily in public wards with the accompanying threat, and use of treatments such as ECT.

School is overcrowded, poor in quality of buildings and teaching, uninteresting in subject matter; it soon becomes hateful, something to be avoided and at the earliest opportunity, put behind oneself. One has been treated shabbily, and learns early what appears to be the freedom, autonomy and self-respect of having a job: but then the awful truth sinks in. If employment is available, it is found to be routine and tedious, something to be endured; it is not fulfilling, it becomes at best only a means to an end. Of course, in that frame of mind, it is not surprising that industrial accidents occur often bringing serious impairments of work capacity and further loss of opportunity for a full, satisfying life. Entertainment is limited, transportation is limited, access to private places is limited.

Life is narrowing down, year by year. The mind is constrained, the body is constrained, and slowly as with one's mates, life force begins to ebb away at an early age: Alcohol and other stimulants are taken copiously to fill in the nagging vacuum of a life of deprivation. Sex is taken as and when it presents itself, often for reasons relating more fundamentally to power and status (See Brownmiller, Against Our Will, 1976).

But there are countervailing pressures to the developing torpor; no one is safe from the media, from the sexually orientated advertising, from the all-encompassing pressures to buy, own, spend, spend of a materialist, consumer society. Even the government, anxious to maintain stability and its credibility, schizophrenically extorts the nation to its duty: consume, while also attacking the working class for daring to ask for jobs and more in wages. Before reaching the age of resignation and impotent apathy, the young non-affluent lower class member of our society determines to avail himself of that which our society values above all: property. If it has to be stolen, fair enough, indeed, the thrill of outwitting, outmanoeuvring "the system" can be a far more exciting stimulus than those drugs, legal and illegal, used to deaden the pain of boredom, desperation and meaninglessness. For the working class female, the story

is similar but bleaker, thus perhaps the higher incidence of self-destruction, particularly in their isolation from violent fathers and siblings, frequently in the form of incest or pack rape. After acknowledging that, Lewis notes "Yet the main type of violence women have suffered from in Australia is psychological; they have one of the highest suicide rates in the world. Whereas jail and alcoholism has been more of a threat to dissident Australian men, mental illness and drug dependence has affected relatively more women". (G. Lewis, "Violence and Nationalism in Australia" Arena, No. 43, 1976 p. 51.)

Analysis:

The objective duality of our social system exists and cannot be denied. Nevertheless, it is not recognized in the national consensus ideology. Thus, in 1975, a Federal parliamentarian, now a Minister, expressing the ideas of individualism, success and profit-making, reminded his listeners of the "basic philosophic conviction that the importance of the individual is not diminished by the power of the State" and called upon the Liberal Party to assert the essentials of its association that men and women do have the right to try and fail and the right to try again and to succeed - that free enterprise is still a precious quality, and the profit motive is not something to be hidden by dust and disguise". (Cited by D. Horne, Money Made Us, 1976 page 241).

The inapplicability of that statement to the mass of Australians, and in particular the lower strata, is clear. Horne makes it doubly clear -

"Most Australians work in a factory civilization, and what is required of them at work is carefulness, stamina, punctuality, tidiness - but not initiative. If they spent their time exercising "the right to try and fail" they would get the sack".

And Horne underlines the duality involved here when he notes -

"The secret ideal of the profitist-individualist is an obedient workforce whose members speak the language of individualism without practising it". (both citations, Ibid, p. 242).

It is the objective unequal and oppressive dual system, not the Minister's subjective perception of our society as a single open and fair system, which explains how crime is produced and what its functions are.

Put simply, crime is not a pathological individual reaction engaged in solely by those whom the police arrest and the courts imprison.

Crime consists, in general, of quite normal behaviour in response to the objective conditions in which people at all levels in society find themselves.

The differences in the patterns and characteristics of this behaviour are fundamentally determined by the actor's level and specific place in the dual system.

The social functions of anti-social behaviour differ depending on the level of the dual system in which they occur. It is whether the behaviour is functional to the dual system which determines if that behaviour will be defined as criminal, prosecuted and sanctioned.

Causation

From the above analysis, it is clear that conventional criminology cannot explain the cause of crime. Crime is not, as conventional criminology maintains, a violation of an absolute, objective legal standard caused by some kind of subjective impulse which only occurs in certain elements of society.

Alternative criminology maintains that the facts show clearly that crime is a subjective, social category which is left only vaguely defined in law; again this is functional to the upper strata because of the escape hole it provides. Importantly, consider the specificity of the commercial and property laws that protect their interests.

Crime is fundamentally caused by the objective dual system within which people interact. The pattern and characteristics of crime are also determined by that system.

If we look at property crime and violence, the two main categories of crime about which this society is concerned, we can analyze how it is that our dual system manufactures certain crime patterns.

In a consumerist society based on capitalism, there is tremendous pressure to obtain property. No segment of society escapes this pressure, no segment fails to respond. The first need is opportunity.

At the higher level, the opportunity exists, through sharp business practice - the use of the pen. If people begin to grow suspicious, or the police begin to investigate, the corporate "crook" has many non-violent procedures to fall back upon; he can bluff, using his name, influence and respectability. A perfect example is Sir Cyril Burt who committed academic fraud for forty years, and upon whose invalid and deceptive data the main conventional educational and criminal theories are largely based (See report in Sydney Morning Herald 13/11/76; The Australian, 25/10/76); when asked how Burt was able to get away with his fraud for so long, one of his uncoverers remarked -

"No-one expected to find such a gentleman a crook."

If that is not sufficient, the affluent suspect can rely on escape to foreign countries, as a number have done recently; if that is not an attractive option, he can hire an expensive team of accountants, lawyers and the like to keep him out of court. He will get sympathetic publicity (e.g. the picture of bath-robed Sir Paul Strasser, vacation abroad interrupted, sitting "in the living-room of his \$250,000 home", The Australian 9/9/76); rather than a lurid write-up on the front pages, a quiet decorous article on the financial page as was the pattern in the recent spate of corporate "crook" cases in Sydney. (And when the defendant was not convicted - on a directed verdict - the report of the case appeared on the front page, implying that it was a put-up job by the Attorney-General. "Star Chamber Tactics", says

Minsec Chief "The Australian" 22/10/76). And the dual system provides opportunities in the upper strata "crook" to put a word in the right place so that publicity is killed, or prosecutions are dropped. It may be his "good fortune" that a directed verdict prevents the jury from hearing what is a prima facie case (as with the Garland prosecution). Thus, the advantages in the affluent "crook" are clear: his position in the dual system presents opportunities to break the law with profit, while such acts are often ambiguous enough - "normal trade practice" - or necessary enough that they can be defined as not criminal, or simply ignored and accepted as part of the corporate world's scheme of things. (See the report of the admitted "malpractices" of Qantas, The Australian 24/9/76. The editorial in the same issue ignored the question of illegality except to encourage the airline to compete harder).

The corporate "crook's" position in the dual system protects him from discovery, definition prosecution, conviction, imprisonment and loss of employment, stigma and the social scrap heap.

Many of society's heroes are actually crooks who have made it in the corporate/political world. The great early American tycoons were not called "Robber Barons" without good reason, but, "progress" and prosperity - for the upper strata - justifies the crookery that makes it possible.

For those in the lower segment of the dual system the position is very much different. The same basic pressures exist - to consume, to have success, to own property, to spend, to enjoy the material, sexual and cultural pleasures that the media prescribe for us all indiscriminately. Thus, the flames of desire are fanned, the endless possibilities are held out to one and all. A fantasy world, removed from the ghettos opens up to it, any wonder that those without, just as those with, will feel compelled as individuals to "try and try again" to obtain in any way possible, the fruits of society's collective efforts. Of course, when the black, the unskilled, the unemployed, the poor, the member of an ethnic minority, reaches out for society's fruits, he

finds them difficult to obtain - they cost money, and they are protected. As Pete Seeger comments in his poignant song:

"The banks are made of marble,
There's a guard at every door.
The vaults are full of silver
That the workers sweated for."

Thus, in the poor, the lower level habitue in our society, to achieve what the corporate crook can achieve with a pen, may require a knife, a gun, or a bit of gelignite and to succeed in a criminal operation, often conducted in public not a board room, the threat of violence may be needed to intimidate witnesses or those who might resist. Finally, to avoid capture and the inevitable spell in prison, violence may have to be used: the worker cannot rely on an appearance of honesty, the skills of an accountant, friends in the right places, when he is confronting an irate citizen willing to "have a go" in protection of his property, or an armed policeman guarding someone else's money.

This then is the explanation of the objective forces the institutional arrangements and the social processes which create overall a dual system of life opportunity, a dual pattern of social behaviour. Further, the differential police response to that behaviour, whether active or potential creates in turn the differential perception of the necessary criminal response - stealth and deviousness at the upper level, often the threat of violence at the lower level.

Alternative criminology does not suggest that anti-social behaviour is not a problem. What it is concerned to show is that all anti-social behaviour is a problem and that it arises from a more fundamental problem: the dual system which exists in the socio-economic relationships of this society. Further, it holds the view that the present pattern of defined criminality, law enforcement and sanctioning is functional, indeed essential, to the maintenance of the dual system with its unjust distribution of power and wealth.

Crime is in general functional to the dual system

Conventional criminology looks upon crime in a very superficial manner. It starts with the social behaviour defined as crime, believes it to be deviant from generally accepted objective norms - particularly those relating to property - and therefore concludes that it is a "social problem" which, being dysfunctional, ought to be eliminated. It then suggests how to "deal with" the defined criminal elements in society in order to solve the problem.

Alternative criminology proceeds in a more realistic fashion. It refuses to make the sort of idealistic assumptions about society indulged in by conventional criminology. Alternative criminology rejects the speculative sentiments about some future time when the social inequalities and injustices of the consensus state will through gradual and piecemeal reform disappear to be replaced by a perfectly fair system of law and order. Alternative criminological theory is based on the objective, material facts arising out of our present social system.

The Historical Function of Crime in the Dual System

The dual system which has existed in this country since the first fleet, has required one basic element : a pool of labour that was exploitable. By exploitable we mean willing to work within a system that produced great disparity in wealth and power without attempting to challenge the system.

Historically, this was achieved by a number of methods. It is important to understand that it is the State which has orchestrated these methods according to the needs of the overall system at different historical moments.

Thus, it was State policy to rob, murder and even commit genocide against the original Australian population. Having crushed Aboriginal resistance, it was able to build a rural economy on land stolen from them, while forcing them into little more than penal service. Crime then was functional to the very establishment of the dual system. But, since those in power defined crime, it was conveniently defined as bringing civilization to these pre-human savages. An Alice-In-Wonderland technique.

Initially, labour was provided by the criminal element; convicts were essential to the building of the early dual system. Their crimes, committed elsewhere - and in this country - provided cheap labour that was exploited by those who ruled the colony directly and those who began to do so indirectly. This latter had power and wealth based on commerce, land and industry, to which the backs of criminals had been essential.

Once transportation and the entire convict system was wound up, there remained a state structure - bureaucratic, authoritarian and amply supported by police and army - to ensure the continuing provision of exploitable labour. While there was always the possibility of the 'dual' system being smashed from below, the State structure was able to control conflict between the two segments, except periodically during major social crises such as the 1890's, 1916-20 and the 1930's. It has been the State that has regulated conflict by controlling the lower strata of the dual system. The mechanics of state social control in the dual system are complicated, but are based on several fundamental and inter-related methods. The first is direct repression e.g. through the use of legislation aimed specifically at the lower segments. This is delegitimizing and generally is avoided where alternatives exist, but is used, in extreme cases, and/or by firmly entrenched conservative governments (compare the use of emergency legislation in Queensland with the Federal back off on penal clauses a few years ago). The second is through ideological repression which occurs through the propagation of supremacist myths about intelligence, initiative, etc. which justify the dual system. That is, any dual socio-economic system wherein great numbers of people are poor relative to the others, must develop an ideology to explain this. In South Africa, the Southern U.S.A., Northern Ireland, it is essentially a racist mythology. In other Western countries it is a myth based on supposed inherent capability being reflected in one's success in the socio-economic system. In Australia, racism and the supremacy of the successful have both been used to control the under class.

A third technique of control is a mixture of the first and second. It is both direct and indirect, instrumental 10

and symbolic: it is crime control, or more accurately, class control. Recently, this form of social control has been discussed by Lewis. In commenting on the historical maltreatment of the deviant and under-privileged in Australia he stated:-

"It is vitally important here to recognize the relationship that has existed historically between the labour movement and these scapegoat groups in the process of social control. At this point Australian group violence becomes an important substitute for class conflict. It was primarily from the ranks of Australian working people that the poor, mentally ill, and criminal came. This fact, considering the great stress on order and authority in the community, enabled a constant threat to be levelled at workers; the threat that they lacked respectability, that they were potentially disruptive forces in an otherwise humane and equalitarian society. This hostile climate to the deviant and under-privileged groups was enforced in daily life by rigid bureaucratic and police procedures ... the bad treatment of these groups could be used in effect by the middle classes as a basic strategy of social control". (G. Lewis, "Violence and Nationalism in Australia" Arena, No. 43 1976, pp. 49-50.)

Of course, crime control-class control have been interwoven for centuries. If we go back to the fourteenth century, we find that vagrancy legislation had its origins in the control of labour; after the Black Death had decimated the population of England, wages were under tremendous pressure upwards. Therefore, the statute of labourers was enacted to force people to work at particular wages, in particular jobs and to criminalize them if they attempted to move around in search of higher wages and better conditions. (See W.J. Chambliss - "A Sociological Analysis of the Law of Vagrancy" in Social Problems 12 (1) (1964) pp. 67-77, and with regard to the Australian experience see the chapter on "Vagrancy Legislation" in K. Buckley, "Offensive and Obscene" (Ure Smith, 1968).

Another writer has recently analyzed the functionality of lower class crime in maintaining the dual system:

"First, it strengthens the dominant individualistic ideology. If the criminals are also social failures (those at the bottom of an open, competitive, hierarchical class system, where any man can succeed), then their criminality is caused by their inadequacies (lack of determination, moral weakness etc.) and the major social institutions are not exposed to critical assessment. Secondly, by defining such individuals as non-citizens with no rights to employment, education, etc. the system's failure to provide these for them (independently of their criminality) is obscured. Finally, by criminalizing them and treating them as asocial and amoral, their potential for developing an ideologically sophisticated understanding of their situation is neutralized and by incarcerating them it is made difficult for them to organize, to realise their ideas ... (the dual society would be threatened by the development of an ideologically sophisticated "lower-class" political movement": (Frank Pearce, Crimes of the Powerful Pluto Press, 1976 p. 81).

If crime of the working class is functional to the dual system, how can crime by or on behalf of the upper strata be functional? Here it is necessary to differentiate between crime that is functional, and, that which is not. That which is functional is protected, hidden, and even encouraged. That which is dysfunctional to the upper strata is dealt with, sometimes severely. In addition to announcing the limits of permissible crime by those in the upper strata, the sanctioning of this criminality brings further credit to the state, and reinforces the strength of the state and the dual system, for by a display of "even-handedness" the state underlines the validity of the ideology of consensus. Thus, as Quinney comments -

"We are led to believe that the legal system is for the benefit of us all ... The ideology of legal order is the ultimate form of control in capitalist society": (R. Quinney, Critique of Legal Order Little, Brown and Company, 1976 p. 138-9).

The extent to which crimes in the upper strata exist is not known. The Attorney-General of N.S.W. has recently

launched an attack on corporate crooks because corporate crime in his view is the most important form of criminality in its impact on the economy. There have been inquiries and a rash of prosecutions in four states in the last year. It is clear that such crime has become dysfunctional: it is an embarrassment to governments which wish to encourage investment. Also, at a time when the clamp is being put on wages, it is important to gain credibility in the eyes of the workers by appearing to bear down hard on the corporate "crooks".

We have argued that where crime (or anti-social behaviour undefined as crime because it is perpetrated by the powerful) is functional to the dual system it will be protected, hidden and even encouraged. Pearce documents this thoroughly and at great length for America. The case is conclusive - if the social effects on the dual system are positive, the behaviour will not be prosecuted as crime, but will be accepted for example as part of or necessary to support normal business practice. Corporate crime has generally been viewed in that light in Australia. Recent disclosures in the National Times () added to those of Attorney-General Walker, suggest the comparatively "open slather" corporate crooks have had in Australia until pulled up recently.

Furthermore, take the surprisingly large cosmetics industry in Australia with an annual turnover above 100 million dollars. The Federal government has recently announced that the industry will be given 20% tariff protection. Figures from the I.A.C. show that the profits are far above that in most other industries; despite the fact that what is being sold costs very little, prices are often extraordinarily high, in one case a mark-up of 2000% was cited.

This is an industry based on deceit. Packaging is the major factor which differentiates one brand from another, despite advertising claims to the contrary, and the false and misleading ultra romantic and fantasy inducing claims of the media advertising campaigns cannot be justified on the facts, as well as having many undesirable social effects. Nevertheless, the government needs a healthy

economy and a high degree of consumer spending. The advertising and cosmetics industries, working together, help to maintain consumption and to reinforce the ghastly social relationships (male/female) of the dual society. Thus it is a protected industry in more than one way. No prosecution will be brought for fear of the social, economic and ultimately political effects of clamping down on the dishonesty, inherent in that industry's strategy. (The above discussion based on the ABC program "New Society", 23/11/76). While the case of the cosmetics industry is perhaps somewhat unusual, it is consistent with our analysis. Furthermore, the laissez faire attitude of the state towards corporate deception offers a stark contrast to the manner in which the State hounds down the working class bad cheque passer, "dole bludger" and the petty offenders who constantly pass in and out of the penal system.
