

GENEALOGY of POLICE



CAPTAIN.

CAP-COVER FOR RAIN.

CHIEF.

RESERVE CORPS.

LIEUTENANT.

PRIVATE.

NEW REGULATION UNIFORM OF THE NEW YORK POLICE.



By

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BERSERKER

BOOKS



A Genealogy of the Police

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Corruption was born at the same time as the police.

Jean-Marc Berlière (*)

From a legal point of view, three phases can be distinguished in primitive times. "In the first age, the State was conceived exclusively as an association of families united to fight against foreigners. These crimes were punished by the magistrate, but the magistrate did not punish crimes committed by a citizen against his fellow citizen, nor did he force a citizen to observe the contract he had concluded with his fellow citizen; crimes committed by a citizen against his fellow citizen, contracts between fellow citizens are a private matter; it is up to the person who has suffered damage, it is up to his family to exercise the right of vengeance, and if they prefer a judgement, this judgement must be arbitral: it will not be rendered or executed without the consent of the guilty party or the debtor.

"In this primitive age (...) man believes in the persistence of personality after death. But he does not conceive of a supreme justice in the next life that he has no idea of in this life. When he forms a clear idea of the future life, he imagines it to be similar to this life, with its social inequalities, its injustices and its struggles (1)...".

In the Second Age, "the magistrate took away from private individuals the right of vengeance, the right to take justice into their own hands by force, and a divine justice is conceived in the other life that is analogous to the magistrate's justice; but divine justice is more perfect: it corrects errors and fills in the gaps in the magistrate's justice. The Egyptian funerary ritual shows us that belief in divine justice in the afterlife predates the civilisations of Greece and Rome. We can conclude from this that at the same date in Egypt, the magistrate punished crimes committed by citizens against their fellow citizens and forced citizens to fulfil contracts concluded with their fellow citizens... (2)". The conclusion, as we shall see shortly, is entirely accurate.

The third age saw the emergence of a state body responsible for maintaining order and detecting and punishing crime: the so-called public force.

Contrary to appearances, policing is not the oldest profession in the world. But it does have one thing in common with the world's oldest profession: it is typically practised in cities, as the etymology suggests.

The term "police" comes from the Middle French *pollice*, itself derived from the Latin *politia*, which is the Latinised form of the Greek *politeia*, "citizenship, administration, civil politics", i.e. the order of social and political relations in a polis (3) and, in fact, the police, as we will have the opportunity to explain in this study, can be considered in many respects as the "condition for the existence of urbanity" (4).

The first uses of the term in French are in line with its etymological meaning: it first meant "regulation" (13th century) (5), then "good order, good administration" (1365), "administration, legislation (of a city)" (emphasis added) (1426), "set of rules imposed on citizens to ensure order and security" (emphasis added) (1584), "set of rules of a state" (1606). In the mid-seventeenth century, "police" took on the meaning of "administration ensuring compliance with the rules guaranteeing public safety" (1651); in the edict of 15 March 1667 creating a lieutenant general of police in Paris (1667), which expressed for the first time the intention to separate the police from the judiciary, the term "police" was used to mean an administration responsible for "ensuring the peace and quiet of the public and private individuals, and protecting the city from anything that might cause disorder" (emphasis added), from which the meaning of the term was derived in the twentieth century: "a group of law enforcement agencies and institutions responsible for maintaining public order by preventing offences from being committed and by investigating, recording and punishing offences that have been committed." Reiterated by the law of 29 September-21 October 1791, the distinction between the police and the judiciary was formally established by articles 19 and 20 of the Code of 3 Brumaire An IV, which referred to the "judicial police" and the "administrative police". The purpose of the judicial police is to investigate and record criminal offences, identify the perpetrators and gather evidence, while the purpose of the administrative police is preventive (6).

The development of the police is part of the formation of the modern State through administrative centralisation and the parallel rise of liberalism (7), under the banner of security and freedom (8) as a way of guiding people's behaviour (9). The history of security and freedom

can be interpreted "as the joint history of a twofold movement: a movement to centralise the police, accompanied by a movement to open up human groups to the world. The more people free themselves from their family, their clan and their territory, the more they become captives of the public organisation (State), which takes on functions that were previously managed by the father, the chief and/or the local authorities. Centralisation accompanies the emergence of people from holistic and lineage-based (, ethnically homogenous and autarkic) societies, heralding the advent of [cosmopolitan] societies with impersonal relationships" (10). In the course of this process of domestication and pasteurisation, the monopoly of legitimate violence was gradually confiscated from clan chiefs or fathers by the State. The first part of this study will attempt to trace this evolution, or rather involution.

Egypt did not pass through the first of the three ages described above. "Private vengeance is inconceivable there; there is no system of composition (or redemption of vengeance). Any crime disturbs public order, which it is the responsibility of the authorities to preserve, and it is the authorities, through their judicial bodies, who prosecute (on denunciation, except in serious cases), judge, punish and enforce the penalty" (11). Hence the existence of a police force in the modern sense at a relatively early date in this country.

Until the end of the Old Kingdom (2613-2181 BC), monarchs had personal guards to protect them and enlisted others to guard their sites. Nobles hired trusted Egyptians from respectable backgrounds to protect them and guard their valuables. During the Fifth Dynasty (2500-2300 BC), kings and nobles began to choose their personal guards from among soldiers and former soldiers, as well as warriors from foreign nations, such as the Medjay, a Nubian tribe. Armed with wooden sticks, they were responsible for guarding public places (markets, temples, tombs) and often used trained dogs and monkeys to apprehend criminals (12). In rural areas, they banished troublemakers and persuaded the population, by means of corporal punishment if necessary, to pay taxes; in the event of a strike, they could be called upon to more or less politely ask workers to return to work *illico presto* (13).

The Middle Kingdom (2040-1782 BC) saw the creation of the first standing army and a reform of the judicial system under the reign of Amenemhat I (c. 1991-1962 BC). Judicial cases were heard by a group of scribes and priests who, after weighing the evidence and consulting the gods, passed judgement. It was easy for those with the financial means to corrupt them. The position of professional judge was therefore created to counter this. Judges were enshrined in law and paid by the State, so well paid that they were considered incorruptible. The creation of professional judges resulted in the development of the courts and the recruitment of a host of bailiffs, scribes, investigators and interrogators, as well as the formation of a court police force. At the beginning

of the New Kingdom (c. 1570 - c. 1069 BC), this police force was better organised and the judicial system as a whole was perfected. Police officers acted as prosecutors, interrogators and bailiffs, and also administered sentences. The police were responsible for enforcing national and local laws, but there were special units, trained as priests, whose job was to enforce the law and temple protocol. These laws were often designed not only to protect temples and tombs, but also to ensure that the rules of decency were observed before and during all services and ceremonies (14).

The pharaoh was commander-in-chief of the army and police but, in practice, his vizier was the most senior official in the judicial system. The vizier chose the judges and appointed the chief of police, whose title, "Chief of the Medjay", was a survival from the time when the police force was mainly made up of Nubian warriors. The "Chief of the Medjay" was always an Egyptian, who employed other Egyptians as deputies, to whom many subordinates were attached, while the Nubians continued to form the pharaoh's personal guard, guarding the markets and other public places and protecting the royal trade caravans. All were ultimately responsible to the vizier, with the exception of the temple police officers, who were under the supervision of the head of the temple where they officiated. Other police units were established, some to guard caravans, others to protect border posts, still others to guard royal necropolises, supervise the transport and daily work of slaves (especially in the mines) or guard important administrative buildings. They were placed in posts.

However few documents are available on the Third Intermediate Period (c. 1069 - 664 BC), a period of civil war and anarchy during which the police force and the judicial system were still functioning, they contain plenty of evidence that scribes, judges and police officers could then be easily bought. During the 21st Dynasty, founded by Nesbanebdjed I (c. 1077-1051 BC), police officers were accustomed to taking bribes and extortion was also one of their specialities. A person accused of a crime was presumed guilty until proven innocent and, as the testimony of a policeman was taken much more seriously than that of a private citizen, it was in everyone's interest to be on good terms with the local police, as illustrated by the advice given by a father to his son on how to deal with the "herald" of his neighbourhood in the Papyrus of Boulaq IV (formerly known as the Papyrus of Any): "Befriend (him). Don't make him angry with you. Invite him to eat at your house, do not refuse his requests; say to him: 'Be welcome, be welcome here' (15)".

Under the Ptolemies, the police system was highly effective, including in terms of corruption. During the three centuries that this dynasty lasted, victims of crime called on local police officers to investigate, organise trials, arrest, interrogate and sometimes even imprison criminals. In

Ptolemaic Egypt, "(t)he history of criminals, the police and policing in the Egyptian chora is primarily that of government organisations and civil servants. The rulers of the kingdom had established a vast network of interconnected police officers in towns and villages to keep an eye on their population. They made arrests, detained suspects, opened investigations, visited crime scenes, gathered evidence, condemned houses, confiscated property and even held trials, often without instruction from their superiors. The supervision of these officials extended from the smallest settlements in the Egyptian hinterland to the headquarters of the central administration in Alexandria. The police covered every point in the geographical or administrative hierarchy (village, toparchy, meris, nome) and the officials communicated with each other quickly and efficiently. The senior officials made sure that the police and their supervisors in the countryside followed their orders and that government business was conducted quickly and thoroughly" (16). However, as a good number of documents from the period show, the Egyptians were far from satisfied with their police: unnecessary violence during searches, seizures and investigations, unauthorised requisitioning of property, arbitrary detentions, arbitrary denial of release, ill-treatment when collecting taxes - the list is long of the grievances they voiced against their representatives, which were sometimes echoed in royal decrees (17).

A profound difference separates Roman procedure from Ptolemaic procedure and also from modern procedure: "it is a principle in Rome that the State does not impose itself to settle disputes between citizens. Submission to public justice is purely voluntary; the parties must agree to request a judge (18). The threshold of the Roman home is impassable for the magistrates of the city... (19)".

In Rome, as in Greece, the only original penal system was that of private vengeance (20): the wronged individual, or failing that, the people to which he or she belonged, took vengeance himself or herself, and fights between individuals were not public. The only law was tribal. With the development of the city, custom gradually created inter-tribal law, from which "public law" (21) gradually emerged, as a consequence of the ascendancy that the demos had taken over the genè (22). "There is no triumphant city that does not seek and, more often than not, succeed in (...) completely destroying (the ancient internal law of the tribe). It necessarily succeeds, since it can only triumph by destroying the political organisation of the family. Matters that once belonged to the law of the family are all absorbed by the law of the city, some by the old inter-tribal law that has become private law, which, with the decline of family authority, governs individuals rather than groups, and others by public law" (23). The court thus becomes the place where citizens exercise power, which had hitherto been held by the heads of the clan, the fathers of the family; the latter cease to have any power over their children, who henceforth come under the jurisdiction of the citizens' court, where they must answer for their acts according to a code of

laws identical for all. "(T)he court establishes political and civic power. It establishes the power of the City (i.e. all citizens). It establishes the City as the locus of power" (24).

But the city, by "slowly substituting a (legal) bond for the personal bond that blood had hitherto established between the members of the clan (...), had to face up to the most pressing social problem that could arise: forcing its members to resolve, by means other than recourse to violence, the conflicts that arose between them, more numerous than ever, since their interests within the city had become diversified and intertwined" (25). To achieve this, the city relied on religious sentiment.

Homicide (26) came to be associated with contagious defilement: it was supposed to be transmitted to the entire community, which then had to be purged through various sacrifices (27). "Spilled blood was seen as a harmful principle that contaminated the whole city: the religious feeling that murder was the object of for the victim's family alone was shared by the whole group, which was obliged to join in the vengeance or, in general, to ensure atonement" (28). The public repression of homicide "presupposes, if we compare it with the previous regime, a process of social integration through which the city is achieved. An individual is killed: until then, this had only been the concern of his parents; from now on, the group feels sufficiently affected to collaborate with them, but also to establish the reparation owed to them and to the group. This indicates (...) a weakening of family solidarity..." (29).

At the same time, the idea was put into circulation that the State suffered in certain cases from the wrong done to one of its members and that it was up to it to punish the guilty party (30). "The theory of public action, which gives precedence to the solidarity of the social body and the interests of the city over the interests and passions of the individual, absorbed the theory of private vengeance" (31). Public repression of murder replaced the system of private vengeance, and the execution of the murderer was carried out by the authorities rather than by the victim's family. The exercise of public vengeance was entrusted to magistrates; the punishment, which until then had been inflicted by the victim or his people, was pronounced by the State court.

The transition from private vengeance to legal procedure in Rome began at the time of the Twelve Tables (450-449 BC). This decadence had four phases (32): 1° The State set itself up as the sole judge of the legitimacy or otherwise of private vengeance, which, in the small number of cases where it remained authorised (33), was made subject to formalities (34); 2° The State sanctioned settlement pacts between the victim and the offender, whereby the latter paid a

ransom to avoid vengeance ; 3° the State forced the victim to settle for a ransom for certain less serious offences (for example, in the Twelve Tables, *furtum nec manifestum*, the offence of *os fractum* [breaking a bone] could no longer give rise to *vindicta* on the part of the offended party, but only to pecuniary composition); 4° the State substituted pecuniary composition (*poena*) for *vindicta* to atone for all offences (35).

The "organised prohibition of homicide" (36) led to a distinction, established in Rome in the Law of the Twelve Tables (37), between two classes of offence.

Originally, only conspiracies against the State or offences against religion were classified as social crimes; for major crimes of this type, religious expiation had been established in the name of the public interest: "there was a belief in a certain solidarity between citizens, the offence of a single individual being supposed to attract the heavenly wrath of the whole people" (38). Later, the list of crimes was extended and the consolidation of social power in the field of criminal law was manifested, in Rome as in Athens, by the distinction into two classes of all reprehensible acts committed, whether against property or persons: on the one hand, *crimina publica* and, on the other, *privata delicta*, which were in a way the fossilised substance of private vengeance. Repression of the former (39) was the responsibility of the public authorities before the criminal courts; they were punished by fines, exile or death. The prosecution of the latter (simple theft, theft with violence, insult and contempt, damage caused to others by fraud or fault) was left exclusively to the interested parties and took place before the civil courts; initially punished by flogging, they were later punished by a pecuniary penalty.

In Rome and Greece, however, there was no state department responsible for investigating offences and punishing the perpetrators: there was no judicial police force. Once an offence had been committed, the investigation of the case - the arrest of suspects, the gathering of evidence, the confiscation of property, the preparation and organisation of trials - was left to the victim.

"The Athenians never imagined that public security could rest on a body of citizens who held a monopoly on violence" (40). In the city-states of ancient Greece, "(t)he security of the city as a whole rested on each of its members, who possessed the fundamental right to be armed" (41).

Police" functions were entrusted to the Eleven. They were in charge of the courts, prisons and, more generally, criminal justice, assisted by ten *astynomoi*, responsible for the upkeep and

cleanliness of the city of Athens and the port of Piraeus, ten agoranomoi, who ensured order in the market and ten other metronomoi, who ensured that weights and measures were respected. In order to carry out their duties, the magistrates were partly dependent on the army, which considered itself to be primarily responsible for the external security of the city-state. As a result, they had to rely even more heavily on a body of public slaves known as demosioi (Skythai, Toxotai and Speusinioi). The Skythai corps consisted of around three hundred men of Scythian, Thracian and Goethean origin when it was founded between the end of the Median Wars (478 BC) and the Peace of Callias (449 BC). By the end of the fifth century BC, there were perhaps just over a thousand Skythai (42). They were "equipped (...) at state expense, according to the fashion of their country, with a tunic with long sticky sleeves, open at the front and tightened at the waist by a belt, fairly wide trousers or anaxyrides, slit at the side, and boots reaching halfway up the leg. As a headdress, the Scythians wore, in barbarian fashion, a high pointed bonnet, a sort of bonnet, and this detail, as well as the bright colours of their clothing, served to emphasise their foreign origin. Such a uniform, so different from Greek costume, meant that they would be noticed and feared by those in a fighting mood", especially as they were armed with a whip (43). They carried out their duties not only in the streets by day (at night, Athenians walked through the unlit streets of the city by the light of a torch carried by a slave, at their own risk), but also in all places of public assembly, at the People's Assembly, the Council, the Areopagus, the courts, festivals and processions, etc. They were only authorised to act in the presence of the people. They were authorised to act only on the orders of the magistrates. Stationed at the entrance to the courts, they turned back heliasts who arrived after the opening of the debates, while inside the court they expelled any troublemakers. In the Assembly, if a citizen took it into his head to climb to the rostrum without having been authorised to do so or without respecting etiquette, or if, once in the rostrum, he arrogated to himself the right to give advice when he was incompetent (44), they would whip him off (45), a punitive practice that was all the more humiliating for citizens as it had originally been reserved for slaves: Thus, free men had only been relieved of the harsh treatment that Xerxes had inflicted on them and other Greeks of free birth by forcing some of them, who were tributaries of Xerxes, to dig the canal of Mount Athos (early fifth century BC) (46), only to allow themselves to be subjected to it freely afterwards. The Skythai were also responsible for arresting criminals (47), but were not authorised to investigate offences or crimes (48). They only occasionally assisted the Eleven in their criminal justice duties; legal proceedings were not very frequent, with arbitration within or outside the oikos resolving or at least ironing out the majority of problems (49). "Slaves', they (the dêmosioi) (were) obviously slaves in name and under military discipline; but (they were) highly privileged slaves. The city's security (could) depend on their loyalty. In times of war, they (were) only auxiliaries. As policemen, they did not have a hard life and their position was the envy of all the workers and servants" (50). Their corps was disbanded in the first quarter of the fourth century BC, due to the financial difficulties of the Athenian city (51).

In Rome, police officers were still recruited from the lower classes - slaves, freedmen and low-born citizens, some with criminal records.

"Nothing similar to the modern police existed in archaic Rome" (52). In Republican Rome, the main policing functions were essentially carried out by the magistrates themselves and by their subordinates (apparitores and publici). The censor was responsible for overseeing morals, the praetores for dispensing justice, the aedilis for overseeing the markets, confiscating or destroying anything smuggled in and fining offenders, and the tribunes of the plebs for arresting anyone they deemed a threat to "public" order; As for the tresviri capitales, they had no criminal jurisdiction or full *jus prensionis* (right of arrest) and acted on behalf of their superiors. Their duties included organising fire relief, guarding prisons and overseeing executions. They carried out night patrols to maintain order and, among other things, helped the councillors to burn banned books. It is possible that they were tasked by the praetor with settling certain civil proceedings of a semi-criminal nature, in which private citizens acted as prosecutors. They were also responsible for collecting the *sacramenta* (a deposit of money that each of the disputing parties placed in the hands of the Pontiffs at the start of a trial; that of the loser was confiscated) and examining the request for dispensation made by those who refused to serve on a jury. Caesar increased their number to four; Augustus reduced it to three. In the imperial era, most of their functions passed into the hands of the *praefectus vigilum* (53).

The first to organise urban services, Augustus (54), in 7 BC, divided Rome into fourteen districts (regions), each made up of *vici* supervised by *vicomagistri*, who, in addition to their administrative and religious duties, were responsible for fire protection. In AD 6, following a particularly serious fire, Augustus transformed this brigade into a corps of watchmen. Initially numbering six hundred, the *vigilantes* were placed at the disposal of the *tresviri nocturni* and the *curule* councillors, before being organised into seven cohorts, totalling one thousand men; each cohort was commanded by a tribune. Each cohort was commanded by a tribune. They were divided into the fourteen regions of the city, two from each region, and shared between fourteen guardhouses located beneath the walls and at the gates of Rome. Each cohort was responsible for providing assistance in the event of fire and, especially at night, for protecting two districts. Their leader, mentioned above, had the title of *praefectus vigilum*, who held the rank of knight. He exercised criminal jurisdiction in cases of arson and offences against the law committed during the night. *Vigilantes* were mostly recruited from public slaves or freedmen. As a further measure to keep order in the dangerous streets of Rome, which had over a million inhabitants, Augustus created three police cohorts, which were part of the army and placed under the command of the prefect. If necessary, these cohorts could call on the Praetorian Guard, the only troops tolerated within the walls of the *Urbs*, where, even under the Empire, neither regular troops, cavalry nor infantry were authorised to take up permanent residence.

Until the end of the "Republic", the Romans were reluctant to get involved in the prevention, detection and prosecution of common crime, which they considered to be a civil offence to be judged out of court. The Romans had no "public prosecutor". As in Greece, many private offences were only prosecuted at the request of the injured party (55) and the corresponding actions often ended in a settlement, otherwise they were judged either by judges delegated by the lender or by arbitrators (*arbitri*) (56); the prosecution of public offences belonged to the citizens; "in Rome, there were no magistrates specially assigned to the investigation of criminal trials, before judgment" (57). But since winning a case required personal and financial resources, connections and a great deal of willpower, "it was customary to provoke a denunciation by promising a reward" (58). Mutual aid, at least for those who could not afford to offer it, was an absolute necessity. Any individual who was assaulted or threatened with robbery, or any group that witnessed a crime or physical aggression, could and, in some cases, was even legally obliged (59) to seek help through various types of cry: *endoploratio* (literally : ritual curse) (60) (a cry uttered by the victim of a *flagrante delicto* to attract the attention of neighbours), the *convicium* (a cry uttered by the person arresting someone in order to bring them to justice) (61), which would be found in Norman England under the name of "hue and cry", the *quiritatio* (so named because of the formula that accompanied it: "Adeste, Quirites") (62). In these cases, murder in self-defence was authorised under certain conditions, defined by the Twelve Tables (63).

The establishment of a permanent police force for Rome and its environs dates back to Tiberius. "Its immediate task was, on the one hand, preventive policing, for which it kept watch over the circus and the other monuments used for public spectacles, as well as the markets, in particular the weights and measures, the money-changers' shops and, in general, all the trade that took place on the public highway and in public places; on the other hand, energetic and swift criminal justice, appropriate to the needs of the great city, in particular with regard to slaves and the lower classes, which in this form had been unknown to the Republic. The circle of punishable acts was not the circle of acts provided for by law; to all appearances, it depended on the arbitrariness of the prince or, if we prefer, of his representative in this field, the prefect, to intervene in cases where the public interest seemed to require it. As evidence of this, we may note that the Prefect even received complaints from slaves, who had no rights under the law, against masters who mistreated them, and that he inflicted criminal penalties on unfaithful guardians, who were only subject to civil proceedings under the law. Nor can the circle of persons against whom the Prefect could act have been delimited by law. He intervenes, for example, without distinction of persons, against the exercise of the right of association without legal authorisation, and from an early period, politically dangerous persons of senatorial rank were reported to him" (64). The aim of the city prefecture was to maintain public tranquillity in the capital. "Supporters of the old constitution, nominally reinstated by Augustus, could rightly say that the power of exception, exercised in particular by Maecenas in the open crisis between Caesar and Antony, (was)

perpetuated there (...); and certain vestiges indicate the perfectly well-founded repulsion in principle and in practice that this institution provoked (emphasis added)" (65).

After the collapse of the Western Roman Empire in the fifth century AD, the Eastern Empire retained some of the oldest Roman institutions - for example, the main police authority was the *koiaistor* (the Hellenised equivalent of the Roman *quaestor*) (66); his main task was to keep an eye on the huge numbers of foreigners living in the capital. Outside the Byzantine Empire, cities had all but disappeared, and so had all forms of policing. Order was maintained either by the military, often in the form of simple armed bands, or by the community itself. The legal codifications of the early Middle Ages, such as the Salic law, show that almost all offences were considered to be forms of civil offence that were left to the parties to decide informally. The dispute resolution mechanisms established in England at this time provide an excellent example of how policing was carried out before the development of the modern police.

For a long time, in England as in Germany, the clan was the only body capable of protecting the lives and property of its members and obtaining redress for offences committed against them. Justice consisted of blood vengeance, once all attempts at amicable conflict resolution had failed. Blood vengeance was not a right (67), but a sacred duty that no law had yet dared to forbid. Every free man had a duty to protect himself and his people. He exercised this duty through private warfare. The State was weak and had no part in settling conflicts between clans.

It seems that in Germany, in the fifth century AD, and in England, in the seventh century AD (68), the clan group lost its role as sole guarantor of the peace and safety of its members to the State (69), even though it continued to carry its full weight in the administration of justice: only the support of a clan allowed a man to take legal action and to gather enough individuals to guarantee the oath to be taken before the court (70). In England, the first laws, written around 600, were seen as "weapons" of the State (71), by which it intended to arrogate to itself the monopoly of arbitration in disputes between individuals or clans. As in ancient Rome and Greece, blood vengeance was thus limited by law; some laws protected the murderer's clan from reprisals by the victim's relatives, while others established pecuniary composition, the compensation that the perpetrator of an offence had to pay to his victim or, in the event of his death, to his clan (72) and which, at the outset, had been informal. In some cases, part of the composition was paid to the king and the lord - on the grounds that they had lost, respectively, a subject and a vassal.

In the nineteenth century, a British apologist for kingship declared, "Our kings, assisted by their great council, sought remedies for the disorders caused by the incessant fighting between families, and a particular system eventually emerged from the measures they adopted" (73): unknown to the Germanic peoples (74), this system was called frithborh in the middle of the twelfth century, renamed plegium liberale and translated into Norman as franc plege (75).

Even before the Norman Conquest, the law had come to require local communities to pursue criminals and delinquents and hand them over to the royal courts. To give substance to this first form of "community policing", a new territorial organisation was established, which "only served to link the various localities more closely to the State" (76). During the reign of Alfred (959-975) (77), England was divided into shires (counties), each shire into hundreds and each hundred into tithings, each of these divisions being supervised by a shire-reeve or sheriff (scirgerefa, guardian), the hundred by a hundred man (centenarian) and the tithing by a tithingman (dizenier) or borsholder.

All these divisions worked together to create a system of mutual guarantee based on the mutual obligation to maintain order and safety and to pursue wrongdoers and criminals and bring them to justice.

The heart of the system (78) was the tithing. "The members of a tything (...) were (...) a perpetual guarantee for each other (...). This guarantee consisted in the fact that these ten men were responsible for each other throughout the kingdom, in the sense that if one of the ten committed a fault, the nine others had to take him to court to make him pay with his property or your person. If he evaded justice, the tything had the means to justify any participation in his crime or escape; failing that, if the offender's assets were insufficient, the other members of the tything were forced to pay the fine (...)" (79). They or anyone else who crossed their path had one month to find the fugitive (80). It was the duty of anyone who had been harmed or witnessed a crime to hue and cry, and neighbours were obliged to come and help in the pursuit and apprehension of the offender. All those who joined the pursuit were entitled to arrest the fugitive, even if he turned out to be innocent. If the fugitive bore clear evidence of his guilt and resisted capture, he could be killed on the spot; if he allowed himself to be captured, he was put on trial. The law of Cnut declared any individual who let a thief escape without a hue and cry liable to the same penalty as that incurred by the thief, unless he was able to clear himself of any suspicion of complicity with him. According to common law, anyone who witnessed the commission of a murder or an act of robbery without prosecuting the criminal or hue and cry was effectively punishable (81). By an act of parliament, the obligation to hue and cry was extended to other offences. The essence was *flagrante delicto* as far as possible, but the Constitutions of Clarendon

(1166) required localities to declare "any person accused or generally suspected of being a thief or murderer or any person concealing thieves or murderers" (82). Prosecution, originally private, was replaced by a system of prosecution in the name of the king, brought about by "(t)he prompt embodiment of state power in the Norman kings" (83). The duty to prosecute offences in the name of the king before the courts was organised for this reason in a similar way to the duty to give evidence on the continent and was frequently confused with the duty to testify (84). The indictment jury, originally composed of four men from each tithing, was later drawn from a number of *probi et legales homines* (85), and at a later date was composed exclusively of the royal officials referred to below as justices of the peace. The institution of the Public Prosecutor was, however, a recent creation in Great Britain, where, until the nineteenth century, there was no prosecutor for most crimes and it was the victim or a relative who initiated, investigated and pleaded the case (86).

Under William the Conqueror, with the exception of priests, every free man had to belong to a tithing: "... every layman, unless he possessed a freehold [the tenure of free men] of a certain extent, was obliged to place himself under the tutelary regime of his lord's surety, or to enter into the solidarity of a mutual and collective surety with other small landowners. Anyone who was neither a grand thane (servant of the king), and as such exempt from the frank-pledge, nor a member of a tithing, was outside the law" (87); the heirs of a free man who was not part of a group (tithing or hundred) were not entitled to a *worm* (compensation) if he was killed; if he was accused of a crime, he could not support his innocence with a witness. By making the system of mutual guarantee compulsory through over-judicialisation, it is very likely that the Normans sought to establish a stricter policy towards those they had conquered and to weaken their family ties (88).

The law on mutual compulsory security was based on the principle "that the best guarantee of each man's obedience to the government was to be sought in the confidence which his neighbours had in him" (89). The duty of ensuring that this trust was respected fell to the sheriff, "the agent of the monarchy" (90), who held an itinerant court called the sheriff's tour twice a year for this purpose (91). Criminal and penal justice were originally concentrated in his person during his tour (92). He was simultaneously judge, keeper of the peace, executive officer and collector of rents: in his judicial capacity, he dealt with and judged minor civil cases, conducted county elections and had to provide the names of those elected; as keeper of the peace, he could apprehend all persons who breached the peace and compel them to give security for their conduct. As executive officer of the ministerial capacity, he had to execute all the procedural decrees of the royal courts; in civil proceedings, he had to execute adjournments, arrest and receive sureties; when the case was resolved, he had to convene the jury and compose it; when it was judged, he had to see to its execution. In criminal cases, he was responsible for

imprisonment, empanelling the jury, guarding the accused and executing the judgments; as receiver of royal rents (king's bailliff), he was responsible for safeguarding tax rights in his district; taking possession of confiscated or escheated property, recovering fines (a large part of which went to bishops, counts and lords) (93), forfeited property, shipwrecks, stray cattle and other small revenues (94).

Under the Magna Carta, he was no longer responsible for *placita coronae* (royal criminal cases), except in cases of private accusation of offences (appeals). The direction of capital proceedings and judgement in criminal cases also eventually fell to him. All that remained of his previous criminal powers was a police power (conservation of the peace), the view of the frank pledge, the taking of the first steps in the event of sedition, the lifting of the hue and cry, criminal police functions in the case of counterfeit weights and minor police offences; of his original financial powers he retained only the collection of revenues that had not been passed on to other financial employees. The office of sheriff, like the frank-pledge system, was in full decline at the time of the Plantagenets, when he had to share his powers first with the Royal Commissioners and the Colleges of the Royal Courts (95), then with the Justices of the Peace: to rule, divide, certainly, but also multiply institutional duplication.

The justices of the peace, appointed in 1361 under Edward III (96), were for the most part drawn from the gentry, a social class whose power grew and spread as that of the old noble families, decimated by the Wars of the Roses in the fifteenth century, dwindled. Under the Tudors, the gentry showed "a persistent tendency... to give only half their allegiance to public affairs and the other half to private gain". The office of Justice of the Peace offered the gentry the opportunity to reconcile its two allegiances, while consolidating its social and economic power, particularly, but not exclusively, at local level" (97). The justices of the peace, who "derived (...) the sole source of their power from the royal commission" (98), were the eyes and ears of the monarch and parliament in the counties, where the barons remained very powerful.

This explains why the powers entrusted to the Justices of the Peace by the royal government as part of its centralisation policy were so wide-ranging. They were simultaneously conservators of the peace, administrative officials, criminal investigation magistrates and judges in civil matters. As conservators of the peace, they were required to maintain the public peace in accordance with ordinary law, by taking preventive police measures, arresting offenders in *flagrante delicto* and issuing arrest orders. It was their duty to dissolve seditious and illegal meetings and clear the roads of beggars and vagrants. They could demand surety of the peace from anyone who threatened others and surety for the good behaviour of pamphleteers, night prowlers, notorious thieves and brothel-goers (99). As administrative officials, they had regulatory powers in district

affairs, especially the promulgation of taxes, confirmation of the poor tax, the adjudication of tax claims, district coffers, etc. They held the power of instance in the district courts. They had higher authority over the administration of local communes, the administration of the poor, the organisation of road maintenance, administrative measures for the militia, the administration of prisons and madhouses (100). To these were added new criminal powers: the industrial police, in particular the supervision of inns and taverns as well as road transport, the police of roads, rivers and coasts, hunting and fishing, the police of morals and entertainment, responsible for the supervision of gambling houses and disorderly houses and the repression of drunkenness and public indecency (already punishable by fine, imprisonment or the pillory under common law); the labour and subsistence police, responsible for regulating the weight and price of bread, the wages of craftsmen, day labourers and domestic servants; the police of hotels, brasseries, estaminets and restaurants (101); not forgetting press legislation. "This new part of the police functions developed most fully under the Tudors [sixteenth century] into a deeply ramified system (...) which corresponds completely to the police systems which developed on the continent during the ancien régime" (emphasis added) (102) and which no longer had much to do with the frank-pledge, the system of "keeping the peace", i.e. protecting people and property.

The justices of the peace had high constables under their authority, whom they had the power to commission, administer oaths and supervise. The high constables, the direct heirs of the hundredmen, had under their command petty constables or constables of the vill. As the old saying goes, "where is a constable, there is a township", the constable was, like the *démosioi* and the *vigiles* in antiquity, a necessary creation of the town.

At night, the streets of London, like those of Britain's other major cities, were poorly or rarely lit, which increased the risk of theft, burglary and physical assault during this period. Concerns about these risks had been alleviated to some extent by the introduction of a curfew, at the sound of which the city gates were closed and the streets emptied. Anyone out at night without reason or permission was considered suspicious and a potential criminal (103). To make the curfew more effective, an ordinance of 1233 required the appointment of night-watchmen, whose function was "to arrest those who enter the villages at night and go about armed"; the Assizes of Arms (1252) added "those who disturb our tranquillity" (104) and required the appointment of constables to prevent and deter any breach of the peace. The primary function of the constables was ward-and-watch. The Statute of Winchester (1285) stipulated that two constables were to be elected for each township (hundred) and ordered that "suspicious persons walking about at night shall be arrested and detained by the watchmen". The statute of the 5th year of Edward III (in 1332) authorised the constables (but did not oblige them to do so) "to arrest persons suspected of murder, felony and theft and to deliver them to the sheriff, to be detained in prison until the arrival of the judges". Each parish (originally an ecclesiastical administrative subdivision of the

county) was required to have at least one constable and every parishioner, with the exception of members of the nobility and almost all members of the gentry, was obliged to hold this office for one year (105). Elected by a group of parish representatives, the constable was neither salaried nor even remunerated (106).

The office of high constable was purely administrative. As auxiliary employees of other authorities, they had to perform special services in accordance with particular laws, especially to carry out the orders of the coroners (officers charged, on behalf of the Crown, with taking information, with the assistance of a jury, on the causes of all kinds of violent, unnatural or mysterious death, on discoveries of treasure and the debris of shipwrecks), of the militia administration for barracking, harnessing, etc., of the military administration in the case of similar matters, and of the tax authorities in the case of house searches and seizures, of the military administration in the event of similar cases; to provide assistance to tax officials in the event of house searches and seizures. As executive officer of the Justices of the Peace, he had to put into action the plethora of precepts, warrants, orders and convictions that they issued.

The petty constable was a peace officer. His particular duty was to maintain public safety, i.e. to go around his district, ensure that the laws were observed, prevent offences, protect the inhabitants against violence, ensure that Sunday celebrations and the regulations on public drinking establishments were observed, arresting drunkards, defending prohibited swearing, visiting suspicious houses, preventing prohibited games, arresting vagrants, unlicensed dealers and peddlers, seizing objects suspected of being stolen, etc. (107). From these functions, in the exercise of which the petty constables do not seem to have shone for their efficiency and probity (108), derived an independent right of arrest. They could arrest anyone for a felony or breach of the peace committed in their presence, or if they had reasonable cause to suspect that a felony had been committed. In such cases, they could call upon any third party to assist them, who was obliged to do so under threat of arbitrary punishment if they refused.

The municipal administration was even authorised to assign to the inhabitants the rights and duties of constables in cases of urgent necessity (109), in which case, like the constables on their appointment, they were in principle required to take an oath (110). Locke later summed up this British practice of maintaining order by saying that "although every man who has entered into society has given up the power he had of punishing offences against the laws of nature by his own private judgment, yet it must be observed that in giving to society the right he had of judging offences (...) he has at the same time given to society the power of punishing offences against the laws of nature by his own private judgment.) he has at the same time given society the right to use his own force to enforce these judgments whenever it needs them, for these

judgments are in fact his own judgments, whether they are made by him or by his representatives" (111). Until the creation of the Metropolitan Police in 1829, however, it was not exactly to "society" that man "(gave the right) to use his own force for the execution of judgments whenever it might be necessary", but to his municipality and only to his municipality.

Until the eighteenth century, England was "a network of frailly connected and necessarily self-sufficient groups. It was a collection of areas isolated from each other by features such as dialects and different economic interests. Some communities were so isolated that local currencies had to be put into circulation when the central currency ran out. The problems of central coordination were such that each county tended to display considerable political autonomy, an autonomy maintained and jealously guarded by the local elites. The English counties were dominated by their own miniature governments" (112). Particularities were reflected in the structures for "keeping the peace". Jurisdiction was local; the authority of the Justice of the Peace, even if it constituted the key cog in the administrative centralisation initiated under the Tudors, did not extend beyond the limits of his constituency; service was free of charge, as the magistrate received no salary for his duties and citizens had to fulfil, personally or through substitutes, the duties imposed on them by the law, the application of which therefore remained mainly a private matter (113). There was no official body responsible for enforcing the law (114).

These principles soon came up against the changes that the growth of the British population towards the end of the seventeenth century brought about in customs, particularly in London, where, due to the favourable economic conditions prevailing there, many poor immigrants flocked to seek their fortune. The more the population grew, and with it crime, the more difficult it became to track down and apprehend delinquents, especially as they were organised and took violent reprisals against those who tried to stand in their way ; all the more so as they were sometimes one and the same with the representatives of the law (115); all the more so, finally, as, despite repeated exhortations from the mayor, the inhabitants were increasingly reluctant to fulfil their duties by patrolling the streets alongside the constables (116) : effective in rural areas, where all the villagers knew each other well, the survivals of the frank-pledge system were no longer so in the grey anonymity of the towns. In these conditions, "the magistrate's task became (increasingly) difficult and unpleasant; the result was that, little by little, men in high places in the world, all those who exercised important and lucrative professions, sought to evade the obligations of the law. They were replaced, as magistrates, by people of a lower class who, in the virtually unaccountable power of the Justice of the Peace, saw only the illicit advantages they could derive from it; their rapacity soon earned them the sad nickname of 'trading justices'. The people suffered most from this state of affairs, for where they sought protection, they found only

oppression and venality" (117). What's more, convicted defendants suffered virtually no consequences for their actions, and most crimes were not even defined (118).

However, property was the main concern of the inhabitants and the public administration (119), which is why theft was considered a serious crime, along with counterfeiting. Legal proceedings were costly and time-consuming, and there was no guarantee that stolen goods would be returned. As a result, victims of theft were encouraged to pay private individuals to investigate and provide evidence of guilt for conviction (120) and, from the 1690s (121), the authorities themselves began to offer rewards to those actively involved in apprehending and convicting treasonable accomplices or those guilty of specific serious crimes, such as highway robbery and counterfeiting (122). Rewards were announced in the daily press, which began to flourish at the end of the eighteenth century.

Such initiatives gave rise to a new profession: thief-taker (123). Many of them were criminals who, while under sentence of death, could be pardoned for having contributed to the conviction of other defendants, i.e. for having betrayed their peers. Convicting offenders required excellent knowledge of the criminal world, which the authorities did not have and for which they were prepared to pay the holders (124). Qualified thief-takers acquired considerable power and reputation in the world of the judiciary and in the world of crime (125) or, one might be tempted to say, in the world of the judiciary and crime, thus doubling their earnings. On the one hand, they were paid by the so-called public authorities to reveal information that could lead to the arrest and prosecution of criminals; to investigate crimes; to find and apprehend criminals; to provide evidence that could lead to the conviction of the accused. On the other hand, they acted as intermediaries between criminals and their victims, offering the latter the return, for a fee, of the property stolen from them by the criminals. Thief-takers had a number of tricks up their sleeves to round off their profits handsomely: they incited criminals to commit crimes so that they could then arrest them, prosecute them and collect the reward (126); they blackmailed them (127) or protected them for a fee by informing them in advance that constables were about to search their homes (128); and, the cherry on the cake, they did not hesitate to bring innocent people to justice (129). Several thief-takers, including the most famous, Charles Hitchen (1683-1725) and Jonathan Wild (1682 or 1683-1725), were prosecuted for active corruption; some were convicted and hanged, others acquitted. When the illegal activities of the thief-takers came to the attention of the public, who had hitherto felt a certain sympathy for them, this turned to hatred, to such an extent that those who were exposed in the public square following their conviction owed their lives only to the intervention of constables (130). Despite the growing unpopularity of the thief-takers, rewards continued to be paid to encourage new vocations. "The reason why the thief-takers were tolerated for so long was that any action taken against them risked exposing the widespread system of corruption in the administration of criminal law in the metropolis" (131).

To encourage victims to report crimes, magistrates in the City of London and Middlesex had set up 'rotation offices' in the 1730s, where Londoners could be sure of finding a magistrate at fixed times. One such office was set up in Bow Street, near Covent Garden, by Sir Thomas De Veil (1684-1746) in 1739. It was taken over by the playwright, poet, novelist and magistrate Henry Fielding (1707-1754) and his brother, the magistrate John Fielding (1721-1780) in 1748, shortly after De Veil's death. Forced to interrupt his career as a playwright by the Licensing Act (1737), Henry Fielding turned his pen to political controversy and the all-out defence of public liberties, only to defend them in verse once, in 1749, he had obtained "a small pension with the position, not very honourable at the time, of Justice of the Peace for Westminster and Middlesex, and the freedom to make the most of it by the most odious means" (132). "The morals of Fielding, who was never difficult in his choice of society, were not improved by the one to which his position condemned him"; and he "(lowered) his mind completely (...) to the level of his position" (133). Depraved, he saw nothing but depravity around him and made it his mission to curb it. A libertine, he sought to guarantee the maintenance of public liberties by restricting those of individuals through the law, civil law and, above all, religious law (134). "Freedom through law" was his motto (135), which he reserved in particular for the so-called lower classes. An "immense torrent of luxury" swept through the country and the consequent excesses of "immoral pleasures" "changed the Manners, Morals and Habits of the People, particularly of the lower classes" (136). Money itself, particularly in the hands of the so-called lower classes, undermined civic-mindedness and the law, and the greed and licence it gave rise to fuelled threats to and crimes against property. Responsible money management was a problem in all strata of society, but while the rich were able to control their own vices through adherence to the gentleman's code of honour, the newly rich or those who had simply seen their standard of living rise, with nothing to curb their baser instincts, contributed significantly to the increase in violence and crime (137). Fielding was not unaware of the vice and immorality of the powerful. He satirised magistrates and politicians, showing that their careers mirrored those of criminals. He condemned criminals, with the exception of thief-takers, while excusing the magistrate and the politician. The social order was threatened by the immorality, licentiousness and criminality of the rabble. Riots and tumultuous assemblies," he warned, "are dangerous to the public peace" and a threat to "civil government and all civilised life". The mob, the "fourth estate of the community", was a "licentious rabble" that "broke into people's houses, looted their houses and burned their property" (138).

In his polemical writings, he criminalised London's poor - their habits, pleasures, pastimes and institutions. He saw public morality as inextricably linked to private morality, and advocated the regeneration of morals (of the so-called lower classes) through strict censorship of public activities, stricter regulation of the drink trade, pawnbrokers and moneylenders, public houses and itinerants and vagrants, and the prevention of crime by the police.

In 1750, he, his brother John and the magistrate Saunders Welsch set about reforming the private policing methods employed by the thief-takers. Their aims were fourfold: (1) the establishment of an effective, investigative private police force funded by the official authority of the state; (2) the establishment of a criminal intelligence system and information gathering apparatus; (3) the creation of a coherent and integrated centre of police administration; and (4) the development of a programme of public awareness and education about crime prevention and police work. It was the previous year that he and his half-brother John had sketched out an organised police force (139), in the form of a handful of men (initially six) recruited from thief-takers (140) and constables. They were nicknamed the Bow Street Runners, after the street in which Henry Fielding's office was located. The Runners' task was to patrol (141), investigate crime, catch criminals and recover stolen property. The aim of this new system was to deter criminals from committing crimes by persuading them that they would inevitably be spotted, pursued and arrested; to give them the feeling that they were under constant surveillance, the Fieldings collected and disseminated information about crimes and suspects to the public and organised patrols on horseback and on foot along the main roads. The Runners made a comfortable living from the fees they received for their services, the rewards they received from the State for the convictions they secured and the rewards they received from victims for identifying suspects. What's more, the Runners, although contract employees of the Fieldings, had not lost the habit of offering to return stolen goods to the victims in return for payment ; So, whether or not they were covered by their employers - the integrity of Henry Fielding himself was questioned by the English actor, playwright, theatre director and producer David Garrick (1717-1779) (142) - "it is not surprising that the Bow Street detectives were more successful in recovering stolen goods and making deals than in apprehending criminals" (143). The umbilical cord between the police and crime would never be cut, as we shall see in the second part of this study.

A year after Henry's death, John published Plan for preventing robberies within 20 miles of London (1775); the plan consisted of patrolling the main roads for thirty miles around London and, if the newspapers of the time are to be believed, effectively dealt a mortal blow to a gang of robbers. In the fight against crime, John Fielding saw prevention as "a matter of surveillance and deterrence by effective detection" (144); "(i)t is far better to prevent even one man from being a rogue than to apprehend and bring forty to justice", he asserted in *An Account of the Origin and Effects of a Police set on Foot, etc.* (1758), very probably the first work in English to use the term "police" (145). The working classes in particular were to be subjected to "a general preventive machine" with "civilising effects" and "severe and solemn punishments" (146). The lower classes, considered as a whole to be more intoxicated by alcoholic beverages and gambling than by work, were to be policed by vaudeville, songs and tabloids. As for the media, Fielding was convinced that they could play an effective role in crime prevention by reporting on criminal cases, naming and shaming those who had done wrong and calling on the public to hunt down

criminals. Another of the Fieldings' contributions to the formation of the modern police force was precisely their suggestion to the various magistrates of the country that they share information about criminals and to the authorities that they set up a 'National Reporting Centre', partly made possible by the possibility of placing advertisements about wanted criminals and stolen property in a growing daily print media (147). The Fieldings, like their successors, also sought to develop methods of classifying and cataloguing information on the haunts and habits of criminals and "were (among) the first to formulate a method of distinguishing the criminal from respectable society - spatially, physically and morally - using surveillance as a classification tool for maintaining order in the streets" (148), on the other hand "strict surveillance of people and things" and a "meticulous description and diagnosis of the details of an individual's life" (149). The reforms they promoted did indeed lead to greater surveillance of the London population, particularly in the workplace. "Londoners, whether employed as weavers, butchers, watchmakers, tailors, shoemakers, coalmen or dockers, were increasingly subjected to the discipline of capital 'under the eye of a single authority'" (150).

Initially, the public was hardly favourable to the Runners, not only because it had not forgotten the bad practices of the thief-takers, but also because, educated by the example set by the lieutenant-general of police created by Louis XIV at the end of the previous century and whose activities will be explored in the second part of this study, it equated any professional police force with the armed and repressive arm of despotism (151). The providential arrest of a notorious gang of thieves in 1753 (152), coupled with the Fieldings' incessant publicity campaigns for their Runners (153), did much to bring him back to a better attitude towards them, to such an extent that, by the end of the eighteenth century in England, the first reaction of the victims of an attack or robbery was to report the crime to a 'rotation office' and not, as before, to call in a thief-taker to trace the perpetrator - which, in the final analysis, amounted to much the same thing. Whether the Fieldings were responding to public demand or creating it, the fact is that they turned policing into a commercial service. They "were experts in the manufacture of 'symbolic products', for what they bought and sold were not only tangible security products, but also 'external signs of security'. They ensured that the police as an object of consumption aroused 'emotions', that the feeling of safety and security moved people. They identified consumers with specific values, tastes, customs, hopes, fears and behaviours. They differentiated and socially ordered consumers according to their social value (...). They tugged at the heartstrings of the new consumer society, stimulating and channelling desires and fears while proposing solutions that had to be bought for their own benefit" (154).

Where there is a commercial service, there is also a specific and specialised staff: while the "preservation of the peace" involved tasks as diverse as the supervision of prisons and guilds and the enforcement of laws relating to prostitution, street cleaning and lighting, trade and the

movement of goods, the disposal of corpses and supplies, and was therefore not limited to the repression of disturbances of the peace (155), the Runners were officers with clearly defined duties, all of which were more or less those of the modern police. They were certainly not policemen (it seems that the word "policeman" appeared in 1790), but without the subsidies that the Crown allocated to the Fieldings company, they would not have been able to work (as such) (156). This company was the laboratory of the state police.

The belief that a specific government agency could and should regulate people's behaviour is precisely at the heart of the Scottish merchant, statistician and magistrate Patrick Colquhoun's (1745-1820) views on the police in *A Treatise on the Police of the Metropolis* (1806), a treatise that "influenced police theory as much as Karl Marx's *Capital* influenced economics" (157), revolutionising the whole philosophy and structure of law enforcement.

This proposal initially came up against tradition and constitutional scruples. As mentioned above, the British feared that a government-led police force would become an instrument of political repression, as the French police then were, and they still clung to the old principle that it was up to the residents of the local communities, either as constables or watchmen, to maintain order. Public order and safety remained primarily the responsibility of local justices of the peace, constables and the watch-and-ward, supported by citizens, posses and, in the event of riots, the army or yeomanry, a cavalry force made up largely of landowners. The investigation and prosecution of crimes, even with the extension of constables' prerogatives since the 14th century, remained a private matter that had to be handled by the victims themselves.

Colquhoun justified his point of view by demonstrating to his readers A + B (158) that London's police forces were completely inadequate to the task assigned to them. He made the first systematic and detailed analysis of crime, its origins and alleged costs. He then reviewed the agencies that were supposed to be fighting crime and highlighted their shortcomings. Finally, he argued that these difficulties could be resolved by separating the policing and judicial functions of these agencies and placing policing under the direction of a single agency. Thus, according to Colquhoun, the police, which he described as a 'new science' (159), would become a new branch of government, with four main functions: 1) the maintenance of public order and safety; 2) the prevention and detection of crime; 3) the correction of morals (160), "the adaptation of the Laws more particularly to the manners of the People, by the careful examination of the state of Society, so as to bring the lower orders, as it were insensibly, to better Habits, by gently restraining the propensities which lead to Idleness and Debauchery ; by suppressing temptations, which by their very nature generate evils, and by establishing incentives for positive and useful activities" (161); 4) surveillance of the population, particularly the so-called lower classes, both at work and

in the places of entertainment they frequented, using techniques borrowed from the French police, whom he admired (162).

Colquhoun observed that it was the destitute who were to blame for most attacks on property and other crimes (163). He drew a clear distinction between poverty and destitution. Poverty "is the state of any man who can live only by his work, but whose work provides him with sustenance. This state is a necessary element of the social constitution. If it is an evil, we must at least agree that it is the source of much good; for it is poverty that overcomes man's natural inertia and, through the efforts it makes him make, gives rise to wealth and all the pleasures of civilised life. Moreover, poverty does not presuppose suffering. But suffering is the appanage of indigence (, which is) the state of one who lacks the means of subsistence and cannot procure it by his own labour" (164). Indigence, which fuelled idleness and consequently crime against property, was to be combated and eliminated, while poverty was to be encouraged, as it was "a particularly necessary and indispensable ingredient of society, without which nations and communities could not exist in a state of civilisation. It is the lot of man. It is the source of wealth...". (165). Hence his proposal to establish a police force for the poor (166), a proposal that was in line with the logic of emerging Whig liberalism, "a historically specific set of discursive, legal, administrative and institutional practices, which cut across and sought to coordinate the dimensions of the state, philanthropy, households and the economy, with the aim of promoting particular forms of conduct in life" (167). In the same vein, "[b]y the term police, [Colquhoun] means all the regulations of a country which apply to the comfort, ease and safety of the inhabitants, whether it be their security against the calamity of destitution or the effects produced by moral and penal offences" (168); in short, all the modes of control and prevention that can be implemented to maintain the social status quo: the "social police" (169). The following passage from his *Treatise on the Police* will suffice to convince us definitively: "Why should not the whole nation, and particularly the capital, be considered, at least as far as vagrants and the accidentally poor are concerned, as one and the same family, and placed under the inspection of persons worthy of this honourable trust, and who could devote all their time to this object? If such an institution were set up, and if, in order to provide for its upkeep, each parish were first to pay a sum equal to the value of the accidental assistance it has provided over the last five years, with the power to use these funds to set up in various districts, houses of industry or workrooms, where the poor would receive their full wages, as well as good food, it is very likely that parish expenditure would gradually decrease, and begging would eventually disappear entirely in this city. The modest and honest poor would be discovered in their obscurity and helped, while the idlers and libertines, who make a living from begging, would be forced to work for a living. The proposed institution is of the utmost importance in the political economy of the nation, whether we consider it from the point of view of humanity, or from that of the morality of the people, which is the basis of all good government (...). The assistance of the legislature is absolutely essential to give this branch of the police force the necessary vigour and effect. This would be easy to achieve if the plan

itself were well understood, and the measure would then become as popular as it would undoubtedly be useful (...). Labour is absolutely necessary to the existence of governments; and as it is from the poor alone that it can be expected, this class of men, far from being pernicious, becomes on the contrary, by means of wise regulations, useful to every nation, and strongly deserves the beneficent attention of those who are at the head of public affairs" (emphasis added) (170). Colquhoun's aim was "the mobilisation of the police as a means of creating a social environment conducive to the development of a market economy and in particular the 'free movement of labour'. "Believing, like Smith, that protection against destitution lay not in a distributive police force but in greater overall productivity, he advocated a police force that would 'call in as much industry as possible, the best and surest means of producing national happiness and prosperity'. In short, in Colquhoun's mind, the role of the police was to complement and facilitate the division of labour and the realisation of the disciplinary potential of the market. It was to protect the property of the 'free and independent man' from the indignation of the poor and to mobilise the poor to participate in the labour market for their own good - the achievement of their independence - and for the benefit of society as a whole" (emphasis added) (171). For Colquhoun, private property was a matter of public interest. His main concern was "the effects of crime on the general public and the damage done to the state or the community as a whole by crime" (172).

The theft of sugar and other colonial goods from the West India Company in the port of London gave Colquhoun the opportunity to show what he was capable of. One of the Scottish magistrate's French supporters summed up the almost apocalyptic picture Colquhoun had painted of the situation in his *Treatise on the Police of London* (1797): "(T)he depredators who despoiled the vessels of commerce (...) had a methodical and skilful organisation, divided by Arms and by regular professions. Light-horsemen were responsible for night-time expeditions; heavy-horsemen were responsible for daytime expeditions. There were brigades of thieves, coopers, locksmiths, pimperers, packers, boatmen-transporters, storekeepers-receivers and so on. Every evening, detachments of these corps were ordered to carry out raids on a particular ship at a particular time, and the spoliation was carried out with the thoroughness, silence, promptness and fearlessness of a military undertaking" (173). However, two crucial details are ignored in this sketch: firstly, the depredators were not always those we thought they were, and secondly, if the number of thefts did indeed increase, the cause was not always what was imagined at the time on the continent.

A plan to monitor shipping on the Thames was devised in 1797 by John Harriott, an Essex farmer, inventor and Justice of the Peace. Thanks to this plan and the legal advice of the jurist and utilitarian philosopher Jeremy Bentham (174), Colquhoun succeeded in convincing the West India Company to finance the first Thames Preventive Police, to which the government agreed in

March 1798. On 28 July 1800, Parliament established the Thames River Police as a public police force by passing the Depredations on the Thames Act 1800 (175), which Bentham had helped Colquhoun to draft. The institutionalisation of the Thames River Police, originally funded by the merchants, marked a reversal in the economically upper classes' conception of the role of the state: it was no longer a matter of defending their interests in movable property and land against the state, but of defending them in the context of the extension of the police's, i.e. the state's, powers of surveillance.

The Thames River Police consisted of four departments, all under the supervision of a Superintendent Magistrate: a Judicial Department, in which magistrates presided for the sole purpose of taking cognisance of offences committed on ships, boats or craft, on the Thames or in its environs, handing down decisions and convictions in the case of misdemeanours and referring more serious offences to the courts; a Preventive Police Department; a dockers' personnel office (lumpers), also responsible for preventing looting; a department responsible "among other things" for accounting; for a total of 1,120 uniformed employees paid for their services from the public purse and by contributions from planters and traders of the West India Company. The marine police were therefore divided "into two main departments: one concentrated on policing duties in the modern sense; the other centralised on the payment of wages and the strict organisation of the working day. The two formally separate dimensions (sic) of the social power of capitalist societies, political and economic, were thus condensed and interwoven in an assumed way. Economic exploitation was co-constructed with political domination based on the modern principle of the monopoly of legitimate violence. A register of lumpers working in the port was kept by the Thames River Police. The resources of the Thames River Police made it possible to rationalise working hours in the interests of maximum productivity" (176). Even before being responsible for paying salaries, it was up to the police to set them and "teach the working class to accept their salaries without flinching and to respect the sanctity of private property" of the economically superior classes (177). Not just any salary.

For a long time, in Great Britain as on the continent, workers were paid both in kind and in cash. Agricultural labourers received part of the threshed grain as supplementary pay, miners received a fuel allowance and ironworks often supplied their employees with fuel on favourable terms (178), and dockers were allowed to appropriate "(dipping) solid or liquid samples or residue(s) of valuable goods (sweeping)" (179). Long tolerated, this "margin of illegalism" (180) was no longer tolerated. Perceptible from the beginning of the eighteenth century, and even from the end of the seventeenth, the tendency of certain employers to criminalise everything that came under common law and, therefore, in particular, the above-mentioned practices, was clearly accentuated in the 1770s; The Bugging Act (1749), preceded by the Winders and Doublers Act (1688), the Weft and Thrum Act (1701) and the Clicking Act (1723) and followed by the Watch

Scraping Act, had already fulfilled part of their expectations in this respect (181), by substituting imprisonment for the fine usually imposed for the corresponding offences (182). "The increasingly dominant bourgeois class felt that the activities in question contradicted the fundamental purpose of work, which was to earn a wage and be paid in money" (183). The workers did not let this stop them. "(W)ithin (these) commercial networks (...) a population in the process of proletarianisation opposed the hierarchical reorganisation of production by trying to preserve what remained of non-capitalist social relations, which were anchored in norms of communal ownership of space and subsistence goods. The result was a multitude of collective actions" (184), "tolerated or arranged illegalisms" (185) which Colquhoun, like the mercantile class whose spokesman he was in a way, considered to be "crimes against property". The Thames River Police should therefore not be understood solely as an attempt to repress the "thefts" committed on the docks: it was first and foremost a means of putting pressure on the workers to consent to the substitution of cash wages for wages partly in cash and partly in kind (186), a decisive step in the commodification of labour.

Bentham (for whom it was "more economical to destroy spills altogether than to give them to or let them be taken away by any of the individuals who work in or near the place where they occur") (187) also advocated the commodification of labour, arguing that the process was a necessary condition for the proper functioning of any commodity society and that this type of society brought more advantages than disadvantages to poor and rich alike. Bentham agreed with the three proposals in Colquhoun's scheme for a professional police force, which were echoed in the Fieldings, namely the organisation by a central police office of an intelligence service to collect information on crimes and offenders, the keeping of a register of known offenders and criminal groups, and the publication of a Police Gazette, of which Bentham was to be editor, to facilitate the detection of crimes and promote the moral education of the community by publicising the penalties and punishments incurred. Bringing crimes and their corresponding punishments into the public arena was a direct consequence of the 'liberal' presuppositions of Bentham's utilitarian morality, to which he gave legal form.

In his *Introduction to the Principles of Morals and Legislation* (printed in 1780 and first published in 1789), Bentham explains that an action is good when it is useful, and that utility is the property of an action or object to increase the sum of happiness or decrease the sum of evils, either of the individual or of the collective person on whom the object or action influences. Interest is therefore the principle of individual action, and it consists in obtaining the greatest possible amount of happiness. Society's interest is the sum of the interests of all the individuals who make it up (188). An action derives its justice, morality and legitimacy from its utility. From the fact that utility is what produces the most pleasure and the least pain, there follows an examination of the elements that make it possible to appreciate the different kinds of pleasure

and pain, an examination that Bentham calls "moral arithmetic". To apply his theory, he analysed the effects of actions, noting in particular harmful actions, which are the sole objects of legislation. "'It is with government,' he says, 'as with medicine; its only business is the choice of evils; every law is an evil, for every law is an offence against liberty; there are therefore two things to be observed, the evil of the offence and the evil of the law, the evil of the disease and the evil of the remedy.' Now, an evil rarely comes on its own; in the course of its progress, it takes various forms, which can be summed up in three main classes. The first type is that which affects specific individuals, such as the injured party, his family or his friends. Evil of the second kind originates in the first and spreads to the whole community, to society as a whole. For when a crime has been committed, the news travels from mouth to mouth, the circumstances are revealed, the idea of danger is awakened, and alarm is raised. Danger and alarm constitute the second order of evil. But there is more: when alarm reaches a certain degree, when it lasts a long time, its effect is no longer confined to man's passive faculties; it deadens the active faculties, throws them into a state of despondency and torpor, and by thus depriving them of their vitality, can produce a complete disorganization of society. This is the evil of the third order" (emphasis added) (189). The question then arises as to what means are available to the legislator to determine men to do as much as possible that is useful and as little as possible that is harmful to society. Bentham's answer is that he can act on men through punishment, which consists of the pleasure or punishment attached to the observance of a law. As goods and evils can be distinguished into four classes (physical, moral, political and religious), sanctions are also of four kinds: the physical or natural sanction, which can be experienced in the ordinary course of things; the moral or social sanction, which can be experienced on the part of other men; the political or legal sanction, which can be experienced on the part of magistrates; the religious sanction, which consists of the threats and promises of religion. In Bentham's view, the sanction that has the greatest influence on the conduct of individuals is the social sanction.

Hence the need for constant surveillance of everyone by everyone, not only because, according to Bentham, "(w)e are all potential delinquents" (190), but also, again for the liberal philosopher, for reasons of cost reduction (191). "The population must (...) police itself so that the interest of each individual corresponds to the collective interest (...). This is what he calls the "court of public opinion" (192), located within the confines of the State; for the State "can promote this general mutual surveillance by establishing norms and criteria (in the commercial sphere through quality standards, or 'certificates of authenticity', for example), or by producing and disseminating information on individuals that will be accessible to all. More generally, it can help to set social standards and make interactions between individuals safer" (193), i.e. it can ensure that these interactions present as little danger as possible to itself.

Bentham's theory of punishment and reward gave rise to his Masonic-Biblical project (194) for a "house of penance". He set out the principles in *Panopticon: or, the inspection-house Containing the idea of a new principle of construction applicable to any sort of establishment, in which persons of any description are to be kept under inspection; and in particular to penitentiary houses, Prisons, Houses Of Industry, Work-Houses, Poor Houses, Manufactories, Mad-Houses, Lazarettos, Hospitals, And Schools* (1791). To establish them, he started from the optimal example of "(I)education (...), (which) is only the result of all the circumstances to which a child is exposed. To see to a man's education is to see to all his actions; it is to place him in a position where we can influence him as we wish, by the choice of the objects with which we surround him and the ideas we give him. But how can one man be enough to watch over a large number of people perfectly? How could even a large number of individuals perfectly watch over one? If we accept, as we must, a succession of people who take turns, there is no unity in their instructions, no continuity in their methods. It is therefore easy to agree that a new and useful idea would be to give one man a supervisory power that has hitherto surpassed the combined strength of many" (195). One principle can "(place) men in the dependence of a single man, by giving this single man a kind of universal presence within the confines of his domain" (196): inspection - in its etymological sense of looking by examining and controlling. The style of construction that allows inspection to "extend to each individual among the prisoners, to every moment of his life and consequently to every portion of the space that encloses him" (197) is as follows: "... a circular building, or rather two buildings nested one inside the other. The flats and prisoners would form the building around the circumference, six storeys high: they could be imagined as cells open on the inside, because they would be completely exposed to view by a low iron fence. A gallery on each floor establishes communication; each cell has a door that opens onto this gallery. A tower occupies the centre: this is where the inspectors live; but the tower is only divided into three floors, because they are arranged in such a way that each floor overlooks two floors of cells. The inspection tower is also surrounded by a gallery covered with a transparent blind, which allows the inspector's gaze to plunge into the cells, and which prevents him from being seen; so that at a glance he can see a third of his prisoners, and that by moving into a small space, he can see them all in a minute" (198); "the sub-inspectors, the subordinates of all kinds (are placed) under the same inspection as the prisoners: nothing can happen between them that is not seen by the chief inspector" (199), who "can himself be supervised by the magistrate, who, arriving unexpectedly in the prison, is informed, in an infallible and true manner, of the real position of those detained there" (200). "The inspector, invisible himself, reigns as a spirit"; "... even if he is absent, the opinion of his presence is as effective as his presence itself" (201), but this spirit can, if necessary, immediately give proof of a real presence" (emphasis added) (202). Without (knowing) whether or not they are being watched, everyone in the panopticon acts as if they were being watched, and gradually develops the habit of watching themselves. Vertical surveillance (surveillance of inmates and subordinates by the inspector and surveillance of the inspector by the magistrate), coupled with horizontal surveillance (surveillance of guards by guards and, possibly, of inmates by inmates), is thus supplemented by self-surveillance, the

ultimate objective of disciplinary power. "With the panopticon (...) real subjection arises mechanically from a fictitious relationship. So it is not necessary to use force to compel the convict to behave properly, the madman to remain calm, the worker to work (...). He who is subject to a field of visibility, and who knows it, takes on the constraints of power; he becomes the principle of his own subjection" (203).

"In the panopticon, the master's eye is everywhere. But who is the master? The panopticon "automates and deindividualises power. Its principle lies less in a person than in a certain concerted distribution of bodies, surfaces, lights and gazes; in an apparatus whose internal mechanisms produce the relationship in which individuals are caught. The ceremonies, the rituals, the marks by which the more-powerful is manifested in the sovereign are useless. There is a machinery that ensures dissymmetry, imbalance and difference. It doesn't matter, therefore, who exercises power" (emphasis added) (204). What's more, the panopticon atomises power; as both overseers (of others and of themselves) and overseen (by others and by themselves), all those panopticated have the impression that they are its repositories, and as none is worthy and capable of exercising it, the result is a generalised caporalism (205), typical of democratic peoples.

Bentham's project failed at the time (206) only to succeed in the long term. Few panoptic prisons were built, but the panoptic system, "the paranoid dream of our society, (...) the paranoid truth of our society" (207), was eventually transposed from the prison world to institutions such as schools, barracks, factories and hospitals during the nineteenth century (208), before finding its consecration in the remote urban surveillance introduced at the end of the twentieth century.

The success of Colquhoun's professional policing project would not wait that long.

Scalded by the riots that had been breaking out in and around London since the 1760s, riots, according to Franklin on holiday in the country in 1769, "over wheat; riots over elections; riots over wheat; riots over elections; riots over workhouses; coal miners' riots; weavers' riots; coal carriers' riots; sawyers' riots; Wilkes' riots; riots against the presidents of the [municipal] governments; coal miners' riots; coal carriers' riots; sawyers' riots; Wilkes' riots; riots against the presidents of the [municipal] governments; riots against the presidents of the [municipal] governments; riots against the presidents of the [municipal] governments; weavers' riots; coal carriers' riots; sawyers' riots; Wilkes' supporters' riots; riots against the presidents of the [municipal] governments; smugglers' riots in which customs officers and employees were

murdered, forcing the King to arm ships and the troops to fire! "(209) These riots, which he does not mention, were caused in some cases by industrialisation and mechanisation, in others by the increase in the price of foodstuffs, and in still others by the excessive quantity of imported goods (210). But neither the Tories nor the Whigs wanted, or seemed to want, to hear of a centralised police force, the former because they feared it would undermine the powers of local justices of the peace and undermine communal rights and customs, the latter because they feared it would result in an extension of the executive prerogatives of the Crown or the Government; the radicals preferred voluntary associations of citizens and the working classes saw it as an instrument of their oppression (211); one or two lawyers denounced it as "a tyrannical system, an army of spies and informers, for the destruction of public liberties and the disturbance of private happiness" (212) ; the formation of urban militias such as the City of London Association and the Westminster Military Society in the wake of the riots mentioned above - between 1744 and 1856, more than 450 were formed in England and Wales, mainly in urban areas (213) - seemed to point in the same direction (214). For these reasons, in 1785 William Pitt's London and Westminster Police Bill to provide the country with a "national" force distinct from the army (215) failed, the Justices of the Peace having found the project "inopportune and wholly unnecessary" and, moreover, "a dangerous innovation and an encroachment upon the rights and safety of the people" (216). In 1793, while some rioters had attacked and destroyed recruiting offices throughout London and pelted the King's carriage, others had attacked the Bank of England, the Corn Exchange and Cold Bath Fields Prison, not so much in protest at the outbreak of the First Coalition War as at the collapse of trade, the shortage of work and the lack of food it had caused, and were being retaliated against by Royalist agitators (217). The city patrol, which the Court of Common Council had agreed to fund nine years earlier, albeit as a temporary expedient, was abolished two years after it was given a uniform (a round hat and a grey coat) on the grounds that it was an unnecessary burden on the city's finances. The established powers jumped in order to move backwards.

In 1792, Francis Burton MP presented a bill to the House of Commons for the establishment of eight regular and duly constituted courts in Middlesex and London, more or less on the model of the Bow Street Office; the magistrates, fifty-two in number, would be appointed by the government and paid a salary of £400 a year; the salary of the six constables each would have under his command would be £30 a year (218); each of these offices would cost £2,000 a year to administer. Although no central administration had been set up to coordinate their activities, as the Fieldings had advocated forty years earlier, they were nevertheless all under the supervision of the Home Secretary and a Royal Commissioner. The Middlesex Justices Act (1792), supported by the Tory Prime Minister William Pitt, was easily passed, mainly because of the mob-like fear of government and the socio-economic class it represented. The duties of the magistrates were very varied, as they had to try in summary matters cases relating to customs, excise, game laws, pedlars, pawnbrokers, friendly societies, roads, carriages, wagons and

carriages, Quakers and those who refused to pay tithes, commercial disputes, disorderly houses, nuisances, acts of vagrancy, etc. (219). The riots that broke out throughout England in the early 1810s in response to industrial mechanisation put their nerves to the test.

"The great agglomerations of workers had completely changed the conditions and character of industry. From being patriarchal and domestic, it had become collective and manufacturing, and the labour of the working classes was going to be the antagonist of this other power called capital. In the past, the intermediary, the entrepreneur, exercised a kind of tutelage over those he employed, and the latter in return readily accepted the transactions proposed to them. With the creation of machines and the establishment of factories and manufacturing plants, work became a contract between the employer and the workers, under which the latter were able to put the highest possible price on their work. In their factories, the workers were close to each other and had formed associations from which the Trades Unions were to emerge. Coalitions of workers were forbidden by law, but they had been able to work together to demand higher wages" (220). In 1810, spinners in half a dozen English towns went on strike. "More than thirty thousand workers abandoned the factories, the public peace was outraged, the magistrates were powerless to defend property and the heads of establishments were reduced to hiding or fleeing from these excesses and violence. This first strike, led by a congress established in Manchester, had as its object, like all those that followed, the raising of wages and was supported by a common fund whose subscriptions amounted to 1,500 pounds per week and from which an allowance of 12 shillings per week was also distributed to each striking worker. The managing committee claimed to equate country wages with city wages, which was unreasonable given that manufacturing conditions and the situation of the workers were not the same. The strike eventually died of starvation and the workers were forced to accept wages much lower than they had been before" (221).

From the end of 1811, new and much wilder disorders broke out in the counties of Nottingham, Leicester, Derby, Lancaster and York. "Bands known as Luddites, after their leader Luddam, a native of Leicestershire, smashed trades and machinery everywhere in their path and devastated not only workshops and factories, but farms and the countryside. The Government was obliged to take the most energetic and severe measures; a large number of these wretches were hanged, and it was only by means of punishment that public peace was restored" (222), after six years of unrest. Despite the fact that the Thames River Police, which we have seen was an embryonic state police force, was occasionally used to control unruly crowds in the metropolis (223), the Third Report of the Committee on the State of the Metropolitan Police (1818) came to the following conclusion on a proposed national preventive police force: "It is undoubtedly true that it is better to prevent crime than to punish it; but the difficulty lies not in the end but in the means and, although Your Committee can imagine a police system that could achieve the desired end,

in a free country, or even in a country where it is admitted that social relations are without constraint, such a system would necessarily be odious and repugnant and no government could institute it. In despotic countries it has never yet succeeded to the extent intended by those who have formulated the theory; and, among a free people, the very proposition would be rejected with repugnance: it would be a project which would make every servant in every house a spy on the actions of his master, and all classes of society would spy on each other" (224). The distrust of a centralised police force is no less evident in the Fourth Report of the same commission, which met in 1822 at the request of the Tory Robert Peel (1788-1850) to examine his plan to reorganise the British police system: "It is difficult to reconcile an efficient system of policing with that perfect freedom of action and freedom from interference which are the great privileges and blessings of the society of this country; and Your Committee think that the confiscation or curtailment of these advantages would be too great a sacrifice for the improvement of the police" (225). These were the last sensible words spoken by parliamentarians.

Labour unrest resumed in 1824, when the Clyde spinners walked off the job by order of their Union, whose leaders claimed that the workers were being paid less than the regular rate. The strike was no more favourable to them than previous strikes. Despite these repeated failures, strikes became more frequent.

In 1828, Peel, who had become Home Secretary, obtained the creation of a commission to investigate the state of the police and the increase in crime in the metropolis. His report, delivered in July 1828, was the first to officially recommend radical reform and expansion of the police force. The main recommendations were the creation of a central police office under the direction of two magistrates freed from any other duties, the amalgamation of all regular police forces in the London area (with the exception of the City) and the funding of the new institution partly from local taxes and partly from the Treasury.

In 1829, following the erection of new machines, the mule Jennies, which, producing more, had provoked further wage cuts, the workers' coalitions stopped work; the movement was accompanied by riots, the breaking of machines and even murders (226). The rioters were still pounding the pavements, among other things, when, in June of the same year, the bill "for the improvement of the Metropolitan Police" presented by Peel to the House of Commons was passed "without opposition, and with almost no debate" (227), following a speech "full of statistical recitations on the rise of crime in London" (228) and charges against the system that Lord Shelburne, one of Peel's predecessors at the Home Office, had described nearly fifty years earlier as "imperfect, inadequate and lamentable" (229).

The Metropolitan Police Act created the Metropolitan Police (230), an administrative police prefecture (231) and half-military companies. This organisation was imported into the major cities and then extended to the countryside. The term "police" definitively replaced "preservation of the peace".

At the head of the Metropolitan Police was an inspecting superintendent, a true prefect of police placed under the direct authority of the Secretary of State for the Interior; under him there were superintendents, plainclothes inspectors, serjeants, simple constables and policemen, all sworn in and paid full time (232) ; Like the thief-takers and Bow Street runners before them, they could be financially rewarded, either by the authorities or by the private individuals concerned, for the arrest of criminals and the discovery and return of stolen goods (233). Wearing a uniform was compulsory; it had been carefully chosen so that Peel's police would not be confused with the military police they were, and so it was that the policemen made their first patrol (234) of the streets of London on 29 September 1829 dressed in a navy blue suit of civilian cut and wearing a top hat; they were unarmed (235) and their only distinctive sign was the word "police" on the brass buttons of their suit. Police stations were established for the first time in Britain.

Policemen were recruited following a probationary period during which they were taught Peel's doctrine of policing. The maintenance of public order was henceforth conceived as a "science" that had to be taught before being practised (236).

The doctrine was based on nine principles, several of which betray the mark of pastoral power (237): 1° The fundamental mission of the police is to prevent crime and disorder; 2° The ability of the police to carry out their functions depends on public approval of police actions; 3° The police must secure the voluntary cooperation of the public in voluntary compliance with the law, in order to be able to secure and maintain public respect; 4° The degree of cooperation that can be obtained from the public decreases in proportion to the need to use physical force ; 5° The police shall seek and retain the favour of the public not by concern for public opinion, but by showing absolute impartiality in the service of the law; 6° The police shall use physical force only to the extent necessary to ensure respect for the law or to restore order, when persuasion, advice and warnings are insufficient; 7° The police must at all times maintain a relationship with the public which embodies the historical tradition according to which the police are the public and the public are the police, because the police are only members of the public who are paid to carry out full-time duties which are incumbent upon every citizen in the interests of the well-being and existence of the community; 8° The police must always direct their action strictly

towards their functions and never give the impression of usurping the powers of the judiciary; 9° The criterion of police effectiveness is the absence of crime and disorder and not the visible evidence of police action to deal with them (238).

The surveillance to which serving policemen were subjected by their superiors was supposed to encourage them to comply with these rules (239), in addition to which they were required to devote all their time to their duties and, once on duty, to keep silent at all times (240). They could be fined, imprisoned or even dismissed for misconduct, neglect of duty, excess of authority, breach of professional duty or corruption. In the first few years, a third of them were actually dismissed for one or other of these reasons (241).

Popular opposition to the police and the policemen was immediate and virulent (242). Of the epithets with which the new constables were branded, those of "Peelers" and "Bobbies" were the least offensive (243). Peel himself was portrayed as a tyrant, as a robber of the poor (244) and accused, worse than wanting to import into England the "police tyranny" under which the French people had languished under the Ancien Régime, of preparing a coup d'état in favour of the Duke of Wellington (245), whereas, as he wrote to the Duke on 5 November 1829, he only wanted to "teach the people to live by the rule of law", he only wanted to "teach the people that liberty does not consist in being robbed by organised gangs of thieves and in letting drunken women and vagabonds take possession of the principal streets of London at night" (246), nor, incidentally, in "flying a kite in the street", "rolling a hoop in the street" or "knocking on doors without good excuse" (247). The working classes and the poor were not fooled by Peel's charm operation against them by ordering that policemen be chosen from the ranks of the people (248) and saw the police as "more an element of control than a group of protectors" (249). He also noted that, as there were fewer patrols, the streets had become more dangerous (250), so that the observation made by a parliamentary rapporteur just before the establishment of the Metropolitan Police remained valid: "if a foreign juriconsult were to form an idea of the organisation of the police in the capital, he would be convinced that it had been devised by a corporation of thieves with a view to securing for their society the greatest possible profits with the greatest possible security" (251). "Popular legend, largely maintained by supporters of Peel's Police Bill, would have it that London's watch forces were fragmented, poorly organised and incompetent, being composed largely of old and infirm people unable to earn a living in any other way. In fact, patrols could be increased, reduced or completely redeployed virtually overnight in a way that would no longer be possible once the cumbersome bureaucracy of the Home Office and the Metropolitan Police came between the people and the police" (252).

"Parliament's reversal on policing was the result of decades of turmoil, both inside and outside Parliament. The changing demographic and political landscape of London from 1750 onwards had made the police more attractive. Londoners had become accustomed to the idea of a professional force of thief-takers. Circumstance and publicity did the rest. In the aftermath of the riots over George IV's divorce suit against his wife Caroline, one commentator insisted that one of the functions of the police should be to 'stand between the criminal and his crime'. The police could not only bring the criminal to justice, they could also prevent crime by directing people's behaviour. George Mainwaring, a supporter of the police, explained in 1821 that the supreme advantage of the police was that ... the restraint they exercised was moral and not judicial. According to another commentator, who called himself (...) a lawyer, the police had a moral role as protectors of liberty. He used a medical metaphor to describe the function of the police. In the hands of good government, [it] resembles those noxious poisons which, when skilfully administered, produce the greatest benefits" (253). Under the guise of fighting crime, it was a matter of "(1) governing through an essentially impersonal bureaucracy that seemed to represent more the 'general interests' of society as a whole rather than those of the ruling class; (2) "(ensuring) a deeper and finer penetration of formal control into everyday life" (254), especially that of the "dangerous classes". To borrow from the medical metaphor, to anaesthetise them.

The monopoly of legitimate violence, in the absence of valuable combatants, had been confiscated by the State (255).

B. K., December 2020

(*) https://www.lexpress.fr/actualite/societe/enquete/la-corruption-est-nee-en-meme-temps-que-la-police_1176978.html

(1) H. D'Arbois de Jubainville, Comparaison entre le serment celtique et le serment grec dans l'Iliade. In Alex. Bertrand and G. Perrot (ed.), *Revue archéologique*, 3e série, t. XIX, janvier-juin 1892, p. 22-3.

(2) *Ibid*, p. 23.

(3) In ancient Greek, however, "police" was called "astynomia", a name composed of *asty* (lower city, as opposed to *polis*, upper city) and *nomos* (law).

(4) Michel Foucault, *Sécurité, territoire, population*. Cours de 1977-1978, Éditions Gallimard/Le Seuil, Paris, 2004, p 344.

(5) It is significant that the first use of "police" in French (c. 1250) was reported in a book on urban life: Georges Espinas, *La Vie urbaine de Douai au Moyen Âge*, A. Picard, t. 3, 1913, p. 148.

(6) M. F. Laferrière, *Cours de droit public et administratif*, 2nd edn, revised, corrected and expanded, Joubert, 1841, p. 298; Faustin Hélie, *Traité de l'instruction criminelle*, 2nd edn, entirely revised and considerably expanded, livre troisième: de la police judiciaire, t. 3, Paris, 1866, p. 5. On the subject of the separation between the judicial police and the administrative police, the following considerations could not be more enlightening: "There is an important fact in our history to follow, through its successive phases, and that is the separation of the police and the judiciary. The functions of the police and the judiciary have been confused in the same people, from the counts of the Frankish kings to the seigneurial and royal judges. A first attempt was made in the sixteenth century by Loyseau and the Parliament of Paris to remove the police from the lords' judges: the author of the *Traité des seigneuries* (ch. VII) posited that the right to make general police regulations belonged only to the king and the parliaments; that provincial police belonged to the bailiffs and seneschals, and that the police of cities belonged to the royal judges: and the parliament, in a ruling of December 1561, forbade seigneurial judges from making police acts. But this new doctrine only attacked feudalism; it did not establish in principle the separation of the functions of the police and the judiciary. The Edict of Amboise, of June 1572, attempted to deprive the royal judges of the police; there was great resistance and the confusion was maintained [1577]: in a decree of the Council, of 28 September 1584, the Chancellor of France is said to be both head of justice and head of the police. It was Colbert alone who was powerful enough to effect the separation by the edict of 15 March 1667: And as the functions of justice and the police are often incompatible and too extensive to be properly exercised by a single officer, we would have resolved to share them, considering that the administration of contentious and distributive justice required an entire magistrate, and that, moreover, the police, which consist in ensuring the peace and quiet of the public and individuals, purging the town of anything that might cause disorder, providing abundance and ensuring that everyone lives according to their status and duty, also required a special magistrate who could be present at everything.' The edict stipulated that the civil lieutenant and the lieutenant-general of police, who was then instituted, should exercise their functions separately and distinctly, each in what concerned him. It contains the regulations for all matters attributed to the police" (M. F. Laferrière, p. 295-6). What does this mean, if not that the administrative police is (originally conceived as) a parallel police force?

(7) Contrary to popular belief, liberalism and bureaucracy, even historically, are intertwined. "It takes a thousand times more paperwork to maintain a free market economy than the absolute monarchy of Louis XIV", David Graeber rightly notes (quoted in Alexandre Flückiger, [Re]faire la loi: *Traité de légistique à l'ère du droit souple*, Stämpfli Editions, 2019, p. 106) in *The Utopia of Rules: On Technology, Stupidity, and the Secret Joys of Bureaucracy* (Melville House, Brooklyn and London, 2015; see <https://www.politis.fr/articles/2015/10/david-graeber-lindigne->

[qui-sattaque-a-la-bureaucratie-liberale-32579/ ; https://www.bastamag.net/Le-neoliberalisme-nous-a-fait-entrer-dans-l-ere-de-la-bureaucratie-totale](https://www.bastamag.net/Le-neoliberalisme-nous-a-fait-entrer-dans-l-ere-de-la-bureaucratie-totale)). "How," asks another Graeber reader rhetorically, "can we call ultraliberal a world where bureaucracy triumphs, where each of us spends a considerable part of our time filling out forms, doing paperwork, and where taxes take a bite out of every transaction? (...) Are we really suffering from full financial deregulation and a worrying disengagement of the State when banking, accounting, energy and environmental standards are piling up in unprecedented proportions and when central banks are constantly intervening? Is it really so liberal, this world where 'you need a diploma, four certificates and above all no right to make mistakes to set up a small business in hairdressing or roofing renovation' and where, to become a VTC driver in France, you recently had to face an obstacle course estimated at 288 days and answer questions no doubt whispered by an historic player seeking to limit the number of competitors to taxi drivers?" (Mathieu Laine, *Il faut sauver le monde libre*, Plon, Paris, 2019). "The victory of laissez-faire was not the victory of reduced state interventionism. Between 1830 and 1850 there was an explosion in the administrative functions of the state. Even a laissez-fairist like Chadwick [an English reformer who was Jeremy Bentham's secretary; see below], on child labour in factories, on the organisation of the administration of public health, etc.] would evolve in the face of the hostile demonstrations to which he was subjected during the economic recession of 1837, the effects of which would be considerably aggravated by the reform of the poor laws. He wrote a report on the health conditions of the working classes in Great Britain, advocating the introduction of a public health system, which was initially rejected by the Conservative government and then adopted by the Liberal government in 1848. The programme of state interventionism had been detailed in detail according to utilitarian principles by Jeremy Bentham, which required more administrative intervention, because, in Polanyi's elegant phrase, 'laissez-faire is not a way of doing things, it is the thing to do' (1983: 189). Laissez-faire implies excessive administrative activism. Bentham was ahead of his time in the tradition of logical positivism. For him, there are three things essential to economic success: inclination, knowledge and power. While inclination is the hallmark of the entrepreneur, knowledge and power are administered more efficiently by government than by private individuals. This implies a considerable development of administration: 'Bentham's liberalism means that parliamentary action must be replaced by that of administrative bodies' (Id.; Bentham was so liberal that he considered that 'public happiness should be the object of the legislator, and general utility the principle of reasoning in matters of legislation', Larousse - Grand dictionnaire universel du XIXe siècle, t. 10, part. 1, Paris, 1872, p. 330). The reform of the Old Poor Laws took place against a backdrop of political reaction by Parliament to the crisis that followed the end of the Napoleonic Wars (suspension of habeas corpus, Libel Act, repression of the Chartist movement, etc.), which gave free rein to the growth of administrative power. We find analogies here with the introduction of the NPM [New Public Management] and its 'liberal bureaucracy', to use David Giauque's expression (*), which resulted in a considerable increase in regulation" (Claude Rochet, *Sortir du processus d'euthanasie bureaucratique de l'État: un programme de recherche*, <http://claude.rochet.pagesperso->

orange.fr/pdf/ROCHET_Speenhamland.pdf, p. 8-9). In the second half of the twentieth century, neo-liberals such as Hayek severely criticised what they called Bentham's "constructivist rationalism" for its responsibility in the growth of state bureaucracy and the formation of the welfare state, a "constructivist rationalism" they traced back to Descartes and Hobbes and its success to the philosophers of the "Enlightenment". For Hayek, the constructivist mentality is characterised by 1) a belief in a socially autonomous human reason capable of conceiving civilisation and culture; 2) a radical rejection of conventional traditions and behaviour; 3) a tendency towards animistic or anthropomorphic thinking; and 4) the demand for a rational justification of values. "The core of this movement is not so much a precise political doctrine as a general mental attitude, a demand for emancipation from all prejudices and beliefs that cannot be rationally justified, (which) is perhaps best expressed in B. de Spinoza's statement that 'it is not possible to justify one's values in a rational way'. de Spinoza's statement that 'there is no free man except he who lives solely by the dictates of reason'" (F. A. Hayek, *New Studies in Philosophy, Politics, Economics, and the History of Ideas*, The University of Chicago Press, Chicago, 1978, p. 120) "The characteristic error of constructivist rationalists is (...) that they tend to base their reasoning on what has been called the synoptic illusion, i.e. on the fiction that all the facts to be considered are present in the mind of a single individual and that it is possible to construct, from this knowledge of the actual data in detail, a desirable social order" (id., *Law, Legislation and Liberty. A new formulation of the liberal principles of justice and political economy*. Vol. 1: Règles et ordre. Paris, PUF, 1973, p. 16, quoted in p. 6, note 52).

(*) The expression was already in use in Bismarck's time, and he reports that its synonym was "the liberalism of an intimate adviser" (Otto Bismarck, *M. de Bismarck*, MP (1847-1851), R. Boll, Berlin, 1881, p. 12).

(8) The equation between a strong state and the security and freedom of its citizens has been established by both liberal politicians and liberal thinkers. With regard to the former, for example, Thatcher declared in 1980: "We need a strong state to preserve both freedom and order, to prevent freedom from collapsing and order from becoming despotic by becoming rigid. Let's not forget that the state has certain duties that are categorically its own: for example, upholding the law, defending the nation from external attack, protecting the currency, guaranteeing essential services. These are things that only a government can do and that a government must do. We have often argued that the state should be more strongly involved in these issues than it has been up to now. But a strong state is very different from a total or absolute state" (quoted in Rudy Amand, *Un filet pour faire société : sociologie des ramendeurs dans le Calvados*, in Florence Odin and Christian Thuderoz [eds.], *Des mondes bricolés : arts et sciences à l'épreuve de la notion de bricolage*, Presses Universitaires et Polytechniques Romandes, p. 259).

A contemporary French liberal economist and politician is no less assertive: "Political liberalism calls for a strong state that protects the freedoms of all citizens, and in particular those of the weakest. For the true liberal, ensuring the freedom of the weakest of the weak within society means ensuring his own freedom and that of society as a whole. A strong regalain State that

ensures public security is therefore the prerequisite of a liberal society: there can be no freedom, especially for the weak, without absolute security within the totality of society" (Christian Saint-Etienne, *L'ambition de la liberté : manifeste pour l'état libéral*, Economica, 1998, p. 6). Michel Foucault untangles the threads of this twisted and opportunistic logic: "... in the old political system of sovereignty, there existed between the sovereign and the subject a whole series of legal and economic relationships which committed and even obliged the sovereign to protect the subject. But this protection was, in a way, external. The subject could ask his sovereign for protection against the external enemy or against the internal enemy.

"In the case of liberalism, it is quite different. It is no longer simply this sort of external protection of the individual that has to be guaranteed. Liberalism engages in a mechanism in which it has to arbitrate at every moment between the freedom and security of individuals around this notion of danger. Basically, if on the one hand liberalism is an art of governing that fundamentally manipulates interests, it cannot - and this is the other side of the coin - manipulate interests without at the same time managing dangers and mechanisms of security/freedom, the security/freedom interplay that must ensure that individuals or the community are exposed to dangers as little as possible.

"This, of course, has a number of consequences. After all, the motto of liberalism is 'live dangerously'. In other words, individuals are perpetually placed in a situation of danger, or rather, they are conditioned to experience their situation, their life, their present, their future, etc. as being fraught with danger. And it is this kind of stimulus to danger that I believe will be one of the major implications of liberalism. A whole education in danger, a whole culture of danger emerged in the nineteenth century, which was very different from the great dreams or threats of the Apocalypse, such as the plague, death, war, etc., which fed the political and cosmological imagination of the Middle Ages and the seventeenth century. The disappearance of the horsemen of the Apocalypse and, on the contrary, the appearance, emergence and invasion of everyday dangers, everyday dangers perpetually brought to life, updated and put into circulation by what we might call the political culture of danger in the nineteenth century, and which has a whole series of aspects.

"Take, for example, the savings bank campaign of the early 19th century, the emergence of detective literature and journalistic interest in crime from the mid-19th century onwards, and all the campaigns on disease and hygiene, Look at everything that is also happening around sexuality and the fear of degeneration, degeneration of the individual, the family, the race, the human species, in short everywhere you see this stimulation of the fear of danger which is in a way the condition, the internal psychological and cultural correlative of liberalism. There can be no liberalism without a culture of danger.

"The second consequence, of course, of this liberalism and this liberal art of governing, is the tremendous extension of procedures of control, constraint and coercion, which will act as the counterbalance and counterweight to freedoms. I have insisted enough on the fact that these

famous great disciplinary techniques which take charge of the behaviour of individuals on a day-to-day basis and down to the finest detail are exactly contemporary in their development, in their explosion, in their dissemination throughout society, exactly contemporary with the age of freedoms.

"Liberté économique, libéralisme au sens que je viens d'dire et techniques disciplinaires, là encore les deux choses sont parfaitement liées" (quoted in Guillaume le Blanc and Jean Terrel [eds], Foucault au Collège de France : un itinéraire, Presses Universitaires de Bordeaux, Pessac, 2003, pp. 208-9).

(9) See Michel Foucault, Sécurité, territoire, population : cours au Collège de France, 1977-1978, Éditions Gallimard, 2004, Jean-Luc Metzger, Penser avec Foucault pour comprendre l'extension du pouvoir en régime néolibéral. In Recherches sociologiques et anthropologiques [Online], 47-2, 2016, online 05 May 2017, accessed 01 December 2020. URL : <http://journals.openedition.org/rsa/1755> ; DOI : <https://doi.org/10.4000/rsa.1755> ; Jérôme Lamy, Les sources libérales de la biopolitique. In Cahiers d'histoire. Revue d'histoire critique [Online], 123, 2014, online 01 April 2014, accessed 01 December 2020. URL: <http://journals.openedition.org/chrhc/3509>; DOI: <https://doi.org/10.4000/chrhc.3509>.

(10) François Facchini and Olivier Hassid, La centralisation de l'offre de sécurité en France: efficacité économique versus efficacité politique. Colloque international francophone, La police et les citoyens, École Nationale de police du Québec, 2005, Nicolet, France. Ffhal-00270737, p. 3.

(11) Recueils de la Société Jean Bodin pour l'histoire comparative des institutions, vol. 55, De Boeck Supérieur, 1936, p. 23.

(12) Toby Wilkinson, The Thames & Hudson Dictionary of Ancient Egypt, Thames & Hudson, 2008.

(13) Paul François, La ville égyptienne au Nouvel Empire, Licence 3 (UE5R) study report from the École Nationale Supérieure d'Architecture de Lyon. Under the direction of Benjamin CHAVARDES, 2013, p. 21.

(14) Margaret Bunson, Encyclopedia of Ancient Egypt, Facts On File, 2013, p. 310.

(15) Miriam Lichtheim, Ancient Egyptian Literature, vol. 2: The New Kingdom, University of California Press; 2nd revised ed. 2006, p. 143.

(16) John Bauschatz, Law and Enforcement in Ptolemaic Egypt, Cambridge University Press, Cambridge, 2013, p. 329.

(17) Id, The strong arm of the law? Police corruption in Ptolemaic Egypt. In The Classical Journal vol. 103, no. 1 (October-November 2007), 2007 [pp. 13-39]; see, on the history of the

police in ancient Egypt, Jon E. Lewis, *The Mammoth Book of Eyewitness Ancient Egypt*. Running Press, 2003; Ian Shaw (ed.), *The Oxford History of Ancient Egypt*. new ed., Oxford University Press, Oxford, 2003; David. P. Silverman (ed.), *Ancient Egypt*. Oxford University Press, 1997; Helen Strudwick, *The Encyclopedia of Ancient Egypt*, Sterling Publishing, 2016; Marc Van De Mieroop, *A History of Ancient Egypt*, 1st edn, Wiley-Blackwell, 2010; Toby Wilkinson, *The Rise and Fall of Ancient Egypt*, Random House Trade Paperbacks, 2011 [reprint 2013].

(18) Édouard Cuq, *Les institutions juridiques des Romains*, E. Plon, Nourrit et Cie, Paris, 1891, pp. 406-7.

(19) *Ibid*, p. 365.

(20) The following statement sums up the point of view of many historians, legal scholars and evolutionary sociologists on private vengeance: "the barbaric principle is private vengeance; the intermediate principle is public vengeance; then you come to the civilised principle: no vengeance, either private or public; but in the heart of the offended, charity and forgiveness of insults; and for the good, for the social guarantee, justice, but with correction, with commiseration. This is the principle laid down long before by Christianity; civil society arrived at it after more than eighteen centuries" (Ortolan, *Loi du développement historique de l'humanité* [Second article]. In M. L. Woloswki (ed.), *Revue de législation et de jurisprudence*, 2e série, t. 11, January-June 1840, p. 251). However, this point of view is largely caricatured: "The violence of the feeling of revenge is an ordered violence; it is subject to rituals, some of which we can glimpse: the vocerò, the imprecation on the grave, the declaration of war which is made using traditional formulas and by carrying a spear to the funeral. In the passionate state of the victim's parents, there is a fundamental element of diminution and 'dishonour', along with the exaltation sustained by its compulsory expression, which makes for exasperated mourning; etymologically, revenge is the safeguarding of 'honour'. Until liberated by a compensatory murder, the qualified avenger suffers from a 'shame' that is ritually expressed by prohibitions or vows (abstinence from food, etc.), mythically expressed by a 'shame' that is not only the result of a crime, but also the result of a 'disgrace'. So there is no radical difference, in terms of religious status, between an avenger who has not yet acquitted himself and a guilty person who must undergo expiation. As for the being to whom vengeance is directed and whose satisfaction it is intended to satisfy, it is also represented by mythical images: blood, for example, to which a religious virtue is attributed; but particularly the dead themselves, the privileged symbol. It is to him that we address ourselves, by his grave - if necessary awakening his energy through ritual abjurations; it is for him that his people fight, and he fights with his people; and vengeance sometimes takes the form of a sacrifice dedicated to him: the murderer is executed on his victim's grave" (Louis Gernet, *Le droit pénal de la Grèce ancienne* [Introduction by Riccardo Di Donato, in Italian]. In *Du châtement dans la*

cited. *Supplices corporels et peine de mort dans le monde antique. Table ronde de Rome* [9-11 novembre 1982] Rome: École Française de Rome, 1984 [p. 9-35] [Publications de l'École française de Rome, 79], p. 14-5). Moreover, it is not true that the vendetta was never-ending: "The gift of a daughter is a means of paying the blood money, the *poiné*. Marriage puts an end to the vendetta and transforms two enemy groups into allies united by a private peace pact: *philotès*". (Jean-Pierre Vernant [ed.], *Problèmes de la guerre en Grèce ancienne*, Mouton & Co, 1968, p. 12).

(21) 'Public law' is placed in inverted commas because there is no exact equivalent to this concept in Greco-Roman antiquity. "Just as the Roman Republic did not designate a political organisation, but an objective of well-being for the *populus*, *jus publicum* is not public law, understood as the law of the general interest. Under Augustus, known as *Dominus*, the Emperor was not master of the Empire in the sense of private law; it was not his property, but he was 'in charge of the public interest'. Later, Livy equated *jus publicum* with taxation, a privilege of the state. In the same vein, J.-P. Coriat notes the 'blossoming in the third century of a genuine fiscal law, an expression of public law in the current sense of the term'. However, despite the proven and repeated use of the word, its meaning remains uncertain. In these conditions, it is a misuse of language to use the a posteriori expression 'Roman public law' to designate the study of the political and public institutions of Rome, or even of Roman law as a whole. If we must be careful not to give *res publica* a modern meaning, the same caution applies to *jus publicum*" (Didier Blanc, *Les naissances du droit public. Pour une généalogie en forme de trilogie*. In *Revue du droit public*, n° 5, 2017 [p. 1165-83], p. 1176). Public law developed from the end of the fifteenth century, "the fruit of a triple conjunction: the emancipation of political action from religion; the transition from the medieval feudal state to the centralised administrative state; and the collapse of the idea of Western unity in favour of dynastic or national states" (ibid., p. 1179). His roots lie in "the God of the Bible. It is a historical fact that the Mosaic Law constituted the public and private law of a society and even of a State". Jacques Ellul draws on verse 8, 2, of Chronicles 9: "Because your God loves Israel and wants it to endure for ever, he has made you king over it to do justice and righteousness". The king, the sovereign, is the source of a right and a justice that materially come under public law. This passage refers to King Solomon, but if we consider that the history of Israel begins with Abraham, the birth of public law is contemporary with the first patriarch, around the nineteenth century BC. When God instructed Abraham, "the first modern legislator (...) to seek the common good", the human, albeit mythical, figure of the founder of public law took shape. Some even see in the Bible the exposition of fundamental elements of the general theory of the State, such as the separation of powers and the constitution. The fact remains that it is difficult to ignore the famous and celebrated image of a god offering the Tables of the Law to mankind through the intermediary of Moses, since the episode of the Decalogue recounted in the Bible has given rise to so many representations. The God of the Bible is the ancestral model of the legislator, linking law and god in the same way as the Sumerians did. This relationship is in fact an identity: God and law merge and become one; the

divine essence has as one of its attributes that of making law by the mere incarnation of the power of its Word" (ibid., pp. 1171-2).

(22) Gustave Glotz, *La Cité grecque, La Renaissance du Livre*, 1928, p. 17. The rule that subordinated genè to a general interest was not without sanction. To overstep the rights limited by custom was to expose oneself to divine vindictiveness (ὄπις θεῶν). But the religious conception only ever sublimates a more human conception. The fear of the gods was, at heart, the fear of a social force that was acquiring more power by the day. We feared the demos. This name was applied to all the genè grouped under the same sceptre, be it the country or the inhabitants. The dèmou phatis or phèmis, public opinion, exerted an influence from which no genos could escape. Through nemesis, it exerted pressure capable of preventing a crime or forcing the criminal to atone for it. It is true that it had no official body; it was represented neither by a personage nor by an official body. It could not, however, be said to be purely moral, for in extreme cases, when passions were aroused, indignation erupted in violence and swept away all obstacles. In law, the genos remained sovereign; in fact, it often had to yield to an anonymous and collective will that could place a formidable weapon in the hands of the king" (ibid.).

(23) Jacques Lambert, *La vengeance privée et les fondements du droit international public*, Librairie du Recueil Sirey, 1936, pp. 117-8.

(24) Jean-Yves Chateau, *Philosophie et religion : Platon, Euthyphryon*, J. Vrin, Paris, 2005, p. 64. Permanent courts (questiones perpetuae) existed in Athens from ancient times. "There were (...), in addition to the Areopagus, ten courts of justice known as decasteries. Four of them dealt with various types of murder (...). The first of these courts was the court formerly known as the court of the ephets, and later known as the court of the Palladion, because it sat near the temple of Pallas. It was composed of fifty Athenians of the eupatrid class. It judged cases of involuntary murder. Here, as in the Areopagus, it was the arch-king who introduced the case; the priestly intervention of this magistrate seemed even more important than in any other court: for the judgement to be handed down was less a condemnation than the solemn declaration of sacred protection. The guilty party was required, it is true, to leave his homeland for a certain period of time, to follow the prescribed route, to keep his ban until he had satisfied the family of the dead man; then, on returning to Attica, he was required to purify himself by making expiatory sacrifices because of the stain that spilt blood always imposed in the eyes of religion. But it is clear that the purpose of this law, which dates back to ancient times, was to abolish private vengeance in cases where it could not be replaced by the rigours of social justice. The exile of the unwitting murderer was merely a refuge against the initial resentments of the dead man's family; the monetary settlement and holy expiation at the feet of the altars then served as a shield against a vengeance which, after the fulfilment of these formalities, would have ceased to be legitimate and would even have been taxed with sacrilegious impiety...". (Albert du Boys, *Cours de droit criminel*, 5th lesson. In *L'Université catholique*, vol. 7, Paris, 1839, p. 104). On the subject of the tribunal des féciaux, see J. F. Bilhon, *Du gouvernement des romains*, Paris, 1807,

p. 156 and Henry Poignand du Fontenioux, *De l'évolution de l'idée de tribunal permanent d'arbitrage à travers les âges et de son avenir*, Société française d'imprimerie et de librairie, 1904). In Rome, the first permanent court was created by Numa, "the first founder of Roman law" (Jacques Ellul, *Recherche sur la conception de la souveraineté dans la Rome primitive*, in *Le Pouvoir*, Mélanges offerts à Georges Burdeau, 1997, LGDJ, p. 274), at the instigation of a Sabine chief, was that of the *fecials*, priests chosen from the first patrician houses and whose function was to judge political offences, perform the rites relating to relations with foreign countries, in particular the opening and cessation of hostilities and peace treaties (Fustel de Coulanges, *La Cité antique*, 13th ed, Paris, Hachette et Cie, 1890, p. 191).

(25) Jacques Lambert, *op. cit.* p. 7.

(26) It is not, contrary to the assertions of Charles Daremberg and Edmond Saglio (*Dictionnaire des antiquités grecques et romaines*, t. 3, 2nd part, 1877, Hachette, p. 1405 et seq.), that the notion of defilement is absent from Homeric literature is because, whatever Louis Gernet (*Recherches sur le développement de la pensée juridique et morale en Grèce : [étude sémantique]*, Ernest Leroux, Paris, 1917, p. 226 et seq.) and Robert Parker (*Miasma, pollution and purification in early Greek religion*, Clarendon Press, Oxford, 1983), it applies to war and not to homicide, as Bernard Eck demonstrates (*La Mort rouge - Homicide, guerre et souillure en Grèce ancienne*, Les Belles Lettres, 2012), based on four passages from the *Iliad* and on Ares' epithet *miaiphonos* ('defiled by murder' or 'who kills by defiling') (see Irene Salvo, [review], Bernard Eck, *La mort rouge: Homicide, War and Defilement in Ancient Greece*. Collection d'Études anciennes. Série grecque, 145. Paris: Les Belles Lettres, 2012. In *BMCR*, <https://bmc.brynmawr.edu/2013/2013.02.06/>). Furthermore, Gernet and Parker underestimate the influence of the Delphic cult in establishing the doctrine of defilement in Greece. "It was under the influence of Apollo at Delphi that homicide became an impure act requiring purification (*hatharmos*). This was a decisive influence, which was not limited to changing the concept of blood crimes". The fundamental point is that "(i)t is a well-known fact that Greek cities traced their constitutional rules back to the oracle's response: the authority of the oracle was the foundation of civic rights, the indisputable word that made legislative choices sacred and legitimised the fundamental rules of civil life. And one of these required that homicide be followed by purification. Spilled blood," said the oracle, "causes a stain that must be eliminated, because otherwise it spreads, contaminating all those who come into contact with the homicide (...). In Homer, blood is not impure. The murderer is forced to abandon his homeland, but only to avoid vengeance. Abroad, he is welcomed without fear or concern for the sacred: Telemachus, in the *Odyssey*, welcomes the homicidal Theoclymene onto his ship, without the slightest concern about performing expiatory rites. It was not until later that the theory of defilement was born". (Eva Cantarella, *Les Peines de mort en Grèce et à Rome*, translated from the Italian by Nadine Gallet, Albin Michel, 2000, p. 75-6). An idea of the influence of the oracle on the politics of Greek cities is given in M. P. Foucart (*Mémoires sur les ruines et l'histoire de Delphes*, Paris, 1865, p. 144-8).

There is more: Auguste Bouché-Leclercq (*Histoire de la divination dans l'antiquité*, t. 3, Ernest Leroux, Paris, 1879, p. 52-3) has convincingly shown that Dionysism exerted a strong influence on the Delphic cult and that the prophetic mania of the Pythia, nicknamed "the bee of Delphi" (*ibid.*, p. 44), did not derive from Apollo - a god who, he points out, was at Delphi "symbolised, in the oriental manner, rather than represented (as he was elsewhere) by a column" (*ibid.*, p. 8) - but from Bacchus and his orgies. According to legend, the site of Delphi - which archaeological research dates back to the Neolithic period - was originally dedicated to Mother Earth.

(27) "If the victim's parents are the only ones entitled to prosecute the murderer, the city feels obliged to take their revenge: it is associated with them in the 'ban' they issue to the accused from appearing in sacred and public places - a conditional excommunication that it takes on board. The punishment of the guilty is for her a liberation. The very measure of responsibility, (once) the social constitution (has ordered) the distinctions between voluntary, involuntary and excusable homicides, will correspond to degrees of collective religious feeling. This feeling translates into the idea of defilement: the fear of the dangerous forces that emanate from spilt blood, the purifying virtue of criminal law, the common peril to which unjustified acquittals as well as convictions of the innocent would expose us - all commonplaces that judicial eloquence will never cease to exploit. Capital punishment and exile were essentially means of religious protection. In Athens, throughout the classical period, the court of the Prytaneion remained a living symbol of the prohibition of homicide, where animals and inanimate objects that had caused human death were 'judged'; the guilty instrument or stone was ritually expelled from Attic soil, as was the axe that had just slaughtered the ox of the Dipolians after a fictional trial before the same Prytaneion: the same pattern applies to the legal drama as to the religious drama. - More or less impersonal numina of vengeance, such as the Erinyes, the Semnai, etc, The Areopagus judges murderers near the sanctuary of the Semnai, where rites are performed in connection with the trial; and Aeschylus would not have been able to draw up the terrifying image of his Furies if these demons had not maintained all their power over souls at a time when the city was imposing its jurisdiction..." (Louis Gernet and André Boulanger). (Louis Gernet and André Boulanger, *Le génie grec dans la religion, La Renaissance du livre*, 1932, p. 163). "The prohibition of homicide includes, in the idea of contagious defilement, a mythical translation of this feeling, the discharge of which is the penalty. But what is no less revealing are certain religious dramas that rub shoulders with the penalty and shed light on it. The connection is expressly made in a ritual that tradition has maintained in Athens, that of the Bouphonies: the axe that struck the sacrificial victim is judged and thrown out of the country or into the sea by the tribunal of the Prytaneion (...). On the other hand, in several cities, annual ceremonies are held for the expulsion of scapegoats represented by men - who are sometimes convicted criminals: they are marched through the city, carrying its 'filth', and are then driven out, and in some cases executed by procedures such as stoning or rushing into the sea, which are those of primitive punishment. It suffices to point out here what religious transpositions lead us to presume: that fixing responsibility on one subject has a liberating effect on the other members of society" (Louis Gernet, *op. cit.*, p. 17). On the subject of rushing, in Athens in the barathron, in Rome

from the top of the Tarpeian Rock, "(i)n precivilian practice, (it) had been one of the ways in which the consecrated victim was handed over to the gods. In other words, it had been a form of human sacrifice. Later, it was used as an ordination: anyone suspected of a religious crime was thrown from a height so that, if he was guilty, he would die by crashing to the ground or drowning in the sea. The gods agreed to take his life only if he was guilty; if he was innocent, they saved him, preventing him from dying. Like all ordeals, the precipitation was at once a trial, a death sentence and an execution. So it's no coincidence that, in the city, it was originally used as a death penalty for religious offences. It was not just a punishment, it also had an expiatory function, saving the community from the risk of the stain that the accused would inevitably have spread in the city if he had not been eliminated" (Eva Cantarella, *op. cit.*, p. 314).

(28) Louis Gernet, *op. cit.* p. 23.

(29) *Ibid.*

(30) Édouard Cuq, *op. cit.* p. 334.

(31) Arthur Desjardins, *États-généraux (1355-1614)*, A. Dunand and Pédone Lauriel, Paris, 1874, p. 352.

(32) We know more about the transition from private vengeance to legal proceedings in Athens. Originally, "two conditions are sufficient to justify the right to private vengeance: the performance of an act contrary to the law, and the existence of a wrong caused to another. There is no concern about the guilt of the agent: whether the wrong was committed by a human being or an animal, whether the injury was done intentionally or inadvertently, it does not matter (...), the victim's only concern is to take revenge for the wrong he or she has suffered, whoever did it and whatever the cause" (Édouard Cuq, *op. cit.*, p. 335). "It matters little whether the murderer is an assassin or a reckless person, the victim of an involuntary error or the perpetrator of a necessary homicide. In ancient Greece, intention was not taken into consideration; the harmful act alone was taken into account, stripped of all its psychological aspects". "This sheds light (...) on the ancient origins of criminality and shows us that it is independent of what we call morality. Its primitive, essential character, the one it will retain in spite of progress, is not to be an immoral act, but an act contrary to the customs of the group, harmful to its interests" (Joseph Maxwell, *Le concept social du crime : son évolution*, F. Alcan, 1914, p. 74, 85).

The law then became preoccupied with "determining and measuring culpability: intentional murder, unintentional murder, excusable homicide, all categories that may have emerged in private arbitration, but which are now formulated and imposed" (emphasis added). (emphasis added) (Louis Gernet, *op. cit.*, p. 24).

The punishment was then commensurate with the agent's guilt, and was paid in money. In Homeric times, "vengeance was a social duty that could not be shirked by those who wished to remain among the *agathoi*" (Eva Cantarella, *op. cit.*, p. 55, quoted in Marielle de Béchillon, *Le*

mari, l'amant et la loi dans le plaidoyer de Lysias. Sur le meurtre d'Eratosthène, Pallas [On line], 83, 2010, online 01 October 2010, accessed 17 November 2020. URL: <http://journals.openedition.org/pallas/11599>; DOI: <https://doi.org/10.4000/pallas.11599>.), "the social conscience (seems) to have begun to consider positively the choice of the one who accepted the ransom and had slowly decided that, once made, this choice had to be definitive: in other words that the *poinë* was a variant of revenge" (*ibid.*, p. 59, quoted in *ibid.*).

A further step in the confiscation of the monopoly of private vengeance by the law" seems to have been taken with the establishment of the *gerontes*, the council of elders, whose task it was to check that the ransom had indeed been paid. If they agreed that the ransom had been paid, then the revenge of the offended party was illegitimate. If not, the *gerontes* implicitly gave the offended party permission to kill. The latter was no longer acting exclusively on his own behalf, in his own interest. The sentence (of the *gerontes*) gave him implicit power to use physical force to ensure compliance with a rule of conduct that the social community considered fundamental to its survival" (Marielle de Béchillon, *op. cit.*).

Dracon and Solon made every effort to destroy the right of private vengeance.

To this end, Dracon instituted judicial bodies "whose task it was (...) to verify whether the required external circumstances existed in order for the act of vengeance, determined by the law, to be legitimate" (*ibid.*). It was under the impetus of its legislation (c. 620 BC) that "the shift from personal vengeance to legal procedure took place" (Louis Duyau [ed.], *Revue des revues et publications d'académies*, 15th year, 1890, p. 164). "To encourage the injured party to turn to the courts, Dracon determined the conditions for recourse to private vengeance or composition. In order to break up family groups, he distinguished circles of more or less close relatives within each one and, in some cases, he even required relatives called upon to take a decision to do so to do so unanimously; in the *genos*, he appealed to individualism" (Gustave Glotz, *op. cit.*, p. 140), The various types of homicide were treated, not undoubtedly as public offences which immediately provoked the intervention of the State, but as offences for which the victim's family could obtain punishment from the State and could only obtain it from the State: afflictive punishment - death, perpetual banishment, temporary exile - which never had the character of a *wergeld*, even though private transactions were not prohibited by the law. In this sense, we can say that there was public repression of murder" (Louis Gernet, *op. cit.*, p. 22-3).

Solon (c. 740 - c. 658 BC) continued the undermining work begun by Dracon by formally prohibiting private vengeance and, even more so, by creating public action. "In principle, this was a modest means of application: it appears that it was only provided for certain offences for which the individual victim could not obtain redress by his or her own means. But these offences are, for example, the mistreatment of a close relative or the enslavement of a debtor: this procedural innovation means that, from now on, the solidarity of the civic group comes into play above and beyond the discipline of the family or the protection of a boss. On the other hand, the generalisation of the *actio popularis*, with all its consequences, was to characterise criminal

procedure in the centuries that followed. The second Solonian innovation was the creation of people's courts: here again, the starting point was modest, but the developments were considerable. At first, these courts only had to function conditionally: what was open to the parties was the right to appeal to them against the judgement of a magistrate, because magistrates continued to 'judge' and it was only a century later at least that the courts would completely replace them in this role. But the body had been created: the court was an emanation and even a direct expression of the new sovereignty that was being instituted (the name that designates it, *heliae*, is an old name for the assembly). The organisation of justice expressly conceived as State justice has yet another meaning and another effect: in the trial of offences that are only prosecuted at the behest of the injured party, the arbitration phase is over. The mass of private offences enters the law of the State: essentially distinct from that of public offences, it is nonetheless brought closer to it, ordered with it in the unity of a system, and this proximity produces interference, and like induction effects in both directions" (*ibid.*).

(33) At the time of the Twelve Tables, wrongs committed by a person in power were classified into four classes, according to the method of punishment they entailed: 1° Private vengeance continued to be permitted for the breaking of a limb, and for manifest theft committed by a slave. 2° The exercise of vengeance was entrusted to the magistrate of the city for manifest theft committed by a son of the family. 3. The exercise of vengeance is left to the domestic magistrate in the case of insult. 4° The right to private vengeance is set aside for wrongs that simply give rise to pecuniary reparation combining the characteristics of a fine and compensation" (Édouard Cuq, *op. cit.*, p. 374).

(34) "Ancient procedure comprises all the formalities to be observed in order to be authorised to take justice into one's own hands. These formalities are more or less complicated depending on the case. To understand their significance, it is important not to lose sight of the fact that we are living in an era not far removed from that in which the victim of an injustice took revenge for the wrong he or she had suffered. Henceforth, the right to private vengeance is subject to certain restrictions: it is subordinated to the fulfilment of certain solemnities. The least that is required is prior affirmation of the right that is to be exercised. Before taking the law into one's own hands, one must pronounce aloud the consecrated formula citizens. Submission to public justice is purely voluntary; the parties must agree to request a judge. If the defendant refuses to agree, the plaintiff can use a procedural means that will remove any pretext for his opponent to evade the debate: he will provoke him to assert his right under oath and to deposit a sum that will be lost if his assertion is found to be unjust. The defendant had no plausible reason to reject this proposal" (*ibid.*, pp. 40-7).

(35) See René Cagnat and Georges Goyau, *Lexique des antiquités romaines*, Thorin, 1895, p. 308. In Rome, the law allowed the pater familias whose *alieni iuris* (individuals under his power) had committed an offence to choose between paying compensation (composition) to the victim or *noxae deditio*, a procedure by which he abandoned the guilty party to the victim (see René Dekkers, De Visscher [Fernand], *Le régime romain de la noxalité. - De la vengeance collective à*

la responsabilité individuelle. In *Revue belge de philologie et d'histoire*, t. 26, fasc. 1-2, 1948 [p. 263-6]).

(36) Louis Gernet, *Le droit pénal...*, p. 24.

(37) Théophile Rouquette, *Des excuses légales et des faits justificatifs en matière criminelle*, Toulouse, 1866, p. 12; René Roland, *De l'esprit du droit criminel aux différentes époques dans l'antiquité*, Arthur Rousseau, Paris, 1880, p. 261.

(38) Théophile Rouquette, *op. cit.* p. 12.

(39) Under the *res publica*, there were two types of crime, namely crimes against the person and political crimes, which increased in number from the 1st century BC (see Emile Morlot, *Précis des institutions politiques de Rome*, Dupret, Paris, 1886, p. 211-2).

(40) Paulin Ismard, *La Démocratie contre les experts. Les esclaves publics en Grèce ancienne*, Éditions du Seuil, 2015.

(41) *Ibid.*

(42) *Ibid.*; see also Jean-Christophe Couvenhes, *L'introduction des archers scythes, esclaves publics, à Athènes : la date et l'agent d'un transfert culturel*, in Bernard Legras (ed.), *Transferts culturels et droits dans le monde grec et hellénistique : actes du colloque international*, Reims, 14-17 mai 2008, edited by Bernard Legras, Publications de la Sorbonne, Paris, 2012 [p. 99-118].

(43) Oscar Jacob, *Les esclaves publics à Athènes*, Liège, 1928, p. 55; Karl-Wilhelm Welwei, *Unfreie im antiken Kriegsdienst*, Franz Steiner Verlag Wiesbaden GmbH, 1974.

(44) Paulin Ismard, *op. cit.*; see also Lydie Bodiou, *Chemin faisant : mythes, cultes et société en Grèce ancienne : mélanges en l'honneur de Pierre Brulé*, Presses universitaires de Rennes, 2009, p. 65. The *demosioi* were ridiculed by Aristophanes, Eupolis, Cratinos and others, to the point where they "came to embody a character destined for great posterity: the Pandora, a clumsy gendarme, cowardly in his matamore guise and constantly ridiculed by those he is supposed to be pursuing. In this sense, Aristophanes' Scythian archer inaugurates a long series of pathetic policemen that leads, via Guignol's gendarme, to Hergé's Dupont and Dupond. Soft, timid, sometimes obscene and often bordering on drunkenness, the Scythian archer is unquestionably an anti-model compared to the citizen" (Paulin Ismard, *op. cit.*). The *demosioi* only made people laugh in the theatre.

(45) Marie-Madeleine Mactoux, *Esclave, fouet, rituel*, in Lydie Bodiou et al, *op. cit.* [p. 59-70].

(46) George Grote, *Histoire de la Grèce*, vol. 6, translated from English by A.-L. de Sados, Paris, 1865, pp. 307-8.

(47) Paulin Ismard, *op. cit.*

- (48) John Bauschatz, *op. cit.* p. 18-9.
- (49) Patrice Bun, [review] Virginia J. Hunter, *Policing Athens : social control in the Attic Lawsuits*, 420-320 B. C. In *Revue des Études Anciennes*, t. 96, 1994, n° 3-4 [p. 624-5].
- (50) William Stearns Davis, *A Day in Old Athens: A Picture of Athenian Life*, University Press of the Pacific, 2004, p. 56.
- (51) Oscar Jacob, *op. cit.* p. 76.
- (52) Paul J. du Plessis, Clifford Ando and Kaius Tuori (eds.), *The Oxford Handbook of Roman Law and Society*, Oxford University Press, Oxford, 2016, p. 298.
- (53) Cosimo Cascione, *Tresviri capitales: Storia di una magistratura minore*, Naples, Editoriale scientifica, 1999; Theodor Mommsen, *Römisches Staatsrecht*, t. 2, S. Hirzel, Leipzig, 1888, p. 638, 601, 718; J. Marquardt, *Römische Staatsverwaltung*, t. 3, Marroni, Leipzig, 1885, p. 347.
- (54) Augustus also created a sort of judicial and security police (Léon Homo, *Rome impériale et urbanisme dans l'Antiquité*, Albin Michel, Paris, 2014, p. 149; Robert Sablayrolles, *Libertinus miles. Les cohortes de vigiles*, École Française de Rome, Rome, 199).
- (55) Pierre Subra, *De l'influence du consentement de la victime sur l'existence d'un délit et la responsabilité de l'auteur*, É. Privat, 1906, p. 10; "If the victim consented to suffer the injury, no further proceedings could be brought. In this case, the maxim 'Volenti non fit injuria' could be applied. In our legislation, on the other hand, criminal law is essentially a matter of public policy" (*ibid.*).
- (56) François Duverger, *Manuel des juges d'instruction*, t. 1, 3rd edn, Paris, 1862, p. 3.
- (57) *Ibid.*, p. 9.
- (58) Édouard Cuq, *op. cit.* p. 344.
- (59) Hélène Ménard, *Convicium et clamor : la justice romaine face aux cris de la foule*, in Frédéric Chauvaud and Pierre Prétou (eds.), *Clameur publique et émotions judiciaires. De l'Antiquité à nos jours*, Presses Universitaires de Rennes, Rennes, 2013 [p. 211-20].
- (60) Annette Ruelle, *L'anathème en chantant. Scandale, fascinatio et fatalité*, in Laurent van Eynde and Sophie Klimis (eds.), *Littérature et savoir(s)*, Publications des Facultés Universitaires Saint-Louis, Bruxelles, 2002 [p. 127-73], p. 152.
- (61) Henri Batiffol, *Choix d'expressions latines*, 3rd edn, Paris, 1866, p. 177; see also Annette Ruelle, *op. cit.*
- (62) Max Conzémis. *Private Security in Ancient Rome*, Pétange, 2013, Education.lu.

(63) See Hélène Ménard, *op. cit.*

(64) Theodor Mommsen, *Le droit public romain*, vol. 5, Diffusion de Bocard, 1984, [E. Thorin, 1896], pp. 367-8.

(65) *Ibid*, p. 366.

(66) See Nicolas Oikonomidès, *Social and Economic Life in Byzantium*, Ashgate/Variorum, 2004 p. 223.

(67) "It is true that the beginning of punishment by the State first appears in the form of a regulation of 'private' vengeance, but it must not be assumed (...) that punishment by the State is in some way a continuation of private vengeance. In fact, the former suppresses and replaces the latter, but it does so only gradually, just as rights in actu are formed only gradually. Private vengeance belongs to the state of affairs in which rights are not yet actualised, in the sense that the powers that a man must be able to exercise for the good of society are not yet guaranteed to him by society. As they become actualised, the exercise of private vengeance must cease. A right to private vengeance is an impossibility; for, insofar as vengeance is private, the individual, in exercising it, is exercising a power that does not derive from society and is not regulated as a function of the social good, and such a power is not a right" (Editorial. In *Journal of the American Institute of Criminal Law and Criminology*, vol. I, No. 1, May 1910 [pp. 1-43], p. 20.

(68) William A. Morris, *The Frankpledge System*, London, 1910, p. 16.

(69) Katherine Fischer Drew, *The Lombard Laws*, University of Pennsylvania Press, Philadelphia, 1973, p. 7.

(70) *Ibid*.

(71) Alan Beckley, *The Evolution of Community Policing from its Origins in the UK*, in C. J. Jansen and Bernard H. Levin (eds.), *Neighborhood-driven Policing: A Series of Working Papers from the Futures Working Group*, 2005, p. 35.

(72) According to Tacitus, the Germans authorised the redemption of a homicide by delivering a certain number of cattle to the victim's family. "A similar practice was found in Gaul after the invasion, either because it had been imposed on the country by the newcomers, or because it was the natural result of social disorder and the powerlessness of the public authorities to punish crimes. The codes of the Visigoths and Burgundians punished homicide by death; several decrees of the first Frankish kings imposed the same penalty. The Salic law and the law of the Ripuaries formally authorised the guilty party to escape any penalty by compensating the victim; this was called entering into an arrangement or composition, *componere*. *Wergeld* was not the same thing as composition. This is why it is found even in codes that do not authorise redemption of the crime. The true meaning of the word *wergeld* is revealed by the laws themselves. They translate this Germanic term by the Latin expression *pretium hominis*. The

wergeld is therefore the price that man is worth. In the Burgundian code, we read: 'Anyone who kills another man in self-defence is not guilty; he must only pay his parents half the price the dead man was worth, i.e. 150 gold coins if he was noble, 100 if he was of mediocre status, 75 if he was of inferior status'. The wergeld was therefore not a penalty; it was not a fine; still less was it the price of bloodshed. It was simply the price that the man was worth during his lifetime. This is how wergeld came to be used in many cases where there was no murder. The abductor of a young girl," says the Frisian law, "must pay her wergeld, i.e. the price she is worth according to her rank as a noble girl or as a girl who is simply free...'. - If a man has consulted sorcerers, says the Lombard law, he shall pay a fine equal to half his price' - 'He who has torn another man's letter of emancipation, says the Salic law, shall pay that man's wergeld. We also read in the Salic law that an earl who neglects his duty of justice will be punished by death, unless he buys back his life 'for what it is worth'. The simple copyist who altered a deed through ignorance was condemned by Lombard law to pay his own wergeld. This wergeld was independent of the penalty; on the contrary, it was the penalty that was paid on the wergeld. In the case of murder or injury, the composition increased in proportion to the victim's wergeld'. If, on the other hand, it was a simple misdemeanour, the fine was raised or lowered in proportion to the wergeld of the guilty party. It was therefore a rule in the societies of that time that every man had his price determined and fixed by law. Not all legislations allowed for composition, but all had the wergeld, i.e. the price for each human life" (Fustel de Coulanges, *Histoire des institutions politiques de l'ancienne France*, Part 1: *L'empire romain. The Germans. La royauté mérovingienne*, 2nd edn, revised, corrected and expanded, Librairie Hachette et Cie, Paris, 1877, pp. 543-5).

(73) Henry Hallam, *Europe in the Middle Ages*, vol. 3, new edition, Raabé, Brussels, 1840, p. 32.

(74) William A. Morris, *op. cit.* p. 5.

(75) *Ibid.*, p. 2.

(76) Edouard Fischel, *La Constitution d'Angleterre*, translated from the second German edition compared with the English edition, t. 2, C. Reinwald, Paris, 1854, p. 13.

(77) William Blackstone, *Commentaries on the Laws of England*, vol. 1, 19th edn, J. E. Hovenden, Esq, London, 1836, p. 114; A. M. Chambeyron, *Constitutions et chartes : Notions élémentaires de droit politique*, Paris, 1854, p. 78.

(78) This system of mutual guarantee seems to have gone through various stages, which Henri Hallam describes as follows: "First, the accused was obliged to provide security for his appearance in court. Then his parents became guarantors for the payment of the composition and other fines he might have incurred. They were even liable to imprisonment until full payment was made; this imprisonment could be commuted into a certain sum of money. Later, people who had already been convicted or were of ill repute were obliged to give security for their

future conduct. It was only in the reign of Edgar [c. 944-975] that we find the first general law placing every man in the condition of a guilty or accused person, by forcing him to provide a surety who would be answerable for his appearance whenever he was called to trial. This provision was continually repeated and confirmed in the later laws of the same reign and that of Ethelred [c. 966 - 1016]. Finally, the laws of Canut impose the double obligation of providing security and belonging to a hundred and a tything...". An Act of Henry I (1069-1135) ordered that every male of twelve years of age or over and of free condition was obliged to enlist in some tithing. In the middle of the thirteenth century, the juriconsult Bracton extended this obligation, albeit with exceptions, to all males aged twelve or over and of servile status. At that time, Frank pledges were in fact composed mainly of villains (Franpledge, *Encyclopædia Britannica*, vol. 11, 1911, p. 34).

(79) Henry Hallam, *op. cit.* p. 35. While asserting that "(t)his guarantee consisted in the fact that throughout the kingdom these ten men were responsible for each other, in the sense that, if one of the ten committed a fault, the other nine had to produce him in court to pay with his goods or his person. If he evaded justice, the tything had means of justifying any participation in his crime or his flight; Otherwise, if the offender's property was insufficient, the other members of the tything were forced to pay the fine", Hallam points out that "(m)any writers have wrongly thought that 'the members of a tything were, as regards their conduct, subject to mutual responsibility, and that the 'society, or its head, could be sued, and compelled to make reparation for the offence committed by one of its members' (...). The members of a tything were in effect nothing more than perpetual sureties for each other" (*ibid.*). This distinction is difficult to grasp.

(80) John Lingard, *History of England, from the First Invasion by the Romans*, vol. 1, Philadelphia, 1827, p. 295.

(81) Edouard Fischel, *op. cit.* p. 15. Hence the abuses to which the frank-pledge system gave rise: "if members were negligent in searching for the culprit, or if they let him escape, they were liable to certain penalties and, in the case of theft, to compensation. In the case of livestock theft, this compensation was so considerable that, like fire insurance in modern times, it encouraged negligence on the part of the owners, and not infrequently the abuses were even more serious. The tything's liability extended to the entire village community, even in cases where it was not certain that the offender was a member of the tything. If, within a month and a day, the community in whose territory a person had been murdered did not find the killer, it was obliged to pay a sum of forty-six marks, forty of which went to the king and the other six to the relatives of the person killed, if it did not succeed in finding the killer and bringing him to justice within a year. However, this increased severity with regard to the frith-borh and even the name itself only became apparent in Norman times..." (emphasis added). (emphasis added) (J. M. Lappenberg, *A History of England Under the Anglo-Saxon Kings*, new ed. 2, George Bell and Sons, London, 1884, pp. 409-10).

(82) John Philip Dawson, *A History of Lay Judges*, The Lawbook Exchange, Ltd, 1999, Union, NJ, p. 121.

(83) Rudolphe Gneist, *La constitution communale de l'Angleterre son histoire*, translated under the direction of the author, t. 4, A. Lacroix, Verboeckhoven et Cie, Paris, 1870, p. 18.

(84) *Ibid*: "When the Franks inhabited Germania, they did not feel the need to draw up their laws or traditions (...). They believed that the presence of a certain number of witnesses was sufficient to protect the memory of a legal fact from any uncertainty, or to give a natural and simple fact the authority of a legal act. The imperfection of material means strengthened national habits on this point. This opinion produced singular and noteworthy effects. Witnesses being, in many circumstances, no longer mere narrators of the facts, but real judicial officers, the authority of their functions grew with all the less difficulty, as everyone, being able either to be a witness or to need witnesses, contributed to the strengthening of this authority. It would be futile to try to form a true and complete idea of what was serious, solemn and, so to speak, abstract about judicial testimony as it existed among the Franks; and by retaining their old word *adrahmire* to designate the action of testifying in court, as they understood it, the Franks have sufficiently shown that they had searched unsuccessfully in the Roman language for a word that clearly reflected their thinking.

"The wording of the Salic law gave a legal character to this way of looking at judicial testimony; for if this law does not mention all the cases in which testimony was used, at least it does not cite a single act of civil or criminal procedure to which it does not serve as a principle.

"A title of this law is entitled, *De testibus adhibendis*; and the two articles that make up this title show that the obligation to testify by oath, at the first requisition of a person who needed this testimony, was a general and narrow obligation. Many other provisions of the Salic law confirm this observation; thus all adjournments had to be made in the presence of witnesses and affirmed by them. (Tit. XLII, art. 11; LI, 3; LIX, 1.) The same applied to requests for payment. (LII, art. 1.) The formalities relating to donations were carried out before witnesses. If the donor did not deliver all the objects included in his donation, three witnesses had to swear on oath that they had been present at the first plea and that they had witnessed the donation; they had to pronounce the name of the donee and that of the donor. Three other witnesses testified that the donee, after retiring to the donor's house, had fed three guests at his table who had been introduced in the presence of witnesses. Finally, three other witnesses attested to the act of public apprehension made before the king or in a plea, and to the fulfilment of the other formalities. *Hæc omnia*," the law concludes, "*novem testes debent adfirmare*, XLIX".

"The establishment of feudalism gave a new character to the ideas and customs of the French, changed the principle and form of government, and, by subjecting the administration of justice to the will of the lords, removed all their force from the customs that had reigned in the judicial courts of the first and second races. Each lord was sovereign judge of the men who lived in his

fiefdom; he arbitrated punishments and determined the rules, always very expedient, which had to be followed within his court. How then could one suppose that, in opposition to such absolute authority, proof by witnesses could have maintained its former preponderance? But what has long existed among a people never completely ceases. Its ideas, mores and laws may undergo the most profound alterations, but they cannot betray their origin, nor prevent some sign from emerging within the new mores that reveals the energy of the old mores. The authority of swearers ceased to exist under feudal laws, and evidence by witnesses was apparently confined within appropriate limits; but the idea that there existed in the enquiry, that is, in the solemn questioning of certain individuals about the existence of a right, a usage or a fact, a kind of virtue incomparably superior to the merit of any other means of judicial procedure, continued to exist despite the laws so exclusive of feudalism. The record or testimonial enquiry, while not dominating all legislation, became one of its essential principles, and if twelve swearers were no longer allowed to declare a guilty man innocent, if proof by witnesses ceased to be the only means of arriving at knowledge of the truth, at least the record continued to be regarded as the best way of getting there. The feudal laws of France and England show that the lords allowed evidence by witnesses to enjoy all the influence that was compatible with their right of sovereignty, and that thus a considerable portion of judicial power continued, under the reign of feudalism, to belong to the justiciable" (Auguste Arthur Beugnot, *Les olim, ou : Registres des arrêts rendus par la cour du roi sous les règnes de saint Louis, de Philippe le Hardi, de Philippe le Bel, de Louis le Hutin et de Philippe le Long*, t. 1, Paris, 1839, pp. 948-9, 951-2). However, the obligation to testify in court, which was based on *fides* (Jean-Luc Lefebvre, *Prud'hommes, serment curial et record de cour : La gestion locale des actes publics de Liège à l'Artois au bas moyen âge*, De Boccard, 2006, p. 408). was not formulated in written law until the end of the 12th century (Bruno Lemesle, *Conflits et justice au Moyen Âge*, PUF, Paris, 2015); the clergy were exempt (Gustav Schnürer, *L'église et la civilisation au moyen âge*, vol. 1, Payot, 1933). Today, giving evidence in court remains a legal obligation. When a person is summoned as a witness in court by the judge, he or she cannot fail to do so, on pain of being fined.

(85) Le Comte de Franqueville, *Le système judiciaire de la Grande-Bretagne*, t. 2: *La procédure civile et criminelle*, J. Rothschild, 1893, p. 241.

(86) Daniel Klerman, *Settlement and the Decline of Private Prosecution in Thirteenth-Century England*, In *Law and History Review*, vol. 19, no. 1, Spring 2001 [pp. 1-65].

(87) Edouard Fischel, *op. cit.*, p. 13-4.

(88) Johann Martin Lappenberg, *op. cit.* p. 333 et seq. The famous law of frankpledge," says Edouard Fischel (*op. cit.*, p. 13), "(...) tended to reinforce the guarantees of the already existing mutual responsibility of the family, the commune and the town", but, as the English historian himself goes on to note, "(e)ach father of a family was, even earlier, responsible for the conduct of the members of his family, his slaves and his guests" (*ibid.*, p. 13) (emphasis added), so it is hard to see how the State could have reinforced this mutual responsibility in any way.

(89) "The maxim that the best guarantee of every man's obedience to the government was to be sought in the confidence of his neighbors" (Henry Hallam, *View of the State of Europe During the Middle Ages*, vol. 2, W. J. Widdleton, New York, 1872, p. 271). More than irony, it was sarcasm that the frank-pledge, or rather the abuses to which it necessarily gave rise, inspired the English legal historian and legal scholar F. W. Maitland (1850-1906), when he remarked: "The duty imposed by the frank-pledge system to bring one's neighbour before the court to answer charges against one could well be transformed into a duty to tell tales about him" (quoted in Peter Hamilton, *Espionage, Terrorism and Subversion: An Examination and a Philosophy of Defence for Management*, Peter A. Heims Limited. Heims Limited, 1979, p. 255).

(90) W. A. Morris, *the Medieval English Sheriff to 1300*, Manchester University Press, 1927, p. 1. "With the sole exception of royalty, no secular dignity is older" in England (*ibid.*).

(91) This court was only held once a year, on Michaelmas Day, from 1217 onwards.

(92) Although the Clarendon Constitutions (1166) insisted that the sheriff's prudential powers were universal, few men attended the sheriff's turn.

(93) J. A. Fleury, *Histoire d'Angleterre*, 2nd edn, t. 1, Librairie de Hachette et Cie, Paris, 1863, p. 108.

(94) Rodolphe Gneist, *op. cit.* in vol. 2, A. Lacroix, Verboeckhoven et Cie, Paris, 1868, pp. 247-8.

(95) Alan Beckley, *The Evolution of Community Policing from its Origins in the UK*, 2004 [p. 35-38]. <http://futuresworkinggroup.cos.ucf.edu/docs/Volume%201/vol1Beckley.pdf>, p. 35.

(96) On the subject of the competing bodies of the sheriff's turn instituted by the Crown, see Rodolphe Gneist, *op. cit.* in vol. 3, p. 40. The juxtaposition of criminal courts with the sheriff's turn was due to the independence of the institution and the venality of its representatives. "Is the register of communal sureties complete? Did all the justiciars appear at the session? in relation to housebreaking, thieves, and other felons and people without a confession; false weights and measures; day and night watches; the maintenance of roads, bridges, etc.? This was obviously a very onerous procedure, and the double annual appearance of the centuries before the sheriff, whose financial position became an inexhaustible source of emoluments, was regarded as the heaviest burden of the judicial service, and whose inferior employees allowed themselves all sorts of extortion and demands for illegal emoluments" (*ibid.*, p. 41). But the sheriff's successor, the justice of the peace, was no less venal (see J. M. Lees, *A Handbook of the Sheriff and Justice of Peace Small Debt Courts with Notes, References, and Forms*, William Blackwood and Sons, Edinburgh, 1884; Candace Gregory, *Sixteenth-Century Justices of the Peace: Tudor Despotism on the County Level*, <http://people.loyno.edu/~history/journal/1990-1/gregory.htm>.

(97) Candace Gregory, *op. cit.*

(98) Rodolphe Gneist, op. cit. t. 3, A. Lacroix, Verboeckhoven et Cie, Paris, 1869, pp. 45-6.

(99) Édouard Fischel, op. cit., p. 151-2.

(100) Rodolphe Gneist, op. cit. p. 47.

(101) "In the Middle Ages, inns and breweries were considered to be the exercise of an entirely free trade, the notoriously disorderly or noisy abuse of which alone made them a common nuisance. It was not until stat. 5 and 6 Ed. VI, c. 25, that the system of industrial licensing was introduced for all retail sales of spirituous liquors. Similar concessions had to be made by justices of the peace, who also obtained considerable deposits from guests and, in extreme cases, had the power to close the hotel. Since the time of the Stuarts, an obligation to pay an excise duty has been added, having the character of an industrial tax, which from then on became the subject of very lucrative and very extensive tax laws" (ibid., p. 161).

(102) Rodolphe Gneist, op. cit. p. 45.

(103) Paul Griffiths, *Lost Londons Change, Crime, and Control in the Capital City, 1550-1660*, Cambridge University Press, Cambridge, 2010, p. 333.

(104) Robert M. Rich (ed.), *Essays on the Theory and Practice of Criminal Justice*, University Press, Washington D. C., 1978, p. 50.

(105) Rodolphe Gneist, op. cit. p. 54.

(106) Corentin Segalen, *La police anglaise : modèle ou contre-modèle des polices nationales européennes ? DEA d'histoire contemporaine*, under the direction of Jean-Noël Luc, Université Paris IV - Sorbonne, 2005, p. 11. The only thing the constable could claim was a fee.

(107) Rodolphe Gneist, t. 4, p. 33, 36, 38.

(108) This was because their appointment was generally compulsory and their work unpaid (Clive Emsley, *Policing and its Context, 1750-1870*, Macmillan, 1983, p. 24). "The position of constable was regarded, at best, with disinterest, more often with disgust. The servitudes imposed by this office made these men neglect their own affairs, which led them to ruin" (Mark Haem, *La répression du banditisme en Grande-Bretagne aux XVIIème et XVIIIème siècles*. In *Revue du Nord*, vol. 59, no. 234, July-September 1977 [pp. 365-375], p. 366; *Policing in London*, <https://www.oldbaileyonline.org/static/Policing.jsp#individualstext>). The situation of the watchmen was hardly any different (J. M. Beattie, *Policing and Punishment in London, 1660-1750: Urban Crime and the Limits of Terror*, Oxford University Press, Oxford, 2001 [p. 226-256]). "A professional criminal, John Poulter, who was hanged in 1753, recounted that when he and his gang were burglarising and a watchman came along, one of them would take him away for a drink... But what could these 'Brown Bills' (as they were called because of their rusty halberds), decrepit and incapable of fighting, have done? John Pearson, in a fanciful 'job

advertisement', described them as follows: A hundred thousand men are required for the guard of London. Only those who are 60, 70, 80 and 90 years of age, blind in one eye and can see very little in the other, crippled in one or both legs, deaf as a post, with asthmatic spasms that tear them to pieces, whose speed matches that of a snail and whose strength of arms could not stop an old washerwoman in her forties returning from a day of intense labour at the washhouse, whose constitution is worn out by hard service, either in the army, or navy, or by exhausting labour, or by the effects of a gay and dissolute life, and such as will never see or hear what relates to their duty, or what does not relate to it unless they are greased or paid for it" (Mark Haem, *op. cit.*, p. 366). Towards the end of the sixteenth century, however, "the legislature, in order to encourage officers and others to fulfil their duties by arresting and prosecuting malefactors, thought it necessary to grant them" a battery of rewards. "These rewards, which apply to ten different offences, should no doubt excite the zeal of the officers; but it is questionable whether they have not, on the contrary, contributed to the increase of a multitude of offences which, although less considerable, cause the greatest harm to society" (Patrick Colquhoun, *Treatise on the London Police*, translated from the English on the 6th edition, vol. 2, Paris, 1807, p. 110).

(109) Rodolphe Gneist, *op. cit.* in vol. 4, pp. 33-4, 46.

(110) All individuals were also legally obliged to report crimes of which they were aware and to respond to all calls for help - which were generally expressions such as "Stop the thief!", "Murder!" or "Fire!" - by participating in the pursuit, search and capture of criminals (Policing in London).

(111) Quoted in Anne Mandeville, *Le Système de maintien de l'ordre public du Royaume-Uni : modèle européen ou exception culturelle*, t. 1, Publibook, Paris, 2014, p. 167.

(112) Paul Rock, *Law, Order and Power in late seventeenth and early eighteenth century England*, in Stanley Cohen and Andrew Scull (eds.), *Social control and the State*, 2nd ed., Basil Blackwell Ltd, Oxford, 1985, p. 193, quoted in Anne Mandeville, *op. cit.* p 159.

(113) Policing in London.

(114) Tim Hitchcock and Robert Shoemaker, *Tales from the Hanging Court*, Bloomsbury Academic, London, 2007.

(115) *Ibid.*, p. 17, p. 2. "No one in a respectable position wanted to fill the office of constable, so the custom was established of paying replacements, taken, therefore, from among people who had none of the qualities for which the law had imposed this office on the wealthy classes. More often than not, these replacements were accomplices in the crimes they were supposed to prevent. They lived off extortion and taxes levied on vice; the wretched creatures who practised their trade in the streets paid them a fee so as not to be hindered in their shameful industry. In some parishes, in order to reduce the tax on the poor by as much, old and invalid poor people were taken on as night guards. The houses where these guards set up their quarters, instead of

being a terror to criminals, were sentinels of vice: - they were most often used as places of prostitution, or as a hiding place for stolen goods. More than one local chief constable was known as a thief himself; they were assiduous in court, quick to make a false witness to secure a conviction, because any conviction entitled them to a reward, or at least to reimbursement of their expenses. The story is told of a constable, who was such a "cumulard", that when he had arrested a criminal, he drew up his own defence, appeared before the court as the main witness for the prosecution, and then came to give evidence in favour of the accused's character" (Statistique. The London Police and the Dublin Police. In Amédée Pichet [ed.], *Revue Britannique*, vol. XIII, 7th series, Paris, 1853, pp. 158-9).

(116) Virginia Suzanne Balch-Lindsay, *An Orderly Metropolis: The Evolution of Criminal Justice in London, 1750-1830*, B.A., M.A., A Dissertation in History, 1998, pp. 52-7.

(117) *Revue Britannique*, t. XIII, 7th series, Paris, 1853, p. 156.

(118) Tim Hitchcock and Bob Shoemaker, *op. cit.* p. xxv.

(119) Tim Wales, *Thief-Takers and their Clients in Later Stuart London*, in Paul Griffiths and Mark S. R. Henner (eds.), *Londinopolis: Essays in the Cultural and Social History of Early Modern London*, Manchester University Press, Manchester, 2000 [pp. 67-84].

(120) *Policing in London*.

(121) "The Highwayman Act of 1692 provided a reward of £40 to anyone who arrested and convicted a highwayman. A pardon was given to any highwayman who became an informer, provided he was not already in prison. In 1699 and 1706, the Tyburn Ticket Acts offered a reward of £40 and exemption from parish duties to anyone who successfully contributed to the conviction of a highwayman. A ticket was issued to the informer, exempting him from the constable's office... These papers were highly prized and sold at a high price...". (Mark Haem, *op. cit.*, p. 368).

(122) *Policing in London*.

(123) Tim Wales, *op. cit.* especially pp. 69, 73-74; Ruth Paley, *Thief-takers in London in the Age of the McDaniel Gang, c. 1745-54*, in Douglas Hay and Francis Snyder (eds.), *Policing and Prosecution in Britain 1750-1850*, Clarendon Press, Oxford, 1989; J. M. Beattie, *op. cit.*, especially pp. 227, 231; Tim Hitchcock and Robert Shoemaker, *op. cit.* p. 3; Patrick Colquhoun, *op. cit.* pp. 107-8. There is evidence that thief-takers had been operating since the late sixteenth century, but the question of whether they were paid by private individuals or by the powers that be has not been resolved (J. M. Beattie, *op. cit.*, pp. 228-9).

(124) Tim Wales, *op. cit.* p. 68, 73.

(125) *Ibid.*

(126) J. M. Beattie, *op. cit.* p. 240.

(127) *Ibid.*, p. 230.

(128) *Ibid.*

(129) Tim Wales, *op. cit.* p. 68.

(130) J. M. Beattie, *op. cit.* p. 228.

(131) Tim Hitchcock and Robert Shoemaker, *London Lives: Poverty, Crime and the Making of a Modern City. 1690-1800*, Cambridge University Press, Cambridge, 2015, p. 230.

(132) Henry Fielding, *Tom Jones*, vol. 1, Paris, 1835, p. xiv.

(133) *Ibid.*

(134) Guyonne Leduc, *Les contraintes comme conditions de la liberté dans les périodiques et les essais d'Henry Fielding*, in Paul-Gabriel Boucé (ed.), *Contraintes et libertés dans la Grande-Bretagne du XVIIIe siècle : colloques*, Publications de la Sorbonne, Paris, 1988, p. 63. For Fielding, "individuals are led to behave well because of the coherent system of rewards and punishments presented to them by Christianity" (*ibid.*, p. 79).

(135) In *ibid.*, p. 11.

(136) Malvin R. Zwickler (ed.), *Henry Fielding, An Enquiry Into the Causes of the Late Increase of Robbers and Related Writing*, Clarendon Press, Oxford, 1988, p. lxxv.

(137) One of the main preoccupations of Colquhoun and the economic and social class for whom he acted as a sort of spokesman was to prevent the people from taking justice into their own hands, even if the acts that led them to rise up were reprehensible (Guyonne Leduc, *op. cit.*, p. 83). In 1714, the Parliament of Great Britain, following on from the laws on the right of assembly that had been passed under Charles II, passed the Riot Act, under which "any assembly of twelve or more persons, unlawfully assembled, and who have not separated one hour after the formal summons of a justice of the peace, who proceeds by the reading of the riot-act, shall be guilty of felony, without possible mitigation of the penalty by the benefit of the clergy ; anyone who demolishes chapels or houses before the reading of the customary proclamation, or prevents the justice of the peace from reading the proclamation, also incurs the penalty of felony, as do those persons who, after one hour, still find themselves in an assembly of twelve or more, with an intention hostile to the laws" (Edouard Fischel, *La Constitution d'Angleterre*, translated from the second German edition, compared with the English edition by Ch. Vogel, vol. 1, C. Reinwald, Paris, 1864, p. 179; the Riot Act came into force on 1 August 1715 and was repealed in England and Wales by section 10(2) and Part III of Schedule 3 of the Criminal Law Act 1967). Fielding took a clear stand in favour of the Riot Act in *A True State of the Case of Bosavern Penlez*; Penlez was a wig-maker who was executed in 1749 for having taken part

shortly before in a riot in the Strand following the theft of a sailor by a prostitute; the rioters threatened to destroy all public houses (Guyonne Leduc, *op. cit.*, p. 83).

(138) See John L. McMullan, *The New Improved Moided Police: Reform, Crime Control, and the Commodification of Policing in London*. In *The British Journal of Criminology*, vol. 36, no. 1, Winter 1996 [pp. 85-108].

(139) See Gerald Newman, 'Bow Street Runners'. *Britain in the Hanoverian age, 1714-1837: an encyclopedia*, Taylor & Francis, London, 1997.

(140) In 1751, he published a pamphlet entitled *Enquiry into the Causes of the late Increase of Robbers*, in an attempt to restore the image of thief-takers, endeavouring to show that they provided valuable assistance to the forces of law and order and risked their lives in bringing criminals to justice: the misconduct of some should not obscure the services they rendered to the community...

(141) On the quasi-military organisation of runner patrols, see Charles Tempest Clarkson and J. Hall Richardson, *Police*, London, 1889, pp. 44-5.

(142) Mark Haem, *op. cit.*, p. 370. Fielding is said to have known three hundred thieves personally (*ibid.*).

(143) John L. McMullan, *op. cit.* p. 104.

(144) Andrew Ashworth and Lucia Zedner, *Preventive Justice*, Oxford University Press, Oxford, 2014, p. 33.

(145) Francis M. Dodsworth, *The Idea of Police in Eighteenth-Century England: Discipline, Reformation, Superintendence, c. 1780-1800*, in *Journal of the History of Ideas*, vol. 69, no. 4, 2008 [pp. 583-605], p. 589.

(146) Quoted in Roy Coleman and Michael McCahill, *Surveillance and Crime*, SAGE Publications Ltd, 2011, p. 48.

(147) Frank McLynn, *Crime and Punishment in Eighteenth-century England*, Psychology Press, London and New York, 1989, p. 34. More or less anecdotally, although this detail says a lot about the character, John Fielding also drew up a plan to "rescue" abandoned girls and send "desperate" boys into the navy (Mark Haem, *op. cit.*, p. 370).

(148) Roy Coleman and Michael McCahill, *op. cit.* p. 48.

(149) Quoted in Kris Castner, *PanCOPTicon: Policing in the Eye of 21 st Century Surveillance Technology*. Thesis, s. l., May 2012, p. 12.

(150) John L. McMullan, *op. cit.* p. 102.

- (151) Mark Haem, *op. cit.* p. 365.
- (152) Frank McLynn, *op. cit.* p. 32.
- (153) Tim Hitchcock and Robert Shoemaker, *Tales from*, p. 31.
- (154) John L. McMullan, *op. cit.* p. 103.
- (155) Sébastien Richard, *The Bow Street Runners Squad under Sir John Fielding (London, 1748-1780)*. Dissertation, Université du Québec à Montréal, 2013, p. 64; see also Francis M. Dodsworth, *op. cit.*
- (156) Sébastien Richard, *op. cit.* p. 28; according to Guyonne Leduc (*op. cit.*, pp. 82-3), they were even paid from secret Treasury funds.
- (157) *Journal of Criminal Law and Criminology*, vol. 82, no. 3, article 7, autumn 1991 [pp. 690-712], p. 690. Colquhoun's views on 'preventive policing' were heavily influenced by Bentham's distinction between poverty and destitution in Jeremy Bentham's *Essays on the Subject of the Poor Laws* (Michael Quinn [Ed.], *The Collected Works of Jeremy Bentham. Writings on the Poor Laws*, vol. 1, Clarendon Press, Oxford, 2001, p. Xx; see also L. J. Hume, *Bentham and Bureaucracy*, Cambridge University Press, Cambridge, 1981, p. 214 et seq; Giuseppe Campesi, *A Genealogy of Public Security: The Theory and History of Modern Police Powers*, Routledge, 2016, p. 195 p. 195; see also *infra*, note 165).
- (158) His argument was largely based on statistics that were later shown to be - like all statistics - "highly dubious, if not fabricated" (Iain McCalman, *An Oxford Companion to the Romantic Age*, Oxford University Press, Oxford, 1999, p. 68).
- (159) "The Police in this Country may be considered as a new Science, the Properties of which consist not in the Judicial Powers which lead to Punishment, and which belong to the Magistrates alone, but in the PREVENTION and DETECTION of Crimes, and in those other Functions which relate to the Internal Regulations for the good Order and Comfort of CIVIL SOCIETY." (Patrick Colquhoun, *A Treatise on the Police of the Metropolis*, 7th ed., corrected and considerably enlarged, 1806, p. 8).
- (160) See David R. Johnson, *American Law Enforcement: A History*, Forum Press, 1981, p. 14.
- (161) Patrick Colquhoun, *A General View of the National Police System*, London, 1799, p. 29.
- (162) Mark Neocleous, *Social Police and the Mechanisms of Prevention: Patrick Colquhoun and the Condition of Poverty*. In *The British Journal of Criminology*, vol. 40, no. 4, Autumn 2000 [pp. 710-26], p. 723, note 5.
- (163) *Essai sur le principe de population* by Malthus, 2nd edn, Guillaumin et Cie, Paris, 1852, p. 490, note 2.

(164) British Library, vol. 40, Geneva, 1809, p. 28.

(165) Quoted in René Coste, *Quel système économique?* J. Duculot, 1971, p. 128. The Report of a Committee on the Subject of Pauperism (1818) of the Society for the Prevention of Pauperism in the City of New York echoed Colquhoun's distinction between poverty and indigence.

"Poverty (as defined by an eminent writer [Colquhoun]) is that state and condition in society, in which the individual has no surplus labour to spare, and consequently no property, but what is derived from the constant exercise of industry, in the various occupations of life; or in other words, it is the state of every one who has to work for his subsistence.

"Poverty is therefore seen as a necessary and indispensable ingredient of society, without which nations and communities could not exist in a state of civilisation. It may even be regarded as the source of wealth, for without poverty there would be no work, and without work there would be no wealth, no refinement, no comfort, no advantage for those who possess wealth" (emphasis added).

(166) The idea of a police force for the poor in England goes back at least to the Tudors. It was under this dynasty that the system of labour policing founded under the Plantagenets became "legislation intimately connected with the policing of public safety and assistance to the poor" (Rodolphe Gneist, *La constitution communale de l'Angleterre*, t. 2, Librairie Internationale, Paris, 1868, p. 63). The purpose of the Poor Laws (1601) of Elizabeth I was half charity and half police, which provided as follows: "The inspectors of the poor, with the consent of two justices of the peace, will give work, or rather will put to work the children whose parents do not seem to them to be in a position to support them, as well as any person, married or not, without means of subsistence, and without industry to obtain it. And there will be formed, by means of a tax on the inhabitants of each parish, a shop of linen, hemp, wool, wire, iron and other materials, to make the poor work" (Ernst Freund, *The police power, public policy and constitutional rights*, Callaghan, 1904, p. 155; Louis Simond, *Voyage d'un français en Angleterre*, vol. 1, 1816, p. 299). As for the New Poor Law (1834), "It is clear that (its)framers (...) recognised the necessity of a police force (instead of the army) to suppress the disturbances connected with the passing of the Act, but the connection between the police and the Act was much deeper than the need to suppress riots and resistance. To be effective, the new law required an intensified crackdown on vagrancy. The police had a responsibility under the common law and the Vagrancy Act (1824) to control vagrants ..." (see Mark Neocleous, *op. cit.*, p. 718), although in practice the control and limitation of vagrant movements remained the responsibility of local authorities, organised in parish unions, even after the County and Borough Police Act (1856), which made the constitution of a police force compulsory throughout the territory, had been adopted (*ibid.*). The County and Borough Police Act, however, was not intended to control vagrancy, but to suppress it altogether, and to this end gave the police the means to criminalise any means of support other than wages. "Not only was begging severely curtailed, but common customs and rights, such as casual labour in return for payment in kind, grazing livestock on public roads, pilfering wood, picking fruit or vegetables for consumption or sale, fishing in rivers without a licence, hawking

and hawking on the sly, all came under the law, and were eventually eliminated. In conjunction with the new police force, the new law on the poor was explicitly designed to impose wage labour on the active population, as it abolished all material aid to anyone but the most destitute and outlawed subsistence practices contrary to the development of the new relations of production" (ibid.). As the core of Colquhoun's proposals was the policing of labour through the political and police management of poverty, he can be seen as a precursor of the new Poor Law (ibid.).

(167) Mitchell Dean, A genealogy of the government of poverty. In *Economy and Society* vol. 21, no. 3, August 1992 [pp. 215-251], p. 218: "From a genealogical point of view, the policing of the poor in the seventeenth and eighteenth centuries makes a fundamental contribution to the trajectory of what later became known as social policy. It did so by making the poor the object of observation, comparison and information gathering. Through this process, it begins to assess the lifestyles of poor workers and families from the point of view of the benefits or burdens they represent for the cause of national well-being. To regard the number of poor people as representative of the national welfare, and to make this relation conditional upon their ability to lead a 'regular and industrious life', is to take provisional steps towards the delimitation of a domain of personal conduct and of family and personal responsibility..." (Mitchell Dean, *The Constitution of Poverty: The Constitution of Poverty and Social Security*. (Mitchell Dean, *The Constitution of Poverty: Towards a genealogy of liberal governance*, Routledge Revivals, 2011 [1991], p. 67).

(168) Patrick Colquhoun, *A Treatise on Indigence*, London, 1806, p. 82.

(169) The expression "social police" seems to have appeared for the first time in the tenth volume of the *Encyclopédie méthodique*, published in 1791; in the Anglo-Saxon world, the term "social police" did not appear until the end of the nineteenth century.) We should not lose sight of the fact that "the figures who emerged after the 'birth' of the welfare state and who played a central role in social policy - poor law enforcers and social security officers, social workers, probation officers and 'official' government (policy) administrators - are, from this point of view, as much a part of the policing system as uniformed police officers" (Mark Nucleous, op. cit., p. 720).

(170) Patrick Colquhoun, *Traité sur...*, p. 73-6.

(171) Christopher L. Tomlins, *Law, Labor, and Ideology in the Early American Republic*, Cambridge University Press, Cambridge, 1993, p. 80: "The police, in this respect, would not be satisfied with framing the disciplinary power of the market and, where necessary, with countering it, but would first contribute to shaping the market" (Mark Neocleous, op. cit., p. 718).

(172) Mark Neocleous, op. cit. p. 717.

(173) Charles Dupin, *Voyages dans la Grande-Bretagne*, 3e Partie, t. 1, Paris, 1824, p. 22. The archives bear witness to thefts perpetrated by junior customs officers (watchmen, junior officers) and, as for the dockers, most were content to commit petty theft (Tri Tran, *Les vols dans les docks de Londres au XIXe siècle*. In *Revue Française de Civilisation Britannique* [En Ligne], XII-3, 2003, accessed 16 November 2020. URL: <http://journals.openedition.org/rfcb/1610> ; DOI: <https://doi.org/10.4000/rfcb.1610>). See also Peter Stone, *The History of the Port of London: A Vast Emporium of All Nations*, Pen & Sword Books Ltd, 2017.

(174) A jack-of-all-trades with a sickly inventiveness, Bentham conceived a multitude of other projects, several of which, like the panopticon, were taken up and completed, either in full or in part, in a reworked form, after his death, whether or not his followers acknowledged their debt to him. Thus his project for the conservation of all animal and vegetable species (Pierre Amédée Pichot [ed.], *Jérémie Bentham, ses mémoires et son système*. In *Revue britannique*, 5e série, t. 13, 1843, p. 40, note 1) was partly realised by the designers of the Svalbard Global Seed Vault (2008), dubbed the "Plant Noah's Ark" and co-financed by the Norwegian government, the Bill and Melinda Gates Foundation, the seed industry, the genetics industry, the UN and the World Bank. The aim is to monopolise seeds as a food and commercial weapon (see Thierry Brugvin, *Le pouvoir illégal des élites : Essais - documents*, Max Milo Éditions, Paris, 2014).

Another of his projects is worth mentioning here: called Pauper Management, it was published in *Outline of a Work entitled Pauper Management Improvement*, seven years after the panopticon project. The two projects were complementary. The two buildings, that of the "house of penitence" and that of the poorhouse, had at their centre a pavilion from which the inspector could exercise his surveillance in all parts at the same time. They differed only in shape: the "house of penance" was strictly circular, while the other was a circular polygon. Both were privately owned. Pauper Management would be owned by a joint-stock company called the National Charity Company, modelled on the East India Company and managed, like the latter, by a board of directors elected by the shareholders. The company would have a capitalisation of between four and six million pounds raised by private subscription. It would receive an annual subsidy from the government equivalent to the paupers' tax. Each of the poorhouses would be privately owned and managed through a system of contracting out. Each was planned to house two thousand paupers. Bentham planned to build two hundred and fifty initially and five hundred after twenty-one years.

The fill rate would be maximum because of the power of the National Charity Company "to apprehend any person, able-bodied or not, having neither visible or marketable property, nor honest and sufficient means of support, and to detain and employ him..." (quoted in Gertrude Himmelfarb, *Bentham's Utopia: The National Charity Company*. In *The Journal of British Studies*, vol. 10, no. 1, November 1970 [p 80-125], p. 88).

(175) David Arthur Jones, *History of Criminology: A Philosophical Perspective*, Greenwood Press, 1986, p. 64.

(176) Jean-Christophe Gascon, *Droit criminel et régulations étatiques en Angleterre et à Londres au seuil de l'Âge des réformes: outils pour une sociologie historique*. Dissertation. Université du Québec à Montréal, Montréal, 2019, p. 146-7.

(177) Roy Coleman and Michael McCahill, *op. cit.* p. 50.

(178) Mark Neocleous, *op. cit.* p. 718.

(179) See Tri Tran, *op. cit.*

(180) Michel Foucault, *Surveiller et punir*, Gallimard, Paris, 1975, p. 98.

(181) See *RSA Journal*, vol. 140, no. 5424, December 1991, p. 347.

(182) Virginia Suzanne Balch-Lindsay, *op. cit.* p. 44. Offenders were sentenced to three months' imprisonment; in the event of a repeat offence, six months' imprisonment and, in the event of a second repeat offence, deportation to America.

(183) Mark Neocleous, *op. cit.* p. 719.

(184) *Ibid.*

(185) Gilles Deleuze, Foucault, *Les Éditions de Minuit*, Paris, 2013 [1986].

(186) Mark Neocleous, *op. cit.* p. 718.

(187) In the same spirit, Bentham supported the unpopular "enclosures" movement, one of whose aims was "to transform commons-holders with collective interests into individualised consumers and employees. In other words, to turn them into creatures of the market" (David Bollier, *La renaissance des communs : Pour une société de coopération et de partage*, Charles Leopold Mayer, 2014, p. 54). The passage deserves to be quoted in extenso: "To put it bluntly, the king, the aristocracy or the petty landed gentry appropriated the pastures, forests, game or water traditionally exploited in common by the villagers and declared them private property. The encloseers sometimes appropriated these resources with the official approval of the British Parliament, or sometimes simply took them by force. To exclude the commoners, it was customary to expropriate their land and erect fences or hedges. Sheriffs and other henchmen ensured that commoners did not poach on the king's land. For the privileged few in medieval England, enclosures were all the more attractive because they were an easy way to get their hands on more wealth and power with the full approval of the law. They could help struggling barons or rising minor nobility to consolidate their political power and increase their holdings of new lands, water resources and game. An anonymous 18th-century protest poem sums it up very well:

The law locks up the man or woman
Who steals the goose from the common man
But leave the bad guy free, because he's much worse,
Stealing common from the goose.

The law requires atonement
When we take what does not belong to us
But don't demand anything from the lords and ladies
Who take what's yours and mine.

The poor and the miserable don't make it
If they conspire to break the law ;
It has to be this way, but they are the victims.
Of those who conspire to make the law.

The law locks up the man or woman
Who steals the goose from the common man
And the geese are going to run out of common
Until they came to take it back.

The law locks up the man or woman
Who steals the goose from off the common
But leaves the greater villain loose
Who steals the common from off the goose.

The law demands that we atone
When we take things we do not own
But leaves the lords and ladies fine
Who take things that are yours and mine.

The poor and wretched don't escape
If they conspire the law to break;
This must be so but they endure
Those who conspire to make the law.

The law locks up the man or woman
Who steals the goose from off the common
And geese will still a common lack
Till they go and steal it back.

"As enclosures spread across the English countryside, commoners found themselves in serious difficulties. They depended on wood from the forest for fire and thatch, and on acorns to feed their pigs. They depended on the shared fields to grow their vegetables, and on the open meadows to gather fruit and wild berries. Access to the commons thus formed the basis of an entire rural economy. Prevented from exploiting their commons, villagers were forced to migrate to the cities, where the nascent industrial revolution turned them into wage slaves if they were lucky, or beggars and paupers if they were not. Charles Dickens drew on the social upheavals and injustices caused by the enclosures to write *Oliver Twist* and his other novels. An important aim of English enclosures was to turn people with collective interests into individual consumers and employees. In other words, to turn them into creatures of the market. The 'satanic factories' of the Industrial Revolution, in the words of the poet William Blake, wanted obedient slaves who were entirely dependent on their wages. One of the most overlooked aspects of enclosures is precisely the way in which they separated production and governance. In a common, production and governance were closely associated, and all commoners shared in both. After the enclosures, the markets took charge of production, and the state took charge of governance. The modern liberal state was born. And even though it brought major advances in terms of material

production, these gains were achieved at a terrible cost: the dissolution of communities, the emergence of profound social inequalities and the erosion of the capacity for self-governance. Governance became a matter for government, the realm of professional politicians, lawyers, bureaucrats and economic interest groups. Democratic participation was essentially confined to the right to vote, which was moreover limited to men (and even, at first, to property owners). Enclosures also served to deprive people of direct contact with the natural world and to impose social and spiritual isolation on them.

"Over a period of around one hundred and fifty years, from the end of the seventeenth century to the middle of the nineteenth century, around one seventh of all common land in England was carved up and privatised. The result was the entrenchment of deep inequalities in English society and an explosion of urban poverty. The foundations of the modern market order were being laid, and the masters of this new world had no need of the commons. Instead, the hallmarks of the new order would be individualism, private property and free markets.

"... for millennia people have been bound together by community, religion, kinship and other kinds of social or moral ties. All economic systems were based on systems of reciprocity, redistribution or domestic economy, and people were encouraged to produce things through 'custom and law, magic and religion'.

"However, between the seventeenth and nineteenth centuries, as enclosures spread, production and profit became the fundamental organising principles of our societies. Instead of being intended primarily for domestic use within a stable social framework, production was redirected towards private gain and accumulation. This shift meant that a number of resources - notably land, labour and money - had to be redefined as commodities. Polanyi calls them 'fictitious commodities' on the grounds that human life and natural ecosystems cannot really be divided into fungible and substitutable units. Nevertheless, markets require the gifts of nature, labour and money to be treated as commodities so that they can be assigned a price and become objects of trade and speculation.

"These 'commodity fictions' quickly spread to other areas, with the result that everything became an object to be bought and sold. Food, water, fuel, wood for domestic use and other basic resources - previously available by right through the commons - could now only be acquired through the market, for a fixed price." (ibid., pp. 52-5). This other detailed analysis of the catastrophic consequences of "enclosures" for the English peasantry will not be outdone: "Enclosures are (...) first and foremost a reorganisation of land ownership, the consolidation and redistribution of the land in a parish: open fields and commons are turned into closed properties, scattered plots are brought together and undivided fields are divided into compact estates, independent of each other and surrounded by continuous hedges. This had been going on for a long time, but on a much smaller scale than in Bentham's day. Before the 18th century, enclosures tended to be 'savage': they were opposed by the legislature on the grounds that they led to depopulation of the villages concerned (because arable land was being converted to

pasture: in his time, Thomas More had already remarked that sheep raised for the wool industry ate men). In the 18th century, the opposite happened: enclosures were legalised and encouraged by Acts of Parliament. The number of enclosures increased at an accelerated rate, eventually causing a veritable tidal wave: from 33 Acts of Parliament between 1720 and 1730, to 642 between 1770 and 1780, and 906 between 1800 and 1810; alongside these Parliamentary decisions, more and more enclosures were carried out through 'amicable' buy-outs. Why this irresistible movement? It was because the aristocracy had converted to agrarianism: it wanted to undertake the methodical development of its estates, improve crops, systematically raise livestock and enrich itself by supplying the towns with meat. The open field system was an obstacle to the application of new methods: a lot of land remained uncultivated, abandoned to barrenness; the land that was cultivated was often poorly and primitively cultivated, subjection to the common routine prohibited any experimentation, and fallow land was a waste (three-year crop rotation persisted). Hence the offensive by the large landowners, who took the initiative in petitioning Parliament.

"In the redistribution of land, the loser is first and foremost the small independent farmer: the best land goes to the richest. What's more, they have to surround their new property with hedges, which costs labour and money, and contribute to the general costs of enclosure, which are often considerable (irrigation, road building, drainage, etc.). The result was discouragement and indebtedness, with the predictable outcome of selling one's plot to wealthy landowners: the latter had, moreover, applied for the enclosure deed with the avowed aim of monopolising the land of small farmers; this explains their disappearance throughout the 18th and early 19th centuries. As for the cottagers and day labourers, there was no longer any question of them living on the uncultivated land or benefiting from it: it was going to disappear and the owning class missed no opportunity to remind the poor that they had no legal title to the use of the communal land. And that's not all: the decline in small-scale farming was followed by the expansion of pastureland, so the number of labourers required fell. In these conditions, it is not surprising that enclosures sometimes provoked riots or violent reactions from the lower classes.

"Enclosures were therefore not simply a redistribution of existing land, but a real restructuring of land tenure in a capitalist sense, the consequence of the desire of the strongest to treat their property as capital. By reducing the workforce, they cut costs; by applying new methods, they increased production and profits. They free themselves from routines and waste, but are much less concerned about the social cost of the operation, i.e. the disappearance of customary institutions that protect the individual, and of the people who count for little in their eyes compared to yield and productivity growth. Landowners converted to competition because they envied the merchant bourgeoisie and its successes; now that they have constituted themselves as doubles, their mimetic rivalry provokes the social exclusion of third parties, small peasants and day labourers; this is what Dumouchel has called the social institution of scarcity. It's a strange paradox: there's always as much land as there is, but it's no longer enough to satisfy everyone's needs; production increases, but the poor don't benefit because there's less work to do. The very

means by which we claim to fight scarcity, the productivist multiplication of goods and objects, creates scarcity; the methods by which we increase agricultural production institute the scarcity of land and subsistence. The large landowners were convinced that increased production could only benefit everyone. But what was obvious to them and has become obvious to us: increased productivity, rationalisation of agricultural work, simplification of tasks, reduction of effort for the same output, elimination of unnecessary travel - all this is only self-evident when work becomes the means to something else, when it is conceived from a productivist point of view and when more or cheaper production is needed for the market. For those who, at that time, lived off a subsistence economy, the rationalisation of work made no sense, because it was not the means to something else, it was simply part of life, and the land was not just a space for production, but first and foremost the world that people inhabited. With enclosures, land becomes a collection of exclusive objects, private property in the absolute sense: the old village community and the traditional obligations of solidarity no longer have any *raison d'être*. The other side of the coin is that peasants are obliged to produce more to compensate for the loss of their right of access to communal land; solidarity is no longer the order of the day, and even generosity is becoming rare. As for the rich landowners, it is they who, in good conscience, have created social exclusion; third parties, peasants who lose their independence, workers who fall into a state of indigence, are only entitled to the indifference of the double. Not that they had any particular grudge against the poor, they did not do them any open violence, they simply lost interest in them: they had no duties towards them, moreover they had no legal right to the use of the communal land. It's the violence of scarcity; an invisible, faceless violence, the violence of indifference.

"But things are not so simple: the poor do not disappear from the face of the earth as easily as open fields and communals. One would expect them to leave their villages to seek their salvation on the nation's labour market (all the more so as the creation of a market for land through enclosures was in line with capitalism, which, in order to triumph, also required the presence of a competitive labour market). In 1795, the Act of Settlement, which dated back to 1662 and had introduced a system of parish serfdom that prevented the mobility of labour, was made much more flexible: any individual who changed residence could at any time be sent back to the parish where he had his legal domicile. In order to be expelled, it was not necessary for him to be in a state of indigence requiring immediate relief and making his presence onerous for the parish in which he had just settled; it was sufficient that the eventuality was considered probable. The Act of Settlement therefore implied an extraordinary rigidity in the distribution of labour, and constituted an obstacle to the physical mobility essential to the functioning of a market society. Liberals had long been fulminating against this system. Adam Smith saw it as the height of absurdity: it prevented people from finding useful jobs and prevented the capitalist from finding employees; it deprived the worker of a chance to earn a living and condemned him to destitution and parish assistance if there was no work on the spot. In 1795, a new law withdrew the right of preventive expulsion from the local authorities: only people without means of subsistence who had effectively become dependent on public assistance could be sent back to their country of

origin; in the event of illness or infirmity, they were entitled to a delay. There was a synergy between this new law and the enclosure movement: both were moving towards the creation of a market society. But it was here that a phenomenon came into play that ran counter to the institution of a national labour market: in the same year, the Berkshire judges meeting in Speenhamland decided to grant supplements to wages in accordance with a scale indexed to the price of bread, so that a minimum income would be guaranteed to the poor regardless of their earnings. To determine the level of the supplement, the number of children would be taken into account: at the same time, a sort of family allowance system was instituted. No man had to fear hunger: the parish would provide for his family no matter how little he earned. This was an innovation compared with the Elizabethan Poor Law (1601), which made no provision for supplements and forced the poor to work for their wages. Under Speenhamland's system, even if you had a job, you were supported as long as your wages remained below the family income allowed by the scale. In fact, the edict recognised a right to live independently of work, and proclaimed the right to assistance in the form of an unconditional right to relief that was incompatible with the wage system.

"There were several reasons for taking such a measure: the dislocation caused by the war with France, the poor harvests of 1794 and 1795, famine and the exorbitant price of bread leading to riots, the extremely harsh winter of 1794-95, and the development of a Jacobin movement in the country. The spectacle of France was sobering: Speenhamland was initially inspired by the fear of a popular uprising, it was an insurance against revolution, a measure conceived as circumstantial. But this emergency measure was to last, and even spread rapidly to the countryside, only to be repealed in 1834 when the Poor Law was reformed. There were other reasons for this. Firstly, it is clear that Speenhamland compensated to some extent for the effect of enclosures: the system of allowances spread particularly quickly in areas where they had wreaked havoc. The big farmers had another motive than that of alleviating the rural distress caused by enclosures. In fact, they did not want a nationwide labour market: it would have upset local conditions. In fact, to ensure their production, they needed a reserve of labour from which they could draw at any time: the countryside requires far more labour in spring and autumn than in the off-season; in addition, there are occasional jobs requiring the presence on site of a reserve constantly at the farmer's disposal. Ensuring this availability meant maintaining rural workers during idle periods with a view to employing them in times of peak demand or emergency: in other words, making them dependent on parish assistance. Speenhamland was intended to prevent the depopulation of the countryside, and its success can be explained in part by the farmers' fear of having to compete with urban employers, i.e. of having to pay more substantial wages as a result of emigration, which would have been the logical effect of enclosures" (Fernand Tanghe, *Le bienfaiteur utile du pauvre*, Presses de l'Université Saint-Louis, 1987 pp. 577-614).

(188) Bentham expanded on these "principles" in *Punishments and Rewards* (1811, 2 vols.). "Man is guided by the search for personal satisfaction and wants to maximise it always and

everywhere. He is a calculator who seeks maximum pleasure and minimum pain, a small economic machine that wants to increase its profits and reduce its costs. On this basis, the whole of society, all the institutions, all the laws and standards must adapt to this fact: the aim of all the institutional apparatus and the main objective of government is to produce the greatest happiness for the greatest number by regulating and directing behaviour so that the satisfaction of individual interests leads to the greatest possible amount of happiness for the community. In other words, if we are all 'economic men' governed by our interests, then the government of society should take the greatest account of them. The new system of laws, the scale of rewards and punishments, and the institutional workings must be designed in such a way that each individual calculates his own self-interest and pursues his own private ends while taking account of the interests of all. This means that individuals must be very free to make their own decisions and choices, but they must be as closely discouraged as possible from acting in a way that is contrary to the interests of the community, and as strongly encouraged as possible to make the choices that are best for everyone. This is the paradox: the supposedly free choices of selfish calculators are constrained from within by expectations of reward and punishment linked to the normative system instituted and maintained by the government. Everyone calculates and decides for themselves, but the parameters of individual choice are largely determined by the normative framework laid down by political power. There is a paradox here. It can be explained as follows: if each individual pursues his own self-interest, he cannot be trusted because he will spontaneously defend his own selfish interests. He must therefore always be under surveillance, and the government must intervene indirectly in his choices, so that in pursuing his selfish interest, he also contributes to the greater collective good (...). For the utilitarian philosopher, it is a question of building a system of power that leaves individuals free to make choices according to their own calculations of maximisation, in accordance with the principles of the economic liberalism of the time, while directing behaviour towards the general interest, which presupposes keeping a constant eye on 'potential delinquents'. Freedom and security [see note 8 above] are therefore two sides of the same political coin. The social space is now fluid, but each agent who can move about freely, establish the relationships he or she wishes, develop his or her 'business' as he or she pleases, must have internalised in his or her calculation of pleasures and punishments the relative weight of the punishments and rewards likely to result from these acts". (Christian Laval, *Surveiller et prévenir. The new panoptic society*. In *Revue du MAUSS*, vol. 2, no. 40, 2012 [pp. 47-72])

(189) Heinrich Ahrens, *Cours de droit naturel ou de philosophie du droit: fait d'après l'état*, 5th ed. revised and considerably expanded, Bruylant-Christophe et Cie, Brussels, 1860, p. 50.

(190) Quoted in Christian Laval, *op. cit.*

(191) In his *Mémoire sur le système pénitentiaire* (1877), the first director of the Geneva (panoptic) penitentiary emphasised the financial advantages of the panoptic plan in the following terms: "The first advantage of the central gallery or inspection room is to offer an easy means of surveillance which, by this very fact, saves on guard costs" (quoted in *Opinions exprimées par*

les conseils généraux des départements, dans leur session de 1838, sur la réforme du régime des prisons, Paris, 1838, p. 157). In the same vein, in the letter enclosed with the copy of the Panopticon that he had sent to Garran de Coulon (see *infra*, note 205), Bentham wrote with some exaggeration: "Let me build a prison on this model, and I will make myself its jailer: you will see, in the Memoir itself, that this jailer wants no salary, and he will cost the nation nothing", (*Œuvres de Jérémie Bentham*, t. 1, Brussels, Hauman et Cie, 1840, p. 223),

(192) Christian Laval, *op. cit.*

(193) *Ibid.*

(194) In essence, the panoptic system is nothing other than the technological application of the Old Testament notion, later taken up by Freemasonry, of the "all-seeing eye", and this is the very meaning of the neologism coined by Bentham (pan = all + opticon = eye) to designate his invention (see <https://elementsdeducationraciale.wordpress.com/2017/07/04/isis-3/>, A. Tentative de détermination des canaux de transmission du symbole de l'œil qui voit à la franc-maçonnerie). Bentham admitted that the panopticon was inspired by plans for shipbuilding workshops that he had drawn up while in the service of Catherine of Russia (see Philip Steadman, *Samuel Bentham's Panopticon*, <https://discovery.ucl.ac.uk/id/eprint/1353164/2/014%20Steadman%202012.pdf> ; Christian Welzbacher, *The Radical Fool of Capitalism: On Jeremy Bentham, the Panopticon, and the auto- icon*, The MIT Press, 2018, p. 17), his brother Samuel, who was a Freemason (Matthew S. Anderson, *Samuel Bentham in Russia, 1779-179*. In *The American Slavic and East European Review*, vol. 15, no. 2, April 1956 [pp. 157-172], p. 159). However, in developing it, there is every reason to believe that Bentham drew as much on (Judeo)Christian ideology as on Freemasonic imagery. Indeed, he used Psalm 139:2-3 ("Thou knowest when I sit down and when I rise up, Thou penetrateest my thoughts afar off; Thou knowest when I walk and when I lie down, And thou penetrateest all my ways") as an exergue to the sketches of the Panopticon that he sent to various governments (Jacques-Alain Miller, *La machine panoptictique de Jeremy Bentham*. In *Ornicar*, No. 3, May 1975 [pp. 3-36]; see also Gertrude Himmelfarb, *The Haunted House of Jeremy Bentham*, in Richard Herr and Harold T. Parker [eds], *Ideas in History*, Duke University Press, Durham, NC, 1965, who states that, "comparing the painting (attributed to) Bosch (*The Seven Deadly Sins and the Four Last Human Steps*) and Bentham's drawings, one is struck by their almost identical composition: replace the pictures of the sins by cells and the iris by the observation tower and you have the plan of the panopticon". Bentham could not have been unfamiliar with this scene, if not from Bosch's painting itself, at least from the many similar representations that decorated English churches at the time (Stewart R Clegg and Cary L Cooper [eds.], *The SAGE Handbook of Organizational Behavior*, vol. 2, Sage Publications, Los Angeles, CA, 2009, p. 272, p. 283, note 2 and fig. 16.1 and fig. 16.2). Bentham's use of the theological term "real presence" to refer to the inspector's presence also speaks volumes about his source of inspiration. In one of the letters, entitled "Advantages of the Plan", which he sent from Russia in 1787, he also endows the Inspector with one of the attributes of God: "I flatter myself that there

will now be no doubt of the fundamental advantages which I attribute to it: namely, the apparent omnipresence of the Inspector (if theologians will permit me the expression,) combined with the extreme ease of his real presence." (Jeremy Bentham, *Selected Writings*, Yale University Press, 2011, p. 287).

(195) Jeremy Bentham, *Panopticon*, *Works of Jeremiah Bentham*, vol. 1, 3rd edn, Brussels, 1840, p. 225.

(196) *Ibid.*, p. 226.

(197) *Ibid.*, p. 229.

(198) *Ibid.*

(199) *Ibid.*

(200) *Ibid.*

(201) *Ibid.*

(202) *Ibid.*

(203) Michel Foucault, *op. cit.* p. 204; this passage could be understood as a premonition of the effective influence that a virtual space like the Internet has on the material world and those who live in it.

(204) *Ibid.*, p. 203.

(205) "Le tyranise tyrannise grâce à une cascade de tyranneaux, tyrannisés sans doute, mais tyrannisant à leur tour" (Marcel Conche, quoted in Bernadette Gadomski, *La Boétie penseur masqué*, Paris, L'Harmattan, 2007; see also Christian Laval, *op. cit.*). It is worth noting that Bentham began his literary career by writing two texts entitled "On Torture" (see W. L. and P. E. Twining, *Bentham on Torture*. In *Northern Ireland Legal Quarterly*, 24, 1973 [pp. 305-56]; reprinted in Bikhu Parekh [ed], *Jeremy Bentham: Critical Assessments*, vol. 2, Routledge, London, 1993 [pp. 512-65]).

(206) Bentham worked tirelessly to develop and implement his plan for a panoptic "house of penitence". In March 1792, he was finally able to present it to the British government and, in 1794, the British Parliament passed an act authorising the construction of a panoptic penitentiary (Janet Semple, *Bentham's Prison: A Study of the Panopticon Penitentiary*, Clarendon Press, Oxford, 1993; Leslie Stephen, *The English Utilitarians*, vol. 1, Continuum, London, 2005; Thomas Mackay, *A History of the English Poor Law*, vol. 3, P. S. King and Son, London, 1899). Ten years later, the foundation stone had still not been laid. George III, offended by some of Bentham's writings, scuttled the project once and for all by vetoing it. However, as early as 1791, Bentham had sent the *Panopticon*, in the form of a memoir written by the Genevan publicist

Étienne Dumont, to the lawyer and politician Garran de Coulon (1748-1816), then a member of the Legislative Assembly and of a committee for the reform of criminal laws, and "the Directory of the Department of Paris [...] soon singled out this project from the crowd of those offered to it for the reform of prisons and hospitals. It seemed to go beyond those that had hitherto received the most approval, either in terms of economy or public safety: it offered a completely new guarantee for the care and keeping of prisoners and for the effectiveness of the means of reform. It was therefore unanimously adopted, and steps were taken to implement it...". (Jérémie Bentham and Étienne Dumont, *Traité de législation civile et pénale*, vol. 3, Brussels, Hauman et Cie, 1840, p. 194), when France declared war on Austria... the project was swallowed up in the revolutionary whirlwind. In the first decades of the 19th century, several prisons were built on the Panoptic model, but none, with the apparent exception of the Geneva penitentiary, completed in 1825 (*Bulletin officiel des délibérations du Grand-Conseil de la République et Canton de Neuchâtel*, vol. 26, Montandon Frères, 1866, p. 133).

(207) Michel Foucault, *Dialogue sur le pouvoir, Dits et écrits II*, 1976-1988, Quarto Gallimard, 2001, p. 474.

(208) There is no doubt that Bentham saw the panoptic system as capable of being extended to social organisation, as this passage from the preface to the *Panopticon* proves: "If we could find a way of controlling everything that can happen to a certain number of men, of arranging everything around them in such a way as to make the impression on them that we want to produce, of ascertaining their actions, their relationships, all the circumstances of their lives, so that nothing could escape or thwart the desired effect, there can be no doubt that a means of this kind would be a very energetic and useful instrument that governments could apply to various objects of the utmost importance" (Jeremiah Bentham, *op. cit.*, p. 225; see Guillaume Tusseau, *Sur le panoptisme de Jeremy Bentham*. In *Revue Française d'Histoire des Idées Politiques*, 2004, t. 1, no. 19 [p. 3-38], particularly *Du panoptisme carcéral au panoptisme politique : l'apparementement des projets*).

(209) Quoted in Michel Gigeac (ed.), *État, pouvoirs et contestations dans les monarchies française et britannique et dans leurs colonies américaines. Vers 1640-vers vers 1780*, Armand Colin, 2018.

(210) In 1719, in retaliation, English weavers molested all women wearing linen clothes from India (Mark and Marie-Pierre Haem, *Criminels et bandits anglais : Les ancêtres de Jack l'Eventreur*, Éditions Jourdan, Brussels and Paris, 2018).

(211) See E. P. Thompson, *The Making of the English Working Class*, Pantheon Books, 1963.

(212) John Prince Smith, *An Account of a Successful Experiment for an Effectual Nightly Watch*, London, 1812, p. 17.

(213) Virginia Suzanne Balch-Lindsay, *op. cit.* p. 228.

(214) See *ibid.* pp. 224-5.

(215) The Dublin Police Bill, inspired by the Pitt Bill, was passed by the Irish Parliament in 1786 and led to the creation of the Royal Irish Constabulary, which served as the model for Quebec's first provincial police force (Jean-Noël Tremblay, *Le métier de policier et le management*, Les Presses de l'Université Laval, Sainte-Foy, 1997, p. 15).

(216) Virginia Suzanne Balch-Lindsay, *op. cit.* p. 247-8.

(217) *Ibid.*, p. 300.

(218) *Ibid.*

(219) *Ibid.*, p. 321; Charles Tempest Clarkson and J. Hall Richardson, *op. cit.*, pp. 34-5.

(220) *Bulletin consulaire français*, 1877, Paris, p. 269.

(221) *Ibid.*

(222) *Ibid.*

(223) Virginia Suzanne Balch-Lindsay, *op. cit.* p. 332.

(224) Quoted in Andrew Ashworth and Lucia Zedner, *op. cit.* p. 38.

(225) *Ibid.*

(226) Workers' coalitions in England. In Amédée Pichot (ed.), *Revue britannique*, vol. 4, Bruxelles, 1859, p. 305.

(227) Anne Mandeville, *op. cit.* p. 329, note 133.

(228) *Ibid.*, p. 326. It cannot be ruled out that he made the figures talk like a ventriloquist makes his puppet talk (Clive Emsley, *The English Police: A Political and Social History*, 2nd edn, Routledge, 2014 [Hemel Hempstead, 1991], p. 25).

(229) Quoted in Ruth Paley *An Imperfect, Inadequate and Wretched System? Policing London Before Peel*, in Clive Emsley, *Theories and Origins of the Modern Police*, Routledge, 2017, p. 296.

(230) The Metropolitan Police served as a model for the American police (John L. Worrall, *The Politics of Policing*, in Michael D. Reisig and Robert J. Kane (eds.), *The Oxford Handbook of Police and Policing*, Oxford University Press, 2014, p. 53).

(231) Rodolphe Gneist, *op. cit.* t. 4, p. 52; the separation of the administrative police from the judicial police had been advocated by Colquhoun as early as 1796 (Andrew Ashworth and Lucia Zedner, *op. cit.* p. 40).

(232) Policemen and constables were paid at the taxpayer's expense. "To meet the necessary and important costs, a police rate was levied throughout the district on real visible property, the maximum of which must never exceed 3 1/2 p . C. of income, as assessed for district tax. By 3 and 4 Guill . IV, c. 89, a system of state subsidies was created with far-reaching consequences. On the certificate of the Minister of the Interior that the tax and arrears had actually been paid in a parish, the Ministry of Finance granted subsidies from the consolidated fund, initially with the proviso that the total sum did not exceed 60,000 st. lb. annually. The system of state subsidies up to a quarter of the general costs then became one of the main elements for ensuring the subsequent centralisation of police administration, and a model for a similar procedure throughout the country" (Rodolphe Gneist, op. cit, vol. 4, p. 52).

(233) Statistics. The London Police and the Dublin Police. In Amédée Pichet [ed.], op. cit. p. 165. Police officers were allowed to claim a reward for detecting

and condemnation of offenders, provided for by law, proclamation or by a

third parties. When a proposal for a new Police Gazette was put forward in 1827, it was suggested that half the space should be reserved for advertisements describing stolen goods and offering rewards for their return. Even after the creation of the New Police in 1829, rewards continued to be advertised in the Police Gazette and there were remarkably few restrictions on their publication. Police officers were therefore equally free to receive the customary twenty shillings for the arrest of a deserter and to accept the large sums (up to £500) offered by private individuals for the capture of a particular offender. With regard to the legal rewards which, in the event of an offender's conviction, were due to the person by whom he had been apprehended or pursued, police officers were not usually allowed to act as accusers, but in practice they often did so, especially where the injured party could not be traced or was too poor to prosecute. It was also common for an officer to 'cooperate' with the prosecutor. Here again, he was naturally obliged to do so if he was a witness for the prosecution in any part of the case. Each of these circumstances entitled police officers to receive or at least share in the reward. If a police officer acting on information supplied by a third party tracked down an offender and was entitled to a reward, his informant could claim a share of it. In some cases, the government was obliged to pay a reward to a police officer, if the private individual who had promised the reward failed to do so (...). So many services were specifically remunerated that it would have been difficult for a policeman or constable not to be entitled to certain allowances or gratuities each year" (L. Radzinowicz, *Trading in Police Services: An Aspect of the Early 19th Century Police in England*. In *University of Pennsylvania Law Review*, vol. 102, no. 1, November 1953 [pp. 1-30], pp. 5-6, 9).

(234) "During the night, they do not stop making their rounds for a moment; they must walk constantly, and they are forbidden to sit down to rest. The jurisdiction is divided into divisions, subdivisions, sections and rounds, each with a serial number and carefully drawn boundaries. Each round has its own special constables who must complete their rounds within a given time,

following a set itinerary; as soon as the round is over, they start again, so that the sergeant of the squad knows every minute of the day the precise location where he will find each of his men, unless something extraordinary happens. There is not a road, street, lane, alley or yard in the whole of London (except the City), the county of Middlesex, and the 218 parishes of the counties of Surrey, Kent, Essex and Hertford, 15 miles distant from Charing-Cross, forming a whole of 700 square miles, and a circumference of 90 miles (144 kilometres), containing a population of two and a half million inhabitants, which is not constantly visited day and night by police officers. The rounds vary considerably in extent; the better districts, inhabited by wealthy people, are visited at long intervals; the constable has a vast area to cover. But the rounds become smaller as the population increases, the character of the inhabitants, the nature of the buildings and the size of the property. In a six-mile circle, of which St. Paul's Cathedral is the centre, a police officer's round varies between seven and twenty minutes, and some places are never left unattended". (ibid. 163-4).

(235) They did, however, have access to firearms and other weapons (Maurice Punch, *Shoot to Kill: Police Accountability, Firearms and Fatal Force*, The Police Press, 2011, p. 26).

(236) Marcel Le Clère, *La Police*, Presses Universitaires de France, Paris, 1964.

(237) On the subject of pastoral power, see

<https://elementsdeducationraciale.wordpress.com/2019/10/28/le-pouvoir-panique-3/>.

(238) John S. Dempsey and Linda S. Forst, *An Introduction to Policing*, 8th edn, Cengage Learning, 2014, p. 8. In a document providing a definition of consent policing and information on the philosophy and historical principles of policing in Britain, which was published on 3 December 2012 on its website, the UK government's Home Office reaffirmed its agreement with this hypocritical approach, explaining that "police power derives from the common consent of the public, as opposed to the power of the state. It is not individual consent". He added, more cynically than Peel, "No individual can choose to withdraw consent to the police or to a law."

(239) "Every police officer must give an account of his conduct and the manner in which he has carried out his ministry to police judges in an independent position, in open court, as well as to the jurors and judges presiding at assizes, who decide, after a completely impartial assessment, whether a given act, carried out by the officer, was within his rights or not. Every police officer is also subject, when called to give evidence before the police judge, to the rigorous questioning that the accused or his defence counsel may subject any witness to after he has given evidence, and he is thereby forced to produce all his acts in broad daylight, without excluding any" (C. -J. - A. Mittermaier, *Traité de la procédure criminelle en Angleterre, en Écosse et dans l'Amérique du Nord*, augmentées des additions de l'auteur et traduit par A. Chauffard, E. Thorin, Paris, 1868, p. 129).

(240) Charles Tempest Clarkson and J. Hall Richardson, *op. cit.* p. 65, 68.

(241) Larry J. Siegel and John L. Worrall, *Introduction to Criminal Justice*, 14th edn, Wadsworth Cengage Learning, 2014, p. 164; see on the two commissions formed in 1833 by the House of Commons to investigate charges of misconduct against policemen (M. Cragoe and A. Taylor, *London Politics, 1760-1914*, Palgrave Macmillan, 2005, chap. 2).

(242) *The Revue britannique* (vol. XIII, 1853, p. 162), in an attempt to discredit all those who opposed Peel's New Police as thick, backward-looking brutes, is at pains to point out that, "(i)n 1833, during the People's Assembly held at Coldbath-Fields, three police officers in the performance of their duties were stabbed; one of them died of his wounds; there was a judicial enquiry, and the jury declared that this was an excusable homicide. The verdict, which should have qualified this crime as wilful murder, was, it is true, overturned by the higher court...". She neglects to point out that this gathering, although forbidden, was peaceful, until, ignoring the procedure to be followed in such cases, the policemen charged at and surrounded the three or four thousand individuals present, to prevent them from leaving the place where it was being held (see David Goodway *London Chartism 1838-1848*, Cambridge University Press, Cambridge, 2010, pp. 123-4). It was precisely because the policemen had not followed procedure that the homicide was initially deemed 'excusable'.

(243) Others were "raw lobsters", "Peel's bloody gang" and "Blue Devils" (Julian Symons, *A Pictorial History of Crime*, Crown Publishers, 1966, p. 14). As for 'Peeler', the authors of *Police* ! point out (p. 63) that "it is peculiar that it (...) was used in the sixteenth century to designate a thief".

(244) "Many," wrote an English literary scholar in the mid-nineteenth century, "are those in this enlightened age who are really impressed with the idea, in spite of the much-vaunted 'progress of intelligence' and the fact that ignorance is receding, that the bipedal animals described, not in natural history but in political economy, as policemen, peelers, bobbies, etc., 'are not of the people', but have been created by wicked 'tax-eaters' and 'placemen' to enslave the people" (John Russell, *The Jesuit in England; with the horrors of the Jesuits*), (John Russell, *The Jesuit in England; with the horrors of the Inquisition in Rome*, Blayney and Fryer, London, 1858, p. 243).

(245) Charles Tempest Clarkson and J. Hall Richardson, *op. cit.* p. 63.

(246) Quoted in W. L. Melville Lee, *A History of Police in England*, Methuen & Co, London, 1901.

(247) These acts were among those criminalised by the Metropolitan Police Act (Ian K. McKenzie, *Law, Power, and Justice in England and Wales*, Praeger, Westport, CT and London, p. 56 1998).

(248) See David S. Wall, *The Chief Constables of England and Wales*, Routledge, 2020.

(249) James F. Richardson, *Urban Police in the United States*, Kennikat Press, 1974, p. 14.

(250) Alena Pospíšilová, *Police Role in Society at the Beginning of 21st Century*, 2010, pp. 27, 28. According to Ruth Paley, *op. cit.* the number of people responsible for policing was halved once the Metropolitan Police Act was passed.

(251) Edouard Fischel, quoted in Charles Valframbert, *Régime municipal et institutions locales de l'Angleterre, de l'Écosse et de l'Irlande*, Marescq Aîné, Paris, 1873, p. 278.

(252) Ruth Paley, *op. cit.*

(253) Virginia Suzanne Balch-Lindsay, *op. cit.* p. 403.

(254) Randall G. Shelden and Pavel V. Vasiliev, *Controlling the Dangerous Classes: A History of Criminal Justice in America*, 3rd edn, Waveland Press, Inc, Long Grove, IL, p. 65.

(255) On the first vibrations of Max Weber's famous formula in seventh-century Germany, see Michel Coutu and Guy Rocher (eds.), *La légitimité de l'état et du droit autour de Max Weber*, Les Presses de l'Université Laval, 2005, p. 33 et seq.

2

When in 1467 he [Louis XI] wanted to repopulate Paris, he appealed to all those convicted of crime and invited them to settle there as a place of safety.

J. J. E. Proost, "histoire du droit d'asile religieux en Belgique", in *Messenger des sciences historiques*

Indra is the 'breaker of cities' (puramdara) [and] neither Indra nor any of his disciples is described as a builder or possessor of cities. None of them ever built anything permanent.

D. D. Kosambi, *Introduction to the Study of Indian History*

According to Machiavelli, the reasons that led the first inhabitants of a country to build cities were "[t]he lack of security that the naturals find in living dispersed, the impossibility for each of

them to resist in isolation, either because of their situation or because of their small numbers, the attacks of the enemy who presents himself, the difficulty of reuniting in time at his approach, the necessity then of abandoning most of their retreats, which become the prize of the assailants" (1). If he had read this extract from *Le Florentin*, Max Berthaud would undoubtedly have said to himself that "les naturels" had fallen from Charybdis into Scylla. Let's judge by this bravura piece in which this journalist makes Margot weep over the Paris municipal police in 1858: "In this century of light and progress, a society of friends of universal peace has been formed. The aim it has set itself is great and generous. We doubt, for our part, that it will succeed in attaining it; but if it is permissible, at the very least, to admit the possibility of this fraternal understanding between civilised nations, we can declare loud and clear that it will never prevail between the citizens of the same country. Society will always be made up of rich and poor; it will always see the discontented, the ambitious, the jealous and the violent stirring in its midst. Passions are eternal, and the thousand wounds of vice will bleed until the end of time from the sides of suffering humanity. As the wolf prowls around the sheepfold, so will theft, fraud, murder and shameful passions prowl from century to century around our homes, around our lives, around the virginal bedroom of our daughters. Unable to protect himself, the individual must rely on the authorities to safeguard his life, his family and his fortune. Hence the duties of the police, who are both the eyes through which justice watches the actions of men and the arm with which it seizes the criminal, the villain or the simple delinquent in the midst of the crowd of honest people and safe from reproach. Everywhere it is useful and necessary, it must deploy its energies above all in the great centres of population, in the cities, those human forests, in whose shade all the world's perverse instincts and savage passions take refuge, like evil animals and venomous beasts. Isolated, lost in this gigantic pandemonium, weak whatever his courage, surrounded by dangers that his prudence can neither discover nor ward off, the inhabitant of our cities would not dare sleep in peace if the police did not cover him with their powerful aegis; He would scarcely even dare to eat or drink without trembling, because the greedy merchant, pouring poison on his table, would ruin his health, endanger his life and attack, in their germ, the generations to come in order to reach fortune more quickly and more surely. So the police have a high and useful mission. To get a fair idea of the services it renders, you would have to give up the pleasures of sleep for a few nights and sit down, to play the role of observer, on the ground floor of the rue de Harlay, where the Prefecture has set up its permanent office. There, you would see the long and distressing procession of all the impure beings that theft, crime, debauchery, vagrancy and misery have captured in the streets and alleyways, in the cabarets and in the taverns of this proud and magnificent city which, every morning, wakes up saying: "Civilisation, that's me!" (2). The myth that the journalist is helping to propagate here has a long life and, in fact, has been taking ever deeper root in people's minds since the nineteenth century.

An American specialist in criminal justice and policing sums up what was shown in the first part of this study: "The police do not prevent crime. This is one of the best-kept secrets of modern

life. The experts know it, the police know it, but the public doesn't know it. Yet the police claim to be society's best defence against crime and constantly assert that if they are given more resources, including staff, they will be able to protect communities from crime. This is a myth" (3). The myth is that the function of the police is to prevent crime. The reality is that it has been concocted by so-called "liberalism" to disguise the fact that the police were created and developed for purposes of social control (purposes linked until recently to the regulation of the market), as vividly demonstrated by the health masquerade under way on a global scale, in which they play, along with the media, a key role in the training of populations.

The journalist's description nonetheless highlights a valid point, which is that, "[i]mpowered to protect himself, the individual [: the city dweller] must rely on the administration to safeguard his life, his family and his fortune". As the first part of this study showed, a world without police, far from being a libertarian utopia in itself (4), existed in Europe. But it was a world of patriarchal, ethnically homogenous, fundamentally rural and largely self-sufficient communities.

Before tackling, in the third part, the genealogy of the police force which, in the eighteenth century, was 'the best in Europe, but also the most corrupt' (5), a genealogy particularly suited to shedding light on issues such as the role of police institutions in social engineering mechanisms and the related issue of 'insecurity', we need to explain the consubstantiality of the police and the city and, in so doing, trace the genesis of the latter.

* * *

From the late Middle Ages onwards, urban development defined a new society, a "new man".

Christianity's attitude to urbanity, which it inherits from Judaism, is paradoxical, or rather: twofold. The first city was founded by Cain after he had been condemned to wandering by Yahweh for killing his brother Abel, and he did indeed lead an itinerant life, albeit under Yahweh's protection (6). Sodom and Gomorrah were destroyed because of the depravity that reigned there, after Abraham had tried in vain to intercede with the angels responsible for carrying out God's sentence on behalf of the righteous people he thought he would be able to find there. In the Old Testament, however, the city itself is not cursed, since Yahweh commands the Israelites through Moses to "give the Levites cities out of their hereditary possessions to live in (...) and (...) a suburb around their cities (...) to receive their livestock, their goods and all their

animals" (Numbers 35:2-3-6): cities of refuge (cf. also Zechariah 9:12, Hebrews 6:18). Babylon - described later in Revelation 17 as "Babylon the great, the mother of harlots and abominations of the earth." - is the city of exile; "Nineveh... great city before the Lord" (Genesis 3:3), Jerusalem, the city of peace; "Babel", "gate of the gods" (bab-ili) in Akkadian, "confusion, mixture" in Hebrew (Genesis 11:8-9).

The city, where "the intermingling of populations allows the introduction of 'new superstitions'" (7), was precisely where Christianity was born and developed. Jesus preached the "good news" from town to town, as did Paul later on. If Paul exhorted the Corinthians to be more respectful than they were of patrons like Stephanas (1 Corinthians 16:15-18), it was because the Christian communities were established in part thanks to the families of the elite in the main urban centres of the eastern provinces (8). For all these reasons, the city was an opportunity for the proclamation of the Gospel (9) and for the formation of a Christian network. "To cities full of homeless and destitute people, Christianity offered charity and hope. To towns full of newcomers and foreigners, Christianity offered direct ties. To towns full of orphans and widows, Christianity gave a new and broader sense of family. To towns torn apart by violent ethnic conflicts, Christianity provided a new basis for social solidarity. And to cities faced with epidemics, fires and earthquakes, Christianity offered effective health care services" (10). "The man to whom salvation is addressed is an urban man, homo urbanus" (11). This emphasis on the value of the city-dweller over the country-dweller is clear from the pejorative meaning that the first Christian apologetics gave to the term "paganus" ("peasant") (12) to designate a non-Christian. The full title of Augustine's most famous work is *The City of God against the Pagans* (*De civitate dei contra paganos*).

The city in the "Middle Ages" inherited the Christian value system in three ways. "Firstly, the biblical legacy, with the transmission of bygone urban images of porticoes, streets and squares open to present-day reinvestment in the expectation of an afterlife that was itself highly urbanised in reference to Jerusalem - a Jerusalem of origins and eschatological expectations, A Jerusalem of origins and eschatological expectations, a deep reservoir of utopias, unthinkable without its fallen double, Babylon, in a mirror play opposing the two founding figures of biblical cities, Abel and Cain, as if two opposing cities were necessary to think about the time here below, which Augustine identifies with the state of the ecclesia permixta. Secondly, there is the patristic legacy in the form of a lasting inheritance from Augustine's two cities, the earthly and the heavenly, the basis of a veritable 'urbanism of the City of God' which, from the eleventh century onwards, enabled the afterlife to be invested with ideal cities in the image of the urban practices of this world. In so doing, the city became, in mimicry of the Church, the structure that conveyed the sense of belonging to the community, a metaphor for Christian society: it was the body that brought together all the functions necessary for life according to Christ, as revisited by

the ecclesial tradition. In the same way that it was said in the time of the Fathers that the faithful are the 'living stones' that make up the Church, the theologians of the thirteenth century maintain that the 'city' (ciuitas) is mankind" (13). However, for the theologian Guillaume d'Auvergne (1180-1249), master regent at the University of Paris between 1222 and 1228, only the townsman was a man worthy of the name; he likened the "others" ("alia") to animals: "'Imagine,' he wrote, 'a city made up of men so perfect that their whole life is summed up in honouring and serving God, that it is entirely the fulfilment of the duty of honestas, entirely assistance to others. Then,'" he continues, "it is obvious that in comparison with this admirable city, the rest of humanity is like a wild forest and all other men like wild wood (quasi ligna silvatica) (14)". He compares the city-dweller to worked wood and cut stone, the urban material par excellence, and the country-dweller to coarse wood and quarried stone (15).

For Guillaume d'Auvergne, the city was a hierarchical sacramental space (16): at the centre, the religious, the living embodiment of the Temple; the secular clerics, at the gates and walls; the laity, in the suburbs.

By virtue of the central position they symbolically occupy in the city, religious people are the city dwellers par excellence.

The secular cleric is the intellectualis, the first in the West to be seen as an "expert" (17). They were expected to be studious and sapient (18). Secular clerics played a significant role in education, particularly in the teaching of theology and literature (19). Their task was to "equip the laity with the religious and ideological baggage that is indispensable for thinking about the hereafter and the here below" (20) and, to ensure their training, the Church spared no effort to reserve for them a place of choice in the University (21). It was "in the city that this other clerical institution, the university, was born, and this 'third power', the studium of the teachers, whose authority was nourished by the thousand and one questions of practical morality that arose from the interaction of the men who gathered there, starting with the nature and essence of the civic community ; in the long term, the urban schools and the university had such an impact that it was impossible to imagine a (large) city without the functional presence of 'intellectuals', whose body created a sphere of debate and established 'a semantics of sharing' in the dispute and confrontation of reason" (22). From the thirteenth century onwards, the world of universities and schools was identified with the city, and the intellectual faculty with urbanity (23). The city was seen as "a place for mastering the natural element, whether the passions or the forces of nature. It is therefore the place where man passes from the state of an animal subject to the whims of a wild and malevolent nature to the state of a political animal, a being of reason" and therefore of virtue (24). It is exalted as "a place of order in relation to external disorder. Order is seen as the

expression of human rationality imposed on the disorder of the savage world. It is the condition without which people cannot live together. The city is a policed, administered world where reason, and therefore justice, reigns. This idea of order is consubstantial with the idea of the city" (25).

Religious figures, for their part, were not merely symbolically placed at the centre of William of Auvergne's ideal city. "From the middle of the twelfth century, canons regular, such as the Victorians, moved into the urban setting, and former rural solitaries, the Camaldolese, settled in the city. The new orders of the thirteenth century, especially the Dominicans and Franciscans, accompanied this movement of religious inurbamento; the rejection of the seigniorial system and of land ownership in the countryside drew the Friars Minor to the very source of donations and alms, in the town, and it was there, in the place where the faithful congregated, that they found the appropriate terrain for the exercise of their pastoral ministry, the mass of listeners to whom they could address their preaching. A representation by Bernardine of Siena (1380-1444) gives a good idea of the monumental presence of the preaching Church: the church provides the backdrop for this urban theatre scene, and the preacher has the petrified posture of a facade statue (ill. 2)" (26). The ecclesiastical centres (churches, cemeteries, convents, recluses, hospices, etc.) "provide a large part of the static electricity necessary for the functioning of the urban fabric" (27), sometimes disturbing (cemeteries), sometimes reassuring (churches, cathedrals, convents), but which form part of what can be called an "urban décor" in a quasi-theatrical sense insofar as it serves as a setting for royal representations such as entrances, more or less modelled on ecclesiastical representations such as processions: "In terms of deployment and representation, there is no doubt that the medieval Church exerted a decisive driving force and served as a matrix for multiple forms of public ritual" (28). "In the pagan world, the sacred often resided in natural elements, springs and rivers, woods and heights. There were temples in towns, but they were no more important than rural sanctuaries, and their clergy had no authority over those of other temples. Christianisation, on the other hand, led to the city becoming a centre of sacredness: it was here that the greatest number of sanctuaries, and the most prestigious ones, were found. The town, whether a city or, more modestly, a vici or castra, always dominated the surrounding countryside, attracting the faithful" (29), and the town itself was dominated by the cathedral.

Another building plays a key role in this scheme: the monastery.

In the "Middle Ages", cities were full of monasteries (30). Those who were surprised that monks chose to withdraw from the world by living in an urban environment would have been told that "it was souls that needed to be withdrawn from the world, not bodies" (31). Of course, the

encitadinement of monasteries can be explained in part by the security provided by an urban setting, by the fact that markets were the main outlet for their products and that generous donors were always much more numerous in towns than in the countryside (32). The fact remains that the widespread establishment of monasteries in urban areas in the "Middle Ages" had an ideological basis in the first place: "What is a city," declared Erasmus, in agreement with Zwingli and Bucer (33), "if it is not a great monastery? ("quid aliud est civitas quam magnum monasterium?") The city was a monastery because, within its walls, the "body of Christians" became a reality. According to Erasmus, what the city dwellers did was nothing other than what the monks had promised to do by taking a vow of obedience, chastity and poverty; in the city, chastity was put to the test by Christian marriage; in the city, poverty became a "common good", when everyone contributed a portion of their income to the community coffers, thereby helping the poor (it was not until much later that the tax system enshrined charity by giving donors the right to a tax reduction if they donated to a philanthropic organisation), the "real" poor; the others (beggars) were to be expelled from the city. Four centuries before Erasmus, the hermit monk Peter Damian (c. 1007-1072) and other advocates of the contemptus mundi had planned to impose the monastic way of life on all laypeople, to turn the whole world into one huge monastery (34), and therefore, in principle, a safe place: on entering a monastery, one laid down one's weapons, at least conventional weapons. For this place of prayer and asceticism was also the scene of rivalries and power struggles, whether economic, cultural or spiritual (35).

Monasticism began in the third century AD in various parts of the East, especially in Upper Egypt, where some of its followers openly worshipped the Mother Goddess (36), and spread in the following century. "The law of this life was freedom! By turns, one went to the desert and returned to the world, or chose an unknown retreat in more inaccessible places. Anyone who wanted to was a monk, with no obligation other than renunciation of the world and the desert life: everyone chose their own retreat and austerities. The monk was not a priest and did not want to be one; the only thing that priest and monk had in common was the faith and respect they inspired in the people (...) But this did not last long: soon rude and fanatical monks gathered in bands and roamed the lands they desolated. They bloodied the streets of Jerusalem, Constantinople and Alexandria with their quarrels. It was important to put an end to these disorders and impose a brake on a freedom that was already turning into licence" (37). At the end of the fourth century, the Doctors of the Church set about regulating it. It transformed the monks into cenobites, brought them together under the same roof, and substituted communal life and work for contemplation and idleness: enthusiasm gradually languished, the fever of asceticism fell; it was like a torrent that digs out its own bed and makes a more peaceful course for itself. This was not a change in monastic life, it was a revolution: we had only had monks, but now we had a monastic institution, an organised monasticism. This abnormal life, which was to disappear with the fermentation that had produced it, was made to last by being modified and organised: the clergy had just realised how useful monks could be to them" (38).

Monasticism was then imported by Athanasius (c. 296-298 - 373) to the West, where the most eminent Doctors of the Church were busy propagating it; where their first proselyte was a woman of the nobility (39); where the monks were to foment, in all proportion, the same troubles as those for which their fellow monks in the East had been responsible (40). Around 410, Saint Honorat created at Lérins the first coenobium with a rule, from which all subsequent rules were derived and whose two pillars were humility and obedience (41), "the instance of pure obedience, obedience as a type of unitary conduct, conduct that is highly valued and which has the essential reason for being in itself" (42).

"But while eremitism and cenobitism developed side by side in the East, monks in the West undoubtedly favoured community monasticism. While remaining attached to the model of the Desert Fathers, the first Western cenobites, led by Cassian and Honorat, adapted the ancient monastic ideal to the conditions and mentalities of their society. This transition from an anachoretic or semianachoretic structure, which still allowed the monk some individual and spiritual freedom, to a collective structure based on total obedience to an abbot and a regula, was to become widespread in the ancient pars occidentalis of the Empire. The paradigm of the Martinian lura was gradually abandoned in favour of monasteries run under strict regulations. From Saint Honorat (410) to Saint Benedict (c. 534), the regulae of the fifth and sixth centuries developed an increasingly precise and sophisticated doctrine of cenobitism and daily praxis. However, and this is the crux of our problem, in the course of the process of institutionalisation that took place throughout the life of the monks, the legislators became aware of an inescapable reality: it was not enough to inculcate in the monks a model of ideal life; they also had to ensure that it was realised and sustained. The collective structure posed a particularly critical problem. Bringing together a large number of individuals in the same space was a definite handicap for everything to do with the smooth running of the monastery: how could plurality, which generated anarchy, be kept in check and the disadvantages of numbers reduced to a minimum? How could the sacrosanct discipline be protected from any transgression? The legislators quickly realised that it was only by devising a system of intensive surveillance, culminating in a system of rewards/sanctions, that they would be able to remedy, at least partially, any breaches of the rule" (43). It should be noted that, as has been so aptly observed, "(t)he need for surveillance is based on the assumption that people have not sufficiently internalized institutional norms and that, consequently, their behaviour must be subject to constant testing. As a result (...) the more people are observed, the less they are trusted. And conversely, the less inmates can be observed, the more trust must prevail and the more inmates' attitude towards authority comes into play" (44).

In the monastery, "Discipline (45) first proceeds to distribute individuals in space" (46) and in time by means of several techniques. First, there is the enclosure (claustrum or claustra, which would come to refer metaphorically to the monastery). In addition to the ban on monks leaving the monastery imposed by the Rule of Saint Augustine, later rules required them to remain in the same monastery. The enclosure, which was metaphorical at first, gradually became more tangible. It had a door that locked. There was a salutorium to receive visitors, who were not authorised to enter the monastery. The Rule of Saint Benedict states: "Whoever allows himself to leave the enclosure of the monastery (claustra monasterii) and go anywhere and do anything, even of little importance, without the permission of the abbot" will suffer the punishment of the rule (47). The vows were irreversible. Monks who broke the rule or committed any offence against the authority of their superiors were locked up in a carcer (48), if they did not simply beat their chests (49). Punishment was clearly ritualised; denunciation was strongly encouraged.

From a Gnostic perspective, the liberation of the soul was matched by the confinement of the body in a double enclosure, since the ban on leaving the monastery was coupled with a restriction on movement and communication within the monastery. In particular, the rule forbids spontaneous contact and warns against chance encounters: the timetable, an invention of the Benedictines, is supposed to prevent this. Everything is planned and done to ensure that each member of a monastic community lives as isolated a life as possible. Isolated and yet constantly under the eye of his fellow monks. The rule repeats unceasingly that it is forbidden to do anything in secret; "each monk must act in full view of everyone and his act is legitimate only if it occurs in the field of vision of others" (50). Hence, favoured by the monastery's architecture, the possibility of widespread surveillance, night and day (51), of the slightest actions and gestures, the slightest words, even the thoughts of each monk, carried out vertically, from the abbot himself to the circatores (52), whom he instructs to assist him in this task, as well as horizontally, by all the monks, each in his "functional place". "To each individual, his place; and in each place, an individual. Avoid group distributions; break down collective settlements; analyse confused, massive or elusive pluralities. The disciplinary space tends to be divided into as many parcels as there are bodies or elements to be distributed. We need to cancel out the effects of indecisive divisions, the uncontrolled disappearance of individuals, their diffuse circulation, their unusable and dangerous coagulation; a tactic of anti-desertion, anti-vagrancy, anti-agglomeration. The aim is to establish who is present and who is absent, to know where and how to find individuals, to set up useful communications, to interrupt others, to be able to monitor everyone's conduct at any time, to assess it, to punish it, to measure qualities or merits. Procedure, then, for knowing, mastering and using. Discipline organises an analytical space" (53), according to a process that Foucault calls "quadrillage", or "elementary location". The disciple," says the Regula Macarii on the basis of Proverbs 15:3, "must be convinced that God is always watching him from heaven at every moment, that the gaze of the divinity sees his actions in every place and that the angels make a full report of them every day". "This divine gaze, often

concretised by the holy abbots, is the infallible observation of the God who judges (...). In everyday life, this incessantly instilled belief enables more insidious and more effective control than any human inspection, in any place (*omni loco*) and at any time (*omni hora*), and thus becomes a powerful means of constraint that reinforces the network of surveillance already put in place by the rules" (54). The coercive apparatus is both external and internal. Feeling constantly under surveillance, the monks, anxious about the consequences of their actions, internalise the institutional categories of evaluation and develop an internal mechanism of self-monitoring. "Each one voluntarily becomes his own supervisor" (55). "This idea, developed to excess, forms the basis of the disciplines developed in modern clerical institutions from the seventeenth century onwards. The best example is undoubtedly Bentham's architectural model (in the circular prison he imagined, prisoners are constantly exposed to the guards' gaze, without ever being able to see them), which achieves this predominance of visibility, the effects of which are to induce a 'conscious and permanent state of visibility which ensures the automatic functioning of power: to make surveillance permanent in its effects, even if it is discontinuous in its action'. Thus, God's ubiquity or omnipresence would form a kind of virtual panoptic system" (56).

The monastery - and, by extension in Erasmus's mind, the city - is the prison world *avant la lettre* (57). This is not an anachronistic over-interpretation: not only is it established that punitive incarceration originated in the monastic world (the monastic cell even served as a model for the small room in a prison that bears that name) (58), but also, from the twelfth century onwards, from Bernard of Clairvaux to Guillaume de Saint-Thierry, many theologians willingly compared the monastery to a prison ("carcer") (59) - as well as to a sheepfold (60) ; hence, in the latter respect, the title of the superiors of men's monasteries: "archimandrite" (a word of Syriac origin meaning head of the sheepfold). He was elected and it was the bishop who ratified his election and enthroned him. The bishop had a right of supervision over the monasteries, where he had to maintain discipline in all its rigour. Etymologically, the "bishop" is the "inspector", the "overseer" (61). What better place to exercise supervision over the laity, the flock, which William of Auvergne placed in the suburbs, than the city, which Erasmus conceived of as a monastery? The larger the town, the more likely it was to become a bishopric (*episcopatus*), literally: "a territory subject to the authority of an overseer" (62). And - this is where Erasmus' aforementioned exhortation comes into its own - monasteries were "the most economically efficient units that had ever existed in Europe, and perhaps in the world, before that time" (62bis).

In the 10th century, trade and industry were dying out, and all municipal life had disappeared. There was still some activity in several of the old Roman towns. The diocese, whose centre had once been the chief town of each *civitas*, had not disappeared and the presence of the bishop was

enough to enliven the cities. The cathedral was surrounded by monasteries and schools. Opposite the palatium stands the tower of the solicitor or burgrave. Elsewhere, there were the homes of the milites castrenses responsible for defending the city, followed by the simpler homes of the familia. Alongside the clerics, clerics and students lived a host of lay people with a wide variety of functions. Unlike feudal princes, who travelled with their men from castle to castle, consuming the harvests of their estates as they went, the lord of the episcopal city was sedentary. The bishop was based at the seat of his diocese. He travelled rarely and for short periods only. He and his entourage therefore needed abundant and permanent supplies. The bishopric was the centre of the ecclesiastical estates. Wheat and wine from the surrounding countries flowed into the bishopric under the supervision of the villici. The maintenance of the episcopal court required a large number of men. As well as servientes, responsible for baking bread, making beer, tanning leather and preparing parchment, there were carpenters, cartwrights, bricklayers, locksmiths, gunsmiths - all the trades essential to any large estate. There were also all the people employed in the service of the churches. In fact, the town served only ecclesiastical purposes. It was little more than a collection of churchmen, lordly officers, servants and serfs. Its population was divided into very different groups, each following its own laws and customs. The word burgensis did not yet exist, and what the texts called civis was not the man to whom the law recognised a special status, but quite simply the lay inhabitant of the civitas. Private or public, the powers exercised in cities are not urban in nature. There is nothing resembling municipal administration and even less municipal law. The city is not a unit. It is part of a hundred, part of one or more large domains. It may even form a march with several neighbouring villages. The town differed from the villae of the flat country only in non-legal respects, with its walls, gates, churches and denser, more varied population. It only began to take on a personality of its own with the renaissance of trade and industry, spurred on by Venice and Flanders at the very end of the tenth century.

Every town in the Middle Ages was a centre of commerce and industry. Like the cities of antiquity, they were founded for natural reasons. Its location combines the geographical conditions without which an urban agglomeration has no chance of maintaining itself and prospering: "Towns are the work of merchants", even if it is an exaggeration to say that "they exist only because of them" (63); unless we consider monks to be merchants. In fact, some towns were built around fortified castles, others grew out of agglomerated or transformed villages or were founded in asylums, and still others were built around monasteries,

Some castles were converted Roman castles or ancient villae, while others were fortresses built to resist invasions, carry out banditry and wage feudal wars. Groups of merchants, craftsmen and peasants, even knights and their servants, took up permanent residence there, some in their farmyards, others in the new towns or strongholds created under the protection of their ramparts.

They became the centre of a state and political district, a castellany. Concentration was both religious and commercial. The castle church became the centre of a parish; the surrounding population became attached to it. The lord of the manor had an interest in having an abundance of cheap food for himself and his men, so he set up a weekly market and regular fairs in the castle, which attracted tradespeople and merchants who gradually settled there, increasing the number of those already established.

The monastery, a religious centre, a centre of state ownership, a commercial and industrial centre, but also a military centre, was even more than the fortified castle at the origin of a town (64). Villages sprang up around a hermitage, a chapel or in complete solitude and developed rapidly thanks to the franchises and privileges offered to settlers, farmers and craftsmen, the special protection enjoyed by their inhabitants, the safeguards they were provided with or the independence they owed to their isolation. This is how the new towns, new villages, "sauvetés", "villes franches" or "sauvetes" were founded, in Brittany menehi, in the south salvetats and, from the 13th century onwards, bastides. Some were founded for reasons of immunity, others for reasons of asylum.

When a church is built, when a monastery is created "(t)he buildings used for worship, the space of thirty to sixty paces that surrounds it, the aître or cemetery, are not only closed to all pursuit and protected from all violence by the capitularies and the decisions of the councils and popes, they are also closed by the fear, skilfully nurtured, of the supernatural intervention of the saint to whom the church or convent is consecrated" (65). "But the space occupied by the abbey is not always sufficient to create a real centre of population. The privileges it enjoyed had to be extended to a wider area. This was done by religious authority. Prelates meeting in council, the archbishop or the bishops of the diocese consecrate the place, solemnly place crosses around it and pronounce anathemas against any foolhardy person who dares to violate them, whether to catch fugitives who have taken shelter there or to harm the people who live there. They are then protected by the secular authorities: princes and lords renounce their rights of justice or sovereignty over the privileged place', sanction the inviolable frankness of the territory and its inhabitants with exceptional penalties and the threat of their vengeful intervention, and make their vassals swear that they will respect and defend it. Such is safeguard. It is not an immunity, it is an asylum, guaranteed by both ecclesiastical and secular penalties" (66), all the more apt to inspire fear as the right of asylum was a space delimited by crosses.

The monastery, around which the town grew, attracted donations of land and seigneurial rights in proportion not only to the rank in the celestial hierarchy of the saint to whom it was dedicated, but also to the number, quality and miraculous virtue of the relics it contained. Look," says the

jurist and historian Jacques Flach (1846-1919), "at the millions that now pour into a small town in the Pyrenees that has become a famous place of pilgrimage, the sumptuous basilicas that thousands of hands are building, the hotels, the counters, the bazaars, you can easily understand how the monasteries were able to grow rich in the Middle Ages and transform themselves, for the laity, into a centre of commercial and industrial activity" (67) Relics attracted pilgrims, pilgrims attracted merchants. Towns were built all the better and faster because many monasteries were founded on the site of or near destroyed Roman towns, whose ruins formed veritable quarries. "The monastery had too much to gain from markets and fairs, through the income it earned and the products it could sell, not to encourage them with all its might. The market was declared free, it was held near the church, and it contributed to its sanctuary. Safe-conducts [sic] were provided for the merchants who went there, just as considerable privileges were obtained for the benefit of those who frequented the regular fairs" (68) The action of the Church was also of the utmost importance in the development of the market and therefore of the town: "faith was strong, and religious ceremonies made an extraordinary impression on a people who were still rude. As a result, in many places the market was held on Sundays, and this custom was already so deeply rooted by the time of Charlemagne that he was unable to destroy it. It was for this reason that many fairs began either on a major general or local feast day, or on the day after, and that several episcopal towns became major markets" (69). Goods were deposited not only in the vicinity of the church, in the portal or narthex, but also inside the building itself. "It even seems that in many places the clergy willingly lent themselves to this practice, because of the high revenue from the right of way" (70). The richer the church and monastery became, the more craftsmen, workers and artists flocked to them. The mere news of the foundation of a convent was sometimes enough to attract them. Architects, carpenters and masons, painters, goldsmiths and sculptors for the monastic buildings; painters and parchment-makers, shoemakers, saddlers, fullers, all the trades provided for the daily needs of the monks and their servants, to whom they owed free services. The erection of monastic towns into episcopal cities gave an even stronger impetus to their development.

Three main elements distinguish towns from villages: the material protection offered by fortifications (walls, ditches, towers, keep) to people of all kinds, merchants, craftsmen, moneymen, men-at-arms seeking to earn a living, defend their livelihood, increase or save their movable assets, as well as to clerics wishing to keep their relics safe ; religious protection provided by the residence of a bishop, the presence of a church where venerated relics are preserved or a monastery attached to a powerful order; and, as a direct consequence of these two types of protection, commercial activity and the circulation of wealth which are manifested in and result from the holding of a weekly market and often also periodic fairs: "... the starting point and the main coordinates are to be found in the religious establishment. They give the town the appearance it will retain down the centuries. Subsidiary elements may complete and diversify it, but they will not alter its essential features". (71)

In the twelfth century, the lords and kings, imitating the example of the Church, began to found new towns or free towns everywhere and tried to attract people to them with all sorts of advantages, privileges and freedoms, in the hope of increasing their own income by extending the trade of a district. The Capetian kings therefore followed the movement, "but the original impetus did not come from them" (72). Nevertheless, having followed the movement, it was they who stimulated it. The hostise they created "goes back to the right of asylum long exercised by the Church, and it was by copying the great abbeys that the lords and royalty granted privileges to places of refuge to which new settlers flocked" (73). The hostise was a land of refuge that the king or lord opened in his domains in order to repopulate them and bring them back into cultivation. "It generally consisted of a small tenement with a small hut, a courtyard and a garden; it was burdened with personal services reminiscent of the condition of a servant. But its special feature was the precariousness of possession; the guest could always leave at the lord's will and could neither cede nor alienate his land. Villains who had run out of courage and were bent over under the weight of exorbitant exactions, serfs who had deserted their lordships and wanted to become free by joining the hostelry, flocked to these asylums, which were called new towns, free towns and safe havens. The king, the abbot, the lord, in order to develop the vast deserted areas that belonged to them, had their hostises shouted out (...) People came from all over 'by the frankness and ease of the hostise'; but it is understandable that this recruitment, which took place at the expense of neighbouring seigneuries, gave rise to strong protests". (74). "The sovereign's protection and mundium guaranteed the safety of the colonists who came to populate these asylums and benefit from franchises as extensive as those enjoyed by the citizens of the oldest towns in Capetian France" (75). The royal authority benefited from using and extending this institution, which was an effective way of enriching the estate while at the same time undermining feudalism (76) and leveraging the emerging bourgeoisie. "While the mainmortables were trying to reach the upper class of freed peasants and burghers, the latter, by a no less general and spontaneous movement, were already in the twelfth century conquering the civil and political freedoms they had lacked until then. This compelling need for emancipation and well-being coincided with considerable progress in the material sphere: the expansion of ancient towns, the founding of new centres, the spread of trade and industry, and the clearing of uncultivated land and forests on an unprecedented scale. Increased wealth and prosperity demanded greater security and public freedoms. Municipal life, hitherto hindered or even stifled by the arbitrary rule of the lords, took on an irresistible intensity and vigour everywhere. Like all the other powers, ecclesiastical and secular, which shared the soil and sovereignty of feudal France, the Capetian royalty soon found itself in the presence of a new force with which it was obliged to reckon; which it fought or favoured, depending on the circumstances and the interests of the moment, until it had the idea of taking advantage of it and associating it with its destiny" (77).

The urban population was split in two: the patriciate and the plebs.

From the outset, the population of the towns was very heterogeneous. First there were the merchants, free or unfree men who had left the land to make a living from trade. They all belonged to the same social class. They formed the primitive bourgeoisie. Until the 12th century, *burgensis* and *mercator* were synonymous. They were also called *advena*e, "wrecks". (78). There were major differences between them. While there was a class of wealthy upstarts (*meliores*, *divites*), the mass of *advena*e consisted of small traders or craftsmen. Next to them or below them were the plebs, the *minores*, "men with blue fingernails": artisans. They were divided into two groups. The first group consisted of small businessmen, blacksmiths, butchers, bakers, etc. They sold the product of their work themselves and occupied an intermediate position between the large businessmen and the salaried workers. The latter, who were clearly in the majority, at least in the big cities, were recruited from among the workers in large-scale industry: weavers, fullers, dyers, metal beaters, they worked for the big merchants. These were "(c)ourts whose economic strength has been eroded, who do not have the necessary equipment to ensure their survival on their own, who are under the material control of others" (79). Their condition is similar to that of modern workers. They were excluded from public functions and did not participate in the government of the city. They were the *manants* (in all the towns of France, the term *manants* was used until at least the sixteenth century to designate inhabitants who did not possess the right of bourgeoisie), "immigrants devoid of resources who bring it [the town] nothing but their arms" (80); their arms and their numbers.

In fact, between the 11th and 14th centuries, there was a general trend towards urban growth, a trend that was due, whether in the case of old towns or, a fortiori, new towns, not to the exclusively internal development of primitive urban populations, but to an influx of external elements from the countryside. "The peasant household, which was generally more fertile and, above all, longer-lasting and more stable than the urban household, sent to the latter its members who were useless or unwilling to work the land, those who were tempted by an easier or more adventurous life, and those who hoped to escape feudal subjection more easily in the urban environment or who had a bone to pick with the seigneurial justice system" (81). Not to mention those in debt, hit by famine, epidemic or war, who expected the city to offer them a second chance and who ended up in poverty and begging. "The stagnant, individual misery of the countryside was succeeded (for them) by the collective distress of the towns. The rural poor was generally a despised figure, but familiar, known and assisted by his family; the urban poor became anonymous, often vagrant, with no other recourse than the community of a marginal destiny, shared with his fellow creatures" (82) in more or less shady environments. Similarly, because of the concentration of the population in urban centres, scourges such as "epidemics" and food shortages took on a seriousness that they did not have in the countryside.

City dwellers, whatever their condition, pay dearly for the security they are promised and the financial advantages that the establishment of a market brings them. They pay with their freedom. They pay them to the squire or the monastery. They are obliged to abide by all the agreements imposed on them, to pay all the duties demanded of them, failing which the lord may cause their ruin, the monastery may have them excommunicated. The urban population was at the mercy of the arbitrariness of both ecclesiastical and secular lords. Their only traditional bond was based on a community of material interests. "(H)ommes from all over, people from very different backgrounds, foreigners, advenae", "(e)mong them, the natural bond of the family was lacking. What's more, living outside the old domanical groups, they were deprived of the protection and security that serfs found in the still solid framework of the large estate" (83). In the long run, "(i)n the lower as in the upper classes, a process of unification took place: the lower classes drew closer together and amalgamated like the upper classes. For them, the most important link was the parish or baptismal church, which could cover different seigneuries, several vici or neighbourhoods, or inhabitants belonging to different seigneurs. At that time, wasn't the church the centre of civil life? Did it not provide an infinite number of public services? Civil status documents and contracts of all kinds were drawn up and kept by the church. Solemn acts, emancipations by co-jurors and elections are performed in the temple. Shows were staged there, banquets and feasts were held there, and even dances were organised. As Guérard rightly said: "The temple was the people's theatre, forum and town hall". Repeated, continuous and close relations were established between all the inhabitants of a parish, regardless of their lordship, and these relations became all the more intimate as the status of these inhabitants became more similar and special groups formed within the parish reinforced them". (84) Members and branches of the same family lived in the same neighbourhood, where they felt at home and in control, and which they defended if necessary. They had a corporate organisation, a family justice system, and they gave each other mutual assistance in legal disputes, violent conflicts, public calamities or private misfortunes. On the ruins of the ancient Roman guilds, neighbourhood associations, confraternities, were formed by members of the same family, craftsmen of the same trade, merchants of the same profession and placed under the invocation of a saint. These guilds, charities or fraternities ended up appointing judges for their internal affairs and to represent their interests. The associates were called burgenses and they used their available funds for public utility purposes, for the upkeep of squares, gates and city walls. "But these personal groups are not enough. No one was forced to join; clerics and knights were excluded. Moreover, although the guilds exercised a certain disciplinary power over their members, they were powerless to punish crimes and offences. In this society of the Middle Ages, as a result of the brutality of instincts and the violence of temperaments, crimes and misdemeanours were continuous. In the cities, they were even more abundant than in the countryside. The city is a permanent warehouse, an emporium. It contains money, precious materials and goods of all kinds, perfect prey for looters from the surrounding area. Against these attacks [...] the merchants have built a palisade around their suburbium. But to this material

protection must be added the protection of the law" (85). However, "(t)he peace that the public authorities grant to merchants is a transitory, intermittent peace. It only protects them during their travels, when they go to fairs and markets. We do not see that it accompanies them into the city, that it continues to protect them in the suburbium where they have their residence" (86). Their only means of exerting pressure on the lords was the latter's Achilles' heel: their perpetual internecine wars and the financial embarrassments these put them in; the burghers took advantage of these to buy franchises or fix customary rights.

The granting of these advantages and concessions led to the transformation of the corporate bond into a communal bond (87). "However, in towns that had not long enjoyed rights of immunity and asylum, and for which the development of wealth and trade made sovereign protection against anarchy and local violence indispensable, the institutions of peace and friendships borrowed the first from the Sauveté, the second from the confraternity, the principle of a communal grouping. Like the Sauveté, the institution of peace offered sanctuary; but the character of this sanctuary had changed as a result of the extension of God's peace and truces, of which the Sauveté was merely an application. The numerous associations which, under the authority of the Church and the secular lords, and by a solemn oath sworn on the relics (*juramentum pacis*) - had been formed to provide peace and security for the inhabitants of a region or diocese, had familiarised people with an asylum different from the religious asylum, resulting from a sort of agreement between those who wished to benefit from it and approved, guaranteed, by their lords" (88). Moreover, unlike the *sauvetés*, which were placed under the close dependence of a lord and governed by lordly officers, the institution of peace had its own representatives, responsible for maintaining order and general security and enforcing its franchises, an advantage it owed to the pre-existence of a confraternity. The peace to be established was enshrined in an oath of mutual aid and assistance (89) and was enforced by a court of peace. The men of peace formed a militia; they had to assemble at the call of the bell and go out in arms, preceded by the banners of the various parishes. Whether or not it was an extension of God's peace, peace here meant both the peace of the town and the peace of the market (90), i.e. both the peace necessary for trade and relations between countries and the special peace enjoyed by fairs and markets.

As soon as it appeared, the peace of the market "presented itself to us as a peace extended to the whole city" (91). As if to impress it on people's minds, from then on the suburbs were called *pax*, the town halls were called *domus pacis*, and the jurors were called *jurati pacis*, wardours of peace.

The extension of the town went hand in hand with the extension of the territory of peace, when, in the 13th and 13th centuries, the ancient towns grew in size; new groups of dwellings were established around their walls, within the defined and delimited area surrounding the monasteries, the rights of which it was forbidden to infringe on pain of excommunication; the houses on these plots of land were built by the monks or the purchasers to whom they sold plots. Surrounded by sheds and houses, the market and, as soon as it reached a certain size, a church and ramparts, formed the suburb (suburbium), later called falsus burgus and then banlieue (92) and originally populated by advenae (93). Originally, the suburbium was probably open, but very soon the need arose to surround it with a wall to protect merchants and goods from highway robbers. Simple palisades flanked by ditches, they were incapable of resisting a full-scale attack and served only to prevent thieves from the flat country from bursting into the town. It was not until the 13th century that urban fortifications took on a military character. In general, these ramparts had the same effect as the immunity fences. "They made the town free and frank. The inhabitants were subject only to the courts established within their walls; they could not be brought before any foreign jurisdiction. A foreigner who takes refuge there, finds asylum there and, unless extradition is granted (...), can only be prosecuted by the city's magistrate" (94). The scope of the right of asylum, which had initially been restricted to churches, was then extended to cemeteries, abbeys, convents, hospitals and all charitable institutions, and finally, at least virtually, to the city itself (95). The right of asylum had itself been strengthened by the "peace of God", which had become confused with the peace of the market (96).

From the day that peace is established, first in the specific area surrounded by the city walls, and then in the suburbs as they encroach on the flat country (97), every inhabitant, whether free or not, is obliged to observe it. From then on, the town formed a community under the law (98). The confraternity or charity was no longer limited to this or that trade or this or that district, but opened up to all the inhabitants of the town. For it to take on all the fundamental characteristics of a municipal organisation, its judicial and administrative powers had to be recognised and sanctioned by the seigneurial or royal authority in the form of a charter, "i.e. a constitution that served as a guarantee" (99). When the king or the lord, whether ecclesiastical or not, did not consent, they had to resort to arms, unless an amicable settlement was reached in the meantime: "a good sum of money", "which the commune willingly sacrificed" (100).

The city, now an independent legal territory within its walls, must have its own jurisdiction. As urban law was opposed to regional law, a special court was required to apply it and, by applying it, to develop it. Presided over by a public official, the municipal court was composed of burghers; to be a member, you had to be a property owner in the town (101) and have sworn the communal oath (102). Burghers could only be judged by this court. The establishment of an urban court was a privilege granted by the seigneur and therefore by the State. However,

alongside its public jurisdiction, the town had a communal jurisdiction, derived from the bourgeois association and independent of the State. It involves a municipal council, responsible for enforcing the rights and duties of the burghers, maintaining their privileges and administering. "This council is nothing other than a delegation of the bourgeoisie. The people are the source of its power. Jurors, peers and councillors are merely the representatives of the commune. It delegates to them an authority that it cannot directly exercise itself, but it does not abdicate in their hands. Appointed for a very short time, councillors appear to us as servants of the town. Being a member of the council is not an enviable prerogative: it is a duty, and a very onerous one at that" (103). They lacked one of the essential characteristics of any constituted body, namely a central authority, a president. However, as new works were undertaken to fortify the town and thus secure the market (construction of belfries, market halls, gates, locks and bridges; paving of the streets; organisation of a water distribution service, etc.), new delegates appeared (tax collectors, supervisors, rewards, vinders, controllers of all kinds, etc.), who still performed their duties free of charge. However, the more complicated business became, leading to an increase in the number and complexity of regulations, the more, from the thirteenth century onwards, the town council had to rely on real civil servants, who were salaried and generally appointed for life. The city's representatives then formed a body of magistrates, a veritable college, a closed council over which the citizens had very little control (104).

Urban administration was based on regulations, which together constituted a veritable body of municipal legislation. The municipal banns were not the work of the council, which, as a mere agent of the bourgeoisie, did not exercise legislative power; originally, they had to be voted on by the commune's general assembly. On the other hand, the council is fully competent to judge breaches of town by-laws. It still has some jurisdiction over police matters.

In France, policing duties were first exercised by the count under the Carolingians and then by the high justiciar lord under the feudal system. In order to preserve their freedom, all free men had to confess to a justiciar lord; those who failed to do so found themselves without support. High justice, as opposed to medium and low justice, was the lord's right to judge crimes and misdemeanours that carried the most severe penalties, the death penalty, prison (pit, dungeon) or other infamous punishments; high justice had the privilege of erecting pitchforks and pillories. In addition to these three courts, there were the royal courts. The lords of the high courts had to dispense justice at their own expense, in particular by paying the salaries of the officers of the court. They collected the profits: fines, confiscations, disinheritances, wrecks, etc. belonged to them. The officers responsible for dispensing justice on behalf of the high justiciar lords were, in order of importance, the bailiff, the lieutenant, the clerk and, finally, the sergeant, "a character without prestige, [who] held the middle ground between the bailiff and the church warden" (105)

and to whom the people, in derision, gave the nickname of *bedeaux* (106) - a lay employee responsible for maintaining good order in a church during the service.

The supervision and administration of roads, public streets and squares, bridges and causeways, which were subject to tolls, were part of the duties of the high magistrate. He also had the right to mint coins, set weights and measures, the price and weight of bread sold by bakers, control the clientele of hoteliers, regulate construction and, most importantly of all, establish fairs and markets. In return, he levied specific taxes. One of its main judicial functions was the punishment of criminals. The large number of capitularies recommending that thieves be seized and handed over to him suggests that, while the prosecution of all misdemeanours was his responsibility, the capture of criminals could, as in England at the same time, be carried out by the villagers. It was all the more important for the justiciar lords to dispense justice as, in doing so, they got rid of competitors: most of the justiciar lords were in fact brigands who, through their plunder, had managed to accumulate a large enough nest egg to build themselves a castle, a *sine qua non* condition for being granted and exercising the right of justice (107). The duties relating to castles were part of the rights of justice and were converted into various feudal obligations (108).

As the lord had ceded part of his rights to the towns under the conditions described above, before the royalty stripped him of the other part (109), the towns had, in addition to justice, police powers and, in this capacity, their magistrates were in charge of roads, decided on the location of markets and fairs, and ensured that the town was clean and well-stocked. In all towns, the municipal council exercised "a kind of disciplinary power over the conduct and morals of the bourgeoisie. It has jurisdiction over brawls, insults, assault and battery, and scandalous debauchery. From this point of view, it is comparable to the committee of a society that applies the fines set by the statutes to its members, by virtue of a statute accepted by them. Here again, the city does not exercise public jurisdiction, but corporate jurisdiction. Its right to police extends to all the burghers, because they all belong to the commune and cannot escape its internal discipline. Moreover, this discipline is also imposed on foreigners. However, in this case, the penalty was a ban on their reappearing in the town if they did not comply (110). The town council is also responsible for policing trade and industry, and in fact this is one of its main responsibilities, because, let's emphasise one last time, the town is essentially [...] a commercial centre" (111). It set the time and location of the various markets, established the price of foodstuffs, monitored their quality, controlled industrial processes, issued regulations for the trades and set up labour inspectors.

If, as explained above, the formation of the commune was partly due to peace, partly to the association formed by the bourgeois, free or not free (censuales), to get rid of feudal customs and exactions and obtain, sometimes by riot, It was also partly due to the need for the commune to establish a system of taxes to raise the money needed to finance its defence works, and the police became a kind of binder for the town. As the juriconsult Jean Domat (1625-1696) wrote in his *Traité sur le droit public*, "towns and places where people gather and communicate with each other through the use of streets, public squares and highways have been created by the police" (112). In Domat's mind," comments Foucault, "the link between the police and the city is so strong that he says that it is only because there were police, that is to say because the way in which men could and should firstly assemble amongst themselves was regulated, secondly to communicate with each other in the broad sense of the word 'communicate', that is to say to live together and exchange, to coexist and circulate, to live together and speak, to live together and sell and buy, it is only because there was a police force regulating this living together and this circulation and exchange that cities were able to exist" (113). Policing is the "condition of existence of urbanity" (114) and, even before that, of the market. Policing, trading and urbanisation are one and the same.

In anticipation of the "smart city": "The computerisation of city governance [...] is the next great opportunity to be seized. Its economic potential promises to be as enormous as the economic potential of governance in general (115)." Of course, that's not all: "the smart city infrastructure of cell towers, cooling equipment, environmental sensors, fibre-optic cables, local area networks, mobile devices, server rooms and smart cameras is designed in such a way that it allows cities to administer entire communities in a way that increasingly resembles correctional supervision (116)." (emphasis added)

(1) Cf. Machiavelli, *Discourse on the First Decade of Titus Livius*, in *Œuvres complètes*, Pléiade, 1952, p. 379.

(2) Max Berthaud, *Police municipale de Paris*, in *Revue contemporaine*, 7e année, 2e série, t. 3, 1858, p. 88-9.

(3) David H. Bayley, *Police for the Future*, 1994, quoted in Mark Neocleous, *A Critical Theory of Police Power The Fabrication of the Social Order*, Verso, 2021, p. 17-8.

(4) In an article entitled *Can We Abolish the Police?* published at <https://www.libertarianism.org/>, US attorney David S. D'Amato writes: "Communist anarchist Albert Meltzer has gone so far as to remark that 'no one but anarchists wants to abolish the police', which of course is not the case", and he is right. Anarchism, no more than libertarianism, advocates the abolition of the police. It advocates the abolition of the state police monopoly and

the delegation of policing tasks to private companies working in collaboration with insurance companies (William D. Burt, *Local Problems, Libertarian Solutions*, Libertarian Party, 1978); see also Ronald Hamowy [ed.], *The Encyclopedia of Libertarianism*, Sage, Los Angeles, 2008, p. 10 et seq.) This is broadly the position, for example, of the heterodox American economist of the Austrian school, economic historian and political theorist, founder and main theorist of anarcho-capitalism Murray Newton Rothbard (1926-1995) and of the paleo-libertarian and anarcho-capitalist political theorist who is very undemocratic and very unfavourable to "multiculturalism", Senior Fellow of the Ludwig von Mises Institute, founder and President of the Property and Freedom Society Hans-Hermann Hoppe (born 1949), a position already expressed in his time by the American mutualist Francis Dashwood Tandy (1867-1913) in *Voluntary Socialism. A Sketch* (1896). However, it merely shifts the problem.

(5) See Robert Muchembled, *Les ripoux des Lumières : corruption policière et révolution*, Le Seuil, Paris, 2011.

(6) "When Cain found his punishment too heavy to bear, Yahweh said to him, 'So if anyone kills Cain, he will be avenged seven times,' and Yahweh put a sign on Cain, so that the first man would not strike him" (Genesis 4:13-15).

(7) See Christian Delarbre, *Pourquoi l'Église dans la ville? La dimension ecclésiale de la foi dans l'horizon du salut*. In *Recherches de Science Religieuse* 2012/4, t. 100 [p. 505-19]. "In the first century AD, a large proportion, if not the majority, of the inhabitants [of Rome] were non-Romans, and their descendants made up a large population of free aliens and the entire slave class" (Karl P. Donfried and Peter Richardson [eds.] *Judaism and Christianity in First-Century Rome*, William B. Eerdmans, Grand Rapids, MI and Cambridge, 1998, p. 129); Greco-Roman cities were fed by a constant influx of racially diverse elements (see Rodney Stark, *The Rise of Christianity*, Princeton University Press, Princeton, NJ, 1996, p. 156 ff).

(8) David W. J. Gill and Conrad Gempf, *The Book of Acts in its First Century Setting*, vol. 2: *Graeco-Roman Setting*, William B. Eerdmans and The Paternoster Press, Grand Rapids, MI and Carlisle, G. B., 1994, p. 117.

(9) See Jean-Noël Aletti, *Le rôle de la ville dans la mission de saint Paul*. In *Transversalités* 2015/3, no. 134 [p. 49-65].

(10) Rodney Stark, *op. cit.* p. 161.

(11) See Christian Delarbre, *op. cit.*

(12) See Jacques Zeiller, *Paganus*. Sur l'origine de l'acception religieuse du mot. In *Comptes rendus des séances de l'Académie des Inscriptions et Belles-Lettres*, 84^e année, n° 6, 1940 [p. 526-43]. "Paganus" was first used in the Christian sense or in a writing by Valentinian I in 370 or in Gal. 2.3, 4.3 by the Christian Marius Victorinus († 361) (Maijastina Kahlos, *Debate and*

Dialogue Christian and Pagan Cultures C. 360-430, Routledge, London and New York, 2016 [2007], p. 24). "Sicut haec barbaricis gentilia pagis", says the Christian poet Prudentius (348-c. 407) in *Contra Symmachum*; "stulte pago dedite", "miserrime pagane", he has the saint Romanus say in the eponymous Hymn (see Jacques Zeiller, *op. cit.*, p. 527); see also Christine Mohrmann, *Vigiliae Christianae*, vol. 6, no. 2, April 1952 [p. 109-21]. As late as the eleventh century, Cosmas of Prague described the pagan Slavs as "paganus" (Louis Provost-Brien, *Représentation et altérité : la vision du païen par les chrétiens latins de Charlemagne aux croisades de Prusse*, PhD thesis, Université de Montréal, 2018, p. 196).

(13) Patrick Boucheron and Jean-Philippe Genet (eds), *Marquer la ville : Signes, traces, empreintes du pouvoir (XIIIe-XVIe siècle)*, École française de Rome - Publications de la Sorbonne, Paris and Rome, 2014, p. 13. From the spatial unit it was in ancient Rome, the city became, in the Christian imagination, a "community of life and thought, a unity of organisation and rules, realising a completed type of (. . .) human collectivity" (quoted in *ibid.*).

(14) Elsa Marmursztejn, *Fonction intellectuelle et imaginaire urbain : le studium dans les représentations urbaines au moyen âge central*, in Patrick Boucheron and Jacques Chiffolleau (eds.), *Religion et société urbaine au Moyen âge : études offertes à Jean-Louis Biget*, Publications de la Sorbonne, Paris, 2000, p. 441.

(15) *Ibid.*

(16) Dominique Iogna-Prat, *L'Église, la ville et la morphologie et l'espace public (1200-1600): Une esquisse programmatique*, in Patrick Boucheron and Jean-Philippe Genet (eds), *op. cit.*, p. 131.

(17) Cédric Giraud, *La Naissance des intellectuels au XIIe siècle*. In *Annuaire-Bulletin de la Société de l'histoire de France*, 2010 [p. 23-37].

(18) Marie-Anne Polo de Beaulieu, *L'image du clergé séculier dans les recueils d'exempla (xiii-xve siècle)*, in *Le Clerc Séculier au Moyen Âge XXIIe Congrès de la SHMES (Amiens, juin 1991) Société des historiens médiévistes de l'Enseignement supérieur public (dir.)*, Éditions de la Sorbonne, Paris, 1993.

(19) Alexis Fontbonne, *Les confréries capitulaires du XIIe au XVIe siècle. Une proposition pour la typologie des confréries : de l'institutionnel au relationnel*. In *Confraternitas, Centre for Reformation and Renaissance Studies for The Society for Confraternity Studies*, 2007, vol. 18, no. 2 [p. 3-16]; see Robert Muchembled (ed.), *Dictionnaire de l'Ancien Régime*, by Isabelle Paresys, Anne Conchon and Bruno Maës, Armand Colin, Paris, 2004.

(20) Hervé Martin, *L'Église éducatrice. Messages apparents, contenus sous-jacents*. In *Éducatives Médiévales*, no. 50, May 1991 [p. 91-118], p. 91.

- (21) "The papacy's main objective was to find an effective medium for the study of theology. The Bull Super speculam of 1219 played a key role in this. The Pope also confirmed the decree of the Council of Tours (1163), which had forbidden canons regular from studying Roman law and medicine, and extended it to all members of the secular clergy, so as to divert clerics away from lucrative disciplines and channel as much energy as possible into teaching theology in Paris" (M. André Vauchez, *L'université médiévale vue d'aujourd'hui*, Séance du lundi 26 janvier 2009, 26 January 2009.
- (22) Dominique Iogna-Prat, *op. cit.* p. 134.
- (23) See Elza Marmursztrej, *op. cit.*
- (24) "Referring to a formula of Agellius, the Valencian Franciscan Francesc Eiximenis (1327-1409) defines the city as "the congregation and concord of many people in mutual exchange, well composed and honourably ordered with a view to the virtuous life and for its sufficiency" (Dominique Iogna-Prat, *op. cit.*, p. 132-3).
- (25) Magali Reghezza-Zitt, *La ville, un 'territoire du risque' privilégié? Quand la représentation est un facteur de vulnérabilité (City, a privileged 'territory of hazard'? When representation is a factor of vulnerability)*. In *Bulletin de l'Association de géographes français*, 82e année, n° 1, 2005 [p. 106-15], p. 109.
- (26) Dominique Iogna-Prat, *op. cit.* p. 133.
- (27) *Ibid*, p. 130.
- (28) *Ibid*, p. 146.
- (29) Jean-Charles Picard, *L'espace religieux dans la ville médiévale (VIIIe - XIIIe siècle)*. Introductory report. In *Archéologie des villes dans le Nord-Ouest de l'Europe (VIIe-XIIIe siècle)*. Actes du IVe Congrès International d'Archéologie Médiévale (Douai, 26, 27, 28 septembre 1991), Société d'Archéologie Médiévale, Caen, 1994 [p. 115-24] (Actes des congrès de la Société d'archéologie médiévale, 4), p. 116.
- (30) In 1526, the Dutch town of Den Bosch had eight monasteries for men and nine for women, with a total of 1,100 monks and nuns, i.e. 6% of the population. In Brussels at the same time, they represented 3% of the population (see *Missionaries and Monasteries. The origins of monasteries*, <https://paulbuddehistory.com/europe/missionaries-and-monasteries/>).
- (31) Jean Vigier, *Odilon et le monastère bénédictin Saint-Croix de la Volte : le regard et la mémoire*, Éditions CRÉER, 2000, p. 3.
- (32) Werner Verbeke, Ludo Milis and Jean Goossens (eds.), *Medieval Narrative Sources: A Gateway Into the Medieval Mind*, Presses Universitaires de Louvain, Louvain, 2005, p. 139.

- (33) See David Do Paço, Mathilde Mons and Laurent Tatarenko (eds.), *Des religions dans la ville : Ressorts et stratégies de coexistence dans l'Europe des XVIe-XVIIIe siècles*, PUR, Rennes, 2010.
- (34) R. R. Post, *The Modern Devotion Confrontation with Reformation and Humanism*, E.J. Brill, Leiden, 1968. p. 162.
- (35) See Régine le Jan, *Femmes, pouvoir et société dans le haut Moyen Age*, chap. 6: *Monastères de femmes, violence et concurrence pour le pouvoir dans la Francie du VIIe siècle*, Picard, 2001.
- (36) Lebrun, *Histoire secrète des Couvents, ou essai philosophique sur le monachisme*, J.-A. Joostens, Brussels, 1854, p. 8-9.
- (37) Émile Gachon, *Essai sur les origines du monachisme dans l'église chrétienne*, A. Chauvin, 1858, p. 7-8. In the West too, until Saint Benedict, "[t]he monks [...] were not ecclesiastics, but lay people who did not belong to the clergy. Although sheltered from the countless perils of civil life at the time, they had not given up the use of the springs that move societies, and they willingly took part in the intrigues that stirred up the corrupt and ferocious courts of the last Merovingians" (Maurice Block, *Dictionnaire général de la politique*, vol. 1, O. Lorenz, Paris, 1873, p. 461).
- (38) Émile Gachon, *op. cit.* p. 8.
- (39) Lebrun, *op. cit.* p. 73.
- (40) *Ibid.*, p. 86-7.
- (41) "...corporal mortifications themselves (cannot) be undertaken without the permission of the abbot" (quoted in Michel Carrias, *Vie monastique et règle à Lérins au temps d'Honorat*. In *Revue d'histoire de l'Église de France*, vol. 74, no. 193, 1988 [p. 191-211], p. 204.
- (42) Michel Foucault, *Sécurité, territoire, population. Cours de 1977-1978*, Éditions Gallimard/Le Seuil, Paris, 2004, p. 177.
- (43) Nira Gradowicz-Pancer, *Le 'panoptisme' monastique*. In *Revue de l'histoire des religions*, t. 216, n° 2, 1999 [p. 167 - 92], p. 168-9.
- (44) Wojtek Jezewski, *Monasterium panopticum. On Surveillance in a Medieval Cloister - the Case of St. Gall, Frühmittelalterliche Studien* 40, 2006 [p. 167-82], p. 170.
- (45) "Disciplina" and "regula" are synonymous in the early texts of Western monasticism (Mariachiara Giorda, *La direction spirituelle à travers les règles monastiques. Péchés, pénitence et punitions dans le monachisme pachômien (IVe-Ve siècles)*, [La dirección espiritual de las reglas monásticas. Pecados, penitencia y puniciones en el monacismo pacomiano (siglos IV-V)],

p. 105). The evolution of the meaning of the word "discipline" is very revealing of the "process of civilisation": around 1100, it meant "massacre, carnage (resulting from the exercise of justice, punishment)", around 1170 "punishment", "mortification, corporal punishment [of a cleric]" and by extension "whip used for flagellation", but from the first half of the twelfth century, it also had the meaning of "rule of life, of conduct, moral law" (Oxford Psalter, ed. F. Michel, XLIX, 18); b), "teaching, education"; around 1370, that of "various branches of knowledge, science", "action of learning", "subject of teaching, science, philosophical system", "education, training".

(46) Michel Foucault, *Surveiller et punir*, Gallimard, Paris, 1975, p. 169. See also Jacques Biarne, *L'essor du monachisme occidental (430-610)*, in Jean-Marie Mayeur, Charles and Luce Pietri, André Vauchez and Marc Venard, *Histoire du christianisme*, t. 3 : *Les Églises d'Orient et d'Occident (432-610)*, Desclée de Brouwer, Paris, 1998, p. 949. "The ancient rules all devote at least a few lines to welcoming guests. For example, in the Rule of the Four Fathers, probably written in the first half of the fifth century, Macarius describes the phases of welcoming guests, but this paragraph seems to concern brothers from outside the monastery rather than laypeople:

"How strangers are to receive hospitality: on their arrival, they are to be approached by no-one other than the person responsible for meeting the newcomer. They may not pray or offer the kiss of peace until the superior has seen them. Once they have prayed together, the greeting of the kiss of peace will follow in turn. No one may speak with the newcomer, except the superior and those he wishes. If they arrive for a meal, the foreign brother may not eat with the brothers, but only with the superior, who will be able to edify him. No one will be allowed to speak, and no word will be heard other than that of God, taken from the scriptural text, and that of the superior or of those whom he may command to speak, so that words may be spoken which are appropriate to the subject of God'.

"The so-called Oriental Rule, probably written at the turn of the 5th and 6th centuries and known only through the copy made by Benedict of Aniane in his *Codex regularum* at the end of the 7th century, specifies the task of the porter:

"The task of the doorkeeper is to let in all those who arrive at the door, to answer them correctly, with humility and respect, and to tell the abbot and the elders immediately who is there and what they want. No stranger should suffer prejudice. Nor should anyone need or be allowed to speak to one of the brothers without the abbot's knowledge and the presence of the elders. If an object or message is sent to a brother, nothing is to be given to him until the abbot and the elders have been informed. Above all, the doorkeeper of the monastery will take care not to allow any brother to cross the threshold and leave.'

"As in the Rule of the Four Fathers, it emphasises the absence of communication between strangers and monks except through the abbot. This rule also forbids any other form of communication, messages or gifts...

"In the *Vie des Pères du Jura* (Life of the Fathers of the Jura), written at the beginning of the century, we find echoes of these prescriptions concerning Saint Oyend:

"Moreover, when lay visitors arrived, he took great care, in accordance with the Rule of the Fathers, to ensure that no monk, not even a close relative, appeared before them without his order. If a brother received a gift from his relatives, he immediately brought it to the abbot or the bursar and refrained from touching it without the Father's order'.

"The Rule of Aurelian, bishop of Arles from 546 to 551, is the most restrictive of the rules for men in this area:

"No layperson, noble or commoner, will be allowed to enter the basilica or the monastery; but if someone wishes to visit for devotion or for a family reason, the visit will take place in the monastery parlour. (...)

As for the lay men to whom we have given permission to make visits, let no monk ever see them or speak with them without the abbot or the prior, or another elder delegated by the abbot; and let them never speak aloud (...)'.

"Even the procurators of the monastery, if they wear the lay habit, will not be allowed to enter, except for the reasons we indicate in the present rule: if work or repairs are to be done, or for some other reason to be submitted to the abbot, they will enter with the masons or carpenters. For the rest, they will have no opportunity or freedom to enter.

"They are to follow the example of the Lord and Master when he said, 'And who are my mother and my brothers' (Mt 12:48), and his words, 'If anyone does not leave his father or mother, he cannot be my disciple' (cf. Lk 14:26). And another Scripture: Those who said to their father and mother, 'We do not know you', have kept your precepts, Lord (cf. Deut 33:9).

"These particularly harsh and precise prescriptions in Aurelian's Rule can be explained by the fact that Aurelian drew inspiration from Caesarius' Rule for virgins, both in his legislation for men and for women. The Rule of Caesarius forbids nuns to receive relatives, neighbours and acquaintances: it specifies that invitations to meals must be very rare and that meetings must take place in the parlour. He authorised the nuns to see a female member of their family, but in the presence of an elder.

"Without doubt, the prohibition on women entering men's monasteries was so obvious that no rule thought of putting it in writing, apart from Aurelian, who was concerned to require men to behave in the same way as women. It was so obvious that, at the end of the second century, Gregory of Tours explained that Romans († c. 460) was buried outside his monastery at Condat because, anticipating that healings would take place at his tomb and not wishing to exclude women from his benefits, Romans had wanted to be buried outside his monastery, where women were not allowed....

"No doubt ignoring the rules of Césaire and following the tradition of the supposedly oriental rules, around 530 Benedict synthesised these prescriptions as well as several paragraphs of the Rule of the Master:

"All guests must be received like Christ, for he will say, 'I have been a guest and you have received me. All are to be given the honours due to them, especially brothers in the faith and strangers. When a guest is announced, the superior and the brothers will go to meet him with all the courtesies of charity. They will begin by praying together, and then they will exchange peace. This kiss of peace should only be given after prayer, because of the devil's illusions. In greeting, we give every sign of humility to all guests arriving or leaving. With head bowed and body prostrate on the ground, they should adore Christ whom they receive. Once they have been received, the guests will be led in prayer and, afterwards, the superior will sit with them, either himself or someone designated by him. The divine law will be read to the guest to edify him. Then he will be given all the marks of hospitality. The superior will break the fast for the guest, unless it is a major fast day that cannot be violated, while the brothers will continue to observe their customary fasts. The abbot will pour the water over the hands of the guests. The abbot, together with the whole community, will wash the feet of all the guests. After the washing of the feet, the verse is read: We have received your mercy, O God, in the midst of your temple. Maximum attention should be paid to receiving the poor and strangers, since Christ is received davanatge (sic) in their person, and the fear of the rich in itself obliges us to honour them. (...) Anyone who has not been instructed to do so will not enter into any contact with guests or converse with them, but if he meets them or sees them, he will greet them humbly, as we have said, and, asking for a blessing, he will pass on, saying that he does not have permission to converse with a guest'.

"With Benedict, the visitor is received as Christ, but is no less a stranger to the community; he brings the world with him, so we must guard against it... and pray before embracing him.

"In the Carolingian era, the Rule of Saint Benedict became the only accepted rule for monks. Curiously, the monastic capitulary enacted by Louis the Pious at the instigation of Benedict of Aniane and the fathers meeting in council in 817, says nothing about welcoming guests, except to prohibit non-monks from entering the monastery: 'A lay person or secular priest must not be allowed to remain in the monastery unless he wishes to become a monk'". (Michèle Gaillard, *L'accueil des laïcs dans les monastères [ve-ixe siècle], d'après les règles monastiques*. In *Bulletin du centre d'études médiévales d'Auxerre, BUCEMA [Online], Hors-série n° 8, 2015, online since 30 November 2015, accessed 01 April 2021. URL: <http://journals.openedition.org/cem/13577>; DOI: <https://doi.org/10.4000/cem.13577>).*

(47) See Jacques Biarne, *Cloître, clôture, peregrinatio. La frontière spirituelle du moine dans le monde antique d'Occident*, in Aline Rousselle (ed.), *Frontières terrestres, frontières célestes dans l'Antiquité*, Presses Universitaires de Perpignan, 1995, p. 389-407.

(48) "These prisons were of two kinds: some, in accordance with the old rules and the instructions given by the Council of Aix-la-Chapelle, were sufficiently lit for the offender to be able to work there, and even to be shod during the winter. The others, real dank and dark dungeons, had been ordered by Saint Fructueux and by severe reformers. The statutes of the Order of Cluny state that the prison must be a room without doors or windows, which can only be entered by a ladder; the opening was located in the middle of the vault. Carcer est talis in quem cum scala descenditur, nec ostenditur ostium, nec fenestram habet. (Ducange.) The culprit was bound with leg irons. At Saint-Martin-des-Champs, the prisons were underground and as dark as tombs. At Hirschau, the prison had only enough space for a man to sleep; the floor was covered with straw or rushes. Dom Martenne, in his *Literary Journey*, says that the prisons of Saint-Nicolas-aux-Bois, a Benedictine monastery, are a sight to behold. (*Voy. littér.* t. II, p. 48.) He says the same of the prison at Sainte-Colombe, an abbey in Vienne in the Dauphiné (*Voy. littér.* t. I, p. 258.) In general, the condemned only stayed for a limited time in his prison, and often he was even taken out on Sundays to attend mass, away from his brothers; but sometimes there were also perpetual prisons called 'Vade in pace' (...) Outside the monasteries, the monks also had prisons in which they kept their serfs and other inhabitants of the lands under their jurisdiction. The prison of Saint-Germain-des-Prés, in Paris, still exists on the boundaries of the former abbey; next to it was the bailiff's house, responsible for hearing all crimes or offences committed within the monastery's property. At Saint-Denis, Chartres, Saint-Omer, and in all the towns over which the abbey's jurisdiction extended, prisons were established and maintained at the monasteries' expense" (Albert Lenoir, *Architecture monastique : IIe et IIIe partie*, Paris, 1856, p. 430-1). In an article entitled *La Réforme pénitentiaire. Influence de la religion sur ses progrès* (*Congrès scientifique internationale des catholiques*, t. 2, Paris, 1889, p. 133-5), the former magistrate Albert Rivière wrote: "Whatever the infinite variety of its names: royal prison, seigneurial prison, bourgeois prison, forcible house, etc., it is never considered to be anything more than a depository designed to keep the accused at the disposal of the judge or as the antechamber to the gallows or torture. Perhaps only forcible confinement centres, and to a certain extent state prisons, could be regarded as places of punishment, or at least come close to the forcible confinement centre as we understand it today. But this repressive character is only vaguely apparent. We shall see that confinement in a house of detention was only ordered in very exceptional cases, and that the state prison was even more a place where the aim was to detain, hide and physically eliminate an individual who was dangerous to the security of the state, his family or himself, than a place where the aim was to punish, correct or reform him. The preventive nature of our old ordinary prisons cannot be over-emphasised. It gives the reason for many licences which, without it, would seem inexplicable. For example, the right of all prisoners to have food, drink and beds brought in from outside, to wear a beard and long hair, the absence of penal attire, etc....., seem immediately normal if we consider that they apply to individuals who have not yet been tried, merely accused; if we consider that this same right is still granted today to our remand prisoners. Even the freedom to have one's wife and children as companions in captivity, and many other relaxations tolerated by the old regime, seem less excessive.

"Does this mean that, until that time, prison was absolutely unknown and unapplied as a punishment? Does this mean that when Beccaria and the philosophy of the eighteenth century crusaded against the horrors of criminal legislation and asserted the rights of humanity, they discovered something new? The Church had long since laid down the new principle that justice should not punish an offence as it would avenge a quarrel, and, knowing the virtues of solitary contemplation, had raised her voice against the cruelties of secular law in favour of penal imprisonment. For a long time, as a spiritual power, its officialdom had pronounced the sentence of imprisonment as the principal punishment, not only in ecclesiastical matters against its members, clerics, monks and religious, but even, as a temporal power, against laymen, for crimes of common law, of a purely temporal nature.

The bishops of Paris also had prisons for the use of their officials. These were called *fossæ*. They were sometimes located on their private estates. They were mainly used for preventive imprisonment. But it was always in the monasteries that the real penitentiary imprisonment took place: it was there, of course, that the accused, condemned by the officials to eat the punishment of pain for a month and drink the water of sadness, were locked up. Bishops and abbots, as temporal lords, had prisons and imprisoned, acting in this case as barons, no longer as prelates. But it is above all in purely ecclesiastical legislation that we find the principle of purely penitentiary imprisonment: 'seclusion and penance in monasteries'.

"Later, at the beginning of the eighteenth century, it was a Pope who, almost a century ahead of the most daring founders of penitentiary science, erected the first cellular prison in the very centre of the capital of the Christian world and inscribed on its portico the sublime motto that all civilised peoples would come to read and copy: 'Parum est coercere improbos pona, nisi probos efficias disciplina'. But this is not the only area in which the Church has won a priority over civil legislation that is worthy of our admiration". In a note, he provides chronological details on the leading role of the Church in the "progress" of the penitentiary institution: "Devoti (Institutiones canonicæ) thinks that there were ecclesiastical prisons as early as the fourth century. Læning, on the other hand, believes that at that time, imprisonment should not yet be considered an ecclesiastical punishment. In any case, from the barbaric period onwards, imprisonment in a monastery was a punishment frequently applied not only to ecclesiastics, but also to laymen. In 545, the Second Council of Paris condemned the bishop of Paris to imprisonment; in 566, the Second Council of Tours threatened archpriests with a month's imprisonment in certain cases. Gregory the Great, in his charity, criticised the judges for using prison as a means of investigation: "Such means, he told them, do a disservice to your skill and penetration! At the time of Hincmar, the heresiarch Gottschalk was condemned to imprisonment by the Synod of Querzy, and locked up in the monastery of Hautvilliers, near Reims (819). The Councils of Aix (817) and Verneuil (8/4) contain interesting decisions on prisons. Similarly, the statutes of the abbey of Cluny (910), the decreta of Burchard de Worms, letters from Yves de Chartres to the bishop of Orléans and from Alexander III to the archbishop of Rouen contain important rules on the application and duration of this punishment. In the twelfth and thirteenth centuries,

imprisonment was also regulated from both a repressive and preventive point of view by numerous decretals. However, penal imprisonment continued to be used as a matter of principle in monasteries, especially in those where discipline was the most rigorous; it was the *poena medicinalis* par excellence. For this reason, Boniface VIII did not consider the common prison (*carcer*) to be a place where a sentence was served. These principles were modified by the development of the *inquisitio hæreticæ pravitatis*, which included real penal prisons (*muri*)" (*ibid.*, p. 134).

(49) In some congregations (André-Marie Meynard [R. P. Fr.], *Réponses canoniques et pratiques*, 2nd ed. revised and corrected, vol. 1, Librairie Catholique, Clermont-Ferrand, 1891, p. 366), every day, the monks would assemble, under the direction of the prior, in a room called the chapter of *coulpes* and each of them would come in turn to accuse himself of the faults he had committed against the rule, after which he would make an act of contrition by beating his chest while saying a *mea culpa*. Here, by way of example, is the form that the *coulpe* took in the small congregation of the Sisters of Saint Joseph": "(...) the Superior of each house will assemble the chapter of *coulpes* every Friday, at the most convenient time; all the Sisters, both professed and novices, will attend as required, the sick Sisters excepted.

"The Chapter is to be held in a secret place, where no one can hear what is said from outside. The Superior and the Sisters being assembled there, they will all kneel down and say the *Veni, Creator Spiritus* which the Superior will begin, and at the end she will say the oration of the Holy Spirit; after which, having all sat down according to their rank, the Superior will read or have read and then explain a chapter of the Constitutions or of some devotional book, which is suitable for instructing and correcting the Sisters, concerning what she judges to be at that time more necessary or useful for their correction or their spiritual advancement; and if she does not have time to read, she will simply say what she finds appropriate for their instruction and the observance of the rules.

"When she has finished, she will say: *Sit nomen Domini benedictum*, and all the sisters will kneel down. The one who is to say her *coulpe* first will come and kneel before the Superior, kiss the ground, make the sign of the cross and say: I ask God's forgiveness for all the faults I have committed against the holy rule, and you, Mother, permission to say my *coulpe* if you please; then she will begin, accusing herself in an intelligible voice of some of her faults and saying: I acknowledge my guilt, etc.

When she has finished her recollection, she will say: I beg my divine Saviour to forgive me these faults and you, my mother, to give me a penance for them; and then she will listen with humility, remaining on her knees, to all that the Superior will say to her for her correction, and will accept the penance she will give her; she will kiss the ground, return to her place and remain there until all the Sisters have, one after the other, said their *coulpes* in the same way as she has, and when all the *coulpes* have been said, the Superior will rise from her seat and say: *Benedicamus Domino*, and all the Sisters will also rise and say: *Deo gratias*, and leave the Chapter in silence.

If there are lay Sisters, they will say their *coulpes* first and the novices after them; then they will receive the correction and penances from the Superior, who will then tell them to withdraw, and they will leave the Chapter promptly; and when they have left, the professed Sisters, who have remained seated until then, will rise and say their *coulpes* as indicated above.

"The Sisters will listen with great attention and profound respect to all that the Superior says to them for their common instruction and for their particular correction, and we very strictly forbid them to reply to challenge or to apologise, and to speak during the Chapter, unless the Superior questions them or gives them permission to give their reasons; and if someone speaks, the Superior will order her to be silent, and if she does not obey, she will punish her according to the excess of her fault.

"The Sisters, in recounting their sins, will never accuse themselves of anything other than external faults, such as failing to observe silence, prayer and the other observances of the Rule; speaking rudely, being impatient, lacking modesty in their manner, speaking against charity, or in too high a tone, speaking lies or less than honest words, refusing any service to the Sisters or to their neighbours, neglecting the advice of the Superiors, or what they should do in their jobs, etc. The Sisters will never accuse themselves of anything other than external faults.

"As for their interior sins or defects, they will reserve them for confession and, if they wish, for the particular communications they must have with their Superior, to whom they will open their interior confidentially, hoping that God will give them through her all the light necessary for their amendment and perfection.

"The Sisters will remember that the Chapter is an image of the judgement where all our faults will be made manifest, with the difference that this manifestation of our faults, which we make in Chapter, obtains for us remission of them, an increase in grace and deliverance from the pains of purgatory, provided that we declare ourselves there with humility and contrition, and that we accept with respect and submission the corrections and penances which the Superiors will give us. It is with this spirit that the Sisters must go to Chapter, and take care that when they are outside, they never murmur or complain about what the Superior will have said to them.

"The Superior may prudently impose penances in accordance with the faults of her inferiors, such as ordering them to pray, or to read, or to meditate in an extraordinary way, to remain silent for a few hours, to kiss the ground, to kneel, to be deprived of recreation or an assembly for a few days, to be deprived of a communion, to eat on the floor in the refectory, to kiss the feet of the Sisters, to do discipline, to be dismissed from their duties for some time, and other similar punishments which the Superior will judge appropriate for the correction and amendment of the Sisters. " (Constitutions pour la petite congrégation des Sœurs de Saint-Joseph, nouv. éd., Lyon, 1852, p. 254-61). Among the Grand Augustinians, "the Chapter of the congregation is held every Friday, without fail, at the end of the conventual Mass. The Prior prostrates himself and says: let's talk about the *coulpes*. All the monks prostrate themselves, and the Prior questions each one

in particular. The Judge of this monastic tribunal is inexorable: prayers, tears, promises, the titles of Bachelor or Doctor, nothing exempts the offender from making amends and receiving the whip at once from his hand, if the offence seems to merit it. One of the most serious offences, as in other Orders, is to reveal the secrets of the Order, and to let the seculars know what is going on in the Cloisters. Any recourse to the Magistrates to complain about the injustice of one's Superiors is punished as one of the greatest offences. The convents of this Order, like the others, have strong prisons equipped with irons. The jailer is answerable for the body of his prisoner. The question is also given there, but the manner is unknown to us. Some of their General Chapters had wanted to abolish this custom, as more suitable for executioners to deal with than for priests; but it was soon renewed" (emphasis added) (*Nécessité de supprimer et d'éteindre les ordres religieux en France*, t. 1, London, 1789, 252-3).

(50) Nira Gradowicz-Pancer, *op. cit.* p. 182.

(51) Gaëlle Jeanmart, *Généalogie de la docilité dans l'Antiquité et le Haut Moyen Âge*, J. Vrin, Paris, 2007, p. 219.

(52) See Hugh Feiss, *Circatores: from Benedict of Nursia to Humbert of Romans*. In *American Benedictine Review*, 40, 1989 [p. 346-79] and Scott G. Bruce, *Lurking with spiritual intent: a note on the origin and functions of the monastic roundsman (circator)*. In *Revue Bénédictine*, 109, 1999 [p. 75-89]. The term is translated as 'investigators' in *Notices et extraits des manuscrits de la Bibliothèque du Roi*, t. 34, G. Klincksieck, Paris, 1891, p. 313.

(53) Michel Foucault, *op. cit.* p. 170-1.

(54) Nira Gradowicz-Pancer, *op. cit.* p. 190.

(55) Wojtek Jezierski, *op. cit.* p. 171.

(56) Nira Gradowicz-Pancer, *op. cit.* p. 190.

(57) The objection that Foucault raises against the thesis of the filiation between the cellular confinement of prisons and the conventual space can be summed up in these lines: "The point here is not to prevent someone from accessing the outside world, from getting out, but to protect places, bodies and souls from the outside world: the enclosure closes off the interior from all possible assaults from the outside; it is one of those sacred places where one cannot enter just any old way. The fence does not enclose someone's freedom within a place from which they cannot leave and to which the outside world is inaccessible; it defines a protected inner place that must become inaccessible to the outside world. It is the world that is kept outside, not the individual inside. It is the world that is locked out" (Michel Foucault, *La société punitive. Cours au Collège de France [1972-1973]*, EHESS/Gallimard/Le Seuil, Paris 2013, p. 87). In the body of this study, however, we show that this thesis is far more well-founded than the objection to it.

(58) This was the case with the Inquisition, for whom prison was "pressure to confess and to cooperate" (Denis Salas, *Le cloître et la prison. À propos de 'Enfermements. Le cloître et la prison [VIe-XVIIIe siècles]*'. In *Les Cahiers de la Justice* 2012/2, no. 2 [p. 187-93]; cf. *Supra*, note 48), which served as a conveyor belt for the monastic cellular model to the world. The Council of Béziers ordered: "Provide near every episcopal see - and if possible in every town - individual cells without light in which condemned heretics shall be shut up, so that they cannot contaminate each other or pervert other people." (Nicolau Eymereich, Francisco Peña and Louis Sala-Molins, *Le Manuel Des Inquisiteurs*, De Gruyter, 1973, p. 203). The model taken by Édouard Ducpétiaux (1804-1868), who was appointed Inspector General of Prisons in the Kingdom of Belgium in 1830, was the prison of Saint Michael, created in Rome in 1703 by Clement XI. The model was exported to the United States before returning to Europe under the name of the "Philadelphia system", giving rise to the Pentonville cellular prison in London, which in turn became an example (see M.-S Dupont-Bouchat, *Ducpétiaux ou le rêve cellulaire*. In *Déviance et société*, 1988, vol. 12, no. 1 [p. 1-27], doi : <https://doi.org/10.3406/ds.1988.1527> ; see also, on the inquisitorial prison, Louis Sala-Molins, *op. cit.* p. 254 et seq.)

(59) Nathalie Nabert, *Des jardins d'herbes et d'âme*, Beauchesne, 2009, p. 19; "carcer" is used as a synonym for hell. In the fifth volume of the *Aurifodina Universalis*, new ed, Reproduced from the 1680 edition (Félix Girard, Lyon, 1866), "a work intended for religious and secular people, but above all for preachers, orators and jurisconsults" and "approved by several archbishops and bishops in France and abroad", we find the following definitions of a monastery: "A monastery is a small and just city, that is, alien to the taste of the world, a city in which Lot was preserved from the fires of Sodom" (p. 310) Blessed are you, you who are dragged from prison to prison (de carcere in carcerem): your dungeon is dark, but you are a light; you are chained, but you are free in Jesus Christ; you breathe what unhealthy air, but you are a sweet perfume (p. 175). We are right to compare a monastery to a pond, from which the fish, who are incarcerated (incarcerati), are not free to leave... (p. 310). The cloister is a prison that one enters spontaneously, a place where ecclesiastics find rest; it provides outer security, inner joy, the certainty of eternal happiness; if it saddens the body, it enlivens the soul" (p. 312). Not without contradiction with the preceding characterisations, contradictions not unrelated to the schizophrenia to which Judeo-Christian teachings bear witness, it is also said: "This world is a prison; it is the furnace of Babylon" (p. 394). The world is the prison and exile of the elect (p. 399). The world is not the homeland, but the prison, not only of men, but also of demons (p. 401). The whole body is but a prison filled with dreadful darkness, if the eyes do not come to illuminate it (p. 561).

(60) Joan Evans, *La civilisation en France au moyen âge*, Payot, Paris, 1930, p. 103.

(61) The *Encyclopédie* says: "The title of bishop comes from the Greek ἐπίσκοπος and means overseer or inspector. It is a term borrowed from the pagans; for the Greeks so called those whom they sent to their provinces, to see if all was in order there. The Latins also called episcopus those who were inspectors and visitors of bread and food.

(62) Bishoprics are the oldest of all ecclesiastical offices and benefices. Initially, "[w]hen the dioceses of these new bishops seemed too large, the pastors divided them in two and appointed the new bishop themselves; this practice had only good effects at first, because those who introduced it had even better intentions ; But as these new bishoprics, which the pastors of the large cities were tempted to multiply, in order to create for themselves a state of superiority which flattered the holiest, were for the most part in small towns where the number of faithful did not correspond to the dazzling dignity of a bishop, the councils forbade erecting them elsewhere than in countries where there would be a large people to govern: Non oportet in villulis vel agris episcopos constitui, sed visitatores Verumtamen jam pridem constituti, nihil faciant, præter conscientiam episcopi civitatis (can. 57 of the Council of Laodicea)" (André [abbé], *Cours alphabétique et méthodique de droit canon*, 3rd ed, t. 3, Paris, 1859, p. 277).

(62bis) Randall Collins, *Weberian Sociological Theory*, Cambridge University Press, Cambridge, 1986, pp. 53-4; see also, on the driving role of the Church in the development of capitalism, Thomas Woods, *How the Catholic Church Built Western Civilization*, chap. 8: The Church and Economics, *Regnery History*; 2012 and William Caferro, *Premodern European Capitalism, Christianity, and Florence*. In *Business History Review*, vol. 94, no. 1: Italy and the Origins of Capitalism, Summer 2020 [pp. 39 - 72] (id., op. cit., 30 April 2020 <https://www.cambridge.org/core/journals/business-history-review/article/premodern-european-capitalism-christianity-and-florence/31CEEAB6B017F51AC1C94D7016544A1F>) as well as Michael Novak, *Three in One: Essays on Democratic Capitalism, 1976-2000*, chap. 10: The Judeo-Christian Foundation of Human Dignity, Personal Liberty, and the Concept of the Person? Rowman & Littlefield Publishers, Lanham, MD, 2001.

(63) H. Pirenne, *L'origine des constitutions urbaines au moyen âge*. In *Revue historique*, vol. 53, 1893 [pp. 52-83] and vol. 57, 1895 [pp. 57-98 and 293-327], pp. 70-1. Here we borrow some of Pirenne's considerations on the genesis of the 'medieval' city.

(64) "Stricken by the misfortunes of the tenth century, scattered across the land and realising that they owed their weakness to their isolation, the rural populations began to look for shelters and meeting places towards the middle of the eleventh century. The number of ancient settlements was insufficient, so the great abbeys offered territories and asylums to these men who wanted to group together. No one was in a better position to found these new centres, as the monasteries had a lot of land to populate and immense possessions to clear and cultivate; on the other hand, thanks to the immunities and the right of asylum they enjoyed, thanks to the prescriptions of the councils relating to the peace of God which ensured their domains a certain security, they offered the nomadic population, then very numerous, guarantees that they could not have found elsewhere" (Louis-Gabriel Esomnot, *Biographies bourbonnaises*, in *Annales bourbonnaises*, Moulins, 1887, p. 111, note 1).

(65) Jacques Flach, *Les origines de l'ancienne France: Xe et XIe siècles. Les origines communales, la féodalité et la chevalerie*, L. Larose & Forcel, Paris, 1893, p. 171-2. On the

subject of the aître, see Thomas Gergen, *Droit canonique et protection des 'cercles de paix'*. In *Cahiers de recherches médiévales* [On line], 8, 2001, online since 13 March 2008, accessed 12 May 2021. URL : <http://journals.openedition.org/crm/404> ; DOI : <https://doi.org/10.4000/crm.404>; on the origin of the aître, see note 96 below.

(66) Jacques Flach, *op. cit.* p. 173-5.

(67) *Ibid.*, p. 316.

(68) *Ibid.*, p. 317-8.

(69) V. Gaillard, *Études sur le commerce de la Flandres au moyen âge - Les Foires*, in *Messenger des sciences historiques, ou Archives des arts et de la bibliographie*, 1851, Ghent, p. 194.

(70) "(B)ut when discipline became more rigorous and the generosity of the lords ensured that the churches had sufficient income, the vendors were once again driven from the temple" (*ibid.*, p. 194-5).

(71) Jacques Flach, *op. cit.* p. 326-7.

(72) Achille Luchaire, *Histoire des institutions monarchiques de la France sous les premiers Capétiens (987-1180)*, t. 2, Paris, 1883, p. 133.

(73) Henri Joseph Pauffin, *Essai sur l'organisation et la juridiction municipales au Moyen Âge*, Ernest Thorin, Paris, 1886, p. 64.

(74) Amédée Gasquet, *Précis des instructions politiques et sociales de l'ancienne France*, vol. 2, Librairie Hachette et Cie, Paris, 1885, p. 295-6.

(75) Achille Luchaire, *op. cit.* p. 135.

(76) The chronicler of Louis VII, the founder of many towns, says of him that "he disinherited many churches and nobles from their men who took refuge under his protection! (quoted in Amédée Gasquet, *op. cit.*, p. 296). That said, the king sometimes collaborated with certain lords, ecclesiastical or lay, in this area: "A certain number of hosts were the joint property of the king and an (ecclesiastical) lord. In such cases, the partners shared the proceeds in equal parts" (Achille Luchaire, *op. cit.*, p. 136).

(77) Achille Luchaire, *op. cit.* p. 136.

(78) "The first merchants to settle permanently in towns were certainly immigrants (cf. p. 70, n. 1). The proof of this is that they were regularly to be found in the nova urbs (cf. n. 1). In the tenth century, they were still sometimes considered foreign to the rest of the population. See characteristic texts in Thietmar of Mersebourg, III, 1, and VI, 16. Moreover, their example must have been contagious from an early date, and an increasing number of former inhabitants must

also have sought to earn a living through trade and industry. This seems to be the explanation for the existence of merchant clerics and unfree merchants. The opinion of Nitzsch (*Ministerialität und Bürgerthum*), who sees the ministerial merchants of the great estates (Scararii, etc.) as the ancestors of the free merchants (cf. *Rev. hist.*, LIII, p. 61), is now generally abandoned" (H. Pirenne, *op. cit.*, p. 64, note 3). The merchant type first appeared in the Carolingian period. In addition to cargoes of wheat or wine, no doubt from the surplus production of large estates, they transported passengers, pilgrims and the sick, whom they unloaded at shrines. While most of the men were more or less closely tied to the land, they led a wandering life, selling and buying from fair to fair, port to port. Many of them were Jews or Lombards by origin. Even more than sedentary people, they needed security. The public authorities, who had every interest in the development of trade, took it upon themselves to guarantee them as much security as possible, taking measures to maintain bridges, roads, quays and markets and granting them privileges in terms of jurisdiction: every year in May, the mercatores had to go to the palace and pay taxes into the imperial coffers in proportion to their profits. Later, the king took them under his protection, and the Church excommunicated highway robbers (see H. Pirenne, *op. cit.*, p. 71).

(79) See Robert Fossier, *Le petit peuple au Moyen Âge: approche et questions*, in Pierre Boglioni, Robert Delort and Claude Gauvard (eds.), *Le petit peuple dans l'Occident Médiéval. Terminologies, perceptions, réalités*, Publications de la Sorbonne, Paris, 2002.

(80) Prosper Boissonnade, *Le travail dans l'Europe chrétienne au Moyen âge (Ve-XVe)*, F. Alcan, Paris, 1930, p. 244.

(81) Roger Grand, *La formation des villes au Moyen Âge: Individualisme ou association?* In *Journal des savants*, January-June 1947 [p. 41-73], p. 61. The influx of people from the countryside to the towns was also due to the increase in tax rates, itself the result of numerous wars. The owners of the land surrounding the towns built there and their suburbs were greatly extended, because the inhabitants of the suburbs enjoyed a number of immunities, including exemption from the tax.

(82) Michel Mollat, *La notion de pauvreté au Moyen Âge : position de problèmes*. In *Revue d'histoire de l'Église de France*, t. 52, n° 149, 1966 [p. 5-23], p. 13 ; Graus František, *Au bas Moyen Âge : pauvres des villes et pauvres des campagnes*. In *Annales. Économies, sociétés, civilisations*. 16^e année, no. 6, 1961 [pp. 1053-65]; see also Michel Mollat, *Les pauvres au Moyen Age. Étude sociale*, Paris, Hachette, 1978.

(83) H. Pirenne, *op. cit.* p. 298.

(84) Jacques Flach, *op. cit.* p. 373.

(85) H. Pirenne, *op. cit.* p. 298.

(86) *Ibid*, p. 294.

(87) "In the tenth and eleventh centuries, 'commune', 'communia', had the meaning of conjuration, conspiracy, sworn association of the common people, i.e. all the inhabitants of a place or region. In the twelfth century, the word *communia* took over and became specialised to designate a form of municipal organisation, because most conjurations were restricted to all or part of the population of a town and took on a corporate and seigneurial character that made them inapplicable to the flat country" (Jacques Flach, *op. cit.*, p. 414-5).

(88) Jacques Flach, *op. cit.* p. 392.

(89) "The oath that binds the partners and makes them conjurors (*conjurati*) also makes them friends, brothers. They owe each other fraternal help, inside and outside the city, in everything that is useful and honest. In this way, the friends protect each other and prevent or stop any conflict. Twelve jurors are elected specifically for this purpose. They prevent private vengeance within the friendship, acting as arbiters and amiables *compositours* alongside an officer (*prefect*) appointed by the lord. If they fail to pacify, they take vengeance into their own hands after expelling the guilty party from the friendship. As far as third parties were concerned, they proceeded with a veritable excommunication, forbidding trade with those guilty of theft or insult against a burgher and, with the support of all the members, they took vengeance on the perpetrators of serious violence, injury or murder" (*ibid.*, p. 397).

(90) Historians do not agree on which came first, the peace of the city or the peace of the market. According to some, "[i]t was the law of the markets which, to the exclusion of any other rights that might exist on the territory of a conurbation, extended until it became the law of the city...; the law of the markets is identical to the law of the city (p. 214 ff)". The *mercatores* become the bourgeois, the market becomes the city; 'the peace of the city is the peace of the market, which from being temporary has become perpetual'. The judge of the city is nothing other than the former 'judge of the market' and 'the liberties of the city are the same as those of the market and are, without doubt, derived from them'. (Félix Aubert, *Essai historique sur le droit des marchés et des foires*, by P. Huvelin. In *Bibliothèque de l'école des chartes*, 1898, t. 59 [p. 623-26] p. 625). Others refer to the two theses back to back: "[I]et l'une et l'autre sont paix royales; et c'est pourquoi il n'est pas nécessaire que l'une ait engendré l'autre; car la paix royale a été accordée à bien d'lieux et individus que la ville et les marchands" (Albert Maignan, Maurice Wilmette et Jean Georges Platon, *Le Moyen Âge*, t. 12, [2e Série- t. 3] 1899, Émile Boillon, Paris, p. 178).

(91) H. Pirenne, *op. cit.* p. 296.

(92) Albert Lenoir, *Architecture Monastique*, IIe et IIIe Partie, Paris, 1856, p. 447.

(93) According to Pirenne (*op. cit.*, p. 71), the *suburbia* were originally home ports where the *advenae* gathered in large numbers between their races and during the bad season.

(94) Auguste Hanaue (abbé), *Les paysans de l'Alsace au moyen-âge : étude sur les cours colongères de l'Alsace*, Durand, Paris, 1865, p. 337: "The strength of a city is concentrated in its

ramparts, which soon define the 'good city': the city is good because it is safe...". (quoted in Magali Reghezza-Zitt, op. cit., p.108).

(95) "Every town in the Middle Ages, and until Louis XII, every town in France had its places of asylum. In the midst of the deluge of criminal laws and barbaric jurisdictions that flooded the city, these places of asylum were like islands rising above the level of human justice. Any criminal who landed there was saved. In one suburb, there were almost as many places of asylum as there were places of punishment. It was the abuse of impunity alongside the abuse of torture, two bad things that failed to correct each other. The king's palaces, the mansions of princes and above all the churches had the right of asylum. Sometimes an entire city that needed to be repopulated was temporarily turned into a place of refuge. Louis XI gave Paris asylum" (emphasis added) (Victor Hugo, *Œuvres complètes de Victor Hugo*, t. 1, 1843, p. 534; until the Revolution, the towns of Toulouse, Bourges, Issoudun, Vierzon, Saint-Malo and Valenciennes still enjoyed the right of asylum, Aimé Champollion-Figeac, *Documents paléographiques relatifs à l'histoire des beaux-arts et des belles*, Paris, 1868, p. 159-60).

(96) Jean Chenouard, *Mailly-le-Château au Moyen-âge : au temps de la comtesse Mahaut (12ème-13ème siècle)*, Les Amis du pays de Mailly-le-Château, 1994, p. 55; Georges Balandier, *Sociologie de l'Afrique noire : dynamique social en Afrique centrale*, Presses Universitaires de France, 1982, p. 345. The right to asylum was initially religious. Criminals found asylum at altars. "(Albert Du Boys, *Histoire du droit criminel des peuples modernes considéré dans ses rapports avec les progrès de la civilisation depuis la chute de l'empire romain jusqu'au XIXe siècle*, Paris, Auguste Durand, 1854, p. 395). "The Roman Emperors, when they planted the cross on the pagan temples, did not want to chase away the unfortunate people who took refuge there, and they maintained them in the enjoyment of local immunity, which existed at first only to give the bishops time to intercede on behalf of the guilty. Thanks to the great influence they wielded over the people, the prelates took on the right to intervene in matters of civil government and they became the advocates of criminals, even of those who had committed the greatest crimes. Asylum soon became more prevalent, taking on the prestige of a right and sanctioned by canonical penalties for those who took the liberty of violating it. Out of respect for religion, princes softened the rigour of civil laws in its favour, while popes and councils regulated it through their decrees and decisions. Under the first Christian emperors, therefore, the asylum took on the characteristics of an act of charity, which is the principal prerogative of the religion of Christ, and the altar, in order to be a refuge, still needed the protection of its priests. Thus the asylums were not yet exempting the guilty from secular jurisdiction by their own virtue. However, this intercession soon degenerated into abuse and led to disorders that needed to be remedied. Under the pretext of subjecting the guilty to penance, the clerics took them from the hands of the guards even on the way to the torture, and in order to stop the evil, severe penalties had to be pronounced against proconsuls, counts of the East and Augustan prefects who tolerated such attacks. At other times, magistrates, with the aim of pardoning certain guilty parties, were begged by priests or monks to cast the veil of clemency over the favour they wished to grant.

The imperial constitutions initially denied asylum to only two categories of individuals: debtors and Jews. As for men charged with enormous crimes, they always remained under the blows of justice, since this privilege did not operate ipso facto and was in reality no more than an intercession. Emperor Theodosius excluded tax debtors in 392; they had to be immediately removed from the churches where they had fled, because, according to the legislation, cases of this nature could not be delayed. A new law, passed in 398 under the influence of the eunuch Eutropius, restricted the right of asylum by equating ordinary debtors with tax debtors. The treasurers of the churches were made responsible for paying the debts of those who had found themselves in the temple, if, at the first summons, they did not deliver the fugitives to their creditors. The emperors Zeno and Leo repealed these provisions and relieved the church treasurers of all responsibility. But the same Eutropius, who had long before fallen into the good graces of the emperor Arcadius, obtained from this prince the complete abolition of the right of asylum (...) Eutropius was the first victim of the measure he had promoted. He found out, to his cost, that the friendship of the great is not very stable and that the Tarpeian rock is very close to the Capitol. When he fell from grace, he was happy to be able to flee to the basilica of Constantinople and claim the right of asylum that he had stripped from the churches. This event revived the privilege of asylum, the violation of which was soon considered a crime of *lèse majesté*, according to a law of Honorius and Theodosius. Theodosius the Younger, wishing to protect the churches from the desecrations to which they were subject as a result of the audacity of those who retreated there, decreed that a certain area around the temple would enjoy immunity, and he extended it to the vast *pronaos* of the Christian churches" (Jean-Joseph-Eugène Proost, *Histoire du droit d'asile religieux en Belgique*, Ghent, 1870, p. 6-9).

(97) "From this special point of view, the relationship between the city and the suburbs is similar to that between the church and its cemetery. And if we wanted to take the comparison further, we could point out that the peace of the suburbs, like that of the cemetery, is symbolised by the cross, while the city, like the church, erects a tower in the air: the belfry, the tower of peace".

"(H. Pirenne, *op. cit.*, p. 301).

(98) "Peace makes the various legal conditions disappear before it. It extends to the *servi* and *ancillae* as well as to the other inhabitants. It becomes the common law (*lex*) of the city. The city now had its own statute, binding on all by the mere fact of residence. Personal differences disappeared. *Mercatores*, *servi*, *ancillae*, all these groups that had previously enjoyed special rights, were subject to different jurisdictions, had their own special privileges, their own interests that were often opposed to those of others, now had a point of contact. All become *homines pacis*, all are subject to the same *lex*" (*ibid.*, p. 298).

(99) Auguste Ott, *Manuel d'histoire universelle*, t. 2: *Histoire du moyen âge et histoire moderne*, Paulin, Paris, 1842, p. 224.

(100) *Ibid.*

(101) "The status of bourgeois is acquired [...] in the first place, by dwelling. No one belongs to the city unless he makes the city his home, unless he lives there from sunrise to sunset. In short, the citizen exists through the city and not, as in ancient times, the city through the citizen. And it has been ingeniously noted that, while in Latin the word *civitas* comes from *civis*, in modern languages, on the contrary, the words bourgeois, bürger, citizen and cittadino are formed from the words bourg, burg, city and citta" (H. Pirenne, *op. cit.*, p. 321-2).

(102) "No one is a bourgeois if he does not take the communal oath, if he does not declare his solidarity with the other bourgeois, if he does not lose himself, as it were, in the corporate unity that is the city. It is easy to see that this second condition is inseparable from the first. The oath is the foundation of the bourgeois's rights and duties. It is the indispensable guarantee of each person's loyalty and obedience to the municipal government. So it does not depend on individual wills to take it or to dispense with it. Any new inhabitant is obliged to be part of the commune and can only leave in one way: by emigrating" (*ibid.*, p. 322).

(103) *Ibid.*, p. 316.

(104) *Ibid.*

(105) Albert Babeau, *Le village sous l'Ancien Régime*, Didier & Cie, Paris, 1878, p. 207.

(106) Léon-François-Joseph Le Maître [Lt. Colonel], *Historique de la gendarmerie : origines de cette arme, ses attributions*, Paris, 1879, p. 22.

(107) "Everyone [...]," wrote the historian and historiographer Mézeray (1610-1683), "used their private authority to wage war against each other for their own insults and disputes. They each built castles and fortresses on their lands, most of them on mountain ridges. With these places, the unjust and the brigands seized the passages, the rivers, the woods and the mountains, demanded harsh tributes and established customs that were sometimes extravagant, sometimes vile and brutal" (quoted in Adolphe Vuitry, *Études sur le régime financier de la France avant la révolution de 1789*, Guillaumin et Cie, Paris, 1878, p. 129). On the subject of the consequences of the establishment of the seigneurial system, the jurist and politician Édouard Laboulaye (1811-1883) wrote: "In the anarchy of the last Carolingian reigns, the counts, seized of public power, strangely abused this power to reduce free men to a condition at least as miserable as that of the colonists. They seized customs, tolls, mills, grazing land in the common forests and everything that was trade, agriculture and industry. In their greedy hands, everything became a monopoly. People had to pay everywhere and for everything. They forced the inhabitants of the counties not only to do public chores, but also to sow, cultivate and harvest for the master. The free man was as miserable as the colonist; the only difference was the illegitimacy of the title, which constantly demanded to be subjugated" (quoted in *ibid.*, p. 488); Montesquieu's idyllic description in *L'Esprit des lois*, book XXIII, chapter xxiv is worth noting: "In the state Europe was in, one would not have believed that it could be re-established, especially when, under Charlemagne, it was no more than a vast empire. But, due to the nature of the government of the

time, it was divided into an infinite number of small sovereignties; and as a lord resided in his village or town, and was not great, rich or powerful, what shall I say? that he was only as secure as the number of his inhabitants, everyone took singular care to make their small country flourish"). Through their constant atrocities, if not all, at least some of the lords turned villagers into bandits. "If, in all parts of the kingdom, farmers gather together in bands of bandits, is it necessary to look for causes other than those that drive them from their cottages, force them to abandon their fields and resort to pillaging in order to survive" (M. Championnière, *De la propriété des eaux courantes*, Charles Hingray, Paris, 1846, p. 487). "From the beginning of the eleventh century, the Church had been the first to try to put an end to these calamities, by preaching God's peace and God's truce; but the remedy had rather increased than diminished the excess of the evil" (Adolphe Vuitry, *op. cit.*, p. 130).

(108) M. Championnière, *op. cit.* p. 534.

(109) The enjoyment of all these justiciary rights was gradually considered a royal prerogative and, in the fourteenth century, the high justiciary lords could only exercise them under the supervision of the royal courts. In the seventeenth century, all police rights were taken away from them by the crown, which took them over as well as the appointment of agents to guard and monitor the countryside.

(110) H. Pirenne, *op. cit.* p. 318.

(111) *Ibid.*, p. 319.

(112) Quoted in Michel Foucault, *Sécurité...*, p. 344.

(113) *Ibid.*

(114) *Ibid.*

(115) Alois Paulin, *Smart City Governance*, 2018, pp. xiv-xv, which, like all the camouflaged advertisements that are the apologetic works on the "smart city", sells it by assuring fly-tippers that ICTs will make it possible to "return power to the people" ("Smart city' [was] originally nothing more than a commercial term" [*ibid.*, p. xiii]).

(116) Brian Jefferson, *Digitize and Punish*, University of Minnesota Press, Minneapolis, 2020; "This book examines an emerging form of prison space characterised by machines that traverse the human anatomy, social housing, public schools, transportation systems, telecommunications systems and street networks of American cities. The book also points out that the more telecommunications and IT companies become entrenched in crime-fighting policies, the more likely it is that these infrastructures will continue to develop. The extension of prison management through the Internet of Things (IoT) or networks of devices that communicate with each other is greatly influenced by the movement of capital.

"Decades of revealing research show how cities have turned to mass criminalisation to manage the enormous economic, political, social and medical problems arising from deindustrialisation [...] Moreover, the digital architecture of the prison state owes its existence not only to the outflow of industrial capital, but also to the inflow of informational capital. The infrastructure sector has established itself as one of the most important sectors of the finance, knowledge and technology industries. IT [Information Technology] companies have insinuated themselves into every facet of urban life, including government agencies, private companies, social networks, transport systems, workplaces and infrastructures. These enterprises have also entered the administration of criminal justice, reshaping the geographies of prison governance." (ibid.)

3

In France, the first theorist of the policed state was Louis Turquet de Mayerne (- 1618), historian, geographer and translator of several works, including *De incertitudine et vanitate scientiarum* by the esotericist Agrippa of Nettesheim (1582) (1), then, in exile in England, physician to James I, who ennobled him in 1624, and to his successors Charles I and Charles II (2). In *Monarchie aristodémocratique* (1611), he set out to show, as its title suggests, that it was less a question of choosing between these different types of constitution than of matching them with a view to a vital end: the State "but, before the State, commerce: commerce is the foundation of society and consequently it is the merchant's duty to occupy the highest offices of the State". Here, as described by Michel Foucault, is the political and social organisation advocated by Turquet: "Four great dignitaries assist the king. One is in charge of justice; the second, the army; the third, the exchequer, i.e. the king's taxes and resources; and the fourth, the police. It seems that the role of this great clerk was essentially moral. According to Turquet, he had to inculcate in the population "modesty, charity, fidelity, diligence, friendly cooperation and honesty". In each province, councils were responsible for maintaining public order. "Two would watch over people; two others over property. The first council would look after the positive, active and productive aspects of life. In other words, it would look after education, determine people's tastes and aptitudes and choose occupations - useful occupations: everyone over the age of twenty-five was to be entered in a register indicating their occupation. Those who were not usefully employed were considered the dregs of society. "The second council had to deal with the negative aspects of life: the poor (widows, orphans, the elderly) in need; the unemployed; those whose activities required pecuniary assistance (and who were not asked for any interest); but also public health - diseases, epidemics - and accidents such as fires and floods". "One of the councils in charge of property was to specialise in goods and manufactured products. It would advise on what to produce and how to produce it, as well as controlling markets and trade. The fourth council would look after the "domain", i.e. the territory and space, controlling private property,

legacies, donations and sales; reforming seigniorial rights; and looking after roads, rivers, public buildings and forests" (3).

It is clear that "[w]hat [Turquet and his followers] meant by the 'police' in the seventeenth and eighteenth centuries was very different from what we mean by the term [...]. By 'police' they do not mean an institution or mechanism operating within the State, but a technique of government specific to the State; areas, techniques and objectives that call for State intervention" (4).

Turquet's theory, according to Foucault, demonstrates three things:

"1) The "police" appear to be an administration that runs the State alongside the judiciary, the army and the chessboard. This is true. In fact, however, it encompasses everything else. As Turquet explains, it extends its activities to all situations, to everything that men do or undertake. Its domain includes justice, finance and the army.

2) The police encompass everything. But from an extremely specific point of view. People and things are looked at in terms of their relationship to each other: how people live together in a given area; how they own property; what they produce; what is traded on the market. She is also interested in how they live, and the illnesses and accidents to which they are exposed. The police keep an eye on people who are alive, active and productive. Turquet uses a remarkable expression: man is the real object of the police, he says in substance.

3) Such intervention in people's activities could well be described as totalitarian. What are the aims being pursued? They fall into two categories. Firstly, the police are concerned with everything that makes up the ornamentation, form and splendour of the city. Splendour refers not only to the beauty of a perfectly organised state, but also to its power and vigour. So the police ensure the vigour of the State and bring it to the fore. Secondly, the other aim of the police is to develop working and commercial relations between people, as well as mutual aid and assistance. Here again, the word Turquet uses is important: politics must ensure 'communication' between people, in the broadest sense of the term. Without this, men could not live; or their lives would be precarious, miserable and perpetually threatened (5).

At the time when Turquet devised his totalitarian system, there were various forms of justice in France: seigniorial, communal and ecclesiastical, not to mention the King's justice system. One particular officer was responsible for maintaining public order and judging offences committed

on the public highway: the provost, a civil or judicial officer invested with administrative and judicial authority. As a police officer and executor of court rulings, the provost marshal "was responsible for seizing delinquents and criminals, authorising legal duels and regulating the conditions thereof, coercing debtors, enforcing the king's protection on public roads, guarding the woods and waters of the domain, and watching over the serfs and servants who made up the royal family. He therefore had to have military power at his disposal and, in fact, in the main towns, he had command of the king's tower, the right of *semondre* for the ost and the *chevauchée* (...)" (6). The most important of these was the Provost of Paris, based at the Châtelet. Whereas in the rest of the kingdom, the bailiff was above him, he had no superior other than the parliament and the king. Here is Joinville's (1224 - 1317) description of the Provost of Paris in his day: "The Provost of Paris was then sold to the burghers of Paris or to some of them; and when it happened that some of them had bought it, they supported their children and nephews in their misdeeds; for the young people relied on their parents and friends who held the Provost. This is why the common people were so badly beaten, and were unable to get the better of the rich, because of the great gifts and donations they made to the provosts. Anyone who, in those days, told the provost the truth, or wished to keep his oath so as not to commit perjury, about any debt or anything for which he was obliged to answer, was fined by the provost and punished. Because of the great injustices and robberies that were committed in the provostry, the common people did not dare to live on the king's land, but went to live in other provostries and other seigneuries. And the king's land was so deserted that when the provost held his pleas, no more than ten or twelve people came. In addition, there were so many criminals and thieves in Paris and elsewhere that the whole country was full of them. The king, who took great care to ensure that the common people were guarded, knew the whole truth, so he no longer wanted the provostry of Paris to be sold, but he gave large and good wages to those who would guard it from now on. And he abolished all the bad taxes which the people could be burdened with, and made an enquiry throughout the kingdom and throughout the country where he could find a man who would do good and swift justice, and who would spare no more the rich man than the poor. Etienne Boileau was then appointed, and he maintained and guarded the provost's office so well that no criminal, thief or murderer dared to remain in Paris without being hanged or exterminated: neither kinship, lineage, gold nor money could guarantee this. The king's land began to improve, and the people came to it because of the good law that was being made there (7). This reform made the office of Provost of Paris so prestigious that members of the greatest families vied for it.

Even after Francis I had taken away his military powers, which he entrusted to one of his lieutenants, the provost remained responsible for the administration of the police and the administration of justice in the first instance. His main function was to ensure the maintenance of public peace and, to this end, he commanded, together with the merchants, three companies of archers, crossbowmen and harquebusiers, who were given a lieutenant-general in 1550. Shortly

before this, he had been joined by a captain called the knight of the watch (miles gueti). The watch that guarded the town consisted of the royal watch and the seated watch; instituted by Louis IX in 1254, the royal watch consisted of a certain number of men on foot and on horseback, who made the rounds of the streets; The "guet assis" was a fixed guard force made up of merchants and craftsmen; between them, they were the equivalent of the British "watch and guard" and, like it, were responsible for giving the curfew signal which, unlike the situation across the Channel, gave rise to all sorts of abuses (8). "Li...doivent le guet" (Li...must keep watch), the regulations state, and they had to do so in every sense of the word (9).

The Provost of Paris was also responsible for supplying the city by land, in conjunction with the Provost of Merchants. From the sixteenth century onwards, he was also responsible for overseeing and protecting the University. In order to be able to carry out so many different tasks, he very soon obtained the right to appoint two lieutenants, one for civil matters and the other for criminal matters, who each ended up taking on more than their share of his responsibilities, so much so that a dispute even arose between them over the exercise of police powers; as the *Encyclopédie* tersely puts it, "they each claimed that it belonged to them". Louis XIV brought them both to an agreement with an edict of December 1666 creating the office of police lieutenant. The functions of the provost of Paris and his lieutenants in police matters then lost some of their importance.

Louis XIV's decision to promulgate this edict in 1666, now generally considered to be the birth date of the modern police force, can be explained as much, if not more, by his particular idiosyncrasy as by the context, as the Academician Marc Chassaingne (1883 - 1961) remarkably highlights in a passage from *La Lieutenance Générale de Police de Paris* in which the irony inspired by the psychological personality of the 'Sun King' gradually, imperceptibly rises in power:

"Mazarin had died in 1661 and had not been replaced.

"Comptroller General Colbert was at the height of his powers. For an hour, order had been restored to the finances. The king and the minister were in agreement, with a taste for reform. The Conseil d'État worked tirelessly to draw up the Codes that would unravel the chaos of the old laws. In the early days of the reign, every effort was being made to achieve order and clarity. Architecture was infatuated with straight lines and Boileau, with a heavy hand, assailed them. The complaints of the impotent and confused police in the cities of France and Paris could not

fail to attract royal attention, and Louis XIV resolved to do something about it. His personal character must have inspired him to think about it, just as the conception he had of his sovereign role made it necessary for him to carry out a profound reform in this area.

"Awakened even in his cradle by the troubles of the Fronde, surrounded by obsequious and hostile grandees, betrayed by the prevarications of his previous ministers and yet sure of his divine mission, Louis XIV must have felt more than his predecessors the desire and the need to rest in his capital, a libertine and suspicious city, on a man whose loyalty was known to him, whose very strong power was the emanation of his good pleasure and ceased with his confidence. Now the Parliament, the only body that dared, as we have seen, to exercise serious authority in Paris, but an arrogant and unsubmitive body, always ready to authorise rebellion with a legal grimace, was an adversary that it was appropriate to reduce, - but could not serve as an ally, either in the struggles that would have to be undertaken against the spirit of revolt, or in the fulfilment of the providential role that God assigned to kings.

"To see and foresee everything, to know and regulate everything, to be both the most absolute authority and the best-informed man in his kingdom, to control the reports of his ministers from his own experience and keep them in a perpetual state of anxiety, stimulating their zeal and strengthening their loyalty through knowledge of their slightest actions and their most secret relationships, to prove to everyone that he was the master without control or division - this was undoubtedly the royal and personal goal that Louis XIV pursued.

"Nothing must be done in France without the king's permission, and the king must know everything that is being done. He has the right to do so, not only because he is strong, but because the common feeling of his people has made this right an attribute and the norm of his omnipotence. The seigneuries have disappeared; the spirit of the guilds is fading; municipal passions are losing their vigour because, in the eyes of the entire nation, the city has lost its exclusive importance of the past. From then on, the affection and enthusiasm of the subjects went to the prince with an irresistible impulse. The nation, which was searching for itself, found itself in his unique person, and the king, at the beginning of his reign, was great, not so much because of the splendour of his victories, the songs of the poets or the superb praises of Bossuet, as because of the ardent affection that united all classes in a common cult. To say of a king that he is the Father of his people is," says La Bruyère, "less to praise him than to define him.

"So the king is a father and a priest. The anointing endows him with a divine character that gives him authority not only over actions, but over souls. His power is as much moral as physical. The king, say the placets, is the earthly Father of the nation before God; and that is why his will is done and why the material prosperity and moral integrity of every family is expected of him with naïve confidence. Alongside and above the natural head, he is the supreme head of the household. He has the right to enter every home to bring order and harmony; but he himself is a prisoner in his palace and his court, a prisoner of the grandeur that binds and imprisons him. Between him and his subjects there is no possible contact, unless he finds a direct intermediary who is in his hands, independent of any other authority that is necessarily a rival, and who informs him at all times of the thoughts, desires and needs of his people. The man in whom he places his trust must be an agent of transmission in the service of his curiosity and an agent of execution in the service of his will.

"The will of Louis XIV was rigid, inspired by a sense that was a little short, but very straight. His programme was expressed in one word by Seignelay: 'order in all matters'.

"The royal curiosity was great. Louis XIV," says Saint-Simon, "was more curious about reports than one might think, even though he was widely believed to be so. He sometimes descended to trivialities and sought out accounts of scandals. We will see Pontchartrain asking Argenson to give the slightest details of affairs between lovers, since 'they are a pleasure to know', even 'things that are indifferent, but which can delight the king'. Portraits of women smile between the official lines of the reports, surprised to suddenly find themselves in such austere company. Louis XIV demanded to be shown the false decorations of the knights of industry, and the most frequent apostille written at the bottom of the reports on his orders was: 'savour àge, figure, naissance'. He wanted to know about the balls held in Paris, "the adventures, the piquant stories, what was happening in the gaming houses, the cafés, the shows, the arrival of foreigners".

"Thus the police lieutenant, supreme gazetier, will have to bring the previous day's scandalous chronicle to the master's table every morning. But above all, invisible and present, slipping his eye everywhere and watching France live, as it were, through the keyhole, he would have to relentlessly inspect the many organs of the national body and exercise, within families themselves and in their interest, a surveillance as active as Bontemps and Blouin at court in the extent of their governorships of Versailles and Marly. For the king must listen to the complaints that come to him from the shops as well as from the palaces, and it is a primary obligation of his omnipotence to know the morals and conduct of twenty million people, since the first duty of his sovereignty is to make himself the 'great penitentiary' of rebellious boys and coquettish girls, and

to prevent Claude Huisse, a cabaret-keeper from Pré St-Gervais, from beating his wife and wearing, like a gentleman, an embroidered hat trimmed with a green cockade.

"Then the king, now isolated in his palace, will witness from the depths of his chambers the minutest details of national existence. He will be able, according to his will, to ensure universal order, and not only, which is nothing, order in the streets, but order in the minds and even in the hearts. In the concise words of the edict, he would ensure that all his subjects lived "according to their duty", their political, domestic and religious duties. In addition to the police, such a programme encompassed justice and morality. The person appointed to carry out this almost superhuman task would not be bothered by texts or procedures, but would address himself directly to the king, and, appealing in all circumstances to his immediate authority 'as the ordinary resource of his weakness', he would carry out, a docile instrument in royal hands, independent of any other, for the happiness of the people and the splendour of the throne, the mission of reign and harmony that he had received. He will be the king's eye, the king's ear, the king's hand; he will exercise, under the direct control of the king, all the parts of this supreme magistracy, higher than human disputes...".

The sharp pen of the writer, journalist, politician and freemason Eugène Pelletan (1813 - 1884) sheds even more light on the motivations, intimately linked to his inquisitive personality, of the man who was "France's first policeman".

After explaining the reasons for Louis XIV's taste for war, he wrote: "France, now garrotted, marched like cattle to the slaughterhouse; the army escorted the convoy: Louis XIV reigned.

"And the police kept watch. The police are the first institution of despotism. It is through the police that despotism has eyes everywhere, ears everywhere, hands everywhere; that it penetrates, by force or by stealth, into every home, every existence, every thought; that it governs as it likes to govern, in the shadows, by stealth, by the hidden power of terror; that he holds a people, as it were, man by man, that he judges without investigation or form of trial; that he seizes his victim at night, in bed, still asleep on the faith of the law, and that he throws him where? The stone of the state prison always kept the secret.

The devil lies closer to me than my wife," said Luther. What would he have said about the police if, to his misfortune, he had known them? The king had borrowed this expeditious form of

inquisition from Venice, and had singularly perfected its mechanism. The police flew like flies from street to street, door to door, in and out of the window, prowling around the fireplace, the table, the lamp, to catch and punish what? the very act that His Majesty was committing at Versailles, as if he intended to make vice the privilege of the monarchy.

"Louis XIV kept a gambling den in his palace. We know what games the court played there, but everywhere else he forbade hoca on pain of death, so that, if the king had been his own subject, he would have been hanged. Any other game was punishable by banishment. His Majesty," wrote Pontchartrain to the police lieutenant, "wants you to rigorously prosecute people who play games. A Miss Dalidor was hiding three of a kind in her house. She was ordered to leave Paris. The same sentence was handed down to Frezon. But when the brelandière had an aristocratic name, the police had a soft hand: they let it go, they let it pass.

[...]

"The king had introduced unbridled luxury at Versailles, but in Paris it was prosecuted as a crime. It was forbidden to wear such and such braid on one's hat, such and such passementerie on one's pourpoint, to gild one's salon or one's carriage. A rich financier called Crozat dared to defy the order, and the police had the gilding in his hotel scraped off and the gilder taken to prison. One day they outlawed pomp, and another day it was simplicity itself that they were banning. She condemned the drapery button, for example, on what pretext? History is silent.

[...]

"The king practised gallantry extensively, but if, out of a spirit of imitation, a husband hunted on his neighbour's land, the police would send the lover to the dungeon and the wife to the refuge. In those days, the clergy liked to mix the sacred with the profane, and whenever they caught some Montespan in flagrante delicto, they would ask the court for a committal order; the king willingly granted this, on condition that the Church paid for the prisoner's food [...].

"When a gallant woman belonged to the nobility, Louis XIV believed he had to disarm the offended modesty of the police; but he wanted to know the mystery of the intrigue, the time and place of the rendezvous, to look as it were through a keyhole or a slit in the curtain; for he had I

don't know what particular taste for the chronicle of backstreets, he took an artistic interest in it as he did in reading a novel.

[...]

"Royalty [...] regarded every family as its property. When it saw a rich orphaned heiress somewhere, it removed her from guardianship, imprisoned her in a convent and married her off as it saw fit [...]. Royalty invaded the family; it even went so far as to sovereignly regulate the type of education that the father was to give his son, and if by chance the father wanted to take the flesh of his flesh away from school, to teach her himself or have her taught by him, a firman from Versailles vetoed this first right of nature [...].

"Private correspondence should be as sacred as confession [...]. But Louis XIV ignored such morality and shamelessly abused the candour of a people who thought too highly of the monarchy to suppose for a moment that a king, the great king, could violate a deposit entrusted to public faith. In the magnanimity of this hypothesis, man - or woman, each and every one poured out his or her heart through the post, without suspecting the temerity of His trust.

"Louis XIV had therefore set up a black cabinet to open the day's mail, and in the morning, when he woke up, he had the satisfaction of reading a succinct analysis of the kingdom's correspondence. Sometimes he would be delighted, sometimes angry. For example, in a letter from his own son-in-law, the Prince de Conti, he saw a foretaste of the judgment of history. He sent him a lettre de cachet.

"The lettre de cachet represented the summary justice of royalty; someone, the first or the last to arrive, lived as an honest man lives, with a clear conscience; he had paid his taxes, he had greeted the intendant, and he slept on the pillow of duty done; He may have forgotten that he had a powerful enemy, a debtor at court or a rival in credit, and a sheet of paper signed by the king and countersigned by the local police would suddenly snatch him from his slumber, and he would disappear from view.

"One man had let slip a complaint against a new tax, or a bankruptcy of the town hall, lettre de cachet; another man was praying every evening in front of a church after midnight, he was no

doubt meditating some plot, lettre de cachet; another murmured dully in the ear of a neighbour, and then fled along the wall at the approach of an archer: he was no doubt speaking out of turn, attack on the Royal Majesty. Seignelay writes: "The King was advised that in Paris people were often seen gathered at the street corners, talking cautiously and moving aside when they saw people passing who might be suspicious.

"This is the history of despotism in four lines; everywhere man fears man as an enemy. Louis XIV was anxious to win the unanimous admiration of his people in Europe; but if anyone spoke out against him, they were bound to speak ill of him, and he tried at all costs to break off the conversation. The café had just opened and had to be closed.

"The King has been informed that in several places in Paris where people are given caffè to drink, there are gatherings of all sorts of people, particularly foreigners. His Majesty has ordered me to ask you whether you do not think it would be appropriate to prevent them in the future.

"The slightest hum, the slightest chorus of a song, worries the ear of His Majesty, especially if the jingle has neither rhyme nor reason, for then it must hide a dangerous plot against the security of the State (11).

This is precisely why Her Majesty gave herself extra eyes and ears, by creating police lieutenants.

The edict of 1666 set out the rights, prerogatives and powers of the new magistrates: to maintain order, cleanliness and security in the city and, assisted by seven senior officers of the Châtelet, to try beggars, vagrants and people without a confession. He defined the police as a force "that consists of ensuring public and private rest, purging the city of anything that could cause disorder, providing abundance and ensuring that everyone lives according to their condition and duty [...]"

The powers of the police lieutenants were considerably extended by an edict of March 1667, which reflected the "great royal curiosity": "He is responsible for the safety of the city, provostry and viscounty of Paris, the carrying of weapons prohibited by the ordinances, the cleaning of streets and public places, circumstances and dependencies; it is he who gives the necessary

orders in the event of fire or flood. He is also responsible for all provisions required for the town's subsistence, the stockpiles and warehouses that can be built up, their rates and prices, the dispatch of commissioners and other necessary persons to the rivers for the stockpiling of hay, boating, transport and arrival in Paris. It regulates butcher's stalls and their adjudication; it is responsible for visiting market halls, fairs and markets; hotels, inns, furnished houses, breweries, tobacconists and places of ill-repute; it is also responsible for illegal assemblies, tumults, seditions and disorders that occur on these occasions; factories and outbuildings; elections of masters and guards of the six bodies of merchants; apprenticeship certificates, reception of masters; reception of reports, visits made by the guards of merchants and craftsmen; execution of statutes and regulations; referrals of judgements or opinions of the King's prosecutor of the Châtelet on arts and crafts facts; he has the right to calibrate all the weights and scales of all the communities of the city and suburbs of Paris, to the exclusion of all other judges; he hears contraventions committed to the ordinances, statutes and regulations concerning printing, either by printers, in the printing of prohibited books and libels, or by peddlers who distribute them; surgeons are obliged to declare the names and qualities of the injured to him; he can also hear all offenders found in flagrante delicto in police matters, bring them to trial summarily and judge them alone, unless there is reason to impose a penalty of affliction, in which case he makes his report to the presidial court; finally, he is responsible for the execution of all ordinances, rulings and regulations concerning the police (12). "Turquet de Mayenne's "vision" had partially taken shape.

The Edict of March 1667 was successively supplemented by two other Edicts (1700, 1707), various Council rulings and ordinances, the purpose of which was either to define more precisely or to extend still further the powers of the police lieutenant. Their scope was exceptional: "[...knowledge of the trade in wheat and other grains in the provostry and viscounty of Paris, and even in the eight leagues around the city; the sale and trade of wines brought in by land; the sale and sale of oysters; the use of stavewood and timber; inspection of wheelwrights, dyers and degreasers; water carriers; public ceremonies; the recommenders and nursemaids of the city and suburbs ; manufacturers of spring bayonets; inspection and jurisdiction over buildings threatening ruin; knowledge of the carrying of weapons, soliciting and forced commitments; disputes over the sale of livestock in the markets of Sceaux and Poissy; public difficulties between individuals, resulting in imprisonment for a short period, and all that concerns women and debauched girls. " (13); in addition, he was responsible for "1° enforcing all the King's orders in Paris; 2° inspecting soldiers passing through or staying in the capital; 3° interrogating state prisoners held in royal castles; 4° arresting all dangerous or suspicious men: he had the houses of private individuals opened and searched as he deemed necessary; 5° to lock up bad people who could dishonour families; 6° to visit booksellers; 7° finally, to censor plays" (14).

In addition, "[t]he king also often assigns the lieutenant general of police to other cases which do not fall within his ordinary jurisdiction; of these kinds of cases, some are referred to him to be judged sovereignly and as a last resort, and at the Bastille, with other assigned judges; others, to be judged at the Châtelet with the presidial. Some, but a very small number, are judged by him alone in the final instance, and the majority are subject to appeal to the council" (15); some others, which are not mentioned in the ordinance, fall within the remit of what we call the "political police". The Lieutenant General of Police had at his disposal not only forty-two clerks and forty-eight police inspectors, but also sixty observers.

The first Lieutenant General of Police was La Reynie, who was actually appointed to the post in 1667 with the simple title of Lieutenant of Police. An ordinance of March 1674 created a second lieutenant of police, vesting him with the same functions and prerogatives as the first. It was at this time that Colbert, for a fee, split most of the major posts. After a trial period of a few weeks, however, the two offices were merged into a single one, "for the reason that the police, whose main object is the safety, tranquillity, subsistence and convenience of the inhabitants, must be general and uniform throughout the city of Paris, and that it could not be divided and shared without the public suffering considerable harm" (16) and especially without the king suffering. "Under the absolute monarchy, there was to be only one will, only one initiative in the nation: that of the king. He alone had rights; his subjects only had the privileges he was willing to grant them. There was to be no faith other than his, no thought other than his, no action other than his. He had succeeded in making the right that every man has to use his strength and faculties, according to his will, to satisfy his needs, a regalian right. His subjects had to buy from him the right to work, the right to trade and the right to travel. In this conception, the police took on a right of direction over all the acts of citizens" (17) and they had to have a single direction, "since it is true," wrote the French police commissioner Nicolas Delamare in the second volume of his *Traité de la Police* (1710), "that in matters of police and government, perfection can only be found in unity".

La Reynie was therefore given the title of Lieutenant General of Police of the city, provost and viscounty of Paris. Thus, "the king was satisfied: he held Paris in his hand. The lieutenancy of police became one of the essential institutions of administrative centralisation" (18) which, as we have shown elsewhere (19), is the translation of pantheism into the political sphere, where it is one of the characteristics of Eastern despotism and the "inquisitive [centripetal] faculty" that underpins it (20). In the various cities of the kingdom, the functions of the lieutenants general of police, regulated, as well as their rights, by an edict of 1699, were slightly less extensive than those of the lieutenant general of police of Paris. However, the same edict had taken police powers away from the municipalities (21).

On 17 July 1676, Marie Madeleine Dreux d'Aubray, Marquise de Brinvilliers, convicted the day before of having poisoned her father, Antoine Dreux d'Aubray, civil lieutenant at the Châtelet of Paris during the Fronde, and her two brothers, respectively civil lieutenant and adviser to the Parliament, was beheaded and burnt in the Place de Grève. La Reynie investigated, gradually tracing her whereabouts to a number of people more or less compromised in the corresponding cases, whom he had arrested. Catherine Deshayes, the wife of jeweller Antoine Monvoisin or Voisin, a former midwife who had turned to fortune-telling and the sale of spells and potions, was arrested after mass at the church of Notre-Dame-de-Bonne-Nouvelle. The affair then took on such proportions that the government, to keep it out of the public eye, set up a royal chamber, which the people nicknamed the "fiery chamber" or "poison chamber". La Reynie was appointed co-rapporteur. The discretion recommended to the judges did not prevent rumours from spreading that those closest to the throne had been compromised by Voisin. His Majesty," said La Reynie, "recommended justice and our duty to us in extremely strong and precise terms, indicating to us that he wished us, for the public good, to penetrate as far as possible into the unfortunate poison trade, in order to cut off its roots, if possible. She recommended that we do this, without any distinction of person, condition or sex, and Her Majesty told us this in such clear and vivid terms, and at the same time with such kindness, that it is impossible to doubt her intentions in this respect, and not to understand with what spirit of justice she wants this investigation to be carried out" (22). He investigated the case with ardent zeal and Louis XIV authorised him to make the arrests he deemed necessary, until the king's most intimate friends, including Montespan, were implicated. The minutes of certain interrogations, the contents of which Colbert described as "sacrilegious, profane and abominable", were no longer to be shown to anyone, and the court papers were to be burnt.

Not all of them were.

La Voisin was promptly tried and, found guilty, burned alive while her accomplices awaited arrest. However, she had not directly compromised anyone. The case was on the point of being closed when it took a new twist. The daughter La Voisin and three other defendants, a certain Pilastre and two priests called Lesage and Guibourg, made confessions, which were much less vague and general than those of the mother. Abbé Guibourg declared that he had said masses for Madame de Montespan over the body of a naked woman, in which, after the immolation of a young child whose blood had been carefully collected, he had placed under the chalice a document in which Madame de Montespan demanded that the king leave La Vallière and that the queen be repudiated so that she could marry the king. The revelations of the woman Pilastre and Abbé Lesage were consistent with those of Guibourg - although Pilastre partially recanted under

torture. When questioning the Duchess of Bouillon about these accusations, La Reynie asked her in all seriousness whether she had seen the devil in her conversations with witches. She replied: "I see him at the moment, the vision is very ugly; he is disguised as a state councillor".

In other respects, La Reynie was an enlightened man: as soon as he took office, he had three hundred lanterns placed in the streets of Paris to replace the torchbearers with wax torches that had tried to light them up until then. These lanterns, combined with actual police measures such as the disarming of trigger-happy pages and lackeys, are said to have provided Parisians with a level of security they had scarcely known until then. La Reynie's aim was to raise the status of the police, which had previously been considered a menial task, even by those who were responsible for carrying it out. As a result, the investigating commissioners of the Châtelet, who had paid dearly for their office, were entrusted with two main tasks: a police service in the strict sense of the term, to be provided free of charge, and the performance of acts such as affixing and removing seals and settling disputed accounts, for which they were paid. To prevent them from abandoning their free policing duties in favour of paid services, La Reynie obtained letters patent from Louis XIV granting them true civil servant status, i.e. an annual salary, bonuses for services rendered and a certain number of privileges. This did not prevent them from continuing to supplement their emoluments by engaging in dubious and even illegal practices. They were divided into quarters (17 in 1667, 20 in 1702), in each of which one of them, the most senior in rank, was surrounded by two or five deputies. Once a week, he would call a meeting of his staff to review current affairs with them. Once a fortnight, each deputy commissioner, flanked by a bailiff, travelled through his or her area to gather information from the population, visit hotels and garrisons, attics and merchants' shops and "raise the children exposed" on church steps or at the doors of noble homes. If necessary, they were assisted in the field or in carrying out certain procedures by sergeants on horseback and sergeants with rods. Their duties were twofold: those of the criminal police (receiving complaints and investigating cases) and those of the municipal police (overseeing the town, art and trade communities, transactions, prices, supplying the capital, recording offences, etc.). As soon as he was alerted by the watchmen to a crime committed in his district, the commissioner went to the scene, carried out a (thorough) examination and, if necessary, searched the premises and seized the goods. In the event of murder, the watch archers who had discovered the body would immediately have it taken to the district commissioner's office; a surgeon would be called in to try and determine the cause of death; once the report had been drawn up, the body would be taken to the Châtelet's lower gaol, the "morne", the forerunner of today's morgue. The actual investigation then began. It was the commissioner's job to question the witnesses, who had to testify under oath, and to confront them with the accused(s) if possible. In particular, he had to enquire about the state of the witnesses, their income and their morals, in order to determine whether their testimony was admissible. The police tried to gather as many clues as possible about the criminals. Every investigator got into the habit of drawing up a sort of 'sketch' of the criminal they were looking for, which, it was said,

was as accurate as those produced by modern investigators. Graphology experts were already called in to examine, compare and analyse handwriting samples or the style of certain documents. The investigating commissioners were already worried about procedural errors.

"Rarely to the point, they erred on the side of severity or were afraid of compromising themselves. By imposing their rigour on the defenceless little people and showing too much respect 'for the things of the great and the rich', their volatile conduct 'had robbed them of the reputation for integrity that they should have had'. What's more, "daily association with the inspector, the police officer, the spies, the snitches, had almost entirely robbed them of the appearance of a judge". In short, the people feared them greatly, held them in low esteem and did not respect them" (23). Either through the corruption of his agents, or through La Reynie's negligence, or through a lack of resources, all the disorders that had plagued the capital in the past eventually resumed their course: "People are starting to steal a lot in Paris" (24), wrote the Marquis de Dangeau (1638-1720) on 11 August 1601.

The Comte de Maurepas, although full of praise for the Lieutenant General of Police, felt that he was "far surpassed" by the Marquis d'Argenson, his successor, whom he described as "having a face capable of inspiring fear, especially when he wanted to draw back his face, which was very ugly, and to make his eyes, which were at all times very sharp and piercing, show that he was very angry" (25). The people, who feared him for reasons other than his physical appearance, nicknamed him "the damned", "black wig" and "judge of the underworld". He had a large number of spies in Paris, so much so, Dulaure remarked, that "instead of being worried by troops of pages, lackeys, vagabonds and rogues, Parisians were worried by an army of snitches" (26). When Louis XIV asked him where he recruited them, he replied very wittily: "from all walks of life, Sire, but especially from among the dukes and the lackeys" (27). Through them" he was informed of everything that was happening. He also used the madams for the same purpose, with whom he was always in correspondence; he spared no care, trouble, work or expense for this; he was informed of everything very regularly. In spite of all this work, which would seem to require a regular life to support it, he led a very disturbed one, never having fixed times for his meals or his sleep. He had an amiable wife whom he never saw, even though he lived in the same house; but he had mistresses to whom he went to amuse himself in his spare time. His wife, who was very gallant in her own right, only went out into the world with him when there had been some adventure on his account that had caused a stir" (28). "A veritable sultan, the police lieutenant had made a seraglio of the convent of Sainte-Madeleine-du Trainel, thanks to the care of the superior" (29). The persecution he inflicted on the Jansenists did not diminish either his weakness for the nun, who was not yet the name of a pastry shop, or his indulgence of the Jesuits (30), whose vengeance he served. He saved several noble criminals from the scaffold and increased the number of lanterns in the streets of Paris to more than five thousand. In 1718,

Dulaure remarked that "his many services and his talents raised him to the eminent rank of Keeper of the Seals" (31). According to Saint-Simon, he "drowned in the details of an inquisition which, like that of Saint Dominic, degenerated into a deadly plague and a scourge of the State" (32). "He had brought such order to this innumerable multitude of Paris that there was not a single inhabitant whose conduct and habits he did not know day after day" (33). At least he had succeeded in making sure that every inhabitant was convinced of this.

It was under d'Argenson's lieutenancy that the first volume of the *Traité de police* (1705), mentioned above, by the *avocat au parlement* and former *commissaire au châtelet de Paris* Nicolas Delamarre, was published. It is interesting to note that the idea of writing a treatise on the police was suggested to Delamarre in 1667 by the first president of the Paris parliament, Guillaume I de Lamoignon (34), when we know that he declared in the same year that "most [police] officers are more to be feared than the thieves themselves" (35).

The police," he continues, pressing down on the pastoral pedal, "are the soul of the city [...] they have the same effect on it as understanding has on man [...]. it is the soul of the city [...] it has the same effect in the city as the mind has in man [...] it is the soul that thinks of everything, that regulates everything, that makes or provides all the goods necessary for the citizens and that removes from their society all the evils and calamities that they have to fear" (36); "its sole object is to lead man to the most perfect happiness that he can enjoy in this life" and which "depends on three kinds of goods, the goods of the soul, the goods of the body and those called goods of fortune" (37). In the same vein, the mercantilist theorist Montchrétien wrote in his *Traité de l'Economie politique* (1615): "Basically, nature can only give us what we have, but we get our well-being from discipline and the arts". In the sixteenth century, well-being was a new concept, as was the word itself, defined as "the pleasant sensation procured by the satisfaction of the needs of the body and mind", and used mainly by thinkers who are generally referred to today as "liberals", but whose main characteristics were undoubtedly to place the economy at the centre of everything and to advocate, like their epigones, a variable-geometry liberalism. Delamare explicitly links the achievement of "well-being" to the police in the sense of an administration that ensures compliance with the rules that guarantee public safety; Montchrétien implicitly links "discipline" to the rules of life that the police are responsible for ensuring obedience to. Delamare does not forget the "arts", which we have just seen Montchrétien associate with discipline: in addition to religion, morals, health, food supplies, roads, public safety, commerce, the sciences and liberal arts, manufacturing and mechanical arts, servants and labourers, the poor, theatre and games are among the main areas under the jurisdiction of the police.

Under the lieutenancy of Ravot d'Ombreval, from January 1724 to August 1725, police action was almost entirely absorbed by the surveillance of religious dissidents. It was the people, "especially the lower classes, who named the streets of Paris in the Middle Ages, and their sponsors have remained completely unknown. Once the name had been found and given, it was not always accepted by the inhabitants of the street, which the public had named without asking their opinion. It also happened that the first passer-by to come along would change the name on his own authority, if the name was not to his liking and did not seem to suit the street that bore it. Hence the different names attributed simultaneously to the same street, which it is not always easy to recognise under the multiple names found in authentic deeds from the same period" (38). It was in 1729, under the lieutenancy of René Hérault, that the names of the capital's streets were fixed; it was also he who proceeded with the numbering of houses, linked "to the affirmation of state structures" and therefore of the police (39).

On the subject of Hérault's successor, Feydeau de Marville, the biographer of the lieutenant-generals of the police has all the trouble in the world to fill half a dozen pages, the last of which reproduces three letters Voltaire wrote to him after he had given his tacit permission to the performance of Mahomet, to which Crébillon, the censor, had refused his approval. The first lines set the tone: "Biographers so often deal with men who are ignored, or whose names should remain forgotten, that one is surprised not to find in their collections certain figures whom the trust of the prince or the wishes of the people have sometimes called to the direction of public affairs. This is the feeling I had when I undertook the research required for this article. None of the many authors of biographies, not even those in M. Michaud's voluminous collection, seem to have thought of Feydeau de Marville and, despite my investigations, I have been unable to obtain the date of his birth or death" (40).

"Madame de Pompadour was truly reigning in France when M. Berryer, her trusted confidant and creature in every respect, became Lieutenant General of Police (27 May 1747). He held it until 29 October 1757. All Berryer's skill was limited to encouraging espionage and denunciation" (41); "he delivered to her [la Pompadour]," a former police officer testifies anonymously, "all the secrets of her place and made himself the complaisant minister of her most infamous whims. The Bastille was populated by the particular enemies of the lieutenant and the favourite" (42). As the latter would use any means to maintain her empire over the king, she decided to have a faithful daily record of all the obscenities committed in the brothels of Paris and the surrounding area placed before his eyes and instructed Berryer to use his agents to draw it up for him. "The police were painfully busy, every day, looking for and collecting the names of all the people who had the weakness to go to all the bad places in this capital, and even, what is more shameful, describing in detail the nature of the pleasures that these people had taken there. Reports were made, formal minutes were drawn up; and this collection of filth was

regularly offered to the king, who was amused by it, or else found in it examples of corruption likely to authorise his own. "Independently of the secrets that the police officers obtained by the most active exercise of their duties, the mayors of the houses were obliged to send special notes, intended to assist in the drafting of or to increase the facts in the diary of the Lieutenant General of Police" (43), who, in his spare time, also oversaw the execution of an order of the King of 8 June 1747 renewing the ban on introducing, printing and selling books contrary to religion and morality.

While the violation of correspondence entrusted to the royal post office was more than ever the privileged activity of the members of the "black cabinet", which had existed at least since the reign of Richelieu, when it was called the Cabinet du secret des Postes (44), unfortunate people were sent to the gallows or to the galleys for having been caught up in riots provoked by the misery caused by the food shortage of 1747-1748. The people of Paris, "whom the memoirs of the time recognise as generally gentle and peaceful, had become terrible: rumours of child abductions had aroused them against the police, in particular the district commissioners and the archers of the watch, and against Berryer himself, whom they believed to be responsible for these crimes and who, in fact, seems to have given orders (from the court?) to his agents to commit them. Indeed, it wasn't just rumours: a number of children were actually abducted. Even if the anger of the rioters was inflamed by shady individuals seeking revenge on inspectors and flies with whom they had had a run-in, the complaints of the parents concerned were well-founded. To calm the situation, the police lieutenant, the king's lawyer and the first president of the parliament met to draw up a ruling, which was printed and posted. The proclamation of the opening of a judicial investigation into the child thieves calmed the Parisian population. Dozens of arrests were made in the following days, including four of police officers: the bourgeoisie had demanded that examples be made. When questioned, one of the suspects said that the police had been giving orders for children to be abducted for around eight years, and that the orders had come from inspectors. Found guilty, the police officers were given light sentences, so light that the magistrates, not entirely reassured as to how their rulings would be received by the people of Paris, had the regiments of the French Guards and the regiments of the Swiss Guards assembled, ready to march and deploy archers at all the entrances to the Grand'Chambre and squads of mounted guards around the Palais. This deployment of police forces in the streets of Paris continued for some time because of the king's fears of the reaction of Parisians, many of whom suspected him of being behind the kidnappings of children, of having them murdered and of bathing in their blood" (45), all against a backdrop of "police warfare" between the agents devoted to Berryer and those who had remained loyal to d'Argenson. When Berryer was appointed lieutenant-general, he became one of his second-in-command and his actions were monitored by a certain Coutailloux (46), who was promoted to inspector in April 1754 and described four years later in an anonymous letter as "the biggest rascal in Paris" (47).

It has been established that "the police lieutenant had many children arrested in Paris. In the written orders he gave to his agents, he did indeed prescribe that only libertines and vagrants should be arrested, but the deposition of Bruxelles (one of the protagonists) proves that he attached very little importance to the origin of 'the merchandise', as he cynically put it. The police officers he assigned to these arrests, who were paid 12 pounds for each person arrested, quickly abused their orders to arrest as many people as possible and thus increase their salaries. Did the police lieutenant voluntarily turn a blind eye to these arbitrary arrests because he himself had received orders from the king's ministers to arrest a large number of children destined to go and populate the colonies? This seems a very likely hypothesis, especially given the large sums of money that were paid for each capture. For a long time, it had been customary in Paris to arrest the little libertines and idlers who played on the bridges and in the crossroads, without any complaint being made. But when the exempts arrested children on their way to school or when their parents sent them on errands, when the Bruxelles, Le Blanc and other police officers abused their orders with the almost open complicity of the police lieutenant, the people revolted. The Parliament's ruling of 25 May 1750 had calmed the riot, because the people of Paris had confidence in the magistrates' sense of justice. But as the real culprits got off with an insignificant sentence, while three of the rioters were condemned to the ultimate torture, the confidence of the Parisian population in the Parliament was destroyed. The little people no longer saw in the police lieutenant and the magistrates of the Parliament anything more than agents of the royal power who abused their authority or slavishly carried out the orders of the Court, even if they were contrary to any spirit of justice and fairness. This venal and harassing royal administration weighed more and more heavily on the shoulders of the people. At times, they tried to shake it off with sudden jolts, such as the riots we have just described. These were the harbingers of the great movement which, forty years later, would sweep the royal administration and the king himself away in a storm" (48). As highly regarded by the Pompadour as he was hated by the people, Beryer did not save his own neck, but took over as Secretary of State for the Navy (1758-1761), before being reinstated as Keeper of the Seals of France (1761-1762). His two innovations were the use of ex-convicts as "basses-mouches" and the specialisation of police work, on the grounds that "the officer always in charge of the same tasks acquires a habit of it, puts an order in it for himself and acquires knowledge that makes it much better, easier and quicker to do" (49).

Appointed lieutenant-general of police in 1757, Henri Bertin, the first baron of Périgord and also a protégé of La Pompadour, was rewarded for his "almost lousy" administration (50) by a position as controller-general of finance two years later, while the operating costs of the police lieutenantancy continued to soar. In the meantime, a former Prefect of Police tells us that he had created the Alfort Veterinary School, issued an ordinance on cesspools and another prohibiting gravediggers from delivering corpses to surgeons and anatomists without police permission, had

the streets and refuse dumps removed from Paris and regulated the sale of fruit and edibles in the market halls (51).

He was succeeded by Antoine de Sartine, of Catalan origin; who came to Paris at a very young age, this "handsome, witty man, but without much education [...] was received by the Duchess of Phalaris, former mistress of the Regent, who had died in her arms. This lady took a great liking to the young Sartines and took a keen interest in his fate. With such protection, he could not fail to advance in the world; he made friends there through his flexibility and dexterity" (52). When he arrived at the police force in 1759, "M. de Sartine found the springs installed; all he needed was his skill and activity to keep it moving. As he was gifted with great presence of mind and a despotic inclination, it was easy for him to acquire the reputation of a skilful administrator and a vigilant police magistrate. His natural perceptiveness quickly made him see that there was still a need to add more cogs to those used by his predecessors. He increased the number of police officers and introduced greater regularity into their service than had previously been the case. His name has remained almost synonymous with the Grand Inquisitor; and if the police owed him improvements, it was not without great injustice and harsh persecution of the lower classes of society" (53). For him, espionage was second nature, a sick obsession: "The family," we read in one of his reports, "lives among us under the protection of a reputation for virtue that the magistracy shudders to suspect: the family is a repertoire of crimes, an arsenal of infamy!... The hypocrisy of the false caresses lavished on it has passed into the style of dream-crews. In a family of 20, the police would have to plant 40 spies". Unable to put this plan into effect, he instructed his spies to arrest any religious found to be engaged in gallantry or libertinism, either in public houses or in dubious ones. Every arrest gave rise to a report. Whether or not he perfected espionage, as his biographers affirm, it is certain that he found the right arguments to boost the zeal of his spies: rewards and promotion. He tackled the problem of prostitution with the skill of a pimp: "Before the reign of M. de Sartines, who only wanted to see everything because he wanted to know everything, and only forbade everything so that he could allow everything, Paris had barely sixty of these girls who, picking up the torches that the hymen had extinguished, without ensigns, dressed like bourgeois women, took on the task of loving either heavy maltsters or old dukes... It was M. de Sartines who, giving guards to vice, subjecting it to rules in order to force it to pay taxes, and thus forming from his vile recruits a regiment of prostitutes who were emboldened by numbers and poisoned by example, made a game and a business out of the depravity of women. His officers, counsellors to the king, like the languageurs of old, visited these magical dens every day, where the fortunes and health of families were swallowed up: witnesses and judges of all kinds of debauchery, themselves, through the most infamous of brokereries, complaisant matchmakers, they sold to the fickle Plutus all the idols that escaped from the provinces where poor faithfulness burned nothing but incense. Informed by denunciations, by confidences, by discoveries, of everything that went on in their lowly empire, they collected, for the magistrate's petty pleasures, gaudy anecdotes that neither

the Bussi nor the Brantôme would have wanted to sully their pens with". (54). Sartine was the first to issue licences to "unfortunate women" and at the same time use them as spies.

The ordinance on prostitution published in November 1778 by Lenoir, his successor, and which remained in force until the end of the nineteenth century (55) was so prohibitive that some contemporaries wondered "whether, by making the dike stronger and more imposing, the scourge would not itself become more energetic and stronger if it succeeded in confronting and breaking it [...]"; whether, by requiring all landlords not to receive or harbour public girls, Lenoir was not forcing public girls to ply their trade in brothels (56).]"; if, by asking all landlords not to receive or lodge public girls, Lenoir did not force public girls to ply their trade in brothels (56). His unfinished memoirs paint a picture of him as a relatively straightforward man, warped and twisted by the already well-oiled machinery of the administration of the lieutenant-general of police. He was unsurpassed when it came to procuring spies, preferably free of charge. "Most servants were placed by the secret intrigues of police officers; pedlars were only authorised as long as they agreed to give an account of everything they saw or heard; in the gangs of crooks, thieves and pawnbrokers, several were authorised to practise their trade, to help skilfully in the return of stolen goods, and to denounce the plans of their accomplices: they were themselves watched with the greatest vigilance. Bank keepers in well-known games gave the police a large portion of their profits, and reported gamblers about whom there might be some apprehension. The same applied to matrons and public girls, who were responsible for skilfully discovering and recording the names of those who came to their homes. "Not only did these people cost the police nothing; on the contrary, they formed their taxable income. These various branches of income were used to pay those who rendered services in higher ranks". "The lieutenant-general of the police put vices or faults to contribution in order to obtain agents. If a man was caught committing abominable indecent acts, he was given a glimpse of either the severe penalties or the infamy that would result, and was offered the alternative of either being handed over to the law or becoming a spy. If an author of libels was discovered and seized, he was required to keep an eye on and report the men of letters and booksellers with whom he was in close contact. In the same way, in the most respected bodies of the State, there was never a shortage of men with something to hide, and the police seized their secrets to exploit them for their own benefit. Members of parliament, maîtres de requêtes and knights of Saint-Louis kept an eye on each other, and the lieutenant-general of police held the first ring of this chain in his hand. These high classes of spies cost the police almost nothing. The most expensive spy, under Lenoir, was a well-known woman who, gathering a large company for tea twice a week, would enter the next day, early in the morning by the small garden gate, to report directly to the lieutenant of police on everything that had been said in her home; and she received only two thousand francs a year" (57). The circumspection with which Lenoir spent the crown's money is undoubtedly what distinguished him most from his fourteen predecessors.

On the subject of the administration of the Paris police under the reign of Louis XV, Dulaure ironically remarked that it made "useful and deplorable progress. While it helped to prevent many crimes, it encouraged many others. The gambling houses it authorised and the bawdy houses it wanted to run increased public immorality. Finally [...] she soiled herself with the filth she became accustomed to stirring up. I am speaking here only in terms of personal safety. No safe haven was respected by the police. Their perfidious investigations, contained within small limits, disturbed every household; the peaceful inhabitant was not safe from them. Family secrets, the most minute details of a person's conduct, nothing escaped police searches. "The police increased the number of their filthy henchmen, conscripted scoundrels to pit them against other scoundrels, and thereby reduced the number of thieves and murderers; but this benefit cost the Parisians dearly; their independence was severely compromised. They had fewer daggers to fear and more chains to wear. "However, this police force, although far superior to that of previous reigns, had not yet reached the degree of perfection it has since attained: it did not, I believe, make use of agents provocateurs" (58), (in France, the first agents provocateurs were organised by Bertrand de Molleville, Louis XVI's Minister of the Navy (59). Systematically employed at the end of the Second Empire and under the Third Republic (60), they were responsible for "preparing a plot from time to time" (61), Dulaure caustically asserts by way of conclusion to his review.

There is, however, an important element missing, which Dulaure cannot be blamed for failing to discern, given that this element was still being developed behind the scenes. In the last years of the monarchy, a large number of police writings remained faithful to the purpose that De Lamarre had assigned to the police: to make men happy. In a report drawn up between 1769 and 1771 on the orders of Sartine, the Commissaire du Chatelet de Paris, Lemaire, wrote: "The police encompass all care relating to the administration of the public good, the choice and use of appropriate means to procure, increase and perfect it. It can be said to be the science of governing men and doing them good, the way of making them, as far as possible, what they should be for the general interest of society" (62). The police, Lemaire continued, "consist in maintaining good order, looking after the common needs of citizens, providing for them, preventing anything that might disturb the peace and tranquillity they should enjoy, prescribing the rules they should follow, obliging them to comply with them observing those whose conduct, actions or neglect of their duties may be prejudicial to others, and stopping, correcting and repressing abuses and disorders ; to prevent crimes, to ensure that the guilty cannot escape the punishment they deserve; to separate from society those who can only be harmful to it; to render to all citizens equally and indiscriminately the most exact and prompt justice; to grant them the help, protection and relief they should expect, and that it is possible to provide" (63). This whole theory of the police, which is ultimately derived from Turquet de Mayenne's project without reference to it, is, to put it in good French, as the French politician, journalist, essayist and economist Yves Guyot (1843 - 1928) does, "to prevent evil and do good. It wants to lead people

to happiness in this world and even in the next. If they resist, it will force them to follow the path it sees fit. It considers that every individual is suspect of evil intentions. It declares that he cannot manage himself, do his own business or buy his own supplies. What's more, he cannot have anything but evil intentions towards his fellow citizens. Therefore, he must be prevented from acting without the interference, authorisation and direction of the police. It muzzles each individual, confines him within its rules, subjects him to the arbitrariness of its agents, in order to moralise him, look after his health, prevent him from speaking badly and even thinking badly, ensure respect for authority, the infallibility of the master" (64). The "bad poor", rioters and malefactors, long considered to be subjects who failed in their duty of submission and obedience to the king, were now seen as "enemies of society", "misguided 'citizens' who should be [...] educated". The police were no longer defined simply as an instrument at the service of the monarch. While the police put into practice the sovereign and paternal power of the king through the control of supplies, and while their guardianship remained essential to assigning a place to each individual in society, which motivated their defence of a reformed corporatist order, the police were also defined as a body serving society. It must be measured against the trust that society places in it" (65). The beginnings of the republican demagogic notion of the police as a "public service", as a body with missions, staff, professions and actions "at the service of the public", are outlined in *Détails de quelques établissements de la ville de Paris*, requested by HM the Queen of Hungary, published in 1780 by Lenoir - to whom Lemaire sent his report in 1790. This sequel to *La Police de Paris en 1770* "presents one of the essential justifications for the police according to Sartine and Lenoir: service to the public. It is a police force that participates in the implementation of ameliorative policies, that exercises a benevolent guardianship over the most disadvantaged by taking charge of welfare institutions, a police force whose activity enshrines the 'religion of the useful' so dear to the Enlightenment, but which can at the same time hunt down without remorse those who were not yet called the 'dangerous classes'" (66). Then there was the instruction, reiterated many times in circulars from the lieutenant general of the police, to respect the forms or better formalise the practices of the administrative police to avoid the feeling of arbitrariness, but also to quickly transmit the documents requested by the lieutenant general or the public prosecutor to the Châtelet. Finally, there was the idea that the police, in a rather paternalistic way, should remain attentive to the grievances of the population. We can surmise here the existence of a notion of reciprocity, of something resembling a contractual relationship between the police and the population, at least on a moral level if not frankly a socio-political one" (67).

The phrase, which would become magical under the Republic, was therefore pronounced: "general interest". "The police [...] [are] the science of governing men and doing them good, the way of making them, as far as possible, what they should be for the general interest of society". We never tire of reading and re-reading the pithy phrase with which Bourdieu revealed what lies behind the notion of "general interest": "those who have undoubtedly contributed most obviously

to the advancement of reason and the universal had an obvious interest in the universal, and we might even say that they had a private interest in the public interest" (68). Admittedly, "there are particular, private interests and profits in appropriating the public, the universal" (69) and these interests are those of the State, or, more precisely, "of the universes of State agents who have constituted themselves into State nobility by instituting the State, and, in particular, by producing the performative discourse on the State which, under the guise of saying what the State is, made the State be by saying what it should be, and thus what the position of the producers of this discourse should be in the division of the labour of domination"; these "agents [who] had an interest in giving universal form to the expression of their particular interests"; in a word, these "private owners of public resources" (70). "There is a capital of the universal [and] [t]he process by which this instance of the management of the universal is constituted is inseparable from a process of constitution of a category of agents whose property it is to appropriate the universal" (71) and, concomitantly - for the "nobility of the State", as well as its clientele (the Republic's stroke of genius was to extend the privileges enjoyed by perhaps a few hundred thousand individuals under the monarchy to millions of people), reproduces itself - a teratological expansion of the administration: "All the attention, vigilance and activity that such important and extensive care requires, to whatever degree they may be brought, are not yet sufficient to provide for them, and to embrace the immensity of the details that they present at once in large cities; they are only second causes of the success of these same cares. These successes depend mainly on the general plan of the administration, which is nothing other than the order in the distribution of the details that concern it and that regulate its overall progress; on the means it employs, on their general and particular suitability, and on the precision with which they are applied (72).

There are now more than five and a half million civil servants.

The sixteenth and last Lieutenant General of Police, Louis Thiroux de Crosne, was appointed on 11 August 1785. He is a special case. "In 1789, for eight days in the *Tripot comique*, there was talk of an unfortunate passion that the police had inspired in the comedy: in other words, there was nothing but talk of Miss Lange's devotion to Monsieur Thiroux de Crosne, Lieutenant General of the Paris police. "But, to tell the truth, in 1789, M. de Crosne had other things to do than listen to the complaints and sighs of a little actress: he had to justify the confidence of the court, the nobility, and the royalty, who had entrusted him with preventing the French revolution!" "It just so happened that one fine day the revolution got the better of the police, and Louis XVI's friends accused M. de Crosne of having allowed himself to be overcome by the revolutionary spirit. "Such a crime was unforgivable; how! the Paris police had not stopped, garrotted or gagged the revolution! A few agents, a few spies, a few soldiers had not been enough to prevent the attack on a principle and to put an end to the audacity of an idea! - The chief of police had not been stronger, bolder, more witty than everyone else! - The lieutenant-

general had not thought to take liberty to the Conciergerie and equality to the Madelonnettes. "The police at that time were content to make observations so that they could submit what they saw and heard to the ministers and the king. "At that time, the public's sympathies, hatreds and opinions were betrayed in theatres with ruthless malice; the spectators snatched illusions from the poets on stage, and the tragedies themselves lent roles to the actors in the parterre, who were still only in the repertoire of political comedy. More than once, the people robbed Racine, the poet of Louis XIV and Mme de Maintenon, of weapons against Louis XVI and Marie-Antoinette; Athalie often wore the crown of the Queen of France, and the spectators left the auditorium cursing the Austrian. "Although he already foresaw many dangers and misfortunes for royalty, M. de Crosne had no idea that a king and queen of France would die on the scaffold. He knew what the word "liberty" alone was worth in the hearts and imaginations of the people; he knew where he stood on the hatred that the mob had for privileges and the privileged; but the poor police lieutenant had never glimpsed, through his observations and his fears, the scaffold of 21 January 1793 in Paris" (73). It is an understatement to say that there was "nothing more curious than the reports of his show observers, from which he drew up his own for the Ministry" (74). Here is one (extract), written on the eve of the revolutionary insurrection and supposed to be "of a nature to enlighten the court", a court itself in constant representation, on the situation in the kingdom:

"PERFORMANCE OF ATHALIE.

ACT ONE, SCENE ONE.

ABNER.

The audacity of a woman, stopping this contest,
In dark days changed those beautiful days.

(Two claps were heard on the floor).

JOAD.

He who puts the brakes on the fury of the waves
Also knows how to stop bad guys plotting.

(Some others a little more marked)

SCENE II.

J0AD.

Deliver his powerful enemies into my weak hands.

(Some.)

Confuse a cruel queen with her advice.

(Several well marked.)

Grant, grant, my God, for Mathan and for her
To spread this spirit of imprudence and error,
A harbinger of the fall of kings.

(Repeated at the end of this verse).

SCENE III.

JOSABETH,

But, alas! in this time of opprobrium and pain,
What better offering than our tears?

(Also well marked.)

ACT II, SCENE III.

ATHALIA.

Happy, if by my help I can find
The peace I'm looking for and which is still eluding me!

(A few, but a little ashamed).

MATHAN,

Is it up to kings to guard this slow justice?
Their safety often depends on swift torture,
Let's not embarrass them,
Once you're a suspect, you're no longer innocent.

(At first quite marked, and very strong in the last line).

ABNER.

Why! Mathan, is that the language of a priest?

(Loud and repeated.)

ACT IV, SCENE II.

JOAS.

A wise king, as God himself said,
On wealth and gold is not his support;
Fear the Lord his God; never cease to look before him
His precepts, his laws, his severe judgements,
And unjust burdens shall not be laid upon his brethren.

(The whole room rang out at the end of this verse).

JOAD.

(Great silence, which seemed to prepare the beats that interrupted almost every verse)
the actor).

You don't know the intoxication of absolute power,
And the enchanting voice of cowardly flatterers...

(First interruption by clapping hands).

Soon they'll be telling you that the most sacred laws...
Mistresses of the vile people, they obey kings...

(Second interruption.)

That a king has no other brake than his own will...

(Third interruption.)

That he must sacrifice everything to his supreme greatness...

(Fourth interruption.)

The people are condemned to tears and work...

(Fifth interruption.)

And with an iron sceptre wants to be ruled...

(Sixth interruption.)

They'll make you hate the truth...

(Seventh interruption.)

You will paint virtue in a terrible light;
Alas, they have led the wisest of kings astray.

(A general explosion of hand clapping throughout the room)".

The royal family was undoubtedly in good hands.

An actor was about to make his entrance on stage: Fouché. The Republic was on the march.

B. K., October 2022

(1) His son, Théodore Turquet de Mayerne (1573 - 1654/1655), a physician and chemist, published an apology of Paracelsus. Although a Protestant, he was Henri IV's second personal physician (Véronique Preat, Nicole Roland-Marcelle and Baudouin Van Den Abeele [eds.], *Histoire de la pharmacie galénique: L'art de préparer les médicaments de Galien à nos jours*, Louvain, Presses Universitaires de Louvain, 2007, p. 71).

(2) Catalogue of the first special exhibition of national portraits, 1866, London, p. 126.

(3) Michel Foucault, "Omnes et singulatim": Towards a Criticism of Political Reason" ("Omnes et singulatim": vers une critique de la raison politique" translated by P. E. Dauzat, in S. Mc Murrin [ed.], *The Tanner Lectures on Human Values*, t. 2, Salt Lake City, University of Utah Press, 1981, pp. 223-254).

(4) Ibid.

(5) Ibid.

(6) Achille Luchaire, *Histoire des institutions monarchiques de la France sous les premiers capétiens (987-1180)*, t. 1, Paris, Alphonse Picard, 1883, pp. 222-223. The provost is mentioned in charters as early as the tenth century. "For a long time, the duties of the provost were performed by religious clerics and even canons. Originally, the provost of the churches was responsible for their administration, and this dignity came after that of the abbot in the hierarchy; even in the absence of the abbot, he presided over the community. He was the avoué, the vidante

(vice domini) of the cathedral churches. In monasteries, the monks in charge of the provost's duties were called *obedienciers*. "From the reign of Saint Louis, the provostships of the crown became venal, without however being able to be transmitted by any title - the holders bought the right to make convicts pay fines and to collect the treasures found which belonged to the royal treasury. He was responsible for forcing the inhabitants to have their grain milled at the chapter's mills and their pasta baked in its oven; for guarding the domains under his jurisdiction and protecting them from any damage; for expelling disorderly persons, vagrants and people without a confession from the town; for guarding the weights and measures of grain and wine; to hold the great sitting, to adjourn, to provide the officers once a year at his expense; to provide also at his expense the sergeants and four costres at the festivals and fairs of Saint-Hilaire; to attend all the processions inside and outside the town; to attend all the divine services of the various festivals, to open, close and guard the doors of the choir". "His functions were therefore those of judge, commissioner and choir officer" (Alphonse Le Touzé de Longuemarn, *Essai historique sur l'église royale et collégiale de Saint-Hilaire-Le-Grand, Poitiers, 1857*, pp. 167-168). In short, he was a "subordinate judge of the countryside" (*ibid.*, p. 167).

(7) Œuvres de Jean Sire de Joinville including: *l'histoire de Saint Louis, le credo et la lettre à Louis X*, Paris, 1867, p. 474-6.

(8) "In the Middle Ages, towns were not very safe at night. Thieves were numerous and bold; the enemy was always ready to make a move and then retreat behind the portcullises of his castle; so night guards had to be set up; each citizen in turn had to look after the common safety, and as soon as the bell rang the curfew, it was forbidden to go out without light. These measures were soon exploited by the rapacity of the Lords, and opened the door to abusive practices that called for immediate reform. For example, if the bell rang a few times at an hour when the inhabitant was still busy with the day's work, he was not quick enough to make amends. A peaceful citizen would take a drink on the doorstep of his home, or the slightest need would force him to leave - another fine of 5 sous. If a man on guard duty was forced to leave his post for a moment, an officer from the court arrived and established that he was absent - another fine of 5 sous. To avoid this tiring task, wealthy people gave money to the bailiff or even to the attendants, who exempted them from standing guard and the service became all the more onerous for the others. These abuses had to be stopped as a matter of urgency. It was decided that curfew would be sounded at a suitable hour, and that the bell would ring for the time necessary to go from one end of the town to the other; that persons of good character who were found in an honest place, *insedens seu mingens*, without prohibited weapons would not be liable to any penalty, nor would men who, with the admission of their comrades, had strayed from the guardhouse for a few moments, *causa mingendi*. Finally, the Bailiff and the officers were forbidden to exempt anyone for money, and the inhabitants were only obliged to keep watch as long as all those who had to bear the same burden kept watch in their turn" (Damase Arbaud, *Études historiques sur la ville de Manosque au moyen-âge*, vol. 1, Mme Ve A. Guichard, Digne, 1847, pp. 71-73).

(9) "The *guet* must have existed from time immemorial, because it is in the nature of man to agree with his neighbours to defend his person and his interests. The capitularies of our first kings speak of the *Wacla* and the *guetagium*. Several measures taken by Philip-Augustus and reported in the statutes prove that this prince had regularly established a watch in Paris among the workers. Only the working class was subject to the personal tax of the *guet*, which for this reason took the name of the *guet des métiers*. It is likely that the workers originally kept watch themselves, because of the need to protect themselves from thieves. Then, as industries developed, this service was regulated, making it compulsory for all trades, old and new, with a few exceptions. The duty of keeping a lookout, like all commercial taxes, fell to the master, the head of the workshop, who was regularly established in his industrial home; workers who were servants, whatever their age, apprentices and widows who were masters, were exempt. What's more, the master had to keep watch in person, and it was only out of tolerance that he was later allowed to be replaced by a capable and well-trained valet. The watch began at curfew; the men, called in turn, had to go to the *Châtelet* at nightfall to be registered by the watch clerks and divided into several patrols. The watch lasted until sunrise, when a *Châtelet* sergeant sounded the horn to announce that the men could go home. The watch was compulsory for all masters up to the age of sixty. They were excused as of right when the master was ill, when he had bled or when his wife was in childbirth, on condition that they informed the watchkeepers" (René de Lespinasse and François Bonnardot [eds], *Le livre des métiers* d'Étienne Boileau, Paris, 1879, p. cxli); it was "in the nature of man to get along with his neighbours to defend himself and his interests".

(10) Marc Chassaingne, *La Lieutenance Générale de Police de Paris*, Geneva, Slatkine-Megariotis Reprints, 1975 [1906], pp. 36-39.

(11) Eugène Pelletan, *Décadence de la monarchie française*, 3rd edn, Paris, 1865, pp. 60-68. Let us pause for a moment to consider the assertion, which is unproven but certainly worth examining in the light of what follows, that "[t]he king had borrowed this expeditious form of inquisition from Venice": "In the Italian city-state of the twelfth to thirteenth centuries, the function of the police, despite its persistent institutional weakness (precarious structures, mediocre professionalism, uncertain powers, quantitative insignificance), began to take on a completely new weight : an essential role, one might say, which is difficult to decipher at first, but which then becomes increasingly clear, because it is the consequence of political, institutional and technical choices that will make the police instrument one of the main keys to modern state power. Three elements need to be taken into account a) political power in the Urban Commune took on an oligarchic character from the outset; the ruling class tended to present its own interest as the interest of all citizens, imposing the ideological principle that anything public (i.e. in line with the oligarchy's design) must take precedence over the needs of individuals ; This represented a reversal of the Germanic vision, which had conditioned public life over the preceding centuries; b) the promotion of *utilitas publica* (or *bonum civitatis*, *communis*, *reipublicae*, etc.) led to 'the re-establishment of the notion of the public good'.c) The

defence of the interests of the oligarchy, the notion of authority, the power to influence the behaviour of citizens (even when they are not committing crimes), resulted in the formation of the concept of legality, in its dual sense: order to be maintained and rules to be respected in order to maintain it. The function of the police, in its modern sense, takes shape around these elements or their corollaries; it therefore has its origins in the Urban Commune, in this statutory legislation and, above all, in these government practices [...]. The system remains the essentially pre-modern one on the basis of which the 'high' magistrates are identified, whose duties include policing tasks, linked to the wider prerogatives of the office. The consuls, for example, acted as judges and as such had preventive and judicial policing powers; they conducted inquisitions for punitive purposes and were responsible for maintaining order in the city and peace between the inhabitants: The watchmen and custodes assisted them in this work of control and prevention, day and night, as did the barigelli, or baiuli, milites, birruarii, birri, cursores, coreri, or saltari, who, under these or other names, were statutorily responsible for discovering, capturing and bringing to justice the perpetrators of crimes, large and small. Urban life was marked by violence, both communal and political, and was subject to increasingly strict police 'control'. The podestates also had similar structures at their disposal, which they often used for political ends, in line with the factional confrontation that is typical of the oligarchic state; The same was true of the captains of the 'Commune of the People', who also had jurisdictional and administrative powers, which they enforced through institutionalised militias (the 'companies of arms'), in order to maintain the order in the city to which the guilds were particularly attached" (Mario Sbriccoli, *Storia del diritto penale e della giustizia: scritti editi e inediti* [1972-2007], Giuffrè Editore, 2009, pp. 378-379). Let us repeat: in the Middle Ages, legal systems were unfamiliar with the concept of public order, and linked it even less to institutional activity. "Characterised by a legal ideology that intermingled and confused the public and the private in the field of penal repression, these systems perceived the control of violence as a public prerogative and thus limited themselves to imposing the mediation of political power against the inveterate practice of private self-defence [...]. But in these societies, it was individuals who most often took the initiative in vigilance and prevention. It was always individuals who had to identify, capture and bring to justice the perpetrators of the transgressions of which they had been victims. The existence of public security and crime-fighting machinery was further hampered by a fundamental characteristic of the early medieval legal system: the burden of proof fell on the accused and not on the accuser. The judge, who represented the publicum, had no interest of his own and did not enter into the substance of the case, confining himself to initiating proceedings and verifying the regularity and outcome of the evidence provided by the parties. The opposing party could either submit to the accusation, by admitting guilt, or react by providing the necessary evidence to 'clear' himself of the accusation, or even by committing his word and his dignity. It was not the judge whom the accused had to convince of his innocence, but the accuser. The resulting conflict was resolved by a judicial duel between the parties, who challenged each other 'Deo iudicante', or by ordinations of all kinds [...] and not, therefore, by a trial led by a judge and intended to establish the truth of the facts [...]". The link between police activity and the procedural system was established with

the introduction of the trial per inquisitionem iudicis ex officio suo, mentioned above, which was "correlated to the needs of the government of the city. Whereas, until then, it had been up to the offended party alone to decide whether to take legal action to obtain financial compensation, the inquisitorial procedure now belonged to the public body, which was exclusively entrusted with the investigation and gathering of evidence, which was then subjected to the rational assessment of the judge, before serving as the basis for the judgment" (Il bene comune: forme di governo e gerarchie sociali nel basso Medioevo: atti del XLVIII Convegno storico internazionale, Todi, 9-12 October 2011, Fondazione CISAM Spoleto, 2012, pp. 266-268). It was in the city-states of twelfth- to thirteenth-century Italy that justice went from being largely the prerogative of the individual to becoming the prerogative of the "public power", under pressure from the Church, to which the introduction of the inquisitorial procedure is due (Alfred Dieudonné, Répétitions de droit criminel, A. Marescq Aîné, 1873, p 12 ; Élisabeth Algier-Girault, Le procès pénal canonique, un enjeu ecclésial de vérité et de guérison, Revue des sciences religieuses [En Ligne], vol. 90; n° 3, 2016).

(12) Quoted in Auguste Vermorel, Les mystères de la police française, Part 1, new ed. Paris, Alfred Duquesne, 1887, pp. 2-3.

(13) Ibid, p. 3.

(14) Ibid, pp. 5-6.

(15) Ibid, p. 5.

(16) Henry Buisson, La police : son histoire, Paris, NEL, 1958, p. 52.

(17) Yves Guyot, La Police, Paris, G. Charpentier et Cie, 1884, p. 28.

(18) Philippe Sagnac and Alexandre René de Saint-Léger, Louis XIV (1661-1715): La prépondérance, française, Presses universitaires de France, 1935, p. 200.

(19) See <https://elementsdeducationraciale.wordpress.com/2019/01/31/le-pouvoir-panique/>

(20) Journal et mémoires du marquis d'Argenson, t. 8, Mme Veuve Renouard, Paris, 1866, p. 423.

(21) Ernest Semichon, Étude sur une ville du moyen âge et de l'ancien régime, Paris, 1862, p. lxx, 1862.

(22) Pierre Clément, Histoire de Colbert et de son administration, t. 2, Paris, Didier et Cie, 1874, p. 346.

(23) Marc Chassaing, op. cit, p.167.

- (24) Quoted in Jacques-Antoine Dulaure, *Histoire physique, civile et morale de Paris*, 3rd edn, revised and corrected by the author, t. 7, Paris, Baudouin Frères, 1825, p. 191.
- (25) *Mémoires du comte de Maurepas*, 2nd ed. t. 1, Paris, 1792, p. 159-160.
- (26) Jacques-Antoine Dulaure, *op. cit.* p. 192.
- (27) Quoted in Paul Robiquet, *Histoire et droit*, t. 2, Paris, Librairie Hachette et Cie, 1907, p. 296.
- (28) *Mémoires du comte de Maurepas*, 2nd edn, t. 1, Paris, 1792, p. 159.
- (29) Auguste Vermorel, *op. cit.* p. 19.
- (30) *Ibid.*, p. 18.
- (31) Jacques-Antoine Dulaure, *op. cit.* p. 192.
- (32) *Journal du marquis de Dangeau*, with additions by the Duc de Saint-Simon, t. 16, Paris, Firmin Didot Frères, Fils et Cie, 1856, p. 145.
- (33) *Mémoires du duc de Saint-Simon*, t. 15, Paris, L. Hachette et Cie, p. 255.
- (34) A. de Boislile, *Nicolas Demamare et le traité de la police*, in *Bulletin de la Société de l'histoire de Paris et de l'Ile-de-France*, 3rd year, H. Champion, Paris, 1876, p. 79.
- (35) Casimir Gaillardin, *Histoire du règne de Louis XIV*, t. 3, Paris, Jacques Lecoffre, 1874, p. 427.
- (36) Nicolas de Lamare, *Traité de la police*, 2nd ed. augmented, vol. 1, Amsterdam, 1729, p. 2.
- (37) *Ibid.*, preface.
- (38) Edouard Fournier, *Histoire des enseignes de Paris*, Paris, E. Dentu, 1884, p. 66: "It soon became apparent that the use of metal plates bearing street names was prone to many accidents. Here, local people, unhappy that preference had been given to a name they liked less than another, tore down the plates or mutilated them, erasing the name they bore. In some cases, the owner of the house to which a nameplate had been attached, without his consent, had it removed on the pretext of having the house repaired, scraped or painted. The Lieutenant General of Police felt he had to intervene, and published an order, dated 30 July 1729, forbidding any damage to the nameplates that had been affixed to the two ends of each street, and enjoining the owners of the houses to which these nameplates had been attached to put up, in their place, large tables of *lais stone*, with the names of the streets carved into them, in the event that these owners had to remove the said plaques for work to be carried out on the *façades* of their houses, or if the plaques had been damaged by any cause whatsoever. In 1738, De La Mare's continuator noted

that the owners willingly complied with this wise order and even took the initiative of placing plaques at the intermediate corners between the two ends of the street" (*ibid.*, p. 67).

(39) Marco Cicchini, *Les incertitudes du commencement. House numbering and its reception in Geneva at the end of the eighteenth century*, *Urban History*, vol. 3, no. 53, 2018, pp. 107-125.

(40) Saint-Edme, *Biographie des lieutenans-généraux, ministres, directeurs-généraux, préfets de la police en France, et de ses principaux agens*, Paris, 1829, pp. 105-106 and Froment's *La police dévoilée, depuis la Restauration, et notamment sous Franchet et Delavau* (1829) do not reveal any more about him. He passed belatedly into posterity after the publication of his correspondence at the end of the nineteenth century (Suzanne Pillorget, Claude-Henri Feydeau de Marville, lieutenant general of police in Paris: 1740-1747, followed by a selection of unpublished letters, *Bulletin des bibliothèques de France* (BBF), 1979, no. 5, pp. 276-277.

(41) Auguste Vermorel, p. 47: "The people called him the ugly Mr Beurrier, and wanted to massacre him, to 'eat his heart out'. He was summoned to Parliament and said he could not go, for fear of being torn to pieces" (Marc Chassaing, *op. cit.*, p. 69). Tocqueville described him as "a hard, haughty, coarse man, with a lot of ignorance and even more presumption and stubbornness" (Hervé Clérel Tocqueville [comte de], *Histoire philosophique du règne de Louis XV*, t. 2, Paris, Amyot, 1847, p. 236).

(42) M. X., *Mémoires d'un agent de police*, Paris, Arthème Fayard, 1808, p. 25.

(43) Auguste Vermorel, *op. cit.* p. 49: "The archbishop of Paris, no doubt inspired more by his zeal than by his taste, wanted to share in this royal curiosity; duplicates of the reports drawn up against priests caught in flagrante delicto were sent to him" (*ibid.*).

(44) "There was [...] no Cabinet Noir as such until the day when a well-organised postal service was able to drain the mass of correspondence and deliver it to the control of State agents", i.e. around 1600, "but sixteenth-century France had not waited for the monarchical work of Henri IV to borrow from Italy or forge from scratch the methods of espionage that the following centuries were to perfect. At least from 1575 onwards, each of the princes involved in the civil war had their own specialists in capturing couriers" (Henri Drouot, *Compte-rendu du livre d' Eugène Vaillé Le Cabinet noir*, *Revue Historique* T. 209, fasc. 2, 1953 [pp. 339-342], p. 339.

(45) A.-P. Herlaut, *Les enlèvements d'enfants à Paris en 1720 et en 1750 (Suite et fin)*, *Revue Historique*, t. 139, fasc. 2, 1922 [pp. 202-223], pp. 222-223; see also Christian Romon, *L'affaire des "enlèvements d'enfants" dans les archives du Châtelet (1749-1750)*, *Revue Historique*, t. 270, fasc. 1 (547), July-September 1983 [pp. 585-595]. La Pompadour wrote to her brother on 28 May 1749: "Talking of madness, you will have heard about the madness of the Parisians. I don't think there is anything so stupid as believing that they want to bleed their children to bathe a drunken prince. To my shame, I thought they were less stupid. The 'prince ladre' was not Louis XV, but a Russian prince suffering from leprosy, whom the people of Paris initially suspected of

bleeding children to try and cure themselves with their blood, before shifting their suspicions to the king himself (Youri Volokhine, Septième série [§30 to 33] / Short Notes: Seventh Series, ASDIWAL. Revue genevoise d'anthropologie et d'histoire des religions, n°12, 2017 [pp. 153-173], p. 169).

(46) See Robert Muchembled, *Madame de Pompadour*, Paris, Fayard, 2014.

(47) François Ravaisson and Louis Ravaisson-Mollien (eds.), *Archives de la Bastille*, vol. 17, Paris, 1891, p. 117.

(48) A.-P. Herlaut, *op. cit.* p. 223.

(49) Henri Buisson, *op. cit.* p. 61.

(50) Auguste Vermorel, *op. cit.* p. 54.

(51) *Mémoires de M. Gisquet, écrits par lui-même*, t. 1, Brussels, 1841, pp. 53-54.

(52) Auguste Vermorel, *op. cit.* p. 57.

(53) *Ibid.*, p. 59. According to the French writer, journalist, publisher and historian Horace Raison (1798-1854), the "improvements" consisted of the following: "Sartines purged the useful and respectable body of district commissioners, the magistracy closest to the people and most in touch with their interests and passions. He rightly thought that too much care and scruple should be taken to ensure that only men worthy of public consideration in every respect were appointed to such posts, and that pure morals, regular conduct and an irreproachable record were essential, especially for those who were called upon every day to watch over the conduct and morals of their fellow citizens. Sartines installed in these humble courts only men capable of winning respect and affection by preaching, above all, by example; his good intentions were crowned with success, and the body of commissioners soon regained the influence over the minds of the people that the indignity of a few had too often caused it to lose". (Horace Raison, *Histoire de la police de Paris*, Paris, 1844, pp. 140-141)

(54) *Ibid.*, p. 64.

(55) Maxime Du Camp, *Paris, ses organes, ses fonctions et sa vie*, vol. 3, 1872, p. 324.

(56) Alexandre Parent-Duchâtelet, *De la prostitution dans la ville de Paris*, vol. 2, Paris, J.-B. Baillière et Fils, 1857, p. 297. In 1770, Denis-Laurian Turmeau de La Morandière, a member of the Royal Agricultural Societies of Orléans and Soissons, published a formal indictment of Sartine's police force: "This general harmony of society, which allows seven to eight hundred thousand citizens to live together in the same enclosure, without causing each other mutual harm, is not a matter of chance; it has its wheels and hidden forces, which regulate its movements, keep it in balance and prevent its different parts from colliding or breaking against each other. It is always in proportion to the general direction of its first motives, that this union is sustained,

perpetuated, declines, or is destroyed. Even though it is not always perceptible, and seems to be lost, so to speak, in the immensity of the general harmony, the disunity is no less expressive. Vigilance in favour of certain principles over others is perhaps the best feature of police administration. They all need attention, but not all need equal attention, because some are concerned with simple vices and others with compound vices. Now it is in the general order that what causes the greatest harm in society must attract the attention of the Magistrate more than what causes the least. It is not in the reform of disorder that the good police of a Capital consists; but in the reform of certain disorders. The evils that trouble general society are of different kinds, and can be grouped into different classes: pleasant vices, necessary vices, harmful vices and prejudicial vices. The first should perhaps be encouraged, the second tolerated, the third proscribed, and the fourth banished altogether: a confidentiality all the more important because it has been the defect of a similar one that has hitherto lost most of the world's polite societies. But it is no small science to distinguish (I will use this term) the mortal sins of the police from the venial; the direct vices from the reflexive; those that originate in the mind from those that originate in the heart; the vices of the climate from those that are foreign to it: in a word, the disorders that disturb the general order more than those that affect only one particular branch of society. If this were the science of those to whom the Prince has entrusted morals, they would often save themselves a great deal of care and superfluous trouble. They would not have these useless regulations that go beyond, or fall short of, the aim of these laws that never reach the fixed point of good policing: these ordinances whose execution tends towards nothing, leads to nothing, & which for lack of being combined by knowledge of the human heart, the physics of the climate, the mores, & the manners of the nation, are eternal monuments to the ignorance of those who dictated them. This Magistracy often believes that it has done a great deal by correcting certain abuses; but it would often be better, for the general order of the police, if they had been allowed to remain, or if, by correcting them, others had not been tolerated which have entirely rendered the abolition of the former useless. What advantage is there, for example, to the general society of Paris, that people there walk more safely in the streets thanks to the vigilance of this court, if on the other hand they suffer from an innumerable number of courtesans, whose sole purpose is to deprive the citizens of this capital of their livelihood, and who therefore deserve civil death every day. What does it matter if there is no general riot, if the licence of morals received everywhere divides individuals from one another, & if by this tolerance, each family contains in its bosom a species of civil war. What use is it if there is an exact commodities police force, and if the Magistrate takes particular care to maintain abundance in Paris, if by relaxing on the other hand on certain abuses, most houses are reduced to the last indigence?" (*Représentations à Monsieur le lieutenant général de police de Paris sur les courtisanes à la mode et les demoiselles du bon ton*, Paris, pp. 180-185) [modernised spelling].

(57) Auguste Vermorel, *op. cit.* pp. 80-82.

(58) Jacques-Antoine Dulaure, *op. cit.*, vol. 5, 6th edn, Paris, Furne et Cie, 1857, p. 224.

(59) "The king," he says in his memoirs, "entrusted me with the task of directing a secret surveillance and observation establishment, originally set up by Alexandre de Lameth and since led by Delessart. It consisted of a troop of junior police officers who were to attend regularly the meetings of municipal assemblies and clubs, follow the groups in the Palais-Royal and the Tuileries, and keep an eye on the main cafés and cabarets in the suburbs. Among them, the most intelligent were in charge of refuting inflammatory motions or making new ones depending on the policy on the agenda. These same men were also employed during the night to post royalist or constitutional placards, depending on the circumstances. "There was another establishment of the same kind to act on the assembly of representatives of the nation. The leaders received their instructions directly from the court and were alone in secrecy. They received 50 livres a day in salary or 18,000 livres a year; the deputy chiefs, chosen by the former, had only 25 livres; the adjutants were appointed by the chiefs or deputy chiefs; they did not know each other, and had the task of recruiting twenty-five bandits every day and taking them to the Assembly; they received 10 livres for themselves and 50 sous for each of their men. In this way cohorts of three to four hundred snitches were formed, who invaded the galleries of the National Assembly, and on command applauded, booed and shouted in support of motions or against them. In some cases, when there was too much resistance, they had to raise the baton, as if to hit the deputies closest to them, shouting that the National Assembly was made up of a bunch of beggars who had to be knocked out". Bertrand de Molleville adds: "As the ordinary means were insufficient to stop the progress of the revolutionaries, we had to think about creating new brigades. I set up a meeting in a house on the Carrousel, opposite the Tuileries, under the name of the French or National Club, which was to serve as a rallying point for the officers and indentured soldiers of the National Guard, the royalists who were in Paris and the labourers. The members of this troop were destined to play different roles: some mingled with the bourgeois militia, under the pretext of helping to maintain order, and in reality to cause collisions; others served as a sort of scapegoat, and at the risk of catching horions, they were to provoke the Parisian guard into riots. The latter were dressed in red bonnets and armed with pikes supplied by the club. "The king congratulated me on the plan for these companies, and authorised the expenditure they required, which amounted to four or five thousand livres per day, including incidentals and refreshments, which had to be provided to the club at very low cost in order to attract a greater number of soldiers. The pikes and red bonnets cost about a hundred thousand livres, and the establishment was completely set up in four days. Almost at the same time I formed another of the same kind and equally useful, although less apparent. It consisted of a troop of intrepid and reliable bandits, drawn from the galleys and commanded by a man called Lieutaut, who had played one of the main roles in a counter-revolutionary insurrection in Marseille. The service of this agent and his gangs was directed and paid for by M. de Monceil. These men were used to organise riots, to bring the excitement to its highest point of exaltation, and if necessary, to commit murders and atrocities to arouse the indignation of the bourgeois, and lead them to use their weapons against the people. Other agents were responsible for distributing pamphlets in patriotic colours to arouse hatred of the revolutionary party, exaggerating its principles and frightening citizens

about the division of property. The same individuals were responsible for putting up false posters during the night on top of the patriotic ones, which had the same titles, format, paper colour and style as the real ones, in order to better lure readers into the traps set for them by the court. A large number of writers were employed to edit these newspaper-posters, as well as several periodicals" (Maurice La Châtre, *Histoire des papes*, t. 9, Paris, 1844, pp. 294-297).

(60) Jean-Marc Berlière, *Le monde des polices en France: XIXe-XXe siècles*, Éditions Complexe, 1996, p. 157.

(61) Louis Andrieux, *Souvenirs d'un préfet de police*, t. 1, Paris, Jules Rouffe et Cie, 1885, p. 174 et seq.

(62) *La Police de Paris en 1770. Un Mémoire inédit composé par ordre de G. de Sartine sur la demande de Marie-Thérèse. Avec une introduction et des notes*, A. Gazier (ed.), Paris, 1879, p. 27-28. This definition was used again in Nicolas des Essarts' *Dictionnaire universel de police* (1786) (see Nicolas Vidoni, *Une " police des Lumières " ?*, Rives méditerranéennes [En Ligne], n° 40, 2011 and Vincent Milliot and Justine Berlière, " L'admirable police " : Tenir Paris au siècle des Lumières. As late as 1791, the statistician Jacques Peuchet (1758-1830) declared that "health is one of the main concerns of human policing; it watches over everything that might alter [the human being] from the moment he is born until the moment he ceases to live" (Quoted in Nicolas Vidoni, *Protéger la santé des Parisiens au XVIIIe siècle : savoirs urbains et action policière*, *Histoire, médecine et santé* [En Ligne], no. 6, autumn 2014, pp. 97-110.

(63) *Ibid*, p. 28.

(64) Yves Guyot, *La Démocratie individualiste*, V. Giard & E. Briere, 1897, p. 31. In so doing, it disarmed the individual, both figuratively and literally: prohibiting individuals from carrying weapons has been a constant concern of the authorities since the mid-fifteenth century (Julien Le Lec, *Les armes en Bretagne sous l'Ancien Régime : étude menée à travers les arrêts sur*

Remonstrance of the Parliament of Brittany (1554-1789). History. 2015, <https://dumas.ccsd.cnrs.fr/dumas-01206406/document>, p. 161). 1552: ban on carrying arquebuses and pistols, neither in town nor in the fields, except for soldiers of course; they must be left at home. 1596: ban on carrying daggers and daggers, except for soldiers and nobles. Around 1587: "escholiers" (students) were forbidden to carry weapons; they were forbidden to carry "baston massif, espées, pistolets, mailles ny autres armes". 1601: "to obviate the beatings, outrages and homicides that occur on the said feast days of the patrons of the towns and villages of this country", the court (the parliament in Dole) forbids "the carrying of offensive weapons on the day and in the place where such feasts are held". 1609: ban on carrying "bidets and handkerchiefs" (small pistols), including for nobles and "gens de commune". 1613: denunciation of those carrying weapons is encouraged; reminder of previous bans. 1619: Renewal of the edict of 1601. 1626: Renewed ban on carrying weapons. Later (after the Thirty Years' War), Parliament added (in 1658) a ban on carrying weapons in the home ("to all workers", "bidets and

handkerchiefs"), a ban on merchants selling bidets and handkerchiefs, a reminder of the ban on carrying weapons, daggers, daggers "quarrez called stiletts", and a ban on selling them. Lastly, for foresters, messieurs, wood wardens, vineyard wardens, woodcutters and charcoal burners, the parliamentarians prohibited the carrying of harquebuses, rifles, pistols, bidets, handkerchiefs, daggers, stiletts and large knives" (Antoine Follain [ed.], *Brutes ou braves gens? : La violence et sa mesure (XVIe-XVIIIe siècle)*, Strasbourg, Presses Universitaires de Strasbourg, 2015, p. 309).

(65) See Steven L. Kaplan and Vincent Milliot, *La police de Paris, une " révolution permanente " ? Du commissaire Lemaire au lieutenant de police Lenoir, les tribulations du Mémoire sur l'administration de la police (1770-1792)*, in Catherine Denys, Brigitte Marin and Vincent Milliot (eds.), *Réformer la police. Les mémoires policiers en Europe au XVIIIe siècle*, Rennes, Presses Universitaires de Rennes, nouv. éd. [En Ligne], 2019 [pp. 69-115], p. 81.

(66) *Ibid.*

(67) *Ibid.*, p. 99.

(68) Pierre Bourdieu, *De la maison du roi à la raison d'État, Actes de la recherche en sciences sociales*, vol. 118, 1997 [pp. 55-68], p. 66.

(69) *Ibid.*, p. 62.

(70) *Id.* *Esprits d'État, Actes de la recherche en sciences sociales*, vol. 96-97, March 1993 [pp. 49-62] pp. 61-62.

(71) *Idem.* *Sur l'Etat. Cours au Collège de France, 1989-1992*, Paris, Seuil-Raisons d'agir, 2012, pp. 172-173.

(72) *La Police de Paris en 1770...*, p. 28 [emphasis added].

(73) Mlle Lange and the lieutenant-general of the Paris police. *Souvenir historique, Album littéraire et familial de la Minerve*, 4e année, nouv. série, Montréal, 1849, p. 197, which ironically summarises, without quoting, the first chapter of Louis Lurine's *Histoire secrète et publique de la police ancienne et moderne* (1847).

(74) Auguste Vermorel, *op. cit.* p. 85.

It kills, it rapes, but it makes the bourgeoisie dream and the ladies glow. They may find it romantic, but I don't. So I've made a decision... I'm not going to send the redskins to the Seine

juries any more, so there'll be no more dismissals or pardons: I'm going to organise the Saint Barthélémy of mid-life! Do you understand me?

Jean Gabin (Louis Joss), in *Le Pacha*

A "very polite man" according to Alexandre Dumas, Louis Thiroux de Crosne was summoned to the Hôtel de Ville on 16 July 1789 and handed over his powers to the standing committee, which abolished the lieutenant-general of police. The police force virtually no longer existed (1).

The reconstruction of this institution took place in four phases: from July 1789 to October 1790; from 1790 to 1793; from Fructidor year 2 to Brumaire year 4; from 1795 to 1800: "four periods of disorder" (2), during which "no sooner is a law promulgated, no sooner is an ordinance issued, than another law, another ordinance comes along in its place, with no better explanation for the creation of some than for the overthrow of others" (3).

After 14 July 1789, the voters, who had declared themselves to be permanent, set up a permanent committee. The Provost of the Merchants chaired the committee and the other members of the town council had the right to vote. This committee, "which brought together all the functions relating to safety, tranquillity, subsistence and the military police" (4), administered until the end of September 1789. The members of the Constitution Committee of the National Assembly presented a complete plan for the organisation of the municipal administration and police force of Paris for the King's approval. The draft, submitted to the National Assembly, which adopted it with a few modifications, was sanctioned by the king and converted into law under the title of letters patent on the Paris police force on 6 November 1789. Article 1 stipulated that each of the sixty district committees was responsible for policing its own *arrondissement* under the authority of the municipal body. The law of 24 August 1790 determined the functions and powers of municipal officers in police matters. Only one title related to the municipal police: title xi, entitled "Police judges". Article 3 of this title reads as follows: "The police matters entrusted to the vigilance of the authority of municipal officers are : 1° Anything that concerns the safety and convenience of passage in the streets, quays, squares and public thoroughfares; this includes cleaning, lighting, removing congestion, demolishing and repairing buildings that threaten ruin, prohibiting the displaying of anything in windows or other parts of buildings that could cause harm by falling, and prohibiting the throwing of anything that could injure or damage passers-by or cause noxious fumes;

"2° The task of repressing and punishing offences against public peace and quiet, such as brawls and arguments accompanied by commotion in the streets, uproar in places of public assembly, noise and night-time gatherings that disturb the peace of citizens;

"3° Maintaining good order in places where large numbers of people congregate, such as fairs, markets, public celebrations and ceremonies, shows, games, cafés, churches and other places;

"4° Inspecting the accuracy of the sale of goods sold by weight, yardstick or measure, and the wholesomeness of edibles on public sale;

"5° The care to prevent, by taking the appropriate precautions, and to put an end, by distributing the necessary aid, to accidents and calamitous plagues, such as fires, epidemics and epizootics, by also provoking, in these last two cases, the authority of the departmental and district administrations;

"6° The care to obviate or remedy any untoward events that may be caused by fools or furious people left at large, and by the wandering of evil or ferocious animals.

Article 4 of the same title states that "public performances may only be permitted and authorised by municipal officers".

And art. 7, "that municipal officers are specially charged with dissipating popular assemblies and riots, in accordance with the provisions of martial law, and are responsible for their negligence in this part of their service".

Article 50 of the law of 14 December 1789 placed the functions of municipal power under the supervision and inspection of the departmental assemblies, including "ensuring that the inhabitants enjoy the benefits of good policing, in particular cleanliness, health, safety and tranquillity in the streets, public places and buildings".

It remained to specify the manner in which municipal officers would exercise their functions, the different types of offences and the penalties that would be attached to them; this was the aim of the law of 19-22 July 1791, relating to the municipal police and the correctional police. Among the offences punishable by the correctional police were "1. offences against public decency; 2. disturbances in the exercise of religious worship; 3. insults and [...] against persons". The title of the municipal police, which sets out the rules of conduct to be followed by police officers in the exercise of surveillance and in the investigation of offences, states that "no municipal officer,

commissioner or agent of the municipal police may enter the homes of citizens, except "... for all sorts of reasons, of which the one we shall mention below will give an idea of the nature: with regard to places "where everyone is admitted", they "may ... enter at any time". The law also determined the duties of the Prefect of Police with regard to the supervision of hotels, gaming houses and bawdy houses.

The law of 3 August 1791 relating to the use of public force against assemblies prescribes, subject to the most severe penalties, the rules that magistrates and officers responsible for the police must observe when using armed force against assemblies: the legislator only gradually allows the use of this force and after repeatedly summoning seditious people to disperse.

The role of the police was further specified in the preamble to the law of 21 October 1791, which both totalised and individualised the police: "The police, considered in relation to public safety, must precede the action of justice; vigilance must be its main characteristic; society, considered as a whole, is the essential object of its solicitude. The action of the police on every citizen must be swift and sure enough that none of them can evade it: it must ensure that nothing escapes its notice; but its action must be moderate enough not to injure the individual whom it reaches. He must not regret the institution of a power established for his benefit, and the precautions taken in his favour must not be more unbearable than the evils from which they are intended to free him". Pastoral power is "a form of power that is concerned not only with the community as a whole, but with each individual throughout his life" (5).

In the meantime, a law of 7 fructidor year 2 concerning the general police force of the republic and the organisation of the revolutionary committees had made numerous changes to the organisation of the municipal police force, as well as to the powers of those in charge of it, changes which only added to the disorder, which the law of 14 fructidor year 2, which determined by whom and how the commune of Paris would be administered, more or less resolved.

The function of the republican police is again defined as follows by articles 16 and 17 of the Code of Offences and Penalties of 3 Brumaire An IV: "The police are instituted to maintain public order, freedom, property and individual safety". But the importance of this Code also, and perhaps above all, lies in the distinction it draws between repressive policing and preventive policing, exercised respectively by the administrative authorities alone and by both administrative and judicial authorities. Preventive policing, theorised at the time in England by

John Fielding (6), "consists in the right to make regulations or take orders or measures, to grant permissions or authorisations, to carry out prior verifications, etc., required or permitted by laws, and regulations made by virtue of the delegation of the law" (7). As *Boussole Politique* observed in its 1818 issue, "the legislator and the government [who] propose to prevent evil [...] do not realise that if they charge the police with 'preventing', the police will end up preventing any action other than their own. It will encompass all activities. Since they are rightly suspicious of the actions of any individual, they will multiply the regulations and precautions to prevent them from acting. Its ideal will be to turn every man into a mummy" (8). The newspaper added wittingly: "We hardly know on what occasions the police have prevented offences; what we do know is that the police, since its organisation, as we know it, have brought many defendants to justice" (9). One hundred and fifty years later, crime prevention remains "extremely limited" (10). Whatever Fouché may have said (11), so-called prevention is in fact nothing more than a pretext for surveillance of the population as a whole and of individuals in particular, especially those whom the Republic, which likes to point out that it is always "in danger", considers to be its enemies. Hence the protection afforded to criminals from below by criminals from above, including and especially magistrates (12). "Delinquency, with the hidden agents it provides but also with the generalised surveillance it authorises, constitutes a means of perpetual surveillance of the population: an apparatus which makes it possible to control, through the delinquents themselves, the entire social field" (13).

On 15 Friminaire, Year IV (6 December 1795), the Paris police force was replaced by the Central Bureau, established under Article 184 of the Constitution of Year II. The central bureau was divided into ten offices: bureau de la surveillance, responsible for the administrative police in relation to public safety, individual safety and the conservation of property; bureau de la sûreté, responsible for the prosecution of all offences committed outside Paris; bureau des passeports, responsible for issuing both permissions to stay in Paris and hospitality cards and the visa for passports to leave; bureau des prisons (prisons office), responsible for supervising prisons and remand prisons, from the point of view of safety and health; bureau de la salubrité (health office), which was responsible for a large part of the municipal police, as distinct from the security police; office of morals, responsible for overseeing everything that concerned public morals (shows, balls, games, public girls, cafés, booksellers, journalists, hawkers, newspapers, polemical and dramatic works, statues, paintings, engravings, circles and meetings, temples, ministers of religion, charlatans, balladeers, acrobats and public baths); bureau du commerce, responsible for maintaining order in the halls and markets, wood and coal supplies, the enforcement of regulations concerning bakeries, butchers, delicatessens, the sale of foodstuffs, their falsification and corruption, weights and measures; bureau des hospices was responsible for exercising the supervision entrusted by law to the central office over the hospice commission; bureau de la comptabilité; bureau des nourrices.

The Constituents' thinking was in line with the liberal ideology of the philosophers, physiocrats and encyclopaedists. Apart from the supply of wood and coal (and support for wet nurses, or rather the wet nurse industry) (14), the State, through its police force, was no longer, as Guyot humorously explains, "responsible for providing for the needs of citizens and for obliging them to act only with its permission. Each individual was free to act, to use his care, his strength, his facilities, his activity, his intelligence, as he saw fit, on his own responsibility [...]. [...] This is the system of individual freedom, of self-government, as opposed to the system of direction by the State" (15). As mentioned above, articles 16 and 17 of the Code of Offences and Penalties of 3 Brumaire An IV stipulated that "[t]he police are instituted to maintain public order, liberty, property and individual safety".

But "[y]our liberty," says Seyès in his "Plan de la milice nationale", "will only be (...) guaranteed when you have (sic) against all these dangers [the "enemies of liberty"] a relatively irresistible force of execution" (16). For Seyes, liberty cannot be exercised without "public force", which he endows with the exclusive right to the legitimate exercise of violence (17). "Generally speaking, an indissoluble link is established between public force and liberty, the latter constituting the end of the former. There must 'still exist, in order to compel physical action, a public force relatively superior to any individual force'" (18).

Policing would henceforth essentially consist of "giving republican regimes the weapons they need to defend a regime weakened by the freedoms it grants" (19) to the population, including the enemies of the Republic; the police would no longer be anything more than "execution within the framework of organised freedoms" (20). The main weapon would be the political police, responsible for "maintaining public peace, seen as linked to the stability of the government" (21).

From 1789 onwards, various committees were responsible for gathering and examining information, complaints and denunciations on all projects contrary to State security: first the Comité des recherches, formed by a decree of the Constituante in July 1789 and dissolved two years later; then the Comités de surveillance, created in each commune by the Convention on 21 March 1793 (they were abolished in October 1795), with the aim, or rather "under the pretext" (22) of keeping an eye on foreigners and suspects, the latter being people suspected of having committed an economic crime, of showing political apathy, of having expressed subversive opinions, etc. (23). The powers of the surveillance committees were extended to reading the mail, issuing certificates of good citizenship and, concurrently with the administrative police (24), monitoring the application of revolutionary laws and measures of general safety and "public salvation" (25). They "covered the whole of France with an appalling network of demagogic police. Never has centralising tyranny invented more extensive and powerful means

of surveillance and despotism" (26). The Jacobin government was compared by Michelet to the Inquisition, with the major difference that, whereas the latter, "through the confessional and a thousand different means, penetrated to the very depths of souls, the revolutionary Inquisition had at its disposal only external means, often uncertain clues", which, according to him, explains "an excessive, sickly mistrust, a spirit all the more suspicious, as it had less certainty of reaching the bottom. Everything alarmed, everything worried, everything seemed suspicious" (27). Everyone alarmed, everyone worried, everyone seemed suspicious, everyone spied on each other: "The Minister of Police," says Guyot, "used the office with which he was invested to monitor and spy on those who had given it to him" (28).

Created on 2 October 1792 from the Research Committee of the Constituent Assembly (it was dissolved on 26 October 1795), the General Security Committee was responsible for "everything relating to individuals and the general and internal police". More specifically, "its mission was to seek out, discover and arrest 'all enemies of the Revolution', in other words all citizens who did not find the system of the Terror excellent, and to hand them over to the revolutionary court and the scaffold" (29). To carry it out, he had at his service "a swarm of skilful, daring and unscrupulous agents", secret agents, snitches and informers of all kinds. The law of 17 September 1793 on suspects had made denunciation a State principle (30) and Mirabeau had called it "the most important of our new virtues". In the same year, Fouché and Collot d'Herbois created delation commissioners (31). "La délation et l'espionnage furent les deux ressorts qui font mouvoir et fonctionner le gouvernement jacobin et terroriste" (32). From the Revolution onwards, espionage itself ceased to be considered a vile occupation, provided of course that it was motivated by civic-mindedness (33).

Resulting from the various committees mentioned above, the Ministry of Police was created in 1796 (abolished under the Consulate, reinstated by the Emperor in 1804, abolished again in 1814, reinstated again in 1815, dissolved for the third time in 1818, it was reinstated in 1852 and finally abolished in 1853, after which the senior management of the police became the responsibility of the Ministry of the Interior and, under its orders, of the Prefect of Police, established in Paris in 1800), as a result of which the administration of the police, whether administrative or judicial, was given a uniform organisation throughout France. The Ministry of the Police inherited some of the powers of the Ministry of the Interior, particularly those relating to the safety and internal tranquillity of the Republic, the service of the gendarmerie, the sedentary national guard, the administration of prisons and remand centres, and the suppression of begging and vagrancy. Merlin, Minister of Justice, wrote, in a circular addressed on 7 January 1796 to the central office of the Paris commune, on the subject of the new ministry: "we will have a wise Republic: pure air will reign; everywhere the citizen will be able to live in safety (34)".

Officially, it was necessary to "establish rigorous surveillance to disconcert factions (on the one hand, those who had been displeased by 9 Thermidor and, on the other, the royalists), foil liberticidal plots, contain seditious and maintain calm". The author of the review of the "Livre Noir de MM Delavau et Franchet..." calls this police force by name: "Faithful to the intentions of its founder, whether republican, imperial or royal, the general police force has never been anything other than a political police force. I do not know whether France is the first country where the institution has not been perfected to the point of existing publicly and officially giving its name to a ministry (35). He then reviews the main arguments of the supporters and detractors of the political police, which have not changed since he summarised them as follows:

"Either for good reason or because of resentment, the public generally disapproves of any kind of political police force. Sometimes the shameful manoeuvres, the arbitrary violence, the suspicions turned into evidence, the words incriminated as acts, the plots incited by provocation, brooded over by espionage, betrayed by denunciation, in short the real or alleged crimes of the police are portrayed. Sometimes they recall the attacks and misfortunes that they have failed to prevent, the conspiracies that have played on them, the revolutions that have defied them, everything that can prove their blindness and impotence. This is how the police are denounced to honest and clever people.

"The authorities, for their part, dispute the public's opinion. Because the police did not prevent everything, they do not accept that they did not prevent anything. Everything that has happened in spite of the police is cited: do we know what would have happened without them? Her services can sometimes be negative; how can it be shown that they are zero? Her presence and reputation alone have a salutary effect. The very complaints and hatred of the enemies of order or government attest that it is not a vain thing, and as it has existed everywhere, it would be foolhardy to say that society can do without it. Undoubtedly the means it employs are not all equally pure, but the safety of society excuses everything it demands. If the police are an evil, it is a necessary evil; the justified criticisms that can be levelled at them relate only to the abuse they have been subjected to in unfortunate times. But entrusted to the hands of a wise administration, it is purified, it improves, it becomes a protective institution for the State as well as for individuals (36).

For the time being, there was a ministry, but, as we have seen above, still no real police force. Napoleon 1st reconstituted it with the decree of 12 Messidor An VIII. The pivotal figure was the prefect, whose position he created in 1800. In terms of general policing, he was responsible for

issuing passports, security cards, certificates of residence, permissions to carry firearms, enforcing the laws on begging and vagrancy, boarding houses and lodgers, printing and bookshops, monitoring the distribution and sale of gunpowder and saltpetre, to take the appropriate measures to prevent or dissipate gatherings, coalitions of workers to stop their work or bid for the price of the day, tumultuous meetings or meetings that threaten public peace, to search for deserters, to enforce the laws and decrees on republican celebrations; He was responsible for policing prisons, theatres and religious services. In terms of municipal policing, he was responsible for all matters relating to minor roads, ensuring the freedom and safety of the public highway, the safety of commerce, ensuring the healthiness of the town, taking appropriate measures to prevent or stop fires, and enforcing taxes, to ensure that the mercorial register was kept and to ascertain the price of basic necessities, to ensure the free movement of supplies, to demand that the patents of the fairground merchants be produced, to have prohibited goods seized, to have the squares and public places watched over, to have the markets inspected, to have the monuments and public buildings protected and preserved; He was responsible for policing the stock exchange and public places where stockbrokers, dealers and those who negotiated and traded in public securities met. The prefect of police had under his command the police commissioners, the officers of the peace, the police commissioner of the stock exchange, the commissioner in charge of minor roads, the commissioners and inspectors of the market halls and markets, and the port inspectors. He had the national guard and the gendarmerie at his disposal and could call on the active armed forces. He performed his duties "under the immediate authority of the ministers". There was "not the slightest difference in substance between the edict of 1667 and the decree of Messidor An VIII, but only a few modifications in form; the powers of the prefect of police are exactly those of the civil lieutenant; their dependence on the higher authority is absolutely the same; their power is circumscribed within the same limits [...]" (37). And, as Louis XIV had done, Napoleon 1st regulated the police not for the entire nation, but for Paris. "It would seem that in their system of political centralisation, for Napoleon and Louis XIV, Paris is all of France, and that the rest must organise itself and model itself on the city that is the capital of their states and the place of their ordinary residence" (38). This again confirms Tocqueville's thesis of the continuity between the Ancien Régime and the Republic (39).

Napoleon 1st, "[a]fter careful consideration [...] thought it necessary to entrust a former Jacobin with the task of supervising the Jacobins" (40); he appointed Fouché Minister of the General Police in 1799 (41) and took care to surround him with Jacobins so that he could supervise their actions; so that, as Stendhal put it, he could supervise "in their souls" (42).

"He thought he had won over Fouché (in which he was mistaken); he charged him:

1° To give great places to all Jacobins, people of merit;

2° To give secondary positions to all Jacobins who could have been dangerous because of their activity and enthusiasm for the fatherland;

3° To do everything that would be personally agreeable to the rest of the Jacobins. In this way he attacked virtuous enthusiasm with selfishness. Napoleon was very keen to see the Jacobins very actively occupied in their new positions. Fouché was to say to the most enthusiastic: 'But leave it to me; don't you know me? don't you know what I want? believe that I am acting for the greater good of the party; my position puts me in a position to see what the soldiers can do; I keep an eye on all their movements. As soon as we can take action I will tell you, etc., etc.'.

"Fouché had to continue to live with the Jacobins and see even those who were personally most opposed to him, for how else could he have monitored their actions? It was important, with regard to many of them, to know where they slept each day.

"Fouché was charged with watching over the progress of egoism in their souls, and above all with giving opportunities for action to those who still had activity and fire" (43).

On 16 Thermidor, he sent the Proclamation of the Minister of the General Police to the citizens of France, printed in thousands of copies. To watch over everyone and everything", it read, "such is the duty imposed upon me and which must receive from the circumstances a particular character of energy and severity. The enemies of liberty are all under arms today: outside they threaten the territory of the Republic, whose unholy division they have promised themselves, inside they divide passions in order to bring about confusion and upheaval... I have undertaken to re-establish your internal tranquillity, to put an end to the massacres and oppression of the republicans, to stop the plots of traitors and to deprive foreigners of even the hope of an accomplice. Help me, citizens, in this honourable task. Support me with your zeal, surround me with your patriotism, and may this happy union of citizens and magistrates be the sure sign of the triumph of the Republic" (44). Here he was doing what none of his predecessors had dared to do: "[...] placing himself far above his predecessors, his colleagues in the ministry, the directors themselves, by this haughty appeal to the citizens, which made the government's obscure messages to a discredited and despised legislature pale in comparison" (45), but also addressing the people directly, the people as a whole, to ask for their cooperation. He set out his conception of the police in a circular addressed to the prefects shortly afterwards, on 30 Brumaire An 8: "Citizen Prefect, your relationship with Justice is close and numerous, the relationships between the action of the Police and the action of Justice are really close; they seem to merge unceasingly, they contribute to the same acts. But how far from being in agreement! Surrounded by forms that it never finds sufficiently multiplied, Justice has never forgiven the Police for its speed. The Police, freed from almost all hindrances, have never excused the slowness of the Judiciary. Society often criticises one or the other. The police are criticised for worrying about innocence, and the judiciary for failing to prevent or apprehend crime. Because it has been in the

hands of kings, the Police have generally been seen as an instrument of despotism; justice, because it is dispensed by the organs of the laws, has often seemed lost in their obscurities and contradictions. Among certain peoples, overly shy and overly jealous of their freedom, the Police have been sacrificed to Justice; among other peoples, more impatient to be dragged slowly through the forms and labyrinth of so many laws, Justice itself has been turned into a Police force.

"If we look closely at the places and times of their action, we will see that Justice and the Police cannot exist for the true social order, either one without the other, or entirely confused one with the other. The moments that precede the rulings of Justice and the moments that follow them are two moments when Justice itself must not act, and these two moments belong to the action of the Police. It is the police who, having at their disposal an armed force superior to all the forces that can disrupt public order, have all the means at their disposal to bring the accused under the control of the law and to remove or defeat all those who would oppose the execution of its judgments... What the positive orders of the laws most imperiously command you to do is to keep no citizen under the control of the police for as long as is strictly necessary to bring him under the control of the law. The laws themselves make a few exceptions to this law, which is the only guarantee of all the others; these exceptions, which are rare, well-defined and well-limited, are made by the laws as if with regret and almost with dread. If we added just one, we would no longer be police magistrates, but agents of tyranny.

"For all arrests and at all times, police officers must therefore be able to produce written proof of the precise moment at which a citizen was arrested and the precise moment at which he was placed in the custody of the law. In this respect, society as a whole has the right to question the minister of police, the prefects and all their agents.

"Never forget how dangerous it is to make arrests on mere suspicion. Remember that your actions, even if they are errors, will be a first presumption against those whom you bring before the law; and ponder in your trembling conscience the stories of so many innocent people who were only sent to the scaffold by the law because they had been brought before the law by error. These wishes of humanity, presented by the philosophy of France to the powers and judges of Europe, are not only engraved in the positive articles of our laws; they are engraved in the hearts of all those who serve the republic. It is not only by adding the slightest rigour to the rigours that are absolutely indispensable for the execution of laws and the rulings of justice, that we would be guilty; we would still be guilty if we did not temper these rigours with all the softenings that they can receive (46).

The criticism of the Jacobin police that he distilled in these lines became sharper in a circular that he addressed to the prefects sixteen years later, on 31 March 1815, on his return to favour: "The principles of the police have been subverted: those of morality and justice have not always resisted the influence of passions. All the acts of a government born of treason had to bear the stamp of that origin. It was not only by public measures that it could wither the memories most dear to the nation, prepare vengeance, stir up hatred, break down the resistance of opinion, re-establish the domination of privileges and destroy the tutelary power of the laws: this government, to accomplish its intentions, brought into play the secret springs of a subaltern tyranny, the most intolerable of all tyrannies. We have seen it surround itself with informers, extend its investigations into the past, push its mysterious inquisitions into the bosom of families, frighten people with clandestine persecutions, sow disquiet in all lives, and finally destroy, by its confidential instructions, the imposter apparatus of its promises and proclamations (47)". As we shall see below, a royalist could have painted an almost identical picture of his police force, but let us allow him to continue: "Such means offend the laws and morals of France; they are incompatible with a government whose interests merge with those of the citizens". We must abandon," he continued, "the erring ways of this police force which, constantly agitated by suspicion, constantly worried and turbulent, threatens without guaranteeing and torments without protecting. It is necessary to confine ourselves within the limits of a liberal and positive police force, this police force of observation, which, calm in its movements, measured in its investigations, active in its pursuits, everywhere present and always protective, watches over the happiness of the people, the work of industry, the rest of all (48)." He claimed to "transform the police from a ministry of inquisition and severity into a ministry of gentleness and indulgence" (49). "Charged with maintaining public order, looking after the safety of the State and that of individuals, the police, albeit in different forms, can have no other rule than that of justice; they are its torch, but they are not its sword: one prevents or represses offences that the other cannot punish or reach: both are instituted to ensure the execution of laws and not to break them; to guarantee the freedom of citizens and not to infringe it; to ensure the security of honest men and not to poison the source of social enjoyment" (emphasis added) (50). He later wrote to the Duke of Wellington: "It is because these principles have been departed from, because an improvident and thoughtless police force has focused almost exclusively on the actions of the great, instead of keeping an eye on the people, that it has been impossible to suppress the first effervescence of the revolution in the midst of prosperity, opulence and peace" (51). However, Wellington could not have been unaware that his correspondent had taken up the cause of the Revolution as soon as it broke out; that, after being initiated into the Sophie-Madeleine-Queen of Sweden Lodge in Arras in 1789, he had wallowed there with sadistic voluptuousness (52); that he had been elected deputy for Loire-Inférieure to the Convention; that, having become a member of the Girondin party, he had voted for the death of the King; that he had been the instrument of the Committee of Public Safety; that he had issued the first decree relating to the search for the property of

émigrés; that he had had people killed (and pillaged, including the people) (53) without counting the cost, in the name of the Revolution, for his own personal gain.

In a confidential letter written on his return to office in 1815, he defined the police as "a political magistracy which, in addition to its particular functions, must endeavour, by irregular but just and legal means, to increase the strength and resources of the government" (54); "the strength and resources of the government" and not exactly those of the State, as advocated by the police theorists of the seventeenth and eighteenth centuries. Because "the same submissiveness is no longer to be found", because "disturbances of a new kind have been produced by the hitherto unknown conflict of political opinions", and because "the guarantee given to the liberty of individuals" poses a greater threat to "the security of the State and public tranquillity", it is no longer possible to "govern men in the same way ; the means of gaining influence over the people, which is the greatest result a government can achieve, have changed in the same way; religion and morality are only weak supports for the laws. Public opinion, an entirely new thing in the social order, has acquired so much consideration and power that it has become the rival of government. Obedience, which now has rights, makes every effort to defend those rights. Disobedience can be punished, but it is much wiser to overcome it; power can enforce orders, but the language of violence is little regarded unless it is backed up by persuasion and founded on reason. To win the ear of all parties, you have to speak to all passions, and to each its own language" (55). It is now necessary and vital for the monarch to secure "the attachment and strength of the people" (56), in particular "the working class who make up the people, and who form the basis of the social edifice" (57), who must be "the main object of the care and vigilance of a good police force" (58). "The people will always be at peace whenever their interests are openly and frankly looked after, whenever anything that might weaken their confidence is ruled out [...]" (59). For Fouché, looking after the interests of the people meant protecting the interests of the government at the same time, and looking after the interests of the people meant preventing any disputes that might arise within them, so to speak, protecting them from themselves by keeping an eye on them. Indeed, if it had been impossible for the police of the Ancien Régime "to suppress the first effervescence of the revolution", it was also because they "focused almost exclusively on the actions of the great, instead of keeping an eye on the people [...]" (60).

Political and moral surveillance was just one of the activities of the Ancien Régime police (food supply, inspection of street cleaning, market surveillance, combating petty crime, etc.); it was the main task that Fouché assigned to his police force.); this was the main task that Fouché assigned to his police force (61) "The police force," insisted Fouché, "is a continual surveillance of order in all parts of society... The gaze of the police is everywhere, and almost always its action is limited to seeing" (62) and its great skill "was to spread and make people believe that, wherever

three or four people gathered, there were eyes to see and ears to hear" (63). Fouché was a visionary.

However, if he was the first, even before his British counterparts (64), to conceive of the police as a body for monitoring the people, who had long been under the supervision of priests (65), the implementation of his project was facilitated by the "immense police text" which, since the beginning of the eighteenth century, "tended to cover society thanks to a complex documentary organisation. And unlike the methods of judicial or administrative writing, what was recorded in this way were behaviours, attitudes, virtualities, suspicions - a permanent consideration of the behaviour of individuals" (66) and not just of notables. Having considerably extended the network of police informers, Fouché further developed this "immense police text".

Marie de Médicis believed that flies hear and understand what human beings say and betray it to the enemies of those who are unwise enough to reveal their secrets in their presence (67). It was shortly before his reign that the term "mouche" or "mouchard" began to be used to designate a particular type of informer: the police spy (68). Under the reign of Louis XIV, "flies", cut lengthwise on "the faces of the beautiful", were called "assassins"; employed by the police, "flies" were given the task of eavesdropping on public conversations and monitoring behaviour (69). In 1753, half of the police budget was used to pay flies, recruited from among lackeys, convicts, prostitutes, their clients and courtiers (70). On the eve of the Revolution, under Antoine de Sartine, the commissioner, who was under the direct orders of the lieutenant of police, relied as much on his "flies" as on the inspector who was his deputy; the "low flies", people of little means, delinquents and prostitutes, but also gasmen, were distinguished from the "flies", "people of quality", such as Mirabeau and Brissot, who occasionally worked for the police (71). Fouché considerably increased their number, recruiting them from all walks of life (lackeys, wine merchants, street sweepers, socialites, etc.) and all locations (salons, gambling dens, prisons, theatres, administrations, etc.) (72), so that the network of informers he wove quickly spread throughout the empire (73). Their confidences were relayed by mayors, sub-prefects and prefects and summarised in daily bulletins sent to Buonaparte (74), not without having been scrutinised and filed beforehand by Fouché's departments. A Minister of Police, Talleyrand is said to have declared, "is a man who meddles in what concerns him and then in what does not concern him" (75).

To be effective, police surveillance required, according to Fouché, "unity of purpose in police action" (76), in other words the reorganisation and centralisation of police services and the rationalisation of police practices.

The law of 28 Pluviôse An VIII relating to the division of the territory and administration contained very specific provisions concerning the police. It established that towns of between two and five thousand inhabitants would have, in addition to a mayor and two deputies, a police commissioner, and that towns of more than ten thousand inhabitants would have, in addition to a mayor, two deputies and a police commissioner, "one deputy for every twenty thousand excess inhabitants and one police commissioner for every ten thousand excess inhabitants"; towns of one hundred thousand inhabitants or more would have a general police commissioner, to whom the police commissioners would be subordinate and who would be subordinate to the prefect. The decree of 12 Messidor An VII determined the duties of the Paris police prefect; that of 5 Brumaire An IX, those of the general police commissioners. The decree of 17 fructidor year IX determined the salaries of the police commissioners (77). The Ministry of Police was divided into six divisions and a general secretariat. The first division dealt with reserved matters. The second division, the forerunner of the Renseignements Généraux, dealt with general security and the secret police. The third division was in charge of the press and questions of individual freedom; the fourth section was responsible for emigrants, de-registration and surveillance; the fifth was in charge of accounts and the sixth was in charge of archives. The General Staff had a triple police force: the official police, the secret police and the gendarmerie.

On 22 March 1815, Fouché had Napoleon I sign a decree appointing two inspectors general, "exclusively responsible for the high police and all operations relating thereto". These were the two heads of the secret police. By decree of 28 March/6 April 1815, the Directors-General, Commissaires-General and Special Commissaires, whose powers we shall see below, were abolished and replaced by seven Police Lieutenants, one in each of the seven arrondissements that France then had. On 4 May 1815, an eighth police lieutenant was created. Such an organisation did not require a considerable budget, if the (official) accounts are to be believed. In reality, there was a secret fund, fed by the right to bear arms, the right to passport and above all the gambling farm. Fouché, aware of the power of the press, paid pensions to men of letters and bonuses to newspapers. I confess," he wrote a few months before his death, "that I am very guilty of having hindered the freedom of the press" (78). His successors under the Republic did not make the same mistake.

Fouché had found "an amorphous and, like all things under the Directoire, incoherent police force" (79) and from this "modest administration where an obscure sub-order received and applied more or less energetically the instructions of Barras or Rewbell, he had made this formidable machine where all the cogs adapted with a rare perfection, a regular, enormous but orderly administration; He had chosen, from various worlds, a staff that was often mad, but

generally very good for the work planned; he had, from his cabinet, known how to make all the springs act with a firm hand, without clumsiness or weakness, without heaviness or brutality either, to prevent any movement, to stifle any conspiracy, and, if he could not always put out the fire, constantly and furtively lit on some point of the West, to make the small part of the fire very small" (80). Above all, he succeeded in making the police strong by producing, as alluded to above, what Foucault calls a panoptic effect: "the strength of the police is the general belief in their omnipotence and omnipresence" (81). The prison architecture conceived by Bentham was designed so that the inspectors, placed in a tower at the centre of the building, could see the prisoners without them being able to see them, without them being able to know whether they were being watched or not. "The inspector, invisible himself, reigns like a spirit"; "... even if he is absent, the opinion of his presence is as effective as his presence itself" (82), but this spirit can, if necessary, immediately give proof of a real presence" (emphasis added) (83). Without being able to see whether or not they are being watched, everyone in the panopticon acts as if they were being watched and gets into the habit of watching themselves. "The police, a French invention that immediately fascinated all European governments, is the twin of the panopticon" (84). Fouché's police force was neither omnipotent nor omnipresent, but by giving the impression of being everywhere and having all the powers, it effectively succeeded in persuading people that it was.

Article 12 of the Declaration of the Rights of Man and of the Citizen demagogically stated that the essential mission of the police force, "instituted for the benefit of all", was to guarantee "the natural and imprescriptible rights of man", which the Code of Offences and Penalties of the Fourth Year had defined as "the maintenance of order, public tranquillity, liberty, property and individual safety". Regularly questioned by their electors, worried about "insecurity" and crime that the press presented as constantly on the rise, the Republicans were forced to rethink the role, place, mission, organisation, status and practices, recruitment and training of the police. Two other factors forced them to do so: the emergence of both the "individual" and the masses, and technological advances.

B. K., September 2023

(1) Eugène Anglade (police commissioner), *Coup d'œil sur la police depuis son origine jusqu'à nos jours*, Agen, 1847, p. 51.

(2) *Ibid*, p. 62.

(3) *Ibid*, p. 78.

- (4) M. Élouin, *Nouveau dictionnaire de police*, vol. 1, Paris, Béchet Jeune, 1835, p. lxxv, from which we borrow the explanations on the reorganisation of the police under the Revolution.
- (5) Michel Foucault, *Dits et écrits*, t. 4: 1980-1988, Paris, Éditions Gallimard, p. 1048.
- (6) The practical application of the concept of prevention in the English police system is attributed to Patrick Colquhoun who, influenced by the utilitarian ideas of Jeremy Bentham, himself influenced by the views of the jurist, criminalist and economist Cesare Beccaria (1738-1794), founder of modern criminal law, founded the Thames Police to combat the heavy losses caused to companies by the theft of goods in the port of London and, more generally, to reduce the costs of a criminal justice system overburdened by the prosecution of crime (see <https://elementsdeducationraciale.wordpress.com/2020/11/25/une-genealogie-de-la-police-1>).
- (7) Adèle-Gabriel Denis Bouchené-Lefer, *Principes et notions élémentaires (pratiques, didactiques et rhétoriques) du droit public administratif*, Paris, 1862, p. 582. The *Encyclopédie moderne* (2nd ed., t. 17, Paris, 1842, p. 308) also agrees that "the police do not prevent, or prevent only very rarely".
- (8) Yves Guyot, *La Police*, Paris, Charpentier, 1883, pp. 30-31. *La Boussole*, t. 1, 1st issue, 15 December 1818, p. 97.
- (9) *Ibid.*
- (10) See Tim Prenzler, *Understanding Crime Prevention: The Case Study Approach*, Australian Academic Press, 2017. As for the prevention of terrorist acts, in "[...] most cases where the police have succeeded in thwarting an actual terrorist act [...] it is almost always a member of the public who denounces unusual or downright criminal activity and informs the police" (Maurice Cusson et al. [ed.], *Nouveau traité de sécurité : Sécurité intérieure et sécurité*, Hurtubise, 2019, p. 181). Not to mention false flag operations, which we will see in the fifth part of this genealogy were far from unknown to the republican police in the nineteenth century.
- (11) "There is more than one connection, sir," he wrote in the circular to the bishops of 25 August 1804, "between my duties and yours. Mine is to prevent offences, so as not to have to punish them; yours is to stifle in the depths of souls the plans and even the thought of crime. Our common goal is to bring about the security of the empire from the bosom of order and virtue". (Quoted in J. B. Capefigue, *L'Europe pendant le consulat et l'empire de Napoléon*, 1842, t. 5, Bruxelles, Wouters, Raspoet et Cie, 1842, p. 282). A defrocked priest, he knew what he was talking about.
- (12) Let us note in passing, with regard to current events, the brazenness with which, in the mass media, certain Jacobin sects rant incessantly against (rank and file) police officers without ever alluding to the blood on the hands of magistrates.

(13) Michel Foucault, *Surveiller et punir : Naissance de la prison*, p. 287, Paris, Éditions Gallimard, 1977. But," Foucault points out, "this surveillance could only function in conjunction with prison. Because the latter facilitates the control of individuals when they are released, because it allows the recruitment of informers, and because it multiplies mutual denunciations, because it puts offenders in contact with each other, it precipitates the organisation of a delinquent milieu closed in on itself, but which is easy to control : and all the effects of deinsertion that it entails (unemployment, residence bans, forced residence, disposal) open up the possibility of imposing the tasks assigned to former prisoners. Prison and police form a twinned system; together they ensure the differentiation, isolation and use of delinquency throughout the field of illegalisms. In illegal activities, the police-prison system carves out a manageable form of delinquency. This delinquency, with its specificity, is an effect of the system; but it also becomes a cog and an instrument in it. In other words, we should speak of a whole in which the three terms (police-prison-delinquency) build on each other and form a circuit that is never interrupted. Police surveillance provides the prison with offenders, which the prison transforms into delinquents, targets and auxiliaries of police controls that regularly send some of them back to prison (ibid.).

(14) François Chedeville, *Annexe IX - L'industrie des nourrices au XIXe siècle*, societecezanne, 20 December 2018, <https://www.societe-cezanne.fr/2018/12/20/annexe-ix-lindustrie-des-nourrices-au-xixe-siecle/>

(15) Yves Guyot, op. cit. p. 32.

(16) Quoted in Vincent Denis, *Force publique et violence d'État chez Sieyès*, in Pierre-Yves Quiviger et al (eds), *Figures de Sieyès : actes du colloque des 5 et 6 mars 2004 organisé à la Sorbonne par le Centre d'histoire des systèmes de pensée moderne et l'Institut d'histoire de la Révolution française*, Université Paris I, Paris, Publications de la Sorbonne, 2008 [pp. 149-157] p. 154; see also Vincent Denis and Bernard Gainot, *De l'art du maintien de l'ordre chez Sieyès, 1791*, in Vincent Milliot (ed.), *Les Mémoires policiers, 1750-1850, Écritures et pratiques policières du siècle des Lumières au Second Empire*, Rennes, Presses universitaires de Rennes, 2006, p. 219-233.

(17) See Vincent Denis, op. cit. Article 12 of the 1789 Declaration of the Rights of Man and of the Citizen, of which Sieyès was one of the main inspirers, reads as follows: "The guarantee of the rights of Man and of the Citizen requires a public force: this force is therefore instituted for the benefit of all, and not for the particular utility of those to whom it is entrusted."

(18) See *ibid.*, p. 154.

(19) History of the French police. Universalis Files, Encyclopaedia Universalis, 2019.

(20) Alain Corbin, *L'état et sa police en France : 1789-1914*, Genève, Droz, 1979, p. 2.

- (21) Maurice Block, *Dictionnaire général de la politique*, nouv. éd. entièrement refondue et mise à jour, vol. 2: H-Z, O. Lorenz, Paris, 1874, p. 573.
- (22) Charles-Aimé Dauban, *La démagogie en 1793 à Paris*, Paris, Henri Plon, 1868, p. 115.
- (23) Colin Lucas, *La structure de la Terreur: l'exemple de Javogues et du département de la Loire*, French translation by Gérard Palluau, Saint-Etienne, SIEREC, 1990, p. 104.
- (24) Jacques Guillaumou, *La loi en acte dans les comités de surveillance des Bouches-du-Rhône*, in *Collectif, Dictionnaire des usages socio-politiques (1770-1815)*, Paris, Publications de l'INALF Collection Saint-Cloud/Klincksieck, 1985, p. 101. The Code of Offences and Penalties of 3 Brumaire An IV divided the powers of the police into administrative and judicial police; the former was responsible for maintaining public order and preventing offences, while the latter was responsible for prosecuting them and bringing the perpetrators to justice (on the problems posed by this separation from the outset, see Paolo Napoli, *La police révolutionnaire*, in *Naissance de la police moderne. Pouvoir, normes, société*, Paris, La Découverte, 2003, pp. 187-250. See also Michel Eude, *Le Comité de surveillance de l'Assemblée législative (1791-1792)*, *Annales historiques de la Révolution française*, no. 176, 1964, pp. 129-148.
- (25) In Belgium, occupied by the revolutionary armies following the Battle of Fleurus (1794), the surveillance committees set up in the country's major towns employed spies to report on "everything that [could] concern public affairs" (Antoine Renglet, *Les comités de surveillance et l'occupation du Brabant (1794-1795)*, *Annales historiques de la Révolution française*, no. 368, 2012, pp. 105-128). Their members had set up an inquisitorial system, based on extensive and meticulous espionage. Vincent Lombard de Langres (1765-1830), a member of the Court of Cassation during the Revolution and then the French Republic's ambassador to Holland, explains: "Numerous and imperceptible agents pursued citizens, not only in public places, but also inside families. Their habits, the time they worked, the time they rested; their movements, their company, their gestures, even their silence, everything was observed, recorded and annotated by the exploring pack. The Jacobins were not yet satisfied; they invented agitators provocateurs, a social plague worthy of its origin, an infernal and odious corruption that they had managed to naturalise in the most frank and loyal people on earth. The brothers' greatest offence is not to have shed so much blood, but to have corrupted public morals for ever" (Vincent Lombard de Langres, *Histoire des jacobins, depuis 1789 jusqu'à ce jour, ou, État de l'Europe*, Paris, Gide, 1820, pp. 14-15).
- (26) Charles-Aimé Dauban, *op. cit.* p. 115.
- (27) Jules Michelet, *Histoire de la révolution française*, vol. 2, Paris, Chamerot, 1847, p. 298.
- (28) Henri Guyot, *op. cit.* p. 150.

(29) Paul de Casteras, *La révolution en province : Révolutionnaires et terroristes du département de l'Ariège 1789-an VIII*, Imprimerie Vialette et Perry, 1911, p. 21.

(30) See Collectif, *150 idées reçues sur l'Histoire*, Pocket, 2011. The following convolutions of Claude-Pierre Dédelay d'Agier (1750-1827) at the Constituent Assembly did not change anything in essence: "we have been obliged, more than once, to recognise that our means were insufficient, particularly in two respects [...] The first is the lack of observers, a kind of army that was at the orders of the old police force. [The first is the lack of observers, a kind of army that was at the orders of the old police force, and which it used so extensively. If all the districts were well organised, if their committees were well chosen and few in number, we would probably have no reason to regret the deprivation of an odious resource that our oppressors have used against us for so long. But it is far from certain that the districts and their committees have reached this state of perfect organisation; and, in doing due justice to many on this point, we are unhappy not to be able to extend this testimony to a greater number. "The second obstacle that we have encountered in our work comes from this bad delicacy, a remnant of our ancient customs, which makes us ashamed to declare what we are doing, even when it is a question of the salvation of the fatherland; and this false modesty (why do I have to admit it?) we have found even in respectable men, whom their functions seem to devote more particularly to the public good. "Let it be said, gentlemen, that it is time to do away with these prejudices, which only suit slaves and are unworthy of a free people. In the past, the character of informer was abhorred, and rightly so, for what did informers achieve? The result was to make known actions that were often very innocent, sometimes even virtuous, and to hand over the alleged culprit either to arbitrary power or to a justice system that was almost as formidable to good people, biased in its investigation, cruel in its methods, secretive and impenetrable in its approach. Today everything has changed. It is no longer acts of virtue or indifferent actions that must be denounced, but plots harmful to the country; and what is the purpose of denunciations? It is not to obscurely lose the person denounced, or to jeopardise his existence, but to bring him before his peers, to be examined immediately; dismissed, if he is found innocent, or, if not, handed over to justice, but to a human, public, impartial justice, which can only be terrible to criminals. So let us stop applying, through a fatal prejudice, to the present day what belonged only to the old regime, and let us not dishonour the reign of liberty with the scourges of slavery. Silence in matters of denunciation is a virtue under despotism; it is a crime, yes, it is one under the empire of liberty. "This is Mr Agier's opinion on the means and needs of the police, and on the twofold understanding of the system of observation and denunciation, according to the diversity of times. And indeed, what made the system of observers odious under the old regime was above all the shameful mission of observing this or that individual, and for frivolous or immoral causes; whereas the mission that Agier would have wanted to give to observers in times of unrest and revolution, that of observing in general the state of affairs and the public spirit, its manifestations and excesses, in order to be able to prevent factious plots harmful to the fatherland or the entire nation, could have been, on the contrary, under certain conditions", quoted in Adolphe Schmidt, *Tableaux de la Révolution française*, t. 1, Leipzig, 1867, p. 130.

(31) "The salary was 30 francs per denunciation; it was doubled for the heads of nobles, priests, religious men and women" (Jean de Brébisson, Fouché, duc d'Otrante, républicain, impérialiste, royaliste, 1759-1820 : Étude sur sa vie Politique d'après des documents inédits, Gabriel Beauchesne et Cie, 1906, p. 46). Denunciation was then "honoured, provoked and rewarded" (Amédée Gabourd, Histoire de Napoléon Bonaparte, 4th edn, Tours, 1851, p. 207; it appears that, especially under the Consulate, informers were favoured and denunciation declined, see Virginie Martin, La Révolution française ou " l'ère du soupçon ", Diplomatie et dénonciation, Hypothèses, vol. 1, no. 12, 2009, pp. 131-140); which did not prevent Fouché from stating in his Memoirs that he "only [wanted] to give the scrutinising eye of the police the direction of observation and not that of denunciation" and from describing espionage as a "vile profession" and which simply shows that the "flies" were so effective that they short-circuited the informers (Memoirs of Joseph Fouché, Duke of Otranto, Minister of the General Police, 2nd ed, Paris, Le Rouge, t. 1, p. 98).

(32) Paul de Casteras, op. cit. p. 21.

(33) See Sonia Combe, Une société sous surveillance: Les intellectuels et la Stasi, Paris, Albin Michel, 1999.

(34) Quoted in Peltier, Paris. Pendant L'Année 1795, vol. V, 1796, p. 278.

(35) Le Livre Noir de MM. Delavau et Franchet, ou Répertoire alphabétique de la police politique sous le ministère déplorable, ouvrage imprimé d'après les registres de l'administration, précédé d'une introduction par M. Année, Revue française, n° 7, 6janvier 1829 [pp. 170-203], p. 186.

(36) Ibid, pp. 178-179.

(37) Eugène Anglade, op. cit. pp. 106-107.

(38) Ibid, p. 105.

(39) Alexis de Tocqueville, L'Ancien Régime et la Révolution, Paris, Michel Lévy Frères, 1856, ch. 2: "Que la centralisation administrative est une institution de l'ancien régime, et non l'ouvre de la Révolution ni de l'Empire, comme on le dit".

(40) Stendhal, La Vie de Napoléon. Fragments. Paris, Calmann Lévy, 1876, p. 283.

(41) Fouché held the post of Minister of Police from 20 July 1799 until 13 September 1802, when Buonaparte, worried about his power, abolished his ministry; he became Minister of Police again on 10 July 1804 and remained so until 3 June 1810, when he was again disgraced, only to be reinstated in his post, this time by Louis XVIII, on 9 July 1815, before being dismissed for good on 26 September 1815.

(42) Stendhal, *op. cit.* p. 284: "Napoleon was afraid of the Jacobins, from whom he was taking away not only their power, but also their daily activities; he set up a police force to keep an eye on them; he would have liked to be able to deport all the leaders; but public opinion would have been revolted by this measure and the fusion he wanted to bring about would have been delayed for a long time. Even by exiling the chiefs, the fear of individuals would have remained with him, and a score of them would have been enough to form a conspiracy and put his life in danger" (*ibid.*, p. 282).

(43) *Ibid.*, p. 283.

(44) Le citoyen Fouché de Nantes, ministre de la Police générale, aux Français, 16 thermidor an VII, quoted in *Moniteur*, 17 thermidor, quoted in Louis Madelin, *Fouché (1759-1820)*, t. 1: *De la Révolution au Consulat*, vol. 1, Nouveau Monde Éditions, 2002 [1901].

(45) *Ibid.*

(46) *Mémoires de la vie publique de M. Fouché, Duc d'Otranto*, 2nd edn, Paris, Plancher, 1819, pp. 29-37.

(47) Quoted in M. Lallement, *Choix de rapports, opinions et discours prononcés à la Tribune Nationale*, t. 1, 2e série, Paris, 1823, p. 101.

(48) *Ibid.* p. 101-102.

(49) *Mémoires de M. Fouché, Duc d'Otranto*, 2nd edn, Paris, Le Rouge, 1824, p. 345.

(50) Quoted in M. Lallement, *op. cit.* p. 101.

(51) Letter to the Duke of Wellington, with observations by M. de Villeneuve, Paris, 1817, p. 31.

(52) One example among a hundred of Fouché's unconditional, to-the-point devotion to the Revolution is the letter, drafted with Billaud-Varenes, Guermeur and Sévestre, that he addressed to the Convention on 23 March 1793, which began with these words: "Citizens, colleagues, the more terrible the present crisis, the more we are obliged to inform you of the imminent dangers that threaten part of the republic. It is because we have slept too long in deceptive security that we have increased them, so to speak. How is it conceivable that at a time when the fires of civil war are being ignited by the consequences of a conspiracy that has been known for three months, no measures have yet been taken by any of the constituted authorities either to prevent the explosion or to halt its effects? These are not simple local riots that are easy to dispel, but almost the entire countryside marching in battle order, led by skilful leaders, with a few firearms and ammunition, and presenting themselves to attack the towns and massacre them. It is ignorance and fanaticism, which have become the blind instruments of the aristocracy, working to destroy the cities, which, more enlightened, are the home of patriotism, and which, destroyed, leave nothing on earth but despotism and slavery". (Arnaud-Louis-Raoul de Martel,

Étude sur Fouché et sur le communisme dans la pratique en 1793, Paris, E. Lachaud 1873, pp. 39-40).

(53) See *ibid.*

(54) Letter to the Duke of Wellington..., p. 11.

(55) *Ibid.*, p. 10.

(56) *Ibid.*, p. 11.

(57) *Ibid.*

(58) *Ibid.*, p. 12

(59) *Ibid.*

(60) *Ibid.*

(61) Catherine Denys, *La Police sous l'Empire. Bilan historiographique*, Jacques-Olivier Boudon (ed.), *Police et gendarmerie dans l'Empire napoléonien*, collection de l'Institut Napoléon, Paris, Éditions SPM [pp. 17-20], p. 20.

(62) Louis Madelin, *op. cit.* p. 501: "Without being seen", his contemporary Bentham would have added. In this extract from a circular sent to the prefects on 31 March 1815 on the subject of surveillance procedures, we see Fouché suggesting in the last paragraph that they do what he forbids them to do in the first: "Thus, sir, your surveillance must not extend beyond what is required for public or private safety, nor become bogged down in the minute details of a curiosity with no useful purpose, nor hinder the free exercise of human faculties and civil rights, by a violent system of precautions which the laws do not authorise; nor allow yourself to be led by vague presumptions and haphazard conjectures in pursuit of chimeras which vanish in the midst of the fear which they cause. Your correspondence, governed by the same principles, must get away from the routine of these periodic reports, these superficial and purely moral glimpses, which, far from instructing and enlightening the authorities, spread errors, prejudices, false security or false alarms around them". "I only ask for and want to know facts, facts that have been carefully gathered, presented with accuracy and simplicity, developed with all the details that can make their consequences felt, indicate their connections and make it easier to compare them". You will notice, however, that your watchdog, confined within narrow limits, cannot judge the importance of the facts it observes. A seemingly unremarkable event in the sphere of a department may be of great interest in the general scheme of things, through its links with analogues that you have not been able to know about: that is why I must not ignore anything that happens in an extraordinary way or according to the usual course of events" (quoted in P.-J. Bugez and P.- C. Roux-Lavergée, *Histoire Parlementaire de la Révolution française*, t. 4, Paris, Paulin, 1838, p. 116).

(63) Michaud (ed.), *Biographie universelle ancienne et moderne*, nouv. éd. revue, corrigée et considérablement augmentée, vol. 14, C. Desplaces, Paris, 1856, p. 474: "In the context of a strong state such as Napoleon's, surveillance became a central tool of government. While we must be careful not to exaggerate its effectiveness, at the risk of falling back into the 'black legend' of Napoleon's political police, we can nonetheless conclude that under the Consulate and the Empire there was a project for the capillary surveillance of society, driven by the ambition of an omnipresent police eye, d'un contrôle social étendu et étroitement lié aux intérêts de Napoléon en personne" (Jeanne-Laure Le Quang, *De l'opposant politique au "suspect"* *Les pratiques de surveillance de la haute police impériale (1799-1815)*, *Hypothèses*, vol. 1, no. 20, 2017, pp. 199-208)

(64) See <https://elementsdeducationraciale.wordpress.com/2020/11/25/une-genealogie-de-la-police-1>.

(65) The following views, which were still relatively widespread at the beginning of the eighteenth century, were therefore outdated: "In an enlightened century, it is easy to decide whether it would be better to monitor the people through religion or through the police, the object of modern suspicions and alarms. In the meantime, it seems that governments could not succeed in maintaining social order without the assistance of religion, because efforts and expenses would not be enough, whereas religion, with its promises and threats, captivates men and prevents crimes. The people already believe that religion saves man in the other life; educated individuals may likewise believe that it saves the state in this one" (Ignacy Łada Łobarzewski, *The Altar and the Throne, Or Legal, Moral and Political Opposition to the Innovative Spirit of the Century*, Saint Petersburg, 1825, pp. 237-238).

(66) Michel Foucault, *op. cit.* p. 216. In the second quarter of the eighteenth century (1724-1747) alone, handwritten news bulletins and police reports, ranging from a simple note of a few lines to an account of several pages, amounted to around six thousand folios (Gilles Malandain, *Les mouches de la police et le vol des mots*, *Revue d'histoire moderne et contemporaine*, t. 42, no. 3, July-September 1995 [pp. 376-404], p. 376; Arlette Farge, *Dire et mal dire. L'opinion publique au XVIIIe siècle*, Paris, Éditions du Seuil, 1992; Steven Kaplan, working on the labour police in the eighteenth century, applies Foucault's questionnaire to his subject in order to show the creation of a disciplinary mechanism with the invention of the workers' booklet at the end of the Ancien Régime; the worker becomes "a file" (Vincent Denis, *L'histoire de la police après Foucault. Un parcours historien*, *Revue d'histoire moderne & contemporaine* 2013, vol. 4-5, no. 60-4/4 bis, pp. 139-155) (emphasis added).

(67) Jean Meyer, *La naissance de Louis XIV*, Paris, Éditions Complexe, 1989, p. 186.

(68) Some derive the word "mouche" from the name of an inquisitor from the first half of the sixteenth century, de Mouchy, informer and spy for the Cardinal of Lorraine (Michel-François Noël and L. J. Carpentier, *Philologie française*, vol. 2, Paris, Le Normant Père, 1831, p. 374),

while others simply relate it to "fly", either because, "like flies, mouchards sneak in everywhere [...], get in the way and are a nuisance wherever they are" (ibid.), or because "flies (go) looking everywhere for their food" (Gilles Ménage, Dictionnaire etymologique de la langue française, nouv. éd, t. 2, Paris, 1750, p. 225).

(69) Nicolas Vidoni, Les "officiers de police" à Paris (milieu XVIIe-XVIIIe siècle), Rives méditerranéennes [On line], 2009, pp. 97-118.

(70) Maurice Cusson, La surveillance et la télésurveillance : sont-elles efficaces ? Revue internationale de criminologie et de police technique et scientifique, vol. 58, no. 2, April-June 2005, pp. 131-150.

(71) See Robert Netz, Histoire de la censure dans l'édition, Paris, Presses universitaires de France, 1997.

(72) See Jean-Marc Berlière, Histoire des polices en France: De l'Ancien Régime à nos jours, René Lévy, Nouveau Monde Éditions, 2013.

(73) Napoleon 1st himself, on 25 March 1811, during a period of Fouché's disgrace, created special commissioners by decree, with the remit of "supervising in particular the public spirit of the inhabitants, the operations of commerce and those of conscription, the customs service, the movement of ports, the coastline and borders, communications with foreign countries, food supplies, libraries, public education, political and religious associations and, in general, all parts of the administration and public services" (Pierre Lacoste, Le Renseignement à la française, Economica, 1998, p. 21; Henry Buisson, La police : son histoire, p. 142).

(74) Alain Bauer and Christophe Soulez, Une histoire criminelle de la France, Paris, Éditions Odile Jacob, 2012, p. 89.

(75) L'Ami de la religion, vol. 162, 1853, p. 226.

(76) Quoted in Emmanuel de Waresquiel, Joseph Fouché et la question de l'amnistie des émigrés (1799-1802), Annales historiques de la Révolution française, vol. 2, n° 372, 2013, pp. 105-120.

(77) Jean-Marc Berlière, with Laurent Chabrun, Dix questions sur la police, L'Histoire, no. 240, February 2000.

(78) Mémoires et correspondance du roi Jérôme et de la reine Catherine, t. 7, Paris, E. Dentu, 1866, p. 386.

(79) Henry Buisson, op. cit. p. 135.

(80) Louis Madelin, op. cit. pp. 507-508; in his Mémoires, Fouché speaks of the "high mysteries of the political police" (quoted in Jean de Brébisson, op. cit. p. 181).

(81) Jean-Marc Berlière, *La professionnalisation: revendication des policiers et objectif des pouvoirs au début de la IIIe République*, *Revue d'histoire moderne et contemporaine*, vol. 37, no. 3, July-September 1990 [pp. 398-428] p. 428.

(82) Jeremy Bentham, *Panopticon*, *Works of Jeremiah Bentham*, vol. 1, 3rd edn, Brussels, 1840, p. 225.

(83) *Ibid*, p. 226.

(84) Michel Foucault, *Dits et Écrits*, t. 2: 1970-1975, Paris, Éditions Gallimard, 1984, p. 729.

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The republican police force therefore had to respond to four challenges: ideological, political, methodological and technical. In the "good towns", a qualification granted from the mid-thirteenth century onwards by the king to certain towns with sworn magistrates and holding the right of bourgeoisie from the king with exemption from several taxes, the police force had not yet been institutionalised, and the maintenance of security still depended on the solidarity of the townspeople. "Good towns were not yet the large cities that gave rise to the police; they did not have crowds" (1). In the nineteenth century, the police were a response to mobs, to "the masses suddenly organised into vengeful or simply protesting mobs" (2), such as those that turned Paris upside down between 14 July and 6 October 1789. From the Canuts revolts of 1831 and 1834, to the insurrection of 1848, the Republican demonstrations of 9 May 1870, the Paris Commune of 1871, the workers' revolt in Fourmies in 1891 and the student riots of 1893, the police had to learn to deal with crowds - and not just angry crowds: even so, riots were exceptional cases. Indeed, the mob itself was seen, to use the title of a book by the Italian jurist Scipio Sighele (*La folla delinquente*), as criminal. The republican police was "a response to crowds, not to crime" (3).

In the provinces, municipal police forces were still too weak to deal with popular uprisings, and it was left to the army and the gendarmerie to do the job (4) in the event of riots or serious disturbances. In Paris, a municipal police force of several thousand peacekeepers, backed up by the Garde Nationale - even if the latter, generally hostile to democracy, sometimes set an example of rebellion (5) - generally handled the task without difficulty (6), in uniform - or not. The journalist and novelist Alphonse Karr (1808-1890) spoke of "some of the police, and most of them, - who proceed like thieves, - that is to say, by surprise and by ambush. These people, who are let loose in riots without any insignia, move indiscriminately on onlookers and rioters, and hit both with intolerable brutality. This is savagery:- all agents of authority must be

recognisable by distinctive marks; any citizen who offers them the slightest resistance must be punished with the utmost severity; but every citizen has the right to kill like a dog any man who, without being recognised by an unmistakable sign as an avowed agent of authority, lays a hand on him to hit or arrest him" (7). Uniformed police officers were not to be outdone and, as a result, quickly earned a solid reputation for brutality and ferocity, which they sometimes used against peaceful demonstrators, onlookers and passers-by (8). During the unrest at the Bourse du Travail in 1893, to give just one example, "municipal councillors and deputies, [who] without defending the rioters, complained about the violence of the poorly directed police, who were sometimes inert, sometimes unexpectedly brutal, and pointed out that the rules prescribed by law for disturbances were not observed" (9) - in particular the summonses.

The "rioters", as you'd expect, were no slouches (10).

Nevertheless, a degree of pacification occurred over the course of the century. From the First to the Second Empire, "the frequency of clashes was divided by three and the rebels, victorious six times out of ten at the beginning of the century, were defeated seven times out of ten in the 1850s" (11). This - relative - decrease was mainly due to a combination of six phenomena.

The first was the unionisation of workers. Until the end of the nineteenth century, when workers tried to force their employer to meet their professional demands, they fomented riots; at the beginning of the twentieth century, they demonstrated, supervised by their unions' security services; violence during these demonstrations was no longer more than peripheral. Although recognised as a fundamental freedom in the Declaration of the Rights of Man and of the Citizen, the right to demonstrate was not enshrined in French law until October 1935. The right to demonstrate was, and still is, subject to a prior declaration specifying the route of the demonstration and identifying the organisers. "If the police authority considers that the planned demonstration is likely to disrupt public order, it shall prohibit it by means of an order which it shall immediately notify to the signatories of the declaration at their elected domicile" (12).

The second was the strengthening of the monopoly of legitimate violence by agents of the State, a monopoly made possible by the increase in the number of gendarmes (12,300 men in 1800, 18,000 in 1853) and by a clear decline in the traditions of community self-defence since the second half of the eighteenth century. "Whereas under Napoleon I, the distribution of edged weapons and firearms was equivalent from one camp to the other (32% for the *atroupés*; 39%

for the gendarmes), it became an almost exclusive asset of the gendarmes under Napoleon III (12.5%; 64.5%) (13).

The third phenomenon was the considerable strengthening of the repressive apparatus, whether police or judicial (14), in the 1880s, under the guise of the fight against anarchism (15).

The fourth, linked to the professionalisation of the police (16), to which we will return later, was the development of real policing techniques, which became a "knowledge of the crowd". Two methods were used depending on the circumstances: the first, employed during a demonstration by labourless people at Les Invalides on 9 March 1883, and during another demonstration by labourless people on the Place de l'Opéra at the end of 1884, "consisted of acting in large masses and clearing the whole thing out at once [...]. [...] A popular movement was announced. The brigades were made to take up position two hours beforehand at the point designated as the rendezvous. Thus, for example, the Place de l'Opéra was occupied from two o'clock in the afternoon by six hundred policemen, reinforced by fifty cavalymen from the Republican Guard. At four o'clock, when the three or four hundred anarchists arrived, they found the police in a deep mass. They didn't dare start a fight and immediately dispersed" (17). The first method was therefore to occupy the premises before the rioters took possession of them. "The second method is known at the Préfecture de Police as 'la louvoyante'. It involves waiting until a few shopfronts have been smashed or a few windows broken before intervening. The officers are then dispatched in small squads. They chased the rowdies from one street to another, arrested a few rowdies here and there, and then returned to their posts. The next day, the columns reformed in other streets, they waited for some damage to be done and then sent small packets of agents out again. This happened three, four, five days in a row. Then, as everything has to come to an end, no one leaves their homes and we congratulate each other" (18). In fact, the Préfecture de Police had a third method in its bag, called the "summons method" by Louis Puibaraud (1849-1903), Director General of Research at the Préfecture de Police. "When police officers break up a gathering and an individual resists them, they apprehend him and take him to the station. The individual is prosecuted for rebellion under article 212 of the Criminal Code, and can be sentenced to between six days and six months in prison. In practice, these arrests are made one by one, man by man, and it takes two officers to bring the arrested individual to the station. These repeated operations therefore leave the manoeuvring brigades bare, and it is not without example that some Prefects of Police have recommended arresting as few people as possible, for fear of disabling the columns. Push back and disperse, that was the order. It follows that, as the officers cannot easily push back compact groups and they are ordered to stop as little as possible, they lose patience, their fists close and regrettable scenes occur. Arrests are made which are sometimes quite unfounded. Using the legal method, on the other hand, arrests would be made quite differently. The mere fact of having resisted the individual invitation of an officer, but of

having been part of a mob, would be sufficient grounds for arrest and prosecution, after the summonses required by law. It would then be sufficient to surround all or part of the gathering and to push the 'permanent' people into a closed place, such as a police station, police headquarters or any other public building, from where they would be taken to the Dépôt by cell car" (19). Puibaraud's description of this method ends in the conditional tense, because, he regretfully points out, it is "the only one [the police] do not use (...), [although] the public prosecutor has always advocated it" (20). The prefect Lépine innovated with various instruments: the "Mouquin merry-go-round", which consisted of having the municipal guards on horseback ride around non-stop in close ranks; the fire hose, the forerunner of the water cannon, before Edmond Locard in 1918 advocated the use of the "rubber baton, a marvellous tool that stuns but does not kill" (21).

The sixth phenomenon was the regulation of the movement of people and goods in urban areas. After 1750, population movements in the kingdom of France had become more intense, particularly towards the cities: "Urban growth raised unprecedented problems in the areas of supply, health and the maintenance of order. The Malthusianism of the elite with regard to a perverse, man-eating city was clearly expressed right up to the end of the Ancien Régime. Split between the pragmatic acceptance of openness and the temptation to withdraw, from the end of the seventeenth century and throughout the Enlightenment the urban authorities piled up regulations that reactivated old provisions, but also increasingly took the path of innovation. The reorganisation or renovation of measures designed to control people and their movements was an important part of a general movement to reform urban policing, aimed at modifying the principles and methods of social control hitherto used in cities" (22). In the eighteenth century, with the growth of the city and of transport, the idea of the city as an organism whose blood circulation needed to be fluid developed, while more autonomous police discourse, knowledge and practices emerged. Ensuring the freedom of the road was one of the civil duties of the Parisian police commissioners and their teams, even if [...] it was generally abandoned in favour of the more lucrative judicial functions" (23). "Above all, the street must be free and clean" (24), declared Prefect Lépine in 1903. In the meantime, a new means of locomotion had appeared.

The Police Ordinance of 20 January 1832 stipulated: "No one may park, even temporarily, on the public highway to display goods or carry on an industry, except by virtue of permits issued by the Prefect of Police for certain points where it has been recognised that such parking will not hinder traffic" (art. 1). In addition, "the police commissioners will put an end to any obstruction of the public highway by immediately removing and transporting to the police headquarters, at the offenders' expense, any goods, cars, tables, mannes and other objects or equipment that may be obstructing the free flow of traffic" (art. 6) (25). From the end of the 1820s, "circulation" no longer referred solely to the movement of people, but also to all vehicles in circulation. Between

1819 and 1891, the number of vehicles in Paris rose from 23,000 to 45,000. In 1829, Prefect Debelleyme set up a special traffic brigade; made up of twenty officers, a peace officer and a police commissioner, it was, along with the balls and festivals service, the first specialised brigade (26). Its task was to look after traffic, in particular parades of carriages at theatres, boulevards, balls and public ceremonies, as well as the surveillance of public carriages, i.e. coachmen. Its officers were also responsible for intervening on the roads, particularly in the event of accidents (27). Their numbers tripled following the major reform of the municipal police in 1854. In the meantime, pavements, which had appeared at the end of the eighteenth century, had become widespread as part of the Haussmannisation of the capital, whose watchwords (like those of the police) were traffic flow and rationalisation. As soon as they were pierced and paved, the major avenues were, as one contemporary reporter put it, "given over to traffic" (28). In 1892, Prefect Lozé increased the number of police officers in charge of traffic to 164, under the command of an officer of the peace, four brigadiers and 16 sub-brigadiers, whose task was "no longer just to deal with traffic from the pavements or the local car stations, but [to] organise traffic" (29), to "keep an incessant and severe watch on the cars and especially on those terrible butchers' and milkmen's carts, which have no numbers, snake through the others with a noise like scrap metal, turn the corners of the streets abruptly and make people think that these shopkeepers are the most hurried of men" (30). City dwellers played along: "In London, the policemen, placed in the busiest traffic areas, make the cars get in line or stop them with a wave of the hand, with the greatest of ease. In the busy intersections of Berlin, a mounted policeman wearing a helmet handles the crowd with a military stiffness that never meets with resistance" (31); except in France, where, Puibaraud deplored, "authority is readily scoffed at and always discussed. The French coachman undoubtedly stops at the officer's signal, but he never fails to enter into conversation with him: it's the cars next door that are blocking the road, it's the comrades who aren't going fast enough, and so on. The worst thing is that our peacekeeper responds. Useless arguments ensued. Nothing like this ever happens in London. A policeman does not enter into conversation with a coachman. All the coachman has to do is obey, and he obeys without grumbling" (32). Things did not get any better when, at the beginning of July 1898, Lépine had the idea of equipping these plantons with a white stick (33), and Parisians, attracted by the spectacle, gathered at the crossroads of the main boulevards (34). Apart from this disadvantage, which would disappear as the attraction of the novelty wore off, the white stick, "[v]isible, carried at arm's length, [...] allowed the flow of cars to be punctuated by easily understandable gestures. It led to the de facto emergence of a simple signalling code (the codification was not formalised in texts), as well as a new technicality of the police body and gestures. Parisians were not mistaken. Throughout the period, inventors, spurred on by the launch of the Lépine competition in 1906, were constantly coming up with ever more sophisticated signals. Powered by electricity, sometimes with a play of colour (the 'traffic lights' were not far off), sometimes with circular movements, the projects all tended towards the mechanisation of the police force. Whether intended or actual, this trend - and therefore the virtual mechanisation of car driving - was confirmed in February 1900 with the introduction of

the whistle. Used by the sub-brigadier, the whistle was initially used to give the signal for the guards to set off with their batons. In this way, the hierarchy tried to regulate the actions of the guards in order to regulate those of the drivers. The designations also reflected this new role. In 1900, the service, until then officially known as the "5th Brigade", became the "Car Brigade" in prefectural terminology, reflecting the increased importance of its role. It also took on the nickname 'brigade des vaisseaux', in reference to the ship featured on the city's coat of arms, which adorned the right sleeve of its officers: the attribute is both the symbol of the capital (echoing its motto, *fluctuat nec mergitur*) and that of the function (regulating the flow of cars)" (35), heavy vehicles, four-wheeled carts, hitched carriages, buses, trams, bicycles, each moving at a different pace (the number of tickets for speeding or lack of number plates increased sharply at the beginning of the 20th century) (36). The Highway Code was not introduced until 1921, but from the outset, the white stick played its part in the "process of civilisation". Agents," Elias observes with great insight, "regulate traffic with varying degrees of skill. But this regulation of traffic presupposes that each individual regulates his own behaviour according to the needs of this network of interdependencies through rigorous conditioning. The main danger to which man is exposed here is the loss of self-control by one of the users of the public highway. Everyone has to demonstrate unflinching self-discipline and highly differentiated self-regulation of their behaviour in order to make their way through the jostle" (37). There's nothing like hypnotic procedures to gently internalise standards of conduct.

Whether mobile or by car, crowds made it difficult to maintain order and, secondarily, to track down delinquents in big cities (secondarily, because, paradoxical as it may seem to our contemporaries, tracking down and apprehending delinquents, as we have already pointed out and as we will show below when discussing the question of "security", is far from being the priority task of the so-called "forces of order"). "In big cities, it is no longer isolation that frightens people but crowds. Criminals no longer hide away from their fellow human beings, but in their midst. To hide, they don't change their appearance - that's not noticeable in a crowd - but their identity. In the nineteenth century, identification procedures arose precisely from these new methods of concealment, which thwarted ordinary detection routines" (38). For, wrote a technician at the end of the century, whom we shall discuss at length below, "Everything in policing is a matter of identification. A crime has just been committed by an unknown person; the task of the police will be: 1° to discover the individuality of the culprit; 2° to seek him out in order to arrest him; in other words, to identify him in the midst of the crowd of human beings. From the beginning to the end of the judicial investigation, there are nothing but questions of identity, description and description to elucidate, taking as a basis the very vague and misleading elements of witnesses, it is true, but in the midst of which the new method has the merit of shedding some light". "Is this not the first step towards a forensic police force in which the technical knowledge of manhunting would be coordinated? Up until now, everything in this area has been left to instinct, i.e. routine. [...] There is no doubt that the police of the future will be

able to apply the rules of anthropology to their particular hunt, just as our locomotive drivers apply the laws of mechanics and thermodynamics" (39).

The first men to be identified by a distinctive mark were, it will be useful to bear in mind throughout the following paragraphs, slaves and criminals, as well as soldiers. In ancient times, Greek slaves were branded with their master's name, while Roman soldiers had the name of their general engraved on their arm. Criminals were branded on the forehead. Under Charlemagne, to identify professional brigands, one eye was gouged out on the first conviction and the nose on the second. Under the Ancien Régime, convicts were branded with a fleur-de-lys, while prostitutes and madams were branded with a P and an M respectively, on the forehead, arm or buttock (40). As technical advances were made, identification was gradually extended to other categories of people, starting with travellers. The introduction of paper in Europe by the Arabs of Spain, North Africa and the Levant in the 11th and 12th centuries, a thousand years after it had been invented in China (in China, at the beginning of the Han dynasty, the authorities issued passports bearing information on the holder's marital status, physical appearance, the purpose of his journey and the route he intended to take), led to the emergence of the letter and the passport.

A letter of safe-conduct or recommendation was a document issued by a civil, military, religious or municipal authority, allowing diplomats and messengers, merchants and travellers to move around freely or to stay in a place without being bothered (41). The granting of a letter was a privilege - for which a fee was charged. Letters, "[a]s identification techniques, [...] link and identify two sets of duplicates. The first set is the sender and the sender's handwriting. One way of authenticating the identity of the sender in his absence was to protect the letters with secret passwords agreed between the sender and the recipient. Another method was to identify the handwriting by what Bernard de Clairvaux called the *identitatem manus*, or "identical hand". Another method, used from the 11th century onwards, consisted of writing hidden signs (*intersigna*) in the text itself. Paper also made it possible for the first time to use watermarks for authentication [...]. The purpose of these real signs was to reveal the legal validity of what was contained in the letter of safe-conduct or *conductus*, or *salvocondotto*, which was commonly used to cross borders from the 12th and 13th centuries onwards. "The second set of duplicates identified by the letter technique includes the bearer of the letter and the contents of the letter" (42). More often than not, all the bearer had to do was state the identity of the authority that had issued the letter, which could contain a physical description of the bearer or details of his itinerary. Despite all these precautions, one might be tempted to say that identification was never absolutely certain, if only because counterfeiters were one step ahead in this new field too (43).

It was in the mid-fifteenth century that, "due to the development of paper production, these devices gradually became more widespread and began to be used for new purposes. Other means of identification were therefore required" (44) and, above all, the letter went from being a privilege to an obligation for all travellers. From the fourteenth century onwards, the first to pay the price were "large sections of the population whose main characteristic was that they were mobile following the collapse of feudal society, [who] were subject to identification policies aimed at tackling 'the refusal to work and social marginality'" (45). This was particularly the case for vagrants, "people without a confession", "without a master", who were required to carry identity documents in order to move around; for workers and servants, who were obliged to hold holiday tickets and work certificates to prove that they were not vagrants. "The certificate had to specify the reason for the journey and the date of return to the region of residence. These attempts to limit the mobility of the workforce bear witness to the strength of travel flows. What is clear is that paid workers, who worked under contract in accordance with the law, received permission to travel. So it was not travel that posed a problem, but mobility without an employment contract, a mobility that threatened the means then available to control both the level of wages and the work done" (46).

The state, which was still in the process of being bureaucratized, was reinforcing its "emerging monopoly of legitimate means of travel" (47). Thus, in fifteenth-century Italy, on the pretext of combating the plague, travellers were required to produce (for a fee) "health reports" (*bollette di sanità*), "a kind of health passport [...] guaranteeing that the epidemic was not present when the traveller bearing the document left his home town" (48). In the following century, when health bulletins had appeared in other European countries, an English traveller "explained that Italian cities used lazarets and quarantines not only for prophylactic purposes, but also - and above all - to keep a meticulous check on passers-by and their goods by examining certificates detailing the condition and quality of the goods being transported" (49). This new document contained much more personal information about the bearer than the previous documents in use: domicile, name, age, physical characteristics, destination and reason for the journey. "The purpose of these health tickets was not simply to reveal the symbolic imprint [the seal] of the authority and health administrators issuing the documents, but to reveal the internal biological content of an individual body and to determine the legal limits of its mobility" (50).

According to one historian of the concept of identity, the term "passport" gradually replaced "sauf-conduit" in the fifteenth century (51). "The priority was not yet to specify the identity of the bearer, and the main thing was to have the document with you, to be the holder. The identity inscribed on it is still secondary to the function of the document itself" (52). Things changed in the sixteenth century, when the territorial states made passports permanent. As they had to be paid for, passports were an important source of revenue. "Initially issued to diplomats in times of

war, they were eventually granted to travellers in times of peace. In this way, their use grew in importance among merchants and pilgrims, before being imposed on migrants. Passports quickly became a means of monitoring individuals and cracking down on "vagrancy" and begging (53).

From the mid-sixteenth century onwards, poor recipients of bread and money had to be "registered" with the assistance organisations, which provided them with a certificate (ticket or card) or a metal token, which they had to produce at the time of the weekly distribution to prove their registration with the office (later, they had to sew a badge onto their clothing to be recognised (54)). The result, under the administrative monarchy established by Colbert, the Minister of Finance, was "an obsession with registering everything and everyone. From the end of the sixteenth and beginning of the seventeenth centuries, the authorities began to register everyone and everything. The desire to identify anyone who moved or was moved stemmed from a complex set of motivations. The aim was to control people, animals and goods in order to regulate markets for animals and goods, and to anticipate and prevent social and political risks [...]. In general, this practice consisted of exercising power and control over mobile objects. It could be said that it was not simply a question of disciplining criminals, but rather of acting on an awareness that mobile actors in general could be dangerous" (55). The result was an enormous mass of information about individuals, which would be used to identify them. Whereas the identity of the bearer of a safe-conduct was verified directly by the person to whom it was given, the identity of the bearer of a passport could only be verified by comparing the information on the passport with the information held on him by the authorities, and therefore in his presence or absence. This only became possible in the 20th century.

At the beginning of the eighteenth century, the use of documents to prove identity was still relatively limited; a passport was defined as permission and a recommendation given to an individual or group to travel. "As far as civil status was concerned, a whole body of royal legislation, in particular the Criminal Ordinance of 1667, required registers of baptisms, marriages and burials to be kept in each parish, in order to provide evidence of an individual's 'state' in court, should the need arise. However, these methods were still rarely used, and the 1667 ordinance still allowed the use of witness evidence if the identity of the person could not be proven by written documents" (56).

The military administration was the cause of a reversal.

Until then, the passport had simply indicated the name, profession and origin of the bearer, but an order of 2 July 1716 on recruitment required regimental majors to keep an up-to-date register for each company, with a list and initials specifying the forenames, surnames and military names of sergeants, corporals and soldiers, their place of birth, age, height, hair colour, date of enlistment, description, date of death, date of absolute leave or desertion, "and any other signs that might identify the soldiers for whom they were sent, so that they could not be used for anyone else but themselves" (57). This identity card, unusual at the time, was difficult to accept for people of quality, who considered it an attack on the individual (58). However, it was imitated by the ordinance of 10 November 1718 against vagrants and people without documents, which obliged peasants, workers and merchants who travelled in the general area of Paris to carry a certificate issued by an intendant, on pain of being arrested as vagrants and beggars. The measure, which was extended to the whole of the kingdom by the royal decree of 10 March 1720, was hardly ever applied and quickly fell into disuse (59), until it was reactivated by the decree of 19 April 1760, which instructed the horsemen of the *maréchaussées* to arrest "all those who appear suspicious to them, then by that of 27 April 1778, which obliged arrested suspects to prove their statements "concerning their names and status, the places of their residence and those from which they come" by "showing the certificates and passports which the individuals thus arrested must carry". The ordinance in fact authorised the *maréchaussée* to arrest anyone without papers, provided they appeared suspicious (60).

The ordinance of 2 July 1716 was also imitated with regard to the identification of "foreigners". By "foreigners" we mean people who are not domiciled in the town where they are staying.

The old regulations, reiterated by the decree of the Council of 22 December 1708, the edict of March 1740, the police ordinance of 8 November 1780 and that of 16 January 1790 (their application was extended by the police ordinance of 15 June 1832 to municipalities under the administrative jurisdiction of the police prefect), stipulate that "[i]n Paris, owners who rent out their own houses or flats furnished with furniture are obliged to keep a double register in which they must record the persons to whom they are renting out". They were required to submit their registers to the town hall at certain specified times and to make them available at all times to the police commissioners and officers who visited their homes. From 1708 onwards, inspectors, auxiliaries to the *Châtelet* commissioners, were specifically tasked with supervising landlords and mobile people, such as resellers, second-hand dealers, charlatans and cattle dealers. These "are all subject to individual registration and reporting in police offices and to the assignment of their activity to a fixed location to facilitate their control. Each time, the surveillance of a group gives rise, if not to the creation of a specialised branch of the police, at least to the specialisation of some of its officers. There is a gradation in surveillance and identification. While some, such as charlatans and medicine sellers, simply had to register their name and address with the police,

itinerant street traders were gradually forced to carry visible signs of identity, such as numbers, because they were on the move, as were port porters. This last case shows that the signs used for identification at this stage combine visual signs, part of the 'culture of appearances' and inter-recognition, with the introduction of a registration system that promotes 'paper identities' and facilitates checks against registers" (61).

Finally, a similar system was introduced for workmen in the early 1770s. Letters patent dated 2 January 1749 had imposed on journeymen and workers "the obligation to take express written leave from their masters, on pain of a hundred pound fine. This leave, if refused by the master, was issued by the local police judge, provided that the workman had completed the work he had started with his master, and paid any advances that may have been made to him. The masters, for their part, could not employ journeymen and workers who had worked for others of their trade and profession, without written permission from the masters whom they had left, or from the police magistrates, on pain of a fine of three hundred livres for each contravention, and of all costs and damages" (62). It was a response to the authorities' desire to fix the workforce. In 1781, new letters patent stipulated that workers had to carry a book or notebook in which to record the various certificates issued to them by the masters with whom they had worked or by the police judge. Abolished by the law of 17 March 1791, which destroyed the system of guilds, masterships and jurands, this law was reinstated on 22 Germinal An XI. The Consuls' decree of 9 Friminaire, Year XII made the passbook compulsory only for workers employed as journeymen or boys, i.e. those engaged in manual occupations related to an industry, excluding apprentices, day labourers and foremen employed in a factory. Made compulsory on 12 April 1803, it was abolished in 1890.

In the 18th century, the army provided the police with a set of identification methods and principles, which they immediately tried to apply. In the 1760s and 1770s, reporting became the norm. The absence of papers, which had hitherto been secondary or incidental, became a much more frequent cause of arrest. More and more information, including age, was recorded on the bearer's identity. Henceforth, "[i]t[s] part of the signs of validation, by which the document proves its authenticity by itself: printed form, stamps, signatures. They tend to multiply as the police attach greater importance to these documents. The passport became a duplicate of the person's identity. However, because it was issued on the basis of verbal or written testimony from witnesses, from neighbours to the parish priest, and not on the basis of recorded information, it remained (still) dependent on traditional ways of knowing each other, despite the innovative aspirations of the police" (63). Even if its scope remained limited, the police authorities deduced three things from it: "the need for standardised written documents, the need to centralise information, and the importance of having a single body to validate them. While police powers remain to some extent dependent on traditional networks of sociability, since

information about a person is most often initially attested by familiar witnesses, the police assume a prominent role by issuing the written document that solemnly guarantees them. In this way, they superimpose themselves on the relationships between individuals, or try to take them over (64). In any case, willingly or unwillingly, the poor - who, as mentioned above, were the main target of scriptural identification - got into the habit of carrying a passport, even a fake one, which is "an ironic sign of the success of the police's pedagogy" (65).

The use of passports, considered a symbol of the arbitrariness and authoritarianism of the Ancien Régime (66), was abolished by the Constituent Assembly, only to be reinstated under the Terror by the law of 10 Vendémiaire An IV (2 October 1795). Title III stipulated that no-one could leave the territory of their canton or travel within the country or abroad without a passport signed by the municipal officers (art. 1). Any individual found outside his canton without a passport is immediately arrested and detained until he can prove that he is registered in the register of his commune of residence (art. 6). If they fail to do so within two decades, they will be deemed to be vagrants without a confession and will be brought before the competent courts as such. Title I of the law stipulates that a register will be drawn up in each commune of the Republic, containing the names, age, status or profession of all its inhabitants over the age of twelve and the date of their entry into the commune. When a resident moves from one commune to another, they are required to inform the administration of their new commune and are given a registration number on the communal list. Title III, art 3 of the law states that each passport will contain the individual's name, signature or declaration that he or she cannot sign, will refer to his or her registration number on the municipal roll and will be renewed at least once a year. To this end, the departmental administration will send each municipality or municipal administration a model passport. The first part of the passport shows the date of issue, the applicant's identity, the municipality of residence with its registration number and the place to which the applicant must go; the second part shows the applicant's age, height, hair and eyebrow colour, eye colour, size or shape of nose, shape of forehead, shape of chin and shape of face. The passport issued must be produced by the traveller at any time during the journey, on pain of imprisonment for vagrancy. Passports" were nonetheless full of "vices", to use the language of the observers of the time. Counterfeit passports were very common at the time. Each departmental administration produced its own passports on simple stamped paper, using the typeface of its choice. Counterfeiters could easily obtain them and imitate stamps and signatures. The variety of models available throughout the country makes verification difficult. Added to this is the laxity of certain administrations with regard to witnesses and proof of identity, and the shortcomings of the reporting system" (67). A commission of the Conseil des Cinq-Cents had set about reforming passports just before the coup d'état of Brumaire, but it was Fouché who introduced it in 1806.

At the end of the Directoire, a certain Bonet de Treyches, an ex-conventionalist and former member of the Conseil des Cinq-Cents, had published a *Mémoire théorique et pratique sur les moyens d'assurer la police des passeports dans toute la République*, in which he claimed to "ensure the security of the passport system and [...] guarantee the identification of individuals by influencing only the medium and form of passports, in contrast to the laws and regulations that took little interest in this area. The brief, which can also be read as a veritable breviary against counterfeiting, discusses the choice of paper, typefaces, inks and the use of colours. It presents the advantages of adopting a watermarked paper known as "sympathetic", where any alteration will be visible. The author also advocated the use of a new kind of printing process, and the use of sophisticated techniques such as 'stereotyping', i.e. the merging of movable characters into a single block, enabling one passport to be recognised simply by superimposing it on another. In the end, Bonet proposed unlimited applications for his costly but effective process: the printing of security cards, life and residence certificates, cartouches, military leave and patents, letters of marque, lottery tickets, etc. He suggested rationalising the entire printed production of titles and certificates issued by the State" (68). Around 1804, Fouché took Bonet's project out of the archives and set to work, supported by the conseillers d'État under his command. The model adopted by the Napoleonic police retained only some of the innovations proposed by Bonet: "a special paper, provided with a watermark, and inalterable, inks and engravings of a new type, allowing recognition of forgeries by superimposition, a counterfoil finally, to allow infallible verification with the detached passport" (69).

Without affecting the general provisions relating to passports (70), the law radically changed the way they were issued: the law stipulated that "[p]assports for the interior of France are issued by mayors. They may only issue them on uniform paper, supplied by the Minister of the General Police"; on uniform paper and therefore at a cost; "supplied by the Minister of the General Police": before the Empire, no institution controlled the entire issue and control of these documents. The Prefecture had a passport office, but also enjoyed another prerogative: issuing residence permits in Paris. The Prefecture's fourth division was responsible for monitoring travel in Paris, in addition to the garrison police (71). "Every day, this division sent the Ministry of the General Police a detailed list of residence permits issued and departure visas. [...]. The Ministry was thus informed on a daily basis of the identity of each person arriving in Paris, their place of residence and the reasons for and duration of their stay. To this must be added the formality of the departure visa, which makes it possible to know the traveller's destination, but also sometimes to check their itinerary when they leave the capital". "The aim of the system, as reorganised from 1804 onwards, was to achieve total transparency of the territory and the movements that took place there. To be able to 'track' travellers, in the words of the author of a memoir on passports" (72). Although the main targets were officially political opponents, outsiders, rebels, draft dodgers and deserters, foreigners and French nationals travelling abroad, suspected of being spies in the service of the regime's enemies, passports were "considered an

indispensable precaution for tracking and monitoring the movement of people" (73) in general, including, consequently, the destitute, who, for those who lived on an "economy of expedients", had to travel regularly (74). However, by making passports compulsory, Fouché had contributed to making these individuals de facto illegal, as their meagre resources hardly allowed them to pay the price of a passport. The result was a boom in the manufacture and counterfeiting of passports and, consequently, additional crime. For a long time, passports were considered "unpleasant to [honest people] and ineffective against scoundrels" (75). The main thing - from the State's point of view - was that the passport "market", closely linked to the surveillance of delinquents, required the recruitment of new agents, whose increase in number was certainly not proportional to the rate of elucidation of crimes and offences (76). "From being a mere cog in the wheel of the Ministry of the General Police under the First Empire and at the beginning of the Restoration, the Prefecture of Police had become a major administration whose chief had almost as much power as the Minister of the Interior, his superior" (77). Who benefits from crime?

Identifying repeat offenders was of particular importance. In this circular of 23 October 1849, intended to identify repeat offenders, the Minister advised prefects to collect "with the greatest possible care all the particular signs that affect the habit of the body, because with the help of these signs, the individual who does not want to recognise as applicable to him a previous conviction, is materially obliged to confess [...]. A description of the face must also be made, with indications of signs that can be used to establish identity" (78) The abolition of the branding of criminals under the July Monarchy had seriously complicated the task. Efforts to develop techniques for identifying repeat offenders gave rise to forensic science and, as a result, the forensic police, which today has two thousand four hundred officers (specialised forensic police officers, forensic police technicians, forensic police engineers), including one thousand eight hundred field officers and an unimaginable number of cotton buds and tweezers (79). The use of scientific methods by the police helped to change the image of the police officer, the image that the public had of him and the image that he had of himself, by making him appear to be a professional, by making his job appear to be a real profession.

To try to determine the identity of prisoners, the police first used physiognomist inspectors or informers, recruited from the underworld and whose effectiveness was due "in large part to the 10 F bonus paid by the Prefect of Police for each identification of an offender" (80). Then there were the identity cards. The Prefecture of Police had drawn up millions of them (5 in 1879), but their classification in alphabetical order made searches almost impossible; this enormous mass of documents remained unproductive because, to be sure of an individual's identity, it would have been necessary to successively compare his description with those contained in millions of cards (81). In 1819, a member of the editorial staff of the prisons office proposed to the Prefect of Police that a "gallery of portraits of the troublemakers of society" be compiled using a

physionotrace, a device developed around 1784 by the cellist Gilles-Louis Chrétien, which made it possible to record "the projection given by the contours of the shadow cast by the body on a plane when it is placed between that plane and a point of light" (82). No more than Chrétien had succeeded in convincing the Académie des Sciences in 1786 to use this process to "file" soldiers in order to better track deserters (81). Huvet failed to convince the Prefect of Police to use it to identify "troublemakers in society". The invention of photography changed all that. The process was first used in a Brussels prison in the 1840s, and the French police soon adopted it. A "descriptive photograph" of each detainee was attached to his handwritten record. "However, as the photo in question was not subject to any rules of uniformity, the result was more often than not an artistic portrait of the detainee, unusable for identification purposes" (84).

In 1853, three years after the official creation of the criminal record, Louis Mathurin Moreau-Christophe, Honorary Inspector General of Prisons, wrote a memorandum to Napoleon III entitled "Photographie signalétique, ou application de la photographie au signalement des libérés". Some saw photography as a panacea for identity and forensic investigations. Imagine that by subjecting the retina of a murdered person to the daguerreotype, one could find the image of the person who had struck him" (85). The *avocat aux Conseils* Adolphe Chauveau was full of praise for the invention and the inventor: "There is no one," he rightly said, "who has not heard of the marvels of photography, this ingenious process which consists in fixing on paper, by means of an operation lasting a few moments and using the daguerreotype, the image of a person or an object, with the most perfect conditions of resemblance. For some time now, people have been wondering whether this art might not offer inexhaustible resources to replace all the methods used up to now to define and represent specific objects accurately. Among the various applications of photography, we should mention the identification of prisoners under surveillance. Mr. Moreau Christophe, honorary inspector general of prisons, my honourable friend, has calculated that by setting up a camera in each of the central prisons and by estimating at 100 the number of the most dangerous convicts annually released, and supposing that, from each of these individuals, 100 prints were made for the ministries and for the 86 chief courts of assize, the organisation of this reporting system, after having required 35,000 fr. of initial set-up costs, would not require an annual expenditure of more than 20,000 fr. for 170,000 identification prints. If we consider the importance of accurate reporting, not only for released convicts, but also for all criminals that society is interested in keeping a close eye on, we will be forced to agree that the expense would be quite modest compared to the results that could reasonably be expected. Moreover, the more widespread these kinds of devices became, the more they would be used. Thus, there would probably come a time when the so defective markings on passports would be replaced by a photographed portrait that would make any confusion or abuse impossible" (86). The *Bulletin de la Société générale des prisons* disagreed, stating that the organisation of a forensic photography service in each departmental capital, such as the one set up in 1872 within the third bureau of the Paris police headquarters (it was not officially

recognised until two years later by the Préfet de police Léon Renault) (87), would have entailed considerable expense"; In *De l'identification par les signalements anthropométriques* (1886), a figure we will discuss below, determined to defend his turf at all costs, argued that measurements remained "a basis for identification infinitely less misleading than photographic resemblances" (88). Be that as it may, it proved infinitely easier for the police to take photos of Communards than to take their fingerprints.

Between 21 and 28 May 1871, twenty-six thousand individuals considered to be "communeux" were arrested, and in June and July, a further five thousand were arrested. On 1 July 1875, General Félix Appert told the National Assembly that 38,578 insurgents had been arrested and/or tried. Far from improvising, the Versailles authorities had taken care to stage their massive crackdown in a clear attempt to set an example. Lissagaray recounts how the prisoners were transported from Paris. - Panting, soiled with rubbish, bareheaded under a blazing sun, stupid with fatigue, hunger and thirst, the convoys hung around for long hours in the dust - all the way to Versailles, where "the first convoys were put on show [...].It is in this context of formlessness and indistinctness, maintained to serve the disturbing spectacle, that photography and the personality of Eugène Appert come into play" (89), a painter by trade who presented himself - not without reason, as we shall see below - as the government's official portraitist during the Empire and then the Republic. "And his photographs were stamped: 'Photographer of the Legislative Body, of the Judiciary / Painter-photographer of Her Majesty the Queen of Spain, of the Grand Duke Constantine / Expert attached to the Tribunal of the Seine'. This series of accreditations sums up his work as a portraitist of the bourgeoisie, the aristocracy, power and crime. In these various capacities, Appert already had portraits of well-known Commune personalities before the Commune - some of whom died in the fighting: Millière, Moilin, Flourens... He also acquired portraits from his colleagues. For others, finally, it was enough for him to recover, in one way or another, the pre-existing collections of arrested Commune photographers" (90): "[...] the windows of print dealers and stationers disappeared under a prodigious quantity of photographic cards representing the members of the Commune, the delegates, the commanders, the entire staff of the rebellion, in a word, dressed in uniforms of a sometimes entertaining fantasy. They couldn't resist the vanity that drove them; like tiny actors, they liked to see themselves again in the garb of their successful role. Not all of these photographs remained in Paris; many went to Versailles, and were later used to identify many unfortunate people who were hiding and who might have managed to escape had they not denounced themselves in this way. The experiment carried out in this respect was not in vain, and it was from this moment that a photographic workshop was installed at the Préfecture de Police, making it possible to take the indisputable description of criminals" (91). This theatricality, to which the Communards willingly lent themselves, went hand in hand with their gentrification of dress, particularly noticeable in the photos Appert took of them in prison: "More often than not, it is tired, emaciated faces that face the camera; the degradation of the

Communards is obvious. But so is their interest in confronting the camera. If you look closely, you can see that although their clothes are torn and dirty, they have been hastily arranged. Their arms are carefully crossed, their hair straightened [...]. While some Communards maintained the same defiant attitude as in the photographs taken of them on the barricades [...], most gave themselves an air of respectability. When it was his turn, Rossel leaned towards the camera almost confidently and, with the cavernous eyes of a man with full brown hair and a bushy moustache, stared into the lens (Fig. 4). His thumb hooked over his waistcoat, revealing a dangling pocket watch, he looked more like a lawyer or journalist than a dangerous insurgent who a few months later would find himself in front of a firing squad on the plains of Satory" (92). "But the main part of this collection of portraits of Communards was created by Eugène Appert after the Bloody Week. The conditions under which it was created remain obscure. No trace of any official mission has been found. Only a few eyewitness accounts tell us anything about the practical side of this undertaking. For example, on 12 September 1871, the Communard Marc-Amédée Gromier wrote in his diary of captivity: 'This morning, I was allowed to get dressed and go and get some fresh air in the corridor of the wall, where I found the photographer Appert waiting to take my portrait. I saw Rossel, Cavalier and Abel Peyrouton who were photographed after me and who all thought I had been dead for a long time'. It is therefore certain that Appert had obtained authorisation to take portraits of the Communards in the prisons set up at the Orangerie de Versailles, the Chantiers, the cellars of the Écuries and the Satory camp. This photographic endeavour was [...] invaluable to the police in organising repression and justice. Just as, until the general amnesty of 1880, photography made it possible to monitor the possible return to France of proscribed persons and deportees who had managed to escape from New Caledonia. In his 1875 report, General Appert referred to the existence of an 'easily consultable catalogue of all the individuals prosecuted, making it possible to find each of them immediately...' (93). In short, Eugène Appert's company was "[t]he first repressive company to use photography [, whether they realised it or not] against militants [...]. On the strength of this experience, police practice [then] moved towards the orderly establishment of real files which, from the Bertillonian reform onwards, used photography in each of its new extensions" (94).

In 1879, Alphonse Bertillon, who had joined the Prefecture of Police as an ordinary employee thanks to his father (a fine example of republican meritocracy), sent a report to the Prefect of Police Louis Andrieux suggesting that he apply the method of anthropometric identification of criminals that he had just invented. No action was taken on his proposal until Ernest Camescasse was appointed Prefect of Police to replace Andrieux; "more modern-minded than his predecessor" (95), he summoned Bertillon and gave him three months to use his method alone to identify a repeat offender among the prisoners in the depot. The experiment began on 13 December 1882 in an unofficial "identity office". Almost three months later, after drawing up more than 1,600 identity cards, he still hadn't identified a single repeat offender. But, like someone who finally wins the lottery after playing the same numbers for years, luck finally

smiled on him a few days before the end of the trial period. Bertillonage, as his method was known, was authorised in the Seine prisons. It was not the same as anthropometry; it could not be reduced to it, because the identification it enabled had no formal evidential value in court. "For this reason, the use of additional procedures became essential in order to make the identification of repeat offenders indisputable. Direct identity would be confirmed by a spoken portrait (which would help find the fugitive), the recording of specific marks (which alone could provide legal certainty) and the addition of a forensic photograph (which would personalise anthropometric descriptions). These three procedures, gradually developed by Bertillon, all serve the same purpose: to enable the criminal law to be enforced effectively" (96).

The French politician, journalist, essayist and economist Yves Guyot (1843-1928) was an immediate advocate of bertillonage and, more generally, of the scientific police, "quietly doing its work, operating with gentle friction, without noise, but with the precision and continuity of a well-designed, well-assembled machine made of first-rate materials" (97). The police, "he enthused in *La Police* (1884), "must make use of the discoveries of modern science. It is not by its brutality, but by its intellectual superiority that it will be able to ensure security. The days of the Vidocqs and the informers must disappear: the men of the police must bring to their work the processes of scientific method and investigation. Instead of having a nervous, brutal, theatrical, dramatic police force that likes to advertise, we need a quiet police force, doing its work in silence, operating with gentle friction, without noise, but with the precision and continuity of a well-designed, well-assembled machine made of first-rate materials" (98). The criminal himself would benefit from it: "It (bertillonage)," he says, quoting a prisoner, "replaces the beating. Imaginatively, he recommends, among other things, the installation of safety kiosks at certain dangerous crossroads: "the kiosks could communicate with each other by means of horns and telephones or telegraphs. A gang of dangerous or wanted individuals could be signalled at all points where they were found. They would be enveloped in a network which would frighten them all the more because its effects could be more unforeseen. It is not the seriousness but the certainty of the penalty that the criminal fears" (99). Imaginative, but not visionary: he had not thought of monitoring telephone conversations. Due to technical difficulties, telephone tapping - now referred to as "electronic telecommunications interception" (100) - did not become operational until after the First World War (101). But, remarked police commissioner Gustave Macé (1835-1904), whose books were a source of inspiration for Georges Simenon, "M. Yves Guyot [...] has no doubt not read the passage in his friend's pamphlets where it is stated that, for the application of anthropometry, 'it will be necessary to use straitjackets if necessary'. There was no point in removing it long ago from murderers sentenced to death in order to impose it on a striking coachman and on individuals who were merely accused. M. Yves Guyot cried out indignantly against ligature; but he encouraged the Bertillon system, the application of which sometimes required much more serious measures" (100). More generally, Macé said of Bertillon's system: "I have no hesitation in saying that it is far from having the infallibility

attributed to it by its author. It has many drawbacks. First of all, it leaves much to be desired from the point of view of cleanliness and hygiene; it is the same instruments which, without being sufficiently cleaned, pass from the head of one prisoner to that of another. The measuring operation is reminiscent of the cleansing that the executioner performs on death row inmates before execution. The prisoners to be measured were brought before Mr Bertillon and his assistants, barefoot, with their overcoats removed, their shirt collars unbuttoned and their sleeves rolled up. Then, one by one, they are placed against a wall, arms outstretched as far as possible. Their feet, hands, fingers and heads are measured in all directions, their eyelids are opened and we discuss the colour of their eyes, which we don't always agree on". "Finally, for a quarter of an hour, the detainee is subjected, if not to real torture, at least to a host of touchings that are vexatious to the highest degree. And these measurements are carried out indiscriminately and without any precise distinction between the categories of individuals subjected to them" (103).

No matter: in a circular dated 13 November 1885, Louis Herbette, Director of Prison Administration at the Ministry of the Interior, imposed anthropometric formalities in France's central prisons (where they remained in force until the 1970s). Written by Bertillon, a special detailed brochure (*Instructions signalétiques, identification et classification anthropométrique*) was sent to the directors of these establishments, along with instruments for measuring prisoners. In 1889, participants at the International Congress of Criminal Anthropology in Paris called on the governments of the world to adopt Bertillonage, and the appeal was well received (104). On 16 October 1893, the *École supérieure pénitentiaire de la Santé* was opened in Paris, where students were given courses including instructions on anthropometric exercises and descriptive description. Bertillon was appointed Chevalier de l'Ordre national de la Légion d'honneur and Head of the Criminal Identification Department on 16 August 1893. In 1902, the Paris Prefecture of Police instituted a "Brevet d'étude du signalement descriptif portrait parlé", which was a prerequisite for access to certain important hierarchical positions in the police force.

The success of bertillonage was short-lived. By 1910, it had been dethroned in judicial investigations by fingerprinting, which had been gradually developed by various British experts over the course of the nineteenth century (105). Moreover, as early as 1907, when asked by the Ministry of Justice to give its opinion on the value of anthropometry, the Paris Academy of Sciences concluded that dactyloscopy was superior (106); without agreeing with the academicians' judgement, Bertillon himself adopted the latter method - albeit with some adaptations. But, better late than never, Bertillonage finally made it possible to convict a criminal in 1902 (107). The decree of 4 March 1907 prescribed the application of the methods developed by Bertillon. Similarly, a circular issued by the Ministry of the Interior on 4 April 1908 instructed the twelve regional mobile police brigades, created by the decree of 30 December 1907, to "photograph and identify vagrants, nomads and gypsies travelling alone or in groups,

whenever they are legally able to do so, and send them to the *Contrôle Général*, using the same methods" (108). Through bertillonage and the fingerprint identification process, "everything is calculated and implemented, down to the smallest detail, in order to extract a hidden truth from the body without resorting, as in the past, to random procedures that rely heavily on physical coercion. As universal identification systems, they can be applied to everyone [in a word: they are democratic]. The need to protect society, order and law-abiding citizens soon led to an extension of the use of ID cards for registration purposes, enabling the police to obtain data on a growing number of individuals. At the time, they tended (...) to constitute 'the bridgehead of an overall project aimed at exercising widespread and subtle control over society'" (109). Its deeper aim was to exert widespread and subtle control over "consciences". Bertillonage is in fact at the origin of biometrics (110), one of whose sub-fields, behavioural biometrics, aims to verify a person's identity by analysing not only their physical behaviour, but also their cognitive behaviour.

The realisation of this project was intimately linked to the development of advanced digital surveillance techniques. More than a century later, police surveillance of public thoroughfares and places open to the public is essentially carried out using a closed-circuit television system. There is no municipal police force, local authority, inter-communal body, departmental, regional or national structure that does not have its own network of video surveillance cameras (111). Video protection officer, remote surveillance operator, remote assistance operator, prevention and surveillance operator, there are countless police professions linked to the remote surveillance of the population. They are even some of the few that can be done on a freelance basis, without any qualifications or experience, and on a voluntary basis: anyone can become a police officer, a surveillance officer, a "watchman" or a "security guard", as long as they have the means to have one or more of the above-mentioned gadgets installed in their home - the cost of which is as astronomical as its effectiveness is almost non-existent (112).

Of course, police personnel had to be trained to use the ever-increasing number of gadgets that applied science made possible. Police officers had to be professionalised.

B. K., February 2024.

(1) H  l  ne L'Heuillet, *La g  n  alogie de la police*, *Cultures & Conflits* [En Ligne], 48, 2002.

(2) Jean-Yves Mollier, *Les foules au XIXe si  cle*, *Revue d'histoire du XIXe si  cle*, t. 17, 1998/2, pp. 9-14; p. 13.

(3) David Whitehouse, *Origins of the police*, libcom, 24 December 2014, <https://libcom.org/article/origins-police-david-whitehouse>.

(4) For example, "in 1906, Clémenceau used no less than 40,000 troops for the miners' strikes in the North of France, and then, for May 1st in Paris, he mobilised - just to mention the troops from the provinces - : 40 infantry battalions, 32 dragoon squadrons, 10 chasseur squadrons, 5 hussars and 1 cuirassier belonging to 10 army corps and 41 different regiments" (Jean-Marc Berlière, *Le monde des polices en France: XIXe-XXe siècles*, Éditions Complexe, 1996, p. 237, note 170).

(5) Danel Stern, *Histoire de la révolution de 1848*, t. 2, Paris, Gustave Sandré, 1851, p. 147.

(6) Jean-Marc Berlière, *op. cit.*, p. 118.

(7) Alphonse Karr, *Les Guêpes*, 3rd series, new edition, Paris, Michel Lévy Frères, 1848, p. 11.

(8) Aline Valette, *Une journée historique. Le 1er mai 1890 en France*. *La Revue socialiste*, t. 12, July-September 1890, p. 147.

(9) Gustave Ducoudray, *Histoire contemporaine (1789-1889)*, 21st edn, Paris, Louis Hachette et Cie, 1895, p. 1062.

(10) We put the word in inverted commas for a reason that everyone should easily understand. Failing that, we will illustrate them with one example among a thousand: "In Paris, the police redoubled their brutality. Newspapers were seized, journalists imprisoned, agents of the Prefecture in disguise, but soon recognisable by the new white coats distributed to them in the rue de Jérusalem, simulated riots on the boulevards, knocking over newsagents and creating the semblance of barricades. It was a pretext for aggression against the crowd. There can be no doubt that at this time, in the first fortnight of June 1869, the Empire used every possible means to provoke a movement which would have been all the more easily repressed for not being prepared, and which would have served as a motive for cruel repression. But the people of Paris did not fall into the trap and did not compromise the immense success they had just achieved". (Jules Lermina, *Fondation de la République française*, t. 3: *Histoire de Cent ans*, Paris, 1870, p. 886)

(11) Aurélien Lignereux, *La violence d'une force de l'ordre : la gendarmerie et la répression des rébellions (1800-1859)*, *Déviance et Société*, no. 1, vol. 32, 2008, pp. 47-59.

(12) Frédéric Pardo, *Le groupe en droit pénal*, lulu, 2004, p. 120.

(13) Aurélien Lignereux, *op. cit.*

(14) " 25. The members of the public forces called upon [...] to dispel popular riots and seditious gatherings and to seize the leaders and instigators of the riot or sedition, may only use force of arms in three cases: the first, if violence or assault were carried out against themselves; the

second, if they could not otherwise defend the ground they would occupy or the posts they would be in charge of; the third, if they were expressly authorised to do so by a civil officer [...] after the prescribed formalities [...]. After [a] summons repeated three times, [...] the force of arms will be immediately deployed against the seditious [...] and those who can then be seized will be handed over to the police officers to be judged and punished according to the rigour of the law" (martial law against assemblies, 21 October - 21 November 1789) "8. All gatherings made up of craftsmen, workers, journeymen, day labourers, or incited by them against the free exercise of industry and work belonging to all kinds of people, and under any kind of conditions agreed by mutual agreement, or against the action of the police and the execution of judgments rendered in this matter, as well as against auctions and public tenders of various businesses, will be considered as seditious gatherings and, as such, they will be dissipated by the agents of the public force, on the legal requests made to them, and punished according to all the rigour of the laws on the authors, instigators and leaders of the said gatherings, and on all those who have committed assaults and acts of violence" (Law of 17 June 1791, known as *Le Chapelier*). " 9. Any gathering of more than fifteen people opposing the execution of a law, a constraint or a judgement will be deemed a seditious assembly and punished as such" (law relating to the public force against assemblies, 3rd July 1791). "(1) It is forbidden to form a crowd in the squares or on the public highway; (2) All persons who form a crowd will be required to disperse at the first summons from the magistrates and civil officers. If the gathering does not disperse, the summonses will be repeated [sic] three times. Each summons will be preceded by a drum roll or the sound of a horn. If the three summonses are in vain, force may be used, in accordance with the law of 3 August 1791. The magistrates responsible for issuing the said summonses will be decorated with a tricolour scarf (Art. 1 of the law of 10 April 1831); 3. Persons who, after the first of the summonses prescribed by the second paragraph of the previous article, continue to be part of a gathering, may be arrested and will be brought, without delay, before the ordinary police courts, to be punished with the penalties set out in Chapter 1 of Book IV of the Penal Code. (Art. 2 of the same law.)" (Ordinance concerning assemblies, 13 July 1831). "1. any armed gathering on the public highway is prohibited. Any unarmed gathering that could disturb the public peace is also prohibited" (draft decree, 5 June 1848). " 24. Those who, by the statements in the preceding article (i.e. by speeches, cries, threats, printed matter, posters, etc.) directly provoke the commission of the crimes of murder, pillage and arson, or one of the crimes against State security provided for [...] shall be punished, in the event that this provocation is not followed by action, by three months to two years imprisonment and a fine of 100 fr. to 3,000 fr." (law of 29 July 1881).

(15) These are the infamous "scurrilous laws", officially repealed in 1992 (see Rapahël Kempf, *Retraites, la réforme de trop Le retour des lois scélérates*, lemondediplomatique, January 2020, <https://www.monde-diplomatique.fr/2020/01/KEMPF/61188>).

- (16) See Désescalade de la violence et gestion des foules protestataires : Quelle(s) articulation(s) en France et en Europe aujourd'hui, Convention d'étude et de recherche 2018-5 INHESJ / Défenseur des droits. Final report [Online], July 2021, p. 18.
- (17) Louis Puibaraud, La police à Paris, son organisation - son fonctionnement, Paris, 1887, pp. 168-169.
- (18) Ibid, p. 169.
- (19) Ibid, pp. 170-171.
- (20) Ibid, p. 170.
- (21) Quoted in Jean-Marc Berlière, Du maintien de l'ordre républicain au maintien républicain de l'ordre? Réflexions sur la violence, Genèses, 12, 1993 [pp. 6-29], p. 22.
- (22) Vincent Milliot, Réformer les polices urbaines au siècle des Lumières : le révélateur de la mobilité, Varia, vol. 10, no. 1, 2006, pp. 25-50.
- (23) Quentin Deluermoz, Rouler à la baguette? Les agents du service des voitures et la difficile codification des circulations à Paris (1892-1914), Varia, vol. 14, n° 1, 2010, pp. 5-27.
- (24) Jean-Pierre Gutton, Établir l'identité. L'identification des Français du Moyen Âge à nos jours, Presses universitaires de Lyon, 2010.
- (25) On the avalanche of red tape that descended on itinerant merchants, see Philippe Vigier and Alain Faure (eds), Maintien de l'ordre et polices en France et en Europe au XIXe siècle, Créaphis, 1987.
- (26) Quentin Deluermoz, op. cit.
- (27) Ibid.
- (28) Report, E. Viollet-Le-Duc fils and A. de Baudot (eds.), Gazette des architectes et du bâtiment, vol. 3, 1865, p. 344.
- (29) Ibid.
- (30) A. Dechambre and L. Lereboullet, Dictionnaire encyclopédique des sciences médicales, 5e série, t. 3, 1869, p. 387.
- (31) Ibid.
- (32) Louis Puibaraud, op. cit. pp. 156-157.
- (33) The nationalist newspaper L'Éclair had this to say: "When Moses wanted the waters of the Red Sea to be opened, all he did was raise his hand. Until now, officials have imitated Moses in

opening up a passage for pedestrians between the waves of cars, where the chosen people can enter on dry foot. It seems that this is no longer enough, as the Prefect of Police is thinking of arming his officers with a baton. Basically, they'll be doing what Moses did when he thought it necessary to strike the rock from which the water was to flow. This wand, without ever having seen the light of day, is already famous" (quoted in Quentin Deluermoz, *op. cit.*).

(34) See Quentin Deluermoz, *Policiers dans la ville: La construction d'un ordre public à Paris (1854-1914)*. Paris, Publication de la Sorbonne, 2012. The inventor had not invented anything: the white baton had been given to officers of the peace in the aftermath of the French Revolution to signal to the public their power to question and arrest. At the time, it was made of white wood, engraved with the words "Force à la loi" and an eye to symbolise surveillance. Lépine adapted it to the times. In 1896, he simplified its shape and gave it to the guards of the traffic companies to make the white baton-signal, which Lépine decided to have electrified (Jean de Kerdéland, *L'antique histoire de quelques inventions modernes*, Éditions France-Empire, 1980, p. 268). "This was just one of a number of initiatives to solve the headache of Parisian traffic, which at the time was made up of horse-drawn carriages, cyclists and pedestrians who had difficulty seeing and obeying the simple raised hand of traffic wardens. For the first half of the twentieth century, the white baton, along with the pelerine, made French policemen famous among tourists from all over the world. At the time, photographs were taken in front of the Eiffel Tower and with the policeman. Two monuments of Paris, in a way. In 1921, all police officers were issued with a white baton and wore it on their belt, replacing the sabre-bayonet they had carried since 1856. Attempts were made in 1964 to use a lighted white baton, but without much success. Finally, the white baton disappeared in 1967 in favour of the MID (individual means of defence), which was used until 1984. Today, police forces are equipped with the famous black tonfa, a 60-centimetre defence baton inspired by the American model" (Claude Maggiori and Sandrine Dyckmans, *La France qui disparaît*, Glénat Livres, 2014, p. 136).

(35) Quentin Deluermoz, *Rouler à la baguette...*

(36) Jean-Pierre Gutton, *op. cit.*

(37) Norbert Elias, *La dynamique de l'Occident*, Paris, Calmann-Lévy, p. 187.

(38) Héléne L'Heuillet, *op. cit.*

(39) Alphonse Bertillon, *Identification anthropométrique*, nouv. éd. entièrement refondue et considérablement augmentée, Melun, 1893, p. vi-vii.

(40) See Héliane de Valicourt de Séravillers, *La preuve par l'ADN et l'erreur judiciaire*, Paris, L'Harmattan, 2009, p. 25.

- (41) Claire Judde de Larivière. Du sceau au passeport : genèse des pratiques médiévales de l'identification, in Gérard Noiriel. *L'identification. Genèse d'un travail d'État*, Belin [pp. 57-78], p. 14.
- (42) See Thomas Nail, *Theory of the Border*, Oxford, Oxford University Press, 2016.
- (43) See *ibid.*
- (44) See *ibid.*
- (45) Arthur Auderset Identifier, surveiller et mettre au travail : les livrets d'ouvriers et de domestiques dans le Canton de Vaud face au défi de la mobilité ouvrière (1811 - fin XIXe siècle). Master's thesis, University of Lausanne, 2019, p. 16.
- (46) See Dimitris Papadopoulos, Niamh Stephenson and Vassilis Tsianos, *Escape Routes Control and Subversion in the Twenty-first Century*, London/Ann Arbor, MI, Pluto Press, 2008, quoted in Mahmoud Keshavarz, *The Design Politics of the Passport: Materiality, Immobility, and Dissent*, London, Bloomsbury, 2019, p. 52.
- (47) The striking expression comes from John C. Torpey, *The invention of the passport: surveillance, citizenship, and the state*, Cambridge/New York, Cambridge University Press, 2000.
- (48) Patrice Bourdelais, *L'épidémie créatrice de frontières*, *Les Cahiers du Centre de Recherches Historiques*, vol. 42, 2008, pp. 149-176.
- (49) Guillaume Calafat. The contagion of rumours. Information consulaire, santé et rivalité commerciale des ports francs (Livourne, Marseille et Gênes, 1670-1690), in Silvia Marzagalli, *Les consuls en Méditerranée, agents d'information (XVI-XXe siècle)*, Paris, Classiques Garnier, pp. 99-119, 2015, *Les consuls en Méditerranée : agents d'information (XVIe-XXe siècle)*, pp. 1-2. In more ways than one, Italy, on the European continent, can legitimately be considered as the infectious hotbed, and the fact that it was the first European region to forge (commercial) links with this other infectious hotbed - this time, on a global scale - China, is certainly not unrelated to this.
- (50) See Thomas Nail, *op. cit.*
- (51) Claire Judde de Larivière, *op. cit.* p. 14. Much has been written about the etymology of "passport". "This word, which Pasquier points out is a corruption of passe-partout, is perhaps simply a combination of the two words passe and port, as it is still used in maritime language as a synonym for congé. No vessel can leave a port without an authorisation issued by the admiral or commander of the naval station: this permit is called a passport or congé de départ. In any case, the expression passport, if this is not its real etymology, would rather be a representation of the word passe-porte, because it is in fact in fortified towns and cities with privileges that this

formality must have been imposed from the outset. To avoid the surprises so common in the midst of unrest, no one was allowed to enter or leave a town without showing those in charge of guarding the gates a written authorisation from the commander, governor, mayor or consul" (Dictionnaire de la conversation et de la lecture, vol. 42, Paris, 1837, p. 294).

(52) Claire Judde de Larivière, *op. cit.* p. 14.

(53) Adèle Pierre, *Carte d'identités, lieuxdits*, no. 17, 2019 [pp. 16-20], p. 18: "A drastic and systematic measure is constantly recurring in the texts: expulsion. The aim was to 'empty' cities of a worrying and troublesome population. A solution often advocated in the 16th century, it gradually became standard practice. As early as the ordinance of 4 August 1519 on public affairs issued in response to the plague, provision was made for the expulsion of vagrants. A few years later, in 1534, a ruling by the Parliament required that the poor - "all persons who can work and toil, both men and women, who do not have sufficient property to live on..., who live idly, without exercise or any other occupation, or who eat and beg in the city of Rouen..." - "must leave and go outside this city" on pain of being flogged and "kept in chains for public works". The deadline given was eight days. For their part, the banished had only 24 hours, after which they were threatened with the penalty of the hart. On 30 July 1605, the Court ordered all "vaccabonds" and "gens sans aveu" to leave the city and its suburbs within twenty-four hours of the publication of this arrest. And they are forbidden to return, on pain of being taken prisoner and sent to the gaols'. In 1622, the measures were renewed with an identical deadline. In connection with an ordinance against the plague, Parliament enjoined able-bodied and disabled beggars to "leave the city within twenty-four hours and withdraw to the place of their birth or their homes, on pain, for the former, of being shaved, and if they return, that the men will be sent to the galleys and the women punished corporally". In 1665 and 1692, new expulsion orders were issued. The penalties were still confinement, whipping and the galleys. The measures were aimed primarily at poor foreigners; their case is mentioned in the rulings of 1551 and 1596; on the latter date, they had 24 hours to leave the city and were liable to be hanged. The ruling of 18 June 1649 confirmed this time limit. The legislation drew a distinction between those who, despite the efforts of the authorities, were an integral part of the urban landscape and those who were foreign to it or just passing through. The Middle Ages always took account of these passing beggars, and institutions were set up to help them, where they could stay for 24 to 48 hours. As time went on, the texts drew a distinction between the two cases; the general trend was towards harsher treatment for vagrant beggars; it should be noted, however, that in 1654, they were allowed a period of eight days. Finally, repeat offences were increasingly severely punished: if, by chance, beggars were caught returning, they were threatened with the galleys for men and corporal punishment for women. On 27 September 1675, a decree ordered all vagrants to withdraw; they were forbidden to beg on pain of the galleys for vagrants and the whip for beggars. This prohibition also extended to the city's poor, who were threatened with being 'locked up'. (Elisabeth Caude, *Le Parlement de Normandie et les pauvres : de l'œuvre d'assistance au devoir de police, de la quête aux galères*, in Olivier Chaline and Yves Sassier (eds.), *Les*

parlements et la vie de la cité (XVIe-XVIIIe siècle), 2018 [2004] Publications de l'Université de Rouen, pp. 35-76.

(54) See Denise Turrel, Une identité imposée : les marques des pauvres dans les villes des xvie et xviii siècles, Cahiers de la Méditerranée, 66, 2003, pp. 93-105.

(55) Mahmoud Keshavarz, op. cit. p. 119.

(56) Vincent Denis, Administrer l'identité Le premier âge des papiers d'identité en France (XVIIIe-milieu XIXe siècle), Labyrinthe, 5, 2000, pp. 25-42.

(57) A. Corvisier, Les Contrôles de troupes de L'Ancien Régime, t. 1: Une source d'histoire sociale. Guide des recherches, 1968, p. iii.

(58) Ibid, p. vii.

(59) See Vincent Denis and Vincent Milliot, Police et identification dans la France des Lumières, Genèses, vol. 1, n° 54, 2004, pp 4-27.

(60) See ibid.

(61) See ibid.

(62) Camille Joseph Arnaud, Du livret d'ouvrier, Marseille, Veuve Camoin, 1856, pp. 1-2.

(63) See Vincent Denis and Vincent Milliot, op. cit.

(64) See ibid.

(65) See ibid.

(66) "At the National Assembly, Peuchet forcefully demanded that it be abolished: 'There is a police disorder that is all the more odious because it is related to all the arts of tyranny and deprives man of the first and most just of his rights, the right to breathe the air he likes without asking permission from a master who may refuse it: this is the passport system [...]. Passports are contrary to all the principles of justice and reason; only forgetfulness of rights and political inconsistency can enshrine them' (Gérard Noiriel, Surveiller les déplacements ou identifier les personnes? Contribution à l'histoire du passeport en France de la Ie à la IIIe République, Genèses, 30, 1998 [pp. 77-100], p. 78.

(67) See Vincent Denis, Le contrôle de la mobilité à travers les passeports sous l'empire, in Caroline Douki, Nicole Dyonet and Vincent Milliot (eds.), Police et migrants France 1667-1939, Rennes, Presses Universitaires de Rennes, 2015 [2001], pp. 75-89.

(68) See Vincent Denis and Vincent Milliot, op. cit.

(69) Fouché was a precursor of the technical police through his interest in statistics and, more particularly, in "personal and moral statistics", i.e. the collection of numerical data on "the personal history of each inhabitant" (Christophe Soulez, *Les services secrets: Histoire, méthodes et organisation du renseignement*, Eyrolles, 2020, p. 36), their wealth, morality and opinions", in order to obtain "a vast picture of the empire in all its constituent elements at every level of the social hierarchy" (Emmanuel de Waresquiel, Fouché. *Les silences de la pieuvre*, Tallandier, 2014). Fouché even seems to have been the precursor of 'moral statistics', whose pseudo-principles were first set out by André-Michel Guerry (1802-1866) in a work entitled *Essai sur la statistique morale de la France* (1833) and which laid the foundations of criminology and sociology (see Hugh Whitt, *Inventing Sociology: André-Michel Guerry and the Essai sur la statistique morale de la France*, in André-Michel Guerry's *Essay on the Moral Statistics of France*, ix-xxxvii. Lewiston, NY: Edwin Mellen Press, pp. ix-xxxvii).

(70) P.-Julien Alletz, *Dispositions générales*, in *Dictionnaire de Police moderne pour toute la France*, vol. 3, Paris, 1820, p. 141.

(71) As recently as 1935, the *Revue Internationale de criminalistique* pointed out that the "fiches des garnis", which had to be filled in by all travellers arriving at a hotel and which contained details of civil status, the date of arrival of the traveller, his identity papers, his signature, and an indication of where he had come from and where he was going, had the following serious disadvantages: "1° They bear no means of identification, apart from handwriting, which is the most defective and uncertain of all; 2° They are often filled in by a third party: receptionist, porter, manager, room boy, etc. In practice, the identity documents they mention are never checked and even - at least in hotels of a certain standard - never asked for. Under these conditions, the identity card is absolutely useless. In the most sophisticated circles, it is considered vexatious. And it is, because it is useless" (Edmond Locard (ed.), *Revue International de criminalistique*, 1935, pp. 171-172).

(72) See Vincent Denis, *op. cit.*

(73) Alexandre Jehan Henry Clercq, *Guide pratique des consulats*, t. 1, 6th edn, A. Pedone, 1898, p. 424.

(74) An indigent passport was then introduced by a Decree of 22 December 1811, but it was only issued free of charge to "indigents recognised as such" (Edmond Méchin, *La Mairie pratique*, 2nd ed., Moulins, P.-A. Desrosiers, 1845, p. 148).

(75) *Mémoires de M. Gisquet, ancien préfet de police, écrits par lui-même*, t. 5, Paris, A. Jamar, 1841, p. 155.

(76) Arnaud-Dominique Houte, *Apprendre à enquêter dans la gendarmerie du xix^e siècle*, in Jean-Claude Farcy, Dominique Kalifa, Jean-Noël Luc (eds.), *L'Enquête judiciaire en Europe au xix^e siècle*, Paris, Créaphis, 2007, p. 185-194. "For burglaries in the home or anywhere else, the

success rate remains dramatically low: just 8%. (...) And yet we could have hoped that the frequent use of officers trained in forensic science techniques (to take fingerprints and DNA) would improve the service provided to the public," laments *Le Figaro*. Over the period 2010-2019, clearance rates have fallen steadily and significantly, regardless of the aggregate concerned: property crime, personal crime or economic and financial crime: -12 points for non-criminal violence, -15 points for sexual violence, -2 points for property crime, which already has a very low clearance rate, -16 points for economic and financial crime. (Les policiers sont moins efficaces selon le Service statistique ministériel de la sécurité intérieure Baisse du pourcentage d'élucidation, altantico,

26 October 2022, <https://atlantico.fr/article/pepite/les-policiers-sont-moins-efficaces>), who, like the others, is miles away from understanding that, as we keep saying, solving crimes is not the *raison d'être* of the police.

(77) Jean Tulard, *La Préfecture de police sous la Monarchie de Juillet. École pratique des hautes études. 4e section, Sciences historiques et philologiques. Annuaire 1964-1965, 1964. pp. 427-431.*

(78) Gérard Noiriel, *Surveiller les déplacements ou identifier les personnes? Contribution à l'histoire du passeport en France de la Ie à la IIIe République*, *Genèses*, 30, 1998, pp. 77-100, p. 95.

(79) The "genetic fingerprints" they can take do not make them any more infallible than the Pope (Jean-Marc Manach, *ADN : quand les "experts" se trompent*, *internetactu*, 9 December 2010, <http://www.internetactu.net/2010/12/09/adn-quand-les-experts-se-trompent>).

(80) See Charles Diaz, *La Police technique et scientifique*, 2nd updated edition, Paris, Presses Universitaires de France, 2005.

(81) Bertillon solved, or at least simplified, the problem of classifying *fiches* (see A. Carpentier and G. Frèrejouan du Saint, *Répertoire général alphabétique du droit français*, t. 24, Paris, 1896, p. 6).

(82) Quoted in *ibid.*

(83) Guillaume Mazeau, *Portraits de peu. Le physionotrace au début du XIXe siècle*, *Revue d'histoire du XIXe siècle*, n° 45, 2012, pp. 35-52.

(84) *Ibid.*

(85) Quoted in Amédée Latour (ed.), *L'Union médicale*, 3e série, t. 23, 1877, p. 283. This note, reproduced in several medical journals, was soon (almost) forgotten (*Annales d'hygiène publique, industrielle et sociale*, 1870, p. 485), when the French hygienist Maxime Vernois (1809-1877) "demonstrated" the impossibility of such a prodigy in an article entitled

Applications de la photographie à la médecine légale, published in the Annales d'hygiène publique et de médecine légale in 1870.

(86) Adolphe Chauveau (ed.), *Le Journal du droit administratif, ou Le Droit administratif mis à la portée de tout le monde*, 3rd year, vol. 3, 1853, pp. 131-132. See also Marc Renneville and Jean-Claude Vimont, *Fichage, identification et photographie dans les prisons (1860-1950)*, in Jean-Marc Berlière and Pierre Fournié [eds], *Fichés? Photographie et identification 1850-1950*, Editions Perrin, 2011, pp. 71-78).

(87) Marc Renneville, "C'est à la prison à reconnaître les siens" *De l'anthropométrie judiciaire à la biométrie contemporaine*, 2014.

(88) Alphonse Bertillon, *De l'identification par les signalements anthropométriques*, Archives d'anthropologie criminelle, de criminologie et de psychologie normale et pathologique, t. 1, 1886, pp. 193-224, p. 207.

(89) Bertrand Tillier, *La Commune de Paris, révolution sans images? - Politique et représentations dans la France républicaine (1871-1914)*, Éditions Champ Vallon, 2013, p. 437.

(90) *Ibid*, pp. 437-438.

(91) Maxime Du Camp, *Episodes de la commune*, t. 2, Hachette et Cie, 1883, p. 235.

(92) Jeannene M. Przyblyski, *Revolution at a Standstill: Photography and the Paris Commune of 1871*, *Yale French Studies*, n° 101, 2001, pp. 54-78, p. 65

(93) Bertrand Tillier, *op. cit.* p. 438.

(94) Stéphanie Sotteau Soualle, *Ernest Appert (1831-1890), a precursor of Alphonse Bertillon?* *Criminocorpus*, 2011.

(95) Suzanne Bertillon, *Vie d'Alphonse Bertillon : Inventeur de l'anthropométrie*, Éditions Galimard, 1941.

(96) Martine Kaluszynski, *Alphonse Bertillon et l'anthropométrie judiciaire. L'identification au cœur de l'ordre républicain*, *Criminocorpus*, 2014.

(97) Pierre Morel, *La police à Paris*, Société d'édition et de publications, 1907.

(98) Yves Guyot, *La Police, étude de physiologie sociale*, Paris, G. Charpentier, 1884, p. 433.

(99) *Ibid*, pp. 432-433.

(100) See François-Bernard Huyghe, *Les écoutes téléphoniques*, Paris, Presses Universitaires de France, 2009.

- (101) Jean-Marc Berlière, *Le monde des polices en France: XIXe-XXe siècles*, Éditions Complexe, 1996, p. 148.
- (102) Gustave Macé, *Le service de la Sûreté par son ancien chef*, Paris, Charpentier, 1884, p. 379.
- (103) *Ibid*, p. 378.
- (104) Alain Bauer and Christophe Soulez, *Les fichiers de police et de gendarmerie*, Paris, Presses Universitaires de France, 2011, p. iv; Amos Frappa, *La Sûreté lyonnaise dans le système policier français (début XIXe-début XXe siècle)*, Crimonocorpus, 2014.
- (105) In ancient China, officials authenticated government documents with their fingerprints. Around 200 BC, fingerprints were used to sign written contracts in Babylon (Houbing Dong, Glenn A. Fink and Sabina Jeschke, *Security and Privacy in Cyber-Physical Systems: Foundations, Principles, and Applications*. John Wiley & Sons, 2017, p. 189).
- (106) See Armand Mattelart, *La globalisation de la surveillance: Aux origines de l'ordre sécuritaire*, La Découverte, 2008.
- (107) Jean-Marc Berlière, *L'Affaire Scheffer: une victoire de la science contre le crime? La première identification d'un assassin à l'aide de ses empreintes digitales*, *Les Cahiers de la sécurité*, n° 56, 2005, pp. 349-360.
- (108) Quoted in Pierre Piazza (ed.), *Aux origines de la police scientifique : Alphonse Bertillon, précurseur de la science du crime*, Karthala, 2011. The "Brigades du Tigre" were also the first police forces to apply technical investigation methods derived from the research of forensic medicine professor Edmond Locard: ballistics, toxicology, handwriting identification, etc. (see Alain Bauer and Émile Pérez, *Les 100 mots de la police et du crime*, Presses Universitaires de France, 2009).
- (109) Pierre Piazza, *Histoire de la carte d'identité nationale*, Paris, Odile Jacob, 2004, p. 85.
- (110) Id, *Du bertillonage à l'Europe biométrique*, in Collectif, *Identification et surveillance des individus*, Éditions de la Bibliothèque publique d'information, 2014, pp. 13-25.
- (111) Recently, municipal police officers have been authorised to wear mobile cameras in the course of their duties; SNCF and RATP security guards and firefighters have been authorised to film their operations ("subject to conditions" and "on an experimental basis"). Of course, this is just the beginning.
- (112) Nathalie Silbert, *Vidéoprotection : jusqu'où iront les villes*, leesechos, 9 January 2019, <https://www.lesechos.fr/idees-debats/editos-analyses/videoprotection-jusquou-iront-les-villes-347536>. To combat the poor public image of video or remote surveillance, a Nantes-based company recently came up with the idea of using pastoral rhetoric (see

<https://elementsdeducationraciale.wordpress.com/2019/10/28/le-pouvoir-panique-3>) to sell this type of device to voyeurs, describing them as "benevolent devices", "benevolent cameras" (of course, made in Asia) to "(watch) over your children when you're away", "Be warned by text message when your children come home alone", "Record videos of your children at will", etc.). In the background (because the pastoral rhetoric more or less unconsciously awakens the guilt impulse that Christianity gave rise to in white people): "If you don't install a remote surveillance system in your home, won't you feel responsible and guilty for what happens to your children?"

6

As soon as the Republic says it is concerned about the safety of honest people, they should be concerned about their own safety.

Anonymous, 2024

We'll shoot them [...] right down the shitter.

Words attributed to a current senior Russian leader.

In memoirs published during the Belle Époque, Parisian police inspector Rossignol maintained that "there is no apprenticeship for Sûreté officers. They rely on their flair and intelligence". A policeman's qualities were therefore innate and the police profession could not be taught (1). Today, there are a total of thirty-three schools and training centres in France for the various police corps: commissaires, officers, gardiens de la paix, security assistants and administrative staff.

As a "purist", Rossignol could not but take a dim view of the idea, which emerged in the 1880s and which immediately became the subject of "a consensus remarkable enough to be noted, that [police officers] are very specific workers or civil servants, with very specific work, who, as a result, must 1/ be recruited more carefully, 2/ be trained to practise a profession that requires specific and particular qualities and knowledge" (2). In short, the idea of the professionalisation of the police officer appears in the sense of "being taken in charge by specialised personnel whose recruitment, training, assignment and career are organised in a specific way... It is as police officers become civil servants that the administration becomes concerned with regulating and rationalising (sic) recruitment, training, remuneration, career, etc. - in short, organising

police professions. A parallel development in police techniques gave these professions a content in terms of qualifications" (3).

Until then, the selection of police officers had been based not on professional criteria, but on 'moral' and physical criteria; there were no criteria for postings: once recruited, you could end up as either a peace officer or an inspector: there was no specialisation, let alone any professional training. Since recruitment was still out of the question, as most police jobs were reserved for former soldiers or non-commissioned officers, the idea was to improve the standard of police officers through training. The *École pratique de police municipale* (since then, it has often changed name: "*école pratique et professionnelle de la police municipale*" [1934], "*école pratique du gardien de la paix*" [1937], "*centre d'application des personnels en uniforme*" [August 1968]) therefore opened its doors in 1883; its students, trained for the job of keeper of the peace, which replaced the corps of sergeants de ville, had to follow a compulsory training course of at least three months, at the end of which they took "a sort of competitive examination" (4). The aim was to provide them with the rudiments of the trade and a basic knowledge of spelling. "In three months, guards had to know [...] their island, the laws and regulations, how to report offences, how to restore traffic flow and intervene in a dispute, how to rescue an injured person and disperse a crowd, how to recognise a diplomatic corps card from a journalist's line cutter, etc." and, above all, "how to telephone and telegraph" (5). Technicisation. Theoretical training emphasised the duties of peacekeepers towards both the public and the Administration: they were taught to be polite and firm with the latter and to devote all their time to the former; their main qualities were to be discipline, dedication, self-sacrifice, deportment and morality: They had to "merit the esteem of all by the regularity and integrity of their private life and conduct", as stated in the regulations issued by Caubet, the head of the municipal police force from 1879 to 1889 (6). Moralisation. Technicisation and moralisation were the two main thrusts of the professionalisation of the police officer.

Lépine set about training inspectors. On 5 October 1893, he issued instructions to this effect. Their duties included surveillance, monitoring and inspection (day and night) of police stations and officers, who were required to sign their notebooks, note their aptitude and manner of service, check that instructions had been properly understood, check their politeness and dress, the way they "walked in a group", saluted their superiors and gave information to the public. The theoretical training given to officers at the Practical School was supplemented by an embryonic form of continuous training in the field, "to keep officers constantly on their toes and maintain the knowledge they had acquired at the school" (7).

Lépine's enthusiasm for Bertillon's method prompted him to create the "Service de l'Identité Judiciaire" to complement the "Service d'identification des détenus" (1888). On 6 March 1895, he set up a course in "descriptive description", which, from February 1902 onwards, led to the award of a "descriptive description diploma" (brevet d'étude du signalement descriptif), which became a prerequisite for promotion to the "Direction Générale des Recherches" (the criminal investigation department) and for appointment to the posts of Commissaire, Officier de paix and Inspecteur principal. A "Brevet d'Études de Police Technique" was instituted on 20 August 1912 to the great satisfaction of the newspaper *Le Radical*, which, infatuated with the already well-entrenched prejudice that a diploma is synonymous with ability, declared four days later: "their investigations will be more successful, at least we can hope so. [...] Criminals are pushing the sword at us, that is to say the knife in our backs. We must hurry to get good police officers" (8). On 20 August, following the Bonnot affair, it was decided to open a "technical police course" for inspectors (9), under-brigadiers and brigadier-chiefs of the criminal brigade, at least those who held the "descriptive description diploma". Célestin Hennion, Lépine's successor from 1913, completed his work. After appointing him Director of Sûreté Générale in January 1907, Clémenceau presented him to the deputies as a "professional"; this was "the first official and public recognition of police specialisation" (10).

On 25 May 1914, the *École Pratique Professionnelle des Services Actifs de la Préfecture de Police* was inaugurated, to provide training for guards and inspectors who had been promoted. Refresher courses for all candidates for promotion would also be given there. The teaching method was innovative, based on the showing of films which, "modelled on the most typical scenes in the Parisian street in which the peacekeeper is called upon to intervene", contrasted the correct intervention with the clumsy one, the right thing to do with the wrong thing to do (11). The police," he declared in the speech he gave on this occasion, "not only represent force, they also represent the law, and who does not feel what guarantees the representatives of the law must offer in modern society?... How can we admit that the very people who will be responsible for watching over the rights of citizens, reminding them of tolerance and justice, often judging them before the judges, how can we admit, I repeat, that these people are not themselves men of high and pure conscience? And how can we develop in them the generous ideas that should animate them, if not through teaching appropriate to the role they have to fulfil" (12). "We will also teach them the great duties of equality towards all, of kindness towards the small, the weak and the disadvantaged" (13). This was the first public and official recognition of the police officer's role as a social worker.

The reform of greatest interest to police officers was that relating to promotion, the rules for which were set out in a decree of June 1914, which also detailed all the rules relating to the distribution of the services of municipal police officers and senior officers. It replaced the

principle of selection by the hierarchy with the rule that promotion was made on the basis of aptitude tables and lists prepared by a commission and drawn up according to seniority of service and grade, but also on the basis of obtaining a Brevet d'Aptitude (Certificate of Aptitude) for the grade concerned, which was prepared at the École Pratique. To be eligible to take these courses, candidates had to: 1) have six years' seniority in the service and one year in the grade for officers; 2) be eligible to take the competitive examination organised for each of the aptitude lists, which included a written test (dictation) and a presentation to the jury, as well as the drafting of a report; more or less in-depth knowledge of regulations and legislation was also required. Candidates on the list of suitable candidates could only be promoted after completing a compulsory probationary period in the reserve companies, where they were awarded a mark of suitability for the grade applied for (14). Generally speaking, increasingly specific knowledge was required of both uniformed police officers and inspectors and commissioners, although it was not yet mainly theoretical - under Hennion, the former were even taught the rudiments of first aid.

However, the following statement by Edmond Locard, a professor of forensic medicine, spoke volumes about what was on the horizon: "It is better not to teach officers anything than to cram them full of theoretical notions: it is exclusively professional and practical training that is needed... If we have to inflict courses in criminal law, the history of the police or pathological psychology on police officers... it is better to let them languish in their serene ignorance" (15). As far as commissioners and inspectors were concerned, he felt that "you first need to be sufficiently intelligent, to know a special technique, a small part of which you can learn from books, and to have a particular temperament as a man-hunter" (16). Nevertheless, increasingly extensive knowledge would be required of them, not only legal knowledge but also scientific knowledge (17).

The many inventions of our time (the motor car, the aeroplane, the cinematograph, the phonograph, X-rays, electric lighting, the railway network, the bicycle, telegraph and telephone networks, photography, etc.) have led to a relative change in the profession of policeman - which only became a fully-fledged profession at this time - and, to begin with, the profession of criminal.

Before being put to good use by the police, they had been used by delinquents and criminals, at least those "with minds and imaginations as lively as they are fertile": the motor car and trains made rapid travel possible, the telephone and telegraph were used to good effect, like photography or the blowtorch, for daring "coups" against which the gendarmes, even those equipped with bicycles, proved quite powerless. Gustave Macé, head of the Sûreté between 1879

and 1884, lamented: "The criminals have the express train, electricity and the telephone at their disposal: the head of the Sûreté, who is responsible for pursuing them, cannot use any of this without first obtaining the consent, not of the prefect, but of the supreme head of the municipal police. His rights and powers are so limited that he can neither go nor send an agent outside the department of Seine-et-Oise, which almost touches the city wall of Paris, without authorisation and is forbidden to him and to his agents. With all these restrictions, how can the Service de Sûreté effectively pursue criminals who can be transported from one department to another with two turns of a locomotive's wheel? (18) He goes on to say that he wanted to have a telephone installed at his own expense, but was refused by his superior. However, "[i]t soon became clear to many that such discoveries required an adaptation of the police 'tool' and therefore of the police officers themselves" (19). In 1902, all the police stations in Paris were linked by telephone; "signal boxes" connected to the police stations enabled Parisians to raise the alarm quickly if necessary; the departmental mobile criminal investigation brigades and the criminal brigade formed by Lépine in the summer of 1912 were equipped with motor vehicles; the river brigade was necessarily equipped with motorboats; the cycle brigades were equipped with bicycles to patrol the suburbs at night. Crime gave rise to new professions: telegraph operators, telephone operators, cyclists, traffic wardens, driver-inspectors, all of which required training. Once again: who benefits from crime?

Under the Republic, the police acquired a visibility that they had not had under the monarchy and, as mentioned above, they became a political issue, especially as most of the Presidents of the Council at the time (Waldeck-Rousseau, Combes, Clemenceau, Briand) combined this function with that of Minister of the Interior. Those in power, now elected, had to at least pretend to take account of the opinions of their electors, the opposition parties in parliament (the far left and far right) and the press, all of whom "judged" their policies and therefore, in particular, their police. Citizens themselves were passionate about the police, as evidenced by the success of books dedicated to them and newspapers that published articles on the subject (20).

The press was usually highly critical of the police and demanded that they be "reformed", highlighting their shortcomings, their blunders, their failures, their dubious or even illegal practices, and provoking parliamentary debates and interpellation procedures that could lead to the resignation or dismissal of the Minister of the Interior, or even the fall of ministerial cabinets. Sometimes, it simply relayed the criticism levelled at the police by certain officers. It was not uncommon for it to publish portraits of "bad cops" drawn up by their colleagues. The first was that of a judicial and administrative magistrate responsible for maintaining public order: "A man whom no one calls by his name and whom everyone refers to by his title. The administration chose him from among the non-commissioned officers, absinthe drinkers, girl chasers, carrot makers, drunkards, whose habits prevent them, when their time is up, from returning honourably

to social life to live from their work. The scum of the army, incapable of being a man, good for nothing, good for anything... This scoundrel, blustering like a coward, snarling, slobbering, foaming, ignoble, flat and redundant, unbearable to all... he is the representative of authority, moral order, the family, property, he is the police commissioner (21)". The second is the description drawn up in the early 1880s by a future police commissioner of a police commissioner in the Porte de la Chapelle district: "Mr D... belonged to the category of civil servants (no longer in existence) who had slipped into the judiciary as a result of the events of 1870 without offering all the desirable guarantees. The sash was then awarded without examination. The benefit of age, in the absence of a pass, was enough to create a title to promotion. He was a Burgundian [...] with a red, congested face and a blotchy complexion [...]. He hated humanity, but he was full of kindness for animals [...], [...] he imposed the supply of them on his constituents to whom he distributed them by force [...]. Fortunately, this man [...] took no interest in the affairs of the police station and made only rare appearances. He was brought home to sign urgent documents. He was up late and didn't come into the office until midday or five o'clock [...]. In the evening he would set up his headquarters at the 'Café du Delta' where he was sure to be found. (22). " Hundreds of statements of faith of this kind, made in newspapers, books, memoirs, theses and essays, by ordinary police officers, senior civil servants and police trade unionists, were unanimous in denouncing the "ill will" of the "public authorities" and calling for improvements in the police force, its image and that of police officers. As a result, "governments and elected representatives, very attentive to the sensitivities, desires and concerns of public opinion, and therefore of the electorate, [were pushed] to take a close interest in the 'quality', functioning, organisation, effectiveness and actions of the police, and no longer just in the maintenance of order" (23), partly also in the name of morality.

The protective and even nurturing role of the police, responsible for supplying markets, organising assistance, regulating the labour market, preserving public health and hygiene, organising a market in services such as mercenary breastfeeding or road maintenance, In other words, uprooted people who were inclined to be easy-going and irresponsible, and who were mechanically dependent on one another because they lacked the bonds of solidarity that existed in the countryside. At the end of the Ancien Régime, Nicolas Toussaint des Essarts, in his *Dictionnaire universel de police* (1786), still defined the police as "the science of governing men and doing them good, the art of making them as happy as possible and as much as they should be for the general interest of society", to which he added: "I regard the house of a commissioner as a kind of civil temple where one goes to seek help against misfortune". In so doing, he was not merely sacrificing himself to the pastoral rhetoric of the theorists of the seventeenth-century police state; he was well aware that, close to an external authority, urban families, starting with the mistress of the house (24), had no hesitation in turning to the agents of this police force to settle their internal disputes, a force which was generally quick to accede to their requests, which would continue to pour in throughout the eighteenth century. "The commissioner became a key

figure in efforts to reconcile master and apprentice, parent and child or husband and wife - in other words, between people whom morality and society wished to avoid tearing each other apart. At a paralegal level, the commissaire au Châtelet could play the role of conciliator, arbitrating family or neighbourhood disputes as a figure of authority, a pater familias. Closer than the magistrate, more affordable (both in human and financial terms), more and more Parisians turned to him, just as they used to turn to the village nobleman or the parish priest. People complained to him, without even trying to take the case to court. The statement on stamped paper, signed by the commissioner, was used by the complainant to obtain redress - or at least a financial settlement - in all sorts of cases: broken windows, insults, beatings, an unexpected pregnancy, etc. Social pressure from neighbours or peers still played a major role in Paris in the second half of the 18th century. To avoid verbal escalation or physical violence, people turned to a third party to arbitrate the conflict, a trusted commissioner who was perceived as a member of the community. In the long term, a community's traditional self-regulation mechanisms are hijacked in favour of a person who represents the authorities. In the short term, however, it is because Parisians can use the Commissaire in the same way as they used the parish priest that the policeman finds his place within a close-knit community. Police officers with a certain charisma, those who manage to make the best use of a mechanism that already exists for them, who know how to listen without pushing people to trial, are the ones who are most accepted" (25). But the police were causing more tension outside the families than they were easing inside.

On the whole, La Reynie's police force was frowned upon by Parisians for two reasons: the multitude of regulations relating to buildings, paving, street cleaning and fires that it was responsible for enforcing; and the corruption of its staff. From the end of the twelfth century, every citizen was obliged not only to sweep in front of his or her house, but also to have mud and rubbish removed and taken to the fields at his or her own expense. The inhabitants of one or more streets joined forces and hired a communal cart for their service. As the number of residents increased and the town expanded, street cleaning became more difficult, especially as the police ordinances did not pay much attention to the payment of fines. In 1348, the Provost of Paris issued an order fining all offenders, and the city became clean again for a time. In the suburbs, however, the situation did not improve: because of the large number of carriages entering the city, the pavement was not cleaned until it became dirty again, and the dumpers were so poorly constructed that they spilled most of their contents onto the public highway before reaching the roads. As early as 1393, a new ordinance required everyone to clean up the sludge and rubbish and have it taken to the public highways, on pain of a fine, so that the inhabitants who lived near the river had already got into the habit of dumping it there. Numerous ordinances and rulings imposing the same obligations were issued throughout the 16th century, without producing the desired effect. The great difficulties involved in obliging the burghers to clean the streets and have the sludge and rubbish removed at their own expense led to the idea of

subjecting them to a tax, the proceeds of which would be used to pay the undertakers of dumpers; princes, lords and magistrates were exempt. This project was carried out in 1506. The removal of the sludge was entrusted to general contractors and commissioners were appointed to oversee the process. As the general contractors soon showed the limits of their competence, the cleaning police were returned to the civil lieutenant and, in 1640, to the officers of the Châtelet, without the taxes disappearing, however difficult they were to collect. So Paris still looked like a cesspool (26). Louis XIV, wishing to remedy the situation, set up a police council in 1666, which, seven months later, decided on everything relating in particular to street cleaning and public safety: the office of police lieutenant, as we saw in the second part of this study, had been created.

La Reynie, its first incumbent, succeeded in doing what none of the provosts and their lieutenants had been able to do in more than four centuries: he enforced - less cowardly than they were - the ordinances and rulings relating to street cleaning, in particular by setting up a hierarchical network of receivers and establishing inspectors and clerks responsible, in all districts, for supervising both the dumper contractors and the residents: Their daily obligations were scrupulously set out in very detailed regulations that were publicised by posters and other written documents; all streets and markets were inspected twice a week by commissioners assisted by bailiffs. Extraordinary visits were also planned. If we add to this the repression of gambling and the increased prohibition on the carrying of weapons (27), the efforts made to eliminate begging and purge Paris of the poor who, as a result of poor harvests, had flocked there from the countryside, the obligation imposed on the owners of houses located in enlarged streets to bear a share of the expenses (28), It is not hard to believe that, despite the improvements in the environment and living conditions of Parisians brought about by La Reynie's reforms, the agents responsible for enforcing these measures were hardly in favour with most of the capital's inhabitants.

The public also found it difficult to distinguish between the behaviour of police officers and that of criminals. Of the three hundred and forty-nine members of Cartouche's gang whose occupation could be identified during their interrogation, which took place after the arrest of the notorious brigand in 1721, fifty-five turned out to be military or police officers (29), ranging from snitches to clerks and managers such as commissaires and inspectors, All were subordinate not to their hierarchical superiors, but to the King's direct representatives, the Secretary of State for the King's Household or the Lieutenant General of Police, by whom they were charged with carrying out "extraordinary police" duties; In short, they were a sort of parallel police force, the brainchild of d'Argenson (30). Nor did they shy away from abuse of power, extortion and outright racketeering. Police corruption was undermining the kingdom from the early 1740s; Lieutenant General Sartine, then his successor Lenoir, the inspectors d'Hémery, Receveur,

Goupil and Meusnier exploited the girls at the Opéra, had the great and the good watched over to better control them and eventually blackmail them, cheerfully falsified official documents and gaily resold the forbidden books seized by their subordinates to make more than pocket money. The most emblematic dirty cop of this era was Jean-Baptiste Meusnier (1713-1757), writer, spy, forger, swindler and, above all, inspector. Freemason? Affirmative (31).

The trial of the police inspectors (1716-1720) only served to accentuate the bad reputation of the police, by revealing to those who had not yet fallen victim to their arbitrariness that these inspectors were in the habit, among other things, of carrying out visits and searches at inappropriate hours, of using undue violence, of locking up people they had arrested in their homes in order to extort money from them, and of being guilty of embezzlement and exactions of all kinds (32). It should be remembered that, in the eighteenth century, the office of commissioner was an office and its cost was as high as that of a member of Parliament: it therefore had to be amortised and made profitable as quickly as possible (33). During the Regency period, however, the line between police practices accepted by the hierarchy and corruption was very thin. It was all the more easily crossed because there were no measures in place to monitor the integrity of officers. In fact, the offence of corruption did not exist. It did not appear on the list of offences until the French Revolution, two years after Louis-Sébastien Mercier expressed the almost universal opinion of the population in his "Tableau de Paris" (1788): "As all states have their weaknesses, their lucre, and what is called the 'tour du bâton', the commissioners have gone on to receive gifts from those who, in breach of the Police ordinances, wanted to escape their severity. Hence the popular jokes that attribute to their hands the ability to receive flesh, fish, wine, oil and the shield of the hang-up girl all at the same time. Proverbially, they say 'commissioner's flesh', 'fat' and 'lean', to mean that everything comes to them from the neighbourhood, without having to untie their purse" (34). Condemned by the Codes of 1791 and 1795, corruption was defined by articles 177 et seq. of the Penal Code of 1810, article 169 of which criminalised for the first time the misappropriation of public or private funds by public officials in the performance of their duties, making it punishable by hard labour (35). "Police crime takes different forms, which can be broadly grouped into two types of offence: criminal offences committed off duty and offences committed in the course of duty, although the two are not systematically independent. In fact, some criminal acts committed by police inspectors stem from the specific nature of their profession: being in constant contact with criminals, there are many temptations and opportunities. Like military crime, the delinquency of first-generation inspectors does not correspond to thefts of necessity, such as food theft, but is more akin to greed, although it may also be a response to the structural difficulty of being paid. Among the crimes committed while on duty, blundering is distinguished from professional misconduct. The former is defined as 'damage caused [...] by a law enforcement officer in the performance of his duties, resulting from an error or excess in the normal course of police action'. [...] [T]he excesses and abuses of power in the performance of duties associated with police blunders take

the form of violence, brutality and improper arrests. There may also be pecuniary abuses, such as bribery, exaction, peculat and all their derivatives. Professional misconduct, on the other hand, is more a matter of failing to comply with the codified work protocol of police inspectors. It corresponds to a failure to comply with a professional rule, such as working in person. This type of misconduct generally calls for minor disciplinary sanctions: admonition, fine or suspension" (36), which, we are told in a thesis whose title clearly indicates that the authorities were beginning to concern themselves with the reputation of the police, "already bear witness to the strengthening of the supervision of police inspectors in 1740, at the very least to the introduction of punitive measures [...] [to] the establishment of mechanisms to control the probity and accuracy of the actions of police inspectors, which were taken in hand by the magistrate". Of its "image" more than its "content",² since it adds: "[...] no example of the application of this type of penalty [has] been found [...] (37)".

In the 19th century, the people of Lyon were convinced that the police officers who patrolled their city were more thieves than the crooks they sought out and sometimes arrested (38). They were not alone. In his *Biographie des commissaires de police et officiers de paix de la ville de Paris, suivie de l'Essai sur l'art de conspirer, suivie d'une notice sur la police centrale, la police militaire, la police du château des Tuileries, la police de la Garde royale, la Police de la Place, la police des Alliés (sic), les inspecteurs de police, etc.* (1826), the destruction of which was ordered by a ruling of the Royal Court of Paris on 12 December 1826, Guyon describes police officials as "little potentates in their arrondissements, real potentates well paid by the government, gorged with allowances and gifts from those who fear their surveillance" (39). This is followed by a list of police commissioners who did more than just make ends meet by racking up prostitutes, fences, gambling house managers, etc. "What a formidable man the police commissioner is! What a formidable man the police commissioner is," wrote Saint Edme in 1829, "what immense power he wields! One should tremble before his scarf. A commissioner can commit more arbitrary acts with impunity than any other constituted authority, and yet he is at the bottom of the administrative and judicial ladder" (40). Zola was therefore spoilt for choice when it came to finding a role model for the character of Commissaire Théodore Gilquin, a debauched, alcoholic bohemian who became a tough, prevaricating civil servant, a friend of the Minister of the Interior Eugène Rougon and of du Poizat, who, once he had become Prefect of the Deux-Sèvres, appointed him Commissaire Central in Niort. Republican meritocracy can never be undone.

At the time of the publication of *Son excellence Eugène Rougon* (1876), opponents of the Third Republic, proclaimed on 4 September 1870, accused the Republican police of having the same shortcomings as the imperial police, and explained this by the presence of former Bonapartists in the highest echelons of the Prefecture; they accused it, informed by its behaviour during the

Commune, of being brutal, arbitrary, of despising the people, in short of being political. The lawsuit brought by the Minister of the Interior against the satirical newspaper *La Lanterne* in January 1879 led not only to the newspaper's conviction, but also to the resignation of the Prefect of Police, A. Gigot, and of the Minister of the Interior after several inspectors had confessed to looting and beating. Gigot and the Minister of the Interior, following the scandal that these confessions had caused in public opinion (41). Indictments of the police were a daily feature in all the opposition, socialist, anarchist and extreme left-wing newspapers. Vilified for the efficiency with which they used violence against "honest people", police officers were also criticised for their proportionate inefficiency in fighting crime; Their impotence was blamed on a lack of manpower (42) in the conservative papers, and on their stupidity and narrow-mindedness in the left-wing papers, which gave them nicknames such as "roussins", "culottes de peau", "cognes", "sergots", "bourrins", "bourriques", while mocking their laziness: "At night, at the station, the rednecks. Ont d'quoi s'coucher sur leurs derrières", bellowed the goguettier and chansonnier Jules Jouy in the late 1880s; "Les agents sont de brav'gens, qui s'baladent, qui s'baladent/Les agents sont de brav'gens qui s'baladent tout le temps", sang the successful cabaret artist Yong-Lug in 1893. Detective novels at the end of the nineteenth century made no secret of this reputation, while the first comic strips, published at the very beginning of the twentieth century, exploited its comic potential (43).

The bourgeois press would have none of it. *Le Figaro*, for example, in an article of 23 April 1892 entitled "Les gardiens de la paix", tried to make Margot cry, observing that "it is not without a certain surprise that the public has learned [...] that these humble defenders of public safety have to live on the hefty daily pay of 3 F 85". The article emphasised the harshness of the selection process for peacekeepers and the dangers of a job in which you "risk your skin". Other newspapers, even more conservative, were concerned about the effects of climatic variations on the health of police officers. In the conservative press in general, it was fashionable to portray their working conditions as difficult, and their pay and equipment as inadequate. In this way, the bourgeois press participated in the efforts to enhance the image of the police that had been initiated, as we saw above, by the lieutenant general under the reign of Louis XV.

"The professional reforms concerning the corps of police inspectors (...) are part of (the) desire to win public approval, to make staff respectable by codifying their practices and [to improve] their image" (44). A "battle for respect" was waged on two fronts: on the one hand, "imposing respect means punishing rebellion and indelicacy towards police staff" (45). "On the other hand, measures to control officers seek to guarantee their professional integrity and the legitimacy of their actions through discipline within the force. Supervision was tightened not only on police inspectors, but also on their subordinates, observers and police auxiliaries. This desire to monitor and control officers was part of the drive to formalise practices, although the introduction of

disciplinary mechanisms went further in supervising staff. It is therefore more the probity of the staff that is checked, rather than their compliance with protocol" (46); in addition to the staff, the observers and "natural auxiliaries" of the police, whom the public continued to call "flies" or "snitches", were apparently subject to greater supervision; in any case, they were now salaried. But, as the probity of the staff and informers was sometimes checked by superiors who were even less honest than they were, it is perfectly obvious that nothing was done. Unable to curb police delinquency, and with good reason, the authorities shifted the problem, on the one hand by focusing their efforts on punishing blunders and misconduct and by putting forward the demagogic argument, which is being rehashed today, that rogue police officers were "black sheep" (47), and on the other hand by working hard to improve their relations with the public, or rather the public's image of their staff.

On 12 March 1829, the Prefect of Police, Debbeyleyme, issued an ordinance establishing Europe's first "visible" police force, under the name of the Corps des sergents de ville de Paris, which was to perform the duties previously carried out by police inspectors. At a time when, even in England, the police still only employed officers without uniforms or distinctive signs, this was the first uniformed police unit in Europe (in blue cloth, with buttons bearing the arms of Paris, blue trousers and waistcoat, a horned hat and a white cane bearing the arms of the city) (48). He "argued that dressing them in recognisable attire would give them the authority they needed to carry out their duties, would identify them to the public in case of need and would protect them from themselves by forcing them to behave properly" (49). Protect them from themselves? This was because, he added, "habitual frequentation of cabarets and the continuation of bad habits such as intemperance and gambling, the consumption of alcohol, drunkenness and intemperate habits [were] scourges from which police officers are no more immune than the lower classes [...]" (50). Thus, being subject to public scrutiny in the exercise of their ministry was supposed to automatically regulate their activity (51). The police, henceforth responsible for moralizing society, had to set a visible example of morality.

The politician Alexandre-François Auguste Vivien (1799-1854) mistook his desires for realities when he wrote in 1852 that "[...] almost all the external and active employees ostensibly carry out their ministry, and the population, far from taking umbrage at this, shows all the more confidence in them (52)". Having succeeded Debelleye at the advent of the Polignac ministry in August 1829, Maugin, far from continuing the work undertaken by his predecessor, greatly reduced the number of city sergeants, two thirds of whom became police inspectors again and returned to civilian clothes (53). Debbeyleyme's measures to make the police "conspicuous" only became effective under the Second Empire, at the beginning of which Napoleon III, after complaining to his Minister of the General Police Maupas that, "(d)n the current state of affairs, there is no organisation that can quickly and reliably ascertain the state of public opinion" and

recommended, as a remedy, giving the general police force "a simple uniform organisation, obeying a single impulse" (Fouché had therefore not fully achieved his objective), explained his idea of the police force in the following terms: "It will not be a ministry of provocation and persecution, seeking to reveal the secrets of families, seeing evil everywhere for the pleasure of pointing it out, interrupting the relations of citizens between themselves, and spreading suspicion and fear everywhere; on the contrary, it will be an essentially protective institution animated by that spirit of benevolence and moderation which does not exclude firmness; it will intimidate only the enemies of society. In short, its role is to supervise all parts of the public service from the point of view of humanity, public safety, general utility, improvements to be introduced and abuses to be eliminated. It will then provide the Government with the most powerful means of doing good" (54).

Determined to prevent any further revolution, Napoleon III decided to reform the police force along the lines of the London Metropolitan Police. "The change was far-reaching: previously, order in the French capital had been ensured by a variety of forces (military, national guards, municipal guards, "ostensible" and "bourgeois" police officers), who intervened in the form of intermittent patrols and plainclothes inspectors drowned in the crowds. From then on, uniformed police officers were the main agents of order. They moved conspicuously and continuously throughout the urban space of Paris, in direct contact with the inhabitants, thereby changing the way people lived and appropriated the city for a long time to come" (55). The sergeants de ville innovated in particular through the practice of *ilotage*. Initially well received by the population when they took up their duties at the end of the Second Restoration, their defence of the regime during the July Revolution of 1830 earned them the abhorrence and hatred of the Parisian gentry, who, even before their participation in the repression that took place during the February Days of 1848, saw in them the reincarnation of the royal gendarmes (56). In a chapter of *Les Français peints par eux-mêmes*, entitled precisely "Le sergent de ville", the novelist Armand Durantin echoed the views of many of his readers, writing: "[t]he baton of the policemen serves only to defend the citizens, the sword of the town sergeant has too often been reddened with French blood in riots. The policeman's mission is entirely peaceful; the town sergeant's can become hostile" (57).

The Prince President's "spirit of benevolence" was also reflected in an intensification of the surveillance of minds. To this end, new, more elaborate methods were developed and administrative bodies were created. The first of these was *Sûreté Générale*, heir to Fouché's ministry; set up in June 1853 to replace the short-lived Ministry of Police that the future Napoleon III, "creator [...] [of] the contemporary French political police" (58), had reconstituted in January 1852, it was "more concerned with the personal safety of the sovereign than with public safety" (59). The second, the true ancestor of the intelligence services, was the "special

police", whose "function was not to monitor individuals under ordinary law, but to monitor and record their religious and political opinions". This system was supplemented by the establishment of military intelligence services, which not only carried out military or technical collection tasks, but also political surveillance both inside and outside the country" (60). The third was the corps of special police commissioners for the railways, border posts and ports, created by the decree of 22 February 1855, shortly after the establishment of the Directorate of General Security (1853), to gain better knowledge of Napoleon III's opponents and agitators, but also to monitor travellers, traffic and the exchange of information, before its remit was extended to the surveillance of borders and foreigners (61). In 1854, the task of organising this special police force for the railways - the "need for which" had been identified by the July Monarchy as early as 1837 (62) - was entrusted to the recently created Public Safety Directorate. Under the Third Republic, it became one of the main instruments of political intelligence (63). Its methods remained rudimentary: direct surveillance and monitoring of mail and the press. In a letter addressed to the Minister of the General Police in 1852, the Prince President of the Republic explained the reasons for its creation: "Today, although responsible, the President of the Republic can, by official means alone, know only very imperfectly the general state of the country. He does not know [...] whether the measures agreed with his ministers are being carried out in accordance with the idea that dictated them, whether public opinion applauds the actions of his government or disapproves of them; he does not know, finally, what deviations in the various localities need to be repressed, what negligence needs to be encouraged, what improvements are essential. All he has to go on is the often contradictory and always inadequate information provided by the various ministers [...]. In the present state of affairs, there is no organisation that can quickly and reliably ascertain the state of public opinion, for there is none that has the exclusive task of doing so, that has the means to do so properly, that, disinterested in all political matters, has the power to be impartial, that is to say to tell the truth and pass it on" (64). After the abolition of the Ministry of Police in 1853, the Directorate of Public Safety inherited this task for the departments and the special railway police were given the task of carrying it out. Once the Directorate of Public Safety was disbanded (because, yes, the Directorate of Public Safety was disbanded), the task fell to the Directorate of General Safety, in accordance with the recommendation made by Cazelles, Director of General Safety, in a report submitted in 1880 to the Minister of the Interior of the very young and fragile Republic. In this report, Cazelles emphasised that the mission of a republican political police force could only be "to gather and bring to the attention of the senior officials responsible for exercising authority, the information which should serve as a basis for the government's internal policy, to which end the Director of General Security should be able to inform the Minister of "the facts which make it possible to foresee with some certainty an event which we would otherwise be reduced to waiting for by virtue of vague conjecture" (65). Thus, less than a decade after the new Préfet de Police, Emile de Keratry, abolished the Service spécial de police politique (Special Political Police Department) on the grounds, taken up wholeheartedly by the opposition, that it constituted "a permanent threat to the freedom and lives of citizens", an institution unworthy of a republic

and one that republicans could not, without denying themselves, or without serious contradiction, to use a means of government that they had constantly denounced under the Empire, the political police, with the secret funds that served to run it, rose from the ashes (66), even supposing that it had never ceased its activities in the meantime.

Appointed Prefect of Police in Paris after the riots in the Latin Quarter in 1893, Lépine, whose talents as an inventor we have already had occasion to appreciate, was the first not only to "develop a fully-fledged doctrine of policing which prevailed until recently, that of deterrence, keeping demonstrators at a distance and the alleged 'non-lethality' of weapons" (67), to understand the need to establish a kind of emotional relationship between the police and the public. His starting point was the following observation: "The officers were unpopular, they were criticised for rude or clumsy behaviour [...] even brutality [...]. When you're weak, you become violent - it's fatal. Poorly commanded, poorly used, these men had no confidence in themselves [...]. Instead of imposing themselves on the crowd with a martial attitude, they went to battle with them, in small groups, and when they had the upper hand, naturally, the blows rained down. They were returned with wear and tear (68). This was his battle plan: "I had to make a major effort to change the crowd's attitude towards my agents. I had to make the guard popular by making him polite and helpful, eager to make himself available to whoever required his services. I made these good people do all sorts of jobs: undertakers, drain cleaners, lifeguards, firemen, sweepers, diggers, and I could go on... The police have a thankless task that they have to make people forget by hoarding the public's trust and winning its sympathy... I demanded courtesy for women, politeness for everyone... all novelties that the public was grateful for in the guards of the peace (69)". He wanted his police officers to be "respected, loved and admired by the population" (70). To achieve this, he began by tightening the conditions for recruiting peacekeepers (there were 85 of them in 1829, compared with 8,000 at the time), banning candidates with unattractive or laughable physiques, offering them material and financial benefits, and giving them a new uniform (71), a whistle with wheels and a white baton. Lépine's constant concern for the (self-) image of police officers also led him to create the "Orphans of the Police Prefecture" charity and the "Municipal and Rural Police Medal", and to open a "Golden Book" of police officers from the Prefecture who had "died in the line of duty" and a Museum of the Police Prefecture. The police had a stand at the 1900 Universal Exhibition, part of which was devoted to a retrospective exhibition on the Parisian police and another to the latest advances in forensic science (72). To improve the image of his police force, he also improved his own, with the help of the press - he appeared more than once on the cover of magazines, which portrayed him as a "popular, good-natured and sympathetic prefect of police" (73). He gave of himself, not hesitating to be present in the field, in difficult situations which were covered as much as possible by the newspapers and which "even earned him undeniable popularity" (74). In 1929, sixteen years after his dismissal, Lépine was still convinced that his reform had enabled the police to "regain the public's support" (75).

"Was he, however, this efficient, firm but moderate prefect, sparing of human blood, a merciless fighter against the violence of his men, who knew how to make people love the police and reconcile them with the population, this popular police prefect, who has entered the collective memory and imagination of Parisians as the archetype of the good police prefect? Did he really succeed in changing the ordinary attitude of the municipal police, did he really transform their practice and behaviour? Was he the initiator of clean policing, without unnecessary violence? "The Prefect was not always able to control his troops and his own reactions; his very presence sometimes led to excesses worse than those he was supposed to prevent. His technique was not without its faults, particularly that of the "small packets" which had the disadvantage - by prolonging the exit from a meeting indefinitely - of helping to heat up tempers and exacerbate impatience. A good example of the limits of Lépine's tactics, the shortcomings of his temperament and his own responsibilities is provided by the events of 29 October 1903 at the Bourse du Travail. On that day, the security service lost all restraint, the guards invaded the Bourse du Travail and, sabre in hand, charged those present, committing acts of brutality and violence denounced by the President of the Council himself. Chasing the workers into the offices, upstairs and across the glass roof, they struck with their sabres, causing 84 serious injuries. The event sparked a parliamentary debate on 30 October, and numerous questions prompted the Minister of the Interior and President of the Council to call for an enquiry, which was led by Cavard, the director of Sûreté Générale, the rival of the Prefecture of Police, and Edgar Combes, his father's chief of staff. The debates and Cavard's report, which was presented by the President of the Council on this occasion, very clearly questioned Lépine's responsibility. His personality, his systematically provocative policy towards workers and union members, his nervousness, his lack of composure and authority, his own attitude, as well as the tactics he used and his initiatives that day were all criticised. Finally Combes cleared him - to the benefit of the doubt - of the accusation of having given the order to "clean the hall" which witnesses had claimed to have heard from Lépine's mouth, and refused to give satisfaction to those who demanded the immediate dismissal of a Prefect of Police whom he supported only with great reserve. The "mass tactics" employed exclusively by Lépine may have led to violence. The prefect of police was so convinced of the inescapable violence of any workers' demonstration that he tended, by his firmness, his exaggerated precautions and the massive presence of police officers, to provoke them himself. From 1910 onwards in particular, this behaviour earned him a great deal of criticism: his bellicose and provocative attitude, his reactionary and vindictive character, his epidermal anti-unionism and anti-socialism were blamed for most of the violence" (76). Nonetheless: "In his hands, the Prefecture of Police had become an effective and formidable instrument for repressing unrest (77)". Under these conditions, it is understandable that, although he was much less effective in suppressing crime, he "reassured" the powers that be.

Thanks to Lépine, science and its applications had given the police the means to improve their image, but it took the media to smooth it out completely. By the end of the 19th century, the "cognes" and other "bourriques", confined to the tasks of maintaining order, political snitching or provocation, had given way to the "détective", the "limier" in the (popular) press and the (detective) novel. Fascinated by science, there was no reason why the imagination of the people, now largely literate, should resist the charm of such figures.

Investigation - whether social, literary, administrative, journalistic, medical, scientific or police - became increasingly popular throughout the 19th century. Originating "(f)rom the workings of the Carolingian administration, (from) the judicial break constituted by the Inquisition tribunals at the beginning of the thirteenth century, (from) the invention by the Enlightenment of a ratio that is both individual and universal", "(i)n its various forms (exploratory, ambulatory or interview), it has become the major category of approach, analysis and interpretation of the social, the procedure by which contemporary society thinks it can most pertinently resolve the question of its representation. A combination of practice and narrative, of intellectual operation and empirical observation, it has become the preferred mode of production and dissemination of the 'truth' in the industrial and urban systems" (78); in the democratic system: "Inquiry signals [...] [t]he right offered to every individual endowed with reason to participate in the search for truth, to produce his or her own interpretation, and to discuss those of others. Reflecting the reign of publics and opinions, it speaks of the scattering of truth, the era of relativism, but also of the need to fall back on majority opinions, shared truths and the virtues of the average. As a paradigm of rational and negotiated consensus, it signals the entry into a democratic, peaceful and participatory space, and symbolically embodies the way it works (79)."

As far as criminal investigation is concerned, there are two figures in addition to the policeman: the fictional detective and the reporter.

The theft of the Mona Lisa had not been solved by the police, despite their use of new scientific techniques such as bertillonage, but by Sherlock Holmes. Edgar Allan Poe's detective novel, *Double Murder in the Rue Morgue* (1841), *The Mystery of Marie Roget* (1843) and *The Stolen Letter* (1845) were all in vogue. The detectives, the "sleuths" of Emile Gaboriau and Pierre Ponson du Terrail, captivated readers' imaginations with their physical prowess and the intellectual ingenuity with which they used the new techniques of police analysis to solve the "enigmas" they faced. In short, by qualities not possessed by the policemen these readers met every day in the street, but which, insensibly, subtly, could not fail to reflect on and soften the public's judgement of the policemen (80). The founders of the detective novel found material for their stories in the many "Memoirs and Recollections" of leading police officers that had been

published since the late 1820s, in particular Vidocq's *Memoirs* (1828-1829) and *True Mysteries of Paris* (1844), all works in which, incidentally, "life meets literature, where one does not know where the truth ends and the fabrication begins (...)" (81). More than "one of the major facts of everyday life" (82), crime became one of the main themes of "popular culture": from soap operas to melodies and songs, violence is everywhere in works of fiction. But in soap operas, as in memoirs and souvenirs, "the wild and picturesque description of the crime gradually replaced the more methodical and technical description of the investigation". In fact, the police investigation became increasingly complex over the course of the nineteenth century. "In addition to the technical dimension, which progressed steadily (the position of the corpse, the location of clues and traces were the subject of increasing topographical attention (sketches, plans, cross-sections) at the sources of a new topographical attention that accelerated the transition to judicial rationality), there was the general expansion of procedures. Minutes, telegrams, notes, reports, interrogations, verifications, cross-checks and reconstructions tended to multiply, as shown by the increasing density and thickness of ordinary criminal files. By 1900, these had become veritable paper machines [...]". In fact, more than the crime itself, it was the investigation that attracted attention (83), both in the actual investigations and in the descriptions of them in the "Memoirs".

These "Memoirs" by former prefects or police officers spread the image of a more professional police force, better recruited and better trained, more rational in its practices, and it left its mark on people's minds, since around 1880, the "bloodhounds of the Sûreté" - police officers responsible for tracking down and arresting wanted persons - already enjoyed a prestige that was the envy of the public, their colleagues and their administration (84). Thus, "(g)iven this very useful instrument, *Memoirs and Recollections* [...], the Sûreté investigators actively worked on the symbolic revaluation of their function and their practices. Based on the metaphor of hunting and the juxtaposition of simple, realistic plots, these texts, which explicitly rejected the cold, cerebral mathematics of fictional investigators, sketched out a veritable 'genre' that did much to disseminate the image of the investigative policeman. By 1900, their objective had been partially achieved. A second stage began in the 1930s, with the introduction of Simenon's Maigret, a fictional figure in whom representations of the detective, the investigator and the average Frenchman were reconciled. But it wasn't until the television and film dramas of the 1960s that the police officer, definitively assimilated to the criminal investigator, was stripped of any repressive or political dimension. The public and commercial fervour that police TV films enjoy today bears witness to the culmination of this long historical process, in which the police officer won the battle of representation" (85).

But let's go back to the end of the nineteenth century, when a newcomer, a product of "American-style journalism", was making an irresistible ascent up the editorial hierarchy: the

reporter. Initially perceived as "the last of the men", unsociable people who, according to the nineteenth-century Larousse (86), "hold on to real journalists by a thread", reporters soon gained widespread recognition due to the popularity of the heroic reporter characters in the serial novels of Jules Verne, Fortuné du Boisgobey and Jules Lermina, and Gaston Leroux, himself a former reporter (87). Reportage even became a publishing genre in its own right at the end of the 1920s (88).

Covered by a reporter, the crime story, which until then had generally been covered by a diversified reporter, took on a whole new media dimension: it became "the very substance of the profession". Indeed, crime stories increased substantially in number and volume, with attacks on people (homicides and night-time assaults) and property (burglaries) over-represented. Like their ancestors, reporters were not content to simply report the news; they also investigated in the field. They even gave priority to the story of the investigation over the account of the event (89). To reconstruct events, he conducted interviews (with victims, witnesses and the police officers in charge of the investigation), but, above all, he used his imagination, either to fill in the blanks of an investigation or, if necessary, to invent crimes out of thin air, his aim obviously being to satisfy the more or less unhealthy curiosity of his readership and thus increase the sales of the newspaper to which he contributed (90). In 1880 and 1881, police investigations established that many of the criminal cases reported in the audience press were fables and "all the prefects of police pointed out that night attacks were very often nothing more than canards launched by fact-divers short of inspiration, easy arguments launched by the town council or the opposition against the prefecture, or subterfuges commonly used to explain an ill-considered expense or an income that was too late". (91).

Despite the tensions that such differences could give rise to between police officers and reporters and "which were often only superficial, the general climate was nevertheless very cordial between (them). No doubt the impatient and peremptory tone that certain fact-divers could adopt, their insistence and their often rude manners could irritate the police, who often tried to 'deport' them. But the personal ties that each of them eventually forged ensured that local relations were decent, courteous and sometimes even excellent. A *modus vivendi* seems to have gradually been established where complicity prevailed over competition. Police officers' memoirs and journalists' recollections all speak of the complicity that often developed between the two professions. Goron, for example, who saw reporters as active and intelligent individuals, felt that "above all, it was necessary to arrange to live with the press" (92); others felt that they were "precious auxiliaries" (93). The reporters reciprocated: unlike the militant left-wing and extreme left-wing newspapers, the popular press had a "benevolent attitude towards the police and, with the exception of a few black sheep and 'apache policemen' who were roundly condemned,

presented the police with favourable images, combining good-natured images and heroic figures (from the ace of the Sûreté, in the Jaume or Goron version, to the martyr of duty)" (94).

It seems that, with the combined rise of the mass press and parliamentary democracy, encouraged by widespread literacy, "a sort of 'reciprocal validation relationship' was established between literature, journalism, criminology and politics. This confluence gradually gave rise to a 'vulgate on crime', full of scaremongering, and the source of a veritable social psychosis: the 'public safety malaise'. As a result of falling mortality rates, rising living standards and declining violence, French society developed a heightened sensitivity to the risk of crime, and ended up demanding greater security. The panic also had a lot to do with the alarmist campaigns orchestrated by a press eager for circulation and 'legitimacy', as well as political strategies that saw the issue as a buoyant theme and an unprecedented angle of attack. Newspapers were full of evocative headlines about delinquency, 'nocturnal assaults' and attacks committed by conscripts of the 'army of crime': vagrants, repeat offenders, anarchist-terrorists, 'bandits in cars' and 'apaches', who became, in the Belle Époque, the very archetype of the criminal menace" (95).

The most popular soap opera of the early twentieth century was undoubtedly "The Apache". "The Apache is the scourge of Paris. More than 30,000 prowlers against 8,000 city sergeants", ran the headline in the Illustrated Supplement of the Petit Journal on 20 October 1907, under an illustration showing a huge Apache armed with a shiv facing a lilliputian-sized policeman in the foreground, with the corpse of a bourgeois man with his throat slit in the background. This was the nickname given to the "young thugs" from the working classes of eastern Paris - who, like the Communards, were also photogenic (96) - who had been rampaging through the capital since 1900. "What could be done to deal with 20,000 or 30,000 Apaches" (97), Lépine himself told the Paris City Council, creating a special brigade. This was done in 1909, and later became known as the "criminal brigade"). Our question is: who exactly were the "Apaches"? "In Belle Époque France, the word 'Apache' did not refer to any natural group, any ethnic, geographical or social kinship, and even less to a legal category. It was first and foremost a media construct based on a very concrete reality: that of an urban and marginal youth made up of downgraded workers from working-class Parisian neighbourhoods (most were aged between 15 and 25), who gradually turned to delinquency and lived in small informal groups with no structure or hierarchy. The term is also the product of a collective creation, at the crossroads of the popular and the learned, at a time when the American imagination was playing an increasing role in the formulation of new social dysfunctions. From the mid-nineteenth century onwards, representations equating the 'barbarians of the interior' with the North American Indians became a recurring motif. As the last people to resist the conquest of the West, the Apaches acquired a reputation as the rejects of civilisation, unassimilable, cowardly, cruel and devious, both in ethnological discourse and on the world tours of Buffalo Bill's Wild West Show. At the same time, on the other side of the

Atlantic, the Second Empire and then the fledgling Third Republic were striving to decriminalise the working-class threat, to integrate the 'lower' classes by fragmenting them: on the one hand, all the moralized proletarians who had accepted the values and norms of modern society, and on the other, the residual 'tribes' who were dissident, irredeemable and destined to be eliminated. This was all it took to draw an analogy between the archetypal ferocious, bloodthirsty savage of the New World and the young Parisian hoodlum from the slums of the Old World" (98). According to *Le Petit Journal* of 23 January 1910, the nickname was invented by police officers, but according to a 1904 issue of the magazine *L'Intermédiaire des chercheurs et curieux*, the term was popularised by a journalist called Victor Moris (99). Having failed to invent the nickname, the sensationalist press seems to have, if not invented, at least exaggerated the misdeeds of the thugs in question. Every time *Le Petit Journal*, *Le Petit Parisien*, *Le Journal* or *Le Matin* ran a headline about them, their sales soared (100): they claimed to "demonstrate (...) that, in recent years, blood crimes have increased in unbelievable proportions" (101). A veritable 'psychosis' took hold; the word 'insecurity' was on everyone's lips and in everyone's heads - admittedly for different reasons, depending on whether you were a layman or a politician. Now we know, to refine the comments made above on crime figures, that not only did they generally fall from the sixteenth to the nineteenth century, but that this fall was also observed from the mid-nineteenth to the mid-twentieth century (102).

The first thing to note about the term 'security' is that, coming out of the mouths of the people responsible for ensuring it, it does not inspire any particular confidence. Like "sûreté", it comes from the Latin "securitas" and, unlike "sûreté", refers to a subjective state. First used in the 13th century, it means "the confidence of one who believes he has nothing to fear", whereas from the 12th century onwards, "sûreté" refers to the state or situation of "one who has nothing to fear". The same distinction is made in safety/security and *Sicherung/Sicherheit*. J. F. Féraut, in his *Dictionnaire critique de la langue française* (1787-1788), states that "sécurité and sûreté are not the same thing; the first expresses a feeling, and the other a state of assurance. One often has security, without being in safety" and, if he felt the need to make this clarification, it was because a confusion, which had not existed until then, even in police vocabulary, was to occur between the two terms. In Delamare's "*Le Traité de la Police*", the term "sécurité" is used half a dozen times, i.e. only three times less than "sûreté"; it became more common in police texts towards the end of the eighteenth century and especially during the revolutionary period, when, associated with the notion of public order, it was stripped of its negative connotations and, associated with the notion of individual freedom, it even took on positive ones, while the term "sûreté" took on a political meaning. According to the *Trésor de la Langue Française*, "insecurity" appeared for the first time in Pougens' "*Vocabulaire des nouveaux privatifs*", but did not make its entry into the *Dictionnaire de l'Académie Française* until 1878, in the sense of "lack of security; anxiety caused by the possibility of danger". (103). In short, to sum up these etymological considerations, it is tautological to speak of a "feeling of insecurity" or, for that matter, a "feeling of security".

The concern for order and safety, both material and psychological, is probably as old as the hills, but safety did not become a value until the end of the 15th century. At that time, political literature, consisting mainly of the "Mirrors of the Princes", made the king the source of all peace and justice. Although the term "public safety" did not appear until the end of the sixteenth century, its meaning can already be seen in statements such as the one to the effect that "[t]he safety of this [kingdom of France] is due solely to the fact that kings are bound by a large number of laws, which guarantee the safety of their people" - it is revealing that the prince's love for his subjects is also presented as the guarantees of his own "conservation" and "safety" (104). The feudal term "asseurement", for which it seems to have been substituted, referred to a sworn promise, sanctioned by a court, not to carry out acts of violence against a person (105); it was therefore an act that committed two parties, whereas the notion of security, in the *Miroirs des princes*, implies consideration for a community.

The notions of safety and security were to be at the heart of the constructions of the bourgeois theorists of the social contract, from Hobbes to Pufendorf, from Locke to Montesquieu. Founded on an individualist and utilitarian conception of human nature, contractualism considers that individuals, who pre-exist the society they found by mutual agreement, are naturally equal, naturally competitive, naturally calculating and naturally inclined to seek security. This is why they also seek to escape from the state of nature, which is dangerous in Hobbes and inconvenient in Locke, and to do so they enter into a social contract, which is twofold and consists of a contract of association and a contract of subjection, by which, free and equal, they mutually consent to cede their individual sovereignty to one person or to an assembly so that he or she can take decisions relating to the common security and utility that are considered to be the will of all in general and of each person in particular. For Pufendorf, in *De jure naturæ et gentium* (1672), security is the first and most fundamental of all natural rights, the touchstone of political capacity and legitimacy. Power was instituted to procure "peace and common security". A century later, Condorcet considered that "human rights can be reduced to the security and freedom of the person and of property" (106), while Abbé Sieyès proposed a text proclaiming that "the freedom, property and security of citizens must rest under a social guarantee, superior to all attacks" (107). Finally, this ideological sewer emptied itself in the proclamation of the Rights of Man and of the Citizen: "The aim of all political association is the conservation of the natural and imprescriptible rights of man. These rights are liberty, property, security and resistance to oppression (art. 2)". (108). In accordance with the fantasies of social contract theorists, security thus went from being an objective common to all individuals and groups to the exclusive preserve of the State. From then on, it "took on the stamp of national security". The rise of the State was expressed in its ability to formulate security. From this point of view, the State has arrogated to itself the right to define the objects of security and those to be secured. In the name of protecting national security, it determines who or what it is important to protect against by

designating what constitutes a threat. The state is then identified as the main player in protecting the population, particularly against violence and possible external invasion, i.e. aggression from other countries. This centralisation of responsibilities even meant that 'the freedom of individuals was subject to the constraints of security. The security of citizens had to be subsumed, as a political epigram, to the security of the nation'. Individuals experience security only when the state has the means to protect them. It must therefore recruit and maintain an army and police forces" (109).

The politicisation of the theme of "insecurity" and, with it, the first public debates on this issue took place under the censal monarchies. They "mixed statistics on assaults or homicides, the repetition of alarmist rhetoric and attempts to exploit the phenomenon through the media and politics. In a climate of widespread suspicion, the crisis of autumn 1826 was based on a proliferation of accounts of nocturnal attacks, and outlined the modern problems of insecurity. After a decade of calm, the issue resurfaced under the July Monarchy, particularly during the years 1836-1848, which were a period of continuous emotion in this respect. Under the Second Empire, however, the combination of increased police repression and control of the press largely curbed the exploitation of the phenomenon, which did not reappear until the end of the 1860s. By then, it was growing rapidly, accelerated by the unprecedented convergence of a mass press and parliamentary democracy. Alarmist campaigns periodically affected the country, denouncing the growing insecurity of people and property, particularly in large cities such as Paris and Marseille. Two decisive sequences can be discerned. The first, in the years 1880-1885, reflected both the hostility of monarchists towards a Republic incapable of ensuring the safety of 'honest people' and the hostility of radicals towards a despised police headquarters, But it also reflected public concern about the evil of recidivism, which statistics had just uncovered, which the new criminology was trying to curb and which members of parliament were endeavouring to reduce (the Waldeck-Rousseau law on relegating repeat offenders was being drafted at the time). The second, even more virulent, corresponded to the major campaigns for 'public safety' that marked the years 1900-1914. A fashionable theme, insecurity came of age at this time, and a whole line of argument was developed, supported by exasperated rhetoric and gradually taken on board by institutional and political players who saw it as a promising theme and an effective angle of attack. But the emergence of this kind of issue is, of course, inseparable from the country's gradual entry into a media regime" (110).

Among the journalists, it was above all the reporters who activated the preoccupation with security, using "a rhetoric that was in part unprecedented". On the one hand, they "developed (...) a kind of 'absolute' discourse which, ignoring any historical or comparative perspective, pointed to the omnipresence of the threat of crime (the obsessive theme of the besieged citadel), backed up by statistics. Explicitly declaring himself to be on the side of honest people rather than

criminals, he presented society as a community of victims, and in so doing multiplied his verbal outbursts and exasperated relations" (111). On the other hand, they "made a point of highlighting the incompetence of the public authorities (the inadequacy of the police, the guilty leniency of the courts, the scandal of the prison system) [...]. Finally, this discourse was not content merely to denounce, for its criticisms in themselves contained their remedies. Since the main source of crime was 'social weakness' and the inadequacy of repression, all that was needed was to give priority to energetic solutions and therefore to dare to punish, i.e. to repress and eliminate. The vast majority of reporters advocated harsher repression, a 'clean sweep' policy (tougher sentences, deportation of foreign offenders, corporal punishment for young offenders, systematic relegation, death penalty). These calls for severity were generally accompanied by speeches threatening the excesses of popular justice (self-defence, lynching, arming citizens), to which a discreet but continuous invitation was made. In addition to maintaining an artificial excitement around criminal cases, this urban drama linked the most trivial (and sometimes even imaginary) events in fake but disturbing chains of representation. At the cost of abrupt shortcuts, it provided a grid for reading society that was both tormented and reassuring" (112). More than a century later, if we were to say that the treatment of 'insecurity' by the media, most of which are owned by supporters of non-European immigration to Europe, has not changed, we would knock any reader resolutely opposed to the 'great replacement' that has been underway since the 1970s: simply, with one exception, namely the media owned by the Judeo-Christian Bolloré group, they have changed their line of business: They no longer focus their headlines on crimes, especially if they are committed, as many are, by people of colour, but on mass terrorism, the racial and racist dimension of which is much easier to gloss over with rhetorical incantations about 'secularism', especially as it is 'faceless'.

The security front was really reopened under the Giscard regime, under cover of a flurry of liberal-inspired laws, most of which were designed to appeal to specific audiences: Act of 5 July 1974 lowering the age of majority to eighteen; Act of 4 December 1974 repealing restrictive provisions on contraception; Act of 15 January 1975 on voluntary termination of pregnancy; Act of 11 July 1975 on divorce by mutual consent; Act of 30 June 1975 on assistance for the disabled; the law of 17 July 1978 on public access to administrative documents; the law of 6 January 1978, known as the "Informatique et Libertés" law; not to mention the Conseil d'Etat ruling of 8 December 1978 establishing "family reunification" as a general principle of law on the basis of the Preamble to the 1946 Constitution.

There was something even more worrying.

On 25 March 1975, Giscard d'Estaing began his televised address with these words: "I must speak to you this evening about security, France's external security, the security of its economy, the security of its people" (113); Poniatowski, Minister of the Interior, immediately afterwards declared that he wanted the Ministry of the Interior to be called the Ministry of the Security of the French and, on 8 September in Nice: "Closer control will be exercised over those categories of the population from which three-quarters of crime emanates" (114). " In the autumn of 1977, a few months after the Sécurité Routière had launched an advertising campaign sponsored by the Ministry of the Interior, the slogan of which was "en vacances, oubliez tout, sauf votre sécurité" ("on holiday, forget everything except your safety"), the Comité d'études sur la violence, la délinquance et la criminalité ("study committee on violence, delinquency and crime"), chaired by the Minister of Justice Peyrefitte, published its "Réponses à la violence : rapport à M. Le Président de la République" ("Responses to violence: report to the President of the Republic"), which began as follows: "Long kept on the sidelines, violence has moved into the heart of the city. It is not yet the master, but that time may come. If nothing is done to respond to the challenge it poses to us, that time will undoubtedly come... A feeling of general insecurity has arisen, which itself can give rise to violence, in a society where the rule of law no longer leads to a general consensus, and where some people are tempted to take the law into their own hands (115)". Hence, drafted by Peyrefitte, Law no. 81-82 of 2 February 1981 reinforcing security and protecting personal freedom, which Badinter liked to point out that the Minister of Justice had prepared by having "a television advert broadcast showing a little man becoming a crook, knife in hand, with this slogan: 'Security and freedom'" (116). During his presentation to the National Assembly, he said: "In recent weeks, these two notions of security and freedom have often been contrasted. Some people pretend to think that any increase in security comes at the expense of freedom and that, on the other hand, any extension of individual freedoms must be paid for by an increase in insecurity. Thank God this is not the case! The government is not proposing to square the circle. Freedom and security go hand in hand: that's the truth. Security is the first freedom (117). The proof of this is that the word "security" appears 95 times in the text of the law, and the word "freedom" five times. Badinter saw in Peyrefitte "the first to measure the benefits that could be derived from insecurity. He understood that there was a political seam [...]" (118). The judgement is flattering, since, as indicated above, his Republican ancestors had already used this trick at the end of the nineteenth century. It is both flattering and reductive, because this politician was acting in the name of the Reason of State, or rather its offspring: the "Security Reason", which consists on the one hand of "the temporary setting aside of certain legal principles in order to overcome situations of serious crisis; on the other hand, [in] the lasting application of derogatory legal rules to deal with permanent perils" (119). The security state is merely the outcome of the rule of law, if, as Hobbes argues by way of a circular argument, fear of each other was the only reason that brought men to the state of society and kept them there. Peace can only be achieved if men come together to forge a social contract, by which they consent to be governed in a community governed by a supreme authority. Fear creates the endemic chaos of the state of nature, and fear maintains the peaceful order of the civil

community. Because the state has the power to punish anyone who breaks the social contract, the natural fear of such harm forces citizens to respect the contract and submit to the will of the state. The State, which feeds on and draws its strength from the fear of the mass-citizen, must at all costs maintain it, by creating it itself or instrumentalising its objects, while posing as the only authority capable of circumscribing it, if it wants to maintain itself. Wouldn't the greatest fear of the mass-citizen be to find himself without a state and a government?

B.K., March 2024.

(1) See Laurent López, *Être policier en France : un savoir professionnel singulier (fin xix^e siècle)*, in Armelle Le Goff and Christiane Demeulenaere-Douyère (eds.), *Enseignants et enseignements au cœur de la transmission des savoirs*, Éditions du Comité des travaux historiques et scientifiques Collection: Actes des congrès nationaux des sociétés historiques et scientifiques, Paris, 2021.

(2) Jean-Marc Berlière, *La professionnalisation: revendication des policiers et objectif des pouvoirs au début de la III^e République*, *Revue d'histoire moderne et contemporaine*, vol. 37, no. 3, July-September 1990 [pp. 398-428], p. 404.

(3) See Pierre Demonque, *Les Policiers*, Paris, La Découverte/Maspero, 1983.

(4) Jean-Marc Berlière, *op. cit.*, p. 401.

(5) Jean-Marc Berlière, *Le monde des polices en France: XIX^e-XX^e siècles*, Éditions Complexe, 1996, p. 73.

(6) *Ibid.*

(7) J. M. Berlière, *La professionnalisation : revendication*, p. 421.

(8) Quoted in C. Bettina Schmidt, *Jugendkriminalität und Gesellschaftskrisen Umbrüche, Denkmodelle und Lösungsstrategien im Frankreich der Dritten Republik (1900-1914)*, Franz Steiner Verlag, 2005, p. 405.

(9) Laurent Lopez, *Policiers, gendarmes et signalement descriptif. Représentations, apprentissages et pratiques d'une nouvelle technique de police judiciaire, en France à la Belle Époque*, *Crime, Histoire & Sociétés*, vol. 10, no. 1 [pp. 51-76], p. 72, note 134.

(10) Jean-Marc Berlière, *op. cit.* p. 423.

(11) Quoted in *ibid.*, p. 423. Each of these films had a title: "An evocation of the role of the police officer in a city unique in the world", "What a peacekeeper's uniform should be and what it

should not be", "Life on the Parisian street", "Intervention during a brawl", "Intervention after an accident on the public highway", "The usual types of criminals : leurs habitudes, accoutrements, ruses et méthodes", "arrestation d'un malfaiteur armé", "secours et assistance aux blessés", "secours et soins aux noyés", etc. According to F. Larcier (ed.), *Revue de droit pénal et de criminologie*, 1914, p. 1063, "Hennion recently decided to set up a cinematograph school," which operates in Paris and will soon be operating in Brussels. Officers will draw from the film the knowledge they need to be a complete police officer. A lecturer will explain to the officers everything they need to know to become familiar with the complete police film. This method is likely to be developed further". However, no other sources confirm this information.

(12) J. M Berlière, *La professionnalisation de la police en France: un phénomène nouveau au début du XXème siècle*, *Déviance et Société*, vol. 11, no. 1, 1987 [pp. 67-104], p. 68.

(13) *Idem*, *La professionnalisation : revendication...*, p. 423.

(14) *Ibid*, pp. 8424-425.

(15) *Ibid*, p. 427. His common sense did not prevent him from having a head for business: he opened the first forensic laboratory in Lyon in 1910. It was the forerunner of today's Gendarmerie Criminal Investigation Technical Section (STICG). The principle to which he gave his name for having established it is that "no individual can stay in a place without leaving the mark of his passage, especially when he has had to act with the intensity that criminal action presupposes". All things considered, it is not certain that it is as scientific as he claimed (Frank Crispino, *Le Principe de Locard est-il scientifique, Ou analyse de la scientificité des principes fondamentaux de la criminalistique*, Éditions Universitaires Européennes, 2004).

(16) *Ibid*.

(17) As a result, the Institute of Criminology at the University of Paris was created in 1922. In September 1929, the International Academy of Criminalistics was set up in Lausanne, with the aim of internationalising research methods and identification procedures. A law was passed on 27 November 1943 to set up in France "a technical police service under the general management of the national police responsible for researching and using scientific methods for identifying offenders". It was repealed by the Everyday Security Act of 15 November 2001, which created the Institut National de Police Scientifique (National Institute of Forensic Science), which will become part of the Service national de police scientifique (INPS) in 2021.

(18) G. Macé, *Le service de sûreté par son ancien chef*, Paris, G. Charpentier, 1885, p. 307, quoted in Jean-Marc Berlière, *Le monde des polices...*, p. 105.

(19) Jean-Marc Berlière, *La professionnalisation : revendication...*, p. 404.

(20) *Ibid*. p. 408.

(21) Quoted in *ibid*, p. 400.

(22) Quoted in *ibid*.

(23) *Ibid*, p. 407.

(24) It is the woman who, in many cases, seems to have initiated the process (see Justine Berlière and Vincent Milliot, *Les politiques de la police : un essai d'interprétation des tensions et conflits entre police et populations à Paris au XVIIIe siècle*, in Laurent Bourquin, Philippe Hamon, Pierre Karila-Cohen et al. (eds), *S'exprimer en temps de troubles : Conflits, opinion(s) et politisation du Moyen Âge au début du XXe siècle*, Presses universitaires de Rennes, 2012, pp. 275-291; see also André Burguière, *L'état monarchique et la famille (xvie -xviii siècle)*, *Liens de famille. Noms, alliances, patrimoines - La royauté française. Mises en scène du discours politique*. *Annales H.S.S.*, 56, n° 2, 2001, pp. 313-35.

(25) See Justine Berlière and Vincent Milliot, *op. cit*.

(26) See Le Cler du Brillet, *De la voirie : de tout ce qui y dépend ou qui y a quelque rapport*, t. 4, by Jean-François Hérisant, 1738.

(27) On 3 April 1369, King Charles V, following in the footsteps of Edward III of England, promulgated an ordinance forbidding the subjects of his kingdom to play all games "that are of no use in training our subjects in the use of arms".

(28) See Pierre Clément, *La police sous Louix XIV*, Paris, Didier & Cie, 1866, chap. 5.

(29) Hans-Jürgen Lüsebrink, *Histoires curieuses et véritables de Cartouche et de Mandrin*, Arthaud, 1984, p. 22.

(30) See Vincent Milliot and Justine Berlière, "L'admirable police": *Tenir Paris au siècle des Lumières*, Champ Vallon, 2016.

(31) See Robert Muchembled, *Les ripoux des Lumières : corruption policière et révolution*, Paris, Éditions du Seuil, 2011.

(32) Gérard Dehove, *Études dédiées à la mémoire du professeur Gérard Dehove, ancien doyen de la Faculté de droit et des sciences économiques de Lille*, Paris, Presses universitaires de France, 1983; Philippe Guignet, *Le peuple des villes dans l'Europe du Nord-Ouest (fin du Moyen Âge-1945)*, vol. 2, Lille, Publications de l'Institut de recherches historiques du Septentrion, 2002, p. 192.

(33) Steven L. Kaplan, *Note sur les commissaires de police de Paris au XVIIIe siècle*, *Revue d'histoire moderne et contemporaine*, t. 28, no. 4, October-December 1981 [pp. 669-686],

p. 670: "To obtain the office, money is necessary, but not sufficient. The approval of the civil, criminal and police lieutenants and the community (also known as the company) of commissioners had to be sought. At an initial general meeting, the commissioners decide whether to grant "approval to treat". If the commissioners found the agreement acceptable, they formally presented it to the lieutenants at a second meeting. The King's prosecutor at Châtelet then conducted an official investigation into the buyer's morals. The reception ceremonies involved a third meeting of the commissioners. Like all guilds, the community of commissioners guarded the entrance door very jealously. Claiming that they had the right to "sovereignly decide the fate of those who intend to hold their offices", the commissioners did not hesitate to challenge a candidate deemed "unpleasant" (Vincent Milliot, *Un policier des Lumières suivi de Mémoires de J.C.P. Lenoir, Champ Vallon, 2011*), p. 671.

(34) Quoted in Vincent Milliot and Justine Berlière, "L'admirable police": Tenir Paris au siècle des Lumières, 2016. See also Steven L. Kaplan, Note sur les commissaires de police de Paris au XVIIIe siècle, *Revue d'Histoire Moderne & Contemporaine*, t. 28, n° 4, 1981, pp. 669-686.

(35) See Maurice-A. Arnould, L'origine historique des pots-de-vin, *Bulletins de l'Académie Royale de Belgique*, vol. 62, 1976, pp. 216-267.

(36) Rachel Couture, "Inspirer la crainte, le respect et l'amour du public": Les inspecteurs de police parisiens, 1740-1789, vol. II. Thesis, Université de Montréal, 2013, pp. 606-607.

(37) *Ibid*, p. 611.

(38) See Dominique Kalifa and Pierre Karila-Cohen, L'homme de l'entre-deux. L'identité brouillée du commissaire de police au xixe siècle, in *id.* (ed.), *Le commissaire de police au XIXe siècle*, Paris, Publications de la Sorbonne, 2008, pp. 7-23, p. 9.

(39) Quoted in *ibid*.

(40) Quoted in Bruno Fuligni, *Souvenirs de police: La France des faits divers et du crime vue par des policiers (1800-1939)*, Paris, Robert Laffont, 2016.

(41) Quentin Deluermoz, *Policiers dans la ville, La construction d'un ordre public à Paris (1854-1914)*, Paris, Publications de la Sorbonne, 2012, chap. 5: Embonpoint et bâton blanc.

(42) Paul Rocher, En finir avec le mythe du manque de moyens de la police, *Libération*, 7 October 2022, https://www.liberation.fr/idees-et-debats/tribunes/en-finir-avec-le-mythe-du-manque-de-moyens-de-la-police-20221007_WKPZZX34J5GQPAX2R2OVLIBLKA. Le mythe policier au service de la réorganisation autoritaire du pays. Carte blanche to Paul Rocher, *Délibérée*, vol. 1, no. 18, 2023, pp. 69-76. Paul Rocher, author of *Gazer, mutiler, soumettre. Politique de l'arme non-létale (2020)* and *Que fait la Police? et comment s'en faire sans (2022)*. is one of the few to shine a spotlight on the 'police myth' and tackle preconceived ideas on the subject, showing that the police do not prevent crime (though he does not go so far as to show

that, once again, this is not their stated aim) and that their growing hold on society (more precisely, he does not specify, on the native French opposed to the "great replacement") is motivated by "the authoritarian reorganisation of the country", with a view, he does not specify either, to the "great replacement" underway since the introduction of "family reunification".

(43) See Quentin Deluermoz, *op. cit.*

(44) Rachel Couture, *op. cit.* pp. 607-608.

(45) *Ibid.*, p. 608.

(46) *Ibid.*

(47) *Ibid.*, p. 618.

(48) Jacques Aubert and Raphaël Petit, *La police en France : service public*, Paris, Berger-Levrault, 1982, p. 106.

(49) Georges Carrot, *Histoire de la police française, des origines à nos jours*, Paris, Tallandier, 1992, p. 138, quoted in Hélène L'Heuillet, *Basse politique, haute police : Une approche historique et philosophique de la police*, Paris, Arthème Fayard, 2001.

(50) See Jean-Marc Berlière, *Images de la police: deux siècles de fantasmes*, Criminocorpus, 2009.

(51) See Quentin Deluermoz, *L'arrêté préfectoral créant les sergents de ville parisiens*, Crimnocorpus. 2009.

(52) See Alexandre-François Auguste Vivien, *Études administratives*, vol. 2, 2nd ed. entirely recast and considerably expanded, Paris, Guillaumin et Cie, 1852.

(53) Alfred Rey, *Histoire du corps des gardiens de la paix*. Published under the auspices of M. Louis Lépine, Prefect of Police. With 44 colour plates and 266 black engravings, Louis Feron, Paris, Firmin-Didot et Cie, 1896, p. 90.

(54) Émile de Maupas, *Mémoires sur le second empire: la présidence de Louis-Napoléon*, Paris, E. Dentu, 1864, p. 571 et seq.

(55) See Quentin Deluermoz, *Circulations et élaborations d'un mode d'action policier : la police en tenue à Paris, d'une police " londonienne " au " modèle parisien " (1850-1914)*, *Revue d'Histoire des Sciences Humaines*, vol. 2, no. 19, 2008, pp. 75-90.

(56) See Emmanuel Fureix, *La France des larmes. Deuils politiques à l'âge romantique (1814-1840)*, Champ Vallon, 2009.

- (57) Les Français peints par eux-mêmes, Encyclopédie morale du dix-neuvième siècle, t. 5, Paris, L. Curmer, 1842, p. 280.
- (58) Collectif, L'État et sa Police en France (1789-1914), Paris, Droz, 1979, p. 104.
- (59) Antoine Claude, Mémoires de Monsieur Claude, Chef de la Police de Sûreté sous le second Empire, vol. 2, 27th edn, Jules Rouff, 1881, p. 25.
- (60) Sébastien Laurent, Faire l'histoire de la surveillance, in Christian Aghroum, Michel Alberganti, Laurent Bonelli et al, Identification et surveillance des individus. Paris, Éditions de la Bibliothèque publique d'information, 2010, p. 26-31.
- (61) See Alain Bauer and Christophe Soulez, Criminologie Pour les nuls, Éditions First, 2018.
- (62) See Jean-Marc Berlière and Marie Vogel, Aux origines de la police politique républicaine, Criminocorpus, 2008.
- (63) Maurice Mathieu, Le Rôle politique des commissaires spéciaux de la police des chemins de fer dans la Vienne entre 1874 et 1914, in Philippe Vigier (ed.), Maintien de l'ordre et polices en France et en Europe au XIXe siècle, Créaphis, 1987, p. 152. In 1913, when the police prefecture was reorganised by Célestin Hennion, the director of general security and future police prefect, he created the Brigade des renseignements généraux de la police administrative, a prototype of the R.G., The Brigade's main function was to monitor groups likely to undermine republican institutions, particularly communists and extreme right-wing leagues (Alain Bauer and Christophe Soulez, Une histoire criminelle de la France, Paris, Odile Jacob, 2012, p. 101).
- (64) Quoted in J. B. Philippe Valette, Mécanisme des grands pouvoirs de l'État, suivi des textes réglementaires et législatifs pouvant servir à éclairer le vote des lois et des Sénatus-Consultes, Paris, 1852, p. 23.
- (65) Quoted in Brigitte Henri, Histoire secrète des RG, Paris, Flammarion, 2017.
- (66) See Jean-Marc Berlière and Marie Vogel. The origins of...
- (67) 1791 à 1914 : les racines du maintien républicain de l'ordre, desarmons, 4 November 2019, <https://desarmons.net/2019/11/04/1791-a-1914-les-racines-du-maintien-republicain-de-lordre/>
- (68) Quoted in Jean-Marc Berlière, Le monde des polices..., p. 123.
- (69) Quoted in Bernard Hauteclouque, La République face à la rue, vol. 1: De la commune à la Grande Guerre, Éditions du Félin, 2022. In his Guide pratique à l'usage des agents de l'autorité et de la force publique (1895), Alexandre L'Huillier similarly wrote: "Officers owe the public : benevolence and firmness [...] convince first by persuasion, then repress; the officer who uses neither swearing nor coarse language always shows himself to be calm and in control, retains an

immense advantage over the person he is addressing; [...] guard against oppressive acts [...]" (quoted in *Police: recueil de coupures de presse*, Paris, F. Maspero 1972, p. 38)

(70) Quoted in Erk Volkmar Heyen, *Bilder der Verwaltung Memoiren, Karikaturen, Romane, Architektur*, Nomos Verlagsgesellschaft, 1994. His successor, Hennion, followed the same pastoral line. In the speech he gave at the inauguration of the practical school for active police officers on 25 May 1914, he said: "We will teach them [...] the great duties of equality towards all, of kindness towards the little ones, the weak, the underprivileged [...] This high and firm spirit of justice tempered by kindness is the feeling that I would like to see constantly developing in the conscience of the officials of the Prefecture de Police". (quoted in Jean-Marc Berlière, *Du maintien de l'ordre républicain au maintien républicain de l'ordre? Réflexions sur la violence*, Genèses, 12, 1993 [pp. 6-29], pp. 19-20).

(71) Jean-Marc Berlière, *Images de la police: deux siècles de fantasmes? Criminocorpus*, 2009. "Blue in colour, slightly lighter than the previous uniform, it consisted of a tunic with a straight collar, trousers with scarlet piping and a kepi that was higher than the old headdress and did not slope backwards" (Georges Carrot, *Histoire de la police française*, J. Tallandier, 1992, p. 128).

(72) Vida Azimi. La "Doctrine" administrative d'un Préfet : Louis Lépine (1846-1933), *La Revue administrative*, n° 376, July-August, 2010, pp.351-362.

(73) Jean-Marc Berlière, *Naissance de la police moderne*, Tempus 2011.

(74) Idem, *Du maintien de l'ordre républicain au maintien républicain de l'ordre? Genèses*, 12, 1993 [pp. 6-29], p. 14.

(75) Louis Lépine, *Mes Souvenirs*, Paris, 1929, p. 140, quoted in Jean-Marc Berlière, *Images de la police...*

(76) Jean-Marc Berlière, *Du maintien de l'ordre républicain au maintien républicain de l'ordre? Réflexions sur la violence*, Genèses, 12, 1993 [pp. 6-29], p. 19, pp. 19-20.

(77) Charles Diaz, *L'Épopée des brigades du Tigre*, Paris, Calmann-Lévy, 1995.

(78) Dominique Kalifa, *Policier, détective, reporter. Trois figures de l'enquêteur dans la France de 1900*, *Mil Neuf Cent*, vol. 1, no. 22, 2004, pp. 15-28.

(79) Ibid.

(80) See Jean-Marc Berlière, *Images de la police...*

(81) Jean-Claude Vareille, *L'Homme masqué, le justicier et le détective*, Presses universitaires de Lyon, 1989, p. 26.

(82) Ibid, p. 25.

- (83) Dominique Kalifa, *Naissance de la police privée : Détectives et agences de recherches en France ...*,
- (84) Jean-Marc Berlière, *Le monde des polices...*, p. 102.
- (85) Dominique Kalifa, *op. cit.* pp. 19-20.
- (86) Thomas Ferenczi, *L'éthique des journalistes au XIXe siècle*, *Le Temps des médias*, vol. 1, no. 1, 2003, pp. 190-199.
- (87) Dominique Kalifa, *op. cit.* p. 25.
- (88) *Ibid*, p. 26.
- (89) Laetitia Gonon, *Le fait divers criminel dans la presse quotidienne française du XIXe siècle*, Paris, Presses Sorbonne Nouvelle, 2017, p. 71.
- (90) "A news story without any substance is despised by the subscriber, as the paper's cook well knows; so his imagination is constantly on the alert; when the story seems meagre, he arranges it and spices it up with some feature of his own, the effect of which is never lacking. If it's about a bricklayer who has fallen from a scaffold and broken his skull, he finds the thing too simple and wants a bit of the marvellous; so, with a fanciful pen, he declares that the unfortunate man, by a providential chance, got up safe and sound without even breaking his pipe, and that it was absolutely only in order to give in to the solicitations of the † keenly impressed, that he agreed to take a bit of Swiss Vulneraria from the neighbouring chemist. Other times, when there is a dearth of news and the provincial or foreign newspapers have been unsuccessfully scoured by him, he comes up with some anecdote of his own. *Le Constitutionnel* owed its great success to the three-headed child, the sea serpent and the music-loving spider, stories embroidered with pleasure by a desperate cook. That's what you call raising a duck and getting a few thousand subscribers out of it" (Pierre Larousse, *Grand dictionnaire universel du XIXe siècle*, vol. 8, Paris, 1872, p. 60).
- (91) Dominique Kalifa, *Journalistes, policiers et magistrats à la fin du XIXe Siècle : la question de l'insécurité urbaine*, in Christian Delporte, *Médias et villes (XVIIIe-XXe siècle)* [pp. 62-115], Tours, Presses universitaires François Rabelais, 1999, p. 75.
- (92) *Ibid*, p. 76.
- (93) *Ibid*.
- (94) *Ibid*, p. 74.
- (95) Shaïm Morisse, *La fin des 'apaches'? Représentations sociales du crime et de la délinquance en France pendant la Première Guerre mondiale*. Dissertation, Université Paris 1 Panthéon-Sorbonne, 2017, pp. 3-4.

- (96) See http://paris.visites.jpkm.free.fr/faits_divers/mobile/23_bagnolet.html#Text19.
- (97) Quoted in Alain Bauer and Christophe Soullez, *Une histoire criminelle de la France*, Paris, Odile Jacob, 2012, p. 105.
- (98) Shaïm Morisse, *op. cit.* p. 9.
- (99) Luc De Vos, "Apaches". *L'Intermédiaire des chercheurs et curieux*, vol. 49, no. 1034, 1904, pp. 436-437.
- (100) Annabel Audureau, *Fantômas: Un mythe moderne au croisement des arts*, new ed. [Online], Rennes, Presses universitaires de Rennes, 2016, p. 74.
- (101) Quoted in Annabel Audureau, *Crimes et criminels... Des histoires à perdre la tête*, lulu.com, 2015. .
- (102) See Nicolas Bourgoïn, *La révolution sécuritaire (1976-2012)*, Nîmes, Champ Social, 2013.
- (103) See Pierre Bergel, *La ville en ébullition : Sociétés urbaines à l'épreuve*, nouv. éd. [On line]. Rennes, Presses universitaires de Rennes, 2014, p. 34.
- (104) Machiavelli, Discourse I, 16, quoted in Géraldine Cazals *Une civile société. La République selon Guillaume de la Perrière (1499-1554)*, Toulouse, Presses de l'Université des sciences sociales de Toulouse, 2008, p. 125, note 57.
- (105) Frédéric Lalière, *La lettre de rémission entre source directe et indirecte : Instrument juridique de la centralisation du pouvoir et champ de prospection pour l'historien du droit*, in Aude Musin, Xavier Rousseaux and Frédéric Vesentini (eds.) , *conciliation et répression : Recherches sur l'histoire du crime, de l'Antiquité au XXIe siècle*. nouv. éd. [en ligne], Louvain-la-Neuve, UCL, 2008 [pp. 21-65], p. 59.
- (106) Quoted in Jacques Poumarède, *De la sûreté à la sécurité : itinéraires historiques*, in Marc Nicod (ed.) *Qu'en est-il de la sécurité des personnes et des biens*, [Online], Toulouse, Presses de l'Université Toulouse Capitole, 2018, pp. 69-75.
- (107) Quoted in Paul Bastid, *Sieyès et sa pensée*, Geneva, Slatkine Reprints, 1978 [Hachette, 1970], p. 349.
- (108) See Justine Berlière and Vincent Milliot, *op. cit.*
- (109) Pierre Berthelet, *Chaos international et sécurité globale : La sécurité en débats*, Publibook, 1970, p. 26.
- (110) Dominique Kalifa, *op. cit.* p. 71.
- (111) *Ibid*, p. 73.

(112) Ibid.

(113) Quoted in Antoine Sanguinetti, *Le devoir de parler*, Paris, Nathan, 1981.

(114) Quoted in André Granou, *La bourgeoisie financière au pouvoir et les luttes de classes en France*, Paris, F. Maspero, 1977.

(115) Quoted in André Normandeau, *Politiques pénales et peur du crime : " Ordre et sécurité " (Canada) et " Sécurité et liberté " (France)*, *Criminologie*, vol. 16, no. 1, 1983 [pp. 51-68], p. 55.

(116) Quoted in Alain Frerejean, Robert et Elisabeth Badinter: *ou le refus de l'injustice*, Éditions de l'Archipel, 2018.

(117) Quoted in Mathieu Rigouste, *L'ennemi intérieur La généalogie coloniale et militaire de l'ordre sécuritaire dans la France contemporaine*, Paris, La Découverte, 2009.

(118) Quoted in Alain Frerejean, *op. cit.*

(119) Jacques Chevallier, *L'État de droit au défi de l'État sécuritaire*, in Yves Cartuyvels and Antoine Bailleux (eds.), *Le droit malgré tout : Hommage à François Ost*, Presses universitaires Saint-Louis Bruxelles, 2019, p. 301.

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