CHAPTER SEVEN

After Speenhamland

The Speenhamland system is often spoken of as a piece of pardonable but disastrous sentimentalism on the part of the upper classes. This view overlooks the predicament in which these classes found themselves at the end of the eighteenth century. We will try to reconstruct the situation and to reproduce their state of mind. Agriculture, which had hitherto provided most people with a livelihood, but few people with vast fortunes, had become by the end of the century a great capitalist and specialised industry. During the French War its profits were fabulous, and they were due partly to enclosures, partly to the introduction of scientific methods, partly to the huge prices caused by the War. It was producing thus a vast surplus over and above the product necessary for maintenance and for wear and tear. Consequently, as students of Mr. Hobson's *Industrial System* will perceive, there arose an important social problem of distribution, and the Poor Law was closely involved with it.

This industry maintained, or helped to maintain, four principal interests: the landlords, the tithe-owners, the farmers, and the labourers. Of these interests the first two were represented in the governing class, and in considering the mind of that class we may merge them into one. The sympathies of the farmers were rather with the landlords than with the labourers, but their interests were not identical. The labourers were unrepresented either in the Government or in the voting power of the nation. If the forces had been more equally matched, or if Parliament had represented all classes, the surplus in come of agriculture would have gone to increase rents, tithes, profits, and wages. It might, besides turning the landlords into great magnates like the cotton lords of Lancashire, and throwing up a race of farmers with scarlet coats and jack boots, have raised permanently the standard and character of the labouring class, have given them a decent wage and decent 142 cottages. The village population whose condition, as Whitbread said, was compared by supporters of the slave trade with that of the negroes in the West Indies, to its disadvantage, might have been rehoused on its share of this tremendous revenue. In fact, the revenue went solely to increase rent, tithes, and to some extent profits. The labourers al one had made no advance when the halcyon days of the industry clouded over and prices fell. The rent receiver received more rent than was needed to induce him to let his land, the farmer made larger profits than were necessary to induce him to apply his capital and ability to farming, but the labourer received less than was necessary to maintain him, the balance being made up out of the rates. Thus not only did the labourer receive no share of this surplus; he did not even get his subsistence directly from the product of his labour. Now let us suppose that instead of having his wages made up out of the rates he had been paid a maintenance wage by the farmer. The extra cost would have come out of rent to the same extent as did the subsidy from the rates. The landlord therefore made no sacrifice in introducing the Speenhamland system, for though the farmers thought that they could

obtain a reduction of rent more easily if they could plead high rates than if they pleaded the high price of labour,(1*) it is obvious that the same conditions which produced a reduction of rents in the one case must ultimately have produced a reduction in the other. As it was, none of this surplus went to labour, and the proportion in which it was divided between landlord and farmer was not affected by the fact that the labourer was kept alive partly from the rates and not wholly from wages.(2*)

Now the governing class which was confronted with the situation that we have described in a previous chapter consisted of two classes who had both contrived to slip off their obligations to the State. They were both essentially privileged classes. The landlords were not in the eye of history absolute owners; they had held their land on several conditions, one of which was the liability to provide military services for the Crown, and this obligation they had commuted into a tax on the nation. Neither were the tithe-owners absolute owners in the eye of history. In early days all Church property was regarded as the patrimony of the poor, and the clergy were bidden to use it non quasi suis sed quasi commendatis, Dryden, in drawing the character of the Good Parson, had described their obligations:

> 'True priests, he said, and preachers of the Word
> Were only stewards of their sovereign Lord:
> Nothing was theirs but all the public store,
> Intrusted riches to relieve the poor,'

It was recognised, as late as the reign of Henry IV, that tithes were designed among other objects for the relief of the poor. An Act of that reign confirmed an earlier Act of Richard II. (15 Rich. II. c. 6), which laid down that on the appropriation of any parish church, money was to be paid yearly of the fruits and profits of the said church to the poor parishioners. After this time the claims of the poor fade from view. Of course, great masses of tithe property had passed, by the time we are considering, into secular hands. The monasteries appropriated about a third of the livings of England, and the tithes in these parishes passed at the Reformation to the Crown, whence they passed in grants to private persons. No responsibility for the poor troubled either the lay or spiritual owners of tithes, and though they used the name of God freely in defending their claims, they were stewards of God in much the same sense as George IV was the defender of the faith. The landowners and tithe-owners had their differences when it came to an Enclosure Bill, but these classes had the same interests in the disposal of the surplus profits of agriculture; and both alike were in a vulnerable position if the origin and history of their property came under too fierce a discussion.

There was a special reason why the classes that had suddenly become very much richer should dread too searching a discontent at this moment. They had seen tithes, and all seignorial dues abolished almost at a single stroke across the Channel, and they were at this time associating constantly with the emigrant nobility of France, whose prospect of recovering their estates seemed to fade into a more doubtful distance with every battle that was fought between the France who had given the poor peasant such a position as the peasant enjoyed nowhere else, and her powerful neighbour who had made her landlords the richest and proudest class in Europe. The French Convention had passed a decree (November 1792), declaring that 'wherever French armies shall come, all taxes, tithes, and privileges of rank are to be abolished, all existing authorities cancelled, and provisional administrations elected by universal suffrage. The property of the fallen Government, of the privileged classes and their adherents to be placed under French protection.' This last sentence had an unpleasant ring about it; it sounded like a terse paraphrase of non quasi suis sed quasi comemndatis. In point of fact there was not yet any violent criticism of the basis of the social position of the privileged

classes in England. Even Paine, when he suggested a scheme of Old Age Pensions for all over fifty, and a dowry for every one on reaching the age of twenty-one, had proposed to finance it by death duties. Thelwall, who wrote with a not unnatural bitterness about the great growth of ostentatious wealth at a time when the poor were becoming steadily poorer, told a story which illustrated very well the significance of the philanthropy of the rich. 'I remember I was once talking to a friend of the charity and benevolence exhibited in this country, when stopping me with a sarcastic sneer, "Yes," says he, "we steal the goose, and we give back the giblets." "No," said a third person who was standing by, "giblets are much too dainty for the common herd, we give them only the pen feathers."'(3*) But the literature of Radicalism was not inflammatory, and the demands of the dispossessed were for something a good deal less than their strict due. The richer classes, however, were naturally anxious to soothe and pacify the poor before discontent spread any further, and the Speenhamland system turned out, from their point of view, a very admirable means to that end, for it provided a maintenance for the poor by a method which sapped their spirit and disarmed their independence. They were anxious that the labourers should not get into the way of expecting a larger share in the profits of agriculture, and at the same time they wanted to make them contented. Thelwall(4*) stated that when he was in the Isle of Wight, the farmers came to a resolution to raise the price of labour, and that they were dissuaded by one of the greatest proprietors in the island, who called a meeting and warned the farmers that they would make the common people insolent and would never be able to reduce their wages again.

An account of the introduction of the system into Warwickshire and Worcestershire illustrates very well the state of mind in which this policy had its origin. 'In Warwickshire, the year 1797 was mentioned as the date of its commencement in that county, and the scales of relief giving it authority were published in each of these counties previously to the year 1800. It was apprehended by many at that time, that either the wages of labour would rise to a height from which it would be difficult to reduce them when the cause for it had ceased, or that during the high prices the labourers might have had to endure privations to which it would be unsafe to expose them. To meet the emergency of the time, various schemes are said to have been adopted, such as weekly distributions of flour, prodding families with clothes, or maintaining entirely a portion of their families, until at length the practice became general, and a right distinctly admitted by the magistrates was claimed by the labourer to parish relief, on the ground of inadequate wages and number in family. I was informed that the consequences of the system were not wholly unforeseen at the time, as affording a probable inducement to early marriages and large families; but at this period there was but little apprehension on that ground. A prevalent opinion, supported by high authority, that population was in itself a source of wealth, precluded all alarm. The demands for the public service were thought to endure a sufficient draught for any surplus people; and it was deemed wise by many persons at this time to present the Poor Laws to the lower classes, as an institution for their advantage, peculiar to this country; and to encourage an opinion among them, that by this means their own share in the property of the kingdom was recognised.'(5*) To the landlords the Speenhamland system was a safety-valve in two ways. The farmers got cheap labour, and the labourers got a maintenance, and it was hoped thus to reconcile both classes to high rents and the great social splendour of their rulers. There was no encroachment on the surplus profits of agriculture, and landlords and tithe-owners basked in the sunshine of prosperity. It would be a mistake to represent the landlords as deliberately treating the farmers and the labourers on the principle which Caesar boasted that he had applied with such success, when he borrowed money from his officers to give it to his soldiers, and thus contrived to attach both classes to his interest; but that was in effect the result and the significance of the Speenhamland system.

This wrong application of those surplus profits was one element in the violent oscillations of trade during the generation after the war. A long war adding enormously to the expenditure of Government must disorganise industry seriously in any case, and in this case the

demoralisation was increased by a bad currency system. The governing class, which was continually meditating on the subject of agricultural distress, holding inquiries, and appointing committees, never conceived the problem as one of distribution. The Select Committee of 1833 on Agriculture, for example, expressly disclaims any interest in the question of rents and wages, treating these as determined by a law of Nature, and assuming that the only question for a Government was the question of steadying prices by protection. What they did not realise was that a bad distribution of profits was itself a cause of disturbance. The most instructive speech on the course of agriculture during the French war was that in which Brougham showed in the House of Commons, on 9th April 1816, how the country had suffered from over-production during the wild elation of high prices, and how a tremendous system of speculative farming had been built up, entangling a variety of interests in this gamble. If those days had been employed to raise the standard of life among the labourers and to increase their powers of consumption, the subsequent fall would have been broken. The economists of the time looked on the millions of labourers as an item of cost, to be regarded like the price of raw material, whereas it is clear that they ought to have been regarded also as affording the best and most stable of markets. The landlord or the banker who put his surplus profits into the improvement and cultivation of land, only productive under conditions that could not last and could not return, was increasing unemployment in the future, whereas if the same profits had been distributed in wages among the labourers, they would have permanently increased consumption and steadied the vicissitudes of trade. Further, employment would have been more regular in another respect, for the landowner spent his surplus on luxuries, and the labourer spent his wages on necessaries.

Now labour might have received its share of these profits either in an increase of wages, or in the expenditure of part of the revenue in a way that was specially beneficial to it. Wages did not rise, and it was a felony to use any pressure to raise them. What was the case of the poor in regard to taxation and expenditure? Taxation was overwhelming. A Herefordshire farmer stated that in 1815 the rates and taxes on a farm of three hundred acres in that county were: --

	£. s. d.
Property tax, landlord and tenant	95 16 10
Great tithes	64 17 6
Lesser tithes	29 15 0
Land tax	14 0 0
Window lights	24 1 6
Poor rates, landlord	10 0 0
Poor rates, tenant	40 0 0
Cart-horse duty, landlord, 3 horses	2 11 0
Two saddle horses, landlord	9 0 0
Gig	6 6 0
Cart-horse duty, tenant	7 2 0
One saddle horse, tenant	2 13 6
Landlord's malt duty on 60 bushels of barley	21 0 0
Tenant's duty for making 120 bushels of barley into malt	42 0 0
New rate for building shire hall, paid by landlord	9 0 0
New rate for building shire hall, paid by tenant	3 0 0
Surcharge	2 8 0
	£383 11 4(6*)

The *Agricultural and Industrial Magazine*, a periodical published by a philanthropical society in 1833, gave the following analysis of the taxation of a labourer earning £22, 10s.a year: --

	£. s. d.
1. Malt	4 11 3
2. Sugar	0 17 4
3. Tea and Coffee	1 4 0
4. Soap	0 13 0
5. Housing	0 12 0
6. Food	3 0 0
7. Clothes	0 10 0
	£11 7 7

But in the expenditure from this taxation was there a single item in which the poor had a special interest? The great mass of the expenditure was war expenditure, and that was not expenditure in which the poor were more interested than the rest. Indeed, much of it was expenditure which could not be associated directly or indirectly with their interests, such as the huge subsidies to the courts of Europe. Nearly fifty millions went in these subventions, and if some of them were strategical others were purely political. Did the English labourer receive any profit from the two and a half millions that Pitt threw to the King of Prussia, a subsidy that was employed for crushing Kosciusko and Poland, or from the millions that he gave to Austria, in return for which Austria ceded Venice to Napoleon? Did he receive any benefit from the million spent every year on the german legion, which helped to keep him in order in his own country? Did he receive any benefit from the million and a half which, on the confession of the Finance Committee of the House of Commons in 1810, went every year in absolute sinecures? Did he receive any benefit from the interest on the loans to the great bankers and contractors, who made huge profits out of the war and were patriotic enough to lend money to the Government to keep it going? Did he receive any benefit from the expenditure on crimping boys or pressing seamen, or transporting and imprisoning poachers and throwing their families by thousands on the rates? Pitt's brilliant idea of buying up a cheap debt out of money raised by a dear one cost the nation twenty millions, and though Pitt considered the Sinking Fund his best title to honour, nobody will pretend that the poor of England gained anything from this display of his originality.(7*) In these years government was raising by taxation or loans over a hundred millions, but not a single penny went to the education of the labourer's children, or to any purpose that made the perils and difficulties of his life more easy to be borne. If the sinecures had been reduced by a half, or if the great money-lenders had been treated as if their claims to the last penny were not sacrosanct, and had been made to take their share of the losses of the time, it would have been possible to set up the English cottager with allotments on the modest plan proposed by Young or Cobbett, side by side with the great estates with which that expenditure endowed the bankers and the dealers in scrip.

Now, so long as prices kept up, the condition of the labourer was masked by the general prosperity of the times. The governing class had found a method which checked the demand for higher wages and the danger that the labourer might claim a share in the bounding wealth of the time. The wolf was at the door, it is true, but he was chained, and the chain was the Speenhamland system. Consequently, though we hear complaints from the labourers, who contended that they were receiving in a patronising and degrading form what they were entitled to have as their direct wages, the note of rebellion was smothered for the moment. At this time it was a profitable proceeding to grow corn on almost any soil, and it is still possible to trace on the unharvested downs of Dartmoor the print of the plough that turned even that wild moorland into gold, in the days when Napoleon was massing his armies for invasion. During these years parishes did not mind giving aid from the rates on the Speenhamland scale, and, though under this mischievous system population was advancing wildly, there was such a demand for labour that this abundance did not seem, as it seemed later, a plague of locusts, but a source of strength and wealth. The opinion of the day was all in favour of a heavy birth rate, and it was generally agreed, as we have seen, that Pitt's escapades in the West Indies and

elsewhere would draw off the surplus population fast enough to remove all difficulties. But although the large farmers prayed incessantly to heaven to preserve Pitt and to keep up religion and prices, the day came when it did not pay to plough the downs or the sands, and tumbling prices brought ruin to the farmers whose rents and whole manner of living were fixed on the assumption that there was no serious danger of peace, and that England was to live in a perpetual heyday of famine prices.

With the fall in prices, the facts of the labourer's condition were disclosed. Doctors tell us that in some cases of heart disease there is a state described as compensation, which may postpone failure for many years. With the fall in 1814 compensation ceased, and the disease which it obscured declared itself. For it was now no longer possible to absorb the redundant population in the wasteful roundsman system, and the maintenance standard tended to fall with the growing pressure on the resources from which the labourer was kept. By this time all labour had been swamped in the system. The ordinary village did not contain a mass of decently paid labourers and a surplus of labourers, from time to time redundant, for whom the parish had to provide as best it could. It contained a mass of labourers, all of them underpaid, whom the parish had to keep alive in the way most convenient to the farmers. Bishop Berkeley once said that it was doubtful whether the prosperity that preceded, or the calamities that succeeded, the South Sea Bubble had been the more disastrous to Great Britain: that saying would very well apply to the position of the agricultural labourer in regard to the rise and the fall of prices. With the rise of prices the last patch of common agriculture had been seized by the landlords, and the labourer had been robbed even of his garden;(8*) with the fall, the great mass of labourers were thrown into destitution and misery. We may add that if that prosperity had been briefer, the superstition that an artificial encouragement of population was needed -- the superstition of the rich for which the poor paid the penalty would have had a shorter life. As it was, at the end of the great prosperity the landlords were enormously rich; rents had in some cases increased five-fold between 1790 and 1812;(9*) the large farmers had in many cases climbed into a style of life which meant a crash as soon as prices fell; the financiers had made great and sudden fortunes; the only class for whom a rise in the standard of existence was essential to the nation, had merely become more dependent on the pleasure of other classes and the accidents of the markets. The purchasing power of the labourer's wages had gone down.

The first sign of the strain is the rioting of 1816. In that year the spirit which the governing class had tried to send to sleep by the Speenhamland system, burst out in the first of two peasants' revolts. Let us remember what their position was. They were not the only people overwhelmed by the fall in prices. Some landlords, who had been so reckless and extravagant as to live up to the enormous revenue they were receiving, had to surrender their estates to the new class of bankers and money-lenders that had been made powerful by the war. Many farmers, who had taken to keeping liveried servants and to copying the pomp of their landlords, and who had staked everything on the permanence of prices, were now submerged. Small farmers too, as the answers sent to the questions issued this year by the Board of Agriculture show, became paupers. The labourer was not the only sufferer. But he differed from the other victims of distress in that he had not benefited, but, as we have seen, had lost, by the prosperity of the days when the plough turned a golden furrow. His housing had not been improved; his dependence had not been made less abject or less absolute; his wages had not risen; and in many cases his garden had disappeared. When the storm broke over agriculture his condition became desperate. In February 1816 the Board of Agriculture sent out a series of questions, one of which asked for an account of the state of the poor, and out of 273 replies 237 reported want of employment and distress, and 25 reported that there was not unemployment or distress.(10*) One of the correspondents explained that in his district the overseer called a meeting every Saturday, when he put up each labourer by name to auction,

and they were let generally at from 1s. 6d. to 2s. per week and their provisions, their families being supported by the parish.(11*)

In 1816 the labourers were suffering both from unemployment and from high prices. In 1815, as the *Annual Register*(12*) puts it, 'much distress was undergone in the latter part of the year by the trading portion of the community. This source of private calamity was unfortunately coincident with an extraordinary decline in agricultural prosperity, immediately proceeding from the greatly reduced price of corn and other products, which bore no adequate proportion to the exorbitant rents and other heavy burdens pressing upon the farmer.' At the beginning of 1816 there were gloomy anticipations of a fall in prices, and Western(13*) moved a series of resolutions designed to prevent the importation of corn. But as the year advanced it became evident that the danger that threatened England was not the danger of abundance but the danger of scarcity. A bitterly cold summer was followed by so meagre a harvest that the price of corn rose rapidly beyond the point at which the ports were open for importation. But high prices which brought bidders at once for farms that had been unlet made bread and meat dear to the agricultural labourer, Without bringing him more employment or an advance of wages, and the riots of 1816 were the result of the misery due to this combination of misfortunes.

The riots broke out in May of that year, and the counties affected were Norfolk, Suffolk, Huntingdon and Cambridgeshire. Nightly assemblies were held, threatening letters were sent, and houses, barns and ricks were set on fire. These fires were a prelude to a more determined agitation, which had such an effect on the authorities that the Sheriff Suffolk and Mr. Willet, a banker of Brandon near Bury, hastened to London to inform the Home Secretary and to ask for the help of the government in restoring tranquillity. Mr. Willet's special interest in the proceedings is explained in a naive sentence in the *Annual Register*: 'A reduction in the price of bread and meat was the avowed object of the rioters. They had fixed a maximum for the price of both. They insisted that the lowest price of wheat must be half a crown a bushel, and that of prime joints of beef fourpence per pound. Mr. Willet, a butcher at Brandon, was a marked object of their ill-will, in which Mr. Willet, the banker, was, from the similarity of his name, in danger of sharing. This circumstance, and a laudable anxiety to preserve the public peace, induced him to take an active part and exert all his influence for that purpose.'(14*) The rioters numbered some fifteen hundred, and they broke up into separate parties, scattering into different towns and villages. In the course of their depredations the house of the right Mr. Willet was levelled to the ground, after which the wrong Mr. Willet, it is to be hoped, was less restless.(15*) 'They were armed with long, heavy sticks, the ends of which, to the extent of several inches, were studded with short iron spikes, sharp at the sides and point. Their flag was. inscribed "Bread or Blood!" and they threatened to march to London.'(16*)

During the next few days there were encounters between insurgent mobs in Norwich and Bury and the yeomanry, the dragoons, and the West Norfolk Militia. No lives seem to have been lost, but a good deal of property was destroyed, and a number of rioters were taken into custody. The Times of 25th May says, in an article on these riots, that wages had been reduced to a rate lower than the magistrates thought reasonable, for the magistrates, after suppressing a riot near Downham, acquiesced in the propriety of raising wages, and released the offenders who had been arrested with a suitable remonstrance. There was a much more serious battle at Littleport in the Isle of Ely, when the old fighting spirit of the fens seems to have inspired the rioters. They began by driving from his house a clergyman magistrate of the name of Vachel, after which they attacked several houses and extorted money. They then made for Ely, where they carried out the same programme. This state of anarchy, after two or three days, ended in a battle in Littleport in which two rioters were killed, and seventy-five taken prisoners. The prisoners were tried next month by a Special Commission: twenty-four were capitally convicted; of these five were hung, five were transported for life, one was transported for fourteen years, three for seven years, and ten were imprisoned for twelve months in Ely

gaol.(17*) The spirit in which one of the judges, Mr. Christian, the Chief Justice of the Isle of Ely, conducted the proceedings may be gathered from his closing speech, in which he said that the rioters were receiving 'great wages' and that 'any change in the price of provisions could only lessen that superfluity, which, I fear, they too frequently wasted in drunkenness.'(18*)

The pressure of the changed conditions of the nation on this system of maintenance out of the rates is seen, not only in the behaviour of the labourers, but also in the growing anxiety of the upper classes to control the system, and in the tenacity with which the parishes contested settlement claims. This is the great period of Poor Law litigation. Parish authorities kept a stricter watch than ever on immigrants. In 1816, for example, the Board of Agriculture reported that according to a correspondent 'a late legal decision, determining that keeping a cow gained a settlement, has deprived many cottagers of that comfort, as it is properly called.'(19*) This decision was remedied by the 1819 Act(20*) to amend the Settlement Laws as regards renting tenements, and the Report on the Poor Law in 1819 states that in consequence there 'will no longer be an obstacle to the accommodation which may be afforded in some instances to a poor family, by renting the pasturage of a cow, or some other temporary profit from the occupation of land.'(21*) Lawsuits between parishes were incessant, and in 1815 the money spent on litigation and the removal of paupers reached the gigantic figure of £287,000.

In Parliament, too, the question of Poor Law Reform was seen to be urgent, but the problem assumed a particular and very limited shape. The significance of this development can be illustrated by comparing the character and the fate of a measure Whitbread had introduced in 1807 with the character and the fate of the legislation after Waterloo.

Whitbread's scheme had aimed at (1) improving and humanising the Law of Settlement; (2) reforming the administration of the Poor Law as such in such a way as to give greater encouragement to economy and a fairer distribution of burdens; (3) stimulating thrift and penalising idleness in the labourers; (4) reforming unemployment policy.

The proposals under the first head provided that settlement might be gained by five years' residence as a householder, if the householder had not become chargeable or been convicted of crime, or been absent for more than six weeks in a year. Two Justices of the Peace were to have power on complaint of the parish authorities to adjudicate on the settlement of any person likely to become chargeable, subject to an appeal to quarter Sessions.

The proposals under the second head aimed partly at vestry reform and partly at rating reform. In those parishes where there was an open vestry, all ratepayers were still equal as voters, but Whitbread proposed to give extra voting power at vestry meetings in proportion to assessment.(22*) He wished to reform rating, by making stock in trade and personal property (except farming stock), which produced profit liable to assessment, by authorising the vestry to exempt such occupiers of cottages as they should think fit, and by giving power to the Justices of the Peace to strike out of the rate any person occupying a cottage not exceeding five pounds in yearly value, who should make application to them, such exemptions not to be considered parochial relief. He also proposed that the county rate should be charged in every parish in proportion to the assessed property in the parish, and that any parish whose poor rate was for three years more than double the average of the parish rate in the county, should have power to apply to Quarter Sessions for relief out of county stock.

Whitbread's proposals for stimulating thrift and penalising idleness were a strange medley of enlightenment and childishness. He proposed to give the parish officers power to build cottages which were to be let at the best rents that were to be obtained: but the parish officers might with the consent of the vestry allow persons who could not pay rent to occupy them rent free, or at a reduced rent. He proposed also to create a National Bank, something of the nature of a

Post Office Savings Bank, to be employed both as a savings bank and an insurance system for the poor. With these two excellent schemes he combined a ridiculous system of prizes and punishments for the thrifty and the irresponsible. Magistrates were to be empowered to give rewards (up to a maximum of £20) with a badge of good conduct, to labourers who had brought up large families without parish help, and to punish any man who appeared to have become chargeable from idleness or misconduct, and to brand him with the words, 'criminal Poor.'

In his unemployment policy Whitbread committed the fatal mistake, common to almost all the proposals of the time, of mixing up poor relief with wages in a way to depress and demoralise the labour market. The able-bodied unemployed, men, youths, or single women, were to be hired out by parish officers at the best price to be obtained. The wages were to be paid to the worker. If the worker was a single man or woman, or a widower with no children dependent on him, his or her earnings were to be made up by the parish to a sum necessary to his or her subsistence. If he or she had children, they were to be made up to three-quarters, or four-fifths, or the full average rate, according to the number of children. No single man or woman was to be hired out for more than a year, and no man or woman with dependent children for more than a month.

The proposals were attacked vigorously by two critics who were not often found in company, Cobbett and Malthus. Cobbett criticised the introduction of plural voting at vestry meetings in an excellent passage in the *Political Register*.(23*) 'Many of those who pay rates are but a step Or two from pauperism themselves; and they are the most likely persons to consider duly the important duty of doing, in case of relief, what they would be done unto. "But," Mr. Whitbread will say, "is it right for these persons to give away the money of others." It is not the money of others, any more than the amount of tithes is the farmer's money. The maintenance of the poor is a charge upon the land, a charge duly considered in every purchase and in every lease. Besides, as the law now stands, though every parishioner has a vote in vestry, must it not be evident, to every man who reflects, that a man of large property and superior understanding will have weight in proportion? That he will, in fact, have many votes? If he play the tyrant, even little men will rise against him, and it is right they should have the power of so doing; but, while he conducts himself with moderation and humanity, while he behaves as he ought to do to those who are beneath him in point of property, there is no fear but he will have a sufficiency of weight at every vestry. The votes of the inferior persons in the parish are, in reality, dormant, unless in cases where some innovation, or some act of tyranny, is attempted. They are, like the sting of the bee, weapons merely of defence.'

Malthus' criticisms were of a very different nature .(24*) He objected particularly to the public building of cottages, and the assessment of personal property to the rates. He argued that the scarcity of houses was the chief reason 'why the Poor Laws had not been so extensive and prejudicial in their effects as might have been expected.' If a stimulus was given to the building of cottages there would be no check on the increase of population. A similar tendency he ascribed to the rating of personal property. The employers of labour had an interest in the increase of population, and therefore in the building of cottages. This instinct was at present held in check by consideration of the burden of the rates. If, however, they could distribute that burden more widely, this consideration would have much less weight. Population would increase and wages would consequently go down. 'It has been observed by Dr. Adam Smith that no efforts of the legislature had been able to raise the salary of curates to that price which seemed necessary for their decent maintenance: and the reason which he justly assigns is that the bounties held out to the profession by the scholarships and fellowships of the universities always occasioned a redundant supply. In the same manner, if a more than usual supply of labour were encouraged by the premiums of small tenements, nothing could prevent a great and general fall in its price.'

The Bill was introduced in 1807, before the fall of the Whig Ministry, and it went to a Committee. But the Tory Parliament elected that year to support Portland and his anti-Catholic Government was unfriendly, and the county magistrates to whom the draft of the Bill was sent for criticisms were also hostile. Whitbread accordingly proceeded no further. At this time the Speenhamland system seemed to be working without serious inconvenience, and there was therefore no driving power behind such proposals. But after 1815 the conditions had changed, and the apathy of 1807 had melted away. The ruling class was no longer passive and indifferent about the growth of the Speenhamland system: both Houses of Parliament set inquiries on foot, schemes of emigration were invited and discussed, and measures of Vestry Reform were carried. But the problem was no longer the problem that Whitbread had set out to solve. Whitbread had proposed to increase the share of property in the control of the poor rates, but he had also brought forward a constructive scheme of social improvement. The Vestry Reformers of this period were merely interested in reducing the rates: the rest of Whitbread's programme was forgotten.

In 1818 an Act(25*) was passed which established plural voting in vestries, every ratepayer whose rateable value was £50 and over being allowed a vote for every £25 of rateable property. In the following year an Act(26*) was passed which allowed parishes to set up a select vestry, and ordained that in these parishes the overseers should give such relief as was ordered by the Select Vestry, and further allowed the appointment of salaried assistant overseers. These changes affected the administration of the Speenhamland system very considerably; and the salaried overseers made themselves hated in many parishes by the Draconian régime which they introduced. The parish cart, or the cart to which in some parishes men and women who asked for relief were harnessed, was one of the innovations of this period. The administrative methods that were adopted in these parishes are frustrated by a fact mentioned by a clerk to the magistrates in Kent, in October 1830.(27*) The writer says that there was a severe overseer at Ash, who had among other applicants for relief an unemployed shepherd, with a wife and five children living at Margate, thirteen miles away. The shepherd was given 9s. a week, but the overseer made him walk to Ash every day except Sunday for his eighteen pence. The shepherd walked his twenty-six miles a day on such food as he could obtain out of his share of the 9s. for nine weeks, and then his strength could hold out no longer. The writer remarked that the shepherd was an industrious and honest man, out of work through no fault of his own. It was by such methods that the salaried overseers tried to break the poor of the habit of asking for relief, and it is not surprising that such methods rankled in the memories of the labourers. In this neighbourhood the writer attributed the fires of 1830 more to this cause than to any other.

These attempts to relieve the ratepayer did nothing to relieve the labourer from the incubus of the system. His plight grew steadily worse. A Committee on Agricultural Wages, of which Lord John Russell was chairman, reported in 1824 that whereas in certain northern counties, where the Speenhamland system had not yet taken root, wages were 12s. to 15s., in the south they varied from 8s. or 9s. a week to 3s. for a single man and 4s. 6d. for a married man.(28*) In one part of Kent the lowest wages in one parish were 6d. a day, and in the majority of parishes 1s. a day. The wages of an unmarried man in Buckinghamshire in 1828, according to a clergyman who gave evidence before the Committee of that year on the Poor Laws, were 3s. a week, and the wages of a married man were 6s. a week. In one parish in his neighbourhood the farmers had lately reduced the wages of able-bodied married men to 4s. a week. Thus the Speenhamland system had been effective enough in keeping wages low, but as a means of preserving a minimum livelihood it was breaking down by this time on all sides. We have seen from the history of Merton in Oxfordshire(29*) what happened in one parish long before the adversities of agriculture had become acute. It is easy from this case to imagine what happened when the decline in employment and agriculture threw a steadily increasing burden on the system of maintenance from the rates. In some places, as the Commissioners of 1834 reported,

the labourers were able by intimidation to keep the system in force, but though parishes did not as a rule dare to abandon or reform the system, they steadily reduced their scale.

The most direct and graphic demonstration of this fact, which has not apparently ever been noticed in any of the voluminous discussions of the old Poor Law system, is to be seen in the comparison of the standards of life adopted at the time the system was introduced with the standards that were adopted later. In 1795, as we have seen, the magistrates at Speenhamland recommended an allowance of three gallon loaves for each labourer, and a gallon loaf and a half for his wife and for each additional member of his family. This scale, it must be remembered, was not peculiar to Berkshire. It was the authoritative standard in many counties. We are able to compare this with some later scales, and the comparison yields some startling results. In Northamptonshire in 1816 the magistrates fixed a single man's allowance at 5s., and the allowance for a man and his wife at 6s., the price of wheat the quartern loaf being 11 1/2d.(30*) On this scale a man is supposed to need a little over two and a half gallon loaves, and a man and his wife a little more than three gallon loaves, or barely more than a single man was supposed to need in 1795. This is a grave reduction, but the maintenance standard fell very much lower before 1832. For though we have scales for Cambridgeshire and Essex for 1821 published in the Report of the Poor Law Commission of 1834,(31*) which agree roughly with the Northamptonshire scale (two gallon loaves for a man, and one and a half for a woman), in Wiltshire, according to the complicated scale adopted at Hindon in 1817, a man was allowed one and three-fifths gallon loaves, and a woman one and one-tenth.(32*) A Hampshire scale, drawn up in 1822 by eight magistrates, of whom five were parsons, allowed only one gallon loaf a head, with 4d. a week per head in addition to a family of four persons, the extra allowance being reduced by a penny in cases where there were six in the family, and by twopence in cases where there were more than six.(33*) The Dorsetshire magistrates in 1826 allowed a man the equivalent of one and a half gallon loaves and a penny over, and a woman or child over fourteen one and one-sixth.(34*) We have a general statement as to the scales in force towards the end of our period in a passage in M'Culloch's *Political Economy* quoted in the *Edinburgh Review* for January 1831 (p. 353): 'The allowance scales now issued from time to time by the magistrates are usually framed on the principle that every labourer should have a gallon loaf of standard wheaten bread weekly for every member of his family and one over: that is four loaves for three persons, five for four, six for five, and so on.' That is, a family of four persons would have had seven and a half gallon loaves in 1795, and only five gallon loaves in 1831.

Now the Speenhamland scale did not represent some easy and luxurious standard of living; it represented the minimum on which it was supposed that a man employed in agriculture could support life. In thirty-five years the standard had dropped, according to M'Culloch's statement, as much as a third, and this not because of war or famine, for in 1826 England had had eleven years of peace, but in the ordinary course of the life of the nation. Is such a decline in the standard of life recorded anywhere else in history?

How did the labourers live at all under these conditions? Their life was, of course, wretched and squalid in the extreme. Cobbett describes a group of women labourers whom he met by the roadside in Hampshire as 'such an assemblage of rags as I never saw before even amongst the hoppers at Farnham.' Of the labourers near Cricklade he said: 'Their dwellings are little better than pig-beds, and their looks indicate that their food is not nearly equal to that of a pig. These wretched hovels are stuck upon little beds of ground on the roadside where the space has been wider than the road demanded. In many places they have not two rods to a hovel. It seems as if they had been swept off the fields by a hurricane, and had dropped and found shelter under the banks on the roadside. Yesterday morning was a sharp frost, and this had set the poor creatures to digging up their little plots of potatoes. In my whole life I never saw human wretchedness equal to this; no, not even amongst the free negroes in America who, on an

average, do not work one day out of four.'(35*) The labourers' cottages in Leicestershire he found were 'hovels made of mud and straw, bits of glass or of old cast-off windows, without frames or hinges frequently, and merely stuck in the mud wall. Enter them and look at the bits of chairs or stools, the wretched boards tacked together to serve for a table, the floor of pebble broken or of the bare ground; look at the thing called a bed, and survey the rags on the backs of the inhabitants.'(36*) A Dorsetshire clergyman, a witness before the Committee on Wages in 1824, said that the labourers lived almost entirely on tea and potatoes; a Bedfordshire labourer said that he and his family lived mainly on bread and cheese and water, and that sometimes for a month together he never tasted meat; a Suffolk magistrate described how a labourer out of work, convicted of stealing wood, begged to be sent at once to a House of Correction, where he hoped to find food and employment. if Davies had written an account of the labouring classes in 1820 or 1830, the picture he drew in 1795 would have seemed bright in comparison. But even this kind of life could not be supported on such provision as was made by the parish. How, then, did the labourers maintain any kind of existence when society ceased to piece together a minimum livelihood out of rates and wages?

For the answer to this question we must turn to the history of crime and punishment; to the Reports of the Parliamentary Committees on Labourers' Wages (1824), on the Game Laws (1823 and 1828), on Emigration (1826 and 1827), on Criminal Commitments and Convictions and Secondary Punishments (1827, 1828, 1831, and 1832), and the evidence of those who were in touch with this side of village life. From these sources we learn that, rate aid not being sufficient to bring wages to the maintenance level, poaching, smuggling, and ultimately thieving were called in to rehabilitate the labourer's economic position.(37*) He was driven to the wages of crime. The history of the agricultural labourer in this generation is written in the code of the Game Laws, the growing brutality of the Criminal Law, and the preoccupation of the rich with the efficacy of punishment.

We know from Fielding with what sort of justice the magistrates treated persons accused of poaching in the reign of George III's grandfather, but when he wrote his account of Squire Western, and when Blackstone wrote that the Game Laws had raised up a little Nimrod in every manor, the blood of men and boys had not yet been spilt for the pleasures of the rich. it is only after Fielding and Blackstone were both in their graves that this page of history became crimson, and that the gentlemen of England took to guarding their special amusements by methods of which a Member of Parliament declared that the nobles of France had not ventured on their like in the days of their most splendid arrogance. The little Nimrods who made and applied. their code were a small and select class. They were the persons qualified under the law of Charles II to shoot game, i.e., persons who possessed a freehold estate of at least £100 a year, or a leasehold estate of at least £150 a year, or the son or heir-apparent of an esquire or person of higher degree. The legislation that occupies so much of English history during a period of misery and famine is devoted to the protection of the monopoly of this class, comprising less than one in ten thousand of the people of England. A Member of Parliament named Warburton said in the House of Commons that the only parallel to this monopoly was to be found in Mariner's account of the Tonga Islands, where rats were preserved as game. Anybody might eat rats there, but nobody was allowed to kill them except persons descended from gods or kings.

With the general growth of upper-class riches and luxury there came over shooting a change corresponding with the change that turned hunting into a magnificent and extravagant spectacle. The habit set in of preserving game in great masses, of organising the battue, of maintaining armies of keepers. In many parts of the country, pheasants were now introduced for the first time. Whereas game had hitherto kept something of the wildness, and vagrancy, and careless freedom of Nature, the woods were now packed with tame and docile birds, whose gay feathers sparkled among the trees, before the eyes of the half-starved labourers breaking

stones on the road at half a crown a week. The change is described by witnesses such as Sir James Graham and Sir Thomas Baring, magistrates respectively in Cumberland and Hampshire, before the Select Committee on Criminal Commitments and Convictions in 1827. England was, in fact, passing through a process precisely opposite to that which had taken place in France: the sport of the rich was becoming more and more of an elaborate system, and more of a vested interest. This development was marked by the growth of an offensive combination among game preservers; in some parts of the country game associations were formed, for the express purpose of paying the costs of prosecutions, so that the poacher had against him not merely a bench of game preservers, but a ring of squires, a sort of Holy Alliance for the punishment of social rebels, which drew its meshes not round a parish but round a county. Simultaneously, as we have seen, a general change was coming over the circumstances and position of the poor. The mass of the people were losing their rights and independence; they were being forced into an absolute dependence on wages, and were living on the brink of famine. These two developments must be kept in mind in watching the building up of the game code in the last phase of the ancient régime.

The Acts for protecting game passed after the accession of George III are in a crescendo of fierceness. The first important Act was passed in 1770. Under this Act any one who killed game of any kind between sunsetting and sunrising, or used any gun, or dog, snare, net, or other engine for destroying game at night, was, on conviction by one witness before one Justice of the Peace, to be punished with imprisonment for not less than three months or more than six. For a subsequent offence he was to be imprisoned for not more than twelve months or less than six, and to be whipped publicly between the hours of twelve and one o'clock. This was light punishment compared with the measures that were to follow. In the year 1800, the year of Marengo, when all England was braced up for its great duel with the common enemy of freedom and order, and the labourers were told every day that they would be the first to suffer if Napoleon landed in England, the English Parliament found time to pass another Act to punish poachers, and to teach justice to mend her slow pace. By this Act when two or more persons were found in any forest, chase, park, wood, plantation, paddock, field, meadow, or other open or enclosed ground, having any gun, net, engine, or other instrument, with the intent to destroy, take, or kill game, they were to be seized by keepers or servants, and on conviction before a J.P., they were to be treated as rogues and vagabonds under the Act of 1744, i.e., they were to be punished by imprisonment with hard labour; an incorrigible rogue, i.e., a second offender, was to be imprisoned for two years with whipping. Further, if the offender was over twelve years of age, the magistrates might sentence him to serve in the army or navy. If an incorrigible rogue escaped from the House of Correction he was to be liable to transportation for seven years.

Two consequences followed from this Act. Now that punishment was made so severe, the poacher had a strong reason for violence: surrender meant service in a condemned regiment, and he therefore took the risks of resistance. The second consequence was the practice of poaching in large groups. The organisation of poaching gangs was not a natural development of the industry; it was adopted in self-defence .(38*) This Act led inevitably to those battles between gamekeepers and labourers that became so conspicuous a feature of English life at this time, and in 1803 Lord Ellenborough passed an Act which provided that any persons who presented a gun or tried, to stab or cut 'with intent to obstruct, resist, or prevent the lawful apprehension or detainer of the person or persons so stabbing or cutting, or the lawful apprehension or detainer of any of his, her, or their accomplices for any offences for which he, she, or they may respectively be liable by law to be apprehended, imprisoned, or detained,' should suffer death as a felon. In 1816, when peace and the fall of prices were bringing new problems in their train, there went through Parliament, without a syllable of debate, a Bill of which Romilly said that no parallel to it could be found in the laws of any country in the world. By that Act a person who was found at night unarmed, but with a net for poaching, in any

forest, chase, or park was to be punished by transportation for seven years. This Act Romilly induced Parliament to repeal in the following year, but the Act that took its place only softened the law to the extent of withdrawing this punishment from persons found with nets, but without guns or bludgeons: it enacted that any person so found, armed with gun, crossbow, firearms, bludgeon, or any other offensive weapon, was to be tried at Quarter Sessions, and if convicted, to be sentenced to transportation for seven years: if such offender were to return to Great Britain before his time was over, he was to be transported for the rest of his life.(39*)

This savage Act, though by no means a dead letter, as Parliamentary Returns show, seems to have defeated its own end, for in 1828 it was repealed, because, as Lord Wharncliffe told the House of Lords, there was a certain reluctance on the part of juries to convict a prisoner, when they knew that conviction would be followed by transportation. The new Act of 1828, which allowed a person to be convicted before two magistrates, reserved transportation for the third offence, punishing the first offence by three months', and the second by six months' imprisonment. But the convicted person had to find sureties after his release, or else go back to hard labour for another six months if it was a first offence, or another twelve months if it was his second. Further, if three men were found in a wood and one of them carried a gun or bludgeon, all three were liable to be transported for fourteen years.(40*) Althorp's Bill of 1831 which abolished the qualifications of the Act of Charles II, gave the right to shoot to every landowner who took out a certificate, and made the sale of game legal, proposed in its original form to alter these punishments, making that for the first and second offences rather more severe (four and eight months), and that for the third, two years' imprisonment. In Committee in the House of Commons the two years were reduced to one year on the proposal of Orator Hunt. The House of Lords, however, restored the punishments of the Act of 1828.

These were the main Acts for punishing poachers that were passed during the last phase of the ancient régime. How large a part they played in English life may be imagined from a fact mentioned by the duke of Richmond in 1831.(41*) In the three years between 1827 and 1830 one in seven of all the criminal convictions in the country were convictions under the Game Code. The number of persons so convicted was 8502, many of them being under eighteen. Some of them had been transported for life, and some for seven or fourteen years. In some years the proportion was still higher.(42*) We must remember, too, what kind of judges had tried many of these men and boys. 'There is not a worse-constituted tribunal on the face of the earth,' said Brougham in 1828, 'not even that of the Turkish Cadi, than that at which summary convictions on the Game Laws constantly take place; I mean a bench or a brace of sporting justices. I am far from saying that, on such subjects, they are actuated by corrupt motives; but they are undoubtedly instigated by their abhorrence of that caput lupinum, that hostis humani generis, as an Honourable Friend of mine once called him in his place, that fera naturae -- a poacher. From their decisions on those points, where their passions are the most likely to mislead them, no appeal in reality lies to a more calm and unprejudiced tribunal; for, unless they set out any matter illegal on the face of the conviction, you remove the record in vain.'(43*)

The close relation of this great increase of crime to the general distress was universally recognised. Cobbett tells us that a gentleman in Surrey asked a young man, who was cracking stones on the roadside, how he could live upon half a crown a week. 'I don't live upon it,' said he. 'How do you live then?' 'Why,' said he, 'I poach: it is better to be hanged than to be starved to death.'(44*) This story receives illustration after illustration in the evidence taken by Parliamentary Committees. The visiting Justices of the Prisons in Bedfordshire reported in 1827 that the great increase in commitments, and particularly the number of commitments for offences against the Game Laws, called for an inquiry. More than a third of the commitments during the last quarter had been for such offences. The Report continues:--

'In many parishes in this county the wages given to young unmarried agricultural labourers, in the full strength and vigour of life, seldom exceed 3s. or 3s. 6d. a week, paid to them, generally, under the description of roundsmen, by the overseers out of the poor rates; and often in the immediate vicinity of the dwellings of such half-starved labourers there are abundantly-stocked preserves of game, in which, during a single night, these dissatisfied young men can obtain a rich booty by snaring hares and taking or killing pheasants... offences which they cannot be brought to acknowledge to be any violation of private property. Detection generally leads to their imprisonment, and imprisonment introduces these youths to familiarity with criminals of other descriptions, and thus they become rapidly abandoned to unlawful pursuits and a life of crime.'(45*) Mr. Orridge, Governor of the Gaol of Bury St. Edmunds, gave to the Committee on Commitments and Convictions(46*) the following figures of prisoners committed to the House of Correction for certain years: --

1805, 221 1815, 387 1824, 457
1806, 192 1816, 476 1825, 439
1807, 173 1817, 430 1826, 573.

He stated that the great increase in the number of commitments began in the year 1815 with the depression of agriculture and the great dearth of employment: that men were employed on the roads at very low rates: that the commitments under the Game Laws which in 1810 were five, in 1811 four, and in 1812 two, were seventy-five in 1822, a year of great agricultural distress, sixty in 1823, sixty-one in 1824, and seventy-one in 1825. Some men were poachers from the love of sport, but the majority from distress. Mr. Pym, a magistrate in Cambridgeshire, and Sir Thomas Baring, a magistrate for Hampshire, gave similar evidence as to the cause of the increase of crime, and particularly of poaching, in these counties. Mr. Bishop, a Bow Street officer, whose business it was to mix with the poachers in public-houses and learn their secrets, told the Committee on the Game Laws in 1823 that there had not been employment for the labouring poor in most of the places he had visited. Perhaps the most graphic picture of the relation of distress to crime is given in a pamphlet, *Thoughts and Suggestions on the Present Condition of the Country*, published in 1830 by Mr. Potter Macqueen, late M.P. for Bedford.

'In January 1829, there were ninety-six prisoners for trial in Bedford Gaol, of whom seventy-six were able-bodied men, in the prime of life, and, chiefly, of general good character, who were driven to crime by sheer want, and who would have been valuable subjects had they been placed in a situation, where, by the exercise of their health and strength, they could have earned a subsistence. There were in this number eighteen poachers, awaiting trial for the capital offence of using arms in self-defence when attacked by game-keepers; of these eighteen men, one only was not a parish pauper, and he was the agent of the London poulterers, who, passing under the apparent vocation of a rat-catcher, paid these poor creatures more in one night than they could obtain from the overseer for a week's labour. I conversed with each of these men singly, and made minutes of their mode of life. The two first I will mention are the two brothers, the Lilleys, in custody under a charge of firing on and wounding a keeper, who endeavoured to apprehend them whilst poaching. They were two remarkably fine young men, and very respectably connected. The elder, twenty-eight years of age, married, with two small children. When I inquired how he could lend himself to such a wretched course of life, the poor fellow replied: 'Sir, I had a pregnant wife, with one infant at her knee, and another at her breast; I was anxious to obtain work, I offered myself in all directions, but without success; if I went to a distance, I was told to go back to my parish, and when I did so, I was allowed.... What? Why, for myself, my babes, and my wife, in a condition requiring more than common support, and unable to labour, I was allowed 7s. a week for all; for which I was expected to work on the roads from light to dark, and to pay three guineas a year for the hovel which sheltered us.' The other brother, aged twenty-two, unmarried, received 6d. a day. These men were hanged at the spring assizes. Of the others, ten were single men, their ages varying from

seventeen to twenty-seven. Many had never been in gaol before, and were considered of good character. Six of them were on the roads at 6d. per day. Two could not obtain even this pittance. One had been refused relief on the ground that he had shortly previous obtained a profitable piece of jobwork, and one had existed on 1s. 6d. during the fortnight before he joined the gang in question. Of five married men, two with wife and two children received 7s., two with wife and one child 6s., and one with wife and four small children 11s.'(47*)

If we wish to obtain a complete picture of the social life of the time, it is not enough to study the construction of this vindictive code. We must remember that a sort of civil war was going on between the labourers and the gamekeepers. The woods in which Tom Jones fought his great fight with Thwackum and Blifil to cover the flight of Molly Seagrim now echoed on a still and moonless night with the din of a different sort of battle: the noise of gunshots and blows from bludgeons, and broken curses from men who knew that, if they were taken, they would never see the English dawn rise over their homes again: a battle which ended perhaps in the death or wounding of a keeper or poacher, and the hanging or transportation of some of the favourite Don Quixotes of the village. A witness before the Committee on the Game Laws said that the poachers preferred a quiet night. Crabbe, in the poacher poem (Book XXI of *Tales of the Hall*) which he wrote at the suggestion of Romilly, takes what would seem to be the more probable view that poachers liked a noisy night:

> 'It was a night such bold desires to move
> Strong winds and wintry torrents filled the grove;
> The crackling boughs that in the forest fell,
> The cawing rooks, the cur's affrighted yell;
> The scenes above the wood, the floods below,
> Were mix'd, and none the singie sound could know.
> "Loud blow the blasts," they cried, "and call us as they blow."'

Such an encounter is put into cold arithmetic in an official return like this:(48*) --

'An account of the nineteen persons committed to Warwick Gaol for trial at the Lent Assizes 1829 for shooting and wounding John Slinn at Combe Fields in the County of Warwick whilst endeavouring to apprehend them for destroying game in the night with the result thereof: --

> Above 14 and under 20 years of age 11
> Above 20 years of age 8
> Capitally convicted and repreived with --
> Transportation for life 7
> Transportation for 14 years 9
> Imprisonment with hard labour
> in House of Correction for 2 years 1
> Admitted to Evidence 2

Seven peasants exiled for life, nine exiled for fourteen years, and two condemned to the worst exile of all. In that village at any rate there were many homes that had reason to remember the day when the pleasures of the rich became the most sacred thing in England.

But the warfare was not conducted only by these methods. For the gentlemen of England, as for the genius who fought Michael and Gabriel in the great battle in the sixth book of *Paradise Lost*, science did not spread her light in vain. There was a certain joy of adventure in a night skirmish, and a man who saw his wife and children slowly starving, to whom one of those

golden birds that was sleeping on its perch the other side of the hedge, night after night, till the day when it should please the squire to send a shot through its purple head, meant comfort and even riches for a week, was not very much afraid of trusting his life and his freedom to his quick ear, his light foot, or at the worst his powerful arm. So the game preservers invented a cold and terrible demon: they strewed their woods with spring guns, that dealt death without warning, death without the excitement of battle, death that could catch the nimblest as he slipped and scrambled through the hiding bracken. The man who fell in an affray fell fighting, his comrades by his side; it was a grim and uncomforted fate to go out slowly and alone, lying desolate in the stained bushes, beneath the unheeding sky. It is not clear when these diabolical engines, as Lord Holland called them, were first introduced, but they were evidently common by 1817, when Curwen made a passionate protest in the House of Commons, and declared, 'Better the whole race of game was extinct than that it should owe its preservation to such cruel expedients.'(49*) Fortunately for England the spring guns, though they scattered murder and wounds freely enough (Peel spoke in 1827 of 'daily accidents and misfortunes'), did not choose their victims with so nice an eye as a Justice of the Peace, and it was often a gamekeeper or a farm servant who was suddenly tripped up by this lurking death. By 1827 this state of things had become such a scandal that Parliament intervened and passed an Act, introduced in the Lords by Lord Suffield, who had made a previous attempt in 1825, to make the setting of spring guns a misdemeanour.(50*)

The Bill did not pass without considerable opposition. Tennyson, who introduced it in the Commons, declared that the feudal nobility in ancient France had never possessed a privilege comparable with this right of killing and maiming, and he said that the fact that Coke of Norfolk(51*) and Lord Suffield, both large game preservers, refused to employ them showed that they were not necessary. Members of both Houses of Parliament complained bitterly of the 'morbid sensibility' that inspired the proposal, and some of them defended spring guns as a labour-saving machine, speaking of them with the enthusiasm that a manufacturer might bestow on the invention of an Arkwright or a Crompton. One member of the House of Commons, a Colonel French, opposed the Bill with the argument that the honest English country gentleman formed 'the very subject and essence of the English character,' while Lord Ellenborough opposed it in the other House on the ground that it was contrary to the principles of the English law, which gave a man protection for his property in proportion to the difficulty with which it could be defended by ordinary means.

The crime for which men were maimed or killed by these engines or torn from their homes by summary and heartless justice was, it must be remembered, no crime at all in the eyes of the great majority of their countrymen. At this time the sale of game was prohibited under stern penalties, and yet every rich man in London, from the Lord Mayor downwards, entertained his guests with game that he had bought from a poulterer. How had the poulterer bought it? There was no secret about the business. It was explained to two Select Committees, the first of the House of Commons in 1823, and the second of the House of Lords in 1828, by poulterers who lived by these transactions, and by police officers who did nothing to interfere with them. Daniel Bishop, for example, one of the chief Bow Street officers, described the arrangements to the Committee in 1823.(52*)

'Can you state to the Committee, how the Game is brought from the poachers up to London, or other market?... The poachers generally meet the coachman or guards of the mails or vans, and deliver it to them after they are out of a town, they do not deliver it in a town; then it is brought up to London, sometimes to their agents; but the coachmen and guards mostly have their friends in London where they know how to dispose of it, and they have their contracts made at so much a brace.... There is no intermediate person between the poacher and the coachman or guard that conveys it to. town?... Very seldom; generally the head of the gang pays the rest of the men, and he sends off the Game.... When the game arrives in London, how

is it disposed of?... They have their agents, the bookkeepers at most of the inns, the porters who go out with the carts; any persons they know may go and get what quantity they like, by sending an order a day or two before; there are great quantities come up to Leadenhall and Newgate markets.' Nobody in London thought the worse of a poulterer for buying poached game; and nobody in the country thought any the worse of the poacher who supplied it. A witness before the Committee in 1823 said that in one village the whole of the village were poachers, 'the constable of the village, the shoemaker and other inhabitants of the village.' Another witness before the Lords in 1828 said that occupiers and unqualified proprietors agreed with the labourers in thinking that poaching was an innocent practice.

Those who wished to reform the Game Laws argued that if the sale of game were legalised, and if the anomalous qualifications were abolished, the poacher's prize would become much less valuable, and the temptation would be correspondingly diminished.. This view was corroborated by the evidence given to the Select Committees. But all such proposals were bitterly attacked by the great majority of game preservers. Lord Londonderry urged against this reform in 1827 'that it would deprive the sportsman of his highest gratification... the pleasure of fishing his friends with presents of game: nobody would care for a present which everybody could give!'(53*) Other game preservers argued that it was sport that made the English gentlemen such good officers, on which the Edinburgh Review remarked: 'The hunting which Xenophon and Cicero praise as the best discipline for forming great generals from its being war in miniature must have been very unlike pheasant shooting.'(54*) Lord Deerhurst declared, when the proposal was made fourteen years earlier, that this was not the time to disgust resident gentlemen. The English aristocracy, like the French, would only consent to live in the country on their own terms. When the squires threatened to turn émigrés if anybody else was allowed to kill a rabbit, or if a poacher was not put to risk of life and limb, Sydney Smith gave an answer that would have scandalised the House of Commons, 'If gentlemen cannot breathe fresh air without injustice, let them putrefy in Cranbourne Court.'

But what about the justice of the laws against poachers? To most members of Parliament there would have been an element of paradox in such a question. From the discussions on the subject of the Game Laws a modern reader might suppose that poachers were not men of flesh and blood, but some kind of vermin. There were a few exceptions. In 1782, when Coke of Norfolk, acting at the instance of the magistrates of that county, proposed to make the Game Laws more stringent, Turner, the member for York, made a spirited reply; he 'exclaimed against those laws as cruel and oppressive on the poor: he said it was a shame that the House should always be enacting laws for the safety of gentlemen; he wished they would make a few for the good of the poor.... For his own part, he was convinced, that if he had been a common man, he would have been a poacher, in spite of all the laws; and he was equally sure that the too great severity of the laws was the cause that the number of poachers had increased so much.'(55*) Fox (29th April 1796) protested with vigour against the morality that condemned poachers without mercy, and condoned all the vices of the rich, but he, with Sheridan, Curwen, Romilly, and a few others were an infinitesimal minority.

The aristocracy had set up a code, under which a man or boy who had offended against the laws, but had done nothing for which any of his fellows imputed discredit to him, was snatched from his home, thrown into gaol with thieves and criminals, and perhaps flung to the other side of the world, leaving his family either to go upon the rates or to pick up a living by such dishonesties as they could contrive. This last penalty probably meant final separation. Mr. T. G. B. Estcourt, M.P., stated in evidence before the Select Committee on Secondary Punishments in 1831(56*) that as men who had been transported were not brought back at the public expense, they scarcely ever returned,(57*) that agricultural labourers specially dreaded transportation, because it meant 'entire separation' from 'former associates, relations, and friends,' and that since he and his brother magistrates in Wiltshire had taken to transporting

more freely, committals had decreased. The special misery that transportation inflicted on men of this class is illustrated in Marcus Clarke's famous novel, *For the Term of His Natural Life*. In the passage describing the barracoon on the transport ship, Clarke throws on the screen all the different types of character -- forgers, housebreakers, cracksmen, footpads -- penned up in that poisonous prison. 'The poacher grimly thinking of his sick wife and children would start as the night-house ruffian clapped him on the shoulder and bade him with a curse to take good heart and be a man.' Readers of Mr. Hudson's character sketches of the modern Wiltshire labourer can imagine the scene. To the lad who had never been outside his own village such a society must have been unspeakably alien and terrible: a ring of callous and mocking faces, hardened, by crime and wrong and base punishment, to make bitter ridicule of all the memories of home and boyhood and innocence that were surging and breaking round his simple heart.

The growing brutality of the Game Laws, if it is the chief, is not the only illustration of the extent to which the pressure of poverty was driving the labourers to press upon law and order, and the kind of measures that the ruling class took to protect its property. Another illustration is the Malicious Trespass Act.

In 1820 Parliament passed an Act which provided that any person convicted before a single J.P. within four months of the act of doing any malicious injury to any building, hedge, fence, tree, wood, or underwood was to pay damage not exceeding £5, and if he was unable to pay these damages he was to be sent to hard labour in a common gaol or House of Correction for three months. The law before the passing of this Act was as it is to-day, i.e., the remedy lay in an action at law against the trespasser, and the trespasser under the Act of William and Mary had to pay damages. The Act of 1820 was passed without any debate that is reported in Hansard, but it is not unreasonable to assume that it was demanded for the protection of enclosures and game preserves.(58*) This Act exempted one set of persons entirely, 'persons engaged in hunting, and qualified persons in pursuit of game.' These privileged gentlemen could do as much injury as they pleased.

One clause provided that every male offender under sixteen who did not pay damages, and all costs and charges and expenses forthwith, might be sent by the magistrate to hard labour in the House of Correction for six weeks. Thus a child who broke a bough from a tree by the roadside might be sent by the magistrate, who would in many cases be the owner of the tree, to the House of Correction, there to learn the ways of criminals at an age when the magistrate's own children were about half-way through their luxurious education. This was no brutum fulmen. Children were sent to prison in great numbers.(59*) Brougham said in 1828: 'There was a Bill introduced by the Rt. Hon. Gentleman opposite for extending the payment of expenses of witnesses and prosecutors out of the county rates. It is not to be doubted that it has greatly increased the number of Commitments, and has been the cause of many persons being brought to trial, who ought to have been discharged by the Magistrates. The habit of committing, from this and other causes, has grievously increased everywhere of late, and especially of boys. Eighteen hundred and odd, many of them mere children, have been committed in the Warwick district during the last seven years.'(60*) The Governor of the House of Correction in Coldbath Fields, giving evidence before the Committee on Secondary Punishments in 1831, said that he had under his charge a boy of ten years old who had been in prison eight times. Capper, the Superintendent of the Convict Establishment, told the same Committee that some of the boy convicts were so young that they could scarcely put on their clothes, and that they had to be dressed. Richard Potter's diary for 1813 contains this. entry. 'Oct. 13. -- I was attending to give evidence against a man. Afterwards, two boys, John and Thomas Clough, aged 12 and 10 years, were tried and found guilty of stealing some Irish linen out of Joseph Thorley's warehouse during the dinner hour. The Chairman sentenced them to seven years' transportation. On its being pronounced, the Mother of those unfortunate boys

came to the Bar to her children, and with them was in great agony, imploring mercy of the Bench. With difficulty the children were removed. The scene was so horrifying I could remain no longer in court.'(61*) Parliament put these tremendous weapons into the hands of men who believed in using them, who administered the law on the principle by which Sir William Dyott regulated his conduct as a magistrate, that 'nothing but the terror of human suffering can avail to prevent crime.'

The class that had, in Goldsmith's words, hung round 'our paltriest possessions with gibbetts' never doubted its power to do full justice to the helpless creatures who tumbled into the net of the law. Until 1836 a man accused of a felony was not allowed to employ counsel to make his defence in the Court. His counsel (if he could afford to have one) could examine and cross-examine witnesses, and that was all; the prisoner, whatever his condition of mind, or his condition of body, had to answer the speech of the prosecuting counsel himself. In nine cases out of ten he was quite an unlearned man; he was swept into the glare of the Court blinking from long months of imprisonment in dark cells; the case against him was woven into a complete and perfect story by the skilled fingers of a lawyer, and it was left to this rude and illiterate man, by the aid of his own memory and his own imagination, his life on the razor's edge, his mind bewildered by his strange and terrible surroundings, to pick that story to pieces, to expose what was mere and doubtful inference, to put a different completion on a long and tangled set of events, to show how a turn here or a turn there in the narrative would change black into white and apparent guilt into manifest innocence. Sydney Smith, whose opinions on the importance of giving the poor a fair trial were as enlightened as his opinions on their proper treatment in prison were backward, has described the scene.

'It is a most affecting moment in a Court of Justice, when the evidence has all been heard, and the Judge asks the prisoner what he has to say in his defence. The prisoner who has (by great exertions, perhaps of his friends) saved up money enough to procure Counsel, says to the Judge "that he leaves his defence to his Counsel." We have often blushed for English humanity to hear the reply. "Your Counsel cannot speak for you, you must speak for yourself;" and this is the reply given to a poor girl of eighteen -- to a foreigner -- to a deaf man -- to a stammerer -- to the sick to the feeble -- to the old -- to the most abject and ignorant of human beings!... How often have we seen a poor wretch, struggling against the agonies of his spirit, and the rudeness of his conceptions, and his awe of better-dressed men and better-taught men, and the shame which the accusation has brought upon his head, and the sight of his parents and children gazing at him in the Court, for the last time perhaps, and after a long absence!'(62*)

Brougham said in the House of Commons that there was no man who visited the Criminal Courts who did not see the fearful odds against the prisoner. This anomaly was peculiar to England, and in England it was peculiar to cases of felony. Men tried for misdemeanours, or for treason, or before the House of Lords could answer by the mouth of counsel. It was only in those cases where the prisoners were almost always poor and uneducated men and women, as Lord Althorp pointed out in an admirable speech in the House of Commons, that the accused was left to shift for himself. Twice, in 1824 and in 1826, the House of Commons refused leave to bring in a Bill to redress this flagrant injustice, encouraged in that refusal not only by Canning, but, what is much more surprising, by Peel.

The favorite argument against this reform, taking precedence of the arguments that to allow persons the aid of counsel in putting their statement of fact would make justice slower, more expensive, and more theatrical, was the contention that the judge did, in point of fact, represent the interest of the prisoner: a confused plea which it did not require any very highly developed gift of penetration to dissect. But how far, in point of fact, were the judges able to enter into the poor prisoner's mind? They had the power of sentencing to death for hundreds of trivial offences. It was the custom to pass the brutal sentence which the law allowed to be

inflicted for felonies. and then to commute it in all except a few cases. By what considerations did judges decide when to be severe? Lord Ellenborough told Lauderdale that he had left a man to be hanged at the Worcester Assizes because he lolled out his tongue and pretended to be an idiot, on which Lauderdale asked the Chief Justice what law there was to punish that particular offence with death. We learn from Romilly's Memoirs(63*) that one judge left three men to be hanged for thefts at the Maidstone Assizes because none of them could bring a witness to his character.

The same disposition to trust to the discretion of the judge, which Camden described as the law of tyrants, explains the vitality of the system of prescribing death as the punishment for hundreds of paltry offences. During the last fifty years the energy of Parliament in passing Enclosure Acts had been only rivalled by its energy in creating capital offences. The result was a penal code which had been condemned by almost every Englishman of repute of the most various opinions, from Blackstone, Johnson, and Goldsmith to Burke and Bentham. This system made the poor man the prey of his rich neighbours. The most furious punishments were held in terrorem over the heads of prisoners, and the wretched man who was caught in the net was exposed to all the animosities that he might have provoked in his ordinary life. Dr. Parr put this point writing to Romilly in 1811.

'There is, indeed, one consideration in the case of bad men which ought to have a greater weight than it usually has in the minds of the Judges, dislike from party, quarrels with servants or neighbours, offence justly or unjustly taken in a quarrel, jealousy about game, and twenty other matters of the same sort, frequently induce men to wish to get rid of a convicted person: and well does it behove every Judge to be sure that the person who recommends the execution of the sentence is a man of veracity, of sense, of impartiality and kindness of nature in the habitual character of his mind. I remember hearing from Sergeant Whitaker that, while he was trying a man for a capital offence at Norwich, a person brought him a message from the late Lord Suffield, "that the prisoner was a good-for-nothing fellow, and he hoped the Judge would look to him;" and the Sergeant kindled with indignation, and exclaimed, in the hearing of the Court, "Zounds! would Sir Harbord Harbord have me condemn the man before I have tried. him?" What Sir Harbord Harbord did during the trial, many squires and justices of the peace, upon other occasions, do after it; and were I a Judge, I should listen with great caution to all unfavourable representations. The rich, the proud, the irascible, and the vindictive are very unfit to estimate the value of life to their inferiors.'(64*)

We can see how the squires and the justices would close in round a man of whom they wanted, with the best intentions in the world, to rid their parish, woods, and warrens, when the punishment he was to receive turned on his reputation as it was estimated by the gentlemen of his neighbourhood. Was Sir Harbord Harbord very far removed from the state of mind described in the Sixth Satire of Juvenal?

> '"Pone crucem servo." "Meruit quo crimine servus.
> Supplicium? quis testis adest? quis detulit? Audi:
> Nulla unquam de morte hominis cunctatio longa est."
> "O demens, ita servus homo est? nil fecerit, esto:
> Hoc volo, sic jubeo, sit pro ratione voluntas,"'

And Sir Harbord Harbord had in hundreds of cases what he had not in this case, the power to wreak his anger on 'a good-for-nothing fellow.'

When Romilly entered on his noble crusade and tried very cautiously to persuade Parliament to repeal the death penalty in cases in which it was rarely carried out, he found the chief obstacle in his way was the fear that became common among the governing class at this time, the fear that existing methods of punishment were ceasing to be deterrent. In 1810 he carried his Bill, for abolishing this penalty for the crime of stealing privately to the amount of five shillings in a shop, through the House of Commons, and the Bill was introduced in the House of Lords by Lord Holland. There it was rejected by twenty-one to eleven, the majority including the Archbishop of Canterbury and six other bishops.(65*) The chief speeches against the Bill were made by Eldon and Ellenborough. Ellenborough argued that transportation was regarded, and justly regarded, by those who violated the law as 'a summer airing by an easy migration to a milder climate.'

The nightmare that punishment was growing gentle and attractive to the poor came to haunt the mind of the governing class. It was founded on the belief that as human wretchedness was increasing, there was a sort of law of Malthus, by which human endurance tended to outgrow the resources of repression. The agricultural labourers were sinking into such a deplorable plight that some of them found it a relief to be committed to the House of Correction, where, at least, they obtained food and employment, and the magistrates began to fear in consequence that ordinary punishments could no longer be regarded as deterrent, and to reason that some condition had yet to be discovered which would be more miserable than the general existence of the poor. The justices who punished Wiltshire poachers found such an El Dorado of unhappiness in transportation. But disturbing rumours came to the ears of the authorities that transportation was not thought a very terrible punishment after all, and the Government sent out to Sir George Arthur, the Governor of Van Diemen's Land, certain complaints of this kind. The answer which the Governor returned is published with the Report of the Committee on Secondary Punishments, and the complete correspondence forms a very remarkable set of Parliamentary Papers. The Governor pointed out that these complaints, which made such an impression on Lord Melbourne, came from employers in Australia, who wanted to have greater control over their servants. Arthur was no sentimentalist; his sympathies had been drilled in two hard schools, the army and the government of prisoners; his account of his own methods shows that in describing the life of a convict he was in no danger of falling into the exaggerations or the rhetoric of pity. In these letters he made it very clear that nobody who knew what transportation meant could ever make the mistake of thinking it a light punishment. The ordinary convict was assigned to a settler. 'Deprived of liberty, exposed to all the caprice of the family to whose service he may happen to be assigned, and subject to the most summary laws, the condition of a convict in no respect differs from that of a slave, except that his master cannot apply corporal punishment by his own hands or those of his overseer, and has a property in him for a limited period only.' Further, 'idleness and insolence of expression, or even of looks, anything betraying the insurgent spirit, subjects him to the chain-gang, or the triangle, or to hard labour on the roads.'(66*) We can imagine what the life of an ordinary convict might become. In earlier days every convict who went out began as an assigned servant, and it was only for misconduct in the colony or on the way thither that he was sent to a Penal Settlement, but the growing alarm of the ruling class on the subject of punishment led to a demand for more drastic sentences, and shortly after the close of our period Lord Melbourne introduced a new system, under which convicts might be sentenced from home to the Penal Settlement, and any judge who thought badly of a prisoner might add this hideous punishment to transportation.

The life of these Settlements has been described in one of the most vivid and terrible books ever written. Nobody can read Marcus Clarke's great novel without feeling that the methods of barbarism had done their worst and most devilish in Macquarie Harbour and Port Arthur. The lot of the prisoners in *Resurrection* is by comparison a paradise. Not a single feature that can revolt and stupefy the imagination is wanting to the picture. Children of ten committing

suicide, men murdering each other by compact as an escape from a hell they could no longer bear, prisoners receiving a death sentence with ecstasies of delight, punishments inflicted that are indistinguishable from torture, men stealing into the parched bush in groups, in the horrible hope that one or two of them might make their way to freedom by devouring their comrades -- an atmosphere in which the last faint glimmer of self-respect and human feeling was extinguished by incessant and degrading cruelty. Few books have been written in any language more terrible to read. Yet not a single incident or feature is imaginary: the whole picture is drawn from the cold facts of the official reports.(67*) And this system was not the invention of some Nero or Caligula; it was the system imposed by men of gentle and refined manners, who talked to each other in Virgil and Lucan of liberty and justice, who would have died without a murmur to save a French princess from an hour's pain or shame, who put down the abominations of the Slave Trade, and allowed Clive and Warren Hastings to be indicted at the bar of public opinion as monsters of inhumanity; and it was imposed by them from the belief that as the poor were becoming poorer, only a system of punishment that was becoming more brutal could deter them from crime.

If we want to understand how completely all their natural feelings were lost in this absorbing fear, we must turn to the picture given by an observer who was outside their world; an observer who could enter into the misery of the punished, and could describe what transportation meant to boys of nine and ten, exposed to the most brutal appetites of savage men; to chained convicts, packed for the night in boxes so narrow that they could only lie on one side; to crushed and broken men, whose only prayer it was to die. From him we learn how these scenes and surroundings impressed a mind that could look upon a convict settlement as a society of living men and boys, and not merely as the Cloaca Maxima of property and order.(68*)

NOTES:

1. *Poor Law Report*, 1834, p. 60.

2. The big landlord under this method shared the privilege of paying the labourer's wages with the small farmers.

3. *Tribune*, vol. ii, p. 317.

4. Ibid., p. 339.

5. *Poor Law Commission Report*, of 1834, p. 126.

6. See Curtler's *Short History of Agriculture*, p. 249.

7. Smart, *Economic Annals*, p. 36.

8. 'It was during the war that the cottagers of England were chiefly deprived of the little pieces of land and garden, and made solely dependent for subsistence on the wages of their daily labour, or the poor rates. Land, and the produce of it, had become so valuable, that the labourer was envied the occupation of the smallest piece of ground which he possessed: and even "the bare-worn common" was denied.' *Kentish Chronicle*, December 14, 1830.

9. Curtler, p. 243.

10. *Agricultural State of the Kingdom*, Board of Agriculture, 1816, p. 7.

11. Ibid., pp. 250-1.

12. p. 144.

13. C.C. Western (1767-1844); whig M.P., 1790-1832; chief representative of agricultural interests; made peer in 1833.

14. *Annual Register*, 1816, *Chron.* p. 67.

15. The disturbances at Brandon ceased immediately on the concession of the demands of rioters; flour was reduced to 2s. 6d. a stone, and wages were raised for two weeks to 2s. a head. The rioters were contented, and peace was restored. -- *Times*, May 23, 1816.

16. *Annual Register*, 1816, *Chron.*, p. 67.

17. *Cambridge Chronicle*, June 28, 1816.

18. *Times*, June 26. A curious irony has placed side by side with the account in the *Annual Register* of the execution of the five men who were hung for their share in this spasm of starvation and despair, the report of a meeting, with the inevitable Wilberforce in the chair, for raising a subscription for rebuilding the Protestant Church at Copenhagen, which had been destroyed by the British Fleet at the bombardment of Copenhagen in 1807.

19. *Agricultural State of the Kingdom*, p. 13.

20. 59 George III, c. 50.

21. See *Annual Register*, 1819, p. 320.

22. Those assessed at £100 were to have two votes, those at £150 three votes, and those at £400 four votes. Whitbread did not propose to copy the provision of Gilbert's Act, which withdrew all voting power in vestries in parishes that adopted that Act from persons assessed at less than £5.

23. *Political Register*, August 29, 1807, p. 329.

24. Letter to Samuel Whitbread, M. P., on his proposed Bill for the Amendment of the Poor Laws, 1807.

25. 58 George III, c. 69.

26. 59 George III, c. 12.

27. H.O. Papers, Municipal and Provincial.

28. Of course the system was only one of the causes of this difference in wages.

29. p. 99.

30. See *Agricultural State of the Kingdom*, Board of Agriculture, p. 231, and Cobbett, *Political Register*, October 5, 1816.

31. pp. 21 and 23.

32. The table is given in the *Report of the Committee on the Poor Laws*, 1828.

33. Cobbett, *Political Register*, September 21, 1822. Cobbett wrote one of his liveliest articles on this scale, setting out the number of livings held by the five parsons, and various circumstances connected with their families.

34. Ibid., September 9, 1826.

35. *Rural Rides*, p. 17.

36. Ibid., p. 609.

37. The farmers were usually sympathetic to poaching as a habit, but it was not so much from a perception of its economic tendencies, as from a general resentment against the Game Laws.

38. See Cobbett; *Letters to Peel*; *Political Register*; and Dr Hunt's evidence before the Select Committee on Criminal Commitments and Convictions, 1827.

39. A manifesto was published in a Bath paper in reply to this Act; it is quoted by Sydney Smith, *Essays*, p. 263: 'Take Notice. -- We have lately heard and seen that there is an act passed, and whatever poacher is caught destroying the game is to be transported for seven years -- This is English Liberty!

> 'Now we do swear to each other that the first of our company that this law is inflicted on, that there shall not be one gentleman's seat in our country escape the rage of fire. The first that impeaches shall be shot. We have sworn not to impeach. You may think it a treat, but they will find it a reality. The Game Laws were too severe before. The Lord of all men sent these animals for the peasants as well as for the prince. God will not let his people be oppressed. He will assist us in our undertaking, and we will execute it with caution.'

40. The Archbishop of Canterbury prosecuted a man under this Act in January 1831, for rescuing a poacher from a gameskeeper without violence, on the ground that he thought it his duty to enforce the provisions of the Act.

41. House of Lords, September 19, 1831.

42. A magistrate wrote to Sir R. Peel in 1827 to say that many magistrates sent in very imperfect returns of convictions, and that the true number far exceeded the records. -- Webb, *Parish and Country*, p. 598 note.

43. *Brougham Speeches*, vol. ii, p. 373.

44. *Political Register*, March 29, 1823, vol. xxiv., p. 796.

45. Select Committee on Criminal Committee and Convictions, 1827, p. 30.

46. Ibid., p. 39.

47. Quoted in *Times*, September 18, 1830.

48. Return of Convictions under the Game Laws from 1827 to 1830. Ordered by the House of Commons to be printed, February 14, 1831, p. 4.

49. *Hansard*, June 9, 1817.

50. Scotland was exempted from the operation of this statute, for whilst the Bill was going through Parliament, a case raised in a Scottish Court ended in a unanimous decision by the six Judges of the High Court of Justiciary that killing by a spring gun was murder. Hence the milder provisions of this Act were not required. See *Annual Register*, 1827, p. 185, and *Chron*. p. 116.

51. That Coke of Norfolk did not err on the side of mercy towards poachers is clear from this record. His biographer (Mrs. Stirling) states that one of his first efforts in Parliament was to introduce a Bill to punish night poaching.

52. p. 29 ff.

53. *Annual Register*, 1827, p. 184.

54. *Edinburgh Review*, December 1831.

55. *Parliamentary Register*, February 25, 1782.

56. p. 42.

57. 'Speaking now of country and agricultural parishes, I do not know above one instance in all my experience.'

58. Some Enclosure Acts prescribe special penalties for the breaking of fences. See cases of Haute Huntre and Croydon in Appendix.

59. See Mr. Estcourt's evidence before Select Committee on Secondary Punishments, 1831, p. 41.

60. *Present State of the Law*, p. 41.

61. *From Ploughshares to Parliament*, p. 186; the Annual Register for 1791 records the execution of two boys at Newport for stealing, one aged fourteen and the other fifteen.

62. Sydney Smith, *Essays*, p. 487.

63. Vol. ii, p. 153.

64. Romilly, *Memoirs*, vol. ii, p. 181.

65. It was again rejected in 1813 by twenty to fifteen, the majority including five bishops.

66. *Correspondence on the Subject of Secondary Punishments*, 1834, p. 22.

67. See Select Committee on Secondary Punishments, 1831, and Select Committee on Transportation, 1838.

68. See evidence of Dr. Ullathorne, Roman Catholic Vicar-General of New Holland and Van Diemen's Land, before the 1838 Committee on Transportation.