

# THE END OF THE ROD



**THE END OF THE ROD**  
**A HISTORY OF THE ABOLITION OF**  
**CORPORAL PUNISHMENT IN THE**  
**COURTS OF ENGLAND AND WALES**

**RAYMOND L. GARD**



BrownWalker Press  
Boca Raton

*The End of the Rod:  
A History of the Abolition of Corporal Punishment in the  
Courts of England and Wales*

Copyright © 2009 Raymond L. Gard  
All rights reserved.

No part of this book may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopying, recording, or by any information storage and retrieval system, without written permission from the publisher.

BrownWalker Press  
Boca Raton, Florida • USA  
2009

ISBN-10: 1-59942-518-1 (*paper*)  
ISBN-13: 978-1-59942-518-4 (*paper*)

ISBN-10: 1-59942-519-X (*ebook*)  
ISBN-13: 978-1-59942-519-1 (*ebook*)

[www.brownwalker.com](http://www.brownwalker.com)

Library of Congress Cataloging-in-Publication Data

Gard, Raymond L., 1961-

The end of the rod : a history of the abolition of corporal punishment in the courts of England and Wales / Raymond L. Gard.

p. cm.

Includes bibliographical references.

ISBN-13: 978-1-59942-518-4 (pbk. : alk. paper)

ISBN-10: 1-59942-518-1 (pbk. : alk. paper)

1. Corporal punishment--England--History. 2. Criminal justice, Administration of--England--History. 3. Corporal punishment--Wales--History. 4. Criminal justice, Administration of--Wales--History. I. Title.

KD7885.C6G37 2009

345.42'0773--dc22

2009040937



This book is dedicated to Ela, Joe, and Leni.



# TABLE OF CONTENTS



Acknowledgements.....	IX
Introduction.....	XI
<b>CHAPTER ONE</b>	
Corporal Punishment in the Late Nineteenth Century English Courts .....	27
<b>CHAPTER TWO</b>	
Expanding Corporal Punishment in the New Century.....	53
<b>CHAPTER THREE</b>	
The End of the Rod? .....	73
<b>CHAPTER FOUR</b>	
The Turning Point.....	83
<b>CHAPTER FIVE</b>	
War, Abolition and the ‘Short, Sharp Shock’.....	107
<b>CHAPTER SIX</b>	
An Uneasy Consensus .....	123
Bibliography.....	131



## ACKNOWLEDGEMENTS



An earlier version of a small part of this material appears in my PhD thesis which I submitted to London University in 2005. That work was greatly helped by Professor Geoffrey Pearson whose influence I continue to see even in this later work. A special thanks must therefore go to him. Staff at the National Archive helped me find my way around that huge institution and Mr Oliver Lendrum at the Home Office Records Office was a consummate professional and ensured that my application for files to be released early went smoothly. By simply being good at their jobs and being prepared to go that extra few steps these people have ensured that some fascinating material has been moved into the public domain.



## INTRODUCTION



**T**his book sets out to do something that has yet to be done in the field of the history of the treatment of crime and the criminal. It offers a history of corporal punishment as a sentence of the courts of England and Wales. To be more precise it offers an account of the abolition of corporal punishment as a sentence of the court in England and Wales. This is a long and rather tortuous history with a number of false starts and to some extent it is a history yet to be completed. Even now there are the odd murmurings of interest in the subject and the old adage of ‘spare the rod and spoil the child’ has many advocates. Nonetheless the focus of our story is the period between the First World War and the Second World War but focusing exclusively on this period would miss much important detail so the periods both before and after will enter the frame.

It is based on a range of sources that include well known histories of crime and some that are less well known. The book also makes much use of official reports the majority of which have come from the Home Office and cover the period from the early 1870s to the early 1960s. Pamphlets and information published by various pressure groups have also been used in the work. Crucially the work also uses internal Home Office materials. These are held at the National Archive in Kew amongst the Home Office series of records there and the majority are from the HO 45 and HO 144 series. A number of these files, particularly from the inter war period, were closed for 100 years because of their sensitivity. Early access was

arranged to the author of this work via application to the Records Office at the Home Office under *The Public Records Act 1958*. This is therefore material that has never seen the light of day before. It is also some of the most intriguing material on the subject of court ordered corporal punishment and reveals much about internal Home Office thinking at a time when controversies about the abolition of corporal punishment raged. It also ties in with one of the key themes of this work which is an attempt to give voice to people, groups and organisations that have tended to be missed in histories of the treatment of crime.

Histories of penology are not new and recently there has been a blossoming of interest in the subject. Foucault (1991) looms large over the whole field, and David Garland has produced a number of fascinating works on the subject (see Garland 1985, 2001 for example). There are others but these two particularly work with huge canvasses offering very persuasive accounts of the changes that have taken place over the last two hundred years.

There is another tradition in the history of the treatment of the criminal often rooted in the History Faculties of Universities. This approach received a huge boost in the mid 1970s with the work of a number of young historians, Vic Gattrell (1980), Douglas Hay (1975) amongst others. They brought the experience of the ordinary people and of the criminal themselves into the public eye – they made visible what until then had remained hidden. As Boswell (2001) points out histories of the treatment of crime tend to focus on the politics, policy and administration before she goes on to argue that some voices are harder to hear than others. It is just these voices that are attracting some attention now.

Alongside these histories of crime there is a combination of both old and new histories that focus on particular aspects of the criminal justice process and particular institutions working in that process. For instance there are a number of histories of the prison system in England and Wales, McConville (1981 for example) springs immediately to mind, the Police have attracted a great deal of research into their history (Critchley 1978 and Storch 1981). Even the relatively new probation service is now attracting research into its origins and changing methods (Mc Williams 1983, 1985, 1986, Vanstone 2007, Gard 2007b).

Having said all that, the issue of corporal punishment continues to be largely ignored. Sure enough it receives some attention in various works ranging from the traditional histories of criminal justice

policy to some of the more modern sweeping accounts of change and it has even attracted attention from historians not particularly concerned with crime and its treatment (Pearson 1983, Gibson 1978). Yet none of these have attempted an account of the long and difficult abolition of judicial corporal punishment. This is an amazing omission as only a brief perusal of the archive and contemporary material reveals it to be a long running and deeply contentious issue.

It is this omission that the current work seeks to address. In some respects its aim are modest, that is to offer a simple and readable description of the use made of corporal punishment by the courts of England and Wales from the end of the nineteenth century to its abolition by the 1948 *Criminal Justice Act*. In this respect it is a simple local study which will show how and why judicial corporal punishment was abolished in England and Wales. However a swift survey of any of the more general works referred to above or in the following chapter will warn the reader that this is not unproblematic. There is a real danger of producing what Weiner calls a history of penal policy that sees developments in penal policy as a 'steady march of penal progress' (Wiener 1987) or what Young (1976) terms 'a whiggish history' of the treatment of crime. In other words, what this current work intends to do is to reveal some of the debate, some of the passion and convictions of those involved. It also seeks to show how uneven politics and policy were and to show how these debates and controversies affected those who had the job of implementing corporal punishment and those who experienced it. It seeks to produce a history that is messy and uneven but because of that is more compelling. Again, as Boswell comments, it seeks to make visible what so far has remained largely hidden. At one point she writes;

Without questions, emotions and confusion, it is much easier to present crime and punishment as simply matters of policy rather than politics. (Bosworth 2001: 438)

It is this confusion and politics that will be the basis of much of this work. This would entail giving voice to those who inflicted corporal punishment, those who experienced it (i.e. the offenders) and the civil servants who actually grappled with the politics of corporal punishment on a day to day basis. These are all groups where effort will be required to find their voices.

This obviously begs the question of where do we find this type of history? Some of the material for this book is taken from official

## INTRODUCTION

archives now held at the National Archive. They are contemporary Home Office files which include not only much of the debate but also significant collections of first hand accounts of opinions and research on the issue conducted at the request of the Home Office. They are in effect more than simple administrative records as some contain accounts by those who had corporal punishment inflicted on them. Additionally, much of the debate about the issue is revealed in official published documents of the period, for instance a very brief perusal of *Hansard* reveals just how much political debate there was about the issue of corporal punishment.

The current work takes a straight forward and chronological approach to its structure. It begins in 1863, this was a significant year for corporal punishment as it saw the reversal of a trend that had been going on for many years. It saw corporal punishment move centre stage as a contested and problematic court sentence. It is also a useful date to begin at as it is the mid nineteenth century that saw the emergence of the reformation of the offender as an aim of sentencing by the courts of England and Wales (see Radzinowicz and Hood 1985). However, this book will argue that the debate from this date swung from abolition of corporal punishment to its extension and back again. In fact it made a number of journeys across that continuum in the period covered.

The first chapter will deal with the late nineteenth century and shows an emerging debate on the issue. The second chapter deals with the early years of the twentieth century, this coincides with the election of a radical Liberal Government in 1906 and what Garland (1985) refers to as the construction of a 'penal welfare complex'. This saw the arrival of the reformation of the offender, particularly the young offender as an important and state sanctioned and funded sentencing option. The chapter ends in approximately 1930. The focus of the third chapter is the 8 years between 1930 and 1938. It argues that these few years saw a major shift in official attitudes to corporal punishment and marks the beginning of the end for court ordered corporal punishment. The fourth chapter begins in 1938 and focuses on debates around the preparation and publication of the Cadogan Report; a thorough and powerful piece of research into the issue of court ordered corporal punishment. The fifth chapter will deal with the issue of corporal punishment during the Second World War. It will also consider the consequences of war on the issue and a major piece of criminal justice legislation which finally abolished court ordered corporal punishment in 1948. The final chapter will show that controversy,

politics, debate and passions continued to follow corporal punishment long after its abolition. In fact the book will end in 1961 when court ordered corporal punishment remained a divisive issue for many for those working in criminal justice.

There is a subplot to this book; that is a plea to be sceptical about simple and even histories of the subject and instead place corporal punishment within the politics and concerns of the period. After all, corporal punishment was, and still is, an emotional subject. Again, Bosworth cautions:

A historical piece of research provides a unique opportunity to consider the morally troubling subject matter of punishment by revealing the longevity of the symbolic and actual violence and suffering that rests at the core. (Bosworth 2001: 437)

This is an issue that recruits real people from Prime Ministers to street urchins in Liverpool and the hope of this book is that it reveals both groups' experiences of court ordered corporal punishment in England and Wales.

### **Context**

It will become obvious that the focus of this book is on change, in this case the changing attitudes to corporal punishment of policy makers, senior civil servants at the Home Office and others working in criminal justice. It will also consider variations in its use over time and place. More than this there was a major change in attitudes toward corporal punishment that took place beyond the powerful few. It is these changing attitudes that will also be shown to have had an impact on court ordered corporal punishment.

Along with tracing those changes, an attempt will also be made to understand them. Again, a framework for an analysis as offered by Garland (1985 and 2001), based on what he terms a 'genealogy of knowledge', will be used. Put crudely this approach seeks to trace how we know what we know, to trace knowledge backwards and understand events and debates through the understandings of those living at the time. In our case to consider corporal punishment through contemporary beliefs and knowledge, particularly about crime and its correct treatment. This offers a particularly useful way of tracing and accounting for the changes in policy, attitudes to, and the use of, corporal punishment. Beyond that it should prove useful when consider-

ing the reasons offered on various occasions for retaining, extending or abolishing corporal punishment. So, by following the trajectory of contemporary debates on the issue over the period in question, we better understand why and how change occurred.

The period under consideration by this book also coincides with massive changes in the treatment of the criminal generally and those changing attitudes, it would be expected, would also have an impact on the use of corporal punishment. It is intended that these will be considered and illustrated as the book proceeds, along with how those new approaches to the treatment of crime that emerged did and *did not* impact on the policy and practice of corporal punishment.

As with other areas of criminal justice, senior civil servants played a major role in policy and official attitudes to the use of corporal punishment. However the elected politicians also played a very important role in those changes because, as we will see, corporal punishment was an area that attracted much debate in Parliament and the press. It is for this reason that this book will pay close attention to political debates of the period. The attitudes of senior civil servants and politicians also underwent change, either because key individuals retired or because, in one or two cases, individuals seem to have changed their minds on this issue. These shifts are key to understanding the major changes in the policy and use of corporal punishment.

As already mentioned views on the correct responses to crime generally underwent a number of key shifts between the early 1880's and 1938. Crucial here are the arrival of and later shifts in the social work and psychological discourses as applied to the treatment of crime. In particular the period that forms the focus of this book has been described as the arrival of 'penal optimism' (see Radzinowicz and Hood 1986, Yelloly 1980, Rose 1985). By the early 1960s, when this book draws to a close a belief in the 'treatability' of the criminal had come to dominate penal policy and politics (see for instance the Home Office publication *Penal Practice in a Changing Society* published in 1959). Changing attitudes to corporal punishment will therefore be examined as they were impacted upon by these shifting policies and discourses. The arrival of a belief in the treatability of the criminal using a number of 'talk based' therapies do seems to stand in stark contradiction to the continued use of corporal punishment by the courts. It might be expected that the relationship between the contrasting approaches over the period in question would offer a rich vein for comment.

This book begins with the so-called 1863 Garotters Act and ends in the early 1960s with the final Parliamentary ordered review of judicial corporal punishment (Home Office 1960). The latter will be dealt with in the final chapter of this study when a number of themes will be tied together. Between the publication of these two documents there were numerous attempts to legislate on the issue of corporal punishment, and the reasons for their failure or success illuminate the ‘competing discourses’ operating in the area. Some of the Departmental Committees convened during the period, usually those dealing with younger offenders, also dealt with the issue of corporal punishment and these, too, will be used to illustrate the changes in attitude.

The publication of the *Report of the Departmental Committee on Corporal Punishment*<sup>1</sup> in 1938 marked a major turning point in the debates on corporal punishment. In the same year the Government published a *Criminal Justice Bill* which included a provision to abolish corporal punishment. Both of these documents were to have long-lasting implications on the issue and community penalties generally. This means that this year marks the mid-point of our story so the build up to it and the consequences of it will need to be considered carefully.

### **A dearth of theory**

Before going on to look at the details of the policy and practice of corporal punishment it would be as well to pause briefly to consider some of the standard theoretical texts which have considered changing approaches to the treatment of crime. The hope being that they might offer a framework that would explain some of the changes we are about to consider. Alternatively, the issue of corporal punishment may lead us to question some of the explanations that these authors offer for changes in the treatment of crime. In this respect, this book offers the opportunity to test the analysis of some of those who have written accounts of those changes.

Foucault’s *Discipline and Punishment* continues to influence debates on this type of issue. However, the continued use of corporal punishment by courts in England and Wales well into the twentieth century would seem to undermine one of the key tenets of this work. In par-

---

<sup>1</sup> Also known as the Cadogan Report (Cmd 5684), so named after its Chair, who when the Committee was appointed was a long serving and respected Tory MP.

## INTRODUCTION

ticular, when we bear in mind that not only did corporal punishment continue to be used in the twentieth century, but its availability was actually expanded by the *Criminal Law Amendment Act of 1912*. Put simply, he argues that the object of punishment had moved from the body to the soul well before this period. He elaborates on this when he writes:

Thanks to the techniques of surveillance, the physics of power, the hold over the body, operating according to the laws of optics and mechanics, according to the whole play of spaces, lines, screens, beams, degrees and without recourse, in principle at least, to excess force or violence. It is a power that seems all the less 'corporal' in that it is more subtly physical. (Foucault 1991: 177)

The arrival of probation in the late nineteenth century might fit into the surveillance-based system of criminal justice he describes. Indeed, Ignatieff (1978), Melossi and Pavarini (1981) and Foucault (1991) all identify the 1840s in particular as the date when the system of punishments made a noticeable shift from dealing with the body of the offender to dealing with the soul of the offender or prisoner. Yet, the period we are considering is almost 100 years later and the body as an object of punishment was alive and well, and as we will see, still provoked passionate debate amongst the public, politicians, experts and senior civil servants at the Home Office.

Garland (1985) provides an elegant and persuasive account of what he calls the arrival of 'the penal welfare complex'. He sees the period of roughly 1900 to the outbreak of the First World War as crucial in this, yet as we will see, the period 1890 to 1910 in particular was witness to a number of attempts to both extend and restrict the use of corporal punishment. His work describes the political manoeuvres made to find acceptable solutions to the perceived problems of such groups as juvenile offenders, the inebriate and the mentally ill. The same politicians and senior civil servants who drafted, guided through Parliament and implemented the various programmes that created this 'penal welfare complex' also held very strong views about the need to at least retain or even expand the use of corporal punishment. For instance, as late as 1905, Troup<sup>2</sup> only a

---

<sup>2</sup> Sir Edward Troup (1857-1941) Educated at Aberdeen and Baliol. Joined Home Office in 1880 and rose to be Permanent Under Secretary at the Home Office in 1908. Retired in 1922.

few years before he was appointed to the most senior civil servants post in the Home Office, wrote:

I think that the power of flogging adults is useful and should be retained – but it is a very limited power and not very important.

What is more wanted is an extended power for magistrates to whip boys under 16.<sup>3</sup>

Garland's work makes no mention of corporal punishment, which is surprising as it was an issue that very much exercised the minds of those responsible for creating the 'penal welfare complex'. Thus, by avoiding the subject, Garland intimates that the issue was not very important, which it certainly was if the level of consternation revealed in the Home Office files of the period is anything to go by. The correspondence contained within those files is usually the most heated and also reveals senior civil servants (colleagues indeed) holding contrasting views on the matter. It is also apparent that various Home Secretaries held contrasting views on the issue. For instance Reginald McKenna was prepared to extend the use of corporal punishment in 1912, whereas J. R. Clynes, Home Secretary 1929–31, gave the idea short shrift (see below). Corporal punishment was also the only issue to divide a Home Office Departmental Committee in the period under consideration (see Home Office 1927).

As Pearson (1983) points out, corporal punishment held a strong appeal for many and a deep reservoir of support was available to be tapped into at any perceived 'crisis'. There is no reason to expect that those working with offenders or at the Home Office should think any differently on the subject. If neither Foucault (1991) nor Garland (1985) can offer a satisfactory account of corporal punishment in the twentieth century, then other avenues need to be explored.

Perhaps because of the oral history methodology that he adopts, Humphries' (1981) work is one of the few histories to detect contemporary concerns about corporal punishment, particularly when inflicted on children. By using an oral history method he is able to

---

<sup>3</sup> Home Office Minute (15.7.1905) contained in *HO45/10512 Corporal punishment restriction 1905-11*. At the time Troup was an Assistant Under Secretary at the Home Office.

## INTRODUCTION

quite literally give voice to the working class people who lived through the period in question.

Humphries' work focuses on children's experience of corporal punishment. He writes:

...even though there was a gradual decline in the numbers of canings from the 1900s onwards, there is much oral evidence to suggest that corporal punishment continued to be a routine and sometimes an everyday occurrence in most elementary schools throughout the period under study. (Humphries 1981: 70)

Although it may be possible to argue that corporal punishments administered in schools is quite different to that ordered by a court, Humphries' work takes the issue further when he describes a similarity in attitudes of different groups to corporal punishment when applied either judicially or in a school. He describes how the objections of the parents of working class children actually led to school strikes by the children. On the other hand the attitude of other groups is illustrated when he writes:

Working-class parents who refused to use corporal punishment themselves and who disagreed on principle with the caning of their children were often ridiculed by magistrates, education committees and teachers, who viewed this gentle approach as evidence of a failure of parental duty. It was often commented that it was folly for working-class parents to object to punishments that were taken in good spirit by public school boys and their parents.<sup>4</sup>

Humphries' comment about the influence of the public schools on those who attended them is an issue that we will return to throughout this book. The 'old boy network' has now passed into folklore but the methods and influence of the major public schools, particularly Eton is discussed by Mangan (1986). He gives a detailed account of the arrival of a particular type of public school in the mid to late nineteenth century with its emphasis on games and notions of 'Christian manliness' which was often combined with a liberal use of corporal punishment. He also makes the point that many of those

---

<sup>4</sup> Noted in the footnotes of Humphries (1981) p 252.

who attended at these schools took the attitudes that they learnt there into the world beyond the school. That world included effectively ruling vast tracts of land throughout the world as the British Empire expanded along with the running of most of the institutions in Britain.

A key institution, which was to become increasingly dominated by men who had received a public school education, was the higher ranks of the civil service. There are a number of accounts of the reforms of the civil service made in the late nineteenth century. Chapman and Grenaway (1980), Pellew (1982) and MacLeod (1988) all describe the major changes wrought by the Northcote Trevelyan Report of 1870. Although the changes took a long time to be felt they tend to concur that;

By the turn of the century a whole new generation of public schools had become established and were turning out alumni destined for the higher professions, including the public service.(Pellew 1981: 194)

For instance, Troup (quoted above) rose to Permanent Under Secretary in 1908 and other key positions also became increasingly dominated by men of similar education and background. Ruggles-Brises' rise had been even speedier, he was appointed to be Chair of the Prison Commissioners in 1895<sup>5</sup>. Other senior civil servants we will come across, including H. B. Simpson<sup>6</sup> and Sidney Harris<sup>7</sup> enjoyed public school educations. These men were all high ranking civil servants during the period that we are about to consider and who's educational and social background was remarkably similar to their political masters. We will see how important their views were on the issue of corporal punishment as our story unfolds.

---

<sup>5</sup> Sir Edward Ruggles-Brise (1857-1935). Son of a colonel, educated at Eton and Baliol. Private Secretary to various Home Secretaries before appointment as Chair of Prison Commissioners (1895-1921).

<sup>6</sup> Henry Butler Simpson (1861-1940). Educated at Winchester and Magdalen, joined Home Office in 1884 and rose to be Assistant Secretary. Retired in 1925.

<sup>7</sup> Sir Sidney Harris (1876-1961) Educated at St. Pauls School and Queens College Oxford. Joined civil service in 1900 and transferred to Home Office in 1903. Assistant Secretary in charge of Children's Branch (1919-1934). Assistant Under Secretary of State until retirement in 1947.

## INTRODUCTION

David Cannadine recounts the ‘flip side’ of this story in his account of the demise of the aristocracy in Britain. He describes a Home Office and higher civil service generally in the mid-nineteenth century as little more than a gentlemen’s club providing occupations for those connected with the aristocracy. He, too, notes a definite shift in arrangements towards the end of the nineteenth century. He writes:

The easy connection between the law and the civil service, which rescued many a frustrated and impoverished patrician barrister, broke down at the end of the nineteenth century when the middle class professionals took over in Whitehall. (Cannadine 1990: 255)

His work also stresses similar trends in other institutions ranging from the Church of England to the Army not to mention the arrangements for local government in the rural areas of Britain. He points to an upper middle class, largely public school and Oxbridge educated, professional administrative apparatus emerging late in the nineteenth century. Again it is worth stressing that this new administrative class had risen to the top of their respected occupations during the period we are considering in this book.

This fact of a common educational background is crucial in the case that Gibson (1978) makes for the popularity of corporal punishment, particularly amongst the upper middle classes. His is one of the few historical works that deals with corporal punishment exclusively. His scope is wider than the treatment of offenders and considers corporal punishment in all its forms, ranging from the use of the cane in schools to the popularity of flagellant pornography in the late nineteenth century. He includes a section on the use of corporal punishment in the treatment of offenders but sees it very much as part of a wider phenomenon. This is useful as it stresses its social context and demonstrates the point that many of the arguments used to justify corporal punishment came from outside of the criminal justice process.

Gibson begins from the premise that the use of corporal punishment dominated all aspects of respectable middle class Victorian life. The original justification, he argues, came from the Old Testament, and the phrase ‘spare the rod and spoil the child’ was regularly used to explain the need for the use of corporal punishment. He describes its spread so:

If Victorian fathers were prepared to beat their own children, it followed that they would be prepared to have them whipped at school. It also followed that they would be likely to approve of the judicial flogging of juvenile offenders. But the British (and especially the English) did not leave it at that: they flogged adults too. The English Vice began in the home, spread to the homes most obvious extension, the school (particularly the boarding school), and thence to the courts, the prison, the Army and Navy, the colonies – and the brothels. The British Empire, it might be argued, was founded on the lash. (Gibson 1978: 64)

Gibson's work also includes a detailed and graphic account of the use of the birch at Eton, where many of the key individuals responsible for inflicting and legislating on corporal punishment were educated. He makes a particularly interesting point when he writes:

At the public schools the flogging of boys was an everyday practice which, along with other hallowed traditions, was felt to be essential to the development of the boy's character. (Gibson 1978: 70)

The word 'character' had a particular meaning in Victorian Britain, particularly in relation to the weakness of the character of the working class youth, and the need for social workers and probation officers in particular to be people with 'strong character'. This was to be the method by which they turned their young charges away from delinquency. Character was a very real concern at the turn of the century and attracted much writing on the subject (Masterman 1901, Holmes 1908, Bray 1908 etc). These concerns focused particularly on the urban working class poor who were believed to be in need of a re-connection with the countryside and the rest of the population to strengthen that character if Britain was to be saved from 'national deterioration', a popular concern of the time. Character was also a word much used in the early discussions about the purposes of the new probation scheme set up by the *1907 Probation of Offenders Act* (again see Gard 2007b) and the borstal system and children's courts established the following year. Gibson, though, makes explicit the belief held at the time that corporal punishment was character forming as well as disciplinary. He, along with Pearson (1983), also makes the point that its use was greatly extended in the period following the

1860s, which happens to coincide with the huge extension in the public schools of England as they adopted their new educational philosophies described by Mangan (1986). Therefore, a belief in the ability of corporal punishment to instil character in wayward youth was a product of a relatively new approach to the training of children. It was also a belief strongly held by certain very powerful groups in society, who at the time were in the ascendancy. It would therefore come as no surprise to see it being regarded as suitable for, and so applied to, other groups within society.

Gibson traces its popularity to the Victorian approach to child-care, particularly middle class children, where a stern nanny would impose corporal punishment but only after the misbehaviour and when all was calm. He contrasts this with the working class disciplining of children where a child may get 'knocked about' a little in anger but the matter would soon be forgotten. He is also explicit about the sexual connotations of hitting children on their bare bottoms and as an example refers to the numerous outlets including flagellant pornography and prostitution of the late Victorian period in particular. This latter point was always vehemently denied at the time but Gibson argues that it was impossible that, "any literate man at the time could have been totally ignorant of the connection between whipping and sex" (Gibson 1978: 261).

Gibson's work, though, is not unproblematic. There is an element of his overplaying the sexual aspects of corporal punishment at the expense of other accounts for its popularity. An alternative analysis is offered by Pearson (1983) who, in relation to the expansion of the availability of corporal punishment by the *Garotter's Act of 1863*, wrote:

...the Garotter's Act was not so much a moment of panic which led respectable England off its true course, but a mature expression of the existing social relations – including the self-assumption of the mighty, and their attitudes and actions towards the lower orders and the plebs.

This was, when all said and done, class legislation: enacted by one class for the betterment of its lower brethren; not for the correction of its own bad habits. (Pearson 1983: 153)

Thus corporal punishment was a reflection of the power relationships within society rather than a reflection of the sexual proclivi-

ties of the aristocratic and upper classes. This notion of corporal punishment as an expression of middle class power over the working classes will be returned to.

Having briefly surveyed the literature that deals with the history of the treatment of crime we have acquired some interesting leads but are already sceptical about other works in the field. Some of the literature outside the history of crime field seems to offer more fruitful means by which we can analyse the changes we encounter in the policy, politics and practice of judicial corporal punishment. At this stage it might be reasonable to hypothesise that the continued use of corporal punishment well into the twentieth century likely had more to do with the class and educational background of a powerful elite responsible for dealing with the problem of crime and particularly youth crime. But these were views shared by many. It might be expected that, as notions of character as the basis for change in criminal behaviour gave way to those based on the various psychologies in the 1930's, then the use of, and advocating of, corporal punishment would decline. This book will examine those changing attitudes to the criminal and will also follow the trajectories of the careers of some of these powerful people as corporal punishment as an educational device fell out of favour in the public schools as the twentieth century wore on (see Gibson 1978). We might expect a new generation of politicians and civil servants not to share such a strong belief in its reformatory efficacy. In the meantime we begin our story late in the nineteenth century when major changes in the treatment of crime are afoot.