


THE DIMENSIONS OF CRIME AND
PUNISHMENT AT THE LAKEHEAD
1873 - 1903

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Whirl is king.

-Aristophanes

INTRODUCTION

Early in The Thief's Journal, Genet writes that "though they may not always be handsome, men doomed to evil possess the manly virtues. Of their own volition, or owing to an accident which has been chosen for them, they plunge lucidly and without complaining into a reproachful, ignominious element, like that into which love, if it is profound, hurls human beings." ¹ In a following passage, he goes on to say:

Repudiating the virtues of your world, criminals hopelessly agree to organize a forbidden universe. They agree to live in it . . . Criminals are remote from, as in love, they turn away and turn me away from the world and its laws. ²

Genet's view of the criminal is essentially a romantic one, deterministic to the extent that once one enters the "forbidden universe" there is no turning back. In sociological terms the world and mind of the criminal that Genet describes is similar to E.H. Sutherland's Theory of Differential Association--a theory which posits that criminal behaviour is something one learns in the same manner one learns a trade, usually in a criminal subculture that is apart from, and in counter-distinction to, the prevailing mores of a particular society. ³ Whereas

¹ Jean Genet, The Thief's Journal. (New York: Grove Press, Inc., 1964), p. 9.

² Ibid., p. 9-10.

³ D. Cressey and E.H. Sutherland, Criminology. (Philadelphia: Lippincott, 1978), p. 80-82.

Genet himself engaged in criminal activities as an end rather than a means, Sutherland sees the individual turning to crime "because of an excess of definitions favourable to violations of law."⁴

The literary position of Genet, and the theoretical one of Sutherland, although not identical, may both be taken to represent one of several elaborate explanations of the criminal. While there is little consensus among practitioners of contending theoretical schools, contemporary commentators often divide approaches to the study of criminal behaviour into two camps. One school, sometimes called "Radical" Criminology, generally maintains that "criminal law is the embodiment of the interests of elites, and criminal behaviour is the manifestation of non-elite interests."⁵ Clayton Hartjen, an exponent of this school, argues that "no act is innately criminal,"⁶ but that the "criminal character of behavior is the product of an interpretation of an individual's conduct."⁷ Consequently, crime is "innately political"--political in that its very existence depends upon a "political process."⁸

⁴Ibid., p. 82.

⁵T.R. Gurr, R.N. Grabosky, R.C. Hula, The Politics of Crime and Conflict: A Comparative History of Four Cities. (Beverly Hills: Sage Publications, Inc., 1977), p. 13.

⁶Clayton Hartjen, Crime and Criminalization. (New York: Praeger Publishers, Inc. 1974), p. 6.

⁷Ibid., p. 6.

⁸Ibid., p. 10. See also Richard Quinney, The Social Reality of Crime. (Boston: Little, Brown, Inc., 1970).

Whereas the criminal code furnishes the ultimate grounds for criminalization, the application of these grounds is also a political act in that it involves and requires the employment of power; the power to define and enforce one's definition of another's conduct as illegal.⁹

In short, Hartjen, (and others), view the "criminalization process" as an on-going spectre that is really nothing more than a two-fold procedure of "labelling" behavior as criminal, and then dealing with it as such.¹⁰

In the other more conventional school of criminology, are the consensus theories of criminal behavior. Consensus theories are predicated on the assumption that criminal behavior does exist, essentially in the nature of "deviation" from accepted social norms.¹¹ As authors Gurr, Grabosky, and Hula have put it, consensus theories typically argue that "criminal actions occur because individuals have not internalized social norms about proper behavior."¹² Accordingly, consensus theories focus upon the individual (or aggregate) deviant(s), their socialization and environment, their standing within the social milieu. Hartjen writes:

⁹Ibid., p. 10.

¹⁰See Quinney, op. cit.; also David M. Gordon, "Capitalism, Class, and Crime in America," in Crime and Delinquency, XIX #1, 1973.

¹¹Robert A. Silverman and James T. Teevan, Jr. eds., Crime in Canadian Society, 2nd Edition. (Toronto: Butterworth and Co. Ltd., 1980), p. 4.

¹²Gurr et al., op. cit., p. 13.

Biogenic and psychogenic approaches look for causal connections within the individual; sociogenic arguments, on the other hand, turn outward to the social forces that shape human conduct...All three...attempt to discover the faulty or abnormal conditions--biochemical, psychological, or social--that supposedly account for the undesirable behavior of individuals.¹³

Within both schools, there are myriad theories that attempt to account for not only criminal behavior, but vicissitudes in crime rates as well. Consensus theories, include theories of modernization, abnormal psychology, cultural conflict, anomie, in a word--theories that focus upon deviant individuals. Conflict or radical criminologists, on the other hand, tend to be more ideological, viewing criminal behavior as the product of elitist labelling, and crime itself the manifestation of "non-elite behavior."

The other side of crime, of course, is punishment. Punishment, as Hartjen puts it, is the "sociological reality of crime."¹⁴ For conflict theorists, it is "vengeance", a wrathful means of preserving the status quo, whereas, in consensus theory, punishment is, to borrow from Michel Foucault, a disciplinary operation, a "technique for the coercion of individuals."¹⁵ Both groups of theorists, however, are concerned with the elimination of crime. If crime is "ultimately an expression of group conflict and interest"¹⁶--the Radical view--then

¹³Hartjen, op. cit., p. 48.

¹⁴Ibid., p. 20.

¹⁵Michel Foucault, Discipline and Punish: The Birth of a Prison. (New York: Vintage Books, 1977), p. 131.

¹⁶Hartjen, op. cit., p. 10.

the appropriate means of eliminating crime is the eradication of those conflicting interests. Conflict theorists argue in favor of reforming the society, rather than the individual. Reforming the society, in most instances, means overhauling existing power structures, with all the trimmings of a Marxian-type strategy. Conversely, consensus theorists seek to eliminate crime by reforming individual criminals, leaving the existing power structures unchanged. If criminal actions occur because individuals have not "internalized proper social norms," the object of punishment should be the internalization of those values. Hence, in consensus theories, punitive emphasis should be placed on therapy, usually rehabilitation and corrective training.

In the early decades of the nineteenth century, both conflict and consensus theories had appeared in their infancy, drawing from ruminations of yet earlier thinkers and then grew in depth and sophistication as the century wore on.¹⁷ Radical theories of crime and punishment received attention, either directly or peripherally, from the Belgian Socialist Ducpetiaux, Robert Owen, Flora Tristan, Marx, Proudhon, Plint, and Colajanni. Consensus theorists, by and large sociologists, were represented by Joseph Outelet, Darwin, and Spencer, Maine, and Emile Durkheim.¹⁸ My intention here is not to fling myself into the trappings of the nineteenth century polemic regarding crime, but rather

¹⁷Lynn MacDonald, The Sociology of Law and Order. (London: Faber and Faber, Ltd., 1976), chapters 2 and 3.

¹⁸MacDonald makes the point that consensus thinkers were primarily sociologists, and "professionals" while conflict thinkers were not. See p. 47.

to make one crucial point: in the nineteenth century, consensus theory was the paradigm. Conflict theory, in spite of its recognized intellectual merits, was not exercised in any practical manner or application.

Nowhere were the fundamental tenets of early consensus theory more apparent than in mid to late nineteenth century Ontario. One example will serve to illustrate this. Inspector of Ontario Prisons and Lock-ups between 1868 and 1882, John W. Langmuir, whose views are extremely important since his office attempted to standardize and regulate goals, and whose recommendations were often translated into legislation, expounded the belief that "idleness is the parent of crime and vice,"¹⁹ a position that MacDonald maintains was germane to thinkers earlier in the century.²⁰ Criminal man was supine man, but he was also poverty-stricken, lacking in moral education, and usually saturating his cerebral-cortex with alcohol. Herein lay the origins of crime. The view that alcohol was often directly linked to criminal behavior increased as the century wore on, the gathering momentum of the prohibition crusade being a case in point. Thus, if crime was a product of idleness, ignorance, poverty, and drunkenness, the remedy was to reform and cure, to provide a moral education, to remove these defects. Langmuir wrote:

It is equally true that industry is the factor (in) the reformation of criminals and the reclaiming of the vicious. Teach this class of men practically that well directed

¹⁹Ontario Sessional Papers, Annual Report of the Inspector of Prisons and Lock-ups For the Province of Ontario, 4th Report, 1870-71, p. 8. (Hereinafter referred to as "Prison Reports.").

²⁰MacDonald, op. cit., p. 47.

industry is better than sloth, vice and petty crime, and interest them practically in this doctrine by instruction in some track or handicraft; and who will venture to say that many of them will not return to this world wiser and better men.²¹

One can discern, then, some rudimentary theory of rehabilitation in Langmuir's comments written in 1871. By the end of the century, these objectives remained intact as the later views of Langmuir, James Massie, Warden of the Central Prison in 1880's and 1890's, and also of Langmuir's successor, T.F. Chamberlain, indicate.²² By and large, consensus theories of punishment derived from consensus theories of crimes, and in late nineteenth century Ontario, these abstractions were the "model solutions" employed by policy-makers in government, and by those influential in official legislative circles.

This essay deals with the dimensions of crime and punishment in the Northern Ontario towns of Port Arthur and Fort William between 1873 and 1903. Both towns are examined primarily because of their close geographic proximity,²³ but since primary source materials are more plentiful for the town of Fort William,²⁴ many of my inferences

²¹Prison Reports, 4th Report, 1871, p. 18.

²²Donald G. Wetherell, "To Discipline and Train: Adult Rehabilitation Programs in Ontario Prisons, 1874-1900," in Histoire Sociale, XII, #23, 1979. See also C.J. Taylor, "The Kingston, Ontario Penitentiary and Moral Architecture," in Histoire Sociale, XII, #24, 1979; and J.M. Beattie, ed. Attitudes Towards Crime and Punishment in Upper Canada, 1830-1850: A Documentary Study. (Toronto: University of Toronto Press, 1977)

²³Although both towns did not emerge simultaneously, or even under similar circumstances, the fact that they are separated only by a few miles, precludes the possibility of examining one and not the other.

²⁴Magistrate Records are incomplete for both towns, most of them

and conclusions will be based upon Fort William data. The period 1873-1903 has been chosen for a number of reasons--first and foremost, my intention is to concentrate on the Lakehead communities during their formative, or rather, "frontier" stage of development. By 1903, with the advent of street cars, telephones, automobiles, but also with the emerging influx of immigrants, conditions had sufficiently changed at the Lakehead to warrant the inclusion of "new" variables in the analysis of crime and punishment--variables largely unsuited to the earlier decades. The study commences in 1873 as that is the first year gaol records are available. Second, a thirty year period is sufficiently long to permit some valid observations about long range trends in criminal activity, (ie. a decline in Public Morality offences or an increase in Property crime).

⁴ This thesis consists of five sections. Chapter One outlines the economic, demographic, and social development of both communities, and, in addition, provides a brief outline of the emergence of a judicial apparatus, law enforcement, and local gaols. The next two chapters examine the dimensions of crime from two perspectives. In Chapter Two, the long range trends of criminal activity, as recorded in the Annual Reports of the Ontario Sessional Papers, are given in tabular and graph form for both towns during the entire period. Since discernible patterns are evident for some offences, and for some categories of offences, while other crimes followed no particular trend, analyses of long-run changes in specific crimes, and in specific categories will be attempted.

having been purged at the time of amalgamation. A good set of Police Court Records exist for Fort William for the years 1895-1902.

By contrast, Chapter Three focuses on the Fort William Police Court Records for the years 1895-1902. During that seven year period, a total of 1272 cases were recorded in the Official Charge Books, each case giving the date of the court appearance, the name of the offender, the offence committed, and the punishment assessed. There are several reasons for concentrating on this data: 1) the Police Records are records of Court proceedings, preserved as a journal of sorts, and in spite of some illegible handwriting and incomplete recording of offences, it is as accurate a source as one could use; 2) it can be used to establish not only what offences took place, but also, in conjunction with other sources, assist in establishing short-term patterns and trends in reported criminal activities; and 3), it provides a means for the investigator to determine who the offenders were, and what percentage of them were habitual or recidivist offenders. Chapter Three, then, is only in part an extension of Chapter Two. For the most part, it is a closer examination of crime trends, but also delves into how these very crime trends are established.

The next chapter addresses the dimensions of punishment. For both communities, some long range data is examined, although there is again a concentration of Fort William between 1895 and 1902. Some of the questions raised are: is there a uniform application of punishment for offenders committing the same offense? In other words, is there a class or social division in the application of punitive measures? Second, do recidivist offenders receive harsher sentences the second or third time around? Third, what crimes, if any, were considered more detrimental to the preservation of the social order?

For what crimes were punishments, relatively speaking, more severe than others, and why?

In the concluding section, a summary of the dimensions of crime and punishment is given, although the majority of the chapter deals with other concerns. As the introduction has made clear, this thesis is not only an investigation of local history but also an inquiry into the etiology of crime. The central question to be addressed in the conclusion is where does the analysis of local data stand in relation to studies of other communities, and more generally, the broad perspective of criminological theory.

Finally, a few comments on definitions and methods. Since consensus theories of crime and punishment were paradigms in the late nineteenth century, I shall integrate them into my analysis wherever they are appropriate, and especially during the discussion on rehabilitation and punishment. But this distinction will be made: the analysis of crime rates, of trends and fluctuations in reported crime derives from neither consensus nor conflict theory. Rather, it is my intention to examine which theoretical assumptions, if any, are more consonant with the Lakehead data.

Second, while this study employs some quantitative material for the purpose of achieving a broad perspective, and for establishing broad trends in criminal and punitive activity, it should by no means be considered an exercise in statistics, employing a highly "scientific" approach. At best, this analysis is aimed at giving some meaning to some numbers.

Third, on the matter of definitions--Gurr suggests that "any search for a valid universal definition of criminal behavior is chimerical."²⁵ This is no doubt true, although it is obvious that there are many different illegalities that can fall under the label of "crime", or "criminal", and it is equally obvious that some offences are more serious than others. Nineteenth century Ontario commentators employed four categories in the classification of crimes--Crimes Against Persons, Crimes Against Property, Crimes Against Public Order and Peace, and Crimes Against Public Morals and Decency. In examining the dimensions of crime at the Lakehead, this classification will be used, but in explaining rates of crime, emphasis will be placed on specific crimes, the gravity of which should be apparent as the analysis unfolds.

²⁵Gurr, op. cit., p. 11.

CHAPTER ONE: THE COMMUNITIES OF PORT ARTHUR
AND FORT WILLIAM, 1873 - 1903

The frontier communities of Port Arthur and Fort William emerged during the last third of the nineteenth century along the northshore of Lake Superior, an area far removed from other settlements and marked by rugged escarpments of Pre-Cambrian rock, densely forested by mixtures of spruce, pine, birch, and poplar. Originally, the Thunder Bay area was fur trade country--the Northwest Company had based its inland headquarters on the Kaministiquia River during the first decades of the eighteenth century, but after 1821, when the Company merged with the powerful Hudson's Bay Company, "old" Fort William lost its significance in the fur trade, and quietly slipped into atrophy. It was not until a half century later, with the coming of the railway, that Fort William re-appeared and slowly approached the level of a sustained and viable community. Port Arthur, on the other hand, owes its existence for the most part to a surveyor's choice in 1859 of what was then called the "Landing" as a favorable location for the Dominion government's route to the west.

In the early 1870's, a fierce rivalry between the two communities developed. Originally the conflict revolved around the Dominion government's policy of using water transport as far as Fort William, and building a railway west from there--leaving Port Arthur off the main line.¹

¹see E. Arthur, "The Landing and the Plot" in Lakehead University Review, vol.1 (Thunder Bay: Lakehead University, 1968).

This policy was soon abandoned, but in the decades that followed, the largely economic battle for local supremacy continued, as leading citizens in both communities strove to exalt favorable conditions for investment in their respective communities, while not failing to point out unfavorable ones in the other--all efforts, to a great extent, aimed at establishing some sort of gerrymandered kingdom.

In the more politico-judicial sphere, however, it was Port Arthur that triumphed. Incorporated as a town in 1884, eight years before Fort William, Port Arthur became the capital of the newly created District of Thunder Bay (1884), with the bulwark of the judicial apparatus located there. On March 25, 1884, legislation was passed to that effect. Some of the key provisions were:

1. The territory now comprised within the Territorial District of Thunder Bay is hereby detached from the provisional Judicial District of Algoma, and formed into a separate provisional Judicial District by the name of "The Provisional Judicial District of Thunder Bay"...
2. There are hereby established for the said District a District Court and a Surrogate Court...
3. Sittings of the High Court of Justice for Ontario, for the trial of civil and criminal causes...shall be held once a year at Sault Ste. Marie and in the District town of Thunder Bay.²

This is not to suggest, of course, that Fort William was favored in an economic sense, and Port Arthur in a political one. Both towns benefited from the coming of the railroad, and both benefited from the emerging mining and lumbering industries. The salient point is that a

²Ontario Statutes, 1884, "An Act Respecting the District of Algoma and Thunder Bay, p. 44-47.

fierce rivalry between the two communities did exist, and that it spanned the entire period of our study, and beyond.

The picture of early growth that emerges for both communities is somewhat hazy, owing in part to a dearth of evidence, but also to rivalry-distorted promotional type evidence. In the first case, neither Port Arthur nor Fort William, in fact, appear in the Dominion Census until 1881. The 1871 Census contains listings for Kaministiquia and Ninigon, the latter outpost located on the shoreline of Superior about seventy miles east of Port Arthur. For Kaministiquia, a few miles west of Fort William, the Census lists twenty-five occupiers of land, cultivating slightly over 2,000 acres, most of which was either "under crops" or listed under "total improvement."³ There is virtually no data on industry whatsoever, although information for the District of Algoma West suggests that the meagre population was still engaged in fur trading and limited fishing in 1870.⁴

It was during the 1870's, however, that economic expansion of the Lakehead began its "take-off" phase. Much of the impetus for expansion arrived with the construction of the railroad enterprise along Lake Superior and west from the Lakehead, but another concern of some importance was the opening up of mining activities. Whereas the railway construction boom for 1875 to 1885 was paramount to the early

³Census of Canada, 1870-71, I, p. 30-31; II, p. 286-297; III, p. 213.

⁴The 1871 Census indicates that fur trapping in Algoma West was the largest in the Province with approximately 3,700 pelts produced in 1870. Very little other activity is recorded with the arguable exception of fishing and mining.

growth of both towns, in that it opened lines of transit, and also brought new workers and hence settlers to the area, the emergence of mining operations attracted speculators and entrepreneurs to invest their capital in the exploitation of potentially rich mineral deposits. Walpole Roland, writing in the *Port Arthur Illustrated* in 1889, argued that

the discovery in 1863 of Laematite and magnetic iron ores at various places from Port Arthur eastward along the Lakeshore, gave evidence of the possible future in this line.⁵

But it was the discovery of silver at Silver Islet in 1868 that prompted an influx of speculators, as well as miners to the Lakehead area. In 1870, under the ownership of Major Alexander Sibley of Detroit, and under the direction of William Frue of Houghton, Michigan, the tiny Silver Islet mine produced an estimated 70,000 ounces of silver.⁶ The next year, over 500,000 ounces were extracted, with similar production recorded for the following two years.⁷ In 1878, over 700,000 ounces were extracted, the last bonanza year for the Silver Islet mine.⁸

By 1884, the mine had ceased production altogether but its tremendous success in the 1870's had done much to stimulate mining activity in the Lakehead area. In 1889, Roland listed a total of twenty-one mines in the vicinity of Port Arthur and Fort William.⁹

⁵Walpole Roland, *Port Arthur Illustrated*, 1889. n.p.

⁶Helen Strickland, *Silver Under the Sea*. (Cobalt: Highway Bookshop, 1979), p. 24.

⁷*Ibid.*, p. 46. See also Archibald Blue, "The Story of Silver Islet," in *Ontario Bureau of Mines, 6th Report*, Toronto, 1893.

⁸Blue, *op. cit.*, p. 154.

⁹Roland, *op. cit.*, n.p.

Economic growth in the 1880's and 1890's depended less on construction of railroads and expansion of mining operations than on the development of dock and handling facilities for the burgeoning prairie wheat industry. Although both towns had great potential to become major ports for grain handling and storage, and then shipment to world markets, it was Fort William that captured most of the business in the 1890's. Earlier, following that enormous crop of 1884, which had "awakened the Canadian Pacific Railway to the necessity of having more storage room,"¹⁰ Elevator "A" was constructed on the banks of the Kaministiquia. In 1889, following the dredging of the Kam, Elevator "B" was built, and in 1890, Elevator "C" was completed giving Fort William a total capacity of 3,250,000 bushels. Ten years later, another elevator, ("D"), had been completed, and with the additional enterprise of coal handling, Fort William had finally surpassed Port Arthur in size and importance, as a perusal of the 1901 Census indicates.

To summarize this general overview: there were two phases of economic expansion at the Lakehead in the last quarter of the nineteenth century. The first boom was the railway and mining boom of 1875-1885, and the second was the transshipment and storage facility development of 1885 to 1902. Although it is difficult to ascertain the impact that the first boom had on the growth of both towns, it is apparent that Fort William's rate of accelerated growth was greatest during the second phase, between 1885 and 1900. Port Arthur, during this

¹⁰John R. Lumby, Historic Fort William. (Belleville: Mika Publishing, 1974), p. 23.

latter period, experienced a declining rate of growth, particularly in the 1890's, allowing Fort William to surpass its rival neighbour by the end of the century.

The following three sections, as an extension of this overview, examine the nature and growth of population, economic and institutional development, and the judicial apparatus for both towns during the entire period under study.

A. The Indices of Growth and Development

1) Population

Population figures for the 1870's for both communities are difficult to ascertain. One source puts the number of people in Port Arthur at 1870 between 200 and 400. By 1880, the Chamber of Commerce publication lists the population at 1,000, and 2,000 one year later. Fort William's population is also difficult to determine in the 1870's, but was probably a few hundred. Population figures after 1880 are derived from the Federal Census, and are given in Table 1.

Table 1.1
Population of Port Arthur and Fort William

	<u>1871 - 1901</u>			
	<u>1871</u>	<u>1881</u>	<u>1891</u>	<u>1901</u>
Port Arthur	200 - 400*	1275	2698	3285
Fort William	100 - 200*	690	2176	4007

* Estimated.

Source: Dominion Census, 1881, I, p. 91; 1891, I, p. 144-147, 1901, I, p. 54-55.

N.B.: In 1891, The Census listed Fort William as Neebing Centre-South, and Neebing. Population figures have been added in the determination of the 1891 total.

As the Census data indicates, Port Arthur's population boom occurred much earlier than in Fort William, with greatest increases in the 1880's. Since the eastern link of the C.P.R. was completed by 1885, and since Silver Islet was no longer producing, it seems safe to assume that the largest increases occurred between 1879 and 1884. Between 1891 and 1901, there is little question as to the rate of growth--only an increase of 587 people. Fort William, on the other hand, experienced a three-fold increase between 1881 and 1891, then doubled between 1891 and 1901, lending plausibility to the view that Fort William's boom occurred during the second phase.

Moving away from population growth, the nature of the towns' population, classified according to sex, number of families, number married, is given in Table 1.2 for the period 1881 to 1901, and the origin of the towns' inhabitants in Table 1.3 for 1881 and 1901.

Table 1.2

The Population of Port Arthur and Fort William
According to Sex, Family, and Marital Status,
1881 - 1901

	<u>Port Arthur</u>			<u>Fort William</u>		
	<u>1881</u>	<u>1891</u>	<u>1901</u>	<u>1881</u>	<u>1891</u>	<u>1901</u>
Total Population	1275	2698	3285	690	2176	4007
# of Males	699	1481	1821	351	1391	2256
# of Females	576	1217	1464	339	748	1741
# Married	406	911	1102	224	676	1426
# Widowed	331	85	84	30	79	111
# of Children and Unmarried	837	1695	2028	436	1420	1748
# of Families	282	508	579	127	389	748

Source: Dominion Census' 1881, I, p. 81; 1891, I, p. 144-147; 1901, I, p.54-55.

Table 1.3

Origin of Lakehead Inhabitants
1881 and 1901

	<u>Port Arthur</u>		<u>Fort William</u>	
	<u>1881</u>	<u>1901</u>	<u>1881</u>	<u>1901</u>
Dutch	3	2	--	10
English	431	1045	109	1053
French	121	346	144	417
German	53	179	10	56
Half-Breed + Native	2	10	136	378
Irish	213	629	91	781
Scot	339	655	138	760
Scandinavian	32	53	14	37
Italian		70	---	127
Austro-Hungarian		7		194
Russia	--	240	--	116
Others	64	24	39	27

Source: Dominion Census of Canada, 1881, I, p. 296-297; 1901, I p. 314-15.

N.B. The entry "Half-Breeds" and "Natives" is transcribed exactly from the Census.

Figures for both Lakehead towns indicate some degree of ethnic heterogeneity. In Port Arthur, over three-quarters of the 1880 population were descendants directly (about 10%) or at least one generation removed from the British Isles, whereas in 1900, roughly two-thirds of the population were of British ancestry; with the remaining majority in the latter year of French and Russian ancestry. In Fort William, about fifty percent of the 1880 population were British Isles descendants, and in 1900, the percentage had increased to slightly over sixty. One observation derived from the Fort William figures, is the number of "half-breeds" or native residents. In 1880, about one-fifth of Fort

William's population were classified as either Indian or half-breed, and in 1900, the ratio is slightly less than one-tenth. In Port Arthur, the number of native or "half-breed" residents listed is too small to form any noteworthy percentage.

Ethnicity figures can be misleading, however, since they do not indicate how long Lakehead residents had resided there, or in Canada, and consequently, the degree of familiarity they possessed with Canadian folkways and laws is unknown. Birthplace data for Port Arthur and Fort William are available only in the 1881 Census. They indicate that among Lakehead residents living in both communities in 1881, the vast majority were Canadian, and particularly, Ontario born. The results are listed in Table 1.4.

Table 1.4

Birthplace of Lakehead Inhabitants, 1881

	<u>Port Arthur</u>	<u>Fort William</u>
England	193	26
France	3	2
Germany	20	4
Ireland	51	19
Russia and Poland	5	--
Scandinavian	12	8
Scotland	67	23
Other European	10	14
Nova Scotia	4	10
New Brunswick	11	8
Quebec	94	36
Ontario	729	449
B.C. and Territories	4	19
U.S.A.	93	72
	<hr/>	<hr/>
	1275	690

Source: Dominion Census of Canada, 1881, I, p. 394-95.

Birthplace figures in the 1891 and 1901 Census' are classified by District rather than by towns. The figures for Algoma District, taken

only as a rough indicator, suggest that by 1900, the massive waves of European immigration had only begun to infiltrate Northwestern Ontario. In 1891, eighty-four percent of Algoma's population were Canadian born, three-quarters of the total population were Ontario born.¹¹ In 1901, eighty-percent were Canadian born, and seventy-two percent were Ontario born, while another ten percent were direct descendants of the British Isles.¹²

One final dimension of the Lakehead population is the transient and volatile nature of its population. The opening and closing up of certain mines, the seasonal nature of construction, harbour activities, grain handling, the completion of large projects such as elevators and railroads, all point to a significant degree of the Lakehead's population being migratory and temporary. People employed in seasonal or project-type occupations might simply have to move on, and conversely, the yearly spring opening of the harbour and also of summer industries, would attract transient workers to the area, some of whom might stay on during winter, but many of whom would return annually or relocate elsewhere. While it is impossible to pinpoint the number of transients in any one year, it is nonetheless important to indicate that migratory workers, including some who could be labelled "vagrants" or "tramps" formed a significant part of a dynamic population in Port Arthur and Fort William.

¹¹Census of Canada, 1891, I, p. 338-339.

¹²Census of Canada, 1901, I, p. 425-428.

B. Economic and Institutional Development

A good deal of information contained in early local records and accounts tends to be either anecdotal or written from the perspective of attracting new enterprise to the Lakehead. Early accounts are often written in terms of the first C.P.R. sod turned--1875, the first C.P.R. train arrives--July 8, 1882; the first shipment of grain out of Port Arthur--1883, the first church--1872, the first telegraph line--1876. These types of accounts are useful and entertaining to read, but in an overall perspective are useful only to the extent that one can discern what was possible, or probable, before or after a certain date.

Similarly, publications such as Prince Arthur's Landing (1883), Port Arthur Illustrated (1889), or even the Post Office Directory of Port Arthur and Fort William of 1900-01 are typically promotional, Chamber of Commerce-type publications that sought to attract new business to the respective towns. Walpole Roland, in writing the Port Arthur Illustrated summarized Port Arthur's future as follows:

Port Arthur is destined to become the greatest manufacturing centre in the West. Her geographic position; her nearness to inexhaustible supplies of raw materials; her facilities for cheap transportation, both by water and rail; her big water power; her cheap fuel supply; and last, but not least, a vast empire for her markets, a country destined to support millions of inhabitants--all these point to this end.¹³

As sources of information, then, these publications contain some useful data, but for the most part reflect the rhetoric of optimism and rivalry.

Nonetheless, some idea of the economic and institutional development of both towns can be ascertained. The silver and railway booms of

¹³Roland, op. cit., n.p.

the late 1870's and early 1880's led to Port Arthur's early growth. One pamphlet lists fifty business establishments there by 1881, and ninety a year later.¹⁴ The same publication, printed in 1883, advertises (and specifies) seventeen manufacturing operations and thirty-one mercantile businesses.¹⁵ Among the manufacturing concerns, the more significant ones described were the Thunder Bay Lumber Company, the Port Arthur Planing Mill, and Port Arthur Foundry. The 1891 Census lists an estimated thirty-three manufacturing establishments, employing one hundred and forty men, with a total value of \$394,045.00¹⁶ Ten years later, only three manufacturing establishments are listed, employing one hundred men, and worth slightly over \$100,000.00¹⁷-- another indicator of Port Arthur's declining rate of growth.

The growth of Fort William follows the emergence of grain handling facilities and lumbering interests.¹⁸ In 1880, with a population of seven hundred, the town could boast but four mercantile stores, one church, three hotels, a blacksmith shop, a few carpenters. By 1888, an indexed photograph of the town, presently located at the Thunder Bay Museum, reveals thirty-two buildings (not including the two elevators or West Fort area) most of which were residences, hotels, and general

¹⁴Prince Arthur's Landing, (Winnipeg: Steen and Boyce, 1883), p. 14.

¹⁵Ibid., p. 23-28.

¹⁶Census of Canada, 1901, III, p. 334.

¹⁷Census of Canada, 1901, III, p. 334.

¹⁸Roland, writing in Algoma West, suggested that "the industries of Fort William lie principally in the lumber trade." see Walpole Roland, Algoma West. (Toronto: Warwick and Sons; 1887), p. 74-77.

mercantile operations. At the turn of the century Fort William, with a population over four thousand, could boast ten hotels, seven churches representing seven denominations, a high school, and several elementary schools. Port Arthur, in 1900, had six churches (as opposed to four in the 1870's), eleven hotels, a high school, and several public schools. The Fort William Municipal Telephone Directory of 1904 lists one hundred and forty business telephones in Port Arthur, and one hundred and fifty in Fort William. An earlier Directory, the Post Office one of 1900-01, lists the number of business operation that were registered. Not an absolutely accurate source, then, it gives a fair impression of the Lakehead business community, and is represented in Table 1.5.

Table 1.5

Registered Business' in Port Arthur and Fort William

1900 - 01

	<u>Port Arthur</u>	<u>Fort William</u>
Accountants	1	--
Agents	4	
Architects	1	
Assayers	1	
Banks	3	
Barbers	2	
Barristers and Solicitors	4	
Blacksmiths	3	
Boatbuilders	--	
Bootmakers and Shoe Stores	5	
Brewers	1	
Brokers	2	
Butchers	5	
Carpenters, Builders		

	<u>Port Arthur</u>	<u>Fort William</u>
Carriage and Wagon-Builders	1	1
Cigar and Tobacco Distributors	5	9
Coal and Wood	2	3
Men's Clothing Furnishers	3	7
Dentists	1	2
Dressmakers	5	3
Druggists	2	3
Civil Engineers	2	
Fancy Goods	3	
Fish Merchants	3	
Flour and Feed Merchants	1	
Iron Founders and Machinists	1	
Fruit Dealers	3	
Grain Agents	0	
Grocers	5	
Harness Makers	1	
Loan Companies	0	
Hotels	2	
Livery Stables	2	
Lumber Mills	1	
Merchant Tailors	1	
Musical Instruments	1	
Millinery	2	
Mining Suppliers	3	
Newspapers	1	
Painters	1	
Photographers	2	
Physicians	3	
Plumbers, Steam, and Gas Fitters	0	
Sewing Machine (Dist.)	2	
Trunk and Valises	0	
Wholesale Wine and Liquor	2	2
Total	<u>97</u>	<u>126</u>

By 1900, then, both communities had their fair share of specialized mercantile, professional, (i.e. doctors and lawyers), semi-professional (butcher and barbers), and manufacturing establishments, although Fort William again had surpassed Port Arthur in terms of sheer numbers. There were some establishments present in Port Arthur but absent in Fort William, and vice-versa. Both communities, though, had attracted sufficient numbers of peripheral, support-type establishments that while not providing a complete range of manufacturing or mercantile accessories, nonetheless rendered the Lakehead area a diversified economic structure capable of providing for its own needs in most instances.

C. Gaols and the Apparatus of Justice

Administration of justice throughout most of the 1870's at Port Arthur was rudimentary and inefficient. In Fort William, it was virtually non-existent. Much of the problem lay not with inefficient administrators, but rather with inadequate facilities. As early as 1870, Inspector of Prisons John Langmuir had recommended the construction of an adequate detention facility.¹⁹ Three years later, he reiterated the recommendation: "I would, therefore, recommend that a brick Gaol be erected, capable of accommodating sixteen prisoners, with provisions for its extension, by a second story, when circumstances demand it."²⁰ Three years later, after inspecting the wooden facility at Port Arthur, Langmuir wrote:

¹⁹Prison Reports, 4th Report, 1870-71, p.41.

²⁰Prison Reports, 6th Report, 1872-73, p.123.

The lock-up has only one corridor; in which there are five cells. A classification of prisoners is therefore impossible; and as there are more prisoners than cells, they have to be doubled up contrary to prison discipline and rates....

Since the first of October, 1874, over one hundred prisoners (had) been committed to the Lock-up....It is of the utmost importance that proper gaol accommodation should at once be provided for this District...the building be two stories, with provisions for four corridors and twenty-four cells.²¹

The early Port Arthur lock-up was not only overcrowded, but poorly maintained with "beds made upon the floor."²² Escapes were frequent. In April of 1876, the Thunder Bay Sentinel reported that John Baker, Roderick McLeod, and John D. Walker had escaped, all three serving time for larceny.²³ Of the twenty-six escapes from all Ontario gaols in 1873, seven were from Port Arthur.²⁴ The deplorable situation prompted Langmuir to write:

With respect to the escapes of prisoners from the Lock-up at Thunder Bay, I have not been able to investigate into the circumstances connected with each, but as the lock-up is utterly unsafe, and the work in which prisoners are employed beyond its precincts is that of ordinary farming and gardening, the wonder is that any prisoners are retained at all.²⁵

The situation at Port Arthur improved during the following year, as the new gaol was finally completed. The edifice was constructed of stone, the external walls and the iron-work of the windows..."strong and

²¹Quoted in The Thunder Bay Daily Sentinel, January, 13, 1876.

²²Prison Reports, 8th Report, 1875, p. 136.

²³The Thunder Bay Daily Sentinel, April 26, 1876.

²⁴Prison Reports, 6th Report, 1872-1873, p. 86.

²⁵Prison Reports, 9th Report, 1876, p. 76.

substantial," and it contained twenty-four cells.²⁶ Some modifications were made later in the century, but, on the whole, the structure was a vast improvement over the wooden lock-up.

Fort William's lock-up was not constructed until 1886. It contained between eleven and thirteen cells, and throughout our period of study, received minor renovations although the basic structure was a wooden building.

From a judicial perspective, justice was administered by a Stipendiary Magistrate prior to 1884. This meant that persons committed for more serious crimes, indictable offences, had to be transferred to Sault Ste. Marie for trial. Prior to the legislation creating the Judicial District of Thunder Bay in 1884, a previous statute, enacted in 1880, had provided for two Stipendiary Magistrates for the Districts of Thunder Bay, who, "subject to an appeal to the (District of Algoma) judge, do all such things and exercise all such authority and jurisdiction in respect of the same."²⁷ At the same time, however, the District of Thunder Bay was rendered part of the Judicial District of Algoma, with all officials, and buildings declared part of that District.²⁸ After 1884, all indictable offences, including those committed in Fort William, were tried at Port Arthur District Court, which by law, met "on the second Tuesday of the months of June and November of each year."²⁹ Non-

²⁶Prison Reports, 10th Report, 1877, p. 50.

²⁷Ontario Statutes, 1880, "An Act Respecting the Administration of Justice in the Districts of Algoma, Thunder Bay, and Nipissing," p.40-43.

²⁸Ibid., p. 40-43.

²⁹Ontario Statutes, 1884, "An Act Respecting the Districts of Algoma and Thunder Bay," p.44-47.

indictable offences, adjudicated by Stipendiary Magistrates, met on a regular basis in Port Arthur, and in Fort William after 1886. Appeals from lower courts were, as the 1884 statute indicates, "heard" by a District Court Judge.

In summary, then, during the last quarter of the nineteenth century, the communities of Port Arthur and Fort William emerged, and grew in response to westward railroad expansion, mining, and then later, the development of the prairie wheat industry. Demographic and economic indices suggest that Port Arthur's "take-off" phase occurred in the early 1880's, with the rate of growth declining significantly in the decade 1891-1901. Fort William's "take-off" occurred later, with the population tripling in the 1880's and then doubling again between 1891-1901. By 1900, both towns had reached a stage of institutional development that was roughly proportionate to each other--although in the business and manufacturing sector, Fort William was slightly ahead in terms of number of establishments. Similarly, both towns contained roughly the same ethnic distribution--the great waves of immigrants had yet to infiltrate either place. The nature of the town's populations was also similar, with the exception that Fort William had a larger number of native people and a larger ratio of men-to-women than Port Arthur--in 1891 and in 1901. Both communities had roughly similar percentages of families to total population, although Port Arthur's ratio was slightly higher. in 1891. Since the Census statisticians lumped the number of children and the number of unmarried together, a breakdown and analysis of the single, unattached segment of the population is difficult to determine, although the nature of local industry and the central importance of the

Lakehead as an "oasis" on the frontier would suggest a fair number of unattached males arriving for seasonal employment, or passing through to the west. Finally, both towns had developed or acquired institutional means to administer justice, although all cases heard in Fort William were at Magistrate's Court, whereas, in Port Arthur, lower court sessions and trial sessions were handled by a Stipendiary Magistrate, and District Judge, respectively.

CHAPTER TWO: THE CRIMINAL RECORD AT THE
LAKEHEAD, 1873 - 1903

As an adjunct to the economic and institutional growth of the Lakehead, the late nineteenth century history of the communities was marked by significant occurrences of criminal activity, although the picture of frontier brutality and lawlessness, so convincingly portrayed in the pocket westerns and in cinema, is far removed from the reality of the Lakehead scene. There were only thirteen murders during the entire period-- nowhere near enough to warrant a local "boot hill", and really none of legendary proportions as in the case of the Donnelly tragedies at Lucan. Rather, the record of lawlessness at the Lakehead is largely the record of drunks, and tramps, prostitutes and thieves, or brawlers and of property wreckers. Before turning to these transgressors, perhaps a few comments on sources is appropriate.

Most of the material presented in this section is based on the Prison Reports in the Ontario Sessional Papers. Prison Reports were the manifestation of gaol inspections--an annual affair for the year ending September 30th. Information compiled by Inspectors was based on local gaol records, and later compiled into tables indicating the extent of gaol committals, the nature of the offences, the occupation, sex, and "social standing"¹ of the transgressors committed to gaol, and

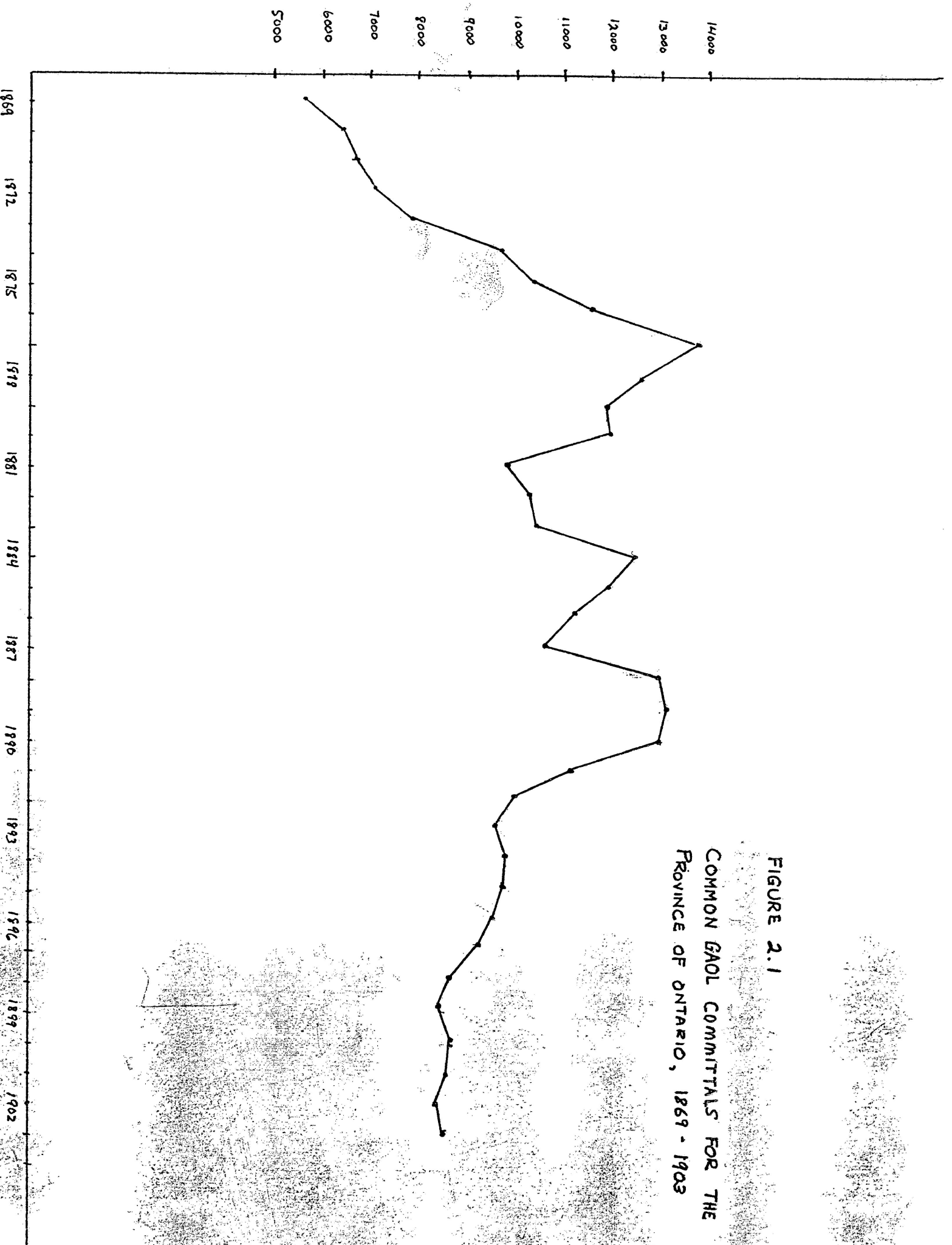
¹Social Standing Categories were comprised of married/unmarried; could read and/or write/could not read and/or write; temperate/intemperate.

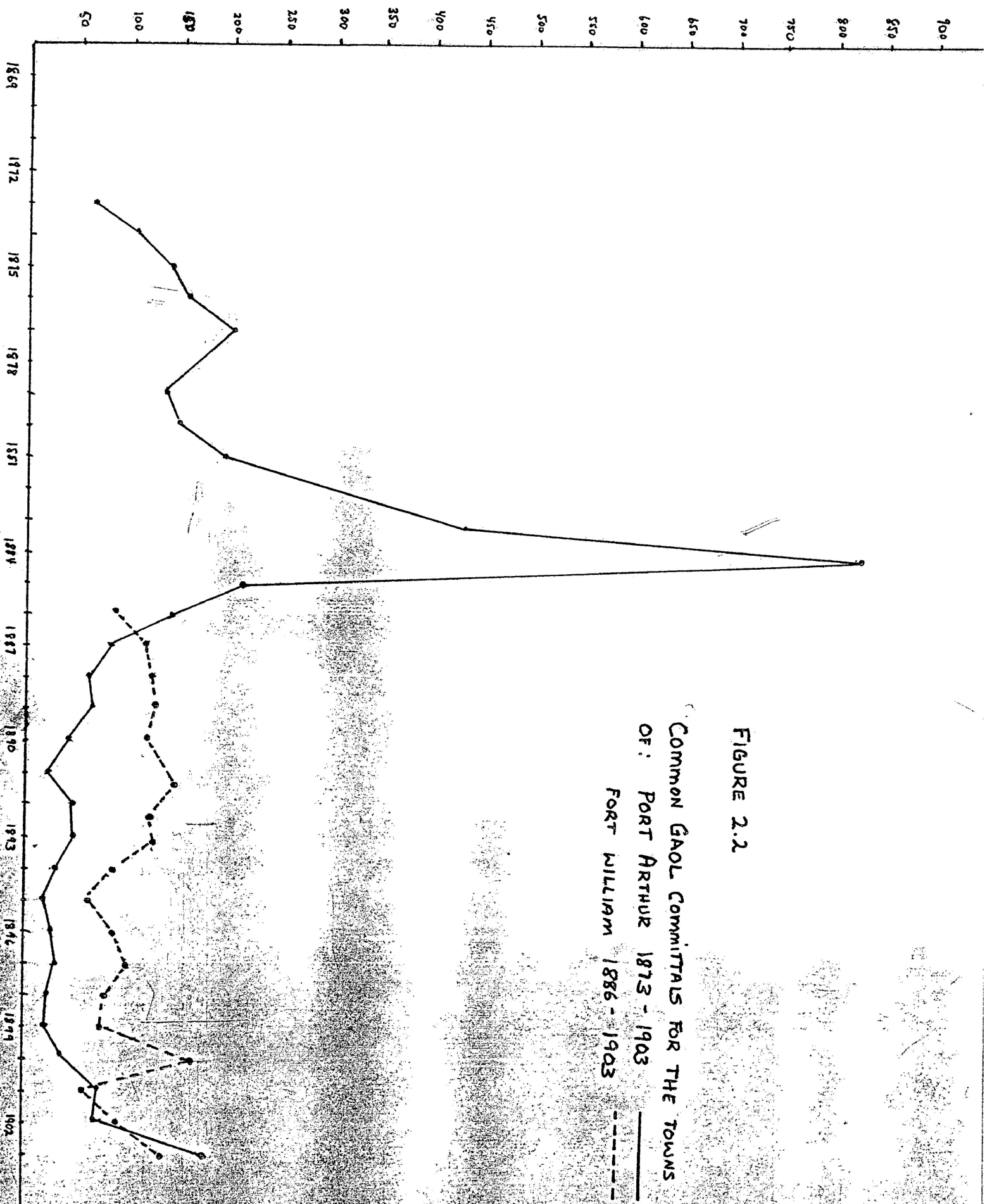
the offences which resulted in convictions. On the larger, provincial scale, late nineteenth century Prison Reports statisticians divided criminal activity into four general categories: Crimes Against Persons, Crimes Against Property, Crimes Against Public Morals and Decency, and Crimes Against Public Order and Peace.²

There are a number of limitations upon the usefulness of the Prison Reports, and they should be noted here. No inspection of the Port Arthur gaol was made for the years 1878, 1882, and 1883. Second, citizen-initiated disputes, or charges brought before Magistrate's Court that were laid by one citizen against another were not always recorded, although in the Fort William Police Court Day Books for 1895-1902, they were disregarded by Prison Inspectors in compiling the "official" crime statistics is significant not only because it accounts for discrepancies between the two sources in offence statistics, but also, as the next chapter will show, citizen-initiated charges in themselves are very significant indicators of local tensions, and of how local residents responded to transgressions actual or perceived. The Prison Reports, therefore, do not present the whole picture, and in this section are

²Specific offences for each category were as follows: 1) Crimes Against Persons included: assault, cutting and wounding, rape, murder, manslaughter, attempted suicide; 2) Crimes Against Property included: arson, and incendiarism, burglary, fraud, counterfeiting, forgery, destroying property, animal theft, housebreaking and robbery, larceny, trespassing, receiving stolen goods; 3) Crimes Against Morality included bigamy, frequenters, inmates, and keepers of houses of ill-fame, perjury, seduction, indecent assault and exposure; 4) Crimes Against Public Order and Peace included abusive language, breaches of peace, by-laws, carrying unlawful weapons, deserting employment, drunk and disorderly, selling liquor without a license or giving it to Indians, vagrancy, threatening and seditious language. Each category maintained a miscellaneous classification.

FIGURE 2.1
COMMON GAOL COMMITTEES FOR THE
PROVINCE OF ONTARIO, 1869 - 1903





used to provide a broad, and highly impressionistic picture of the dimensions of crime at the Lakehead.

To begin with, common gaol committals for the communities of Port Arthur and Fort William, and also for the entire province are given in Figures 2.1 and 2.2 respectively. For the entire province, there was generally a downward trend in committals, particularly after 1888. In the early period, provincial gaol committals had climbed steadily, between 1869 and 1877, a trend that *deeply* alarmed Inspector Langmuir. He blamed the increase on economic hardships, and argued that vagrants and drunks were primarily responsible for the nearly tripled increases in committals during the period.³ From 1877 to 1888, the trend was one of fluctuation--1882 and 1883 were the only two years where committals were less than 10,000, and peaks were reached in 1887 and 1888. From 1888 to 1892, there was a sharp decline,⁴ followed by a levelling trend with minor fluctuations until 1903, when a moderate increase occurred.

At the Lakehead, the downward trend was less apparent in Fort William as continual fluctuations appeared until 1898. Between 1899 and 1903, Prison Report compilers dropped the "committals" category, and replaced it with figures dealing with individuals who were sentenced. This presents something of a problem since actual committals for these

³Prison Reports, 10th Report, 1877, p. 56

⁴Inspector T.F. Chamberlain claimed the decline in committals was due to a decline in committals for drunkenness. He argued that a decline in drunk and disorderly committals was due to "efficient supervision of the license inspection; and the growing conviction on the part of the people....that an excessive use of the stimulants is both physically and mentally injurious." Prison Reports, 24th Report, 1891, p. 4.

years are unknown. However, by using the sentenced/committed ratio based on the previous six years 1893 - 1898, which was ninety-one percent, the projected committals for 1899 to 1903 indicates an increase in gaol committals in Fort William.

In Port Arthur, some fluctuations are also visible between 1886 and 1898, although figures for the entire period indicate a sharp downward trend in the late 1880's, and throughout most of the 1890's. Similar to Fort William, but not the province, Port Arthur's gaol committals increased moderately between 1899 and 1903--based on a sentence/committal ratio of eighty percent over the previous six years. Between 1887 and 1898 Port Arthur had a yearly average of 42.5 committals, but for the period 1873 to 1886, the average was 133.7 excluding the exceptional year 1883 and the incredible year 1884. If one included 1883 and 1884, the average for the pre-1887 period is 199 committals per year.⁵ Put another way, the 416 gaol committals in 1883, and the 834 committals in 1884, significantly alter the yearly average prior to 1887. The obvious question that arises--why so many gaol committals, particularly in 1884? Part of the explanation undoubtedly lies in the fact that the early 1880's were the years of Port Arthur's greatest economic and demographic expansion. A local Census, taken in 1884, put Port Arthur's population at 6097, seventy percent male.⁶ This represents a five-fold increase

⁵The yearly average number of committals in Fort William between 1886 and 1898 is 83.6, almost double that of Port Arthur.

⁶Thunder Bay Daily Sentinel, November 11, 1884.

over the 1881 Census figures. Assuming that even this Census is inaccurate--that so many people were present at the time of the local count, indicates how volatile the "floating" population was. Indeed, concern over the influx of transient workers surfaced from time to time in the local newspaper. On June 13, 1884, the Sentinel reported that "Port Arthur has been, ever since navigation opened, well nigh run off its feet by men who have found their way here with their winter's pay in their pockets, from the C.P.R. work east."⁷ There were many instances where transient workers wound up before magistrate's court "the morning after."⁸ In an editorial, the Sentinel, observed that "rowdyism in Port Arthur is alarmingly upon the increase."⁹ Rowdyism, of course, typically meant drunk and disorderly conduct. Five hundred and forty-four of the eight hundred and thirty-four committals were for drunkenness.¹⁰ This represents sixty-five percent of the total.

The influx of transient workers was not the only factor determining the astounding number of committals, however. Not only was Port Arthur incorporated as a town that year, but the judicial District of Thunder Bay was also created, and the new jurisdiction undoubtedly produced an overzealous attempt to enforce the law. From complaints against

⁷Thunder Bay Daily Sentinel, June 13, 1884.

⁸See, for example, Thunder Bay Daily Sentinel, October 9, 1884.

⁹Thunder Bay Daily Sentinel, July 25, 1884.

¹⁰Prison Reports, 15th Report, 1884, p. 77

police officiating procedures¹¹ to Magistrate Laird's determination ("I am going to stamp out this ruffianism.")¹², there was an unusually low toleration of perceived law-breaking and transgressions. Only thirty-seven of the five hundred and forty-four committals involving drunks resulted in convictions, and only seven of the forty-two assault committals ended with a sentencing.¹³ These incredibly low conviction rates clearly indicate that some sort of "round-up" operation was implemented in Port Arthur that year.

Aside from 1883 and 1884, Port Arthur had years of large gaol committals in 1877 and 1881. The lowest number of committals was in 1895 when only twenty-six individuals were apprehended. In Fort William, the largest number of committals occurred in 1891, and the lowest in 1895.

The distribution of gaol committals according to the Prison Reports' scheme is given in Tables 2.1 and 2.2. Again, figures are estimated for 1899 to 1903 based on an average ratio of sentences to committals for 1893 to 1898.

Table 2.1

Classification of Crimes for Port Arthur, 1873-1903

Year	Committals (Total)	Crimes Against Persons	Crimes Against Property	Public Morals and Decency	Public Order and Peace
1873	60	21.6%	25 %	--	53.3%
1874	94	6.3%	18 %	--	55.3%
1875	122	4.9%	10.6%	2.4%	75.4%

¹¹Thunder Bay Daily Sentinel, July 22, 1884.

¹²Thunder Bay Daily Sentinel, June 28, 1884.

¹³derived from Prison Reports, 15th Report, 1884.

Year	Committals (Total)	Crimes Against Persons	Crimes Against Property	Public Morals and Decency	Public Order and Peace
1876	141	12.7%	17.0%	1.4%	66.6%
1877	183	11.4%	11.4%	7.1%	66.2%
1879	126	3.9%	11.9%	8.7%	73.0%
1880	136	2.9%	17.6%	--	75.7%
1881	169	2.9%	7.1%	2.9%	81.6%
1884	834	5.8%	19.5%	1.1%	71.8%
1885	186	10.2%	41.3%	4.3%	44.3%
1886	120	7.5%	23.3%	3.3%	61.6%
1887	70	8.5%	18.5%	--	68.5%
1888	50	8 %	20 %	4 %	62 %
1889	52	9.6%	21.1%	--	61.5%
1890	37	5.4%	18.9%	5.4%	70.2%
1891	33	(3.3)%	48.4%	--	24.2%
1892	33	12.1%	21.2%	3.3%	54.5%
1893	55	10.9%	14.5%	1.8%	67.2%
1894	38	18.4%	13.1%	13.1%	35.1%
1895	26	--	38.4%	11.5%	38.4%
1896	33	12.1%	21.2%	3.3%	45.4%
1897	45	11.1%	15.5%	2.2%	60.0%
1898	38	28.9%	31.5%	2.6%	28.9%
1899	29	--	38.4%	11.5%	38.4%
1900	51.2	12.1%	21.2%	3.3%	45.4%
1901	76	6.7%	35.5%	3.3%	57.6%
1902	75	8.3%	41.6%	--	48.3%
1903	168	10.3%	30.3%	2.2%	57.0%

Source: Prison Reports, 1873-1903. NOTE: A number of committals do not fall, or are not listed in the offences for each category. These are: detained as witnesses, want of sureties, lunatics, etc. For that reason, percentages seldom add up to 100.

N.B.: Projected committals for 1899 to 1903 are based on a eighty per cent conviction ratio, 1892-1898.

Table 2.2

Classification of Crimes for Fort William, 1886-1903

Year	Committals (Total)	Crimes Against Persons	Crimes Against Property	Public Morals and Decency	Public Order and Peace
1886	66	--	13.6%	6.0 %	72.7%
1887	92	6.5%	3.2%	1.08%	84.7%
1888	93	8.6%	7.5%	4.3 %	77.4%
1889	94	12.7%	4.2%	4.2 %	67.0%
1890	87	5.7%	3.4%	11.4 %	77.0%
1891	113	9.7%	8.8%	6.1 %	69.0%

Year	Committals (Total)	Crimes Against Persons	Crimes Against Property	Public Morals and Decency	Public Order and Peace
1892	80	6.8%	1.1%	2.2%	77.2%
1893	99	9.0%	14.1%	4.0%	57.5%
1894	73	12.3%	9.5%	10.9%	57.5%
1895	56	12.5%	26.7%	3.5%	48.2%
1896	75	6.6%	21.3%	1.3%	53.3%
1897	84	7.1%	16.6%	--	61.9%
1898	68	22 %	25 %	--	54.4%
1899	61	7.2%	30.9%	1.2%	41.8%
1900	124	8.9%	25.8%	3.5%	56.2%
1901	55	20 %	22 %	6 %	52 %
1902	70	14.2%	23.2%	10.7%	48.2%
1903	115	23.4%	19.3%	2.4%	40.8%

Source: Prison Reports, 1873-1903.

N.B.: Projections for 1899 to 1903 are based on a ninety-one percent conviction ratio, 1892-1898.

A number of observations become apparent from an examination of these tables. In Port Arthur, transgressions against Public Order and Peace form the largest category of offences for the entire period, although in some years property crimes exceeded Public Order violations by a narrow margin. Property crimes form the second greatest category of committals for most of the period, and reached their greatest frequency between 1900 and 1903 when they constituted about thirty-six percent of the total. Crimes Against Persons were the third largest category, increasing slightly from the early 1890's onward as a percentage of the total, and reaching a peak in 1898 when five murder trials were held at the Port Arthur Court House. The category of least committals in Port Arthur is Public Morals and Decency. For most of the period, transgressions of this sort were under five percent in only the low total years of 1894 and 1895.

As percentages of the total, most categories fluctuated from year to year, obscuring obvious trends in the nature of criminal activity. Broadly speaking, Crime Against Public Order and Peace were most consistent between 1876 and 1890, averaging over sixty-percent of all offence categories, and then declining somewhat during the 1890's. Property crimes fluctuated considerably as well, although a general increase is apparent between 1884 and the end of the century. Crimes Against Persons follow no particular trend either, although their greatest percentage seems to have been during the mid-to-late 1890's.

In Fort William, Crimes Against Public Order and Peace are the greatest category of offences in every single year. Crimes Against Property are usually second, followed by Crimes Against Persons, and Crimes Against 'Morals and Decency'. In both communities, then, the ordering of the categories in terms of largest percentages of total is the same.¹⁴ Unlike Port Arthur, however, some trends are readily apparent in Fort William. Committals for Crimes Against Public Order and Peace decline significantly as a percentage after 1892, and more or less up to 1903. Much of the difference is accounted for by an increase in Property Crime, and to a lesser extent, an increase in Personal Crime. Property crime begins to increase in 1893, and reaches its highest percentage in 1899.

¹⁴The fact that Crimes Against Public Morals and Decency runs last in both communities obscures the significance of these offences in the communities at the time. Prostitution, as the next chapter will show, was a great concern in Fort William and Port Arthur. Second, the "actual" incidence of prostitution was much greater than that reported in the Prison Tables. The point is that the difference between actual and perceived is not as great as one might expect.

In short, trends are more visible for the Fort William data, although in both towns a decline in Crimes Against Public Order and Peace occurred, and an increase in Property Crime followed. In Port Arthur, the increase began earlier, but in Fort William, it was more pronounced. Interestingly, between 1895 and 1903, in both towns, committals for Property Crimes were greatest--more significantly in Fort William, though, since the absolute numbers were greater.

Not all offences that were part of a particular category contributed equally to the percentage that category held. For Crimes Against Public Order and Peace, drunk and disorderly committals constituted by far the largest single offence for both towns, although in Port Arthur this was less true in the mid 1890's, and early years of the new century where vagrancy committals and subsequently convictions, surpassed drunk and disorderly in most years. Similarly, assault charges constituted the majority of personal offences, and "frequenters," prostitutes and "keepers" account for most of the Crimes Against Morality. The only category where a number of offences contributed to the total, or conversely, was least dominated by any one offence was Property Crime. Larceny was of course the principal charge, but housebreaking, fraud, and trespassing were also common offences that occurred on a regular basis. Tables 2.3 and 2.4 indicate, by means of percentages, the relationship and importance of drunk and disorderly committals to both the category, and all committals. Table 2.5 does the same for assault in relation to personal crime.

Table 2.3

Committals for Drunkenness in Port Arthur, 1874-1898

<u>Year</u>	<u>Committals for Drunkenness</u>	<u>As a Percentage of Category</u>	<u>As a Percentage of Total Committals</u>
1874	20	62.5%	21.2%
1875	77	83.6%	63.1%
1876	78	82.9%	55.3%
1877	105	87.5%	57.3%
1879	81	88.0%	64.2%
1880	83	80.5%	61.0%
1881	125	90.5%	73.9%
1884	544	90.8%	65.2%
1885	66	85.7%	35.4%
1886	30	40.5%	25.0%
1887	28	58.3%	40.0%
1888	16	51.6%	32.0%
1889	12	56.2%	34.6%
1890	12	46.1%	32.4%
1891	4	50.0%	12.1%
1892	3	16.6%	9.0%
1893	4	10.8%	7.2%
1894	5	38.4%	13.1%
1895	3	30.0%	11.5%
1896	5	50.0%	15.1%
1897	5	18.5%	11.1%
1898	4	36.3%	10.5%

Source: Compiled from Prison Reports, 1874-1898.

Table 2.4

Committals for Drunkenness in Fort William, 1886-1898

<u>Year</u>	<u>Committals for Drunkenness</u>	<u>As a Percentage of Category</u>	<u>As a Percentage of Total Committals</u>
1886	36	79.1%	54.5%
1887	64	82.0%	69.5%
1888	59	81.9%	63.4%
1889	43	68.2%	45.7%
1890	47	70.1%	54.8%
1891	50	64.1%	44.2%
1892	51	75.0%	57.9%
1893	30	52.6%	30.3%
1894	30	71.4%	41.0%
1895	10	37.0%	17.8%

Year	Committals for Drunkenness	As a Percentage of Category	As a Percentage of Total Committals
1896	24	60.0%	32.0%
1897	24	46.1%	28.5%
1898	20	57.1%	29.5%

Source: Compiled from Prison Reports, 1886-1898.

Table 2.5

Committals for Assault in Port Arthur and Fort William,
as a Percentage of Personal Crimes

Year	<u>Port Arthur</u>		<u>Fort William</u>	
	# of Assault Charges	% of Personal Crime	# of Assault Charges	% of Personal Crime
1874	5	38.4%	No data	No data
1875	5	83.3%	"	"
1876	6	33.0%	"	"
1877	20	95.2%	"	"
1879	5	100.0%	"	"
1880	2	50.0%	"	"
1881	5	100.0%	"	"
1884	42	85.7%	"	"
1885	15	78.9%	"	"
1886	6	66.6%	0	0%
1887	6	100.0%	6	100.0%
1888	3	75.0%	6	100.0%
1889	4	80.0%	11	91.6%
1890	1	100.0%	11	100.0%
1891	1	100.0%	11	100.0%
1892	0	0%	6	100.0%
1893	5	83.0%	9	100.0%
1894	5	71.4%	9	100.0%
1895	0	0%	7	100.0%
1896	3	75.0%	3	60.0%
1897	5	100.0%	7	100.0%
1898	5	45.4%	15	100.0%

Source: Compiled from Prison Reports, 1874-1895.

As a comparison of Tables 2.3 and 2.4 indicates, and especially for the years when data are available for both, the decline in committals for drunkenness was far greater in Port Arthur than in Fort William.

Obviously, a decline in the percentage within the category meant a decline in relation to the whole for both communities. What is less apparent is that the tremendous decline in drunk and disorderly committals in Port Arthur produced a general decline in total committals. Between 1875 and 1885, gaol committals for drunk and disorderly constituted a high percentage (invariably over fifty percent except for 1885) of total committals, but after 1885, and particularly during the 1890's, drunk and disorderly committals constituted a low percentage in both category and total committals, although the latter itself was declining. In Fort William the decline is far less striking, and only in 1895 did committals for drunk and disorderly drop below twenty-five percent of total gaol committals.

In relation to the category--Crimes Against Public Order and Peace, the percentage decline in drunk and disorderly committals meant that other offences were increasing proportionately. In Fort William, where the decline was much less visible, vagrancy and giving liquor to Indians were the offences that constituted secondary importance, numerically speaking. Between 1886 and 1898, committals for giving liquor to Indians averaged slightly over six per year; with the largest number of committals (17) occurring in 1891. During the same period, an average of seven vagrants were "rounded-up" annually. In Port Arthur, on the other hand, giving liquor to Indians was virtually a non-existent offence--not one charge between 1889 and 1900. The difference can be explained by the fact that Port Arthur's Indian population was very small, whereas Fort William had a reservation at the Mission on the edge of town. Vagrancy charges in Port Arthur, however, were increasing from the mid-1880's,

averaging thirteen committals per year until 1898, and twenty convictions between 1899 and 1903.

For Crimes Against Persons, as Table 2.5 suggests, assault committals constituted the overwhelming percentage of charges, particularly in Fort William. In Port Arthur, assault percentages fluctuated from year to year, owing primarily to the relatively small number of committals. Two other personal crimes--rape and murder--follow no particular trend as well, and were sporadic in occurrence. In Port Arthur, a total of seventeen rape charges were made during the entire period--six in the 1870's (none between 1900-03). In Fort William, only five rape charges were laid--four during the 1890's and one in 1903.¹⁵

The crime of murder--unquestionably the most serious of all--also followed no distinct pattern. Between 1873 and 1902, a total of thirteen murder committals were recorded, and five additional manslaughter charges were laid in 1903. Five of the murder committals occurred during the 1880's, and eight during the 1890's, including five in one year, 1898. The earliest murder charge occurred in 1882, and no committals are listed prior to 1880.

In 1898, five men were tried for murder at Port Arthur. The most spectacular case was that of Oliver Prevost, a French-Canadian who was charged in the shot-gun deaths of Rennie Bebin and Ferdinand Roy, (also French-Canadians).¹⁶ The incident was alleged to have occurred in a pig-

¹⁵Interestingly, all five rape charges in Fort William resulted in convictions, while only three of the eleven "known" committals in Port Arthur resulted in convictions.

¹⁶Thunder Bay Daily Sentinel, December 6, 1898.

pen, behind a barn on the Ontario Mine Road, and among members of the local community, the murders were known as the "Piggery murders."¹⁷ In a trial that lasted all of one and one-half days, Prevost was found guilty, and later hanged on March 17, 1899--the first murder case resulting in a hanging.¹⁸ The remaining four men tried for murder were Indians, all brothers, charged with murdering three French traders near Pic River. According to the Sentinel, the French traders had given the Moses brothers, Mohock, Joseph, Louis, and Antoine, liquor and then had attempted to "ravage" their sisters.¹⁹ Two of the charges, under those circumstances, were reduced to manslaughter, and Louis and Joseph received ten year penitentiary sentences,²⁰ while the other brothers were acquitted--also in a trial that spanned less than two days.²¹

The 1903 manslaughter charges were brought originally against seven men for the murder of Stephan Rebbuk, a Russian, who was clubbed to death near the coal docks in the east end of Fort William on November 27, 1902.²² Owing to problems of translations and of identifying the assailants, two were subsequently released, two were acquitted, and two were

¹⁷Thunder Bay Daily Sentinel, December 7, 1898.

¹⁸Thunder Bay Daily Sentinel, July 28, 1898.

¹⁹Thunder Bay Daily Sentinel, December 9, 1898.

²⁰Thunder Bay Daily Sentinel, December 9, 1898.

²¹Thunder Bay Daily Sentinel, December 9, 1898.

²²Fort William Daily Journal, November 27, 1902.

given ten year manslaughter sentences and one was given a seven-year sentences for "inciting to do grievous harm."²³

The one category whose offences contributed more equally to the total was Crimes Against Property. The offences that constituted Crimes Against Property were: larceny, arson, fraud, counterfeiting, house-breaking, trespassing, forgery, destroying and injuring property, burglary, animal theft, and receiving stolen goods. The incidence of the last three is too insignificant to merit discussion. In the earlier period, larceny constituted the largest single offence in Port Arthur-- between sixty and eighty-five percent of the category during the 1880's, particularly in 1884 and 1885. In the 1890's, larceny committals declined in percentage to roughly fifty percent on average, but increased in proportion to the increases of total property crime in the early years of this century. In 1900 and 1901, there were twelve larceny convictions in Port Arthur, and twenty-three in 1903. In Fort William, larceny committals were few in the late 1880's (only thirteen between 1886-1890), but increasing significantly in the mid to late 90's, reaching a peak in 1900.

Two other crimes that were increasing in Fort William, and consequently, increasing the percentage of property crime, were fraud and housebreaking, both of which increased significantly near the end of the century. The increase in Property Crimes in Port Arthur was also due to increases in housebreaking and fraud, although there was also sixteen trespassing and eleven destroying property convictions between 1900 and

²³A more comprehensive examination of murder-punishment is given in Chapter 4.

1903. These figures for convictions were greater than totals for committals in the five year period prior to 1898, indicating the extent of the increases irrespective of conviction to committal ratio adjustments.

In fact, all four offences--trespassing, housebreaking, fraud, and destroying property were sporadic in occurrence for almost all years prior to 1898. Each offence, in both towns, occurred infrequently enough that many years existed where no committals were made, particularly for trespassing and destroying property. Housebreaking and fraud committals were only slightly more regular.

Putting the data for Fort William and Port Arthur in comparative perspective with the rest of the province, some interesting observations appear. Unlike the Lakehead communities, where vicissitudes produced fluctuating percentages, depending on the number of committals, provincial statistics varied slightly by comparison. Crimes Against Persons, as a percentage of total committals, typically varied less than one-half of one percentage point on a year to year basis, with the widest margin of difference being 2.3% for the years 1902 (6.8%) and 1885 (9.1%). Similarly, Morality crimes percentages changed marginally--a slight increase between 1900 and 1903. Comparing Morality crimes with the earlier period (1875 to 1885) an increase of about 2.5% is apparent, and somewhat significant.

The most visible variations for the entire province are in the Property crime and Public Order categories. As in the case with Port Arthur, (and to a lesser extent Fort William), a decline in Public Order committals, (i.e. drunk and disorderly), led to a decline in total committals. Similarly, there was a percentage decline in "Public Order"

²⁴Calculated from the Prison Reports, 1873-1903. All other figures mentioned similarly deduced.

crimes from the 1880's to the 1890's--a very significant drop of about five percentage points. The trough year was 1898 when Public Order violations represented 47.9% of the total--the only year that category dipped under 50%. At the same time, Property crimes (as in the case of both Port Arthur and Fort William) climbed during the 1890's, averaging about 28.6% as opposed to 22.4% in the 1880's. The peak year for property crimes was also 1898, as committals reached 33.7%. In both Port Arthur and Fort William, the peak period for Property crime occurred after the turn of the century. Nonetheless, the general trends in crime at the Lakehead are similar to trends for the province as a whole. True: committals in both Port Arthur and Fort William were part of the provincial totals, but for most years constituted less than one percent of the provincial total. And although some trends were occurring for the whole province that were slightly earlier, such as Property crime peaks, others, such as Morality crimes, were not. The most obvious difference is that in Port Arthur and Fort William, where the committals were so few, comparatively speaking, the fluctuations and magnitude of trends were greater.

By way of conclusion, it should perhaps be noted that the discussion of various trends and patterns has included no reference to per capita figures. Per capita ratios would actually be far greater indicators of actual trends than ratios ascertained irrespective of population increases and/or decreases. But population figures are available only on a ten year basis for Port Arthur, and although figures exist for Fort William between 1891 - 1903,²⁵ they are generally unreliable.

²⁵ see Bryce Stewart, Social Survey of Fort William, 1913. Fort William, Directed by the Department of Temperance and Moral Reform of the Methodist Church.

Hence, a full blown per capita set of figures is untenable for both towns. Nonetheless, some broad observations can be made: 1) the period of sharpest decline in committals in Port Arthur coincides with a period of negative or zero population growth. (1887-1900); 2) the years of greatest number of committals in Port Arthur, 1883-85, coincides with the period of greatest population expansion. In Fort William, the number of gaol committals was declining in relation to increases in population. Using Bryce Stewart's figures only as a very rough indicator, it would appear that between 1891 and 1894, per capita committals in Fort William was about 41 - 46 per 1000, and between 1895 and 1903, about 15 - 20 per 1000.²⁶ More generally, the fact that Fort William's population doubled during the 1890's and that the trend in total committals was downward may suffice to support this. In short, the significance of the downward trend in committals is accentuated by the reality of population growth in Fort William, but, in Port Arthur, this was much less the case, although the decline in total committals was far more extreme there. This seeming paradox is important--it raises the whole question of the relationship between committals and population, and how both figure in the determination of crime rates. This matter is one of the things to be dealt with in the coming chapter, which focuses upon Police Court Records at Fort William.

²⁶Calculated using Bryce Stewart, op. cit., p. 6 and Prison Reports, 1891-1903.

CHAPTER THREE: TRIALS AND TRIBULATIONS AT THE
FORT WILLIAM POLICE COURT, 1895-1902

Between 1895 and 1902, a total of 1272 charges were heard at the Fort William Police Court, and with the exception of some illegible handwriting and incomplete recording, these Charge Books are perhaps the richest source that have survived bureaucratic shuffling of papers, and outright destruction.¹ Police Court Charge Books provide the researcher not only with information concerning the nature of criminal activity, but also the names of the offenders, the date of the court appearance, and the punitive measures taken. Accordingly, one is able to examine not only who committed what offences, but also who the criminal was, how the authorities responded to various offences, and indeed, various offenders. Such an examination forms the nucleus of this section.

Table 3.1 lists the total number of charges, the number of different crimes, and the number of dismissals on a year to year basis. Table 3.2 follows the categorical system used by the compilers of the Prison Reports. Table 3.3 moves away from the Prison Reports approach, and lists the distribution of offences individually, primarily because there are several offences recorded which are not covered directly by the Prison Reports system. All tables are compiled by the author.

¹Many months ago, the author was informed by the Thunder Bay Police Department that all records prior to 1925 had been "purged". The Charge Books hitherto examined were safely stored at the Thunder Bay Historical Museum.

Table 3.1

Number of Charges, Crimes, and Dismissals
Fort William 1895-1902

<u>Year</u>	<u># of Charges</u>	<u># of Crimes</u>	<u>Dismissals</u>
1895	73	16	22
1896	59	12	3
1897	163	30	42
1898	126	25	26
1899	168	25	42
1900	135	21	57
1901	211	28	39
1902	327	33	94

Source: Compiled from Fort William Charge Books, 1895-1902.

Table 3.2

Categorical Distribution of Offences

	<u>1895</u>	<u>1896</u>	<u>1897</u>	<u>1898</u>	<u>1899</u>	<u>1900</u>	<u>1901</u>	<u>1902</u>
Crimes Against Persons	9	6	16	19	22	17	24	39
Crimes Against Property	17	22	24	39	39	32	23	57
Crimes Against Public Order and Peace	35	16	90	50	69	75	66	162
Crimes Against Morals and Decency		11	12		.		81	59
Unknown (Illegible)	5	4	21	14	11	8	17	

Source: Fort William Police Court Charge Books, 1895-1902.

	1895	1896	1897	1898	1899	1900	1901	1902
Gambling			--	9	5		--	
Abusive Language					-			
Insane								

Source: Compiled from Police Court Charge Books, 1895-1902.

As Table 3.1 indicates, the total number of charges increased almost fivefold between 1895 and 1902. At the same time, the total number of different crimes doubled, indicating the creation of new offences (by the enactment of several by-laws for example) and the more rigid enforcement of old regulations. The years of greatest committals were 1901 and 1902, although the greatest rate of increase occurred between 1896 and 1897. Between 1897 and 1900, charges fluctuated, averaging 148 committals per year.

Categorically, there were increases in all types of crime, especially in 1901-02. Personal crime increased, starting in 1897, and then peaked in 1902. Property crime increased slightly between 1895-97, stabilized until 1901, and then increased greatly in 1902. Crimes Against Public Order and Peace fluctuated to the largest extent, with only sixteen committals in 1896, then ninety in 1897, fifty in 1898, sixty-six in 1901, and finally, to one hundred and sixty-two in 1902. The most spectacular increases were in the Crime Against Public Morals and Decency. In 1898 and 1900, only four charges were laid, but in 1901-02, a total of one hundred and forty charges took place.

Within the broader categories (as was indicated in the last chapter), increases in specific offences accounted largely for the total increases. Virtually all of the Personal crime increases stemmed

from a rise in assault committals, and even during years of minor increases or decline, assault charges constituted the overwhelming majority of committals (see Table 2.5). Increments in Property crime were largely due to increases in larceny committals, although house-breaking, destroying property, and trespassing also contributed to increases in 1899 and 1902, and to a lesser extent in other years. Public Order crimes fluctuated primarily in response to fluctuations in drunk and disorderly committals, which constituted the largest single offence in every year except 1901, and for the most part were responsible for most of the increases in total committals. To a lesser extent, vagrancy, disturbing the peace, and threatening bodily harm contributed to Public Order violations, as did liquor-law offenders and violators of municipal by-laws.

Virtually all of the increases in Morality charges were prostitution oriented, and virtually all of the charges themselves involved houses of ill-fame. All of the eighty-one committals in 1901 involved "keepers", "frequenters", and "inmates", and in 1902, only one charge (indecent exposure) did not involve prostitution. In short, the largest increases, and those which account for the increments in total offences were liquor and sex-related offences, followed by larceny, assault, and violations of by-laws. A number of important points are raised here. First, with the arguable exceptions of assault and theft, the increases in these other offences do not reflect large increases in actual crime, but rather in the enforcement of law. Crime statistics, as Gurr has argued, are more indicators than precise measures.² These

²Gurr, et.al., 'The Politics of Crime and Conflict,' op.cit., p.16.

"statistics on reported crimes and arrests in most contemporary societies are, in effect, the reports of the social and political system to itself about the seriousness of self-defined problems of public order."³ As Clayton Hartjen puts it, crime statistics are measures of "police productivity"⁴ As already mentioned, the largest increase in offences in any year were the prostitution charges between 1900 and 1901. The implication here is that prostitution itself was not increasing, but rather that raids on houses of ill-repute were increasing. Similarly, increases in by-law charges after 1899 were obviously due to enforcement crackdowns. Between 1899 and 1902, thirty people were charged with riding a bicycle on the street. Had no charges been laid, (since every single one was dropped, they might as well have been), the total number of charges would be thirty less. My point is simply that a large percentage of the increase in total charges is due to a greater degree of police enforcement.

But not all charges were measures of police productivity. Between 1895 and 1902, roughly twenty percent of all the cases listed in the Court Records were citizen-initiated.⁵ By citizen-initiated, I mean they were charges and allegations of one citizen against another, allegations of a "Smith vs. Jones" type. In 1895, there were sixteen such disputes; nine in 1896; twenty-nine in 1898; then fifty in 1899; thirty-

³Ibid., p. 20.

⁴Clayton Hartjen, Crime and Criminalization, (New York: Praeger Publishers, Inc., 1974), p. 168.

⁵Not including C.P.R. charges as the railroad maintained its own law enforcement officer.

five in each of the following two years; and seventy-five in 1902.⁶

By weight of sheer numbers, the increase in this category was a significant factor in accounting for some of the increase in total charges.

Among these citizen-initiated charges, clearly sixty-two percent (169/270) dealt with Personal and Property crime accusations. Assault accusations constituted the largest number (99), followed by theft (70). Disputes over non-payment of wages were third (17) and "animals at large" --the failure to keep one's livestock out of someone else's yard--~~was~~ fourth (15). The remainder of the charges dealt with abusive language, trespassing, harassment, and fraud.

The significance of these citizen vs. citizen disputes goes beyond explaining increases in alleged crimes in Fort William. To some extent, they demonstrate that local inhabitants sought redress for their suffering within established institutional frameworks, rather than by extra-institutional means. This is not universally the case, however. There are several instances where the accused becomes the accuser, and vice versa. T. Edwards charges W. Grew with assault, loses the case, and then seeks vengeance on his own. Two days later, W. Grew charges T. Edwards with assault, and the latter is fined ten dollars. For the most part, however, courts of law were theatres where these disputes were acted out, and this, in turn, is a reflection of the institutionalization of the social milieu as a whole.

At the same time, citizen accusations reveal a social environment in conflict. Some of the grievances were economic--but not in the Willem Bonger sense that criminal behaviour is a manifestation of an

⁶Calculated from the Charges Books.

exploitive economic and hence social environment.⁷ They were simply wage disputes, or obtaining money by false pretenses. The grievances could be as simple as charging one's neighbour for "allowing" their cows to run across his property, (as John Hendrickson so alleged on six occasions). But most of the grievances dealt with criminal charges. A little over two-thirds of the assault cases were between men, and the remainder between men and women, or women and women. About forty percent of the assault charges involved individuals who were previously charged with the same offence or another offence, sometimes involving police authorities and sometimes involving other citizens. Mrs. Esther Young, for example, appears in the Charge Books on five occasions--twice charged with assault (citizen), once for vagrancy (police), and twice for drunk and disorderly (police). Frank Lombard was charged with assault (citizen) on three occasions within a period of twelve days. Interestingly enough, the first two times he was fined one and five dollars respectively. The third time he was fined one hundred dollars (the largest sum over the entire period for an assault conviction), and given one year in the Central Prison in addition.

The correlation between a "social environment in conflict" and these citizen-initiated charges perhaps needs some re-qualification. In the first place, we are not dealing with the entire social body. On the whole, about one-quarter of all the civilian allegations involved individuals who appeared as accusers/accusees more than once. Second, a large number of accusations were dismissed. Exactly fifty percent of

⁷Willem Bongers, Criminality and Economic Conditions, (Bloomington: Indiana University Press, 1967), see Introduction.

the theft cases resulted in dismissals, and another ten percent resulted in either suspended sentences or out of court settlements. Two-thirds of the wage disputes resulted in dismissals or "withdrawn charges". Similar percentages are found in fraud and trespassing, harassment and "animals at large" charges. Only assault charges carried a conviction of greater than fifty-percent. No doubt these high percentages of dismissed charges are due to a lack of evidence, for the most part. But, at times, they also reflect a certain pettiness, a hypersensitivity,⁸ a blind faith in the law, and, above all, a desire to profit at another's expense. May Allen, on two separate occasions, charged different men with supplying liquor to her! Bessie Pritchard, a prostitute, charged Warren Mills with seduction, Minnie McKenzie, a "keeper" of a house of ill-fame charged J. Keeley with abusive language. There are other examples of this type of dispute. They constitute more of a reflection, within a certain segment of the social body, of a bitter and petty conflict--in a word, more consonant with conflict rather than traditional theory. And in explaining both the incidence and increment of charges at Fort William, they are not to be overlooked.

One offence whose statistical existence owes its total to citizen-initiated charges and the productivity of law enforcers was theft. Theft charges constitute twelve percent of all offences during the period. At least half⁹ of the one hundred and fifty-two theft

⁸This sort of community conflict differs greatly from the intense labour disputes and ethnic violence that occurred in Fort William in the years after 1903 down to World War I. An examination of labour and ethnic-oriented violence is found in Jean Morrison, "Community and Conflict", M.A. Thesis: Lakehead University, 1974.

⁹Some instances listed in the Charge Books indicate only the word

charges originated with private citizens with the remainder originating with Fort William Police Chief Alex Campbell and staff, and Carl Schafer, the C.P.R. authority in charge of security. Excluding the citizen-initiated charges, theft statistics are invariably a response to a) allegations by private citizens to the Police or b) thieves caught in the act. In the latter instances, theft rates are more the product of enforcement police officials had "tips" or more generally, where police officers were operating on assumptions about the kinds of things likely to be stolen, based on previous experience. A jewellery or clothing store with repeated break-ins would necessitate greater vigilance; in the same way the hotels were watched closely. As John Hagan and friends have put it, police officers "develop conceptions of offensible space in exaggerated correspondence to the pattern of citizen complaints. In this way, the control system becomes an inflated reflection of the input received from informed levels of social control."¹⁰

In regard to theft, almost one-quarter of all theft charges in Fort William dealt with articles of clothing, usually overcoats and blankets. Another twenty charges dealt with food and fuel thefts. Five cases of theft involved tools. In other words, forty percent of all theft charges dealt with items necessary for survival, and since a large number of cases (27) are listed merely as "theft", without specifying what the objects were, this percentage may be even higher.

Whether or not these cases were police or citizen-initiated is indeterminate.

¹⁰J. Hagan, A.R. Gillis, and J. Chan, "Explaining Official Delinquency: A Spatial Study of Class, Conflict, and Control," in Crime in Canadian Society, 2nd Edition, Robert A. Silverman and James T. Teavan, eds. (Toronto: Butterworths, 1980) p. 94.

Not all theft charges point so clearly to acts of necessity. Fifteen objects were watches, and another ten were animals or equipment related to animals such as buggies, harness, and so on. In addition, there were twenty-four cases of stolen money. Since the amount of money is rarely given, and since the intentions of the accused cannot be known, it is virtually impossible to determine how many instances of stolen money originated in acts of desperation, and how many were not. A large number of the money disputes were initiated by private citizens, and over half of these theft charges were dismissed. Again, the inability to prove one's case undoubtedly accounts for most of the theft dismissals. The most important factor is that money alone did not constitute (numerically speaking), the primary motive behind the desire to steal. As far as law enforcement spheres of offenseable space are concerned, local officials probably were not looking for bank robbers very often.

The two offenses whose rates are most responsive to increases/decreases in law enforcement, (aside from by-law violators), were prostitution and drunk and disorderly "crimes". Since prostitution was essentially a "behind closed doors" operation, committal statistics are almost entirely contingent upon intrusions or raids by law enforcement officers. During the period 1895 to 1900, only thirty-three prostitution related charges were pressed. In 1901, prostitution became a target of law enforcement officers. Over the next two years, sixty-three prostitution charges were laid, twenty-"keeper" charges, and fifty-five men happened to be there when the police struck. Incredibly enough, in both years, the greatest number of charges were made

on May 24--perhaps a little birthday present to Queen Victoria whose era was presumably ending with her death in January of 1901.

The prostitution racket existed amidst a wide spread body of common knowledge, in spite of the fact that it was an "invisible" operation. Increases in prostitution charges thus seem to reflect an attitudinal and a policy shift, a desire on behalf of authorities to crack down. Joel Best, in his study of brothel prostitution in St. Paul, Minnesota, found that

"from 1865 to 1883, St. Paul's city government adopted a defacto system for regulating prostitution within the city. Prostitution was illegal under both state law and city ordinance, but enforcement took the form of arresting each of the city's madams at monthly intervals and fining them...in effect, taxing their operation."¹¹

Similarly, James Gray argues that in Winnipeg "prostitution was something that had to be tolerated because it could not be eradicated."¹²

Under a system of "regular surveillance, the inmates were required to have a medical examination every two weeks, and to produce medical certificates when required."¹³ In Regina and in Edmonton, Gray found that prostitution was also tolerated--in the latter town, token raids occurred a couple of times per year.¹⁴ In fact, a system of co-operation that Best hints of in St. Paul, was also operational in Edmonton where "the regular operators of the brothels appear to have co-operated fully

¹¹Joel Best, "Careers in Brothel Prostitution: St. Paul, 1865-1883," in The Journal of Interdisciplinary History, XII, #4, p. 601.

¹²James H. Gray, Red Lights on the Prairies. (Toronto: MacMillan of Canada, 1971), p. 17.

¹³Ibid., p. 48.

¹⁴Ibid., p. 101.

with the police: many of them stayed in business for years without police interference."¹⁶ In Lethbridge, an adamant drive on behalf of the prostitution racket resulted in the segregation of prostitution from the main body of town.¹⁷

Many of these aspects of prostitution--tolerable as long as it was 'hidden', and tolerable because it could be taxed and otherwise regulated--was neatly summed up by a Fort William keeper who appeared before Magistrate's Court in August of 1886:

We conduct our houses as well as we possibly can. There is never a disturbance around them. They are situated a long way from the town, and no person is ever molested or insulted while passing. ...I see a report of the council meeting that our houses are considered a disgrace to the town, and should be suppressed. Why do you not suppress them, then?...All you have to do is arrest all the inmates and send them to jail or out of town, and the houses would remain closed. But, no, you know that it is not desirable to close them. You would lose the fines if that were done, and although the touch of our dress is considered a contamination, it is our money that is building the town and paying its expenses."¹⁸

That a crackdown on prostitution in Fort William commenced in Fort William in 1901 is unquestionable, and is reflected in the tremendous increase in gaol committals. In an April 1901 Report of a Special Committee to the Mayor and Council of Fort William, the following recommendation was adopted--

¹⁶Gray, op. cit., p. 108.

¹⁷This notion of segregation was perforce premised by the desire to keep prostitution invisible. In St. Paul, Best argues that police "levied heavy fines against independent prostitutes whose activities were visible to the public." Best, op. cit., p. 601.

¹⁸Fort William Weekly Herald, August 7, 1886.

that whereas it has come to the knowledge of your committee that offensive language and indecent conduct is manifested by persons...this committee recommends that W.T. Rankin be appointed special constable without salary to deal with such cases--that it is the opinion of this committee that frequenters of houses of ill-fame be arrested, fined and their names published as well as the keepers of such places."¹⁹

At the same time, the crackdown never went as far as eradication. None of the prostitution rackets were closed, and not one "keeper" or prostitute received a jail sentence. What is even more incredible is that punitive measures did not increase in severity during the period, nor did second, third or fourth time offenders receive a stiffer sentence. Annie Schibie, a "keeper" was charged on ten different occasions between June 1, 1901 and October 25, 1902.

The first time she received a thirty dollar fine (or thirty days), the fifth time she received a thirty dollar fine (or thirty days), and the tenth time she received a ten dollar fine (or thirty days). In essence, then, prostitution was not a particular target for eradication by authorities.

Within the community, however, some concern was very apparent. Part of the contemporary polemic, as Gray has argued, was that "brothels were regarded more as adjuncts to the liquor trade than as independently functioning instruments of Satan...if the liquor traffic could be abolished, all other social problems would disappear with it."²⁰ Paradoxically, Gray found that in Winnipeg, community concern over prohibition reached such great proportions that prostitution "faded somewhat into

¹⁹Fort William Daily Journal, April 17, 1901.

²⁰Gray, op. cit., p. 183.

the background."²¹

In Fort William, associations of prostitution with liquor (and other crimes) was also present, although prostitution itself was also a central target for moral purification. In the former, prostitution and liquor-related incidents had led to assault, or even stabbing.²²

In the latter, one particular women's association lamented that

if there are not enough women godly enough to rise and protest against the open sin that walks our streets in daylight, that casts a slur on the purity of womanhood, our town is almost beyond help...But there are women enough women godly enough in both towns, to undertake this work, the work of cleansing our town of the presence of the scarlet woman. The shame that has fallen upon us, one, all, is still increasing, so much so that the public is awakening to the fact that impurity is becoming so open..."²³

From another perspective, in a medical Report delivered to the Chairman and Members of the Fort William Board of Health by Dr. Birdsall in the fall of 1903 he wrote:

Since thousands of reputable and honorable citizens and numerous reputable daily newspapers in Winnipeg have recently made the prairie fairly ring with the subject of my last report viz--social evil question, an unkind ministerial association aided by Police Court suggestion...recommends the removal to the lake towns of these most unfortunate girls, who endure a life far worse than any pictured hell and who are largely the innocent victims of foully diseased and degenerate men. I still earnestly and honestly consider the subject of most vital importance to Public Health and would advise that Gonorrhoea and Syphillis be placed on the list of contagious diseases requiring isolation and proper quarantine.²⁴

²¹Ibid., p. 13.

²²Fort William Daily Journal, July 30, 1901.

²³Fort William Daily Journal, October 14, 1899.

²⁴Report to the Chairman and Members of the Local Board of Health, Fort William, Ontario, November 15, 1903.

In the final analysis, however, prostitution was not eradicated, only "taxed" more vigorously. The most plausible explanation for the increased crime rates comes from Gurr, who argues that "as public concern mounts, more crimes are likely to be reported; and as police concerns rise, so will patrolling and arrests."²⁵

The other major offence whose statistics were particularly responsive to changes in law enforcement was drunk and disorderly. Drunk and disorderly charges were the single most important offence; in terms of numbers. Between 1895 and 1902, there were 337 charges, amounting to twenty-seven percent of all charges. A good deal of the crime in total committals can be explained by examining this offence. Over fifty percent of the increase in total charges between 1901 and 1902 are due to increases in drunk and disorderly committals.²⁶ Using the 1901 Census population figures for Fort William, the community had an arrest for drunkenness/1000 people ratio of 14.1 on average between 1899 and 1902. In comparison with Spence's Royal Commission on the Liquor Traffic, Fort William is below the ratio for most Canadian cities in every year except 1902, when it surpasses the 1893 figures for the city with the largest ratio, Moncton (24.15).²⁷

Drunk and disorderly committals fluctuate from year to year over the eight year period, and no trend either upward or downward emerges.

²⁵Gurr, op. cit., p. 20.

²⁶In 1912, Bryce Stewart, lists 1,123 cases of Drunk and Incapable, and an additional 359 cases of Drunk and Disorderly, constituting 54% of the total offences for that year. Bryce Stewart, op. cit., p. 19.

²⁷F.S. Spence, The Royal Commission on the Liquor Traffic. (Toronto: Newton and Treloar, 1896), p. 69.

Since no drunk and disorderly charges were laid by citizens, these fluctuations can mainly be accounted for by varying degrees of enforcement. Unlike prostitution, drunk and disorderly was a highly visible crime. There were, no doubt, many instances where drunks wandered the streets untouched, undetected. But there were also many instances where police officials apprehended intoxicated street-wanderers. Most of the charges in the Court Records are listed as drunk and disorderly on the streets of Fort William.

The fluctuations were in part a result of contact, but more likely, a result of the police knowing where to look. The high number of recidivist offenders, as we shall soon see, is ample proof.

As with prostitution, the "liquor traffic" was also an object or target of social reform, as the tremendous momentum of the prohibition movement suggests. Many nineteenth century reformers and commentators felt that liquor was the source of all vice--Langmuir contended it produced lethargy, which, in turn, led to vice.²⁸ Gray found this attitude present on the prairies, as already mentioned. One of the strongest arguments relating liquor to crime, and hence one of the strongest condemnations of liquor was made by Spence:

1. Drunkenness excites the instinct of destructiveness and thus becomes a direct cause of violence and often of wholly unprovoked assault.
2. Inebriety clouds the perceptive faculties and thus disqualifies its victims for judging the consequences of their acts or realizing the force of dissuasive arguments.
3. Habitual intemperance weakens the influence of self-respect and eventually almost deadens the sense of shame.

²⁸Prison Reports, 4th Report, 1871, p. 18.

4. Intemperance tends to idleness, the parent of vice.
5. Intemperance is the chief cause of poverty, and thus indirectly of the crimes prompted by hunger and distress.
6. Alcohol tends to beget a disinclination to intellectual employment, and thus neutralizes a chief agency of reform.
- . Intemperance begets a hereditary disposition to idleness and vice.²⁹

In Fort William, the prohibition movement was led mostly by members of clergy, some prominent laymen like Dr. T.S.T. Smellie, and by women's groups. By 1900, there were at least seven women's organizations working either peripherally or centrally towards prohibition,³⁰ and in September of 1901, a Congress of temperance women was held in Fort William that sought to unite the varying sections into one central body with sixteen odd subgroups.³¹ The most active organization was the W.C.T.U., (Women's Christian Temperance Union), which held monthly meetings, solicited out-of-town speakers, and worked towards "educating" the common public. In March of 1901, at a general meeting, the W.C.T.U. resolution was:

Put away the traffic of strong drink and a great many of the problems that our Women's Council are trying to solve, will be done away with, ...Our W.C.T.U. at Fort William, has not only been working at home, but have been helping our missionaries in their work, for the vast number of men in the lumber woods and mining camps...We have also been helping the Dominion alliance in their work for the Dominion.³²

²⁹Spence, op.cit., p. 69-70.

³⁰Fort William Daily Journal, December 23, 1901. In Port Arthur there were five organizations working toward Prohibition including the "White Ribboners"--a group dedicated to "complete extinction" of the liquor traffic.

³¹Fort William Daily Journal, September 21, 1901.

The clergy worked towards temperance--holding special meetings after church services, working with women's groups, or even soliciting support through the sermon--the Sentinel reported in September, 1898 that "Reverend Murray preached a strong sermon on the prohibition question. He took a very decided stand in favor of temperance, and exhorted his hearers to vote 'Yes' on Plebiscite day."³³

The effectiveness of the Temperance reformers can, to some extent, be measured by the results of the Prohibition plebiscites held in September of 1898, and again in December of 1902. In the 1898 vote, Port Arthur's pro-temperance voters polled 55.5% of the vote, and in Fort William the margin was even greater--214/323, or 66.2% of the voters who exercised their ballot, favored prohibition.³⁴ Four years later, the pro-temperance voters won again in both towns, although only by polling slightly more than fifty percent in both cases.³⁵ In short, the two plebiscite votes indicate how energetic prohibition organizations were at the Lakehead--in both years, getting their supporters out to vote, and in organizing the operation from square one. One can only imagine their dismay when neither vote was translated into legislation.

In the final analysis, though, it is difficult to measure precisely the impact that temperance organizations had on the rates of

³³Thunder Bay Daily Sentinel, September 26, 1898.

³⁴Canada Sessional Papers, XIV, Fourth Session of the Eighth Parliament of the Dominion of Canada, LXXXIII, 1899 Report of the Prohibition Plebiscite, September 29, 1898, p. 7-8.

³⁵Fort William Times-Journal, December 5, 1902.

drunk and disorderly committals. One might assume a number of converts that would in effect lower the number of drinking individuals. Paradoxically, the moral platitudes of temperance societies, as Gurr would agree, would pressure authorities into greater enforcement, resulting in an increase in committals. The fluctuations in committals between 1895 and 1902 tend to support the latter explanation. In a larger sense, however, there are other, more structural variables that enter the picture. Law enforcement efficiency increases in part as a response to more police officers, and to the calibre of the men. In 1900, Fort William had two police officers,³⁶ but in 1912 there were fifteen Constables, two Sergeants, an Inspector, and a Chief.³⁷ to serve a population less than three times as large as it had been ten years earlier. In 1912, there were 1482 gaol committals in Fort William.³⁸ Increases in absolute numbers of committals, then, are a result of population increases, but also a function of a more efficient police force, with more armature (automobiles, telephones, etc.) to perform their work

It is clear that the overwhelming majority of criminals recorded in the Charge Books were adult males. According to information gleaned from the Prison Reports, sixty-five percent of them were single, and twenty-nine percent could neither read nor write. Female offenders were primarily prostitutes and keepers, although sixteen of the drunk

³⁶This increases to three late in 1902. Fort William Times-Journal, October 22, 1902.

³⁷Bryce Stewart, op. cit., p. 19.

³⁸Ibid., p. 7

and disorderly committals involved women, and others found themselves charged in citizen-initiated allegations. Among males, and in spite of the high illiteracy rates, most of the offenders' names are English ones. Since so many names recorded are illégible, and cannot be deciphered, an exact percentage is indeterminable, although among "known" names, over three-quarters of the Public Order crimes involved individuals with names like: Rabb, Gordon, Allen, Cox, Wilson, Reid, While, Buckley, Murphy, Smith, Frederickson, Collins, Ferguson, Murray, Hill, Cameron, Douglas, McDonald, Thompson, and so on.

The occupational and social background information is derived from a number of indicators. One such indicator is the nature of the crime itself. Occupations of vagrants, prostitutes, and "keepers" are relatively straight-forward. In a similar sense, so are conflicts between labourers and employers over wages, and peddlars operating without a license. A number of other crimes indicate that offenders came from the more transient grouping in the social order. This would include "frequenter", vagrants, and the twenty-odd cases involving those who "hopped" trains into Fort William.³⁹ (Recall also that forty percent of the objects of theft were items of food, clothing, and fuel, all items necessary for barest survival.)

The Prison Reports provide some key information in determining the social background of the offenders. Between 1895 and 1898, the vast

³⁹Very few of the frequenters were recidivists, and very few have been located on Voters Lists, and Directories. On June 8, 1901, the Daily-Journal reported, "With the rounding up of a few of the undesirable element of the town last week, Chief Campbell says the work in that line has only just begun...They hang around the streets and frequent the houses of ill-fame at night."

majority of persons committed to gaol in Fort William were either unskilled labourers or those who possessed NO OCCUPATION WHATSOEVER. In 1895, forty-five of eighty-three were listed as no occupation; in 1897, sixty-eight of seventy-eight had no occupation; and in 1898, thirty-eight of fifty-eight. Analysing the 'no occupation' further, it would appear that twenty percent of the entire charges between 1895 and 1898 involved individuals who did "nothing" to earn a living.

This information may be a little misleading. A closer examination of occupational background of Fort William offenders points to a somewhat different picture. Using the 1901 Fort William Voters List as a sample survey, the pattern which emerges is one of a more stratified occupational background of offenders. Two hundred and twenty names (including second and third time offenders) appearing in the Charge Books are also found in the 1901 Voters List. Not only does this indicate offenders who were residents, but also a large number of their occupations as well. Table 3.4 indicates the range and proportions of occupations of offenders who were registered voters.

Table 3.4

Occupation of Offenders Listed in the 1901

Fort William Voter's List

car inspector. 3
labourers (unskilled).	.41
engineers. 5
merchants.	.18
clerks	.11
widows 6
hotel-keepers.	.19
fishermen.	. 2
teamsters.	.18
farmers.13
conductors	2
brakeman	5

watchman.	3
foreman..	3
agents.	. 2
unknown .	.41`
housewife	4
porter. .	3
liveryman .	2

(caretaker, jeweller, baker, butcher, gentleman, doctor, blacksmith, mason, contractor, checker, elevator man, fireman, and tailor--1 each).

While the majority of offenders fall into either unskilled labourer or unknown categories, the balance indicates a greater range of occupations than the Prison Reports. That is not at all to suggest that blacksmiths, and masons, and butchers etc. do not appear in the Prison Reports. They certainly do. The central difference between the two sources is the geater range found in the Charge Books, and the curious absence of the "no occupation" group.

Another indicator of social background is found in examining the cases where punishment permitted a choice between serving time or paying a fine. Between 1895 and 1902, 631 sentences were of this nature, and 97 individuals either elected or were forced to serve a jail sentence. Excluding the prostitution charges, where virtually all the offenders paid their fines, in ninety-seven of four hundred and eighty-three remaining convictions, individuals either elected or were forced to serve time. This constitutes twenty percent. Of the ninety-seven cases where offenders opted for a gaol sentence, in seventy-one instances the fine was five dollars or under. In fact, thirty-five offenders didn't even have one dollar to pay for their fine. Conversely, the fact that the majority of fines were under five dollars, does not necessarily mean that those who paid were financially secure. In addition,

there were several instances where offenders requested time to raise the necessary funds.

A final indicator of social background is the degree of recidivism among offenders listed in the Charge Books. Of the 1272 charges listed, five hundred and fifty people appeared once, one hundred and fifty people appeared twice, forty people appeared three times, twenty-two appeared four times, twelve appeared five times, four appeared six times, one appeared seven times, and another, a prostitute and keeper named Annie Schibie, appeared fourteen times. Beyond a doubt, a healthy proportion of total offenders were recidivist offenders..

Most of the recidivist offenders were charged with drunk and disorderly, prostitution, vagrancy, and assault. Undoubtedly, police authorities possessed knowledge of local rackets, or "troublesome" drinkers, and the result was a round-up of familiar faces. Seventy-three of the one hundred and six prostitute and "keepers" charges involved names that appeared more than once, which is the highest percentage of recidivism for any one offence. Besides Annie Schibie (already mentioned), Rubie Paradise was charged four times, Maggie Dillon four times, Lillian Delaney three times, Grace Seymour three times, and so on.

Among drunk and disorderly committals, sixty-nine of the two hundred and ninety-seven known names are ones that appear more than once. There are thirty people whose name appears twice, and three appear "on the books" three times for drunk and disorderly. The remainder, two hundred and twenty-eight names appear only once for drunk and disorderly, over the eight year period.

At the same time, however, this does not include offenders who appeared on other charges. For example, at least ten of the sixteen women charged with drunk and disorderly were also charged with either prostitution or "keeper" offences. Another dozen (men) charged with drunk and disorderly were in addition charged on different occasions with minor property offences, six for vagrancy, ten were charged with assault, two with threatening bodily harm, four with theft, four with giving liquor to Indians, and one with escaping gaol. Clearly, the degree of recidivism increases when one examines the same appearing for different offences.

Using the Voters List again provides yet another insight into the nature of recidivism in Fort William of the two hundred and twenty-five names that appear in the Charge Books, and also in the Voters List, ninety-nine residents appear only once, forty-two appear twice, eight appear three times, two appear four times, and two appear five times. One of the offenders who appears five times was a teamster, and one was a hotel-owner. This is also the case with the two individuals appearing four times. In sum, there were twenty residents appearing more than once who were labourers, six hotel-owners, six teamsters, five farmers, three merchants, and the rest divided among dairymen, car inspectors, engineers, a fisherman, postmaster, checker, porter and widow. By and large, among the residents who were registered voters, the highest occupational grouping of recidivists were labourers.

All of this leads to several conclusions regarding the background of offenders in Fort William. First, the majority of offenders were unskilled labourers, or to some extent, possessed no occupation,

although an examination of the Voters Lists indicates a wide range of occupations that cut across class lines. For the period prior to 1895, the Prison Reports indicate that the highest percentage of offenders were also unskilled labourers, although again a wide range of occupations is found.

Second, there is a group of offenders who cannot afford to pay their fines, but who appear only once. Most of them were undoubtedly transients without money. The fact that at least a dozen individuals who could not afford their fines were charged with "hopping" trains in Fort William, with another half-dozen being vagrants, bears this out. Moreover, forty-four percent of those who were forced to serve time did so during the summer months of June, July, August--the time of year when Thunder Bay harbour was open and active, the time when men are most definitely on the road.

Third, there was another group of offenders, mostly residents, who weren't really serious transgressors, but who failed to pay a poll tax, or worked the Lord's Day, or rode a bicycle on the streets of Fort William. There are over sixty such cases recorded in the Charge Books, most of which were either dealt with by paying the poll tax, or dropped altogether.

Fourth, there was another group of residents who registered complaints against "neighbours" for allowing their cows to run wild over their property, and who assault one another from time to time.

Finally, there was a group of regular offenders, many of whom were prostitutes, and "keepers", and unskilled labourers, most of whom were residents. This is obviously the case regarding hotel-owners charged

with liquor-violations, prostitutes, merchants, teamsters, resident labourers, and "keepers". These recidivist offenders were seldom "hardened", but rather they represent those who flew in the face of authority precisely because they seldom feared the consequences of their actions. Paradoxically, it was often the manner in which justice was administered at Fort William that nurtured such defiance.

CHAPTER FOUR: FORT WILLIAM PUNISHMENTS:

A FOCUS ON THE POLICE COURTS, 1895-1902

In the nineteenth century, as in our own, theories of punishment were mirror images of criminal behavior theories, and this is especially true in regard to crime etiology.¹ That the explanations of causes of crimes were rooted in notions about "deviance"--in idleness and indolence, intemperance, poverty, but above all, in a lack of moral education and of discipline--necessitated a cure tailored to the reformation of the criminal based on concomitant means of corrective training. If men were intemperate, teach them temperance. If men were ignorant, educate them. If men were undisciplined, teach them discipline. In short, if men were "deviant"--normalize them.

In a larger sense, however, the aims of punishment were not only bound up with the "reclamation of the vicious," but were also based upon assumptions about the social order as a whole.² In an era of rapid change and upheaval, of the breakdown and transformation of what Robert Wiebe called "island communities,"³ undisciplined criminals posed a

¹This is not to suggest that the nineteenth century debates on crime and punishment were static. Both conflict and consensus theories grew in depth and sophistication as the century wore on. See Lynn MacDonald, The Sociology of Law and Order. (Boulder: Westview Press, 1976), Chapter 3.

²See David Rothman, The Discovery of the Asylum. (Boston: Little, Brown, 1971).

³See Robert Wiebe, The Search for Order, 1877-1920. (New York: Hill and Wang, 1967).

serious threat to the disintegrating fabric of social order. Rehabilitation was necessary, or became so not only for the benefit of individual offenders, but for the society in general. Or, put another way, punishment not only aimed at rehabilitation, but at punishing.

Writers who have concentrated on the emergence of the rehabilitation paradigm, and on the "gentler way" in punishment, tend to identify the transformation with the emergence of corrective institutions. C.J. Taylor writes that the emerging attitude among reformers was that institutions "were obvious bulwarks against disorder; imparting education, obedience, religion and constraint on the individuals who made up society."⁴ Similarly, Michel Foucault, in discussing the origins of the prison, argues that

the self-evidence of the prison is also based on its role, supposed or demanded, as an apparatus for transforming individuals...The prison is like a rather disciplined barracks, a strict school, a dark workshop, but not qualitatively different.⁵

In Ontario, the institutional development of the penitentiary system gained currency with the emergence of the Kingston Penitentiary in the 1830's. Taylor argues that Kingston "was created in response to particular concerns for the more rational punishment of deviant behavior as well as a response to general concerns about disorder in society."⁶ As an edifice whose "moral" architecture was designed to maximize supervision, separate and classify types of offenders, educate and discipline,

⁴C.J. Taylor, "The Kingston Penitentiary and Moral Architecture," in Histoire Sociale, XII, #24, 1979, p. 406.

⁵Michel Foucault, Discipline and Punish: The Birth of the Prison. (New York: Vintage Books, 1977), p. 233.

⁶Taylor, op. cit., p. 385.

Kingston was essentially "much more than a system of dealing with transgressions of the law, it became a projection of the world as it should be."⁷ The Upper Canadian Penitentiary Act of 1834 supports this:

Whereas, if many offenders convicted of crime were to be ordered to solitary imprisonment, accompanied by well regulated labor and religious instructions, it might be the means under Providence, not only of deterring others from the commission of crimes, but also of reforming the individuals, and inuring them to the habits of industry.⁸

More generally, Gerald Bellamo sets the emergence of Kingston against the backdrop of attitudes in Upper Canada that called for "the expiation of crime, the deterrence of potential crime, the protection of society, and the reformation of the convict."⁹ Ideologically, though, these attitudes, according to Rainer Baehre, drew heavily upon reforms in English criminal law "but more importantly in the 'discovery' of the penitentiary system in the United States."¹⁰ In any event, the Kingston "experiment"¹¹ marked the dawn of a new phase in the handling of convicts in Canada; a phase that was consistent with accepted paradigms in other nations, and one that was premised upon ideas concerning the protection of society and the reformation of the criminal.

The extent to which Kingston was a failure has been commented

⁷Ibid., p. 407.

⁸Quoted in R. Baehre, "The Origins of the Penitentiary System in Upper Canada", in Ontario History, LXIX, 1977. p. 194.

⁹Ibid., p. 190.

¹⁰Ibid., p. 207.

¹¹J.M. Beattie, Attitudes Towards Crime and Punishment in Upper Canada, 1830-1850. (Toronto: University of Toronto Press, 1977), p. 35.

upon by Baehre, Beattie and others, and the issue need not be re-examined here.¹² It is clear that the shortcomings of the Dominion Penitentiary system were not confined to Kingston; but that they applied to other penal institutions--the Central Prison in Toronto, and to a much greater extent, the common gaols. Nineteenth century commentators argued, particularly in the cases of provincial institutions, that on the practical level, the institutions were not fulfilling their aim, not implementing the programmes and techniques necessary for "moral reformation". Inspector of Prisons John Langmuir isolated a number of defects--the indiscriminate lumping of prisoners without any system of classification, the failure to enforce hard labour, and (against the courts)--the prevailing short period sentence.¹³ In 1892, Inspector T.F. Chamberlain echoed similar sentiments--particularly in regard to the necessity of enforced labour:

It is important that prisoners committed to the common gaols should be provided with some form of employment which will have a tendency to improve their condition both physically and mentally...the prisoners old and young in crime, are allowed to idle away their time in the corridors and the day-rooms, from day to day and month to month, thus giving the older and more hardened criminals full opportunity to teach the younger ones all the varied devices for committing crime.¹⁴

Defects in the prison system, among various classes of penal institutions produced failures not only in attempts to expiate crime,

¹²See Beattie, op. cit., p. 35; and Donald Wetherell, "To Discipline and Train: Adult Rehabilitation Programmes in Ontario Prisons, 1874-1900, in Historie Sociale, XII, #23, 1979. p. 165.

¹³Prison Reports, 6th Report, 1872-73, p. 74; 1st Report, 1868, p. 2.

¹⁴Prison Reports, 25th Report, 1892, p. 4.

but led, it was argued, to a more serious problem--recidivism. In 1876, Langmuir wrote of the "incorrigibles":

Only the severest prison discipline, accompanied with continuous hard labour, while they are in custody can affect their incorrigible nature and deter them from criminal courses.¹⁵

The year of this comment is significant--nearly thirty percent of the 1876 common gaol committals involved recidivists.¹⁶ Baehre has estimated that earlier, in 1841, nearly one-quarter of Kingston's prison population "had been recommitted at least once."¹⁷ In 1900, a Central Prison report arrived at the same percentage for that year.¹⁸ Such conclusions agree with the largest number of recidivists appearing before Magistrate's Court in Fort William around the turn of the century. In short, recidivism was an on-going, seriously perceived problem. As Baehre has put it, recidivism was the visible manifestation that the system was failing.¹⁹

Defects in the administration and regulation of prisons at Port Arthur and Fort William were similar to ones found in larger, more central institutions, but, at the same time, were scarcely as significant. In the first place, both Lakehead communities maintained only common gaols, whose inmates were by and large, minor offenders. True: hard

¹⁵Prison Reports, 9th Report, 1876, p. 67.

¹⁶Ibid., p. 67.

¹⁷Baehre, op.cit., p. 200.

¹⁸Ibid., p. 200.

¹⁹Ibid., p. 200.

labor may not have been enforced, and classification according to age, sex, nature of crime, and previous convictions may not have been implemented, but the "moral reformation" required above all, time. Over eighty percent of the gaol sentences at the Lakehead between 1873 and 1903 were under sixty days, the vast majority being under thirty days.²⁰ During the same period, only forty-two sentences resulted in criminals being sent to Kingston, and seventy-four to the Central Prison.²¹ As far as serious offenders were concerned, then, any attempts at rehabilitation were done outside the communities, far away to the south-east. If any attempts to rehabilitate, to deal with recidivists were implemented at Port Arthur and Fort William, they would invariable involve offenders of less serious crimes.

At the same time, the shortcomings of the gaol systems in Ontario or in Port Arthur and Fort William represent only one spoke in the wheel of punishment, so to speak. Punishments themselves reveal a great deal about attitudes towards criminals, towards recidivists, and also indicate by means of comparison, the relative seriousness of specific offences.

One crime that no doubt stands in a class unto itself, and therefore beyond comparison, however, was murder. As discussed earlier, there were thirteen murder charges laid during the entire period, as well as five manslaughter charges in 1903. Unlike other infrequent offences, murder crimes almost invariably produced a wave of public concern--trials

²⁰Calculated from the Prison Reports, 1873-1903.

²¹Calculated from the Prison Reports, 1873-1903.

were always packed with spectators, the sensation of the event a household topic.²² Undoubtedly much of the public concern stemmed from the fact that before the hanging of Oliver Prevost on March 17, 1899, there had never been a murder conviction at Port Arthur. The situation was aptly summed up by one newspaper man who wrote:

A good many of Port Arthur's citizens are complaining that they are sadly in need of a hanging...The culprits have been captured and imprisoned and tried and acquitted. Keen-witted lawyers have been responsible for this to a great extent.²³

The extent to which keen-witted lawyers were responsible for the shortcomings of justice is almost impossible to determine for most cases, but the large proportion of acquittals is apparently obvious-- Mrs. Carruther, of Rat Portage, acquitted for the murder of her husband, and William Rowe, acquitted for the murder of his brother-in-law, in 1892 and 1893, respectively.²⁴ Earlier, in December of 1885, William Cameron was arrested for the murder of William Freeman, and was subsequently dismissed when the Coroner's Inquest concluded that "William Freeman came to his death from the effects of injuries received by falling in a state of intoxication."²⁵

There was one, and possibly two other murder cases that never went to trial, although in both instances were probably due to police force inefficiency. On August 18, 1886, a man named Nelson Kinvin was

²²Thunder Bay Daily Sentinel, July 20, 1898.

²³Fort William Daily Journal, July 28, 1898.

²⁴Fort William Daily Journal, March 17, 1899.

²⁵Thunder Bay Daily Sentinel, December 20, 1885.

shot in the head at Loon Lake, about twenty-eight miles east of Port Arthur. Police officials recovered the body on the following day, but never managed to arrest the purported assassin.²⁶ In the other case, in June of 1884, an eighteen year old man named James Troy was arrested for the murder of John Hickey, but then escaped, and although he was allegedly recaptured, his fate remains unknown.²⁷

The most bizarre murder trial at Port Arthur was the first one, in December of 1882. In somewhat hazy circumstances, a seventeen year-old girl named Lizzie Washington shot and killed William Winfield at her grandmother's bordello--allegedly following a row instigated by the young girl having "let the deceased's dog leave" the premises with someone else.²⁸ Witnesses claimed that the "deceased abused Lizzie about letting the dog go", and shortly afterward, the girl shot him twice.²⁹ Then, incredibly, at her trial in June of 1883, Washington argued that she "ought not be compelled to answer to the said indictment because the place called Prince Arthur's Landing...is situated outside the Province of Ontario and outside the said jurisdiction of any courts of the Province, but is within the jurisdiction of the courts of the Province of Quebec."³⁰ This line of reasoning ultimately failed and Washington

²⁶Thunder Bay Daily Sentinel, August 18, 1886.

²⁷Thunder Bay Daily Sentinel, June 27, 1884.

²⁸Fort William Weekly Herald, December 20, 1882.

²⁹Fort William Weekly Herald, December 20, 1882.

³⁰Quoted in M.E. Arthur, Thunder Bay District, 1821-1872. (Toronto: University of Toronto Press, 1973), p. 29.

was sentenced by Judge McCrae of Sault Ste. Marie to five years at Kingston for manslaughter.³¹

There were other cases where individuals arrested for murder were found guilty, but guilty of manslaughter. Two of the Moses brothers, Joseph and Louis, were given ten year sentences at Kingston for the murder of three French traders at Pic River in 1898. In the Stephan Rebbuk case, three men were originally committed to trial for murder, after an inquest jury had returned that verdict.³² However, two of the accused, Jacob Tietor and Mikola Präsachak were eventually found guilty of manslaughter on June 16, 1903, and a third, Mikola Petrecevitx was found guilty of "inciting to do grievous harm."³³ The two men convicted of manslaughter were given ten years, and the third, Petrecevitz, received seven years.³⁴

On the whole, then, the majority of murder trials resulted in acquittals, although there were several instances where the guilty offenders received manslaughter sentences. Perhaps these "sentence reductions" were due to "keen-witted lawyers", although other factors such as "extenuating circumstances", or the length of trials (ie. Prevost and both Moses brothers were tried in less than two days), may have had some bearing on the outcome. In any event, the Rebbuk and Moses brothers

³¹ Ibid., p. 31.

³² Fort William Times-Journal, December 2, 1902.

³³ Fort William Times-Journal, June 16, 1903.

³⁴ Fort William Times-Journal, June 20, 1903.

cases both indicate that some degree of leniency was apparent in the courtroom.

The remainder of this section will again focus on the Fort William Police Court proceedings between 1895 and 1902, and attempt to answer the following questions: Was there a uniform application of punishment for offenders committing exactly the same offence? Did more frequent offenders receive harsher treatment the second, third, or fourth time around? In other words, was there some theory of rehabilitation at work? Third, was there a class division (measured in terms of occupation) in the application of punitive measures? Did merchants receive the same punishment as labourers for the same offence? Fourth, what crimes, if any, were considered more detrimental to the preservation of the social order than others? For what offences were punishments more severe than others?

From the outset, it should be noted that none of the punishments handed down in the Fort William Police Court were the result of jury trials. In a dozen or so instances, offenders were transferred to the Port Arthur gaol, and committed for trial. Juries were used in Fort William, in a few instances such as the Stephan Rebbuk murder inquest, to determine what specific offence(s) the accused would be charged with. By and large, however, the Fort William Police Court was a lower court, dealing with non-indictable offences, and offenders typically found themselves facing Magistrate Allan McDougall the day following their arrest. The frequency of Police Court sessions between 1895 and 1902, then, indicates precisely how often the court was in sessions. The results are listed in Table 4.1.

Table 4.1

Frequency of Court Sessions by Month and Year,

1895-1902

	1895	1896	1897	1898	1899	1900	1901	1902
January	--	4	3	23	2	16	11	3
February	2	6	1	6	3	7	8	10
March	5	4	19	6	8	8	12	27
April	12	11	19	4	9	22	14	12
May	12	2	5	15	3	9	19	48
June	4	7	12	20	11	12	29	35
July	2	8	20	8	12	14	42	24
August	7	5	16	9	10	28	11	30
September	6	2	11	21	42	7	10	46
October	8	4	30	8	25	5	28	58
November	6	3	19	7	25	3	16	38
December	7	1	10	2	27	3	16	3

Note: Measured by number of charges and not number of court dates.

One consideration in the analysis of distribution of punishments is the Fort William gaol itself. Until 1899, the Fort William Lock-up had eleven cells. In 1900, an additional cell was added. (The Port Arthur gaol had twenty-two cells between 1895-1902.) At no point between 1895 and 1902 did the Fort William lock-up have fewer than two prisoners as its lowest number at any one time. The highest number of prisoners incarcerated at any one time was eighteen, in 1900. While it is difficult to determine how the number of prisoners incarcerated may have affected the actual punishment that offenders received, one observation comes to the fore: in the nineteen instances where seven or more offenders appeared in court on the same day (and usually for the same

offence), not one person was given a gaol sentence. There wasn't enough room.

The degree to which the costs of maintaining prisoners may have affected the nature of punishment is also difficult to determine. Throughout the period 1895-1902, the average cost to feed one prisoner for one day in Fort William was about 13¢.³⁵ (In Port Arthur, it was about ten or eleven cents.) Total expenditures in Fort William in this period averaged about \$1350.00 per year.³⁶ Although the total average cost of maintaining one prisoner for one day in Fort William is not given in the Prison Reports, in Port Arthur it was about \$25 between 1895 and 1902.³⁷ In Fort William, this expenditure was probably less: prisoners in Fort William were typically incarcerated for significantly shorter periods of time, and the Fort William gaol and longer periods of "inactivity" than in Port Arthur. Accordingly, some overhead costs (size of staff, surgeon's fees, etc.) were undoubtedly less. Whether or not local authorities were concerned with expenditures is conjectural: the cost of maintaining common gaols was split with the provincial government, and during the period 1880-1900, the provincial government spent a yearly average of roughly \$140,000.00 for all gaols.³⁸ At the provincial level, Inspector T.F. Chamberlain did voice some concern over unnecessary gaol expenditures, particularly in regard to vagrants:

³⁵ Calculated from the Prison Reports, 1895-1902.

³⁶ Calculated from the Prison Reports, 1895-1902.

³⁷ Calculated from the Prison Reports, 1895-1902.

³⁸ Calculated from the Prison Reports, 1880-1900.

The greatest difficulty one which interferes with the proper management of our gaols so far as their legitimate use is concerned...is the growing disposition to convert them into poor-houses and hospitals and receptacles for a class of demented individuals whose friends or protectors wish to be no longer disturbed by them in their homes.³⁹

The evidence dealing with attitudes on gaol expenditures among Fort William authorities is scanty and inconclusive: in July of 1899 the matter of what to do with tramps was brought before the Fort William Town Council, but no resolution resulted.⁴⁰ In short, the number of prisoners already in gaol at any point of court proceedings undoubtedly had some bearing on the type of punishment inflicted, although expenditure concerns are more difficult to ascertain.

On the other hand, court costs were in part subsidized by offenders. In the majority of cases, the accused was obliged to pay one or two dollars "costs" in addition to the fine. (The most common levy was \$1.50.) About five percent of all cases were dismissed without costs, an equal percentage were dismissed with costs.⁴¹ There were very few instances where offenders found guilty escaped the additional levy.

One might expect to find another significant variable in this prelude to Police Court punishment analysis--the magistrates themselves. But between 1895 and 1902, Allan McDougall was the only Police Court magistrate in Fort William.⁴² Had there been two or more magistrates,

³⁹Prison Reports, 24th Reports, 1891, p. 4.

⁴⁰Fort William Daily Journal, July 19, 1899. Fines, in addition, helped defer expenditures. In 1902, for example, \$1829.10 in fines were collected at Fort William. Fort William Daily Journal, December, 18, 1902.

⁴¹Calculated from the Prison Reports, 1895-1902.

⁴²His tenure as Police Magistrate began in 1893 and terminated in 1905.

the nature of punishments may well have differed according to the bias and whims of each magistrate. In effect, then McDougall represents a "constant" in the overall analysis.

McDougall was born in Gartsherrie, Scotland in March of 1855,⁴³ the son of a moulder who emigrated to Grey County, Ontario in 1859. McDougall was originally a harness maker by trade, and he operated his own business in Markdale until 1884, when he moved to Fort William to become a "general merchandiser."⁴⁴ As a magistrate, McDougall was generally well-respected--a family man and a community man who also served as a town councilman, a school trustee for eighteen years, and School Board Chairman for fourteen years.⁴⁵ One writer for the local press described him as "the fountain of advice for all the perplexing problems of everyday life."⁴⁶ The extent to which McDougall was the benevolent paternalist as some of his contemporaries perceived him is a bit difficult to ascertain--the penalties he dealt out do not necessarily confirm the image, but neither do they deny it. The results of the Court Appearances are listed as follows, in Table 4.2.

Table 4.2

Punishments and Dismissals, Fort William 1895-1902

<u>Year</u>	<u>Fine</u>	<u>Fine/Imp.</u>	<u>Imp.</u>	<u>Dism.</u>	<u>Wth.</u>	<u>Out of C.</u>	<u>S.S.</u>	<u>Unk.</u>
1895	34	5	6	20	1	4	--	--
1896	34	4	10	4			2	3

⁴³Alexander Fraser, A History of Ontario, Vol. II. (Toronto: Canadian History Co., 1907), p. 788-89.

⁴⁴Ibid., p. 788-89.

⁴⁵Ibid., p. 788-89.

⁴⁶Fort William Daily Journal, November 2, 1901.

Year	Fine	Fine/Imp.	Imp.	Dism.	Wth.	Out of C.	S.S.	Unk.
1897	26	83	7	37	5	4	2	
1898	25	54	10	26	4	--	2	
1899	6	94	12	58	3	1	4	
1900	3	57	11	42	12	2	6	
1901	10	134	2	43	8	1	4	--
1902	31	200	9	68	9	5	2	10

Key: Fine=Fine; Fine/Imp. is a choice between Fine or Imprisonment; Imp=Imprisonment; Dism.=Dismissal; Wth.=Withdrawn; Out of C.= Out of Court of Settlement; S.S.=Suspended Sentence; Unk., Other= Unknown (Illegible).

Source: Fort William Police Court Charge Books, 1895-1902.

Over half of the known punishments were in the form of fines or imprisonment choices. In 1895 and 1896, "fines only" were the most common form of punishment. But beginning in 1897, there was a gradual shift towards the "choice" form. Those who received gaol sentences only undoubtedly did so because of the nature of their crime. By far, the largest percentage of gaol sentences were issued to those convicted of theft. In fact, of the twenty-eight theft convictions leading directly to imprisonment, exactly one-half of the offenders were sentenced to either Kingston Penitentiary or the Central Prison.⁴⁷ (Seven were sentenced for clothing theft, five for money, and two for a gold watch and chain).⁴⁸ Eleven vagrants received "imprisonment only" punishment (all local), and another ten were gaoled for drunk and disorderly conduct. Six of the latter were second or third time offenders. The remainder

⁴⁷Calculated from the Charge Books, 1895-1902.

⁴⁸Ibid., n.p. Unless otherwise indicated, all calculations that follow are based on Charge Book data.

of punishments resulting in gaol sentences were for willful damage, trespassing, break and entry, or "liquor to Indians" offences.

Among cases that were either withdrawn or settled out of court, a couple of interesting observations appear. Thirty-six of the forty-two withdrawn charges had been initiated by citizens, and only six by authorities. Twenty-one of the thirty-six charges initiated by citizens, were assault charges. The remainder dealt with money disputes (wages), "cows at large", theft, cruelty to animals, and abusive language. Among the six charges initiated by authorities, three were by-law violations, one dealt with theft and one with assault, and the other was against Dr. Smellie for "failing to report a case of measles". Most out of court settlements were also citizen-initiated disputes; dealing with wage disputes, theft, fraud, and a couple of marital disputes.

Charges resulting in suspended sentences, on the other hand, were initiated by authorities for the most part, including three laid by the C.P.R. Constable Carl Schafer. Eight police-initiated charges dealt with theft, and interestingly enough, four of them involved theft of money. Only one drunk and disorderly charge resulted in a suspension-- a four time offender named Joseph Perron. He received the suspended sentence on the third time around. About one quarter of the cases resulting in suspended sentences were citizen-initiated. Theft and assault accounted for all of them.

One quarter of all charges were dismissed. Two-thirds of the dismissed cases were originally police charges, and one third were citizen-initiated. In the instances where charges were laid by police officials, ninety cases resulting in dismissals were drunk and disorderly offences.

The next largest category of police-initiated cases ending in dismissals were by-law violations. Poll-tax evasion, peddling without a license, and "riding a bicycle on the streets of Fort William" account for an additional twenty percent of all dismissals. It should be noted that in the cases of poll taxes, dog taxes, and "cartin' without a license", the majority of charges were dismissed providing that the offenders paid the requisite levy. The balance of dismissal cases in this category dealt with theft (12), vagrancy (3), trespassing (7), willful damage (4), liquor violations (7), break and entry (2), fraud (5), assault (5), and assorted offences with one dismissal each.

Among dismissed charges that were citizen-initiated, almost fifty percent were theft. The reason for this large number of theft dismissals undoubtedly lies in the assumptions of justice--"innocent until proven guilty", the burden of proof lying with the accuser. Unless the accused was apprehended with the stolen property, or, unless he or she pleaded guilty, the prevailing situation of "my word against yours" would perforce result in a large number of dismissals. Which is precisely what happened.

Most of the other dismissals in this category probably resulted from the same process. There were several wage disputes, cases dealing with willful damage, break and entry, rape, slander and assault that were subsequently dismissed. With assault, one might expect that the proof was in the pudding--cuts, scrapes, bruises. Then again, disputes could arise over the causes of the incident. In fact, there were instances where the accused became the accuser, and vice versa. Under those circumstances, Magistrate McDougall would no doubt toss both parties out,

which is precisely what happened in two of the four instances.

Roughly one-fifth of all cases ending in dismissals involved individuals who were recidivists. The case of Joseph Perron has already been mentioned. Other recidivist offenders, such as Joseph King or Duncan MacDonald, also found charges against them dismissed, indicating that previous conduct had little bearing on the current charges facing offenders. At the same time, one must wonder whether or not McDougall recognized certain offenders as recidivist offenders.

The case involving Frank Lombard, an individual who received one year in the Central Prison plus a hundred dollar fine for his third time assault conviction, adds plausibility to this notion. But, if McDougall maintained a policy in regard to recidivists, was it a consistent policy? This question shall be explored later.

The range of punitive measures undertaken by Police Court Magistrate McDougall varied according to the offence. More serious offenders were sometimes treated in a more uniform manner (ie. there were fewer specific punishment alternatives for a murderer than for a drunk). But within the scope of each offence, there was also a significant range of punishments handed down in Fort William. For ten offences in the Magistrate's Court, an examination of the range and nature of punishment follows.

i) Vagrancy

Individuals found guilty of vagrancy faced an extremely elastic set of punitive alternatives. Eleven vagrants received imprisonment only sentences ranging from fifteen days to six imprisonment only sen-

tences ranging from fifteen days to six months. In fact, four vagrants received six month sentences, five less than one month, and two in between. Two vagrants were fined five and ten dollars respectively. Another eighteen vagrants received fines or imprisonment. What is so incredible regarding this last form of punishment, is the tremendous range in fines/imprisonment alternatives. Five vagrants, on the one hand, were given five dollars or under/thirty days or under punishments. At the other end, three received fifty dollars or six months. The fines alone were ten times greater! In the middle, three vagrancy offenders received fifteen dollars or thirty days, one received twenty-five dollars or six months, another forty-five dollars or five months, and two more, ten dollars or four months. In the instances where vagrancy offenders had previous charges brought against them, one received a one month sentence, another a five dollar fine, and still another, Rubie Paradise, a prostitute appearing before McDougall several times previously on that charge received a choice between ten dollars or thirty days. The only case involving an individual who had faced a previous vagrancy charge was Pat McPharlan. On August 30, 1901, McPharlan was given twenty days for vagrancy. Almost exactly one year later, on September 4, 1902, McPharlan was given six months--the maximum vagrancy penalty imposed. Finally, Maggie Dillon, similar to Rubie Paradise--a prostitute, and who only one week previous to her vagrancy charge, had been apprehended for prostitution, was given the forty-five dollar or five month alternative.

ii) Gambling

Unlike vagrants, gamblers received almost equal punishment. All fourteen gambling charges resulted in convictions, and all received the

fine or imprisonment alternative. Most gamblers received the same twenty dollar or sixty day choice. Two were given thirty days or sixty days, one penalty was set at ten dollars or thirty days, and one at fifty dollars or sixty days. Interestingly enough, these two "extremes" were handed out on the same day--one to Thomas McCraynor, and one to his brother. Among those receiving the same penalty (twenty dollars or sixty days), a total of ten individuals received them on the same day(s).

iii) Prostitution

Prostitution is another offence where the punishment was by and large a fine or imprisonment choice. Only four prostitutes received a "fine only", all in 1895. Prostitution penalties ranged primarily in degree, and not in the form or nature of punishment. The minimum penalty was a one dollar fine or thirty days, and the most severe was either thirty dollars or sixty days, or, twenty dollars or four months.

Prostitution round-ups tended to produce situations where several prostitutes would appear before McDougall at the same time, perhaps even as a group. Consequently, one finds similar penalties handed out for offenders appearing on that day. For example, Annie Schibie, Maggie Wilson, Ethel Camp, Maggie Smith, Mary Doyle, and Mary Bywater, all appeared on March 20, 1901, and all received a ten dollar or thirty days penalty. Similarly, on October 25, 1902, Emma Paterson, Mary Doyle, and Maggie Wilson faced a lighter penalty--five dollars or thirty days. In short, within the framework of a certain type of punishment, prostitution penalties seldom differed among offenders appearing on the same day,

although some range is found among penalties involving groups on different occasions. The most common penalty was ten dollars or thirty days.

Prostitution was an offence where the factor of recidivism had little bearing on the penalty. Rubie Paradise received a less severe punishment on the fifth instance of her appearance before McDougall than on her first. The same is true for Annie Bywater on her fourth appearance, and Clara Golden on her third. In 1901, Annie Schibie was given twenty-five dollars or sixty days, and in October of 1902, was penalized ten dollars or thirty days. The determining factor in the assessment of prostitution penalties, then, was not a rigid application of punishments buttressed by any theory of rehabilitation AND NO PROSTITUTES WERE IMPRISONED, OR ORDERED OUT OF TOWN. Rather, the process at work was somewhat analogous to what Best found in Minneapolis, and Gray on the prairies:⁴⁹ prostitutes were rounded-up, led into court, and typically received the same penalty. The next time around, a similar procedure occurred, only with a slight modification in the severity of the punishment.

iv) Frequenters of Houses of Ill-fame

The treatment of frequenters of Houses of Ill-fame is interesting in that many of the "punishment variables" I have discussed, are found in this case. There were sixty-four convictions between 1897 and 1902, and accordingly, a wide range in the degree of punishment, although

⁴⁹ see Chapter Three, p. 61-63.

the type of punishment was almost always the fine or imprisonment alternative. Second, there were several instances where offenders appearing on the same day received a similar penalty. For example, on May 24, 1901, William Ard, James Jones, James Johnston, Jack Williams, and William Woods, all received a five dollar or thirty days penalty. Third, the few cases involving recidivist offenders did not result in more severe punishment the second or third time around. Concomitantly, there was a certain arbitrariness in the decision-making process that resulted in a wide range of penalties. Twenty-four cases ended with a five dollar or thirty days penalty. Fourteen offenders received between eleven and twenty dollars or zero to thirty days. Another ten offenders were given a five dollar fine only. Four more were given a choice between ten dollars or thirty days. In addition, seven offenders found themselves facing twenty to forty dollars or one to six months in gaol. The most severe punishments involved John and James Hassen, and Dan McFadan. Both Hassens were given fifty dollars or five months, and McFadan received forty dollars or six months. Unlike most other categories with a large number of offenders, "frequenters" invariably faced a minimum penalty of five dollars (rather than one to five dollars). In a strict monetary sense, this suggests that "frequenting" was considered a more serious threat to the fabric or social order. As one editor of the Daily-Journal put it, "...the frequenters are the one who should be vigorously prosecuted...And for why? In the interests of society."⁵⁰

⁵⁰Fort William Daily-Journal, October 26, 1899.

vii) Drunk and Disorderly

Nowhere is the range of punishments more diversified than for this offence. Arbitrarily, I have isolated fifteen different penalty ranges and forms of penalties. They are listed in Table 4.3.

Table 4.3

Range and Forms of Punishment in Fort William
1895-1902

<u>Range and Form</u>	<u># of Convictions</u>
\$5 and under or 0-30 days	187
\$6-10 or 0-30 days	9
\$11-20 or over 30 days	1
\$5 and under or over 30 days	3
\$6-10 or over 30 days	5
\$11-20 or over 2 months	3
\$5 or under	19
\$6-10	3
\$11-20	0
\$21-30	1
0-30 days	4
31-60 days	0
61-90 days	1
more than 90 days	1
\$25-50 or 3-6 months	1
\$5 and thirty days	<u>1</u>
TOTAL	239

Calculated from Fort William Police Court Records.

Over two-thirds of the drunk and disorderly convictions led to penalties of five dollars and under or up to thirty days. Yet, this in itself is even a broad category, arbitrarily chosen, and it obscures myriad variations of penalties within the grouping. Not including variations in court costs, there were at least thirty-two differing penalties within this broader grouping. Some of them are listed as follows: one dollar or five days; one dollar or ten days; two dollars or five days; two dollars or ten days, and so on. Imagine the permutations when one

includes a set of court costs ranging from fifty cents to four dollars.

The remaining one-third of drunk and disorderly convictions produced penalties of an equally wide range, and of a diverging nature. Fourteen of the nineteen "fines only" penalties, occurred in the earlier years of 1895-96. Three of the four "imprisonment only" penalties occurred during these years. Overall, the smallest penalty for a drunk and disorderly charge was a one dollar fine, and the most severe was a forty dollar or five month choice.

There seems to be no consistent correlation between severity of punishment and recidivist offenders. Many of the offenders apprehended for drunk and disorderly conduct more than once, did not receive significantly greater penalties the second or third time around, nor did those apprehended for other offences. Many, in fact, had their cases dismissed during later appearances. Duncan MacDonald, and George Edwards are examples of this pattern. Frank Anderson, Paul Bouche, and Jerry Carroll are excellent examples of recidivist offenders receiving only marginally altered penalties. Carroll was apprehended three times within four months-- the first time he was given a two dollar fine, the second time two dollars or thirty days, and the third time, one dollar or ten days. Paul Bouche was charged twice within twenty-one days and received the same penalty on both occasions. Frank Anderson received one dollar or ten days on his first appearance, and one dollar or five days on his second. Pat Purcell, a four time offender, (three arrests for drunkenness and one for assault), received minor penalties on the first, second, and fourth charge, but, on his third appearance, for drunkenness, was given thirty days in gaol.

At the same time, this does not preclude the possibility of other correlations with the severity of penalties. Although only a dozen or so women were convicted on drunk and disorderly charges, on the whole, they received more severe treatment. In fact, the most severe penalty, forty dollars or five months, was handed out to a Mrs. Dew. Two other women received gaol sentences of thirty and ninety days respectively. Among those given a choice between fine and imprisonment, the lowest fine in the seven cases was ten dollars or thirty days. One woman received twenty dollars or three months, and another received twenty dollars or four months. Penalties for women, then were by and large more severe than for men. The fact that the greatest number of convictions resulted in fines or imprisonment under five dollars or from zero to thirty days, and that only one woman received a penalty in this range, lends some plausibility to this view.

Drunk and disorderly was not considered a serious offence. True: the prohibition movement in the Lakehead had gathered considerable momentum by the end of the century, and there was a growing disgust with liquor and liquor-related offences among influential groups in both towns. But, the penalties for drunk and disorderly were generally not as severe as in other offences. This is not to suggest that either McDougall or Police Chief Alex Campbell considered drunkenness an insignificant offence. On the contrary, the tremendous increase in drunk and disorderly cases between 1901 and 1902, for example, suggests that specific measures of deterrence were left to law enforcement officers, rather than the increasing severity of the penalties. A useful comparison in contemporary society is found in law enforcement attempts to reduce to

the number of fast-drivers. Similar to drunk and disorderly charges, attempts to curb "speeders" are often affected by increasing enforcement. Unlike the situation at Fort William in 1900, however, recidivist offenders for speeding typically face more serious punishments. In the former, undoubtedly because measures of deterrence lay outside the courtroom, and because there were so many drunk and disorderly charges in the first place, a trend of increasingly severe penalties was simply not occurring.

vi) Giving Liquor to Indians

With the arguable exception of women convicted of drunk and disorderly conduct, the generally mild penalties handed out for drunkenness involved white persons for the most part. Liquor and Indians, on the other hand, was regarded as a dangerous combination, and giving liquor to Indians was considered a very serious offence at the turn of the century--far more so than vagrancy, gambling, or prostitution. Similar to an offence such as gambling, however, the penalties imposed did not vary much, in terms of nature or degree. Four offenders were fined--two at ten dollars, and two at twenty-five dollars, all occurring in 1895. No doubt the time reference is important here. The next conviction occurred on March 2, 1897, and from that date until May 22, 1902, every single conviction, (excepting one) carried a fifty dollar fine. The gaol sentence "half" of the punishment alternative, however, varied from thirty days to six months, with the majority being three or four months. At least five of the offenders had previous charges, (all different), but this seems to have had very little bearing on Magistrate

McDougall's decision. Giving liquor to Indians carried a punishment, (and certainly was considered serious enough), that it transcended any process of objectifying the criminal--the attempt to determine, in these instances, whether or not the individual offender was a menace to the community or not.

vii) "Peddling Without a License"

An examination of this offence will assist in clarifying attitudes and policies of Fort William officials in regard to the kinds of liquor offences and their relative seriousness even further. There were, of course, variations of peddling without a license--by-law 201 dealt with "general goods" and merchandise. Bootlegging was another form of "peddling without a license." In the majority of instances, pedlars were obliged to pay for their license without further penalty. In nine other cases, pedlars of merchandise received a fine or imprisonment sentence (7), and two received a fine only. The fine or imprisonment alternatives ranged from one dollar and five days to twenty dollars or twenty-one days, with the majority of offenders receiving a five dollar or thirty day penalty. Bootlegging, on the other hand, (although not a specific violation of by-law 201), carried a far greater punishment. Annie Schibie received a hundred dollar or six months "choice" on August 1, 1902. Lillian Delaney, another prostitute, and "keeper" received fifty dollars or sixty days. Ferdinand Roy, on October 23, 1895, received a fifty dollar fine. Another bootlegger, J.S. LaPlante, was given twenty-eight dollars or thirty-five days as punishment. In short, the punishment for peddling without a license depended on what one was peddling.

Peddlars of merchandise did not receive a severe punishment, and typically offenders were "punished" by paying for the license. Peddling liquor, on the contrary, carried an extremely severe penalty--analogous to punishments given to those who supplied Indians with liquor.

viii) Assault

Assault was an offence that carried a fine or imprisonment penalty in seventy-two of ninety convictions. Sixteen convictions, (most of them prior to 1898), resulted in a fine only, and one conviction resulted in a two month gaol sentence. The local "imprisonment only" penalty occurred on September 11, 1901, and the accused, Burt Bittan, faced two charges of assault on the same day. The first was dismissed, but on the second charge, he was found guilty. Similarly, Frank Lombard was three times convicted of assault. On September 26, 1898, he was fined \$1.00 plus \$1.50 court costs. Two days later, he appeared on another assault charge, and received a one hundred dollar fine plus one year in the Central Prison--by far the heaviest penalty handed out for any assault conviction.

These were exceptions. Twenty-seven assault penalties carried a one dollar fine or zero to thirty days gaol sentence. Twenty convictions resulted in a five dollar or zero to thirty days in gaol. Another twenty-two cases resulted in a ten to twenty dollar fine or zero to thirty days. One fine was twenty-five dollars with a thirty day sentence alternative, one was a ninety-five dollar fine or six months, and finally, one was one hundred dollars or six months. The penalty which was assessed at ninety-five dollars or six months, involved, a first time offender named John Catone. Perhaps the severity of the punishment

resulted from the severity of the injury, or perhaps because the plaintiff was a woman. The other case was similar to the Frank Lombard example. In this instance, the accused, Louis Carvant, faced two assault charges on the same day. One was dismissed and the other resulted in the one hundred dollar or six month penalty.

Explaining the range of penalties for assault offences is somewhat difficult. Two of the most severe penalties dealt with individuals who faced more than one charge on the same day that in-itself is significant. There were twenty-seven persons who were also charged with assault, and who had committed some previous offence. Nine were either dismissed, settled out of court, or withdrawn. One offender received a one dollar fine. The balance of recidivist offenders received penalties that do not permit one to correlate fines/imprisonment with the fact that these offenders had committed other offences. Six recidivist offenders received the one dollar or zero to thirty days penalty. Seven were given five to ten dollar fines or zero to thirty days, and the remaining three received fifteen dollar fines (twice) and twenty-five dollars. Perhaps the punishment suited the extent of injury, or even the mood of Magistrate McDougall on a certain day. What is of some importance is that there existed a wide range of punitive alternatives in the first place.

ix) Threatening Bodily Harm/Carrying a Loaded Weapon

There were eight charges where individuals were apprehended for carrying a loaded weapon, (almost invariably a pistol), five instances "threatening bodily harm", and one combination of both. Two of the "threatening bodily harm" cases were dismissed, and one case resulted

in a decision where both parties were "bound to keep the peace for one year." One case resulted in a five dollar fine or thirty days, and the other, involving a recidivist offender named Charles Alexander, resulted in a fifty dollar or three month penalty.

Carrying a loaded weapon did not result in severe penalties, or at least, in comparison with an offense such as bootlegging, or in comparison to some assault penalties. Five cases resulted in a one dollar or zero to thirty days penalty, one received a suspended sentence, another offender was given a five dollars or thirty days, and one ten dollars or thirty days. The single case involving an offender who threatened bodily harm with a loaded weapon, received a fifty dollar fine.

The narrow range, and almost singular form of punishment for "threatening bodily harm" or carrying a loaded weapon is undoubtedly due to the small number of total charges. The same case could undoubtedly be made for other offences--gambling, bootlegging, etc. Conversely, offences with a larger number of cases, such as drunk and disorderly, typically had a wider range of circumstances, and perhaps nature of punishments. The sheer numbers of charges for specific offences, then necessitated widely diverging circumstances surrounding the situations of transgressions. With so many different circumstances surrounding the same offence, Magistrate McDougall may then have felt compelled to hand down decisions according to the circumstances of that particular incident. Since carrying a loaded weapon/threatening bodily harm cases were relatively few in number, the number of cases with differing circumstances were then also few, resulting in a narrower range of punishments.

x) Larceny

In some ways, larceny punishments are the most intriguing punishments handed out at the Fort William Police Court. Since the crime of theft attacked one fundamental cornerstone of social order--the rights of private property--one might well expect larceny convictions to carry very severe punishments. In many instances, this was the case. On October 3, 1899, Ed Welsh was sentenced to eighteen months in the Central Prison for stealing two overcoats. A year earlier C. Nelles received two years at Kingston for stealing seventy-five dollars. On October 31, 1899, Joe Wood and James Wade each received three years at Kingston for stealing from Arthur Raulingson. James Gregory was given two years at Kingston on November 26, 1902, for breaking into F. Cooke's jewellery store and stealing three watches, a sugar bowl, and a clock. John Herpey received fourteen months for stealing shirts. Finally, Demitry Pemorin was sentenced to four years at Kingston in December of 1900 for stealing fifty dollars. In short--the most severe penalties handed out at the Fort William Police Court by Allan McDougall were for theft crimes.

At the same time, however, larceny punishments were amazingly elastic, ranging widely within a certain type of punishment, but also among differing punitive alternatives. Of the fifty total convictions between 1895 and 1902, twenty-eight offenders received gaol sentences, nineteen received the fine or imprisonment choice, and three were given fines only. Among the cases resulting in gaol terms, fourteen offenders were sentenced to either the Central Prison or Kingston, and the remainder were incarcerated locally. The most lenient sentence was ten days--

a case involving theft of C.P.R. goods, and the most serious was the four year term given to Pemorin. Between these extremes, gaol punishments varied significantly, so much so that it is difficult to ascertain how McDougall determined specific sentences.

One possible means in determining specific gaol punishments is to examine the objects of theft. All five offenders convicted of stealing money, for example, were shipped off to either Kingston or the Central Prison. (The most lenient of these sentences was twenty-three months.) But, aside from money - theft convictions, no discernible pattern emerges. Punishments for watch thefts range from four months to two years, and for clothing thefts--the range is from three months to two and one half years.

Among punishments of the fine or imprisonment form, the range is equally wide. The minimum penalty assessed was a one dollar fine or twenty-one days in gaol, and the maximum was one hundred dollars or nine months. In the former instance, the offender was convicted of stealing grain, and in the latter case, the offender was found guilty of stealing tools. About half of the fine/imprisonment punishments for theft were assessed at ten dollars or less than sixty days, and the remainder between eleven and forty dollars or up to nine months.

The highly elastic range of larceny punishments is in some ways similar to other offences with more frequent occurrences, as different circumstances no doubt produced different penalties. At the same time, however, an examination of larceny punishments, more so than for any other offence at the Fort William Police Court, indicates the extent to which a process of scrutinizing the criminal was taking place, a

process where the individual offender was being judged more than the crime itself. In the first place, the range of penalties is wider, with greater extremes than for any other offence. More important to consider is the thirteen cases resulting in suspended sentences, four of which involved theft of money, three involved theft of clothing, two involved watches, with the remainder involving coal, lumber, and grain. Of the four cases involving theft of money, two cases dealt with sums of sixty dollars each. The obvious question that arises, then, is--how is it possible that two convicted offenders could receive a suspended sentence for stealing sixty dollars, and Demitry Pemorin receive four years at Kingston for stealing fifty dollars, unless some objectification process was taking place. A similar case could be made regarding suspended sentences in comparison to extended prison sentences for theft of watches. Two offenders received suspended sentences for watch thefts, and two offenders received a twenty-three month and two-year penalty, respectively.

One potential correlative that might assist in explaining these apparent inconsistencies, not only for larceny, but other offences as well, is the occupational standing of criminal offenders. While it is difficult to determine the extent to which any punitive discrimination filtered its way into the judicial process at Fort William Police Court, the possibility that certain classes were deemed more dangerous to the social order nonetheless exists. An exploration of this possible relationship, follows--focusing on three different offences: drunk and disorderly, assault, and of course, larceny.

i) Drunk and disorderly

In the forty cases where occupations extracted from the 1901 Voters List correlate with offenders and the punishment thereof, some interesting patterns emerge. Six of the ten offenders receiving penalties of five/ten dollars or zero to thirty days were labourers. Conversely, only one of the ten offenders receiving a one dollar fine or zero to thirty days was a labourer. The remainder of the offenders consisted of a carpenter, a merchant, a porter, a widow, a teamster, a location foreman, a clerk, and an elevator worker. None of the three residents receiving a two dollar fine or zero to thirty days was a labourer. This does not suggest that labourers as a group received stiffer penalties,--the evidence is too scanty to discern any particular trends. Among the cases involving dismissals of local inhabitants, three were labourers, two were teamsters, two were engineers, two were clerks, and one was a carpenter.

ii) Assault

Again, there is no consistent pattern emerging from an examination of occupation of assault offenders and the severity of punishment. Nine of the twenty-three residents facing assault charges were labourers. In two instances, the charges were dropped. Three labourers received a penalty of five dollars or thirty days, and the others were given ten dollars or thirty days in two instances, fifteen or thirty, and twenty dollars or thirty days. Cases against hotel-keepers John Gorman and Thomas McCraynor were dropped. Teamsters William Alexanders (a five time offender) and Thomas Cherry were given ten dollars or twenty days and one dollar or ten days respectively. Mary Loonin, a widow, received

a one dollar or five day penalty, although Ellie McCraynor received ten dollars or thirty days for assaulting Thomas McCraynor. The case against Joseph Lesprance, a tailor, was dropped, and R.D. Hawkes, a merchant, received five dollars or fifteen days. In short, assault convictions typically led to penalties without the consideration of occupations as a determining factor.

iii) Larceny

Similarly, larceny convictions among residents led to penalties that appear to have been handed down without the occupation of the offender as a determinant. The only arguable exception is the case of Arthur Smith, a local merchant, who received an incredibly mild penalty--one dollar or thirty days. Among the cases dismissed, the occupations of those charged consisted of a mixture of labourers, teamsters, clerks, railway employees, a grain merchant, and a butcher. Thomas Bell, a railroad brakeman and local resident, received three years at Kingston and John Smith, a labourer, was given two years.

Another labourer, James Stuart, was given twenty dollars or five days for stealing tools, and Alex MacDonald, also a labourer, received ten dollars or thirty days for stealing billiard balls. Robert Hamilton, a checker, was fined for the theft of a ham. As in the case with assault, theft penalties were less likely determined by occupation of offenders than by other considerations--the objects of theft, or the objectification of the criminal.

In essence, there are fragments of evidence which suggest occupation of the accused played a functional role in the assessment of penal-

ties, and there is also evidence that suggests the reverse: It would appear that occupations of offenders is a poor indicator in the Lakehead towns, irrelevant in the sense that it does not succinctly indicate social class, and even if it did, social standing alone did not determine the degree to which individuals were considered threats to the social order. A labourer could belong to a lower social group, and still be respected in the community for other things.

What conclusions can be made from this investigation of punishment? In the first place, the nature and degree of punitive measures range widely among different offences, but also within the offences themselves. There are a number of operational variables that account for this elasticity: the number of total instances of each offence, the lapse of time between offences involving frequent transgressors, the severity of the violation as in those instances involving assault, the objects of crime but also the aims of punishment, the number of vacant cells and the number of offenders appearing at any given time, perhaps the mood of magistrate McDougall and undoubtedly the behaviour of the offender within the courtroom, the acceptability of the evidence (ie. whether there were witnesses or not), and the seasons of the year, as in the cases of discouraging vagrancy "hand-outs" in winter.

The nature of the punishment largely depended upon the perception of the seriousness of the crime, and occasionally, on the frequency that individuals found themselves facing Allan McDougall. But there is also a time dimension--in 1895 and 1896, a "fines only" penalty predominated, giving way in 1897 to a "fine or imprisonment" type of punishment. Some offences carried a lengthy prison sentence as an upper limit to its range,

and some carried a lower limit, a minimum penalty. By and large, the majority of penalties were of a fine or imprisonment type, although significant numbers were given punishments of a different type.

There were other variables operational in the assessment of penalties: offenders charged with the same offence, and who appeared on the same day, often received the same penalty. There were also certain offences whose number of charges were lower resulting in a much narrower range of punishment. In addition, there were numerous instances where the same offenders appeared time and time again, but whose punishment did not become more severe.

Yet, in spite of this, one must wonder to what extent a process of objectifying the criminal was at work. This is particularly true for larceny convictions where punishments were the most extreme and McDougall's judgements the most inconsistent. Still, offences that carried a broader range of punishment were also ones that carried a broader range of circumstances. Without question, a good part of the "differing" circumstances consisted of the differing personalities involved. To some extent, then, it appears that Allan McDougall was judging the criminal as much as crime, although this is not universally the case.

A second general point, and equally as important, is the differences that arise when comparing the severity of punishment among different offences. In other words, what were the aims of punishment? For some offences, punishment was not as severe as for others. Drunk and disorderly penalties were relatively mild, and habitual drunks did not receive significantly harsher treatment. Drunk and disorderly con-

duct was also the most common offence, with a large number of cases resulting in dismissals. Large numbers of charges, many dealing with local residents, undoubtedly account for both the mildness and range in actual penalties. Since the number of committals was on the increase, though, it appears that the means of deterrence were attempted through use of greater enforcement, rather than increasingly severe penalties.

Other crimes such as bootlegging, "frequenting", vagrancy, and "giving liquor to Indians", carried significantly harsher penalties than drunk and disorderly, or even assault, for that matter. Why? Much of the answer lies with what (or whom) the authorities considered to be greater threats to the stability of the social milieu. A white man becomes intoxicated, receives a one dollar fine or fifteen days, but a drunken Indian is altogether a different story. The mere existence of both vagrants and "frequenters" are also a threat--one to the sanctified values of the work ethic and private property, and the other to the institutionalized morality of the family unit. The fact that women found guilty of drunk and disorderly conduct received harsher treatment than men is another case in point. A drunken woman was equally dangerous to the ideal of family unity, and one is not surprised then to learn that their penalties directly parallel the average punishment given to frequenters.

The crime of theft was considered, in many instances even more dangerous than vagrancy and bootlegging and "frequenting". Theft was a crime against private property, and all the institutionalized values that go along with it. But, theft was also an attack on some things

people needed to survive. It is perhaps appropriate to recall here that of the fourteen people sentenced to either Kingston Penitentiary or the Central Prison, seven were found guilty of stealing clothing!

In the final analysis, the most puzzling dimension of punishment analysis in Fort William between 1895 and 1902, is the apparent inconsistencies in judicial policy. One might expect that prostitution was as much a menace to the social order as vagrancy was. But prostitution was an invisible infraction, hidden, behind closed doors. Vagrancy was a visible infraction--in the open for everyone to see. On the other hand, drunk on the streets of Fort William, as the ~~ch~~arge usually read, was also a visible infraction, and one might expect that habitual drunks even posed a threat.. Similarly, one might expect that victims of assault deserved greater satisfaction than seeing their assaulters pay a one dollar fine. The same could be said for those who threatened with bodily harm,--another offence that is puzzling because it carried a mild penalty.

Apart from these inconsistencies, or apparent inconsistencies, there is left to consider the paradigm of rehabilitation--the "reclamation of the vicious!". While some evidence indicates offenders of certain offences did receive stiffer punishments the second or third time, the pattern that emerges from an examination of the Fort William Court Records is that theory and practice were far apart, that many offenders re-appeared from time to time, and did not received harsher, or significantly altered punishments.

CONCLUSIONS

One of the peculiarities of studying crime in historical perspective is that, unlike other subjects of historical inquiry, there is no real beginning or end to contend with. Crime is like illness--not only because it belongs to all ages, but also metaphorically speaking, in Susan Sontag's sense--both are relegated to the "dark side of life." To examine crime, then, is to examine how individuals within the bounds of time and of a culture acted and reacted to and in a phenomenon greater than themselves.

This study has focused on the incidence of crime and official responses to crime in two Northern Ontario communities from their early frontier period in the 1870's to shortly past 1900, where both communities were on the threshold of major transformations in technology, communications, and industry, and also in the ethnic chemistry of the towns' population. There are a number of indicators of the kind of society that was developing--Port Arthur and Fort William were 'island communities', literally isolated from other centres, although during the 1890's the Lakehead towns were increasingly emerging as major transshipment and storage points; but locally, seasonal work in rugged, labor-intensive industries was the rule, although primary industry also was responsible for the in-migration of mercantile interests and transients alike; institutionally, the society was developing as well since major denominational groups, educational and judicial institutions had taken root.

Crime, too, is an indicator of the kind of society developing, and the record of criminal activity at the Lakehead contains none of the bloodbaths that so characterized the American frontier, and nothing even of legendary proportion. Nonetheless, a number of trends are apparent for the Lakehead.

In the first place, the long-range trend for both Port Arthur and Fort William, according to data compiled from the Prison Reports, point to a downward trend in total gaol committals, and particularly so for Public Order offences such as drunk and disorderly. At the same time, categorical percentage increases are evident for Property crimes between 1898 and 1903 for both towns. Personal crime percentages fluctuated over the long run, but invariably there were enough crimes of this nature (usually assault, followed by sporadic incidents of murder) so as to constitute an average between six and twelve percent of total committals. Morality offences, almost always prostitution-related, constituted the smallest percentage (categorically) of total committals, and were increasing dramatically near the turn of the century. This increase in Morality offence committals, however, is determined from the Fort William Magistrate's Court Charge Books, and thus applies only to Fort William.

The Fort William Magistrates Court Charge Books, presents an altered picture of gaol committals, for short-run trends, however. Between 1895 and 1902, gaol committals in Fort William were in fact increasing, with the largest increases in the years 1901 and 1902. (Since the Charge Books are listings of actual Court Proceedings, they have been used extensively in this analysis, on the whole being a much

more reliable source than the Prison Reports.

A second important observation is that developments and trends in Fort William do not necessarily parallel trends in Port Arthur. For example, the increase in vagrancy committals in Port Arthur is greater than in Fort William at the end of the century. Similarly, percentage increases in Property crime are much more pronounced in Port Arthur than Fort William between 1900 and 1903. But a more important example is a correlative difference. In Port Arthur, the period of greatest numbers of committals coincided with the period of greatest economic and demographic expansion, and conversely the sharpest decline in committals corresponded to a period of negative or marginal economic and demographic growth. Any attempt to erect a similar correlation for Fort William is not supported by the data.

In a broader, comparative perspective, Thomas Thorner found that in Southern Alberta during the period 1878 - 1905, significant increases in vagrancy cases (1903-04), drunk and disorderly 1899 - 1900, as well as prostitution cases occurred.¹ Generally speaking, Thorner maintains that in the first years of the twentieth century, "crime exhibited a distinct growth."² Increases occurred in larceny, assault, liquor-related offences, vagrancy and prostitution--all peaking in 1905.³ Over the entire period, an average of 698 cases per annum were heard, but the general trend was largely one of increases in court cases.

¹Thomas Thorner, "The Incidence of Crime in Southern Alberta, 1878-1905", in Law and Society in Canada. D.J. Bercuson and L.A. Knafila, eds. (Calgary: University of Calgary, 1979), p. 71-72.

²Ibid., p. 72.

³Ibid., p. 72.

Differences in degrees of trends themselves raise numerous questions in regard to accounting for variables that determine crime rates. From the Lakehead data, some salient observations reached are: the source of official crime totals were two--police and citizen-initiated charges. Broadly speaking, police-initiated charges were predominant in Public Order and Morality Crimes, whereas citizen-initiated charges were more prevalent in Personal and Property crimes. While citizen-initiated charges constituted, for example, a significant percentage of total charges at the Fort William Magistrate's Court, they were also somewhat random, and the large percentage of dismissals to some extent indicate a segment of the social body in conflict. Similarly, however, large numbers of dismissals occurring from police-initiated charges, such as in Port Arthur in 1884, indicate an overzealous police force making arrests without evidence that would "stand up" in Court. Increases in police-initiated charges were not, then, always random, but often rather deliberate. This was especially true in regard to offences that were recognized social problems such as prostitution rackets and liquor offences. In other words, crime rates were especially responsive to crimes that were targeted.

Again, in comparative perspective, Lynn MacDonald in her study of crime in several twentieth century Canadian cities found that "official rates were closely related to size of police force, increases in the size of the force accounting for increases in less serious offences, especially traffic and parking violations."⁴

⁴Lynn MacDonald, The Sociology of Law and Order , op. cit., p. 287.

In their study of French criminality in the nineteenth century, Cohen and Johnson also found evidence that supports the view that "criminal rates are more dependent upon the ways in which societies define criminality and police it than upon its actual incidence."⁵ Advocates of a social historical approach to the study of crime, Cohen and Johnson also found that rates of property crime and personal crime "march to different drummers."⁶ Whereas property crime rates were "particularly sensitive to the amount of youth and family discord in a given population," personal crime rates were more responsive to racial and racist variables.⁷ On this latter correlation, data for the Lakehead is scanty and inconclusive in regard to racism and violent personal crime, but not for race when one recalls that some of the murders at the Lakehead involved non-English speaking people, and in some instances, non-whites.

In a study for an earlier period, N.W. Mogensen found that criminality in late eighteenth century France was responsive to economic disparity, but that a transformation from a predominance in personal crime to property crime was concomitant.⁸ More generally, Mogensen argues that "criminality as a variable seems to have been rather independent of judicial action", and thus "the incidence of various types of crime is..

⁵D. Cohen and E.A. Johnson, "French Criminality: Urban-Rural Differences in the Nineteenth Century", in The Journal of Interdisciplinary History, XII, #3, 1982. p. 48.

⁶Ibid., p. 492.

⁷Ibid., p. 492.

⁸N.W. Mogensen, "Crimes and Punishment in Eighteenth Century France", in Histoire Sociale, X, #20, 1977, p. 352.

much more valuable as an indicator of modifications in the general temper and values of society."⁹ That "criminality as a variable" was independent of judicial action" at the Lakehead is especially true in regard to less serious offences, but, at the same time, it was also true among offences that were of public concern such as liquor and Morality offences. Conversely, judicial action as a variable was equally independent of criminality in instances of less serious offences and apparently, sporadically occurring crimes such as murder.

One alternative solution is given by authors Gurr, Grabosky and Hula. In The Politics of Crime and Conflict, they argue that crime statistics are "both consequence and cause of official concern."¹⁰ This somewhat cyclical process is explained as follows--"as particularly threatening behaviour increases in frequency, for example, concern and official reaction are likely to increase, perhaps slowly at first, then more rapidly than the behaviour itself."¹¹

Finally, Arthur Stinchcombe has argued that crime rates but also types of crimes committed vary according to the number of "institutions of privacy." A highly structuralist argument, Stinchcombe maintains that Personal crime is invariably more likely to occur "within the boundaries of morally dense small social systems", and conversely, property crimes are more prevalent amidst larger concentrations of public institutions,

⁹Ibid., p. 352.

¹⁰T.R. Gurr, R.N. Grabosky, R.C. Hula, The Politics of Crime and Conflict: A Comparative History of Four Cities. (Beverly Hills: Sage Publications, Inc. 1977) p. 21.

¹¹Ibid., p. 21.

which potential criminals have greater access to.¹² The emphasis Stinchcombe places on differences between rural and urban settings, however, obscures comparison or use for the Lakehead data, particularly since the two communities were neither overwhelmingly urban or rural in 1873 or in 1903.

Punishments at the Lakehead were, for many crimes, indicators of the degree of perceived seriousness of the crime, but also reveal something about social attitudes towards crime. A number of variables that contributed to the assessment of punishments were isolated following and examination of Fort William Magistrate Court Charge Books, and were summarized at the end of Chapter 4. A number of other, equally important observations should perhaps be noted here. First, among less serious (ie. non-indictable) offences, a hierarchy of punishments, (inferred from the severity of the punishment), was occurring and the severity of the penalty is a valid indicator of the perceived severity of the crime. For example, giving liquor to Indians was infinitely more serious than a drunken white man on the streets of Fort William.

Second, targeted crimes such as liquor-related offences did not experience an increase in severity of punishments either individually (ie. recidivists) or collectively. That Magistrate McDougall faced a significantly larger number of individuals accused of drunk and disorderly conduct in 1902 than in 1901, did not mean he would get tough with all drunks. In fact, he did not. Moreover, recidivist offenders, on the whole, were generally not more severely punished, although this conclusion

¹² Arthur Stinchcombe, "Institutions of Privacy in the Determination of Police Administration Practice", in The American Journal of Sociology, LXIX, #1, 1963. p. 153.

is valid only for the Fort William Magistrate's Court, or, in other words, those guilty of less serious crimes.

At the same time, there was still a wide hiatus between the nineteenth century view of criminal man and the corresponding rehabilitative theories on the one hand, and the actual practice of justice at the Lakehead on the other. That actual punishments at the Fort William Police Court reflect a lack of any systematic implementation of a rehabilitative scheme is not surprising, primarily since minor offences seldom resulted in sentences of sufficient duration to effect any reform. Southern Ontario correctional institutions, though, were armed with suitable armature to attempt disciplinary and rehabilitative operations--to "reclaim the vicious" as it were--and it should be noted that between 1873 and 1903, at least seventy-five convicted Lakehead inhabitants were sent to the Central Prison, another forty to Kingston Penitentiary, and at least fourteen to Reformatories.¹³

But the fact that many recidivist offenders at Magistrate McDougall's Court were not even given more serious penalties, independent of reform concerns, is significant. At first glance, one might consider this the workings of a rudimentary, almost backwoods justice. There is evidence, however, that this trend was not unique to the Lakehead area. G.H. Homel, for example, argues that Magistrate Denison's Police Court in Toronto during actually a larger period, (1877-1921) used methods far removed from reform theories.¹⁴ Homel characterizes Denison as a fast wielding decision

¹³Calculated from the Prison Reports, 1873-1903.

¹⁴G.H. Homel, "Denison's Law: Criminal Justice and the Police Court in Toronto, 1877-1921", in Ontario History, LXXIII, #3, 1981. p. 171.

maker, one who relied on "intuitive feeling as to a man's guilt or innocence" rather than evidence, and one who may have discriminated against "certain ethnic groups".¹⁵ Almost paradoxically, Denison's and (other) police courts were "criticized as inefficient in preventing crime".¹⁶ One might attempt to argue that seemingly lax punishments at McDougall's Court in Fort William was tantamount to an equally "inefficient" system of preventing crime. This claim, however, would be somewhat misleading. After all, the most ironic dimension of Fort William punishments is that the offences subject to increasing police security (and perhaps even individuals) were subsequently, punitively speaking, the most tolerated offences.

But in the final analysis, one might plausibly ask: could the authorities either at the Lakehead or in Toronto have possibly justified a corrective institution, (consonant with then contemporary rehabilitation theory), in the communities of Port Arthur and Fort William around the turn of the century? In those otherwise isolated but expanding, masculine but reasonably stable communities, how possible was it to deter crime, and to what extent did the idea of deterring crime filter its way into the day-to-day workings of the judicial administration? From an examination of the records from the Fort William Police Court, one gets the definite impression that deterrence only rarely entered Magistrate McDougall's thinking; rehabilitation, even less; and that when punishments were particularly severe, it was largely the upshot of an ideology that specified that punishments should punish.

¹⁵Ibid., p. 174.

¹⁶Ibid., p. 181.

BIBLIOGRAPHY

A Note on Sources

The Fort William Police Court Charge Books, which for the years 1895 - 1902 have been used extensively in this thesis, are permanently located in the Thunder Bay Historical Museum.

Contemporary Accounts

Blue, Archibald. "The Story of Silver Islet", in Ontario Bureau of Mines, 6th Report. Toronto: 1893.

Fraser, Alexander. A History of Ontario. Vol. II. Toronto: Canadian History Company, 1907.

Prince Arthur's Landing. Winnipeg: Steen and Boyce, 1883.

Report of a Preliminary and General Social Survey of Fort William.
Directed by the Department of Temperance and Moral Reform of the Methodist Church and the Board of Social Service and Evangelism of the Presbyterian Church. Compiled by Bryce M. Stewart, n.p. 1913.

Report to the Chairman and Members of the Local Board of Health, Fort William, Ontario. Compiled by Dr. W. Birdsall, 1903.

Roland, Walpole. Algoma West. Toronto: Warwick and Sons, 1887.

----- . Port Arthur Illustrated. n.p. 1889.

Spence, F.S. The Royal Commission on the Liquor Traffic. Toronto: Newton and Treloar, 1896.

Thunder Bay Historical Society. Annual Reports, 1908 to 1928.

Later and Secondary Accounts

Arthur, M.E. "The Landing and the Plot", in Lakehead University Review, I. Thunder Bay: Lakehead University, 1968.

----- . Thunder Bay District, 1821-1872. Toronto: University of Toronto Press, 1973.

- Baehre, R. "The Origins of the Penitentiary System in Upper Canada," in Ontario History, LXIX. 1977.
- Beattie, J.M., ed. Attitudes Towards Crime and Punishment in Upper Canada, 1830-1850: A Documentary Study. Toronto: University of Toronto Press, 1977.
- Best, Joel. "Careers in Brothel Prostitution: St. Paul, 1865-1883," in The Journal of Interdisciplinary History, XII. 1982.
- Bonger, Willem. Criminality and Economic Conditions. Bloomington: Indiana University Press, 1967.
- Cogen, D. and E.A. Johnson. "French Criminality: Urban-Rural Differences in the Nineteenth Century," The Journal of Interdisciplinary History, XII. 1982.
- Cressey, D. and E.H. Sutherland. Criminology. Philadelphia: Lippincott, 1978.
- Foucault, Michel. Discipline and Punish: The Birth of the Prison. New York: Vintage Books, 1977.
- Gray, James H. Red Lights on the Prairies. Toronto: MacMillan of Canada, 1971.
- Gurr, T.R., R.N. Grabosky, and R.C. Hula. The Politics of Crime and Conflict: A Comparative History of Four Cities. Beverly Hills: Sage Publishers, Incorporated, 1974.
- Hagan, J., A.R. Gillis, and J. Chan. "Explaining Official Delinquency: A Spatial Study of Class, Conflict, and Control," in Crime in Canadian Society 2nd Edition. Robert A. Silverman and James T. Teevan, eds. Toronto: Butterworths, 1980.
- Hartjen, Clayton. Crime and Criminalization. New York: Praeger Publishers, Incorporated, 1974.
- Hamel, G.H. "Dénison's Law: Criminal Justice and the Police Court in Toronto, 1877-1921," in Ontario History LXXIII. 1981.
- Lumby, John R. Historic Fort William. Belleville: Mika Publishing, 1974.
- MacDonald, Lynn. The Sociology of Law and Order. London: Faber and Faber and Faber, Ltd., 1976.
- Mogensen, N.W. "Crimes and Punishment in Eighteenth Century France," in Histoire Sociale, X. 1977.

- Morrison, Jean. "Community and Conflict: A Study of the Working Class and Its Relationships at the Canadian Lakehead, 1903-1913." Unpublished Master's Thesis. Department of History. Lakehead University. 1974.
- Quinney, Richard. The Social Reality of Crime. Boston: Little, Brown, Incorporated, 1970.
- Rothman, David. The Discovery of the Asylum. Boston: Little, Brown, Incorporated, 1971.
- Silverman, Robert A., and James T. Teevan, eds. Crime in Canadian Society, 2nd Edition. Toronto: Butterworths, 1980.
- Stinchcombe, Arthur. "Institutions of Privacy in the Determination of Police Administration Practice," in The American Journal of Sociology, LXIX. 1963.
- Strickland, Helen. Silver Under the Sea. Cobalt: Highway Bookshop, 1979.
- Taylor, C.J. "The Kingston, Ontario Penitentiary and Moral Architecture," in Histoire Sociale, XII. 1979.
- Thorner, Thomas. "The Incidence of Crime in Southern Alberta, 1878-1905," in Law and Society in Canada. D.J. Bercuson and L.A. Knafla, eds. Calgary: University of Calgary, 1979.
- Wetherall, Donald G. "To Discipline and Train: Adult Rehabilitation Programs in Ontario Prisons, 1874-1900," in Histoire Sociale, XII. 1979.
- Wiebe, Robert. The Search for Order, 1877-1920. New York: Hill and Wang, 1967.

Newspapers

- Thunder Bay Daily Sentinel, Port Arthur, Ontario. 1876-1898.
- Daily Journal, Fort William, Ontario. 1893-1899.
- Daily-Times Journal, Fort William, Ontario. 1899-1903.

Governmental and Legislative Sources

(A) Unpublished Materials

- Fort William Police Court Charge Books, 1895-1902.

(B) Published Materials

Canada. Census of Canada, 1871, 1881, 1891, 1901.

Canada. Sessional Papers. XIV. Fourth Session of the Eighth Parliament of the Dominion of Canada, LXXXIII. 1899. Report of the Prohibition Plebiscite.

Ontario. Sessional Papers. Annual Report of the Inspector of Prisons and Lock-ups for the Province of Ontario. 1869-1903.

Ontario. Statutes. 1880. An Act Respecting the Administration of Justice in the Districts of Algoma, Thunder Bay, and Nipissing.

Ontario. Statutes. 1884. An Act Respecting the Administration of Justice in the Districts of Algoma and Thunder Bay.