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A quarter century of criminal justice in Iowa.

**A QUARTER CENTURY
OF
CRIMINAL JUSTICE IN IOWA**

**AN ANALYSIS OF 108,195 CRIMINAL COURT CASES IN IOWA, 1935-58,
AND AN INQUIRY INTO THE PENAL POLICY OF THE COURTS.**

PREPARED FOR:

THE GOVERNOR'S COMMITTEE ON PENAL AFFAIRS IN IOWA

and

**THE IOWA CORRECTION CONGRESS
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PREPARED BY:

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PREFACE

Within the past two decades persons in the various branches of state and local government have become increasingly aware of the need for closer integration of efforts by the welfare agencies, the county sheriffs, the local police, the courts, the correctional institutions and the parole authorities. They have come to see that justice is of whole cloth and not made from many separate pieces. It appears, therefore, that the time has arrived for the various branches and units of government to relate and correlate all parts into a combined operation in order to deal with the issues in crime and correction. Each branch of state government and all citizens share in the responsibility of preventing crimes and treating offenders.

Walter A. Lunden
Chairman, Governor's Committee
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A QUARTER CENTURY OF CRIMINAL JUSTICE IN IOWA

An Analysis of 108,195 Criminal Court Cases in Iowa, 1935-58 (*)

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With incessant regularity, except for the years of World War II, Iowa has been confronted with an increasing number of criminal cases in the past quarter century. Each year the people in Iowa have borne a heavy social budget arising from the offenders brought before the courts. In the 24 years from 1935 to 1958 the courts in the respective counties have dealt with a yearly average of 4704 criminal cases, or a total of 108,195 defendants. This is exclusive of 1941 for which no records are available. (See table I and Chart 1)

This increase in criminal court cases raises a number of questions in the minds of any observer. Why have criminal court cases increased so rapidly from 4261 cases in 1935 to 6151 in 1958 or approximately 44.3 percent? Has this been due to the increase in population or other factors? From 1920 to 1956 the total population in Iowa increased from 2,470,936 to 2,700,000 (Estimated) or less than 10 percent. The 10 percent rise in population cannot explain the 44.3 percent increase in court cases.

A century ago analysts in Europe and in the United States attributed the increase in crimes after 1840 to poverty, unemployment and destitution. In order to explain rising crime rates they used such

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TABLE I

CRIMINAL CASES IN DISTRICT
COURTS IN IOWA, 1935-1958 (*)

(Fiscal Year, July 1st to June 30)

YEAR	NUMBER
1935	4,261
1936	4,358
1937	4,436
1938	4,504
1939	4,709
1940	4,833
1941	(a)
1942	3,578
1943	3,232
1944	3,126
1945	3,020
1946	3,361
1947	4,766
1948	5,230
1949	5,314
1950	5,501
1951	5,292
1952	5,450
1953	5,275
1954	4,928
1955	5,247
1956	5,626
1957	5,997
1958	6,151
Total	108,195
Average	4,704

(a) No data for 1941

*) Compiled from Biennial Reports of the Board of Parole, Criminal Statistics for each county in the state, State of Iowa, for respective years. The data cover cases disposed of by the court and therefore differ from the number of cases filed each year.

Chart I

CRIMINAL COURT CASES IN IOWA, 1935-58

6151

No.
5000

WORLD WAR II

4833

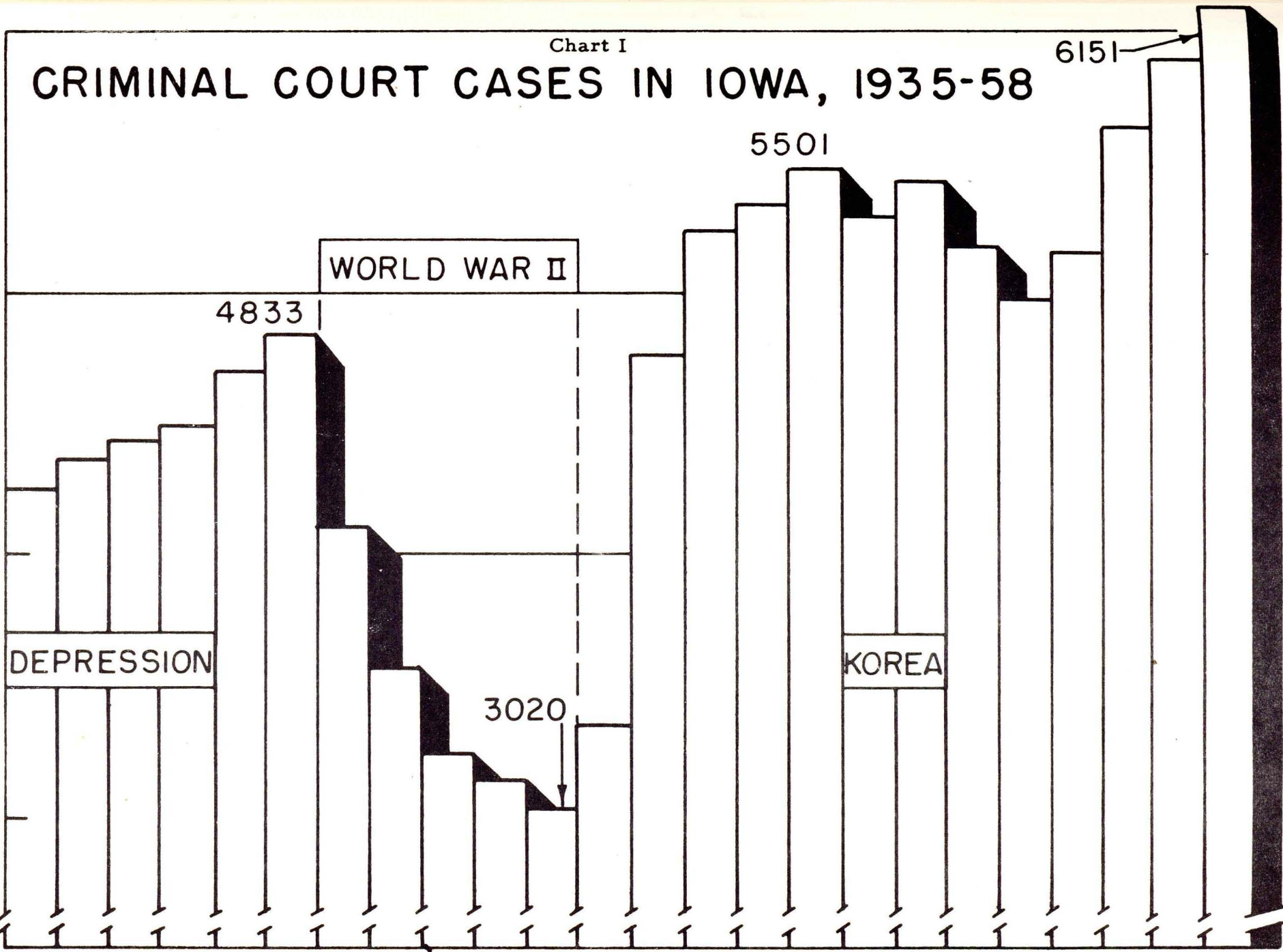
DEPRESSION

3020

KOREA

5501

0 1935 1940 1945 1950 1955



phrases as, "Hunger is a Bad Counselor", "Poverty is the mother of Crime." Pauperism and criminality were inseparably related to each other. If they were correct in their assumptions then it appears that the economic argument can not be considered valid in the present century. Today, in spite of minor variations, employment is at a high level, wages are comparatively high and the country has become the wealthiest nation in the world. At present, no people are better fed, better clothed or better housed than the American people, and yet criminality is on the increase rather than on the decrease. If present day analysts desire to explain the rise in court cases they must look to other factors quite apart from pauperism or destitution. It may be that the "Abundance" of the present decades play an important part in the present increase in criminal litigation. What ever factors maybe related to criminality, Iowa is now confronted with more criminal cases in court than a quarter century ago.

CONVICTIONS AND NON-CONVICTIONS IN CRIMINAL COURT

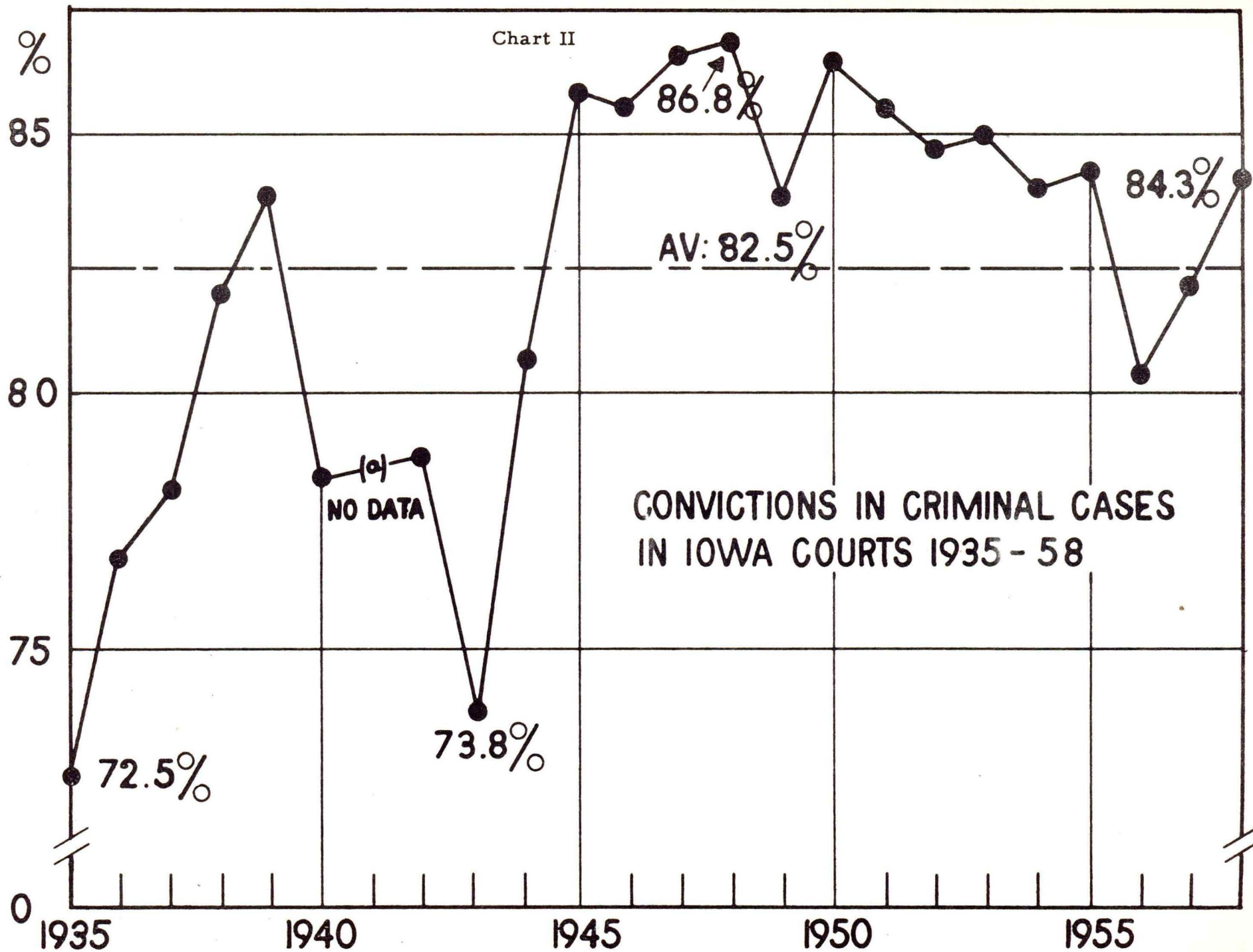
In the quarter century from 1935 to 1958 the percentage of convictions in criminal cases has varied from the highest figure of 86.8 percent in 1948 to the lowest of 72.5 percent in 1935. Contrariwise dismissals and acquittals (i. e., non-convictions) were highest in 1935 with 27.5 percent and in 1943 with 26.2 percent. (See Chart II and Table II) The year 1935 marked one of the severest years of the Great Depression whereas 1943 lies at the mid-point during the years of World War II. It appears that the high percentage of non-convictions

TABLE II

Percentage of Convictions and Non-Convictions
in Criminal Court Cases in Iowa, 1935-58

Year	Convictions	Acquittals and Dismissals
1935	72.5	27.5
1936	76.8	23.2
1937	78.3	21.7
1938	82.3	17.7
1939	83.9	16.1
1940	78.2	21.8
1941	No data	No data
1942	78.8	21.2
1943	73.8	26.2
1944	80.6	19.4
1945	85.8	14.2
1946	85.5	14.5
1947	86.5	13.5
1948	86.8	13.2
1949	83.9	16.1
1950	86.4	13.6
1951	85.5	14.5
1952	84.7	15.3
1953	85.1	14.9
1954	84.0	16.0
1955	84.3	15.7
1956	80.3	19.7
1957	82.1	17.9
1958	84.3	15.7
Average	82.5	17.5

Chart II



during these two years was related to the nature of the cases in court and the general social conditions.

ADJUDICATION WITH AND WITHOUT TRIAL

Information is not available for the earlier years in the quarter century but in the past three years approximately 95 percent of all criminal cases were adjudicated without a trial and only about 5 percent with a jury or judge trial. The large percentage of cases without trial may be due to the fact that a large percent of the defendants plead guilty in court, rather than to stand trial for the charges lodged against them. In 1956 95.2 percent of criminal cases in the District Courts and 92.8 percent in Municipal and Superior Courts were without trials.

DISPOSITION OF CRIMINAL CASES, 1935-58

Whereas the dispositions of the 108,195 cases in the courts appear in Chart III there have been noticeable variations in dispositions the past quarter century. (Table 3 and Charts 4 and 5 show the dispositions by years.) There has been a general tendency for the courts to use jail and/or fines much more in the last half of the period than in the first decade. In 1935 only 41.2 percent of the cases terminated in jail and/or fines but by 1950 the figure had risen to 68 percent of all dispositions. After 1950 jail and/or fine sentences decreased somewhat but the 55.5 percent in 1958 remains above the 1935-45 level.

In contrast to the more frequent use of jail and/or fine sentences, imprisonments have decreased from 22 percent in 1935 to 10.8 percent of all dispositions in 1953. In 1958 there was a slight increase in imprisonments to 19.4 percent but this figure remained below the initial year of 22 per cent except for one year, 1955. Bench Parole and Suspended Sentences have been used less in the past 15 years than in

Chart III

DISPOSITION OF CRIMINAL COURT CASES IN IOWA, 1935 - 58

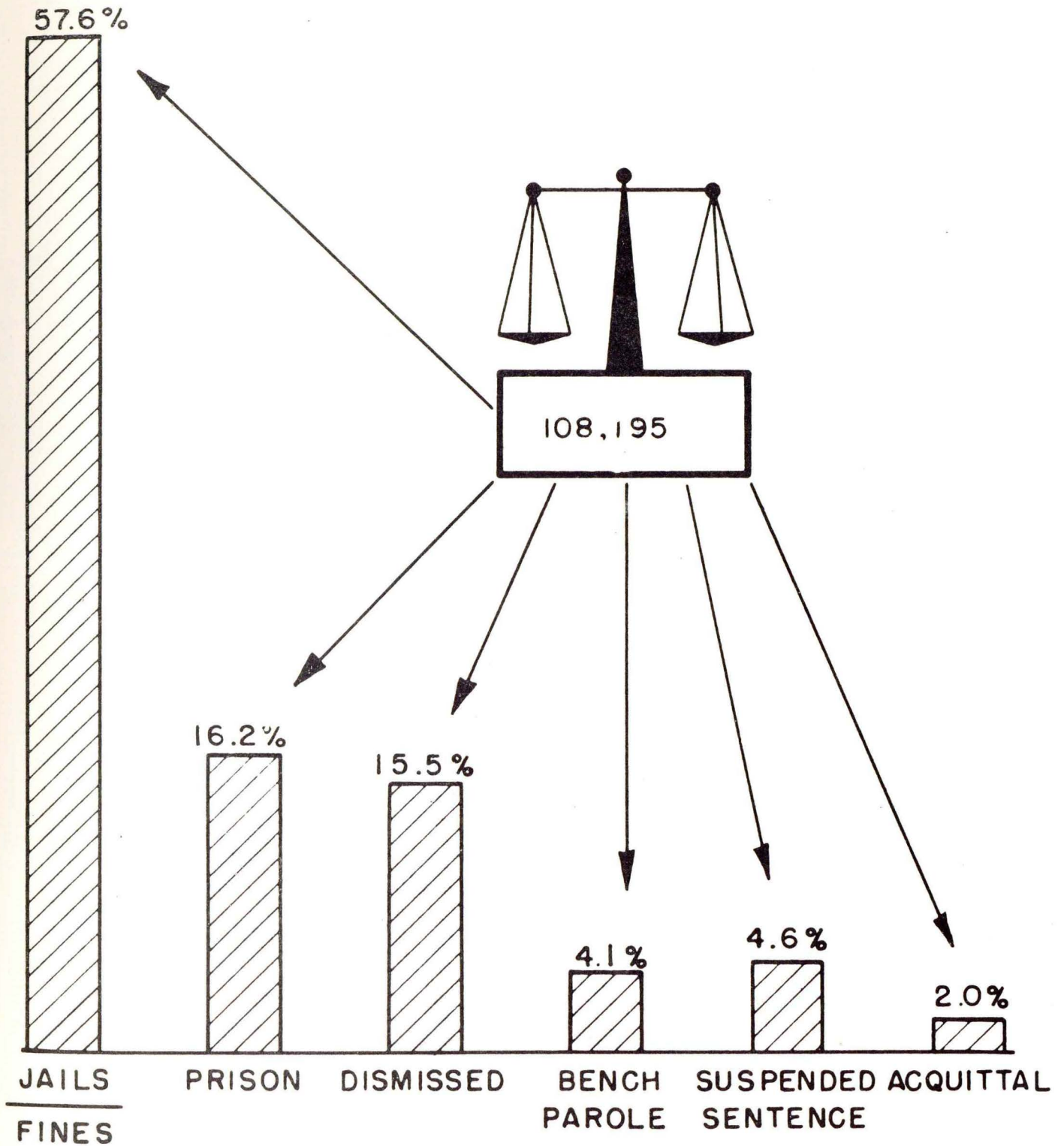


TABLE III
DISPOSITION OF CASES IN CRIMINAL
COURTS IN IOWA, 1935-58

(In Percent of Total)

Year	Prison	Jail and or Fine	Bench Parole & Susp. Sent.	Dismissal	Acquittal
1935	22.0	41.2	9.1	24.0	3.7
1936	20.5	45.0	11.0	17.8	5.7
1937	21.8	46.0	10.9	18.4	2.8
1938	21.7	46.0	14.5	15.1	2.5
1939	20.2	50.0	13.7	14.2	1.9
1940	18.7	48.0	11.6	19.9	2.1
1941	--	--	No Data	--	-
1942	19.0	51.0	8.6	19.7	1.4
1943	16.5	51.0	6.5	24.5	1.5
1944	16.4	57.5	6.8	17.5	1.8
1945	18.4	57.5	9.8	12.9	1.3
1946	16.4	62.5	6.6	13.2	1.3
1947	12.2	68.0	6.2	11.4	2.1
1948	12.9	67.0	6.6	11.4	1.7
1949	12.0	64.4	7.5	14.1	2.0
1950	12.5	68.0	5.9	11.8	1.6
1951	11.9	66.0	7.4	12.9	1.4
1952	13.0	63.6	8.2	13.9	1.4
1953	10.8	66.7	7.6	13.4	1.5
1954	13.8	61.1	8.8	14.2	1.8
1955	13.5	59.0	11.5	13.7	2.0
1956	16.3	59.0	5.0	17.2	2.0
1957	16.6	56.3	9.2	16.4	1.5
1958	19.4	55.5	9.4	13.8	1.9
Average	16.2	57.6	8.7	15.5	2.0

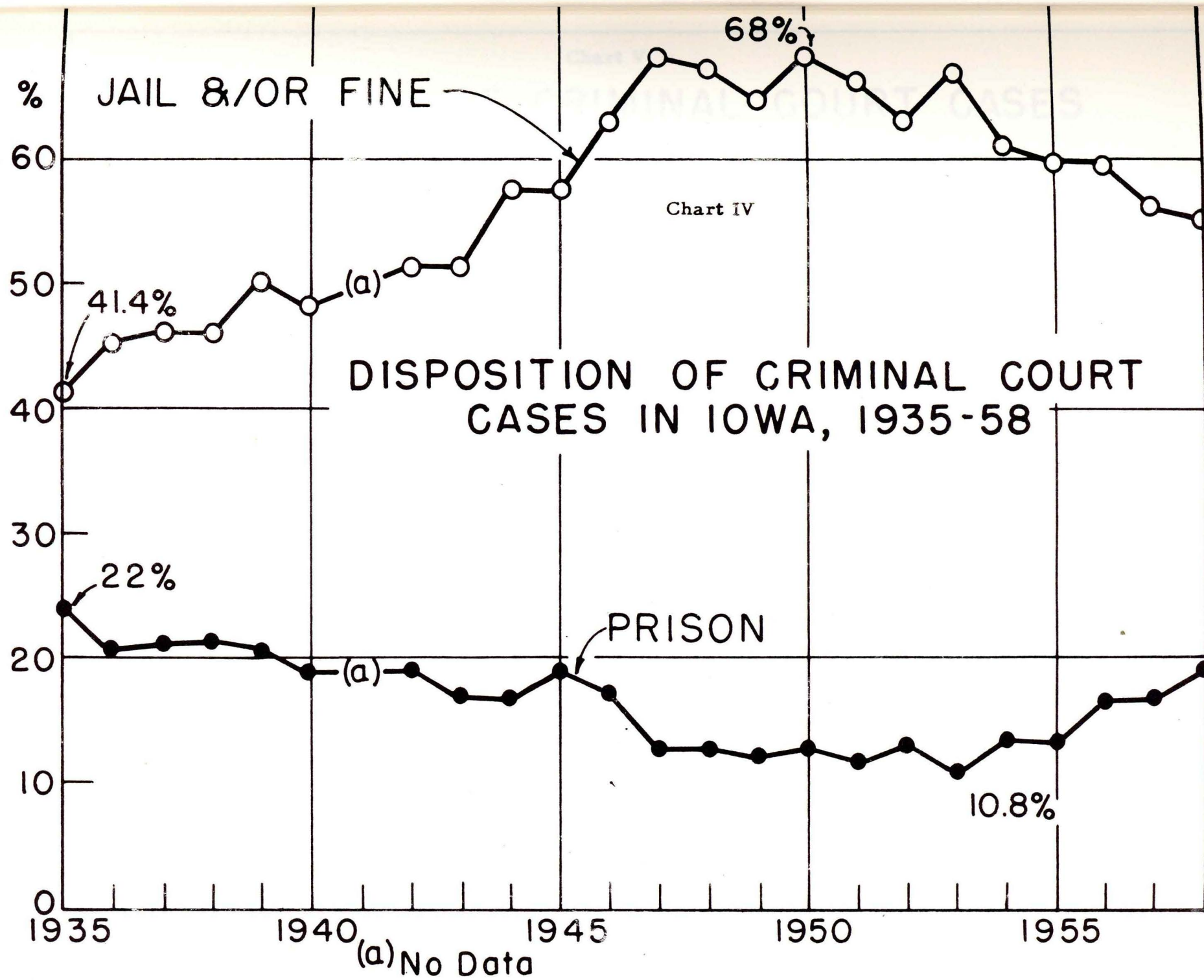
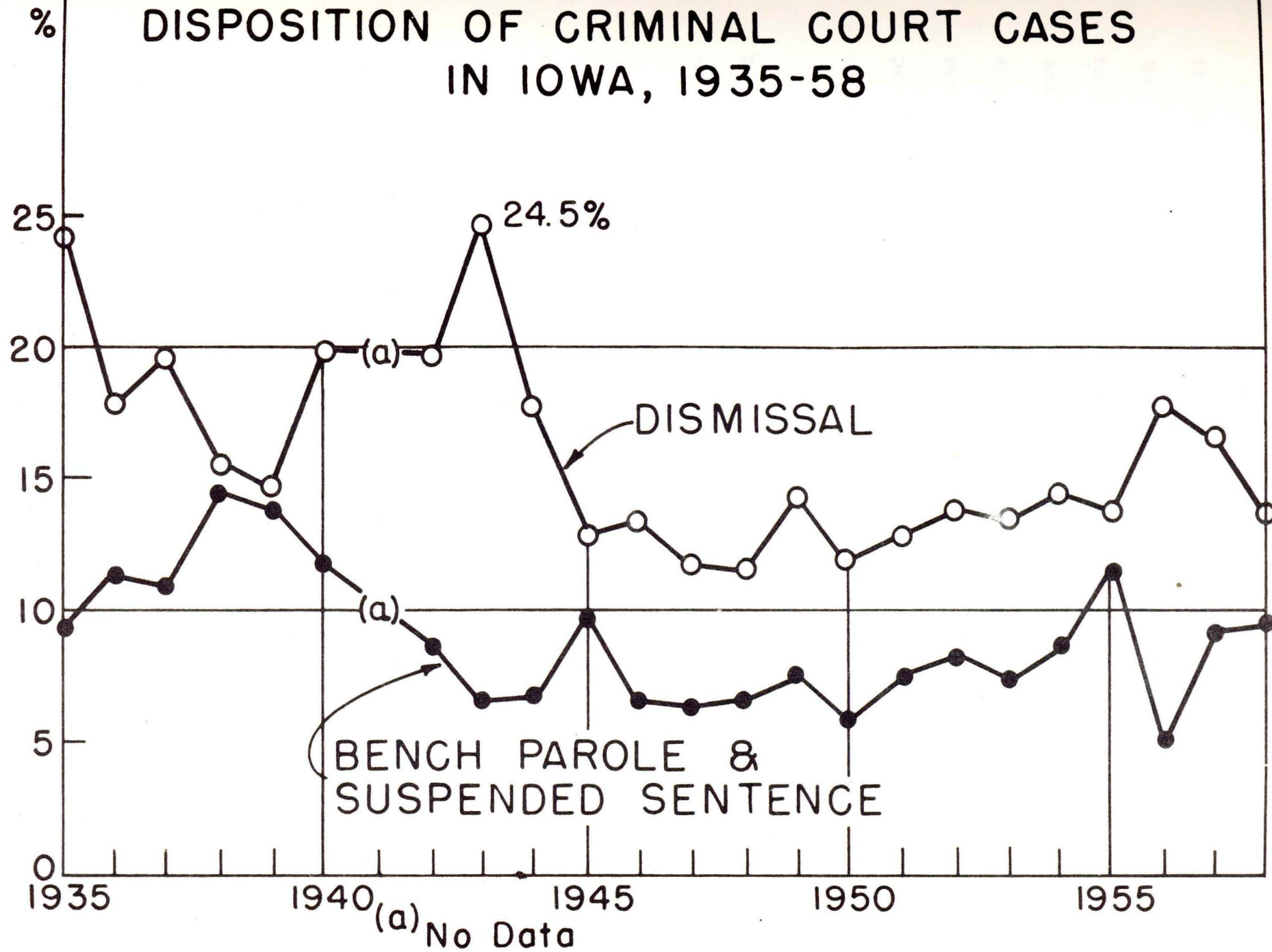


Chart V

DISPOSITION OF CRIMINAL COURT CASES IN IOWA, 1935-58



the earlier years. In 1938, 14.5 percent of all cases terminated in Bench Parole and Suspended Sentences. In 1956 the percentage fell to 5 percent of all dispositions. The infrequent use of Bench Parole and Suspended Sentence (Probation in other states) maybe due to the fact that the State of Iowa has no adult probation system. It is possible that if there existed some state wide program for adult probation the percentage could be increased to approximately 50 percent as in the case of Minnesota and other states with adult probation programs.

In general dismissals have been fewer in the last 15 years of the period than in the first decade. In 1935 and again in 1943 dismissals comprised 24 percent of all dispositions in the courts.

Except for the last three years of the Great Depression, 1935-38, acquittals have remained at about the 2 percent level for the entire quarter century and show only minor variations.

INQUIRY INTO THE PENAL POLICY OF THE COURTS

The above data reveal that as criminal court cases have increased in the past quarter century the courts have tended to use Jail and/or Fines more and imprisonment, bench paroles, suspended sentences, and dismissals less. Just what trend dispositions will take in the next quarter century cannot be stated with any degree of certainty. Much

depends on the nature of social conditions, the penal theory of the courts and the possible changes in methods of treating offenders.

Any attempt to interpret the future dispositions of the courts must first deal with current basic questions. Why does a court condemn or sentence an offender? Why does the court administer punishment? In other words why do we have punishment? The answer to these questions, in so far as they can be answered, must be explained in the very nature of society.

In reality the court or the judge is but the objectification of the long time thinking or ethical impulses of a people or a community. The court or judge in pronouncing sentence does individually what the people want collectively. More accurately, the court does what the legislature has ordered which in turn is what the people deem sound practice. In reality, the court dispenses the "Justice" which the community has created. The penal theory of a court is, therefore, but the essence of the people's sanctions, approvals and disapprovals. These in time become the law which is a social force supported by the emotional and ethical convictions. Herbert Spencer indicated that law, is the "hardened form of custom" which "formulates the rule of the dead over the living."

PUNISHMENT VS REFORMATION

What then is the theory of punishment which lies behind the thinking of the people? As a primary consideration it should be made clear

that when a people are confronted with a threat to security by the commission of a crime they act first and then attempt to find a reason later which arises from past experiences. The English jurist Sir James Stephen stated that "criminals should be hated, that the punishment inflicted upon them should be so contrived as to give expression to that hatred." When therefore a judge pronounces sentence on an offender he is striking back at one who has disturbed the emotional and ethical senses of a people. Above and beyond this "striking back" against the offender lies a considerable amount of confusion as to why society punishes the wrong doer. Furthermore, it appears that at present, penal policy has reached a cross-road and the direction from this point is not clearly defined.

In the past courts have punished offenders because the community has demanded "retribution" or "retaliation" without any further consideration. A crime represents or is an act of aggression which is met with counter aggression -- punishment of some type. There appears to be no reasoned theory behind this counter aggression except that of instinctive impulse to danger. Some authorities have considered punishment as having a deterrent influence upon other possible offenders. A man was punished, not for his crime, but to prevent others from doing the same thing. The court, therefore, looked to the future and not to the past deeds of the offender. Quite another principle of punishment follows from the idea of containment i. e., the

offender is an outlaw who must be kept from harming others. The man who has his tongue cut out can no longer deceive others and the thief who has his arm cut away can not put a hand into another man's pocket.

The real issue in present day penal theory arises from more recent developments which flow from the ideas of humanitarian rehabilitation. In other words men are punished or imprisoned in order to remake them and not because of vengeance, deterrence or containment. Rehabilitation assumes that the offender must be treated by some kind of psychological or social surgery, (therapy), in such a manner as to develop or reorganize the better part of his personality. Hence, a man is sentenced to prison for the same reason that others are sent to hospitals or to be treated for a psychological or social ailment.

Just how much of the theory of rehabilitation the general public will accept as an adequate substitute for punishment remains to be seen. Some have assumed that any amount of rehabilitation flies in the face of reality because, "a leopard cannot change his spots" and "out of a pig's ear you cannot make a silk purse." Again, rehabilitation may be a part of present day wishful thinking which stems from the environmental explanation of anti-social behaviour. Again, rehabilitation is but another form of "friendly" or moral persuasion which may be too ideal for our fragmented society. No amount of moral influence will change the nature of "a snake" or "a wild beast." Furthermore, rehabilitation implies that men are basically good and

that there are no "real bad men." In answer to all efforts of rehabilitation the hard cold voice of experience says, "two-thirds of all the men in prison and two-thirds of those sentenced each year have been there before. They are what they are and you cannot change them."

Whether "friendly" persuasion, psychological or social surgery will be accepted as a means of dealing with offenders on the part of the community depends on many factors. The residues of past judgments or the long time sentiments of a people cannot be disregarded without serious objections. Speakers at conferences may explain rehabilitation and the listeners may tactily agree but when the same people are confronted with the realities of a serious crime in a community, well phrased speeches disappear into thin air and the deep rooted sentiments arise to take over decisions.

The restoration of capital punishment in Iowa in 1878 may serve as an example of how ideas on punishment change. In 1872 the Iowa Legislature abolished capital punishment after a hanging in Des Moines which elicited widespread sympathy for the condemned man. A few years later in 1876-77 crimes of violence increased in the state. Some of the families of legislators and friends had been the victims of violence. In 1878 a bill was introduced into the General Assembly to restore capital punishment. In the closing hours of the session the House voted 57 to 35 and the Senate 30 to 16 to restore capital punishment. The Ottumwa Democrat wrote after the passage of the bill as

follows. "No longer will murderers lure their victims from Missouri to Iowa hoping thus to escape hanging. The good people of the state will breath easier and fewer of them will have their skulls split open this year than there were last". (*)

Whether the humanitarian nature of rehabilitation or "friendly" persuasion will gain or lose ground depends on how much criminality a society or community will stand or tolerate before it reaches a saturation point. If rehabilitation can prove its worth by reducing crime and recidivism without destroying social solidarity, experience may give it a "hearing" in court. However, it should be made clear that the most advanced ideas in rehabilitation have not dared to break with tradition based on retaliation. Some of the most "enlightened" criminal codes in Europe in the past half century have never been enacted. Retributive justice or retaliation is deeply imbedded in morals and customs which maintains a "wage" should be paid for normal or good conduct and for anti-social behaviour. It does appear that society has set barriers to rehabilitative programs beyond which men may not go without breaking the solidarity and stability which hold a community together. Whatever justice the courts may dispense in the future will no doubt be tempered by the iron rod of "wages."

*) Information supplied by F. Fraker Jr., Annals of Iowa, The Iowa State Department of History and Archives.

Here it should be pointed out that one year after capital punishment had been abolished Iowa experienced the first train robbery. On July 21, 1873, the James brothers robbed the Rock Island train near Adair, Iowa, killing the engineer.

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