

The ‘Bastilles’ of the Constitution: political prisoners, radicalism and prison reform in early nineteenth-century England.*

Prisons were already totemic symbols of the British state by the time of the French Revolution.¹ The storming of the Bastille in 1789 further cemented the symbolic and intellectual connection made in political discourse between government, law and physical imprisonment. National and local authorities became highly concerned about the potential for revolution among the industrial working class. From the 1790s to 1820, an unprecedented wave of popular activism emerged across Britain campaigning for parliamentary reform and democratic and trades union rights. Imprisonment became a constant threat to the new radical groups. The government under William Pitt the Younger reacted by prosecuting offences against the state involving seditious libel and treason, but later Tory governments increasingly sought to suppress activism under prosecutions for unlawful assembly and conspiracy, and new legislation against machine breaking, trades combination and illegal oath taking.² The suppression of radical societies included waves of arrests and imprisonments in the mid 1790s, and then during the crisis of the Irish Rebellion in 1798-

¹ Tim Hitchcock, ‘Renegotiating the Bloody Code’, in Ian Haywood and John Seed (eds), *Politics, Culture and Insurrection in Late Eighteenth-Century Britain* (Cambridge, 2012), 188-9.

² Michael Lobban, ‘From seditious libel to unlawful assembly: Peterloo and the changing face of political crime, c.1770–1820’, *Oxford Journal of Legal Studies*, 10: 3 (1990), 307-352; Lisa Steffen, *Defining a British State: Treason and National Identity, 1608-1820* (Basingstoke, 2001).

1800, Luddite machine-breaking in 1811-12 and the ‘mass platform’ democratic reform movement from 1816 leading to the Peterloo Massacre of August 1819.

London prisons hosted a litany of middle-class intellectuals arrested for seditious libel and related activities, including publisher Daniel Isaac Eaton, radical MP John Cam Hobhouse, and the London Corresponding Society orators John Thelwall and John Gale Jones. The history of English political prisoners in this period is often told from the perspective of these metropolitan Romantics who published widely about their experiences in what they called their ‘bastilles’.³ These well-connected radicals took advantage of special liberties in their accommodation and conditions, and had the financial wherewithal to pay for extra privileges. For example, Leigh Hunt, one of the editors of the radical journal *The Examiner*, imprisoned in Surrey county gaol in 1813 for seditious libel, was allowed his family to stay in two rooms which became ‘a combination of family home and literary salon’.⁴ Iain McCalman, Michael T. Davis and Christina Parolin have argued that Newgate prison in particular became a central milieu for a ‘radical counter-culture’ in the twenty-five years following the French Revolution, ‘a seedbed of radical articulation, negotiation and

³ Iain McCalman, ‘Newgate in revolution: radical enthusiasm and romantic counterculture’, *Eighteenth-Century Life*, 22: 1 (1998), 95-110; Christina Parolin, *Radical Spaces: Venues of Popular Politics in London, 1790-c.1845* (Canberra, 2010), 26; J. Bugg, ‘Close confinement: John Thelwall and the romantic prison’, *European Romantic Review*, 20: 1 (2009), 37-56; M.T. Davis, ‘Good for the public example: Daniel Isaac Eaton: prosecution, punishment and recognition, 1793-1812’, in M.T. Davis (ed.), *Radicalism and Revolution in Britain* (Basingstoke, 2000), 110-32.

⁴ Simon Rennie, *The Poetry of Ernest Jones: Myth, Song and the Mighty Mind* (Abingdon, 2016), 93.

resistance, where the men confined for political offences were able to reverse the hegemony of authority to create a forum for political expression and cultural resistance'.⁵ They highlight the sociable environment of the prison that enabled political radicalism to thrive, noting, 'radical inmates were given virtually unconditional freedom to entertain their colleagues and to exchange ideas, letters and papers in a way that would have led to suspicion and possible prosecution in any other public space'.⁶ This freedom allowed the state prisoners to continue their role in the public sphere outside, amplified by frequent contact with prominent visitors to the prison.

But historians have paid less attention to the multitude of provincial and working-class radical prisoners who were not part of the intellectual milieu at Newgate. Margaret De Lacey's account of Lancaster Gaol is one of the only studies of English prisons to consider plebeian political prisoners' experience outside London in this period. She argues that the waves of radicals imprisoned after 1812 until 1830 'succeeded in raising fundamental questions about the way in which the prison was administered and the prisoners treated'.⁷ The

⁵ M.T. Davis, Iain McCalman and Christina Parolin, 'Introduction', in *Newgate in Revolution: An Anthology of Radical Prison Literature in the Age of Revolution* (London, 2005), xi.

⁶ Davis, McCalman and Parolin, 'Introduction', xiii, xv; Parolin, *Radical Spaces*, 51-3; Daniel Isaac Eaton, *Extortions and Abuses of Newgate* (1813).

⁷ Margaret De Lacey, *Prison Reform in Lancashire, 1700-1850: a Study in Local Administration* (Manchester, 1986), 135-6. Among the few studies of other types of penal institution is Joanna Innes, 'Prisons for the poor: English bridewells, 1555-1800', in F. Snyder and Douglas Hay (eds), *Labour, Law and Crime: An Historical Perspective* (London, 1987), 42-122.

experience of Henry ‘Orator’ Hunt, the ‘gentleman leader’ at the Peterloo Massacre, in Ilchester Gaol in 1820-1, has also been examined by De Lacey and Margot Finn. They argue that Hunt’s well-publicized allegations informed debates during the passage of Robert Peel’s Gaols Acts of 1823 and 1824, which introduced the first major legislative regulations on inspection of prison conditions.⁸ Although his ‘egotistical prison writings’ focused attention to his own plight, Hunt campaigned selectively for the age-old and acceptable concern of the conditions of debtors rather than for his radical compatriots imprisoned for treason. Finn also notes his comfortable conditions and the ‘fluid and porous boundaries’ of unreformed prisons holding debtors. She comments, ‘by 1820, however, the changing composition of the prison population and the rise of disciplinary penal reform had begun to erode the foundations upon which this accommodating tradition of imprisonment had been built’.⁹ The evidence of political prisoners in the other county gaols illustrates that ‘accommodating tradition’ had crumbled well before 1820.

This article examines the role of working-class political prisoners arrested for seditious activity and related state offences across England in the penal reform debates of the early nineteenth century. The central evidence are letters to and from the state prisoners, the Home Secretary and the governors of the gaols, and the radicals’ petitions to parliament

⁸ Henry Hunt, *Peep into a Prison, or the Inside of Ilchester Bastille* (1821); Margot C. Finn, ‘Henry Hunt’s “Peep into a Prison”’: the radical discontinuities of imprisonment for debt’, in Glenn Burgess and Matthew Festenstein (eds), *English Radicalism, 1550-1850* (Cambridge, 2007), 197.

⁹ Finn, ‘Hunt’s “Peep into a Prison”’, 197, 200; Margot C. Finn, *The Character of Credit: Personal Debt in English Culture, 1740-1914* (Cambridge, 2003), 115; John Belchem, *Orator Hunt: Henry Hunt and English Working-Class Radicalism* (Oxford, 1985), 133-165.

written in or immediately after their release from prison. The radicals' correspondence was confiscated by the gaolers and sent to the Home Office, while other letters about prison conditions appear to have been collated as evidence for the Home Office's enquiries into the state of English and Welsh prisons in 1820-2 that led to Peel's Gaols Acts of 1823 and 1824.¹⁰ Historians have not examined this correspondence in detail perhaps because they lie scattered and poorly catalogued in several series of the Home Office papers now at the National Archives. This article pieces the material together to show the difficulties faced by working-class prisoners and then to argue that the experience of imprisonment and campaigns for gaol reform shaped radical principles in this crucial phase of the popular democratic movement.

The radical leaders and printers arrested during the mid-1790s were mainly lodged in Newgate and Coldbath Fields in London, but the subsequent intakes of working-class radicals, Luddites and trades unionists were usually imprisoned in provincial county gaols, where they faced far worse conditions and greater obstacles to negotiate what they regarded as their rights. The government's use of Suspension of Habeas Corpus acts in 1799 and 1817 enabled greater scope for mass arrests of anyone suspected of 'seditious' activity, and the 1799-1800 Combination Acts targeted trade unions. Under the 1817 Suspension of Habeas Corpus Act, fifty-four reformers were imprisoned under direct warrant from the Secretary of State, and Home Secretary Lord Sidmouth deliberately sought to prevent the recurrence of potentially revolutionary combinations by separating the radicals in prisons across the

¹⁰ TNA:PRO, HO 42, domestic correspondence; HO 44/1-3, 'private and secret' correspondence; HO 52, county correspondence; HO 20/10, prisons correspondence and papers, 1820-40; *Hansard's Parliamentary Debates* (hereafter *Hansard*), especially 1818, vol. 37.

country. Forty-one stockings, quarrymen and iron workers were imprisoned at Nottingham and Derby for their involvement in the Pentrich ‘rising’ in June 1817.¹¹ Three leading Manchester ‘ultra-radicals’, Samuel Drummond, John Bagguley, a servant, and John Johnston, a tailor, were imprisoned after the ‘March of the Blanketeers’ in March 1817, an extraordinary demonstration of hundreds of men attempting to march from Manchester to petition the Prince Regent for parliamentary reform. They were arrested again for giving seditious speeches at reform meetings in September 1818 and remained in Chester Gaol until the eve of the Peterloo Massacre in August 1819.¹² Trades unions were also targeted under charges of conspiracy to combine or take illegal oaths: the major Lancashire cotton spinners’ strike of 1818 led to the imprisonment of John Doherty and several other leaders of the spinners’ union for two years in Lancaster.

The Peterloo Massacre of 16 August 1819, in which a peaceful mass reform meeting addressed by Henry Hunt in Manchester was forcefully dispersed by yeomanry cavalry, marked a further turning point in state reaction against the working-class democratic movement. John Knight, a small cotton manufacturer and leader of one of the Manchester radical societies, Samuel Bamford, the leader of the Middleton society, and five other Manchester radicals were confined to Lancaster, together with several more for selling ‘seditious’ papers and for undertaking illegal military manoeuvres, a practice prohibited by the ‘Six Acts’ passed in late 1819 as part of the government reaction to Peterloo. Twenty-four woollen and metal workers involved in the Barnsley and Grange Moor ‘risings’ in Yorkshire

¹¹ British Parliamentary Papers, 1818 (89), *A Return of All the Persons Arrested, Committed or Detained in England on Treasonable Charges*.

¹² *Black Dwarf*, 4 Mar 1818; *A Full, Accurate and Impartial Account of the Trial of John Bagguley, John Johnston and Samuel Drummond* (Manchester, 1819).

in late 1819 were imprisoned at York; and Bagguley, Drummond and Johnston were joined at Chester by several more radical leaders from Macclesfield and Stockport.¹³

Radical critics accused the government of conducting a ‘reign of terror’, though historians have concluded that the pattern of arrests for seditious libel, though severe in their impact, were intermittent and many prosecutions were unsuccessful.¹⁴ Imprisonment nevertheless impacted on the level and organization of radical activity in public, which markedly declined during the periods of imprisonments in 1794, 1799, 1817 and 1819. Internal divisions within the radical leadership and the strength of popular loyalism have also been posited as factors hindering the progress of the parliamentary reform movement in Britain.¹⁵ This article argues by contrast that the imprisonments did not halt the intellectual development of popular political radicalism. The experience of imprisonment compelled radicals and their supporters among sympathetic gentry and Whig members of parliament to situate the prison reform campaign within a framework of ideas about the constitution. Penal reform came to be linked to defending traditional ideas of the ‘free-born Englishman’, not

¹³ Joyce M. Bellamy and John Saville (eds), *Dictionary of Labour Biography* (10 vols, Basingstoke, 1993), ix, 166; Raymond G. Kirby and Albert E. Musson, *The Voice of the People: John Doherty, 1798-1854* (Manchester, 1975), 27; *The Trial of Henry Hunt ... For an Alleged Conspiracy to Overturn the Government* (London, 1820).

¹⁴ Philip Harling, ‘The law of libel and the limits of repression, 1790-1832’, *The Historical Journal*, 44: 1 (2001), 107-134.

¹⁵ Iorwerth Prothero, *Artisans and Politics in Early Nineteenth-Century London: John Gast and his Times* (London, 1979), 75; H.T. Dickinson, ‘Popular loyalism in Britain in the 1790s’, in E. Hellmuth (ed.), *The Transformation of Political Culture: England and Germany in the Late Eighteenth Century* (Oxford, 1990), 503-33.

least because the radicals and their supporters saw their imprisonment as a government policy connected to what they saw as the illegal suspension of Habeas Corpus acts and wider state corruption. They challenged the Tory government's attack on the old Whiggish principle of the liberty of the subject protected from infringement by constitutional rights, even when that infringement was permitted by parliament.¹⁶ These ideas were developed moreover because of the much more restrictive environment faced by the working-class radicals compared with their middle-class compatriots in the metropolitan gaols. Far from being periods of repression causing inactivity, therefore, the post-war imprisonments were crucial to the development of popular political radicalism.

The position of state prisoners within 'reformed' gaols

Complaints about prison conditions were long-standing, but from the American Revolution onwards, humanitarian, Quaker and Evangelical campaigners and the publication of John Howard's investigation, *The State of the Prisons* (1777) placed increased pressure on parliament for penal reform. The 1779 Penitentiary Act led to individual reforming efforts, notably Sir George Onesiphorus Paul's rebuilding of Gloucester county gaol, completed by 1792.¹⁷ In 1810, the government appointed the Holford Committee to examine penal reform in general, leading to the model experiment of Millbank penitentiary, opened in 1816.¹⁸ New

¹⁶ De Lacey, *Prison Reform in Lancashire*, 143.

¹⁷ R.A. Cooper, 'Ideas and their execution: English prison reform', *Eighteenth-Century Studies*, 10: 1 (1976), 90.

¹⁸ Randall McGowan, 'The well ordered prison', in Norval Morris and David J. Rothman (eds), *The Oxford History of the Prison: the Practice of Punishment in Western Society*

county gaols in Oxford and Dorchester, and the remodelling of Winchester, York, Lincoln and Ipswich prisons sought to follow some elements of Howardian recommendations and the utilitarian principles of Jeremy Bentham's plans for prison reform. The various attempts at prison rebuilding along reformed lines and parliamentary legislation were however piecemeal or unimplemented in full.¹⁹ Maryse Tennant's case study of Chester Castle, for example, shows how progress was painfully slow due to the vested political and economic interests of local authorities.²⁰

Crucially, therefore, most of the provincial working-class state prisoners were confined in these 'reformed' county gaols. The environment of the old-style Newgate contrasted with the stricter conditions of Coldbath Fields house of correction, built under reformed lines in 1794.²¹ Sir Francis Burdett, MP for Westminster, intervened when he brought the treatment of the conspirator Colonel Despard in Coldbath Fields to parliamentary attention in 1798. The published accounts of the experiences of John Gale Jones in 1811 and John Hunt in 1813 indicate that state prisoners were treated more favourably after Burdett's

(Oxford, 1995), 85; U.R.Q. Henriques, 'The rise and decline of the separate system of prison discipline', *Past & Present*, 54 (1972), 70.

¹⁹ Sidney Webb and Beatrice Webb, *English Local Government: English Prisons Under Local Government* (6 vols, London, 1922), xi, 55-63; Sean McConville, *A History of English Prison Administration* (Abingdon, 1981), 135, 247.

²⁰ Maryse Tennant, 'Fields of struggle: a Bourdieusian analysis of conflicts over criminal justice in England, c. 1820-50', *Social History*, 39: 1 (2014), 36-55.

²¹ Parolin, *Radical Spaces*, 54.

intervention.²² Although as discussed later, the role of sympathetic MPs was significant in campaigning for penal reform, poorer prisoners were not completely without agency to negotiate for what they believed to be their own rights. The plebeian members of the democratic London Corresponding Society and republican cell group the United Englishmen raised the issue of their conditions in 1799-1800.²³ Tim Hitchcock and Robert Shoemaker have also more recently argued that the investigation into Coldbath Fields illustrates how, by the turn of the nineteenth century, the London working class and poor had developed increasingly politically aware strategies for negotiating with state authorities in prisons and other institutions.²⁴

Part of the problem for the authorities was that the definition and rights of state prisoners were ambiguous.²⁵ The Peterloo and Yorkshire radicals of 1819-20 were held ‘on a bewildering collection of charges’ of criminal libel, seditious writings and seditious conspiracy.²⁶ In December 1819, John Knight complained to his wife, ‘because we were charged with (not proved guilty of) High Treason, they knew not what to do with us when we

²² Francis Burdett, *An Impartial Statement of the Inhuman Cruelties Discovered in the Coldbath Fields Prison* (1800); Parolin, *Radical Spaces*, 51-3, 65; Hone, *For the Cause of Truth*, 122-5; Parliamentary Papers, 1799 (943), *Papers Relating to His Majesty’s Prison in Coldbath Fields*, xlvi.

²³ J.A. Hone, *For the Cause of Truth: Radicalism in London, 1796-1821* (Oxford, 1982), 121-8.

²⁴ Tim Hitchcock and Robert Shoemaker, *London Lives: Poverty, Crime and the Making of a Modern City, 1690-1800* (Cambridge, 2015), 412-3.

²⁵ Steffen, *Defining a British State*, 116.

²⁶ De Lacey, *Prison Reform in Lancashire*, 137.

got hither', and put into a cell with felons.²⁷ Determined to prove their innocence, all the radicals and trades unionists virulently rejected being associated with felons. The radicals held by executive fiat on a warrant from the Home Secretary under the suspension of habeas corpus acts were in essence in penal limbo, confined because they were regarded as dangerous to the state but neither as felons nor debtors. It was thus difficult to classify the new types of parliamentary reformers and trades unionists arrested under charges of sedition and conspiracy, but also the unusual situation usefully gave radicals a legal loophole to challenge their status and demand more rights in prison. The act extending the suspension in May 1799 was particularly significant in connecting prison reform with loyalist reaction. It permitted more strict confinement of state prisoners by county gaolers, and gave greater latitude to the secretaries of state to move those suspected of seditious activities around prisons.²⁸ This provision was repeated in the 1817 Suspension of Habeas Corpus Act. During his earlier imprisonment in 1817, Knight was content with his conditions at Coldbath Fields and then Reading. But upon removal to solitary confinement at Salisbury, he complained directly to Lord Sidmouth, 'at Reading my apartments were spacious light and airy – I enjoyed tolerably good health – here the scene is completely reversed – the Room being comparatively small dark and very ill ventilated, being in fact a common Felon's Room. Prison so crowded – no other room. No knife or fork to eat with'. He was finally moved to Worcester gaol.²⁹ The 1779 Penitentiary Act had recommended solitary confinement, and in 1817, the Home Office initially sought to enforce the policy due to fear of radical 'contagion'. William Wolstenholme and his two sons from Sheffield were initially separated

²⁷ TNA:PRO, HO 42/201/489, Knight to Knight, 29 Dec 1819.

²⁸ Paul Halliday, *Habeas Corpus From England to Empire* (Cambridge MA, 2010), 253.

²⁹ TNA:PRO, HO 42/168/270, Knight to Sidmouth, 11 July 1817.

in Winchester. Wolstenholme requested to see his sons but on 1 July, Henry Hobhouse, permanent under-secretary of state, informed the gaoler, 'His lordship laments the Restraint under which it is necessary to place prisoners under charges of high treason, he finds it to be impossible to grant the prayer of the Petition consistently with the Practice which has been adopted in other similar cases'.³⁰ On the removal of Knight and the Holmfirth radical Benjamin Whiteley to Worcester in the same month, the keeper was instructed that no one was allowed to visit them without Sidmouth's written authority, that all letters had to be sent via the Home Office, and that 'there be no communication between them either in their Rooms or at the time of their being in the Airing Grounds'.³¹

Drawing on Michael Ignatieff's interpretation of penal policy, Miles Ogborn briefly notes the Radical critique of solitude in the 1790s, which he argues 'put the prisons at the centre of a contest over the basis of the relationship between the state and its citizens', that prevented official support for its national implementation.³² But solitary confinement was rendered unenforceable less because of radical complaints and again because of simple overcrowding. The French and Napoleonic wars had created a backlog of prisoners sentenced to transportation, and a post-war 'crime wave' increased the numbers of those both on remand and convicted. The first national census of prisons carried out in 1818 illustrated the

³⁰ TNA:PRO, HO 41/3/212, Hobhouse to Winchester gaoler, 1 July 1817.

³¹ TNA:PRO, HO 41/3/257, Hobhouse to Worcester gaoler, 16 July 1817.

³² Miles Ogborn, 'Discipline, government and law: separate confinement in the prisons of England and Wales, 1830-1877', *Transactions of the Institute of British Geographers*, 20: 3 (1995), 297; Michael Ignatieff, *A Just Measure of Pain: the Penitentiary in the Industrial Revolution, 1750-1850* (New York, 1978).

huge extent of the problem of overcrowding.³³ Single cells were hard to implement in ‘retrofitted’ county gaols, many of which were constructed in and around medieval castles. The gaolers had already moved towards the more controversial system of ‘classification’, installing up to four prisoners of the same ‘class’ within a single cell.³⁴ Customarily, state prisoners were lodged in the debtors’ wings, but as the impact of postwar economic depression filled these wings to overflowing, often these radicals were placed in the felons’ quarters or temporary accommodation in the turnkey’s lodge. The under-sheriff of Berkshire enquired in April 1817 about what to do with three state prisoners sent to Reading gaol as it was ‘at present very full and it is impossible to keep them in separate wards’.³⁵ The Home Office then sent instructions to all the county gaols, allowing each pair of state prisoners in their custody access to each other.³⁶ In November 1817, the keeper of Lancaster gaol wrote to Lord Sidmouth, enquiring where John Bagguley was to be placed, as there were ‘no single apartments of State Prisoners and the Gaol being in a very crowded State, viz. Debtors 174, Crown Prisoners 304’. The Home Office conceded that any suitable ward would suffice.³⁷ Upon application, the state prisoners eventually received concessions, and the Home Secretary’s correspondence reveals his concern to answer their complaints about physical

³³ J. Hurst, ‘The Australian experience: the convict colony’, in Morris and Rothman (eds), *The Oxford History of the Prison*, 246; British Parliamentary Papers, 1819 (135), *Account of Gaols, Houses of Correction and Penitentiaries in England and Wales, 1818*.

³⁴ Webb and Webb, *English Prisons*, 91.

³⁵ TNA:PRO, HO 42/163/366, Hardy to Sidmouth, 11 Apr 1817.

³⁶ TNA: PRO, HO 41/3/303, Hobhouse to various gaolers, 26 July 1817.

³⁷ TNA:PRO, HO 41/3/488, Noble to Higgins, 17 Nov 1817; HO 41/3/518, Hobhouse to Leicester gaoler, 3 Dec 1817.

conditions fairly. The Wolstenholmes were Sheffield steelworkers accustomed to working by a forge, and were eventually allowed to have a fire in their room at Winchester in July 1817 because ‘it having been represented to Lord Sidmouth that the workmen of that part of the Country from whence the Wolstenholmes come are accustomed to have fires all the year round and to work by and that they feel the privation when removed to the South where fires are not so constant’.³⁸

This solution did not however relieve the devastating emotional, psychological and financial impact of imprisonment. Thomas Riley, a Huddersfield tailor, was sent to York Castle for his involvement in the Yorkshire risings of 1817. He had previously been suspected of being involved in a Luddite attempt to murder the magistrate-manufacturer Joseph Radcliffe in 1812. He clearly commanded a wide and respectable level of support among the close-knit community of clothiers in the Spen Valley. On 13 August 1817, fifty-four ‘merchants, manufacturers and others residing near Huddersfield’ sent a petition to Lord Sidmouth calling for Riley’s release, claiming that ‘he hath since his apprehension labored under severe mental and bodily indisposition occasioned by his confinement and the extreme anxiety he feels for his hapless wife and destitute progeny’.³⁹ Sidmouth did not intervene, and just over a month later, Riley committed suicide while his cellmates slept. The case was quickly investigated by the magistrates, coroner and Home Secretary, who were desperate to conclude that Riley’s death was ‘not proceeded either from neglect or inattention’, but because he was ‘not of sound mind and understanding but Lunatic and distracted’.⁴⁰ R. A.

³⁸ TNA:PRO, HO 41/3/289, Hobhouse to Winchester gaol, 23 July 1817.

³⁹ TNA:PRO, HO 42/169/172, petition from Huddersfield, 13 Aug 1817.

⁴⁰ TNA:PRO, HO 42/170/504-5, Staveley to Home Office, 7 Oct 1817; HO 42/174/60, Allison to Home Office, 28 Feb 1818.

Houston's study of suicide in the eighteenth century depicts a web of competing interests that coroners, magistrates and other authorities had to negotiate in diagnosing suicide. The prevailing middle-class concern to disguise mental illness for the sake of social reputation was perhaps not a factor in the case of the plebeian Riley. But coroners' verdicts were nevertheless 'complex moral judgements about social worth'.⁴¹ The magistrates and the keeper of the gaol were concerned most of all with defending their own conduct, especially in the light the philanthropist and penal campaigner James Neild's investigation into the state of prisons in 1812. Neild had expressed concerns about the treatment of lunatics in the Castle, and it was not until 1816 that most were removed - only a year before Riley's death.⁴²

Defending rights

Following their complaints about solitary confinement, the radical prisoners raised two further queries directly with the Home Secretary: first, whether political prisoners were entitled to special treatment, and second, over their right to free communication as a safeguard against abuse. As many radicals had been arrested on charges of 'seditious' writings, the authorities had a special interest in monitoring their communications, though

⁴¹ R.A. Houston, 'Explanations for death by suicide in northern Britain during the long eighteenth century', *History of Psychiatry*, 23: 1 (2011), 53-7, 61.

⁴² De Lacey, *Prison Reform in Lancashire*, 117; James Neild, *The State of the Prisons* (1812), 329. The case was referred to again in another investigation in 1831: TNA:PRO, HO 43/40/44, Home Office to York magistrates, 18 March 1831. Thanks to Nathan Bend for this reference.

there was no systematic censorship of letters prior to this revolutionary period.⁴³ Citing Hobhouse's opinion on 29 July 1820, Philip Harling notes 'the crown lawyers knew the confiscation of prisoners' letters and parcels was very risky, since "the legality of the seizure would depend on the question of whether the papers be libellous or not"'.⁴⁴

The pattern of confiscation (as evidenced by the surviving letters in the Home Office files) suggests that the practice waxed and waned in relation to perceived levels of radical threat. But the main proponents of confiscation and censorship were the keepers of the gaols, who often enforced restrictions more strictly than the home secretaries intended. The correspondence of the 'Thirty Eight' Manchester radicals imprisoned at Lancaster in 1812 was copied as evidence for their trial, with notes made in the margins by the under-secretary of the Home Office. The gaoler John Higgin had kept 'a strict Eye on their correspondence' to ascertain their connection with prominent reformers, Sir Francis Burdett and Major John Cartwright.⁴⁵ Yet most of the letters were eventually permitted to be sent, and, for example, John Knight received two letters from Cartwright 'on the subject of our imprisonment',

⁴³ De Lacey, *Prison Reform in Lancashire*, 136, 139; Elizabeth Foyster, 'Prisoners writing home: the functions of their letters, c.1680-1800', *Journal of Social History*, 47: 4 (2014), 946-7.

⁴⁴ Harling, 'The law of libel', 119, fn 37, citing TNA:PRO, HO 41/6/127, Hobhouse to Archdeacon England, 29 July 1820.

⁴⁵ TNA:PRO, HO 42/129/315, Higgin to Beckett, 2 Nov 1812; *A Correct Report of the Proceedings of the Trial of Thirty Eight Men on a Charge of Administering an Unlawful Oath* (Manchester, 1812).

together with £20 for his expenses.⁴⁶ In 1817, Lord Sidmouth instructed the gaolers that all correspondence of state prisoners must be sent through the Home Office.⁴⁷ The radicals' perception of their special status made this restriction on their ability to take part in the political public sphere a particularly raw grievance. Thomas Evans, a London braces maker, LCS member and founder of the republican Spenceans, complained that at Coldbath Fields, he was 'denied the possession of pen, ink or paper, or intercourse with his friends, or the knowledge of public affairs'.⁴⁸ He clearly regarded these as necessities not luxuries for a state prisoner. The letters of ultra-radical shoemaker William Benbow of Manchester to his wife were regularly confiscated. On 5 December 1817, for example, the Home Office informed the keeper that Benbow was 'at liberty to write to his wife for the books mentioned in the letter of the 3rd and for any Cloaths [...] but that the letter contains too much scurrilous abuse to admit its being forwarded'.⁴⁹ In his petition to parliament, Benbow highlighted this grievance, and was 'insulted by being told he might have such things as were provided for persons committed on felonious charges' during his eight months in the house of correction.⁵⁰ The response of the veteran radicals was to attempt to code their language to avoid confiscation. Knight self-censored names by including only their initials, but was warned by

⁴⁶ TNA:PRO, HO 42/129/306-14, copies of correspondence, 29 June-24 Aug 1812; HO 42/129/314, Knight to Knight, 24 Aug 1812.

⁴⁷ TNA:PRO, HO 41/3/472, Addington to Higgin, 12 Nov 1817.

⁴⁸ *Hansard*, 13 Feb 1818, vol. 37, cc. 399-416.

⁴⁹ TNA:PRO, HO 41/3/385, Addington to Coldbath Fields, 25 Sept 1817; HO 41/3/526, Home Office to Coldbath Fields, 5 Dec 1817; HO 41/3/530, Home Office to Coldbath Fields, 10 Dec 1817.

⁵⁰ *Hansard*, 13 Feb 1818, vol. 37, cc. 399-416.

the Home Office that they would only be forwarded on if the names were written in full. At the end of July 1817, he was informed that all letters had been forwarded, 'except a letter signed by E. Knight, dated the 9th inst., which treated of nothing but Political matters'.⁵¹

The issue of the right to visit political prisoners was a convenient conductor of critique. The county gaolers resisted the access, physically and legally, of state prisoners to sympathetic reformers. Lord Folkestone attempted to see the state prisoners in Reading gaol in his capacity as visiting magistrate in June and October 1817. Both times he was physically prevented from doing so by George Ernest Eastaff, the keeper of the gaol, under instructions from the Home Office.⁵² Folkestone was a moderate parliamentary reformer but he vehemently opposed the suspension of habeas corpus and seditious meetings bills in 1817.⁵³ Incensed by his treatment by Eastaff, Folkestone put forward a motion in the House of Commons on 18 June 1817, 'on the right of magistrates to visit state prisoners'. Using the issue as a wider attack on the government and the loyalist regime stretching back to Pitt the Younger, he complained, 'since 1791, in every suspension of Habeas Corpus, similar orders were given at the discretion of the secretary of state'. Debate continued whether prisons were 'private property' or under the control of the Crown, but the motion was defeated.⁵⁴ Notably also, Eastaff was consequently suspended by the Berkshire Quarter Sessions bench from his

⁵¹ TNA:PRO, HO 41/3/23, Beckett to Eastaff, 5 May 1817; HO 41/3/305, Hobhouse to Worcester gaol, 28 July 1817.

⁵² TNA:PRO, HO 41/3, Addington to Eastaff, 4 Oct 1817.

⁵³ R.G. Thorne, 'Pleydell Bouverie, William, Visct. Folkestone', *History of Parliament Online* <<http://www.historyofparliamentonline.org/volume/1790-1820/member/pleydell-bouverie-william-1779-1869>> [accessed 31 July 2016].

⁵⁴ *Hansard*, 18 June 1817, vol. 26, cc. 1025-6.

position at the house of correction. Sidmouth nevertheless assured him that the state prisoners remained under his custody, as they were held in the common gaol, which was under the jurisdiction of the high sheriff, rather than in the house of correction, under the jurisdiction of the lord lieutenant of the county.⁵⁵

The Home Office's attitude towards the intervention of reformist authorities and MPs hardened after Peterloo. The reformist magistrate Colonel George Williams of Liverpool visited Nathan Broadhurst, a Manchester fustian cutter imprisoned at Lancaster in December 1819, and gave him a radical newspaper in deliberate defiance of the prison rules. Following a confrontation with the gaoler, John Higgin, Williams sought the help of his son-in-law, William James, newly-elected radical Whig MP for Carlisle. James presented a petition by Broadhurst to the House of Commons complaining of poor conditions in the gaol.⁵⁶ Williams had also written to John Doherty on 20 October 1820, lamenting, 'I am afraid (that altho' the suffering of Broadhurst be real) that for the present he must console himself with the consciousness of Martyrdom in the Cause of Reform'.⁵⁷ Higgin confiscated Williams and James's correspondence. In retaliation, the MP again raised the issue in the House of Commons in February 1822, claiming the opening of his letters was in breach of his parliamentary privilege. During the debates in parliament, Higgin wrote to Peel,

⁵⁵ TNA:PRO, HO 41/3/452, Addington to Eastaff, 24 Oct 1817; *An Account of All the Gaols, Houses of Correction and Penitentiaries in the United Kingdom* (London, 1819), 6-7.

⁵⁶ TNA:PRO, HO 20/1/63-64, 102c, correspondence to and from Higgin and Sidmouth, 8 Apr 1820 to 16 Feb 1822; HO 52/1/503-504, 523-525, 553, 587, 599, correspondence, Oct - Nov 1820; *Hansard*, 7 Mar 1821, vol. 4, cc. 1128-31.

⁵⁷ TNA:PRO, HO 52/1/504, Williams to Doherty, 20 Oct 1820.

exasperatingly complaining about the involvement of oppositionist MPs and reflected on the litany of working-class radicals he had to deal with since the 1790s:

No complaint was ever made to any of the Judges or Magistrates, before the Demagogue Radicals came here. They have been no little annoyed by the wholesome restriction [on sending and receiving letters] because they have not had free scope for their seditious and almost treasonable expressions used in their correspondence, even with some Members who, ought to be ashamed of the Encouragement given to desperate characters, who under the Pretence of Reform seek the ruin of their Country.⁵⁸

Peel opposed James's claims on both occasions.⁵⁹

The state prisoners' distinctive status was further eroded in favour of enforcing stricter prison discipline against any potentially 'seditious' writings and collaboration. Thomas Leech complained in September 1822 about the governor of Chester Castle refusing them all newspapers apart from the Tory *Macclesfield Courier*, citing a letter by Sidmouth to the governor of Gloucester gaol of 1814 that appeared to have established the precedent of the opening of prisoners' letters. The judgement was also cited in the debate over the Lancaster Castle rules.⁶⁰ The magistrates responded to the Home Office that restrictions on newspapers fell under two orders made at Cheshire Quarter Sessions of August 1819

⁵⁸ TNA:PRO, HO 20/10/102c, Higgin to Peel, 16 Feb 1822.

⁵⁹ *Hansard*, 25 Feb. 1822, vol. 6, cc. 644-63; De Lacey, *Prison Reform in Lancashire*, 144-5.

⁶⁰ TNA:PRO, HO 20/1/63a, copy of Sidmouth's letter, 1814; HO 20/1/51, Leech to Home Office, 23 Sept 1822.

‘prohibiting the introduction of all political publications into the gaol’. The second prohibition was no doubt in response to Peterloo, to ‘prevent all atheistical, seditious or political papers being sent into or out of the Gaol’. The magistrates continued:

Some of the Prisoners confined for political offences had been in the habit of receiving regularly from their friends several periodical publications such as Cobbets [sic] Weekly Register, the Black Dwarf with various others, and these were industriously circulated, as opportunity offered to the other prisoners as well as privately read during the time of divine service in the Chapel.⁶¹

Although this accusation indicates that the state prisoners were attempting to replicate a similar ‘counter-public sphere’ to Newgate in the 1790s, the working-class radicals were much more restricted in what channels of communication they could access or influence. That is not to say there were no intellectuals. Samuel Bamford developed his poetic muse in Coldbath Fields during his first imprisonment in 1817, and after his release in 1818, the radical *Manchester Observer* published his poetry reflecting on his experience. He continued after Peterloo with poetry and songs published in the *Black Dwarf* among other outlets.⁶²

⁶¹ TNA:PRO, HO 20/1/9, Feilden and Armstead to Hobhouse, 5 Oct 1822.

⁶² Samuel Bamford, ‘Eclogue written during my confinement in the prison at Cold-Bath Fields’, in *Hours in the Bowers: Poems, etc* (Manchester, 1834), 52-4; ‘To the author when prisoner in Lincoln Castle’ (1820) <http://gerald-massey.org.uk/bamford/b_poetry_index.htm> . [accessed 2 Dec. 2016]; *Manchester Observer*, 26 Sept 1818, 20 May 1820, 27 May 1820; *Black Dwarf*, 24 May 1820; J. Gardner, ‘The suppression of Samuel Bamford’s Peterloo poems’, *Romanticism*, 13: 2 (2007), 145-55.

Nevertheless, it was much more difficult for the postwar radicals, even the printers and writers among them, to produce anything like Newgate's 'publishing collective' with its wide publicity and distribution networks.⁶³

The impact of imprisonment on radical principles

Radicals strongly believed that their imprisonment was unjust and indeed unconstitutional. Habeas Corpus, they argued, was enshrined in Magna Carta and the unwritten constitution, and so to be held without trial was symptomatic of government corruption and was against the liberties of the 'freeborn Englishman'.⁶⁴ In 1817, Elijah Dixon wrote to his wife, in the full knowledge that the Home Office would be reading his letter, that he was 'detained more from motives of state policy than from any solid evidence that can be brought against me in support of high treason'.⁶⁵ John Knight saw himself as fighting a battle for the sake of the constitution as well as for his liberty. On 17 August, he wrote to his wife, 'I can scarcely avoid being surprised that, at the end of four months legislation they sh'd think of re-suspending the Habeas Corpus Act – for does it not seem to say "We cannot make Law

⁶³ Parolin, *Radical Spaces*, 26-7; Davis, McCalman and Parolin (eds), *Newgate in Revolution*, xiv, xi.

⁶⁴ See Jonathan Fulcher, 'The English people and their constitution after Waterloo: parliamentary reform, 1815-17', in James Vernon (ed.), *Re-reading the Constitution: New Narratives in the Political History of England's Long Nineteenth Century* (Cambridge, 1996), 52-82, though the discussion finishes with the arrest of the radicals in March 1817.

⁶⁵ TNA:PRO, HO 42/170/242, Dixon to 'my girl', 19 Sept 1817.

sufficiently severe: therefore we'll reserve ye Power of acting as we Please".⁶⁶ Joseph Mitchell of Liverpool had appealed directly to the Privy Council in a long letter from Coldbath Fields on 3 September 1817 (headed '123 Day of my confinement'). He sought to manipulate the language of justice to protest his case. He clearly based his justification of the unconstitutional nature of his imprisonment on Magna Carta:

If my confinement is compatible with those Parts of our Constitution, wherein it is expressly stated that "no freeman shall be taken or imprisoned, or deprived of his freehold or liberties or free customs or out land, or banished or any ways Destroyed nor will we proceed upon him or commit him to prison unless by the legal judgement of his Peers, or by the Law of his Land [...]"

My lords – has not my Property been taken from me, my liberties and free customs destroyed, myself Imprisoned without having a vote in the laws that Inforces it; without the legal Judgement of my Peers. Is not this my detention in solitary confinement most egregious defining not only that "Right and Justice" [...] all this against the laws of the great Charter and the laws of the land.⁶⁷

This constitutionalist language may in part have been tutored by Major Cartwright, who had provided legal advice to the Blanketeers on how to petition parliament.⁶⁸ Mitchell was evidently fully aware of his political stance, and more importantly skillfully choosing the

⁶⁶ TNA:PRO, HO 42/169/427, Knight to Knight, 17 Aug 1817.

⁶⁷ TNA:PRO, HO 42/170/358, Mitchell to Privy Council, 3 Sept 1817.

⁶⁸ Robert Poole, 'French revolution or peasants' revolt? Petitioners and rebels in England from the Blanketeers to the Chartists', *Labour History Review*, 74: 1 (2009), 6-26.

right language to put himself in the best position to persuade the law lords on their own terms. After the calculated rhetoric, however, he changed his tone to more personal anger and despair. His letter ended with a frustrated outburst which one can imagine echoing round his cell in Coldbath Fields: ‘But my lords I am afraid not think my spirits capable to bear – (Pardon the expression my Lords – for I cannot apply one more appropriate) the Hell of a silent and solitary confinement! Without a Trial – without a Cause and without a known end’.⁶⁹

The experience of imprisonment similarly shaped the radicals’ interpretation of corruption. Penal corruption had of course been a perennial complaint. The radicals imprisoned in Newgate in the 1790s published reams of literature on the subject, including Thomas Lloyd’s 1794 pamphlet, exposing the ‘impositions and abuses in the management of the jail of Newgate’, and Daniel Isaac Eaton’s 1812 pamphlet, *Extortions and Abuses of Newgate*.⁷⁰ The pamphlet literature produced by the working-class radicals by contrast concerned much more than turnkeys’ pecuniary irregularities. William Benbow published a pamphlet after his release in late 1817, printed by William Ogden, another former state prisoner. The Manchester postmaster sent a copy to the Postmaster General for forwarding to the Home Office. The circumlocutionary title is given in full here as it reveals much about the pamphlet’s contents and Benbow’s mood: *Censorship Exposed, or letters addressed to the R.*

⁶⁹ TNA:PRO, HO 42/170/358, Mitchell to Privy Council, 3 Sept 1817.

⁷⁰ Thomas Lloyd, ‘Impositions and abuses in the management of the jail in Newgate’, in Davis, McCalman and Parolin (eds), *Newgate in Revolution*, 69-79; John Thelwall, *Poems Written in Close Confinement in the Tower and Newgate Under a Charge of High Treason* (1795); M.T. Davis, ‘Good for the public example: Daniel Isaac Eaton: prosecution, punishment and recognition, 1793-1812’, in Davis (ed.), *Radicalism and Revolution*, 110-32.

H. Viscount, Sidmouth, and to Mrs Benbow, in which the business of the cowardly Oligarchy is brought to light and exposed to the execration of all who admire the cause of free and equal representation, by W. Benbow, lately confined by virtue of a lettre de cachet in the Bastile, but who eventually defeated the whole posse of borough mongering tyrants. The introduction railed at the injustice of his imprisonment, which Benbow believed was proven by his release without charge, and recounted ‘the progress of English liberty’ using the traditional radical tropes of the Norman Yoke, Magna Carta and the Bill of Rights, combined with the new analogy to the Bastille, with its French revolutionary connotations. The two ‘letters’ in the pamphlet were likely to have been re-written with extra accusations in retrospect. Benbow complained to Sidmouth of the confiscation of his letters to his wife, and warned him, ‘your mercilous [sic] cruelty, your atrocious tyranny has had the beneficial tendency of establishing me in my ardent love of liberty and perfected my detestation of your despotism and oppression’. The Manchester postmaster regarded the pamphlet ‘if not a libel is certainly of very dangerous tendency and the letter to Lord Sidmouth in my opinion instigating assassination’.⁷¹ It appears no action was taken but the close attention that both local authorities and the Home Secretary paid to radical language in speeches and pamphlets suggest that concern was heightened about the potential for ‘seditious’ language to inflame popular disturbance.⁷²

The role of reformist MPs

⁷¹ TNA:PRO, HO 33/2/45, William Benbow, *Censorship Exposed* (Manchester, 1818); HO 33/2/50, Whitelock to Freeling, 5 Mar 1818.

⁷² *Papers Relative to the Internal State of the Country, Presented to Both Houses of Parliament* (London, 1819), 24.

Pressure for gaol reform, the prisoners' petitions and the triggering of parliamentary investigations revived the opportunity for alliances, albeit opportunistic, between radicals and oppositional Whig MPs seeking to find further reasons to critique the Tory government. David Eastwood has highlighted the role of oppositionist MPs in channelling extra-parliamentary petitions into the House of Commons and pushing for select committees that led to social reforms in the 1820s and 1830s.⁷³ Their predecessors, Sir Francis Burdett and his followers, and the 'Mountain' faction of Whigs first under Samuel Whitbread and then Henry Brougham, did the same for gaol reform. Burdett's initial participation was a critical element in pushing the issue of political prisoners' anomalous status into the legislative arena. As we have seen, his involvement began in 1798 when he supported Catherine Despard's complaints about her husband's treatment in Coldbath Fields. Burdett's highly publicized visits to the 'bastille', speeches in parliament and consequent publications sought to expose the continuation of abuses from the old style prisons to the new Howardian regime.⁷⁴

Lincoln Castle was the first non-metropolitan gaol to come under parliamentary investigation. In 1811, two men imprisoned on seditious libel charges and a debtor solicited the help of Sir Samuel Romilly, who presented their petitions and defended their case in the

⁷³ David Eastwood, 'Men, morals and the machinery of social legislation, 1790-1840', *Parliamentary History*, 13: 2 (1994), 197.

⁷⁴ Hone, *For the Cause of Truth*, 122; Francis Burdett, *An Impartial Statement of the Inhuman Cruelties Discovered! In the Coldbath Fields Prison* (1800).

House of Commons, supported by Burdett and Brougham.⁷⁵ Another Lincoln state prisoner petitioned about his condition in May 1812, and Romilly raised a motion in the Commons, seconded by Brougham, on 25 June 1812. Burdett gave an impassioned speech reflecting on the previous enquiry into Coldbath Fields and criticized the ‘new species of imprisonment in this country; namely solitary confinement’. For Burdett, the issue was integrally linked to political liberty:

He hoped they would come back to our own constitutional mode of imprisonment.

There was no safety to prisoners but the free admission of their friends to them. It was impossible to devise any other means by which they could be secured from oppression.⁷⁶

Opposed by Wilberforce and Castlereagh among others, the debate ended without division. Eventually a commission was set up to enquire into the condition and treatment of prisoners in December 1812.⁷⁷

By then, Lancaster Castle was already under parliamentary scrutiny. Burdett led a campaign into its conditions as part of wider questions raised in parliament about magistrates’ conduct towards the Luddite outbreaks. Burdett presented four prisoners’

⁷⁵ *Hansard*, 21 June 1811, vol. 20, cc. 723-38; *Cobbett’s Weekly Political Register*, 11 July 1811; Lincoln Archives, MON 7/37/4, Langton to Romilly, 1811; TNA:PRO, Treasury Solicitors’ papers, TS 25/5/66/262-4, Opinion of Law Officers, 6 June 1812.

⁷⁶ *Hansard*, 25 June 1812, vol. 23, cc. 759-65.

⁷⁷ Lincoln Archives, CoC7/1, Commission to enquire into the conditions and treatment of prisoners, Dec 1812.

petitions to the House of Commons on 3 July 1812 about the conduct of John Higgin and his turnkey in relation to the death of an inmate, while Brougham defended the ‘Thirty Eight’ radicals in a debate in the House of Commons about magistrates’ use of spies. Higgin retorted to the under-secretary in November that the confiscated correspondence of the ‘Thirty Eight’ ‘clearly shows that they are not the immaculate and oppressed persons they and their supporters desired the County to believe’.⁷⁸ James Neild’s *Report on the State of the Prisons* in 1812 and the parliamentary commission set up to investigate the conditions in Lancaster, though pointing out the problems of overcrowding, nevertheless exonerated Higgin’s running of the prison.⁷⁹

The involvement of the MPs with individual radical prisoners was motivated in part by humanitarian concern, and in part as a continued assertion of their independence in parliament. From 1812, the Mountain Whigs were joined by members such as Henry Grey Bennet, MP for Shrewsbury, who led a further campaign concerning Newgate gaol in 1814-15. In 1817, he denounced the secret committee report on the ‘seditious’ activities of the radicals as ‘trash’, and in February 1818, he presented petitions from the imprisoned radicals and supported the call for an enquiry into the suspension of habeas corpus in March. After Peterloo, he defended the reformers and presented two petitions from Manchester calling for an enquiry into the government’s actions.⁸⁰ Though all denouncing the government’s heavy-

⁷⁸ TNA:PRO, HO 42/129/312, copies of extracts of letters from prisoners, 29 June-24 Aug 1812; HO 42/129/315, Higgin to Beckett, 2 Nov 1812.

⁷⁹ British Parliamentary Papers 1812-13 (5), *Report of the Commissioners on the State of Lancaster Prison*; James Neild, *The State of the Prisons in England, Scotland and Wales* (London, 1812), 329.

⁸⁰ R.G. Thorne, ‘Bennet, Hon. Henry Grey’, *History of Parliament Online*,

handed suppression of popular unrest, however, the Mountain MPs remained suspicious of both Burdett and provincial working-class activism. Burdett himself equally distrusted extra-parliamentary organization such as Cartwright's Hampden Club. After Whitbread's death in 1815, moreover, the group did not function as coherently under Henry Brougham's leadership.⁸¹

The relationship between the MPs and the prisoners was not one-way or paternalistic. Whereas E.P. Thompson regarded Burdett as having limited influence outside his radical Westminster followers, J.R. Dinwiddy argued that he did have significant reach among provincial radical groups.⁸² The attempts of the working-class radicals to engage Burdett on their behalf support Dinwiddy's claim and illustrates a strategic use of 'gentlemen leaders' to effect specific changes rather than unthinking adherence. Though Henry Hunt's leadership of the extra-parliamentary movement was gathering pace from 1812, both Burdett and the Mountain MPs were seen as the most direct ways of gaining redress. John Knight recalled that, upon being taken to London after his arrest in 1817, he immediately wrote to Burdett and Grey Bennet, requesting their assistance. A sympathetic pub landlord paid for the delivery of his letters to parliament, where they were picked up by the Home Secretary, who

<http://www.historyofparliamentonline.org/volume/1790-1820/member/bennet-hon-henry-grey-1777-1836> [accessed 31 July 2016].

⁸¹ D. Rapp, 'The left wing Whigs: Whitbread, the Mountain and reform, 1809-1815', *Journal of British Studies*, 21: 2 (1982), 60; William A. Hay, *The Whig Revival, 1808-1830* (Basingstoke, 2005), 62-3.

⁸² J.R. Dinwiddy, *Radicalism and Reform in Britain, 1780-1850* (London, 1982), 115; E.P. Thompson, *The Making of the English Working Class* (2nd edn, Harmondsworth, 1968), 498-9.

then interviewed Knight before committing him. Knight then wrote to Brougham, who had acted as defence at his trial in 1812, and Brougham advised him about petitioning parliament.⁸³ Thomas Evans attempted to use his connections developed since starting public political activity in 1798, but he was less fortunate than Knight. Immediately after his arrest, Evans ‘drew up a petition to the House, complaining of the outrage against the personal liberty of the prisoner and his son, perpetrated by Lord Sidmouth, which petition, addressed to Lord Cochrane or Sir Francis Burdett [...] the petitioner the same morning delivered to Mr William Adkins, the governor, to be sent according to its direction, but it was sent to Whitehall, and there detained, and in consequence it never was presented to the House’.⁸⁴

Petitions were the main legal recourse to parliament and they assumed vital tactical and symbolic importance for both penal and radical reformers, and again demonstrate the development of the constitutionalist nature of postwar radicalism.⁸⁵ The prisoners petitioned parliament individually against the Suspension of Habeas Corpus Act in January and February 1818. The petitions, presented by Lord Folkestone and Henry Grey Bennet, detailed in depth their grievances against perceived travesties of constitutional rights. John Mitchell, a small draper, complained that in consequence of his ‘unjust imprisonment, his business is totally ruined, himself involved in very considerable embarrassments, his character traduced, and his friends and connexions enormously imposed upon, by the misrepresentations of spies and informers’.⁸⁶ The petitions were as usual ‘laid on the table’. Yet Lord Liverpool’s move to pass an Indemnity bill, indemnifying the government against being sued for poor treatment

⁸³ TNA:PRO, HO 42/164/289, Knight to Hadwin, 30 Apr 1817.

⁸⁴ *Hansard*, 13 Feb 1818, vol. 37, cc. 399-416.

⁸⁵ Poole, ‘French Revolution or Peasants’ Revolt?’

⁸⁶ *Hansard*, 13 Feb 1818, vol. 37, cc. 399-416.

in gaol, raised the radicals' ire even further. As Paul Halliday has argued about the previous indemnity act passed in 1801, the measure 'marked an innovative, even ominous, turn in the ministry's approach to the detention of state prisoners, not a resort to old practices'.⁸⁷ In his petition against the 1818 bill, Thomas Evans complained that the 1801 Indemnity Act had left him 'ruined in property, debilitated in health, and calumnated in character'.⁸⁸ It demonstrated to the radicals the connection between prison conditions, government corruption and the unconstitutionality of imprisonment without trial.

The debates about the petitions and the indemnity bill were however overwhelmed by the controversy over the government's employment of 'Oliver the spy' as an *agent provocateur*. In the House of Commons, Folkestone moved for a parliamentary investigation into the claims of the Mancunian petitioners on 17 February 1818. In the Lords, the Earl of Carnarvon, discussing the petition of Samuel Drummond, one of the Blanketeers, called for a full enquiry against government ministers. The local authorities in Manchester and Huddersfield responded by sending the Home Office copies of the petitions annotated with counter-arguments line by line.⁸⁹ Sidmouth commended the Manchester magistrates for 'acting wisely' in apprehending the Blanketeers, and defended the gaolers for accommodating the state prisoners comfortably, while brushing over the issue of government spies raised in John Mitchell's petition. Earl Grosvenor defended the right to petition against

⁸⁷ Halliday, *Habeas Corpus*, 255.

⁸⁸ *Hansard*, 13 Feb 1818, vol. 37, cc. 399-416.

⁸⁹ TNA:PRO, HO 42/174/111-112, Salter and Sandford to Sidmouth, 25 July 1818; HO 42/174/71, Allison to Sidmouth, 28 Feb 1818.

the suspension of habeas corpus, but the motion for a full enquiry was ‘negatived without a division’.⁹⁰

An intermittent stream of prisoner petitions arrived at parliament in 1818-19, and Whig opposition members continued their support.⁹¹ Sir Charles Wolseley corresponded with John Bagguley in March 1819 about his proposed petition to the House of Lords, advising him to direct it via Lord Holland and to ‘be prudent in your Language... in order that they may see the enormity of the offence this Judge has committed in your person against the Constitution’. Bagguley’s petition centred on the enormity of the deliberately punitive bail and sureties of £1800, which he could not pay because his arrest had made him ‘ruined in business’.⁹² The confiscated correspondence illustrates the revival of the reform movement and its spreading links; Wolseley wrote on 2 April, ‘Did you write to Sir F. Burdett? I wrote to the Reformers of Hull in your favour the other day’.⁹³ Bagguley attempted to keep his radical activism alive from Chester Castle, issuing a letter to the Female Reformers of Stockport on 19 June, and an open letter to be read out at a mass meeting on Sandy Brow on 28 June, although both were retained by the Home Office and the copy of the open letter was

⁹⁰ *Hansard*, 19 Feb 1818, vol 37, cc. 519-45.

⁹¹ *Hansard*, 22 Apr 1819, vol 39, cc. 1451-4.

⁹² TNA:PRO, HO 42/185/280, Wolseley to Bagguley, 26 Mar 1819; HO 42/185/283, Bagguley to Holland, 29 Mar 1819.

⁹³ TNA:PRO, HO 42/185/287, Bagguley to Harrison, 30 Mar 1819; /288, Wooler to Bagguley, 2 Apr 1819; /289, Harrison to Bagguley, 31 Mar 1819; /290, Bagguley to Harrison, 4 Apr 1819; /292, Bagguley to Wooler, 31 Mar 1819; /293, Wolseley to Bagguley, 2 Apr 1819.

apparently ‘lost’ in the post.⁹⁴ The plight of state prisoners was a focus for the popular reform movement remaining outside the prison walls, helping to sustain activity in the absence of its leaders. The Stockport reform society provided the prisoners with clothes, money and postage costs as well as information about the progress of the movement in northern England. In early 1818, the Hampden reform clubs of Norwich and Birmingham advertised subscriptions for the ‘sufferers under the Suspension Act’, while in late 1821, the independent minister Reverend Joseph Harrison thanked the female reform society of Bolton for their monetary support which he distributed among his fellow radical prisoners in Chester Castle.⁹⁵

The Manchester and Yorkshire radicals of 1819 continued the pressure on parliament, with the aid of the backbench Whig MPs. Again the conduct of John Higgin of Lancaster Castle in relation to confiscation of letters was at issue, including William James’s defence of Nathan Broadhurst’s petition in early 1821.⁹⁶ But Henry Hunt channelled the most publicity about conditions at Ilchester ‘Bastille’. Debates in parliament in early 1821 led to a royal commission that verified many of Hunt’s allegations. Richard Carlile was also raising serious allegations in his publication *The Republican* about his conditions at Dorchester gaol.⁹⁷ The

⁹⁴ TNA:PRO, HO 42/188/138, ‘Address to the Female Reformers of Stockport, 19 June 1819’; HO 42/188/45, Lloyd to Sidmouth, 28 June 1819.

⁹⁵ TNA:PRO, HO 42/174/64, 68, handbills, Feb 1818; HO 41/14, Harrison to the Female Reformers of Bolton, 26 Oct 1821.

⁹⁶ *Hansard*, 31 May 1820, vol. 1, cc. 702-5; 7 Mar 1821, vol. 4, cc. 1128-31; TNA:PRO, TS 25/2035, f. 564, Law Officers’ opinion books, 31 July 1820; De Lacey, *Prison Reform in Lancashire*, 145-7.

⁹⁷ *Hansard*, 8 Feb 1822, vol. 6, cc. 151-9; Hunt, *Peep into a Prison*; TNA:PRO, TS 25/2035, f. 498, Law Officers’ opinion books, 25 July 1820.

focus of the parliamentary investigations centred on the conduct of the governors of the gaols, however, rather than the wider politics of reform. Sidmouth had already assembled the foundations of a gaol bill among other measures of penal reform, but the passage of the bill was postponed after parliament dissolved in 1820, and while much of the Home Office's attention was focused on pushing through the 'Six Acts' and dealing with popular agitation around the Queen Caroline affair.⁹⁸

The 1823 and 1824 Gaols Acts and the radicals' legacy

The passage of legislation in 1823-4 marked the end of the campaigns for prison reform in this period. In 1821, upon taking office as Home Secretary, Robert Peel picked up where Sidmouth left off, and sought to tidy up the penal programme before he moved on to his main challenge of implementing a new policing system.⁹⁹ The select committee on prisons met again in 1822, recommending the classification of prisoners and their 'constant employment'

⁹⁸ R. Follett, *Evangelicalism, Penal Theory and the Politics of Criminal Law Reform in England, 1818-1830* (Basingstoke, 2001), 150-1.

⁹⁹ British Library, Additional MS. 40315, ff 85-6, Peel to Eldon, 16 January 1823; V.A.C. Gatrell, *The Hanging Tree: Execution and the English People, 1770-1868* (Oxford, 1996), 578-9. Gatrell argued that Peel lacked 'political will or inspirational drive to do more', whereas Follett outlines the complex party politics that restricted options available to the Home Secretary; Eastwood, 'Men, morals and the machinery of social legislation', 197; Follett, *Evangelicalism, Penal Theory*, 170, 174.

to prevent radical ‘contagion’.¹⁰⁰ The committee’s recommendations were implemented in the 1823 Gaols Act. The legislation applied to 130 prisons, seventeen county gaols among them, including Chester, Lincoln, Gloucester and York. The following year, supplementary legislation instigated a system of inspections and quarterly returns to the Home Secretary.¹⁰¹

Peel’s intentions for the legislation were pragmatic rather than implementing major change. As Richard Butler has recently argued, the acts were ‘an exercise in compromise’ between Peel’s desire to enforce a national inspection regime and the continuing resistance of local authorities to centralization. Butler also emphasizes the Irish context of the legislation, considering Peel’s previous experience as Chief Secretary for Ireland.¹⁰² This article has shown the domestic context of reaction to English radicalism as well as pressure from extra-parliamentary campaigns. Peel sought to resolve the ambiguous status of political prisoners, blurred even further by overcrowding, and gaolers’ pre-emptive moves towards classification. The measures were seen in part as a solution to the problem caused by the Howardian reforms only just being completed when the prison system was hit by a bulge of political prisoners complaining to both interested parties and the Home Office about the restrictions on what they regarded as their rights. The state prisoners’ complaints, amplified in parliament, nevertheless served to connect the issue with Liverpool and Sidmouth’s repression of the

¹⁰⁰ British Parliamentary Papers, 1822 (67), *Report from the Select Committee Appointed to Consider the Laws Relating to Prisons*, 7 May 1822, iv.

¹⁰¹ 4 Geo IV c.64; 5 Geo IV c.85; McConville, *A History of English Prison Administration*, 249.

¹⁰² Richard Butler, ‘Rethinking the origins of the British Prisons Act of 1835: Ireland and the development of central government prison inspection, 1820-1835’, *Historical Journal*, 59: 3 (2016), 721-46.

radical movement, crystallized at Peterloo and in the Six Acts. The Gaols Acts thus were in part intended to take the initiative of penal reform away from the Burdettites and the Mountain who had used the state prisoners' grievances, both genuinely and opportunistically, as part of their critique of the Tory government.¹⁰³

Yet the results of the legislation were unsatisfactory and failed to answer radical complaints. As before, it was difficult to retrofit the old prisons to the new classification system, as the magistrates reported back to parliament in 1825.¹⁰⁴ The case for penal reform revived again in 1832 when Nathan Broadhurst, originator of the 1820 enquiry and now a radical veteran, returned to Lancaster Castle charged with seditious conspiracy after attending a meeting during agitation for the Reform bill. Broadhurst, no doubt reflecting on his previous experience, complained of corruption and restrictions on his rights. Higgin and his son's entrenched term of office was eventually terminated and they were replaced.¹⁰⁵ It was not until the new Whig regime of the 1830s that major reform was enacted in the 1835 Prisons Act, which established a centrally-controlled Inspectorate of Prisons.¹⁰⁶

The 1823-4 and 1835 legislation in effect marked the gradual and incomplete shift of power over the gaols, first away from the gaolers and then from the magistrates to the Home Office. But beyond this change, the victory was hollow. Restrictions on state prisoners' access to visitors and publications continued, and as De Lacey noted, the campaigns 'merely

¹⁰³ Eastwood, 'Men, morals and the machinery', 197, 204; Follett, *Evangelicalism, Penal Theory*, 171.

¹⁰⁴ *Parliamentary Abstracts: Containing the Substance of All Important Papers Laid Before the Two Houses of Parliament During the Session of 1825* (London, 1826), 545-633.

¹⁰⁵ De Lacey, *Prison Reform in Lancashire*, 146.

¹⁰⁶ Butler, 'Rethinking the origins of the British Prisons Act of 1835', 722-3.

entrenched the prison administrators in a sort of defensive severity that, combined with Victorian censoriousness, resulted in a substantial loss of free speech and expression for the prisoners'.¹⁰⁷ The mass imprisonments of Chartists between 1839 and 1842 revived the issue of the poor treatment of state prisoners yet again. The introduction of the treadmill as a form of punishment; the conditions faced by Chartist poets Thomas Cooper and Arthur O'Neill in Stafford Gaol and Ernest Jones in Tothill Fields prison, Westminster; the deaths of William Brook and John Clayton and mistreatment of Samuel Holberry in Northallerton Gaol, and Holberry's subsequent death in York Castle in 1842, illustrated tragically how conditions had not improved. Imprisonment made Chartists into martyrs for the movement, a position they exploited to great effect in their rhetoric and literature.¹⁰⁸

The imprisonment of their predecessors was nevertheless significant in the development of the radical movement, not least in shaping their activities and political thought. There is a tendency in the literature on Regency radicalism to focus on the more republican aspects of Thomas Paine's influence on plebeian radical groups, and the extreme republicanism and rejection of the state in the writings of Thomas Spence and his followers. Richard Carlile's utopianism and atheism also offered an alternative to the constitutionalist

¹⁰⁷ De Lacey, *Prison Reform in Lancashire*, 139.

¹⁰⁸ TNA:PRO, HO 20/10, 'Reports on the conditions of political prisoners', Jan 1841; Rennie, *The Poetry of Ernest Jones*, 93; C. Godfrey, 'The Chartist prisoners, 1839-41', *International Review of Social History*, 24: 2 (1979), 189-236; Stephen Roberts, *The Chartist Prisoners: the Lives of Thomas Cooper and Arthur O'Neill* (London, 2008); Michael Sanders, *The Poetry of Chartism: Aesthetics, Politics, History* (Cambridge, 2009), 138; Peter Gurney, 'The democratic idiom: languages of democracy in the Chartist movement', *Journal of Modern History*, 86: 3 (2014), 566.

language within popular radicalism. But Spence and the Carliles were arguably in the minority.¹⁰⁹ Provincial working-class radical leaders, especially Samuel Bamford, John Knight and Nathan Broadhurst who were so committed to their cause that they endured imprisonment several times and yet continued their activism into the 1830s and 1840s, exerted a greater influence on the practical and intellectual frameworks of the parliamentary reform movement in their home localities.¹¹⁰ And their principles, shaped by their experiences as much as by Paine, were to reform the corrupt state, not destroy it. Yet popular radicalism was not weak in its moderation.¹¹¹ The working-class radicals used strident and defiant language in their correspondence and petitions to parliament that linked the critique of the reformed gaols to much older issues of ‘dungeon misery’ and corruption, exposing contradictions in the system. Their thinking about which institutions and bodies composed the ‘state’ was developed by their periods of confinement, their dealings and negotiations with the Home Office and the gaolers on one hand, and the visiting magistrates and reformist MPs on the other. They connected their demands for parliamentary reform with removal of corruption from prisons and from government, who had imprisoned them unconstitutionally without trial and sought to indemnify itself against appeal. In successive movements for radical protest, the state prisoners widened the definition of ‘reform’ beyond the suffrage to all institutions of the state.

¹⁰⁹ Parolin, *Radical Spaces*, 3 and passim.

¹¹⁰ Nancy Lopatin, *Political Unions, Popular Politics and the Great Reform Act of 1832* (Basingstoke, 1999), 51.

¹¹¹ Gurney, ‘the democratic idiom’, 567-8. For the older debates on radical constitutionalism, see John Belchem, ‘Republicanism, popular constitutionalism and the radical platform in early nineteenth-century England’, *Social History*, 6 (1981), 1-32.

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