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Like another Chouannerie

English Jacobins fight the (Glorious) Tory power

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A thorough draining of the swamp in America, or in just about any other country, would unavoidably require a certain degree of repression beyond the more basic things like lustration of civil servants. In any state of emergency, dissent is intolerable. Outlawing of combinations, acts against political meetings and clubs — these were all completely normal tools used by Pitt the Younger, Metternich, Guizot and others to maintain a grip in the midst of tumult.

However, such seeming acts of right-wing self-preservation against foreign and domestic enemies can often be misleading as to their actual outcome in securing the traditions of their host countries from reform-minded political ambitions. The case of Pitt the Younger and the treason trials in England of the 1790s is one such case. The received wisdom is that it was a triumph of reaction over radicalism, with lasting effects for decades after until 1832. In actuality, it was much more ominous.

To have defended the French Revolution in the 1790s was no mere innocent opinion. With the armies of the National Convention and then the Directory toppling royalty, creating republican client-states and upsetting the until-then predominant cabinet style of waging war as a mostly private affair between sovereign persons in favor of the *levee en masse*, then in such circumstances the defense of the Revolution was potentially an act of sedition against all standing royalty, including one's own Sovereign.

In the midst of the famous pamphlet wars between Burke, Paine, Godwin, Wollstonecraft and other players over the significance of the revolutionary events, there existed various parliamentary reform clubs, such as the London Corresponding Society and the Society for Constitutional Information.

The LCS was more radical, and more topical here. Even then, it was not uniformly Jacobinical, as it tended to fuse these ideas with an older Country Party reformism of Bolingbroke — with its appeals to virtue, its ranting against corrupt interests, its appeal to the “ancient constitution” of the Saxons that was allegedly overturned by the “Norman yoke,” etc. This typically English commonwealthman vision of the agrarian smallholder bearing arms and rotating in local offices mingled with “rights of man” and “natural equality.” Such that in 1792, LCS chairman Maurice Margot could write: “Until this source of Corruption shall be cleansed, by the Information, Perseverance, Firmness, and Union of the People at large, we are robbed by the Inheritance so acquired for us by our Forefathers; and our Taxes, instead of being lessened will go on increasing; inasmuch as they will furnish more Bribes, Places, and Pensions, to our Ministers and Members of Parliament.”

The most scandalous firebrand of the LCS was undoubtedly John Thelwall — a man nearing the popularity of Tom Paine in his own time. With a knack for some really incendiary oration (often with no meat in it), his *The Rights of Nature Against the Usurpations of Establishments* (1796) is possibly the most potent example of his style and also a rant against Burke, although it would be his earlier *Peripatetic* in 1793 that would get him in trouble.

With a contractualist and rather sophisticated edge, he tries to mask his sedition by differentiating “monarchy” and “kingship.” (Rights of Nature, p.6) Monarchy, he says, is one-man rule by said man’s individual right. Kingship is a delegated trust for the benefit of the people. Nothing could be less worthy of kings than monarchy, evidently.

The inherited commonwealthman style is seen: “While each man continues to care for no one but himself, all will be trampled and oppressed; and while the friends of liberty, unassociated and unendeared to each other, instead of considering themselves as one common family, cherish their private jealousies, and forget their common interests, so long will fresh projects of usurpation be formed and executed with impunity, and mankind will be treated like a herd of cattle.” (p.9)

The Jacobin angle also, as he insists on a political voice for all: “Having assigned the exclusive privilege of opinion to the favoured four hundred thousand — a mixed herd of nobles and gentles, placemen, pensioners and court-expectants, of bankers and merchants, manufacturers, lawyers, parsons and physicians, warehousemen and shop-keepers, pimps and king’s messengers, fiddlers and auctioneers, with the included ‘twenty thousand’ petticoat allies — ladies of the court, and ladies of the town! — having secured this motley groupe (the favoured progeny of Means and Leisure) in the exclusive, and unquestioned enjoyment of the rights of information and discussion, he [Burke] proceeds to observe, that ‘the rest, when feeble, are the *objects* of protection!’ — Objects of protection! — so are my lady’s lap-dog and the Negro slave.” (p.34)

Being protected without being allowed to cast ballots is indeed nothing short of scandalous.

Nevertheless, after a grandiose convention in Edinburgh in 1793, the government was motivated to act and in 1794 arrested 13 members of the LCS, including John Thelwall, Thomas Hardy, John Horne Tooke, Thomas Holcroft and Jeremiah Joyce.

The men were held in Newgate Prison. Habeas corpus was suspended. The Privy Council seized their papers, minute-books, resolutions, correspondence, and prepared for interrogations.

The Privy Council’s retrospective account of Thelwall’s interrogation recorded his reply that “It is no part of the law of the land that a subject should be called upon to answer interrogatories,” which had the awkward effect of making him a civil liberties icon in official papers — something that Thelwall’s own recollections implied but did not bluntly state.

When they asked Thomas Hardy to define “legal means” in pursuing his goals, he replied: “To inform the nation of the necessity of a Parliamentary reform, and then the business will do itself; though I do not exactly know how.” More minor figures tried to excuse themselves by claiming they joined for material interests. Deliberate evasions, feigning confusion, all the usual.

In some cases, the Privy Council appeared surprised to find men like artisans in the LCS. William Camage who manufactured pikes, was asked whether “he had not heard of people’s heads being carried upon pikes, in France?”

Attorney General Sir John Scott and the prosecution were committed to a charge of treason rather than mere sedition. The intent was to lay the whole evidence before a jury, rather than risk charging sedition and have this more minor misdemeanor charge be acquitted in the event of evidence for treason. He wanted to present this as a very stern and serious affair.

However, he ran into some issues, since he used the definition of treason from the 1352 statute (25 Edw 3 St 5 c 2), which identified it with violence to the king's person and of his progeny: "compassing and imagining the death of the king, queen and/or prince...", levying war against him, counterfeiting the Great Seal, and so forth.

He could have employed the definition of treason used in the trial of Charles I, but that would have carried some obviously unpleasant associations.

Blackstone in his Commentaries defined High Treason as: "When a man doth compass or imagine the death of our lord the king, or our lady the queen, or of their eldest son and heir." He himself warned of broader conceptions of "constructive treason," seeing that "if the crime of high treason be indeterminate, this alone ... is sufficient to make any government degenerate into arbitrary power."

However, during the trial of Hardy, in his charge to the Grand Jury, Chief Justice James Eyre chose a Whiggish definition of treason:

Whether the project of a convention, having for its object the collecting together a power which should overawe the legislative body, and extort a parliamentary reform from it, if acted upon, will also amount to high treason, and to the specific treason of compassing and imagining the King's death, is a more doubtful question... Laws are enacted in parliament by the King's Majesty, by and with the advice and consent of the Lords and Commons, in parliament assembled. A force meditated against the parliament, is therefore a force meditated against the King, and seems to fall within the case of a force meditated against the King, to compel him to alter the measures of his government...

Even less ambiguously:

In securing the person and authority of the King from all danger, the monarchy, the religion and laws of our country are incidentally secured; that the constitution of our government is so framed, that the imperial crown of the realm is the common centre of the whole; that all traitorous attempts upon any part of it are instantly communicated to that centre, and felt there; and that, as upon every principle of public policy and justice they are punishable as traitorous attempts...

Hence, though England is a mixed government, it is ultimately so by ministerial delegation of the many faculties of the King, who is the root and branch of all parts of the constitution. Any attack on the constitution is imputed to him, and hence is an attack on him. Parliamentary reform is a work of the monarchomae.

Scott then stood to deliver the indictment, adding that "oblige him to alter his measures of government, or to compel him to remove evil counselors from him, are... deeds proving an intent to do that treason." The Edinburgh Convention of 1793 and the LCS activity are thus made part of this.

One roadblock was the length of the trial and even the opening speech of Scott, the latter lasting about 9 hours. Treason trials had normally been quite brief affairs because the charge of treason tended to go with highly unambiguous evidence that led to quick conviction. In this case, the lack of something huge to "stand out" went along with the length of time to inspire ambiguity, even causing Lord Thurlow in attendance to exclaim "Nine hours? Then there is no treason, by God!"

After much collection of evidence by the prosecution, on the fourth day, Thomas Erskine, the counsel, delivered the defense. He disputed any malicious intent, but most notably he emphasized the Edwardian statute's definition of treason based on monarchical primacy, which was inappropriate to this case. The LCS' fundraising was also quite spotty, raising only about 15 pounds during the Edinburgh Convention, so that waging war was unlikely.

On the seventh day, Chief Justice Eyre reiterated that the trial did not present any new legal question, and that they were operating from Edwardian statute: "conspiracy to depose the King is evidence of compassing and imagining the death of the King." However, he went on to charge the jury if reform-minded proposals were within loyalty to "the Constitution of the Country, as established in the King, Lords, and Commons" — again jumping between monarchical primacy and the mixed government. After 8 days, on November 5, 1794, the jury returned a not-guilty verdict for Hardy. The same verdict followed for Horne Tooke, Thelwall and others, all ultimately being acquitted and released.

Though the trial may have seemed like a failure, the real significance was the legislation passed by the Pitt government in its wake.

The Treason Act 1795 plugged the legal hole by adding in the House as an object of treason, with the whole bill being styled as a parliamentary grant to the king, including the words: "...in order to put any Force or Constraint upon, or to intimidate, or overawe, both Houses, or either House of Parliament..."

The Seditious Assemblies Act 1795 outlawed political gatherings of more than 50 people: "Whereas Assemblies of divers Persons, collected for the Purpose or under the Pretext of deliberations, or other Addresses, to the King, or to both Houses, or either House of Parliament, have of late been made use of to serve the Ends of factious and seditious Persons, to the great Danger of the Public Peace, and may become the Means of producing Confusion and Calamities in the Nation: Be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That no Meeting, of any Description of Persons, exceeding the Number of fifty Persons..."

(In 1799, acts were passed against trade unionism (<https://www.marxists.org/history/england/combination-laws/combination-laws-1800.htm>), also, until repealed in 1824.)

It would appear then, that while there was some stumbling during the trial with regard to how the Constitution is conceived, the final outcome was a positive one for the cause of English conservatism against radical tides, the integrity of the Crown and Parliament secured from the onslaught of any *campagnes des banquets*.

If only!

For just a year after the trials, and contemporaneously with the post-trial acts, the Tory loyalist John Reeves, founder of the beautifully named *Association for Preserving Liberty and Property against Republicans and Levellers*, would also find himself under the axe. So to speak.

The cause: his letters, *Thoughts on the English Government* (1795). A firebrand himself also, Reeves did know how to write some decent anti-Jacobin prose, as in (<https://books.google.com/books?id=I4g2AQAAMAAJ&pg=PA20>):

Whether it is for Religious or Civil Liberty, they will never keep their inventions to themselves; they are determined, by preaching and proselyting, to bring all the world to conform to the new lights which they alone have discovered; and to insult the blindness and folly of those who resist their fraternization! From Calvin down to Condorcet, from Beza to Brissot (innovators in different matters, but alike in the self-sufficiency, heat and imperiousness belonging to all Frenchmen), no true Gospel but theirs; no Rights of Man but theirs; no government in Church or State but according to their platform and their principles.

But that was not why the work was prosecuted.

The work was prosecuted on the basis of this paragraph:

With exception, therefore, of the advice and consent of the two Houses of Parliament and the interposition of juries; the government, and administration of it in all its parts, may be said to rest wholly and solely on the king, and those appointed by him; those two adjuncts of parliament and juries are subsidiary and occasional; but the king's power is a substantive one, always visible and active... In fine, the Government of England is a Monarchy ; the Monarch is the antient stock from which have sprung those goodly branches of the Legislature, the Lords and Commons, that at the same time give ornament to the Tree, and afford shelter to those who seek protection under it. But those are still only branches, and derive their origin and their nutriment from their common parent; they may be lopped off, and the Tree is a Tree still; shorn indeed of its honours, but not, like them, cast into the fire. The Kingly Government may go on, in all its functions, without Lords or Commons: it has heretofore done so for years together, and in our times it does so during every recess of Parliament; but without the King his Parliament is no more. The King, therefore, alone it is who necessarily subsists, without change or diminution; and from him alone we unceasingly derive the protection of Law and Government.

A fine statement of monarchical primacy, indeed. But didn't that cause trouble with the trials earlier...

Edmund Burke himself made a reserved remark of Reeves' work that "'there is a slovenly, careless, and irreverent manner of mentioning the House of Commons and the other house, which is not to be praised.'" #2Conservative4Burke

On November 23, 1795, in protest of the aforementioned Two Acts (Treason Act and Seditious Meetings Act) about to be passed, MP Charles Sturt quoted from Reeves' pamphlet and called it "one of the most obnoxious libels that ever has appeared against the House of Commons."

The Whig MP Richard Brinsley Sheridan steered the motion in, and added: "That the said pamphlet is a malicious, scandalous, and seditious libel containing matter tending to create jealousies and divisions among His Majesty's subjects, to alienate their affections from our present form of Government as established in King, Lords and Commons, and to Subvert the true principles of our free Constitution; and that the said pamphlet is a high breach of the privileges of this House."

These "true principles" included a right to resistance which the principles of 1688 had enshrined, but that Reeves, in more High Tory fashion, had rejected.

As the Pitt the Younger and Whig leader Charles James Fox faced off in debate, Pitt resorted to the half-assed Burkean defense of 1688 that the acts "which were justifiable only under extraordinary circumstances and lay them down as established maxims, founded in truth and general wisdom; because our ancestors had recourse to resistance to overpower a King, who aimed at the overthrow of

the national religion, who attempted to govern without parliaments altogether; who was in fact, against all law; and who violated the constitution of the country” — an argument that could as easily be inverted for the cause of the parliamentary reformers.

Sheridan then entered on the offensive, and enumerated 8 doctrines in Reeves’ pamphlet that he deemed unacceptable, indeed libelous:

1. That liberty flowed from the King alone.
2. That all security for law and government was derived from the kingly power.
3. That the Revolution of 1688 was a fraud and a farce; and that all the people got by it was a Protestant king.
4. That the dissenters were enemies to the country and ought to be exterminated.
5. That the Whigs were imposters, and had always been either in the pay of the court, or in league with democrats.
6. That a constitutional lawyer was either a knave or a fool.
7. That the verdict of a jury was not a final decision, and was entitled to little or no weight.
8. That the Lords and Commons might be lopped off without injury to the constitution.

Reeves had gone beyond the 1688’er Toryism of his day and gone straight into Jacobitism, much to the horror of Parliament.

Pitt ended up conceding that the contents of the pamphlet espoused doctrines incompatible with the British constitution. The motion was passed with only two dissenting voices. To be sure, Pitt wanted to court the Whig opposition into passing the acts against sedition and treason, but it also expressed sincere beliefs of his (Pitt himself introduced a parliamentary reform bill in 1785 that was rejected by Commons.)

A motion for prosecuting Reeves was passed around December of 1795, and a largely farcical jury trial on charge of libel was done on mere formality, ultimately ending with an acquittal.

The English Jacobins fought the Glorious Tories, and were acquitted. The Glorious Tories in conjunction with the Whigs proceeded to take down those more Tory than they, again ending in acquittal. Soon, the Whigs and Tories would become Jacobins themselves.

For it was the case that the House of Commons charged Reeves with libel for being *too royalist* — at the same time they were voting on repressive legislation to supposedly fight the Jacobins. And the High Tories, too, evidently.

The historian A.V. Beedell thus justly concludes:

Indeed, the Reeves case, without labouring the point, gives us a fair indication of just how entrenched ‘enlightenment’ or proto-democratic principles already were, if not among the ‘working classes’ then certainly among the ruling parliamentary elite of the 1790s: this, in spite of the superficial evidence of executive repression of political dissent, and of the blatant but almost entirely cynical use of Reeves’s church and king toryism as a propaganda weapon against political opposition.

Pitt himself, a reformer in the 1780s, with his dislike of the great whig families, his materialist philistinism, his growing contempt for the court of George III, his political pragmatism and support for the novel economic theory of laissez-faire, was hardly in sympathy with the mediaeval metaphysics of the Reevesian position, even whilst he was prepared in the short term to tolerate Reeves’s propagandist methods of political intimidation. On the contrary, he was an entirely appropriate leader of an expanding ‘secular’ empire with thrusting materialist ambitions. Reeves was, to use a colloquial term, ‘set up’. Pitt, like his normally tame back-benchers, was, in repudiating Reeves, merely acknowledging where his position had been all the time. Along with Burke and Windham, Reeves may be excused for having failed to read, until it was too late, the mind of the great man. By 1800, toryism, in the Burkeite, Reevesian sense, although hardly extinguished, was a spent political force.

Glorious Tories, Toryist Whigs, Whiggish Tories — even as they punch left, they punch right that much harder.

What often seems like a right-wing victory, just ain’t so.

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