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## *The Suppression of Dissent in Wartime— England 1792-1795\**

by Harry M. Broder\*\*

**A**S WE SEARCH TODAY for an effective solution of the problem of preserving our basic freedoms from internal and external enemies, it seems particularly appropriate to consider a somewhat analogous situation in history.

From 1789 to 1795, English opinion changed from widespread approval of the French Revolution and its aims to a hatred and fear that included all persons and ideas which advocated any departure from the status quo in England itself. As late as 1792, the possibility of war seemed so remote that the Army estimates were reduced. One year later, France and England were at war, and the government embarked on a program of repression of internal reformers that resulted in the passage of the infamous Two Acts in December, 1795. These Acts declared that spoken or written words could be construed as treason even though no overt acts were committed, and prohibited meetings unless notice had been given to the authorities by the resident householder,<sup>1</sup> as "a temporary sacrifice of one of the means of Constitutional Security for the preservation of that Constitutional Security itself."<sup>2</sup> The possible effects of these acts on the future development of English political and social life were not immediately apparent to the majority of the people. The fear of the mass of the shopkeepers and workingmen that the Church and the Monarchy were in danger of destruction prompted their approval of these statutes.<sup>3</sup> The avowed aim of the government's system

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\* This article is an abstract of a more detailed and documented monograph prepared by the author for a seminar in Eighteenth Century English History at Western Reserve University under the direction of Professor Donald Grove Barnes.

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<sup>1</sup> 36 Geo. III, c. 7 and 36 Geo. III, c. 8.

<sup>2</sup> Spencer Perceval, quoted in G. S. Veitch, *The Genesis of Parliamentary Reform* (London: Constable & Co. Ltd., 1913), p. 326.

<sup>3</sup> Graham Wallas, *The Life of Francis Place, 1771-1854* (London: George Allen & Unwin Ltd., 1925), p. 25.

of repression was the protection of English institutions from overthrow by seditious persons who were in league with foreigners and using a foreign ideology as their philosophic weapon.

The question which concerns us is: How were the people aroused to such a degree of fear that they willingly acquiesced in the sacrifice of freedom of speech and assembly? Implicit in this question are such others as: Was the country actually in danger? Did the governmental policy of repression reduce the danger? Was subversion equated, in the minds of the Ministry and the ruling class, with the principles of orderly and progressive change?

In order to answer these questions it is imperative to view the situation in its historical context. At first the Revolution was hailed by almost all segments of English opinion, even by those who were to become the firmest advocates of repression. It was welcomed by many groups for different reasons. There were those who felt flattered that the French were attempting to imitate England in constructing a constitutional monarchy. Others were happy to see the end of despotism and a beginning toward the realization of the "age of reason." Still others, among them the King, simply gloated because France was having trouble; they felt that she was reaping the whirlwind she had sown by helping the American colonists ten years earlier. The conservatives, however, were soon disillusioned, as the Revolution departed from its original purposes of establishing a constitutional monarchy and embarked on its program of reform and finally terrorism.

War broke out between England and France in February, 1793. The opening to commerce of the Scheldt River estuary by the French Republic in defiance of treaty obligations was the ostensible cause of the war, but the execution of Louis XVI on the twenty-first of January did much to solidify English opinion in favor of an armed challenge to France.

England was thus confronted with two problems. There was the fear of the great landowners and other conservatives that the incendiary nature of French republican principles and their doctrinaire basis, as enunciated most forcefully by Tom Paine, would lead to demands for equality of property by the lower orders of society and to the overthrow of English institutions. There was fear also that the war effort would be seriously impaired if any changes in governmental structure were made or even discussed.

It was under these circumstances and in this climate of opinion that the Parliamentary Reform Societies fought their losing battles, and it is with these experiences that we are primarily concerned. Revolutionary changes in both industry and agriculture had combined, in the latter half of the eighteenth century, to effect a noticeable change in the distribution of population in England. As a result, defects in the system of representation in the House of Commons became even more glaringly evident, and more and more people were shocked at the exposure of electoral corruption and at the ease with which a very few persons were able to dictate the elections and therefore to control Parliament. In Yorkshire, for example, the two members of Parliament who held county seats were elected by approximately 8,000 voters each<sup>4</sup>; while from a "rotten borough" such as Old Sarum a handful of voters enjoyed the same representation. These voters were susceptible to the bribery of the gentleman who owned the land where the borough was located.

In the early 1780's, committees were formed to agitate for reform. Meetings were held, literature distributed, petitions circulated and delivered to Parliament. As usual, in reform movements, there was disagreement as to the desired objectives. These ranged from a reduction in the opportunities for Crown corruption of the Parliament to manhood suffrage. For our purposes, the movement can be divided into two groups: the Economical reformers and the Thorough reformers. The former, mostly wealthy Whig landowners, experienced a triumph with the passage of Edmund Burke's Economical Reform Bill in 1782. Crown corruption was severely curtailed without reducing the opportunities for the landowners to continue to enjoy their own means of corruption, which was facilitated by the system of "rotten" and "pocket" boroughs. These boroughs sent members to Parliament; and either such a borough contained few enough voters to bribe (a "rotten" borough) or it was a piece of land owned by an individual who had absolute control over the selection of the Members of Parliament (a "pocket" borough).

The more thorough reformers thought that their hopes might be realized when one of their group, the younger Pitt, became the head of the government in 1783. He asked permission of the

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<sup>4</sup> Veitch, *op. cit.*, p. 3. For details on the structure of politics and Parliament, see E. Porritt, *The Unreformed House of Commons* (Cambridge University Press, 1903), 2 Vols. and L. B. Namier, *The Structure of Politics at the Accession of George III* (London: Macmillan, 1929), 2 Vols.

House, on the eighteenth of April, 1785, to introduce a moderate reform bill embodying some redistribution of representation and a liberalization of the franchise, but it was denied him. Never again during his long tenure did he either introduce or ask permission to introduce a similar measure.<sup>5</sup>

For reasons still not satisfactorily explained, agitation for Parliamentary reform died down from 1785 until 1792. The most acceptable thesis so far advanced credits the improving economic situation for turning men's minds elsewhere. Another plausible theory was advanced by Christopher Wyvill, one of the leading lights of the reform movement, who took the position that advocates of the cause were relying on Pitt and desisted from further pressing the subject until the Prime Minister should feel that the time was ripe and take the lead as he had done in the past.<sup>6</sup>

The ferment of ideas stirred up by the exciting events in France and the circulation of books and pamphlets which expounded the rights of man was probably the most important factor leading to the formation or renewal of three distinct societies for promoting Parliamentary reform, the London Corresponding Society, the Society of Friends of the People, and the Society for Promoting Constitutional Information. The London Corresponding Society was composed of men from the skilled trades and small shopkeepers, with the leadership made up of self-educated and dedicated men who were convinced that only through a wider popular control over governmental processes could the rapidly increasing number of townsmen hope to participate in the political life of the nation. Most reform groups demanded of new members a one guinea (twenty-one shillings) subscription. The Corresponding Society made it possible for any but the extremely poor to join by hitting upon the novel idea of charging only one penny a week dues. In April, 1792, another new reform society was founded consisting mainly of wealthy, young, idealistic Whigs who were followers of Charles James Fox. It cannot be argued that this group was hoping for any eventual economic advantage from a more equitable distribution of the franchise and representation. The Whig position had

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<sup>5</sup> *The Parliamentary History of England from the Earliest Period to the Year 1803* (London: Hansard, 1818), XXV, pp. 445 ff.

<sup>6</sup> Christopher Wyvill, "A Letter to the Right Hon. William Pitt by the Rev. Christopher Wyvill," *Political Papers* (York: Blanchard, 1804), III, Appendix, pp. 93 ff.

traditionally stressed that Parliament was the watchdog of the people and that its function was to guard against Crown usurpation of any prerogatives to which it was not entitled. The majority of the Whigs, however, enjoyed a certain degree of corruption and control themselves (described above), which they did not wish to jeopardize. In spite of this, this society proceeded to strike at the very heart of the borough system. Named the Society of the Friends of the People, the group had as its aims: (1) "To restore the freedom of election, and a more equal representation of the People in Parliament," and (2) "To secure to the people a more frequent exercise of their right of electing their representatives."<sup>7</sup> It is possible that this group hoped that success in achieving these goals would result in a greater political support for their faction in government.

The Society for Promoting Constitutional Information was a revival of an earlier society which had been active in the earlier campaigning during the 1780's. It was composed mostly of the middle class, and its aims were midway between those of the two groups mentioned above. Other such societies were formed throughout England, but since these three were the best known we will confine ourselves to them.

Throughout the year many societies corresponded with French clubs on the subject of mutual regard and high-sounding praise for the new dawn in human affairs. Almost simultaneously with the formation of the new societies came the first repressive measure of the government. It was a proclamation, dated May 21, 1792, against "seditious meetings and publications." War had broken out on the continent between France and Austria, the King of France was a prisoner of the Revolution, and the writings of Tom Paine, given free publicity by the government's denunciation of them, were gaining a wide circulation. Edmund Burke had become the conservative spokesman. His *Reflections on the French Revolution*, published in the fall of 1790, had given a philosophic statement to the ideas of the great group of Englishmen who felt that the changes in France constituted a danger to England. Burke insisted that only through a most vigilant stand against all change could the monarchy, the church, and English institutions be preserved for posterity. Eventually the Whigs split on this issue. Those who believed in Burke's

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<sup>7</sup> Quoted in Philip A. Brown, *The French Revolution in English History* (London: George Allen & Unwin Ltd., 1923), p. 54.

position, under the nominal leadership of the Duke of Portland, joined Pitt's government in 1794, but the Foxite Whigs remained in opposition. In fact, Fox and his followers were suspected of being disloyal and even of being traitors. Fox himself was no radical reformer; he was prejudiced in favor of the ancient families and had deep respect for those who "in consequence of their own superior talents and eminent services, or of one or both in their ancestors" formed the peerage.<sup>8</sup> Even though he did not join the Friends of the People, his refusal to censure those of his followers who did caused him to become the object of scorn, pity, and contempt. His belief in the wisdom of listening to all sides of a controversy was no longer hailed as an attribute of a true Englishman; instead, people believed that he was simply another example of those who had fallen victim to the worst principles of the French Revolution.<sup>9</sup>

A second proclamation, in December, 1792, called out the militia against "a spirit of tumult and disorder" incited by seditious persons in league with foreigners.<sup>10</sup> Fox and Grey denounced this action as calculated to frighten the people into believing that unrest was widespread and as a deliberate effort on the part of the government to stir up hatred by linking reformers with subversion of the state. Evidence would indicate that they were correct in their criticism. It should be added, in fairness to the government, that in the months immediately preceding this second proclamation the horrible September massacres had taken place in France, the Republic had been proclaimed, the king had been tried, and the gauntlet had been thrown down to all monarchies with the announcement that the Republic would support any people which wished to overthrow their crowned head. Little wonder, then, that there was concern, and that hatred would be directed at anyone who might be giving aid or comfort to the distributors of the pernicious doctrines of the French Revolution.

Thinkers were not in agreement on which attitude to adopt toward internal change in England. The principle to which the conservatives clung had been referred to as the "thin-wedge"

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<sup>8</sup> Quoted in Brown, *ibid.*, p. 39.

<sup>9</sup> The Third Earl Malmesbury (ed.), *Diaries and Correspondence of James Harris, First Earl of Malmesbury* (London, 1844), II, p. 476.

<sup>10</sup> G. M. Trevelyan, *Lord Grey of the Reform Bill* (New York: Longmans, Green and Co., 1920), p. 66.

theory, based on the idea that once a wedge is entered into the foundation of an institution every kind of wild innovation will push into the breach and eventually overthrow the whole edifice. Along with acceptance of this theory must go the idea that this is the best of all possible worlds and that any change would be to the detriment of the class enjoying the bounties of a benign Providence. Another body of opinion took the attitude that if a structure is basically sound (again using the analogy of a building), replacing decayed beams or hinges will make it more solid and more enduring. Evidence would indicate that the reformers, with very few exceptions, could be classed as belonging to this "decayed beam" school.

William Pitt is a study in contrast. As prime minister he opposed any kind of reform as being impossible of consideration during the dangerous times through which the country was passing. Yet a few years before he had brilliantly refuted this same argument and the "thin-wedge" theory. "Nothing," he said, "was so hurtful to improvement as the fear of being carried farther than the principle on which a person set out."<sup>11</sup> Particularizing on the subject of Parliamentary reform, Pitt had stated, "In times of calamity and distress, how truly important was it to the people of this country that the House of Commons should sympathize with themselves, and that their interests should be indissoluble?"<sup>12</sup>

It would be unfair to condemn Pitt as inconsistent, or as a traitor to his former associates and beliefs. We have a more recent example in Woodrow Wilson, who certainly believed in our basic freedoms but who, in the stress of war, did not raise his voice in protest when those freedoms were abridged beyond necessity in order to protect the country from sedition. The sedition laws, in the Wilson administration, were enforced in a spirit far from consonant with the avowed American concept of justice.

If the government and the conservatives had confined their attacks on the reformers to the reasonable argument that times were not propitious to change, little fault could have been found with them; instead, they had recourse to a noisy patriotism. "Church and King" became their battle-cry, and from this ultra-respectable citadel they smeared their adversaries with such

<sup>11</sup> *Parliamentary History*, *op. cit.*, p. 449.

<sup>12</sup> *Ibid.*

names as “levellers,” “atheists,” “republicans,” and “Jacobins.” Cockburn relates that actually there were few proper Jacobins who wished to introduce a republic into England, but that “there were plenty of people who were *called* Jacobins; because this soon became the common nickname which was given, not only to those who had admired the dawn of the French liberation, but to those who were known to have any taste for any internal reform of our own.”<sup>13</sup> Scotland, even more than England, fell prey to this evil and the sedition trials of 1793 and early 1794 were events which later generations looked back upon with feelings of shame. Out of these trials emerged the figure of Robert MacQueen, Lord Braxfield, Lord Justice Clerk, who was to be immortalized as *Weir of Hermiston* by Robert Louis Stevenson. For anecdotes illustrating judicial prejudice, he has seldom been surpassed. Typical is his whispered injunction to a juror who was passing his bench on the way to the jury box during the trial of Thomas Muir; “Come awa, Maister Horner, come awa, and help us to hang anae o’ thae daammed scoondrels.”<sup>14</sup> Or his reply to Joseph Gerrald, another defendant, who had observed that Christianity had been an innovation and that all great men had been reformers, “‘even Our Saviour himself.’” “‘Muckle he made o’ that, he was hanget,’” chuckled Braxfield.<sup>15</sup> The defendants in these cases were found guilty and were sentenced to transportation to Botany Bay. Although the severity of the sentences shocked some, the shock was evidently not widespread because the attempt of Lord Stanhope to commute one of them and to investigate the administration of justice in Scotland failed to receive any support in Parliament.

The war progressed badly for the British and their allies. During the fall of 1793, the French scored a number of victories, drove her enemies out of France, and in 1794 the English were forced to evacuate their troops from the continent. The execution of Marie Antoinette in October of 1793 disgusted and horrified all Europe, and gave more ammunition to the defenders of the status quo. The jittery English Government suspended Habeas Corpus. On the twelfth of May, 1794 they arrested the leaders of the reform societies and seized all their books and papers.

<sup>13</sup> Henry Cockburn, *Memorials of His Time* (Edinburgh and London: T. N. Foulis, 1909), p. 73.

<sup>14</sup> *Ibid.*, p. 107.

<sup>15</sup> *Ibid.*, p. 108.

According to Sir John Scott (later Lord Eldon and Lord Chancellor of England), the Attorney General, several members of the Privy Council were present at the decision to bring in an indictment for High Treason against twelve of the reform leaders.<sup>16</sup> The trials began with that of Thomas Hardy in the fall. The Crown had two objectives; first, of course, they hoped to convict the defendants, and second they wished to bring to the public's attention the danger which had been averted by the prompt action of the government. It was alleged that the societies were planning a convention that would supersede Parliament and overthrow the monarchy. The prosecution failed in the first objective. Three trials were held, those of Thomas Hardy, Horne Tooke, and John Thelwall, and all three were acquitted, after which the government cancelled the charges against the remaining defendants. The second objective was realized, at least to the extent that the public was apprised of all the material in the hands of the state. Scott's opening charge lasted nine hours and prompted the reported remark of Lord Thurlow, "Nine hours. Then there is no treason, by God."<sup>17</sup> Scott felt it "*to be more essential to securing the public safety that the whole of their transactions should be published than that any of these individuals should be convicted.*"<sup>18</sup> At any rate, this was his reply to critics who had maintained that the charge should have been for misdemeanor. His advisors considered that there was a clear case of treason; Scott believed that had he brought in a lesser indictment and the jury had found that the charge should have been greater, the accused would have been freed. He felt, further, that the country would not have stood for putting the men in jeopardy a second time on a new indictment. To the suggestion that he should have brought in only enough evidence to ensure a conviction on a misdemeanor charge, Scott replied that then the "great object of satisfying the kingdom as to the real nature of the case could not possibly have been attained."<sup>19</sup> He seemed satisfied with the results and closes his review of the case with the following observations:

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<sup>16</sup> Horace Twiss, *The Public and Private Life of Lord Chancellor Eldon* (London: John Murray, 1844), I, p. 284.

<sup>17</sup> Quoted in Brown, *op. cit.*, p. 127.

<sup>18</sup> Twiss, *op. cit.*, p. 284.

<sup>19</sup> *Ibid.*

The judge, who summed up the evidence, after hearing both sides, had more doubt whether the case of high treason was made out, than he had when he attended the Privy Council. Erskine and Gibbs, the prisoner's counsel, ably took advantage, particularly the latter, of the prejudices against what is called constructive treason: the jury was fatigued and puzzled; and in the state in which they were, it cannot be surprising that they acquitted the accused. When a little time had enabled the public to judge coolly about the proceeding, the public mind seemed satisfied with the result—with the great information they derived from the evidence as to matters which so intimately affected their security (information which led to the suppression of imminent danger), and with the moderation and temper in which the trials had been conducted.<sup>20</sup>

The Society for Promoting Constitutional Information was ruined by the arrests and the loss of their papers; and the Friends of the People, after asserting their continued belief in the need for Parliamentary reform, soon after the trials suspended their activities. Only the Corresponding Society remained active. In the autumn of 1795, the people began to experience acute distress and cries of "Bread and No War" were heard frequently. As the King was traveling in his coach to open Parliament, he was narrowly missed by a bullet or a stone which was launched by a member of the mob that milled about in the streets. This incident occurred soon after an open air meeting of the reformers and, although no evidence was forthcoming, a connection between the two was immediately assumed. The Two Acts were passed the next month.

It is well known that statutes against sedition are subject to grave abuses in enforcement.<sup>21</sup> They substitute opinion for law, and when the penalty for treason is attached to conviction, then either tyranny or a cowed population is apt to result. Earlier generations of Americans would not have hesitated to make a strong criticism of the English government, and they would have been shocked and horrified that a supposedly free people would stand for it. This generation is better equipped to understand the maneuvering, intentional or unintentional, through which it came about.

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<sup>20</sup> *Ibid.*, pp. 284-285.

<sup>21</sup> For a discussion of the enforcement of sedition laws see Zechariah Chafee, Jr., *Free Speech in the United States* (Cambridge: Harvard University Press, 1941).

It would seem that three courses of action were open to the government, although there is no evidence that it considered any other than the one which was instituted. It could have followed a policy of repression, it could have ignored the reform agitation, or it could have made certain concessions. If the government had made a more honest attempt to gain accurate information as to the actual strength and aims of the societies, instead of relying on the reports of informers and agents provocateurs, it would have been apparent that there was little to fear from their continued agitation. The choice between the remaining alternatives should have been based on a realistic appraisal of the danger posed by the reformers. This danger, according to the government, was that the reformers were attempting to incite the people to rebellion. Following this line of reasoning the government should have realized that the people would have to be harboring strong grievances before propaganda would have an effect upon them. If it found that such a situation existed the government should have taken measures to alleviate distress or offered concessions which would have corrected the worst abuses in the franchise and the representation. If, on the other hand, there was no strong current of discontent; if the reformers were only a tiny minority, then harsh repressive measures were unnecessary and constituted a burning down of the house to get rid of the rats. Measures as strenuous as the suspension of Habeas Corpus and the Two Acts could be justified if *only* the enemies of the state were the sufferers but this is seldom the case. All discussion of internal reform is stifled to the ultimate detriment of the entire nation and honest patriots are often the victims of persecution.

Just as the government had alternative courses from which it could have chosen, so, too, did the reformers. They could have continued agitation in their usual manner; they could have announced suspension of their activities for the duration of the war; or, they could have changed their tactics. The last alternative would have been preferable. Their activities could have taken the form of small, quiet meetings and a dissemination of factual material relating to the abuses of the electoral and representative system with suggestions for improvement. Instead, they continued to pay tribute to the doctrines that were linked, in the minds of the people, with the foreign enemies of England; they continued to call "conventions" and adopt other French

forms. These intemperate activities further alienated the conservatives and increased support for the government's policy of repression.

The government was successful in repressing the reform societies; sedition was effectively curtailed; but the price paid for this momentary triumph was condemnation by later generations of the leaders of the "Tory reaction." Reflections on England's experiences may not light a path to be followed by this generation of Americans, but it can be a warning away from an unwise direction.