Erskine May, Vol. II, Chapter X, pp. 340-353

Sidmouth, and Repression under the Regency

[340] THE regency was a period memorable for the discontents and turbulence of the people, and for the severity with which they were repressed. The working classes were suffering from the grievous burthens of the protracted war, from the high prices of food, from restraints upon trade, and diminished employment. Want engendered discontent; and ignorant and suffering men were misled into disorder, tumult, and violence. In June 1812, Lord Sidmouth was appointed secretary of state. Never was statesman more amiable and humane: but falling upon evil times, and committed to the policy of his generation, his rule was stern and absolute.

The Luddites

The mischievous and criminal outrages of the 'Luddites,' and the measures of repression adopted by the government, must be viewed wholly apart from the history of freedom of opinion. Bands of famished operatives in the manufacturing districts, believing their distresses to be due to the [341] encroachment of machinery upon their labour, associated for its destruction. Bound together by secret oaths, their designs were carried out with intimidation, outrage, incendiarism, and murder.(1) Life and property were alike insecure; and it was the plain duty of the government to protect them, and punish the wrong-doers. Attempts, indeed, were made to confound the ignorance and turbulence of a particular class, suffering under a specific grievance, with a general spirit of sedition. It was not enough that the frame-breakers were without work, and starving; that they were blind to the causes of their distress; and that the objects of their fury were near at hand: but they were also accused of disaffection to the state. In truth, however, their combinations were devoid of any political aims; and the measures taken to repress them were free from just imputations of interference with the constitutional rights of the subject. They were limited to the particular evil, and provided merely for the discovery of concealed arms in the disturbed districts, the dispersion of tumultuous assemblies, and the enlargement of the jurisdiction of magistrates, so as to prevent the escape of offenders.

In 1815, the unpopular Corn bill,—expressly designed to raise the price of food,—was not passed without riots in the [342] metropolis. In the following year there were bread riots and tumultuous assemblages of workmen at Nottingham, Manchester, Birmingham, and Merthyr Tydvil. London itself was the scene of serious disturbances. All these were repressed by the executive government, with the ordinary means placed at its disposal.

Attack on the Regent

But in 1817, the excesses of mischievous and misguided men led, as on former occasions, to restraints upon the public liberties. On the opening of Parliament some bullets, stones, or other missiles, struck the state-carriage of the prince regent, on his return from the House of Lords. This outrage was followed by a message from the prince regent, communicating to both Houses papers containing evidence of seditious practices. These were referred to secret committees, which reported that dangerous associations had been formed in different parts of the country, and other seditious practices carried on which the existing laws were inadequate to prevent. Attempts had been made to seduce soldiers; arms and banners had been provided, secret oaths taken, insurrection plotted, seditious and blasphemous publications circulated.

The gaols were to be broken open, and the prisoners set free: the Bank of England and the Tower were to be stormed: the government subverted: property plundered and divided. Hampden clubs were [343] plotting revolution: Spenceans were preparing to hunt down the owners of the soil, and the 'rapacious fundholders.'

The natural consequence of these alarming disclosures was a revival of the repressive policy of the latter years of the last century, to which this period affords a singular parallel. The act of 1795, for the protection of the king from treasonable attempts, was now extended to the prince regent; and another act renewed, to restrain the seduction of soldiers and sailors from their allegiance. To such measures none could object: but there were others, directed by the same policy and considerations as those which on former occasions, had imposed restraints upon public liberty. Again, the criminal excesses of a small class were accepted as evidence of wide-spread disaffection. In suffering and social discontent were detected the seeds of revolution; and to remedies for partial evils were added jealous restrictions upon popular rights. It was proposed to extend the acts of 1795 and 1799, against corresponding societies, to other political clubs and associations whether affiliated or not: to suppress the Spencean clubs, to regulate meetings of more than fifty persons, to license debating societies; and lastly, to suspend the Habeas Corpus Act. These measures, especially the latter, were not passed without remonstrance and [344] opposition. It was maintained that the dangers were exaggerated,—that the existing laws were sufficient to repress sedition,—and that no encroachment should be suffered on the general liberties of the people, for the sake of reaching a few miscreants whom all good citizens abhorred. While the inadequacy of the means of the conspirators to carry out their fearful designs was ridiculed, it was urged that the executive were already able to cope with sedition,—to put down secret and other unlawful societies,—and to restrain the circulation of blasphemous and seditious libels. But so great was the power of the government, and so general the repugnance of society to the mischievous agitation which it was proposed to repress, that these measures were rapidly passed through both Houses, without any formidable opposition.(2)

The restraints upon public liberty expired in the following year: but other provisions, designed to ensure Parliament against intimidation and insult, were allowed a permanent place in our constitutional law. Public meetings were prohibited within a mile of Westminster Hall, during the sitting of Parliament or the courts; and to arrest the evil of conventions assuming to dictate to the legislature, restraints were imposed on the appointment and co-operation of delegates from different societies.(3)

Treason Trials

The state prosecutions for treason were as [345] infelicitous as those of 1794, which had been undertaken under similar circumstances. James Watson, Arthur Thistlewood, James Watson the younger, Thomas Preston, and John Hooper, were indicted for high treason, arising out of a riotous meeting in Spa Fields, which they had called together, and other riotous and seditious proceedings for which none will deny that they deserved condign punishment. They were entitled to no sympathy as patriots or reformers; and the wickedness of their acts was only to be equalled by their folly. But the government,—not warned by the experience of 1794,—indicted them, not for sedition and riot, of which they were unquestionably guilty, but for treason; and so allowed them to escape with impunity.

In the month of June disturbances, approaching the character of insurrection, broke out in Derbyshire; and the ringleaders were tried and convicted. Brandreth, commonly known as the Nottingham Captain, Turner and Ludlam, were executed: Weightman and twenty-one others received His Majesty's pardon, on condition of transportation or imprisonment; and against twelve others no evidence was offered by the attorney-general.

Lord Sidmouth's Circular

When the repressive measures of this session had been passed, the government commenced a more rigorous execution of the laws against the press. Lord Sidmouth addressed a circular letter to the lords lieutenants of counties, [346] acquainting them that the law officers of the crown were of opinion, that a justice of the peace may issue a warrant to apprehend any person charged on oath with the publication of a blasphemous or seditious libel, and compel him to give bail to answer the charge; and desiring them to communicate this opinion to the magistrates at the ensuing quarter sessions, and to recommend them to act upon it. He further informed them that the vendors of pamphlets or tracts should be considered as within the provisions of the Hawkers' and Pedlars' Act, and should be dealt with accordingly, if selling such wares without a licence. Doubts were immediately raised concerning the lawfulness and policy of this circular; and the question was brought by Earl Grey before the Lords, and by Sir Samuel Romilly before the Commons.(4) Their arguments were briefly these. The law itself, as declared in this circular, was ably contested, by reference to authorities and principles. It could not be shown that justices had this power by common law: it had not been conferred by statute; nor had it been recognised by any express decision of the courts. But at all events, it was confessedly doubtful, or the opinion of the law officers would not have been required. In 1808, it had been doubted if judges of the Court of King's Bench could commit or hold to bail persons charged with the publication of libels, before indictment or [347] information; and this power was then conferred by statute. But now the right of magistrates to commit, like the judges, was determined, neither by Parliament, nor by any judicial authority, but by the crown, through its own executive officers. The secretary of state had interfered with the discretion of justices of the peace, What if he had ventured to deal, in such a manner, with the judges? The justices had been instructed, not upon a matter of administration, or police, but upon their judicial duties. The constitution had maintained a separation of the executive and judicial authorities: but here they had been confounded. The crown, in declaring the law, had usurped the province of the legislature; and in instructing the magistrates, had encroached upon an independent judicature. And, apart from these constitutional considerations, it was urged that the exercise of such powers by justices of the peace was exposed to grave abuses. Men might be accused before a magistrate, not only of publishing libels, but of uttering seditious words: they might be accused by spies and informers of incautious language, spoken in the confidence of private society; and yet, upon such testimony, they might be committed to prison by a single magistrate,—possibly a man of violent prejudices and strong political prepossessions.

On the part of ministers it was replied that magistrates, embarrassed in the discharge of their duties, having applied to the secretary of state for information, he had consulted the law officers, and [348] communicated their opinion. He had no desire to interfere with their discretion, but had merely promulgated a law. The law had been correctly expounded, and if disputed, it could be tried before a court of law on a writ of habeas corpus. But, in the meantime, unless the hawkers of seditious tracts could be arrested, while engaged in their pernicious traffic, they were able to set the police at defiance. Whatever the results of these discussions, they at least served as a warning to the executive, ever to keep in view the broad principle of English freedom, which distinguishes independent magistrates from prefects of police.

Measures Against the Press

Threatening, indeed, were now the terrors of the law. While every justice of the peace could issue his warrant against a supposed libeller, and hold him to bail; the secretary of state, armed with the extraordinary powers of the Habeas Corpus suspension act, could imprison him, upon bare suspicion, and detain him in safe custody, without bringing him to trial. The

attorney-general continued to wield his terrible ex-officio informations,—holding the accused to bail, or keeping them in prison in default of it, until their trial. Defendants were punished, if convicted, with fine and imprisonment, and even if acquitted, with ruinous costs. Nor did the judges spare any exertion to obtain convictions. Ever jealous and distrustful of the press, they had left as little discretion to juries as they were able; and using freely the power reserved to them by the Libel Act of 1792, of stating their [349] own opinion, they were eloquent in summing up the sins of libellers.

William Cobbett, who had already suffered from the severities of the attorney-general, was not disposed to brave the secretary of state, but suspended his 'Political Register,' and sailed to America. 'I do not retire,' said he, 'from a combat with the attorney-general: but from a combat with a dungeon, deprived of pen, ink, and paper. A combat with the attorney-general is quite unequal enough. That, however, I would have encountered. I know too well what a trial by special jury is: yet that, or any sort of trial, I would have stayed to face. But against the absolute power of imprisonment, without even a hearing, for time unlimited, in any gaol in the kingdom, without the use of pen, ink, and paper, and without communication with any soul but the keepers,—against such a power it would have been worse than madness to attempt to strive.'

Hone's Case

Ministers had silenced and put to flight their most formidable foe: but against this success must be set their utter discomfiture by an obscure bookseller, who would never have been known to fame, had he not been drawn out from his dingy shop, into a court of justice. William Hone had published some political squibs, in the form of parodies upon the liturgy of the church; and for this pitiful trash was thrice put upon his trial, for blasphemous and seditious libels. Too poor [350] to seek professional aid, he defended himself in person. But he was a man of genius in his way; and with singular ingenuity and persistence, and much quaint learning, he proved himself more than a match for the attorney-general and the bench.

In vain did Lord Ellenborough, uniting the authority of the judge with the arts of a counsel, strive for a conviction. Addressing the jury,—'under the authority of the Libel Act, and still more in obedience to his conscience and his God, he pronounced this to be a most impious and profane libel.' But the jury were proof alike against his authority and his persuasion. The humble bookseller fairly overcame the awful chief justice; and after intellectual triumphs which would have made the reputation of a more eminent man, was thrice acquitted.(5)

These proceedings savoured so strongly of persecution, that they excited a wide sympathy for Hone, amongst men who would have turned with disgust from his writings; and his trial, in connection with other failures, ensured at least a temporary mitigation of severity in the administration of the libel laws.

Trials in Scotland

At this time some trials in Scotland, if they remind us of 1793, afford a gratifying contrast to the administration of justice at that [351] period. Alexander M'Laren, a weaver, and Thomas Baird, a grocer,(6) were tried for sedition before the High Court of Justiciary at Edinburgh. The weaver had made an intemperate speech at Kilmarnock, in favour of parliamentary reform, which the grocer had been concerned in printing. It was shown that petitions had been received by Parliament, expressed in language at least as strong: but the accused, though defended by the admirable arguments and eloquence of Francis Jeffrey, were found guilty of sedition.

Neil Douglas, 'Universalist Preacher,' had sought to enliven his prayers and sermons with political lucubrations; and spies being sent to observe him, reported that the fervid preacher,

with rapid utterance and in a strong Highland dialect, had drawn a seditious parallel between our afflicted king and Nebuchadnezzar, King of Babylon; and between the prince regent and King Belshazzar. The crown witnesses, unused to the eccentricities of the preacher, had evidently failed to comprehend him; while others, more familiar with Neil Douglas, his dialect, opinions, and preaching, proved him to be as innocent of sedition, as he probably was of religious edification. He was ably defended by Mr. Jeffrey, and acquitted by the jury.

Public Meetings in 1819

But the year 1819 was the culminating point of the protracted contest between the state and liberty of opinion. Distress still [352] weighed heavily upon the working classes. They assembled at Carlisle, at Leeds, at Glasgow, at Ashton-under-Line, at Stockport, and in London, to discuss their wants, and to devise remedies for their destitution. Demagogues were prompt in giving a political direction to their deliberations; and universal suffrage and annual parliaments were soon accepted as the sovereign remedy for the social ills of which they complained. It was affirmed that the constitutional right to return members belonged to all communities. Unrepresented towns were invited to exercise that right, in anticipation of its more formal acknowledgment; and accordingly, at a large meeting at Birmingham, Sir Charles Wolseley was elected 'legislatorial attorney and representative' of that populous place.(7)

Other circumstances contributed to invest these large assemblages with a character of peculiar insecurity. A great social change had been rapidly developed. The extraordinary growth of manufactures had suddenly brought together vast populations, severed from those ties which usually connect the members of a healthy society. They were strangers,—deprived of the associations of home and kindred,—without affection or traditional respect for their employers,—and baffling, by their numbers, the ministrations of the church and the softening influence of charity. Distressed and discontented, they were readily exposed to the influence of the most mischievous [353] portion of the press, and to the lowest demagogues; while so great were their numbers, and so densely massed together, that their assemblages assumed proportions previously unknown; and became alarming to the inhabitants and magistracy, and dangerous to the public peace.

These crowded meetings, though addressed in language of excitement and extravagance, had hitherto been held without disturbance. The government had watched them, and taken precautions to repress disorder; but had not attempted any interference with their proceedings. On the 30th of July, however, a proclamation was issued against seditious meetings; and large assemblages of men were viewed with increased alarm by the government and magistracy.

Footnotes.

1. A full account of these lawless excesses will be found in the State Trials, xxxi. 959; Ann. Reg., 1812, 54-66, etc. The Reports of the Secret Committees, 14th July, 1812, are extremely meagre; Hans. Deb., 1st Ser., xxiii. 951, 1029.
2. For the third reading of the Habeas Corpus Suspension Bill there were 265 votes against 103—the minority including nearly all the opposition.—Hans. Deb., 1st Ser. xxxv. 822; Edinburgh Review, Aug. 1817, p. 524-543.
3. 57 Geo. III. c. 19, s. 23, 25; amended by 9 and 10 Vict. c. 33.
4. May 12th and June 25th 1817, respectively.
5. Mr. Justice Abbott presided at the first trial; Lord Ellenborough at the second and third. Lord Ellenborough felt his defeat so sensibly, that on the following day he sent to Lord Sidmouth the draft of a letter of resignation. Pellew's Life of Lord Sidmouth, iii. 236; Hone's Printed Trials; Mr. Charles Knight's Narrative in Martineau's Hist., i. 144.

6. So stated in evidence, St. Tr., xxxiii. 22, though called in the indictment 'a merchant.' St. Tr., xxxiii. 1.
7. Ann, Reg., 1819, p. 104. Sir Charles was afterwards arrested, while attending a meeting at Smithfield, for seditious words spoken by him at Stockport.