



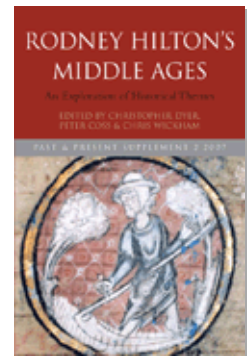
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Safeguarding Civility: Sodomy, Class and Moral Reform in Early Nineteenth-Century England

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SAFEGUARDING CIVILITY: SODOMY, CLASS AND MORAL REFORM IN EARLY NINETEENTH-CENTURY ENGLAND*

On 13 September 1806 three men convicted of sodomy at the summer assizes ascended the scaffold at Lancaster castle. Samuel Stockton, John Powell and Joseph Holland, from Warrington and the surrounding area, were part of a group of twenty-four men who had been arrested for sodomy and other homosexual offences the previous May, of whom nine were eventually tried.¹ Two weeks later a Manchester artisan named Thomas Rix was hanged at the same place, alongside Isaac Hitchin, the keeper of the ‘infamous house’ where the men met. The manner of Rix and Hitchin’s dispatch was barely recorded, but, according to the local press, Stockton, Powell and Holland had performed the appropriate roles of the condemned. Stockton ‘appeared much agitated [and] his trembling limbs appeared almost inadequate to their task’. Powell was also ‘much affected’, without displaying ‘such dejection as the former’. Holland, however, was the image of the repentant sinner. He ‘appeared in a state of the greatest agitation, the contrition of his countenance truly indicating the penitence of his mind’, and seemed to ‘implore the pardon of mighty God with greatest fervency’. At length, when an ‘awful silence prevailed, these poor wretches were precipitated into eternity’.²

Brutal punishments such as this have suggested two things to historians. First, death or persecution was a likely fate for a ‘sodomite’ at this time who, moreover, was easily distinguishable from the rest of the population by his status as an identifiably

* I would like to thank Matthew Shaw of the British Library Manuscripts Department for his invaluable assistance. Also thanks to Micah Buis, Matt Houlbrook, Matthew McCormack, Julie-Marie Strange and Frank Trentmann for constructive commentary. Sections of this work were presented at the workshop on Urban Bodies, School of Oriental and African Studies, 10–12 May 2004.

¹ At the time, Warrington was part of Lancashire, although it was absorbed into Cheshire in 1974.

² *Lancaster Gazette*, 20 Sept. 1806.

effeminate 'molly'.³ Second, moral campaigns and concern with the enforcement of the law have been identified as part of a process by which Britain's ruling elite was remade via the reformation of manners and an accompanying ethos of public and national service.⁴ It is certainly the case that more men were executed and imprisoned for sodomy and other homosexual offences in the early nineteenth century than in any previous era of English history.⁵ Moral reform in the shape of vice or prosecution societies is usually seen as the agent in this process of disciplining unruly desires. The Warrington case would seem to lend itself to this pattern of explanation, apparently showing how efforts to reform manners functioned as one way of remaking the authority of a newly aggressive and culturally confident landed elite after 1789. In Warrington, it seems, a coalition of gentleman magistrates and the Home Office presented a unified front of central and local power in order to exert traditional authority over apparently lawless cities, and at the same time to stamp out a potential moral contagion.⁶

However, I suggest that, in spite of the fate of Powell and the others, the Warrington case demonstrates not the broad extent of campaigns against immorality, but rather the selective character and exceedingly narrow limits of such policing. Nor did the case cement relationships within the northern elite. Instead it opened rifts between friends and neighbours which resulted in

³ On the idea of the 'molly' as the defining term for effeminate homosexuals, see, for example, Randolph Trumbach, 'The Birth of the Queen: Sodomy and the Emergence of Gender Equality in Modern Culture, 1660-1750', in Martin Duberman, Martha Vicinus and George Chauncey (eds.), *Hidden from History: Reclaiming the Gay and Lesbian Past* (London, 1991).

⁴ See, for instance, Louis Crompton, *Byron and Greek Love: Homophobia in 19th-Century England* (London, 1985); Louis Crompton, *Homosexuality and Civilization* (Cambridge, Mass., 2003). On the remaking of aristocratic power after 1790, see Linda Colley, *Britons: Forging the Nation, 1707-1837* (London, 1996 edn), ch. 4; David Cannadine, *Aspects of Aristocracy: Grandeur and Decline in Modern Britain* (London, 1995), 33-4.

⁵ Between 1806 and 1835, a total of 404 men were sentenced to death for sodomy and 56 of these were executed: *Judicial Statistics*, Parliamentary Papers, various volumes, 1810-1902; for citation details, see H. G. Cocks, 'Abominable Crimes: Sodomy Trials in English Law and Culture, 1830-1889' (Univ. of Manchester Ph.D. thesis, 1998), 256-7.

⁶ For other Georgian cases in which groups of men were arrested, see [Robert Holloway], *The Phoenix of Sodom; or, The Vere Street Coterie* (London, 1813). See also raids on molly houses; on the Rose and Crown: *Times*, 10 July 1827; on the Barley-Mow: *Times*, 23 Aug. 1825; on the Bull Inn: *Times*, 19 Apr. 1830.

part from the new demands which these campaigns placed upon the magisterial bench. On the one hand, JPs were expected to adhere to ties of class and locality, while on the other, they were more significant than ever as the instruments of central government. In this case, the situation was complicated by the fact that the prosecutions and the apparent involvement of the wealthy encouraged the belief among the populace and the magistrates that some of the ruling elite might be involved. Because sodomy was an offence which transcended class in ways that other crimes such as theft or violence did not, its prosecution was problematic because it often created rumours which were difficult to control and, as at Warrington, threatened to implicate members of a ruling elite. This was especially true when a trial proceeded, as most of those conducted at Lancaster had done, on the basis of evidence supplied by men who were acknowledged accomplices to the acts in question, and whose testimony often led to the multiplication of rumour, suspicion and investigation beyond those initially detained. At a time when elite and aristocratic masculinity was being recast in the face of radical attacks on its lassitude and effeminacy as a cult of military prowess, sporting enthusiasm, physical hardihood and impeccable private morals, such rumours were more threatening than ever before.⁷

Fuelling the speculation was the fact that regional 'sodomite' networks did actually include men of wealth and status. However, the majority of those arrested belonged to an urban, plebeian culture of sodomy that was shown to exist at the heart of the urban world, and to encroach upon the spaces of order and legibility that made up the architectural and social focus of the English town. Far from being an identifiable group with particular characteristics — the sort of prototypical gay minority which it has been suggested made up urban communities of sodomites in the eighteenth century — these men were ordinary artisans and servants, who, until they were arrested, appear to have been largely unconscious of a vast difference between themselves and other men of their class. Neither were they identified as a separate group by those in power. In fact what the authorities dreaded most was revealing the apparent ubiquity of sodomy, thereby proving that it was by no means something that could be readily separated from ordinary plebeian life.

⁷ On the remaking of aristocratic masculinity, see Colley, *Britons*, 176–207.

Also at issue throughout the case were competing versions of civil society and associational culture, the legitimate boundaries of which required defence and policing from the alternative forms of identity and association which seemed capable of disrupting them. In this respect, the networks and regional links developed by the Warrington group seemed to show that legitimate forms of civil association could be corrupted for other purposes. Rather than being simply the 'rude' antipode of polite society, sodomite association copied and rivalled other forms of masculine civil society.⁸ However, it was not only the existence of sodomite associations that was problematic. It was rapidly realized that it was the enthusiastic policing of homosexuality itself which cast a shadow over other forms of masculine association and complicated the processes of law enforcement.

When local magistrates began to take rumours of elite involvement seriously, the cohesion of a local as well as a national ruling class which depended on ties of family, property and masculine civility was threatened. Although politeness is normally the master metaphor for understanding relationships within the Hanoverian elite, I want to concentrate less on the formal rules which were supposed to apply to the conduct of that elite and a wider associational culture which adopted its codes, and instead to examine the unspoken moral precepts by virtue of which the interactions of that elite might function.⁹ These ties of civility and family underlay the ways by which a ruling oligarchy regulated its conduct towards its own members, in particular by presuming a certain level of common moral probity and crediting one's friends and neighbours with that quality. These codes of class clearly intersected with a presumption about the virtue of a landed elite and its 'natural' ability to rule, an idea that had been increasingly open to scrutiny during the 1790s.¹⁰ Following the 'Remarkable Trials', these unspoken assumptions were again called into question in a way that upset the balance of county government in Lancashire.

⁸ On the theme of 'hidden transcripts' of politeness, see Helen Berry, 'Rethinking Politeness in Eighteenth-Century England: Moll King's Coffee House and the Significance of "Flash Talk"', *Trans. Roy. Hist. Soc.*, 6th ser., xi (2001).

⁹ See, for instance, Lawrence E. Klein, 'Politeness and the Interpretation of the British Eighteenth Century', *Hist. J.*, xlv (2002).

¹⁰ On property and its ideologies, see Paul Langford, *Public Life and the Propertied Englishman, 1689–1798* (Oxford, 1991).

While the concept of politeness is not completely adequate to describe the codes of behaviour within the elite, it is also problematic when applied to the urban culture of late eighteenth-century England as a whole. Changes in the nature of civil society at the end of the eighteenth century help to explain the anguished and panicky reaction of those in authority to this case, as well as to complicate the picture of a polite society. After 1789 it was more obvious than ever that polite association — now recast as potential conspiracy because of its capacity for harbouring varieties of Jacobinism and crime — could easily become the source of political as well as moral or sexual dissent.¹¹ By 1806 it was clear to local oligarchies that a polite public world characterized by the club or society could no longer be regarded as a particularly trustworthy social model. The potentially suspicious nature of the clubs, associations and societies which characterized the urban culture of the period therefore required two things that have been identified as necessary aspects of the way in which Britain's ruling elite was remade between 1780 and 1830: moral policing of towns, and a new consciousness that such morals should apply equally to that elite as well as to other classes. What I want to highlight here are the complications and difficulties which this remaking of a class through the making of manners entailed. In particular, the case shows the complete lack of agreement on how to police urban communities. The ultimate solution to 'unnatural crimes' in this and subsequent cases was to brush the matter back under the carpet, to preserve the moral and political integrity of an elite by pretending the case had never happened and that such crimes, far from being relatively common, were unknown and should remain nameless.

I

THE 'REMARKABLE TRIALS' AT LANCASTER IN 1806

The propagation of rumour and scandal involving the upper classes was a common feature of nineteenth-century trials for

¹¹ On the potentially suspect nature of associations, including Volunteering, see Austin Gee, *The British Volunteer Movement, 1794–1814* (Oxford, 2003); Colley, *Britons*, 334–5. On the emergence of policing, see David Philips, 'Good Men to Associate and Bad Men to Conspire: Associations for the Prosecution of Felons in England, 1760–1860', in Douglas Hay and Francis Snyder (eds.), *Policing and Prosecution in Britain, 1750–1850* (Oxford, 1989).

sodomy, but the Warrington case is one of the few where full documentation remains. Many of the periodic sodomy scandals of the nineteenth century were marked by suspicions of 'aristocratic lust', from the allegations which surrounded the duke of Cumberland in 1810 through the trial of Boulton and Park in 1871 and onwards to the Dublin and Cleveland Street scandals of the 1880s. Oscar Wilde's trial in 1895 was merely the culmination of a century during which suspicion of upper-class moral propensities was never far from the popular mind.¹² The Warrington case was in many ways a template for these later scandals, and it highlighted the difficulties and dangers which attended the policing of homosexual behaviour to law officers, policemen, judges, magistrates and the press. In this respect the case was representative of judicial attitudes to sex offences of this kind, and it set a strong precedent of silence and caution for later legal authorities to follow.

The process of investigation that led to the executions of Stockton, Powell and the others began at the beginning of May 1806 when the Lancaster press reported that 'a numerous gang of sodomites' had been apprehended at Warrington.¹³ They met on Monday and Friday evenings at a house kept by Isaac Hitchin in Great Sankey, a village to the west of Warrington. In all, twenty-four men from Warrington and Manchester were arrested, along with three others from Liverpool. The group varied in age from 17 to 84, and was socially mixed. Of the twenty-four arrested at Warrington whose occupations were recorded five were artisans and two were labourers, one was a waiter and another a servant. Tradesmen were also represented by a publican and a grocer, while the higher classes also appeared to have been involved. William Maire, a 54-year-old lawyer and tax assessor in Warrington, was apprehended but later absconded to London.¹⁴ His social equals included Robert Ball, steward to a local

¹² On these and other cases of aristocratic 'depravity', see, for example, Anon., *The Bishop! Particulars of the Charge against the Hon. Percy Jocelyn, Bishop of Clogher* . . . (London, 1822); Treasury Solicitor, *Libel on the Duke of Cumberland*: National Archives, London, Public Record Office, TS 11/41; Richard Ellman, *Oscar Wilde* (Harmondsworth, 1987). On Boulton and Park and their involvement with Lord Arthur Clinton, see Neil Bartlett, *Who Was That Man? A Present for Mr Oscar Wilde* (London, 1988).

¹³ *Lancaster Gazette*, 3 May 1806.

¹⁴ Warrington Land Tax Assessments, Warrington Library Local Studies Archive, MS 187-97, 203-15, 218 (for the years 1793-1804).

gentleman, Alexander Chorley, a gentleman, and Joseph Holland, who although described in Home Office documents as a pawn-broker, was said to be 'an opulent man'. Maire was also said to be wealthy and, according to one anonymous source, had amassed a fortune of some £40,000.¹⁵

Only nine men were tried for offences connected with the house in Great Sankey. The trials, and in particular the relatively large number of accused, nevertheless caused a sensation. According to one reporter, 'such scenes of depravity [which] have scarce before met the public eye and are, in fact, hardly credible' would be enough to ensure that the assize would be 'for ever memorable in the county'.¹⁶ At the Grand Jury before the summer assizes in 1806, true bills were found against fifteen men for sodomy or indecent assault.¹⁷ However, only Joseph Holland, Isaac Hitchin, Samuel Stockton, John Powell and Thomas Rix were convicted of the capital charge. In two other cases, those of George Ellis and Joshua Newsham, the evidence of penetration and emission which was necessary to convict on a charge of sodomy was lacking, but they were nevertheless convicted of the lesser offence of indecent assault, or 'attempting' the capital crime. A further four men, one from Warrington named Peter Atherton, and three from Liverpool, called Aspinall, Denton and Smith, were acquitted, as was an unnamed man from Chester, who then began proceedings against his accuser for perjury.¹⁸

The principal evidence was provided by the younger men in the group. In all, the testimony of six men was admitted as King's evidence, including three not named by the magistrates in the original investigation.¹⁹ In general, such evidence required

¹⁵ *Lancaster Gazette*, 30 Aug. 1806; 'A [Liverpool] Merchant' to Earl Spencer, 29 May 1806: British Library, Add. MSS 75899, Althorp Papers (hereafter Althorp Papers), vol. dxcix.

¹⁶ V. Jackson, *Remarkable Trials at the Lancaster Assizes, Held August 1806 . . .* (Lancaster, 1806), preface.

¹⁷ *Lancaster Gazette*, 23 Aug. 1806. Indecent assault referred to any homosexual act that was deemed to fall short of sodomy, and to have been an 'attempt' to commit the felony.

¹⁸ *Lancaster Gazette*, 6 Sept. 1806.

¹⁹ The Home Office listed twenty-four men as those 'concerned in the infamous proceedings in Warrington and the Neighbourhood', but the *Lancaster Gazette* listed three more from Liverpool (Aspinall, Denton and Smith) as well as three more (J. Howard, J. Hill and F. Smales) who became prosecution witnesses at the

corroboration, but in this case the convictions were secured without a great deal of care on this point.²⁰ The evidence of two men, John Knight and Thomas Taylor, convicted all five men of the capital crime, in spite of the fact that their testimony remained largely uncorroborated and that the evidence related in some cases to acts which had taken place between four and ten years previously.

The way in which the evidence was gathered and the manner in which the convictions were obtained were unusual in that they placed reliance on witnesses of dubious character. It was apparent to the defence that this way of proceeding threatened to multiply inquiries since unsubstantiated allegations and poorly corroborated evidence were given credit by those in authority. As a result of this proceeding, it was the events following the trial, rather than its immediate outcome, which caused most difficulty for local elites. Wild rumours of gentry involvement in the case had begun after the initial arrests in May 1806, but were neglected by the magistrates until after the trials in September. Local MPs, clergymen, national political figures and men from prominent local families were said to be involved. At the end of September the Warrington magistrates, John Borron and Richard Gwilym, specifically requested that the executions of Thomas Rix and Isaac Hitchin be respited so that they could interrogate them again and find out whether any gentry families were actually involved. Both magistrates suggested further inquiries and arrests but these were rejected at the end of September by the Home Office.

The case seemed to have reached its natural conclusion, but then in December the implicated gentry heard that Borron had tried to investigate their involvement in the case. Furious protests

(n. 19 cont.)

trial, bringing the total involved to thirty: see *A List of the Persons Concerned in the Infamous Proceedings at Warrington . . .*, n.d.: Althorp Papers, vol. dc; *Lancaster Gazette*, 30 Aug. 1806. The case seems to have led to other inquiries. A man named Thomas Bolton was also imprisoned and pilloried for 'unnatural practices' at Wigan, and John Vaughan was imprisoned for a year at the Chester Sessions for an indecent assault on Samuel Jones. See *Cowdroy's Manchester Gazette*, 23 Aug. 1806; *Lancaster Gazette*, 13 Sept. 1806.

²⁰ On corroboration, see Christopher Allen, *The Law of Evidence in Victorian England* (Cambridge, 1997), 44. Knight's evidence appears to have been corroborated by only one witness who 'testified to seeing Knight and the prisoner together': Jackson, *Remarkable Trials at the Lancaster Assizes*, 52.

to the Home Office and the local aristocracy followed, and it seemed Borron and Gwilym might suffer the disgrace of dismissal from the bench. However, Earl Spencer, Secretary of State at the Home Office, stood by them, and after a lengthy apology from both magistrates to all concerned it seemed that normal life could be resumed. Two views of the case developed. Its most pernicious feature, according to those gentlemen implicated, was that the magistrates seemed to have given credence to rumour and to have established an inquisition into their friends and neighbours without reasonable cause. The magistrates argued in their defence that they were merely trying to clear their own society from this disgraceful imputation. In private, however, the JPs were, it seems, prepared to take this risk of antagonizing their peers in order to clamp down on what appeared to be a ubiquitous culture of plebeian sodomy in Manchester and Liverpool.

II

SPACES OF CIVILITY, SPACES OF SODOMY

The testimony of Thomas Rix seemed to show that sodomy was located not only in obscure villages around Warrington, but also right at the heart of provincial urban society. Just as the accusations against local gentry families which resulted from the Warrington case pressed on the culture of civility and solidarity which prevailed among that class, Rix's confession showed that the culture of sodomy in the Georgian town overlapped with urban spaces of civility, elite leisure and government.

For the magistrates, the most startling aspect of Rix's testimony was that it revealed how widespread were networks of sodomitic association. The impression Rix's inquisitors received was of the ubiquity and even normality of 'unnatural' practices among his fellow artisans. According to Joseph Rowley, the chaplain of Lancaster jail, Rix had intimated to him that 'hundreds were implicated in the same offence (sodomy) with himself'. In addition to the simple fact of their number, it was clear that for such men Great Sankey represented merely one centre of a regional network of intimacy. As well as the locations named by Rix in Manchester, Liverpool and Warrington, twelve of the twenty-four men arrested in May 1806 were from

other places, including villages near Warrington such as Haydock, Bold and Culcheth.²¹

In addition to the apparently widespread nature of their association, the Warrington group appear to have shared with established forms of civil society a rough commitment to equality. The socially diverse nature of the group encouraged speculation that their association was akin to other formally egalitarian and socially liberal clubs and societies. The most telling parallel, and the one which was most obvious to contemporaries, was with Freemasonry. Masonic activity in Britain was in fact strongest in the north of England, especially in south Lancashire around Warrington and Manchester. Freemasonry was also one of the organizations that had done much to pioneer the notion of a rational public founded on at least formal commitment to the equality of its members.²² Indeed, the overlap between Masonic ritual, with its homosociality, secrecy and broad, non-sectarian appeal, and groups of sodomites whose sociability appeared to be founded on similar indiscriminate principles, made the former particularly open to moral suspicion. As Margaret Jacob has shown, Masonry also had long been suspected by its opponents of hiding unnatural practices behind its secret rituals.²³ In this instance, the imitation of Masonic civility by the Warrington men was said to extend beyond their form of organization and to structure their manner of mutual address. They pretended, it was said, 'to hold a kind of Masonic lodge . . . [and] had taken a house to carry on their diabolical purposes . . . where they met on Monday and Friday evenings', when they 'accosted each other with the title "Brother"!'²⁴ However, the association

²¹ *List of the Persons Concerned in the Infamous Proceedings at Warrington . . .*: Althorp Papers, vol. dc.

²² Margaret C. Jacob, *Living the Enlightenment: Freemasonry and Politics in Eighteenth-Century Europe* (Oxford, 1991); Peter Clark, *British Clubs and Societies, 1580–1800: The Origins of an Associational World* (Oxford, 2000), 319–20.

²³ Jacob, *Living the Enlightenment*, 5–6. See also Douglas Knoop and G. P. Jones, *The Genesis of Freemasonry: An Account of the Rise and Development of Freemasonry in its Operative, Accepted, and Early Speculative Phases* (Manchester, 1947), 308–11; James Van Horn Melton, *The Rise of the Public in Enlightenment Europe* (Cambridge, 2001), 252–61.

²⁴ *Lancaster Gazette*, 20 Aug. 1806, 3. There were thirty-seven Masonic lodges in late eighteenth-century Cheshire, concentrated in the north of the county close to south Lancashire and Manchester. On the spread of Masonry in the North, see John Money, 'Freemasonry and the Fabric of Loyalty in Hanoverian England', in Eckhart Hellmuth (ed.), *The Transformation of Political Culture: England and Germany in the Late Eighteenth Century* (Oxford, 1990), 263.

of Masonry with sodomy masked other disturbing links to the dominant culture of masculine association. One of the accused at Lancaster was a member of the Cheshire Volunteers, and had made contact with the Warrington group while on duty in the town. In both cases, inter-class social networks which centred on Masonic and military structures like these not only served the purpose of uniting men with similar sexual interests, but also provided networks of patronage that rivalled other, more established versions of inter-class sociability.

In addition to developing these loose associational structures, the Warrington sodomites also congregated in the spaces of order and politeness which characterized the Georgian town. Rix, whose trade was chair-bottoming, was aged 47 and a native of Salford. He had first joined this urban culture in the mid 1780s via an acquaintance named Bromilow who, he said, had persuaded him into homosexual acts. This was no initiation into the secret, Masonic world later imagined by the press, but rather resembled the casual afterthought of a night's drinking. Homosexuality, in this case, was an unremarkable consequence of masculine social life. Rix said that he had been 'making water' on the way home with Bromilow from a pub in Manchester when his friend 'came up to him and took hold of his yard'. Then, Rix recalled simply, they had 'used friction with each other till nature spent'. Bromilow also reassured his friend that 'there were many other persons who did what they had been doing'.²⁵ They met, he said, in the heart of Manchester's civic and commercial spaces, at the Exchange in the centre of the town which was, nominally at least, a building set aside for the meetings of tradesmen and which served other civic purposes including housing the magistrates' court and providing a venue for Manchester's local government, the Court Leet.

The Exchange was built in 1729 as a meeting place for businessmen and formed a central part of the urban improvements begun in Manchester and across Britain around that time. In spite of the existence of these islands of modernity, they remained situated within the older fabric of the irregular early modern town. The contrast between the two features of the urban environment was exemplified by the location of the Exchange within

²⁵ *Voluntary Examination of Thomas Rix, Late of Manchester . . .*, 15 Sept. 1806: Althorp Papers, vol. dc.

the surrounding network of narrow and dingy medieval streets. These courts, wynds and alleys, one allegedly so dark even at noon that it went by the name 'Dark Entry', were the direct antithesis of polite urbanism.²⁶ Such places were, not coincidentally, the locations in which men like Thomas Rix met and had sex with other men.

The Exchange, originally intended as a landmark of order, made up a small part of what has been called England's 'urban renaissance'.²⁷ However, by the 1780s, when Rix began to meet men there, the building had deteriorated along with the political will which powered the renewal of the early Georgian town. By then the Exchange appears to have been used infrequently for its intended purpose. The mixture of civic business on the upper storey and trade of all kinds on the lower was not a happy one. The arcades on the ground floor housed fishmongers and butchers who strewed refuse around the building and the surrounding streets, rendering the place insanitary and discouraging its intended use. By the 1790s it had, according to a later writer, become a space marked by the patchy nature of Manchester's urban revival, and had 'long afforded a lounging place for idleness and petty criminals', as well as being 'a nest for disease'.²⁸ However, the Exchange nevertheless formed part of the Georgian pattern of public building and was still used for commercial purposes as late as the 1770s.²⁹ The Court Leet began to meet there in 1783, during the period of the building's alleged decline, and was still meeting there in the 1790s when it had become known as 'the Lazaretto' on account of its deteriorating reputation for cleanliness and morality.³⁰

Within liminal spaces like the Exchange, Thomas Rix learned how to identify potential partners from his informant. Bromilow

²⁶ Anon., *A Description of Manchester* (Manchester, 1783), 64.

²⁷ On this, see Peter Borsay, *The English Urban Renaissance: Culture and Society in the Provincial Town, 1660–1770* (Oxford, 1989).

²⁸ Joseph Aston, *A Picture of Manchester* (1816; Manchester, 1969), 204.

²⁹ Arthur Redford, *The History of Local Government in Manchester*, 3 vols. (London, 1939–40), ii, 157.

³⁰ Anon., *The Court Leet Records of the Manor of Manchester from the Year 1552 to . . . the Year 1846*, 10 vols. (Manchester, 1884–90), ix, 36; Aston, *Picture of Manchester*, 204; J. G. C. Parsons, *The Centenary of the Manchester Royal Exchange, 1804–1904: Historical Sketch* (Manchester, 1904).

told him that 'these sort of persons . . . generally stood in the night as if they were making water . . . in the corner in the inside, and that if any person wanted to be connected with people of that sort they might go and stand near them and put their hands behind them'. If they 'were of this description of people they would put their yards into their hands'. According to his statement, Rix then went to the Exchange in a spirit of curiosity to see if what he had been told was true, and 'often repeated this experiment at the 'Change in Manchester, but never with any person that he knew'. Rix had also lived in Liverpool in the 1790s and told his captors that 'there were several persons who followed the same practices' in that town who met in the Rope Walk leading out of White Chapel and in the recently improved Dale Street.³¹

According to Rix, most of his encounters with other men consisted not of structured gatherings like those at Warrington, but of casual encounters in streets and pubs. He met several men in taverns like the one 'kept by a widow woman in Trueman Street at the bottom of Dale Street in Liverpool'. There, he made the acquaintance of a man named John Barron, and apparently without too many preliminaries, they 'agreed to sleep together and they did sleep together and apply friction to each other's yard until they spent'. His other sexual partners were mainly artisans but also comprised men from other classes and petit-bourgeois milieux. They included three gentleman's servants, a man named Simister who was a fustian cutter and who was said to 'make a practice of inveigling all the young men he can into these wicked practices', a broker, a publican, a joiner and a weaver.³² Although Rix originally required reassurance from Bromilow that what he was doing was relatively normal, he and his sexual partners seem not to have regarded their sexual practices as anything other than a fairly common occurrence. It was this feature of the case, along with its capacity to poison relationships within the ruling elite, which was one of the most troubling to those in authority.

³¹ Dale Street was widened in 1786 following an improvement Act: see Richard Brooke, *Liverpool as It Was during the Last Quarter of the Eighteenth Century: 1775 to 1800* (Liverpool, 1853), 386.

³² *Voluntary Examination of Thomas Rix*, 15 Sept. 1806: Althorp Papers, vol. dc.

III

THE MAGISTRACY AND THE GENTRY

The major cause of division within the region's ruling elite, however, was the apparent zeal of the investigating magistrates. Yet this was merely a symptom of the changing role of an active magistracy and the fact that its conflicting loyalties to central and local government, to moral reform and social order tended to cut across existing networks of local solidarity. As a number of historians have pointed out, by the end of the eighteenth century active magistrates were often recruited from a social sphere slightly below the highest gentry, the class fraction which had traditionally filled the office. Hence JPs were sometimes both marginal to an older ruling class, and distanced from the forms of cultural and personal authority which that class was accustomed to wielding.³³

In addition, structural changes in the nature of local government, including the expansion of magisterial powers after 1790 and the prominent role of magistrates in reforming manners throughout Britain, tended to exacerbate the tensions that resulted from class marginality. In this case, the Warrington JPs John Borron and Richard Gwilym vacillated between their roles as members of a local elite that required their solidarity, and as active administrative magistrates who were obliged to exercise thorough powers of investigation. Taking the latter path, they pushed their inquiry to the limits of their powers, into a city that was not normally part of their jurisdiction, while all the time presenting this to their friends and neighbours as merely a solicitous attempt to safeguard the welfare of a ruling elite.

Yet, although Borron and Gwilym were active magistrates, they do not completely fit the picture of a class-marginal magistracy. They had close ties to the landed elite of Cheshire and Lancashire, and had filled important county offices which often functioned as a way of acculturating new men into the local oligarchy. Gwilym, for instance, had been sheriff of Lancashire in 1796, while Borron, who was later one of the magistrates

³³ See, for instance, David Eastwood, *Governing Rural England: Tradition and Transformation in Local Government, 1780–1840* (Oxford, 1994); Norma Landau, *The Justices of the Peace, 1679–1760* (Berkeley, 1984); Dror Wahrman, 'National Society, Communal Culture: An Argument about the Recent Historiography of Eighteenth-Century Britain', *Social Hist.*, xvii (1992).

who ordered the militia into Manchester before Peterloo in 1819, occupied the important office of Lieutenant Colonel in the Cheshire Volunteer corps.³⁴ The two men were nevertheless typical of the active, increasingly administrative magistrates of the period who were used to deciding large numbers of cases on their own in petty sessions, and who enjoyed considerable autonomy from central government and the criminal courts in so doing.

As well as being willing to test the limits of jurisdiction, Borron and Gwilym did develop suspicions about men of their own class, as the progress of the inquiry demonstrates. They held back from a full investigation initially, but after the executions of Stockton, Powell and Holland on 13 September, were encouraged by the fact that Rix had offered to make a further statement of all he knew. Rix was interviewed twice, on 15 and 21 September, specifically on the question of whether he could name any men of standing. Following these examinations the justices began to recruit other magistrates for a potential sweep of the Manchester Exchange and the surrounding area. In spite of these thorough preparations, the magistrates claimed not to be putting together a case against their own society, nor to be acting as official inquisitors, but merely as friends trying to find the source of the rumours so that they might be effectively stamped out. Whether this was true is far from clear.

Did Borron exaggerate these potential rifts, or cause them wholly by his loyalty to a moral campaign which was necessary, he felt, for 'bringing us from this sin'?³⁵ He was, he told Earl Spencer, fearful that the trials at Lancaster were 'but the beginning of a scene of far more extensive guilt'.³⁶ His efforts, which he claimed were merely devoted to stamping out a false accusation, seem at times to have verged on a legal inquiry into the truth of the charges against his social equals. He was reported to have told the Attorney General of Lancashire at the assizes that '“he” or “they” were thoroughly acquainted with every thing' and that he knew the names, 'had suspected them long, and had received accounts of the proceedings at Hitchin's [house]'. The magistrate also claimed that one of the 'men of

³⁴ Volunteer officers were, however, often 'lesser men than the gentry': see J. E. Cookson, *The British Armed Nation, 1793-1815* (Oxford, 1997), 91.

³⁵ J. A. Borron to Earl Spencer, 8 Sept. 1806: Althorp Papers, vol. dc.

³⁶ *Ibid.*

standing' accused of visiting the house at Great Sankey had made an effort to see the depositions of the accused at the assizes 'which he thought a very suspicious circumstance'.³⁷ When these conversations and suspicions became common knowledge among the Cheshire gentry in December 1806, along with the realization that the JP had pursued the investigation seemingly without any conclusive proof, Borron's position began to look extremely precarious.

Whatever Borron's real feelings about the guilt or innocence of his social equals, his activities were undoubtedly encouraged by central government. The Home Office was clearly willing to respite Thomas Rix and Isaac Hitchin in order that they might be interrogated on the question of whether the gentry were involved. Having received implicit backing Borron and Gwilym perhaps translated such general support for the magisterial office into stronger backing for a wider campaign. There is no doubt that the government supported the magistrates' initial actions. Approving the two-week respite at the beginning of September, Earl Spencer noted his concern at the extent of this 'shocking business'. He could not, he told the JPs, 'but highly applaud your activity and zeal in bringing it forward'.³⁸ Similarly, after he had interviewed Thomas Rix, Borron requested formal authorization from the Home Office to carry his investigations to Manchester. Spencer gave his full support.

With this apparent backing, Borron and Gwilym returned to Lancaster to try and elicit more information from the convicts. Rix, having promised to make disclosures of names both 'numerous and respectable', spoke again to the magistrates on 21 September, this time for two hours in the jail at Lancaster. However, according to Borron, he merely repeated 'many of the minute and disgusting particulars', adding 'some names of common repute'.³⁹ Yet even before the second interview with Rix and Hitchin, Borron and Gwilym were, it seems, preparing to act. On the day before they met the condemned men again, Borron told Earl Spencer that three other magistrates had been persuaded to join an investigation which could, he said, 'make

³⁷ Samuel Heywood to Joseph Birch, 23 Dec. 1806: Althorp Papers, vol. dc.

³⁸ Earl Spencer to J. A. Borron, 10 Sept. 1806: Althorp Papers, vol. dc.

³⁹ J. A. Borron to Earl Spencer, 22 Sept. 1806: Althorp Papers, vol. dc.

a sweep in one night of all these wretches' and 'search this sink of iniquity to the bottom'.⁴⁰

However, Isaac Hitchin, to his credit, refused to co-operate any further, telling Borron 'with great calmness [that] it was all French to him', and that 'he knew no more about it than the dead'.⁴¹ In spite of this obstacle, the names of those men of respectability who might be involved had become a matter of public knowledge and speculation. Popular suspicions that the poor were punished for such crimes while the rich used their wealth and influence to escape justice were a common feature of trials for sodomy and other homosexual offences in the nineteenth century.⁴² In addition, speculation was generated by the circumstances of this particular case, especially the conviction of gentlemen and the keeping of a house specifically for the purpose of meeting there.

In Lancashire and Cheshire, broadcasting the names of the respectable not only resulted from Borron's attempts to name the guilty and get Rix and Hitchin to confess, but was also generated by the fervid popular speculation that followed the initial arrests in May 1806. At that time, George J. Legh of High Legh, a member of one of the most important Cheshire families, had applied for a summons against a man who was supposed to have said that 'there was sad work at Warrington, [it] had reached High Legh, and . . . Mr Legh was one of them'. At the time Legh was advised to let the matter drop since his accuser was, it appeared, 'nearly an idiot'.⁴³ However, the trials in August further excited suspicions in the area. Borron recalled in December that at the time of the executions 'the imagination of the publick, heated as it was at that moment by the magnitude of the numbers of persons really guilty', had made it prone to 'entertain suspicions, to which rank and respectability were no barrier'.⁴⁴

The names of the men he suspected would, Borron suggested, be read 'with horror' by Earl Spencer. They were: Meyrick Bankes of Winstanley near Wigan, who had been sheriff of Cheshire in 1805; Joseph Birch, the Whig parliamentary candidate for Nottingham; the Revd Ireland Blackburne, brother of the local MP John Blackburne; George Heron; the Revd Geoffrey Hornby,

⁴⁰ J. A. Borron to Earl Spencer, 20 Sept. 1806: Althorp Papers, vol. dc.

⁴¹ J. A. Borron to Earl Spencer, 22 Sept. 1806: Althorp Papers, vol. dc.

⁴² On this, see [Holloway], *Phoenix of Sodom*, 45–6.

⁴³ Thomas Blackburne to George J. Legh, 19 Dec. 1806: Althorp Papers, vol. dc.

⁴⁴ J. A. Borron to G. J. Legh, 17 Dec. 1806: Althorp Papers, vol. dc.

rector of Winwick near Warrington and brother-in-law of the thirteenth earl of Derby; George J. Legh of High Legh; Peter Patten, MP for Newton; and Edward Wilbraham-Bootle, MP for Newcastle under Lyme. These men, Borron reported, were 'stated . . . as meeting for infamous purposes at Hitchin's house'.⁴⁵

This group not only comprised a significant section of the local ruling elite, but also participated fully in the political, cultural and military activities of the region, moving in the highest circles of local life. They and their friends made up the magisterial bench, socialized together, as well as serving on Grand Juries and in the militia.⁴⁶ In addition, the connections of this group threatened to make the case into a national scandal. Wilbraham-Bootle, who later became father-in-law to the fourteenth earl of Derby, was probably the most prominent national political figure among them. He was a close ally of George Canning, and in 1828 took the title Baron Skelmersdale.⁴⁷ Birch, on the other hand, was a Whig who had supported several reforming causes such as the investigation of the Prince of Wales' finances and the relief of poor textile workers in the Nottingham constituency which he had represented between 1802 and 1803.⁴⁸ Birch's patron and chief defender was William Molyneux, the second earl of Sefton. Like the earl and his opponent John Borron, several of these men served as senior officers in Volunteer corps. Peter Patten, whose steward Robert Ball was part of the Warrington group, served in several different Volunteer forces in Lancashire and Cheshire from the 1790s onwards.⁴⁹ The cases not only threatened the good name of the Volunteers by implicating its soldiers indirectly, but also spread accusations against individual officers. In a similar way to Thomas Rix, Robert Ball tried unsuccessfully to extricate himself from the affair by

⁴⁵ J. A. Borron to Earl Spencer, 20 Sept. 1806: Althorp Papers, vol. dc.

⁴⁶ Ireland Blackburne, John Blackburne, Richard Gwilym, Peter Patten and Edward Wilbraham-Bootle served on the Lancashire Grand Jury together at the summer assizes in August 1805 and 1806, along with the earl of Derby: see *Lancaster Gazette*, 31 Aug. 1805; 23 Aug. 1806.

⁴⁷ See Josceline Bagot (ed.), *George Canning and his Friends*, 2 vols. (London, 1909); R. G. Thorne, *The House of Commons, 1790–1820*, 5 vols. (London, 1986). Wilbraham-Bootle's daughter Emma Wilbraham married the fourteenth earl in the early 1820s.

⁴⁸ Birch was even accused by his opponents of Jacobinism: see Anon., *Ten Letters Principally upon the Subject of the Late Contested Election at Nottingham* (Nottingham, 1803), 24.

⁴⁹ Thorne, *House of Commons*, v, 730.

drawing others into it, specifically by giving evidence against a Chester 'tradesman of respectability' and member of the Cheshire Volunteers, whom he accused of having committed 'several indecencies at Warrington'.⁵⁰

Although many of the criticisms raised against the actions of Borron and Gwilym resonated with a wider attack on the partiality of vice and prosecution societies, the Warrington cases showed that 'unnatural crimes' presented particular difficulty for the justice system.⁵¹ Acting only against Rix and his confrères suggested partiality, while spreading the inquiry to higher classes using the evidence of convicted felons or popular rumour threatened to bring down all the authority and prestige of aristocrats like Lord Sefton against the methods and integrity of the magistracy. Throughout the affair, the preoccupation of the Cheshire gentry was not only to exonerate themselves, but also to close down any further debate and restore order to the relations between county elite, magisterial bench and central government.

IV

RESTORING PEACE, RE-ESTABLISHING CONSENSUS

On 23 September, just after Borron's second interview with Rix, Earl Spencer and the Lord Chief Justice Lord Ellenborough decided against any further arrests in Manchester and Liverpool based on this evidence. The execution of Rix followed four days later. However, it is far from clear that Borron's inquiries into the Cheshire gentry ceased at this point. Protests to the Home Office about the conduct of Gwilym and Borron by the gentlemen implicated, in particular Legh and Birch, would appear to indicate that the justices continued to give some credence to statements that seemed to be little more than rumour. The solution to the problem posed by this publicity was that which recommended itself to an English ruling elite for much of the nineteenth century when faced with the question of 'unnatural crime' and its attendant scandal: total silence.

⁵⁰ *Cowdroy's Manchester Gazette*, 23 Aug. 1806; *British Volunteer and Manchester Weekly Express*, 6 Sept. 1806.

⁵¹ On criticisms of vice societies, see Anon., *A Letter to a Member of the Society for the Suppression of Vice, in which its Principles and Proceedings Are Examined and Condemned* (London, 1804), 9.

The most pressing question for the region's oligarchy was how to control public knowledge and debate. Most of the men involved were prepared to accept Borron's explanation that his investigations were directed merely towards exonerating his friends. Wilbraham-Bootle, Patten and Heron, for instance, who had become worried that 'public rumour has lately considerably increased', wrote to the magistrates in December approving their conduct and authorizing them to inform all those concerned of the charges so that they could take arms against such damaging hearsay.⁵² The former Whig MP Joseph Birch and his patron Lord Sefton, on the other hand, saw these investigations very differently. Birch heard from an associate that Borron, far from merely trying to exonerate him, had in fact forced his name into consideration as one of the guilty. It was at the assizes that the magistrate was supposed to have declared his strong suspicion of Birch because of the latter's apparent efforts to view the depositions in the case.⁵³ In addition to this, Birch was furious that Gwilym had discussed the case with the Prince of Wales, and had even mentioned his name, during the royal visit to the earl of Derby on 20 September. The mention of any man's name '*under such circumstances*' was bad enough, Birch complained, but 'how much does the matter become aggravated by placing an innocent man in so odious a point of view before the Personage whom we are to consider as the source of all honour in the Kingdom'.⁵⁴ Gwilym and Borron's second interview with Rix and Hitchin, when by their own admission the magistrates had interrogated Hitchin on the question of whether men of standing had attended his house, looked very suspicious in the eyes of Birch and his patron. The earl of Sefton, hearing the details from Birch, weighed in against the magistrates in similar vein.⁵⁵

⁵² Edward Wilbraham-Bootle, Peter Patten, George Heron to J. A. Borron and Richard Gwilym, n.d. (copy, probably 17 Dec. 1806). The letter is referred to as an enclosure in a letter from Borron to George Legh, 17 Dec. 1806: Althorp Papers, vol. dc.

⁵³ Samuel Heywood to Joseph Birch, 23 Dec. 1806: Althorp Papers, vol. dc.

⁵⁴ Joseph Birch to Richard Gwilym, 18 Jan. 1807: Althorp Papers, vol. dc. Original emphasis.

⁵⁵ Sefton's motivation might be speculated upon, as he was closely involved in developing parts of Liverpool: see C. W. Chalklin, *The Provincial Towns of Georgian England: A Study of the Building Process, 1740-1820* (London, 1974), 95, 110-11, 107.

Sefton feared not only for Birch's good name, but also for the safety of his class as a whole. He was, he said, 'impressed with a conviction that no man's character could for a moment be safe while he was exposed to the operations of an inquisition, as mysterious in its principles and more baneful in its effects than that which existed in the most furious times of Bigotry'. His first impression of the magistrates' 'mysterious' conduct, that it threatened the peace of many more men than those directly implicated, had been fully confirmed by more thorough scrutiny. It was, Sefton continued, his 'duty to awaken the feelings of the Gentlemen of this neighbourhood to a sense of the danger to which they are exposed'.⁵⁶ Sefton later demanded Gwilym's resignation, stating, Gwilym reported, that 'in my hands the magisterial office is not securely placed'. The magistrate duly offered to resign, but was rebuffed by the Home Office.⁵⁷

The difficult position of the magistracy was thus thrown into relief. On the one hand, the justices had a duty to investigate the cases as widely as possible, but on the other they felt keenly the need to maintain the moral standing and civil relations of their own class. Richard Gwilym later described his close connections with those under suspicion. Reacting to the suggestion that he had suspected and investigated his friends and neighbours, Gwilym argued in 1807 that he could hardly have done so given the intimacy of his connection with them. One of those under suspicion, he stated, 'was my most intimate friend, another was the Respected father of a Gentleman who married my niece, [and] with the two others I was in the habit of social intercourse and esteem', while from the last 'I always received a friendly address whenever we met'.⁵⁸

Gwilym claimed that although he and Borron had entered the case acting in the capacity of magistrates, they had soon resumed the role of friends to the gentlemen accused. Rather than investigating the truth of the charges, they had, he argued, renounced their administrative responsibilities in order to try to remove the stain of imputation from their friends. Once Rix had been executed at the end of September, Gwilym claimed to have stopped acting in an official capacity and to have had

⁵⁶ Lord Sefton to Thomas Earle, 18 Jan. 1807: Althorp Papers, vol. dc.

⁵⁷ Richard Gwilym to Earl Spencer, 21 Jan. 1807: Althorp Papers, vol. dc.

⁵⁸ *Ibid.*

'no more to do with the case as a magistrate'. Although he was accused by Lord Sefton of having 'placed Gentlemen in the situation of defending themselves from these charges', Gwillym denied that he had acted the part of the magistrate after September and instead insisted that he had assumed merely 'the individual character of the friend anxious for the vindication of calumniated members of the same society'. The problem was that the rising importance of magisterial activity and autonomy had made these roles more difficult to negotiate. Both considerations, of office and friendship, had weighed with him, he said, and it was 'in the separate capacities of a servant of the Public and in that of a friend to the Parties' that he submitted his conduct for Earl Spencer's judgement.⁵⁹

Borron and Gwillym claimed to have been acting in the best interests of their class, and insisted that their actions had not represented a full inquiry into the rumours.⁶⁰ Yet they had broken a generally unspoken convention that the moral integrity of one's social equals, and hence the ideological coherence of a ruling elite, must be protected from rumour by circumspection, silence and magisterial caution. The trial judge, Sir Robert Graham, had in fact advised Gwillym to this effect. When the magistrate consulted Graham about the case after the assizes, the judge told him that with respect to the rumours his 'first duty was silence'. Neither should a magistrate investigate such charges himself, but instead, he must 'wait any event that might bring this painful story officially before [him]'.⁶¹

Graham's injunction was not only his informal advice, but in this case was also the policy of the government. Although Sefton and Birch did not know it, Gwillym and Borron had already been warned by Lord Ellenborough about the dangers presented by further prosecutions. When on 23 September the Lord Chief Justice decided that Rix should be executed, he also issued instructions to Earl Spencer on the future conduct of the investigations which were then forwarded to the Cheshire magistrates. Re-establishing the silence necessary for protecting public morality, masculine civility and the ideological sanctity of a ruling class was his principal aim. On those grounds, Ellenborough

⁵⁹ *Ibid.*

⁶⁰ Richard Gwillym to Joseph Birch, 15 Jan. 1807: Althorp Papers, vol. dc.

⁶¹ Richard Gwillym to Earl Spencer, 21 Jan. 1807: Althorp Papers, vol. dc.

refused to go along with Borron and Gwilym's advocacy of 'an entire public discovery of every person connected with this horrid business', or the intention of 'bringing them all to the punishment they undoubtedly deserve'. Although the efforts of the Cheshire gentry were devoted to controlling public knowledge about sodomy, Ellenborough recognized that the public already knew far too much about it. Even more public discussion would be pernicious in itself since it threatened not only the multiplication of the crime, but more importantly promised to deaden public outrage. The consequences of revealing the fact that sodomy was so widespread, and that sodomites had established regional networks of association, would be damaging in itself, he concluded. Public morals had suffered enough from the 'Remarkable Trials' at Lancaster, but 'the knowledge that so widely extended a conspiracy against nature exists in point of fact' along with awareness of the 'generality and notoriety of the crime', which further prosecutions would generate, threatened to 'diminish much of the abhorrence which it is to be wished should always belong to it'. The crime should remain as nameless as possible, Ellenborough argued, because, in addition to corrupting public morals, it posed a direct danger to individual men. 'A mischievous curiosity is by the very description of the subject excited in vicious and depraved minds', the Lord Chief Justice argued, which had led, 'in some ascertained instances, to the commission of the crime by persons who otherwise would never have thought of it'.⁶²

These were clearly views shared by others in authority. At the trials in August, even the judge, Sir Robert Graham, had 'lamented that such a subject should come before the public as it must do, and above all, that the untaught and unsuspecting minds of youth should be liable to be tainted by hearing such horrid facts'.⁶³ Perhaps for these reasons, Borron and Gwilym's campaign came up against serious obstruction in Liverpool. Although Borron claimed that there were 'men in Liverpool and Manchester who might further the investigation', it was nevertheless the case that 'other magistrates and perhaps others might think it officious'.⁶⁴ The lack of stipendiary magistrates in

⁶² Lord Ellenborough to Earl Spencer, 12 Sept. 1806: Althorp Papers, vol. dc.

⁶³ *Cowdroy's Manchester Gazette*, 23 Aug. 1806; *Times*, 25 Aug. 1806.

⁶⁴ J. A. Borron to Earl Spencer, 22 Sept. 1806: Althorp Papers, vol. dc.

Manchester made it easier for rural justices to extend their authority to the town, but Liverpool was a different case.⁶⁵ As it was a corporate town in which the mayor and aldermen acted as magistrates, interference from Warrington was apparently unwelcome. Borron therefore reasoned that if an investigation were 'left to the mayor and another or two, from what has passed hitherto we cannot expect much exertion'.⁶⁶

This lack of agreement made it unsurprising that acquittal in at least one of the original trials was received with relief and rejoicing in the court and press. At the end of the Lancaster assizes Peter Patten's steward Robert Ball had failed to provide sufficient evidence to convict a respectable Chester tradesman of indecent assault. According to a Manchester paper allied to the Volunteer movement, this 'honourable acquittal, almost unparalleled in the annals of criminal judicature', represented a minor vindication of both English justice and the virtue of the local ruling class. As a consequence, the verdict 'was received with the greatest exultation by a crowded court, who heartily and feelingly congratulated each other upon the blessings of an impartial administration of justice'. The court rejoiced that 'even in the moment of indignation, excited by the preceding trials, still the modest voice of innocence was not disregarded'.⁶⁷

Ball's case showed that a fragment of national pride could be salvaged even from this unfortunate business. The bonds of class were also replaced carefully at a meeting on 14 January 1807 between the earl of Sefton, Joseph Birch and the Warrington magistrates. Sefton declared himself satisfied by the latter's fulsome apology and was prepared to concede that even Borron's conduct 'under the circumstances of the case was that of a man of honour and a gentleman'.⁶⁸ With this resolution, both magistrates resumed — however ambiguously — their place among the

⁶⁵ Manchester's first stipendiary magistrate was appointed in 1813. A permanent chairman of Quarter Sessions was the only salaried legal official outside the Court Leet in Manchester in 1806. See Leon Soutierre Marshall, *The Development of Public Opinion in Manchester, 1780–1820* (Syracuse, NY, 1946), 98.

⁶⁶ J. A. Borron to Earl Spencer, 22 Sept. 1806: Althorp Papers, vol. dc.

⁶⁷ *British Volunteer and Manchester Weekly Express*, 20 Aug. 1806.

⁶⁸ Lord Sefton's Statement, 14 Jan. 1807, coda to Mr Borron's Apology to Mr Birch, 4 Jan. 1807: Althorp Papers, vol. dc.

local ruling elite.⁶⁹ Borron returned to his duties in the Cheshire Volunteers and both justices received a vote of confidence from Earl Spencer.⁷⁰ Borron remained a magistrate in Warrington for at least another fourteen years, directing his attention in future against the more straightforward target of Mancunian sedition.

The direct consequences of the affair in Cheshire are difficult to gauge. However, the issue which the trials raised was one which tormented successive magistrates, law officers, policemen and journalists throughout England for the rest of the century. The trials and scandals raised pressing questions about how to deal with the existence of 'unnatural crimes' in major towns. There was considerable disagreement within local governing classes on this point which resulted in part from the unpredictable consequences of this case. The other principal dilemma raised by the case was the proper limit of public discourse and knowledge about same-sex desire. The question of who was authorized to speak and how, and on whose authority should men of standing be suspected, was never properly settled. Instead, silence was recommended by those in authority as the safest strategy in all cases of sodomy. This caution was also a method recommended and given sanction by the law officers of the state. It is difficult to trace any national policy in this area of the law, but in this case, as in others, an injunction to silence was the dominant reaction of those in authority. As a number of historians have shown, accusations of sodomy against men of standing remained a prominent theme of radical political discourses throughout the nineteenth century.⁷¹ Even as late as 1884, it was the stated policy of the Home Office to restrict publicity in cases of homosexual offences and to limit inquiries

⁶⁹ On Borron's later activities in the militia and as a magistrate, see J. A. Borron, *A Statement of Facts, Relative to the Transfer of Service of the Late Warrington Volunteer Corps into the Local Militia* (Warrington, 1809). On his actions at Peterloo, see *Times*, 17 Nov. 1819; 27 Jan. 1820.

⁷⁰ Earl Spencer to J. A. Borron, 24 Jan. 1807: Althorp Papers, vol. dc. Spencer wrote that he was 'disposed to give credit to the motives which have influenced your conduct in the very unpleasant and delicate business to which these letters [those from Sefton and Birch] refer'.

⁷¹ See, for instance, Morris Kaplan, 'Did "My Lord Gomorrah" Smile? Homosexuality, Class and Prostitution in the Cleveland Street Affair', in George Robb and Nancy Erber (eds.), *Disorder in the Court: Trials and Sexual Conflict at the Turn of the Century* (New York, 1999); H. G. Cocks, *Nameless Offences: Homosexual Desire in the Nineteenth Century* (London, 2003), ch. 4; H. Montgomery Hyde, *The Cleveland Street Scandal* (London, 1976).

to those directly involved in order to prevent public scandal.⁷² Lord Ellenborough's dictum that the public would be harmed by becoming inured to the existence of so widespread a crime represented a powerful argument against searching investigations of 'unnatural practices' throughout the nineteenth century. This attempted 'closeting' of homoerotic desire, the template for which was perhaps made in the Warrington cases, performed determinate functions. As the scandal which followed the 'Remarkable Trials' showed, it was considered best to restrict investigations to those — usually poor men — against whom overwhelming evidence could be presented. This selectivity, along with the prevention of public discussion, were both methods designed to preserve certain practices of class and civility, thereby ensuring the cohesion of a masculine political sphere, and of a governing class as a whole. When the silence surrounding sodomy was broken, as it was frequently throughout the nineteenth century, the apparent danger to public morals and the suspicion of upper-class propensities which often resulted caused immense difficulty for England's rulers. Same-sex desire could, and frequently did, represent a threat to the ideological unity of a class, as the Warrington cases demonstrate. Remaking a landed oligarchy required a form of masculine civility as the key ingredient of cordial relations within a governing elite. This in turn depended at the very least on a certain presumption of moral integrity, and a freedom from the harmful effects of popular gossip. As a result this code of civility required vigilant protection not only from those who might turn masculine association towards 'unnatural' purposes, but also from zealous and over-mighty subordinates.

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⁷² At the height of another scandal centred on British officials in Dublin, the Treasury Solicitor's policy was 'not to give unnecessary publicity to cases of this character': quoted in Cocks, *Nameless Offences*, 147.