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## The Luddite Trials: Radical Suppression and the Administration of Criminal Justice

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# The Luddite Trials

Radical Suppression and the Administration of Criminal Justice

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*“Luddism ended on the scaffold.”*

—E. P. Thompson<sup>1</sup>

After reviewing the historiography of the Luddite rebellions, this article details the process of criminal justice administration at the time of the rebellions. The various legislative acts that comprised the “Bloody Code” are identified and the associated history of capital charges and executions in the late eighteenth and early nineteenth centuries are examined. Relying on trial records and newspaper and other accounts, results of the Luddite trials are presented and compared with the execution and pardon rates for Assize trials in England and Wales. Providing details of occupations, ages, and charges for those at risk of the mass executions at the Luddite trials reveals the extent of the repressive measures used to thwart Luddite disturbances. Seeking further insight into how the repressive trial outcomes were obtained, Home Office correspondence and other sources relating to the York Special Commission are reviewed to assess trial outcomes during the tenure of Lord Sidmouth as home secretary.

This article uses sources arising from “the Luddite trials” at the Chester Special Commission, May 26–30, 1812, the Lancaster Special Assizes, May 25 to June 2, 1812, and the York Special Commission, January 2–12, 1813, to provide an alternative perspective on an event with a vast historiography—the Luddite rebellions of 1811–13.<sup>2</sup> In contrast to the numerous narratives concerned with

motives and “worldview” of the Luddites, there is a dearth of secondary sources available on the exercise of criminal justice administration at these trials.<sup>3</sup> The plethora of primary sources emanating from the propertied upper classes detail how the mass public hangings at the Luddite trials suppressed the destruction of private property and the perceived threat to “public peace” from the Luddite “disturbances.”<sup>4</sup> The array of sources include: parliamentary papers and legislative acts, commission reports, personal letters, Home Office correspondence, reports from sanctioned “news” outlets, and accounts of trial proceedings.

### Historiography of the Luddite Rebellions

The long-standing debate among historians surrounding the Luddites is typically “from below,” part of a wider debate on possibly revolutionary motivations of rebellious English crowds during the “Age of Revolution.”<sup>5</sup> Recent contributions by Katrina Navickas, Kevin Binfield, Matthew Roberts, Carolyn Steedman, and others have reoriented this debate toward the “places and spaces in which Luddism occurred,” and away from the narratives of the older historiography of Eric Hobsbawm, E. P. Thompson, the Hammonds, and F. Darvall.<sup>6</sup> The Luddite narrative inspired by Thompson focuses on broader historical processes associated with working-class struggle and the labor movement, diminishing localized features of the rebellions detailed in recent contributions, and, somewhat earlier, by Craig Calhoun.<sup>7</sup> Explicitly recognizing the sociological diversity of community context, recent contributions to Luddism maintain that concentration on trade unions or political societies is inadequate. “Luddism, and rural resistance more generally, cannot be reduced to . . . singular frameworks. The agitation was not about the development of working-class consciousness and politicisation of the poor en route to democracy.”<sup>8</sup> Complementing the diversity of geography, politics, and economics, Luddism is seen as invoking a “mythology and shared identity” that facilitated transmission “in a more abstract form than physical organization” involving “a complex web of demands and grievances, regional differences and identities.” Diversity of community context is transcended by a common mythology among the Luddites creating a loose “shared identity” across locations.

If definitive interpretation of Luddism is problematic, then using the view “from below” to assess the view “from above” is also problematic. In other

words, without enough “words of the rioters” it is not possible to determine whether the terrorizing spectacle of mass public hangings was a reasoned and justifiable response to the Luddite threat consistent with the “rule of law.” On the one hand, if the Luddites had “revolutionary objectives,” as asserted by Thompson and others, situating Luddism as part of a longer historical process that began with the American and French revolutions and propelled in England by the arrest and acquittal for treason of the leaders of the London Corresponding Society in May 1794, followed by the draconian suppression of revolutionary activities, underpinned by class conflict at the height of the Napoleonic hostilities, could arguably be a justifiable outcome of the legal process. On the other hand, if Luddism primarily “subsisted on the peripheries of urban areas: the industrial village or suburb, the turnpike and the moor” characterized by “patchy, desperate and sometimes failing strategies of the poor,” then the repressive administration of criminal justice can be interpreted as a cruel and unwarranted manipulation of the rule of law driven by upper class bigotry of the ruling elite.<sup>9</sup> In turn, such binary interpretations are not exhaustive.

Mostly engaged in a fascinating debate based on scant evidence of crowd motivations, Luddite historiography largely ignores that sources “from above” also suffer from making conclusions based on scant evidence. In general, these sources maintain the “disturbances” were carried out by “deluded men” with “anarchical spirit.”<sup>10</sup> In a proclamation following completion of the York Special Commission, the regent refers to “daring outrages . . . occasioned by the wicked misrepresentations of ill-designing persons, who have deluded the ignorant and unwary.” The pretext of these “misrepresentations” was seen to be “procuring additional employment and increased wages.” The “ignorant and unwary” were “seduced . . . to enter into unlawful associations, and to bind their consciences by oaths and engagements.” These “unlawful associations” were “destructive of the good order and happiness of society” and have “justly drawn down upon the offenders the severest penalties of the law.” In turn, the regent “exhorts . . . the proprietors of machinery, not to be deterred from continuing the use and employment of the same, but vigilantly and strenuously to exert themselves in the maintenance and defence of their property, and in the prosecution of their lawful and meritorious callings.”<sup>11</sup>

The essential temporal context for interpreting the Luddite trials is the state of English criminal justice administration at the beginning of the second decade

of the nineteenth century. It was not until 1822, some years following the Luddite rebellions, that Robert Peel succeeded Lord Sidmouth as home secretary. Various reform acts began to haltingly appear, realizing reformist aims associated with often unsuccessful legislative efforts of prior years. Such legislative changes provided a foundation for the transition of criminal justice administration from the prosecutorial trial system with sentences for serious felonies based on hanging and transportation that prevailed during the Luddite trials toward an adversarial trial system dependent on police investigation and penitentiary sentencing.<sup>12</sup> The relevant acts encompassed a range of areas including reform of the “Bloody Code” starting in 1823 with passage of the Judgment of Death Act and repeal of much of the Black Act.<sup>13</sup> This means the full weight of numerous capital offences in the Bloody Code were available at the time of the trials.

Trial procedure for serious felonies in use at the time of the Luddite trials is fundamental to interpreting the outcomes. Trial procedure has many moving parts, including pretrial collection of evidence and assessment of charges; the role and selection of judge, prosecutor, and defense counsel; rules for questioning of witnesses; and the scope of sentencing and possible appeal.<sup>14</sup> The Luddite trials occurred during a transitional period for all these moving parts. With the passage of the Treason Trials Act (1696), defendants secured the right to legal counsel in treason cases to offset the professional prosecution used in such cases.<sup>15</sup> As the private prosecutions of the sixteenth and seventeenth centuries began to evolve into professional prosecutions for other felonies in the eighteenth century, to offset the resulting prosecutorial bias associated with denial of defense counsel to the accused, starting in the 1730s professional defense counsel began appearing at the Old Bailey, subject to restrictions on the questioning of witnesses.<sup>16</sup> However, the adoption of defense counsel was not widespread and as late as 1800 two-thirds of trials at the Old Bailey did not have defense counsels.<sup>17</sup> Passage of the Prisoners Counsel Act (1836) secured the right to defense counsel. Most of the accused at the Luddite trials in Cheshire and Lancaster apparently had defense counsel but some did not. At York, all the accused were represented by counsel.

Since at least the sixteenth century, criminal justice in England was based on a precarious balance of “terror, mercy, and discretion.” To maintain legitimacy for the “rule of law,” the terror of capital punishment found in the Bloody Code had to be balanced by discretionary use of clemency. Where the accused was not represented by counsel, the judge could and did question witnesses on the

defendant's behalf. A tradition stretching back to the sixteenth century maintained that "it is far better for an accused to have a Judge's opinion for him, than many counsellors at the Bar."<sup>18</sup> As shown repeatedly in the transcripts of the Luddite trials, the judge played a key role in the summing of evidence and charge to the jury. Allowing for some discretion available to juries, the professional judges used in trials for serious crimes often determined the outcome of the trial. Recognizing that promotion to a senior position in the judiciary was at the pleasure of the Crown, "some judicial decisions may have been taken, not on the merits of equity, but on the application of political pressure."<sup>19</sup> Whether the political pressure, if any, originated from the ruling elite, local officials, or both, the absence of reprieves for capital sentences and subsequent mass hangings that occurred at the Lancaster and York Special trials indicates there was political influence.<sup>20</sup> Further investigation and interpretation of the primary sources is required to resolve this issue.

Other essential influences on the administration of criminal justice include the pretrial institutions and procedures used to investigate crimes and gather the evidence used for indictments. Basing criminal justice on magistrates, constables, and private prosecution had "grievous shortcomings" that could lead to innocent defendants being convicted: "the system encouraged false witnesses, who found it all too easy to bring about the condemnation of innocent men."<sup>21</sup> Though the gathering of evidence was still within the purview of the magistrate and constables at the time of the Luddite trials, to address problems of prosecution for serious felonies arising from the Luddite disturbances, the trials used professional prosecutors for the presentation of cases to the grand jury and again at trial. It was not until the Metropolitan Police Act (1829; 10 Geo.IV, c.44) for London and a number of subsequent reforms including the County Police Act (1839–40), and culminating in the County and Borough Police Act (1856; 19 & 20 Vict c. 69) that the Royal Boroughs set up paid police forces, an essential step toward establishing professionalized police services to replace the vagaries of evidence collection and indictment using unpaid constables and magistrates.<sup>22</sup>

## Revolutionary Motives?

Is there any connection between the grievances of the Luddites and the critique of Old Corruption advanced by William Cobbett and the English Radicals?<sup>23</sup>

Despite rural roots and a similarity in fundamental concerns about social justice, Cobbett was in jail for treason during much of the rebellions and acted largely to publish reports in the *Political Register* making references to Luddite rebellion events. The general detachment of Cobbett from the Luddites is illustrated in the issue of April 25, 1812 that, as part of a section covering “Riots in England,” refers to the attack on Cartwright’s mill by “Luddites or Snappers.” Cobbett and other radicals attacked “Old Corruption” as “a parasitical system” built on sinecures, reversions, sale of military commissions, lucrative government contracts, pensions, and church preferments “doled out by the ministers of the day to reward their hangers-on or to purchase the support of influential landed and moneyed men.” Radicals also called for an end to the system of rotten boroughs that enabled the Old Corruption elite to control the House of Commons. Such critiques were largely irrelevant to the disenfranchised Luddite crowds. More relevant was the radical position that the growing tax burden brought on by the Napoleonic wars was borne largely by the common people, with the propertied classes being relatively unscathed, allowing “the elite [to feed] its insatiable appetite for power and money at the people’s expense.”<sup>24</sup>

Any connection between the Luddite rebellions and subsequent trials to the radical critique of Old Corruption is bound up in the complex tapestry of support that prevented the revolutionary movements from America and France taking hold in Britain. Despite the obvious evidence of widespread government patronage detailed by the radicals, benefactors of Old Corruption maintained control using support that extended beyond the landed gentry into the urban middle-classes that formed the backbone of the “Industrial Revolution.”<sup>25</sup> This “loyalist” support depended on the “rule of law” to protect private property rights and maintain civil order. Appearing when Old Corruption had been “built up to enormous proportions during the Napoleonic Wars,” the predominately rural Luddite rebellions reveal essential avenues of “loyalist” support in the “bitter ideological struggle” spearheaded by the predominately urban Radicals seeking parliamentary reform.<sup>26</sup>

The uniquely English system of criminal justice administration was an essential feature of the complex tapestry supporting Old Corruption at the time of the Luddite trials. Until the criminal justice reforms of the 1830s, “the departments in Whitehall and the paid bureaucracy were tiny . . . there was very little direct intervention by central government in the lives of most of the population. . . . England was governed with very few salaried officials.”<sup>27</sup>



Circa the mid-1830s, the national overseer of public order and crime, the Home Office, featured only twenty-nine salaried, permanent members.<sup>28</sup> When Sidmouth assumed the position of home secretary, the number of employees was fewer than twenty.<sup>29</sup> Local control was pervasive with county rates sustaining many expenditures including the maintenance of law and order. The linchpin of local control was the unpaid magistrate (justice of the peace). Outside London and incorporated municipalities, the magistrates were responsible for the local administration of criminal justice as well as county governance. Magistrates were appointed by the lord chancellor, typically following advice of the county lord lieutenant. Neither elected nor representative, the essential qualification was ownership of land with rated value of at least £100. Though most did not serve as functioning magistrates, at the time of the Luddite disturbances it was conventional for adult males from aristocratic and gentry families to receive bench appointment allowing attendance at the Quarter sessions.<sup>30</sup>

The criminal court system at the time of the Luddite trials had two parts. The local courts were composed of the Petty sessions and Quarter sessions. The Petty sessions were the lowest level of court, presided over by one or possibly two magistrates with cases decided without jury. This court handled cases such as minor theft and larceny, assaults, drunken behavior, arbitrations, and whether a case would be decided at the next level, the court of the Quarter sessions, which involved trial by jury in front of a magistrate serving as the chairman of the Quarter session. As the name indicates, the Quarter sessions were held four times per year and involved deciding local governance and administration matters, such as poor relief and payment for local public works. Criminal justice administration at the Quarter sessions involved handling some felony cases, appeals of Petty session rulings, and the like. The Quarter sessions and magistrates were also responsible for supervising the unpaid local parish constables in the issuing warrants for search or arrest, as well as other duties. When a magistrate perceived a threat to law and order that exceeded the capacity of the local constable, citizens could be sworn as special constables and form local militias. In situations of serious threat, the magistrate could request the Home Office to send regular troops or, as was the case in some instances of Luddite disturbance, the Yeomanry. This additional support was required to act under direction of a magistrate to maintain and enforce civil order.

The next level of courts dealt with the most serious criminal offences. These courts, referred to as the Assizes, met twice a year, Lent and Summer. In contrast to the Petty and Quarter sessions, judges at the Assizes were appointed by the monarch and sent, usually in pairs, to six circuits plus some special jurisdictions. There were usually twelve such salaried judges sitting in the London courts, also responsible for Assize circuit duties. Luddite activity was centered in two circuits—the Midland circuit, encompassing Nottinghamshire, Derbyshire, and Leicestershire; and the Northern circuit, which contained Yorkshire—and the two special jurisdictions for Lancaster and Cheshire. In addition to the regular Assizes, in certain cases it was also possible for the Home Office to schedule additional court sittings, the Special Commission or Special Assizes, that were used to try specific individuals or criminal actions. In contrast to Assize judges, magistrates were decidedly more difficult for the Home Office to control and, being members of the local county community, were susceptible to threats against life and property. As a result, in cases that could involve a capital sentence such as deer stealing, the magistrate could have a decided bias toward leniency in the charges made in the arrest warrant. In turn, where magistrates deemed that a prosecution was warranted but the victim was reluctant to pursue prosecution, the magistrate had the authority to use recognizance to bind the victim and witnesses to appear at trial.

To the landed gentry serving as magistrates, the violent attacks on factories and gig mills and the smashing of machinery were profoundly frightening. As the primary source of numerous reports to the Home Office of Luddite activities that risked the capital punishment of the Bloody Code, such as military style drilling involving large numbers, blackening of faces and use of disguises, sending of threatening letters signed with a military moniker, and forced procurement of arms, funds, and provisions, the local magistrates were incentivized to provide a dire picture to obtain additional support from the Home Office. Portraying Luddite actions to be consistent with hopes of revolutionary radicals bent on displacing the urban ruling establishment was a distinct possibility, even if Luddite intentions were only to assert localized control on the rural landscape and urban periphery.<sup>31</sup> In addition, the credibility of evidence obtained from magistrates and constables is complicated because most, but not all, Luddite assemblies were resistant to the use of spies and *agents provocateurs* that the ruling establishment used so successfully against the London Corresponding Society and other more urban movements with revolutionary motivation.

In segmenting writings of the Luddites by region, Binfield recognizes the localized character of the rebellions. Roberts also provides evidence that Luddite disturbances in Nottinghamshire differed substantively from those in other regions. The ability of spies and *agents provocateurs*—in the employ, directly and indirectly, of the government, guided by a few “dedicated” magistrates—to penetrate Luddite assemblies appears most prominently in the more urban northwest where power looms and the cotton trade provide essential context. The use of spies at Bolton, and their possible role in “creating” rebellious actions in that area is detailed in a letter written by Dr. Robert Taylor, a Unitarian physician, in 1813 (published in 1839).<sup>32</sup> Use of spies and informers by the Home Office to deal with radicalism in the decade between 1791 and 1801, detailed by Clive Emsley, can be compared to the extent and scale described by Taylor.<sup>33</sup> Witness evidence given at the Lancaster Special Assizes indicates that authorities in the northwest were able to pierce the veil of Luddite secrecy using spies and *agent provocateurs* from the local militia. Around Bolton, the locale of primary concern for Taylor, numerous communications between magistrate Colonel Ralph Fletcher and the Home Office indicate limited success by spies in identifying Luddites and having oaths administered to spies.<sup>34</sup> However, close examination of direct testimony provided during the unlawful oaths trial on May 27 at the Lancaster Special Assizes by members of the Bolton militia that acted as spies at Luddite assemblies raises serious questions about the veracity of reports in that locale claiming Luddite activity was sufficiently organized to be dangerously seditious or revolutionary.

Whatever the narrative, when consideration is given to the ruling elite and their repressive actions against the Luddites, attention is directed to whether the ample sources from key Home Office, judicial, and military decision makers can address a variety of important questions. Were decision makers able to manipulate the rule of law to achieve the terrorizing outcome of mass hangings? If so, what mechanisms of criminal justice administration were used? Was there enough justification for the legislative, prosecutorial, and military actions taken against the Luddites? Or, did upper-class bigotry toward the lower classes play a key role in shaping unwarranted decisions? Essential sources available to answer such questions include Home Office correspondence; debates for passage of important emergency laws, especially the Frame Breaking Act (52 Geo.III c.16); and, the detailed judicial pronouncements in the trial record for the York Special Commission.<sup>35</sup>

A common theme in the view “from above” is that the Luddites were “deluded men” led by a small group of “mischievous” “ill-designing persons.” The deluded were inspired by the possibility of increased employment and higher wages. Perceptions about the motives of the “ill-designing” persons vary. The sources variously claim that the Luddite leaders were anarchists, reformers, radicals, revolutionaries, or criminals.<sup>36</sup> Given the general inability to identify Luddite leaders and absent the “words of the rioters,” the foundation for such claims was largely preconceived notions and prejudice.<sup>37</sup> The absence of treason and seditious charges in the Luddite trials suggests that such charges were too difficult to prove and capital convictions could be obtained more readily under other statutes. On the other hand, real threats to private property and “peace and tranquility” of the established social order, not immediate fear of revolutionary overthrow, may have motivated the repressive actions of the ruling elite. Perhaps it was some combination of indeterminacy and uncertainty. This raises important questions concerning the need to use the terrorizing spectacle of mass hangings to quell the disturbances. Was the “delusion” of the Luddite crowds associated with the incorrect perception that organized criminal action could lead to higher wages and employment? Or, as an alternative, was it delusional that localized disturbances and the destruction of private property by poorly armed mobs was a real revolutionary threat to the power of the ruling elite? The possibility that disenfranchised and “delusional” Luddites would risk capital charges for the higher purpose of achieving localized social justice was apparently not seriously considered by the Old Corruption elite.

## The Legal Context

During the eighteenth and early nineteenth centuries, the presence of capital penalties in the criminal law was ubiquitous. The Black Act (9 Geo.I c.22, 1723) is an appropriate starting point for the statutory history of the Bloody Code.<sup>38</sup> Pat Rogers relates the view of the influential British criminal law scholar, Leon Radzinowicz, that the Black Act was “‘remarkable’ as the most severe legislation of the eighteenth century, its comprehensive nature making it an ‘ideological index’ to the capital laws at large.”<sup>39</sup> John Hostettler observes: “the offences at which the statute was directed were already covered by existing law. . . . In essentials, it was simply an Act to provoke terror and was used

against persons who were not disguised and were not criminals.”<sup>40</sup> Ostensibly introduced to deal with deer-stealing at night by anarchic gangs on Crown lands and private property (though possibly also aimed at Jacobites), various sources estimate the Black Act imposed a sentence of capital punishment on over 50 offences, some of which were previously subject to lesser penalties.

Of relevance to the Luddite trials, the Black Act commenced “an ever increasing volume of statute law specifying particular offences . . . much designed primarily to impose death as the penalty for crimes against property.”<sup>41</sup> The Black Act imposed the death penalty on blackening of faces and disguises in rural affray. In addition to deer-stealing, the act was applied to a range of hunting, fishing, and gaming activities. The act also made it a capital offence to set fire to corn, hay, straw, wood, houses, or barns. The Black Act was one significant element in a “spectacular increase” in the number of capital statutes that appeared during the eighteenth century and the first decades of the nineteenth century; during the first fifty years of the reign of George III (1760–1810) sixty-three capital statutes were added, many of which were introduced as “emergency laws” aimed at specific actions that were previously outside the scope of the law or were subject to penalties that were deemed to be not severe enough. Emergency laws were often aimed at instilling terror in offenders, as was the case with the Frame Breaking Act of 1812. In addition, because one provision of a statute “could cover many capital cases” the “actual scope of the death penalty was . . . often as much as three or four times as extensive as the number of statutes.”<sup>42</sup>

Though England had “excessively severe criminal laws,” these laws were counterbalanced by “an extremely liberal form of criminal procedure.”<sup>43</sup> The evolution of English law, from the Magna Carta (1215) to the Bill of Rights (1689), established the rule of law as the basis for the authority of the state. Recognizing the Common Law as “a bulwark of individual freedom and a guarantee against encroachments of the executive,” the jury and judges had a fundamental influence on the administration of justice. Inconsistency between the severity of the penalty and the seriousness of the crime gave considerable incentive for juries to acquit even when the evidence indicated a contrary verdict. In turn, judges could show leniency by reducing the sentence or giving a favorable summation and jury directions. Defendants would often plead not guilty to permit the testimony of witnesses supporting “good character” and allow the judge discretion in passing sentence. However, the

property qualification to serve as magistrates and on juries could, at times, work against lower-class defendants. Against this backdrop, the Luddite trials posed a complex administrative problem for decision makers needing to defend private property and restore “peace and tranquility”: how to stay within the rule of law while ensuring enough terror to suppress a lower-class, disenfranchised, rebellious, and largely rural population?

**Table 1.** Occupations, Ages, Charges, and Verdicts, Chester Special Commission, May 26–30. 1812

Occupations	Ages	Charges*	Verdicts**
Weavers (non-Irish)	24 Youngest =16 Oldest =59	Burglary	2 Three Years Gaol
Weavers (Irish)	4 <20	Administering Oath	4 One Year Gaol
Hatter	4 20–29	Arson	3 Hanging
Shoemaker	2 30–39	Destroying Machinery	4 Discharged
Cotton-spinner	4 40–49	Grand Larceny	6 Acquitted/Not Guilty
Collier/Coal miner	4 50–59	Robbery	18 Transported (7 years)
Tailor	1	Riotous Assembly	22 Hanging Commuted to Transport for Life
Laborer	1	Uttering Threats	1
Carder	1	Unlawful Assembly	11
Female	2	Handling Stolen Goods	1
Total	47	Total	72
			Total
			47

Charges for each of the five sentenced to be hanged: i) Riot + Robbery; ii) Burglary + Arson; iii) Unlawful Assembly + Riot + Robbery; iv) Burglary; v) Destroying machinery.

\* Total of charges greater than number prosecuted due to multiple and different charges for some defendants. Administering oath includes both giving and taking oaths.

\*\* Discharged includes Discharged on Own Recognizance and Discharged as Witness. Acquitted / Not Guilty includes directed verdicts and jury outcomes. Transported (7 Years) includes 5 with fines of 1 shilling. Only two of the five sentenced to hang, Joseph Thompson and John Temples were executed on June 15, 1812. The remaining three received a sequence of temporary and final reprieves. Thompson (34) of Preston, Lancashire, was convicted of burglary and arson. Temples (27) originally from Ireland was convicted of burglary. Both were weavers.

Source: HO 42/123 (72A) (79–80).

**Table 2.** Occupations, Ages, Charges and Verdicts; York Special Commission, Jan. 2–12, 1813

Occupations		Ages		Charges*		Verdicts**	
Cloth-dresser	29	Youngest = 13		Burglary	34	Discharged w/o	
Laborer	8	Oldest = 69		Administering		Prosecution	15
Weaver	4	<20	5	Oath	10	Discharged with Bail	17
Shoemaker	3	20–29	31	Stealing Arms	20	Hanging	17
Coal miner	3	30–39	20	Frame Breaking	15	Discharged	2
Cotton-spinner	3	40–49	6	Larceny	5	Deferred to next	
Clothier	2	50–59	0	Robbery	5	Assizes	1
Tailor	2	60+	2	Cartwright's Mill	16	Aquitted/Not Guilty	8
Hatter	1			Uttering Threats	2	Transported (7 years)	6
Shopkeeper	1			Murder	3	Hanging Commuted	
Carpenter	1			Malicious		to Transport	
Hawker	1			Shooting	1	for Life	1
Wool-spinner	1			Theft of Lead	2		
Waterman	1						
Cardmaker	1						
Stone-mason	1						
Butcher	1						
Carpet-weaver	1						
<b>Total</b>	<b>64</b>			<b>Total</b>	<b>113</b>	<b>Total</b>	<b>67</b>

\* Total of charges greater than number prosecuted due to multiple and different charges for some defendants. Multiple charges for same offence for same defendant counted as one charge. Charge for Cartwright's mill associated with beginning to demolish the mill which falls under the Malicious Injury Act (9 Geo.III c.29) which is a capital statute. In cases where many felonies are charged, not all charges are counted. Administering oath includes both giving and taking oaths.

\*\* Number of verdicts greater than number of prisoners committed to trial due to 2 discharged for giving evidence against others and 1 deferred to next assize. Acquitted / Not Guilty includes directed verdicts and jury outcomes.

Source: J. Gurney, *Report of proceedings under commissions of Oyer & Terminer and Gaol Delivery, for the county of York . . . before Sir Alexander Thomson . . . and Sir Simon Le Blanc . . . from the 2nd to the 12th of January, 1813*, 2nd ed. (London, 1813), xiv-xviii.

**Table 3.** Charges, Age and Occupation for Eighteen Prisoners Sentenced to Hanging at York Castle, January 6 and 12, 1813

Name	Occupation	Age	Charges
John Battly	Clothier	31	1 Burglary, 1 Larceny
Thomas Brook	Cloth-dresser	32	Cartwright's mill
Joseph Crowther	Cotton-spinner	31	1 Robbery + "Other Burglaries on Same Day"
Jonathan Dean	Cloth-dresser	28	Cartwright's mill + Multiple Charges for Stealing Arms and Frame Breaking
Joseph Fisher	Coal miner	33	1 Burglary + Larceny
James Haigh	Cloth-dresser	28	Cartwright's mill + 3 Frame Breaking
William Hartley	Tailor	41	5 Burglaries + Stealing Arms + Frame Breakings*
James Hey	Woolen-spinner	25	1 Robbery + "5 Burglaries the Same Day"
Job Hey	Waterman	40	5 Burglaries + Stealing Arms + Frame Breakings*
John Hill	Cotton-spinner	36	5 Burglaries + Stealing Arms + Frame Breakings*
Nathan Hoyle	Weaver	46	5 Burglaries + Stealing Arms + Frame Breakings*
John Ogden	Cloth-dresser	28	Cartwright's mill
John Lumb	Coal miner	32	1 Burglary + Larceny**
George Mellor	Cloth-dresser	22	Murder + Cartwright's mill + 1 Stealing Arms + 2 Breaking Frames + 9 Others
Thomas Smith	Cloth-dresser	22	Murder + Cartwright's mill + 2 Breaking Frames + 9 Others
John Swallow	Coal miner	37	6 Burglaries
William Thorpe	Cloth-dresser	23	Murder + Cartwright's mill + 1 Stealing Arms + 2 Breaking Frames + 5 Others
John Walker	Cloth-dresser	31	Cartwright's mill + 2 Breaking Frames + 5 Others

\* Acted in concert, charged with same offences.

\*\* Lumb was recommended for mercy and hanging commuted to transport for life. Prior to being transported, Lumb died in an accident, "killed by a cart running over him," HO 9/8.

Source: J. Gurney, *Report of proceedings under commissions of Oyer & Terminer and Gaol Delivery, for the county of York . . . before Sir Alexander Thomson . . . and Sir Simon Le Blanc . . . from the 2nd to the 12th of January, 1813*, 2nd ed. (London, 1813), xiv-xviii.



**Table 4.** Capital Charges, Verdicts, Sentence and Prisoners to be Hanged Lancaster Special Assizes, May 29–June 2 1812

# Charged /Trial	Charges	Verdict		Sentence
		Guilty	Acquitted	
14	Setting fire to a weaving mill with power looms	4	10	4 Hanging
12	Giving oath to spies	7	5	7 Years Transportation
6	Riot and Burglary	3	3	3 Hanging
6	Riot, Arson of a Dwelling, Burglary		6	
1	Burglary of £2		1	
1	Riot, Larceny, Grand Larceny	1		1 Hanging (Female)
6	Riot	6		6 months Gaol (5 Females)
1	Larceny	1		6 months + shilling fine (Female)
2	Riot and Grand Larceny	2		7 Years Transportation
1	Administering Oath	1		
1	Taking an Oath	1		7 Years Transportation
2	Administering Oath	2		7 Years Transportation
2	Administering Oath + Riot		2	
4	Riot		4	
Total 31		28	31	

Found Guilty and Hanged: Hannah Smith (54), Abraham Charlson (16), Job Fletcher (34), Thomas Kerfoot (26), James Smith (31), John Howarth (30), John Lee (46), Thomas Hoyle (27).

\* The charges for Hannah Smith have reported the results from two separate trials as one trial.

Source: Edward Greaves, *The Trials of all The Prisoners at The Special Assizes for the County of Lancaster, Commencing May 29, 1812 at The Castle of Lancaster* (Lancaster, July 22, 1812).

One essential feature of the Luddite trials is the charges brought against offenders (see Tables 1–4). To be more precise, there is ample evidence that Luddites engaged in various activities that put them at risk for capital punishment under various components of the Bloody Code. No charges were made at the Luddite trials for capital offenses directly relevant to the revolutionary acts of treason and sedition.<sup>44</sup> Rather, the trials involved many standard felony charges that risked capital penalties, such as burglary, robbery, arson, and “endeavouring by threat” to obstruct justice. The traditional method of trying cases at the Petty and Quarter sessions involving both minor and felonious property crimes used private prosecution, where the plaintiff acted as prosecutor. Defendants could use professional legal counsel to advise on points of law and, subject to restrictions, to cross-examine witnesses. Cases where the plaintiff was “substantial” heightened the risk of conviction due to the use of professional prosecutors acting in place of the plaintiff, such as in the cases of forgery prosecuted by the Bank of England. As Handler observes, “only murderers were less likely to escape the gallows [than forgers].”<sup>45</sup> The disturbing violence and threats associated with the rebellions dampened the desire to privately prosecute, which led the Home Office using Crown prosecutors to undertake the Luddite trial prosecutions as serious felonies.

The decision process to hold special sittings of the court beyond the usual circuit of Lent and Summer Assizes for serious felonies generated considerable correspondence between the relevant county magistrates and the Home Office. It is significant that, although the bulk of Luddite damage was in Nottinghamshire, this county was not a locale chosen for a Special Commission, despite requests from local magistrates for such a sitting as early as November 1811.<sup>46</sup> As Bernadette Turner observed about the home secretary: “Ryder rejected the application . . . not [because] the disturbances in the Midlands were of little concern to the government. Rather he expressed the view that it was not desirable for the government to resort to such a strong measure unless the authorities were sure of securing a number of capital convictions.”<sup>47</sup> This indicates real constraints on the ability of the Home Office to manipulate the rule of law. It also suggests that cases against many Luddite offenders were relatively weak, an issue that reappears in the Home Office deliberations preceding and during the York Special Commission.

One characteristic of criminal justice under the Bloody Code was the bewildering array of sometimes conflicting and often overlapping capital

statutes. In addition to standard felony charges, there were also charges related to emergency Acts that dealt with “rebellious” activities passed before the Luddite disturbances, including the Riot Act (1 Geo. I st.2 c.5), Unlawful Oaths Act 1797 (37 Geo. III c. 123), Criminal Law Act 1782 (22 Geo. III c.40), Malicious Injury Act 1769 (9 Geo. III c.29), and the Malicious Shooting or Stabbing Act 1803, also known as Lord Ellenborough’s Act (43 Geo. III c.58). Luddite actions involved numerous actions that fell within the scope of these acts. Mass gatherings at night would constitute offences against public order, usually unlawful assembly, because the guerilla tactics used in many Luddite activities prevented a reading of the Riot Act. Attacks on mills with the intent to demolish or destroy would represent malicious injuries to property. Though various statutes going back to the Black Act could apply, Luddite prosecutions involving frame-breaking typically referenced the capital penalties of the Malicious Injury Act (and are recorded in Tables 1–4 as “frame-breaking”). Statutes relating specifically to frame-breaking were not used. An essential feature of the rebellions—the administering and taking of oaths—was not covered by a capital statute until the passage of an emergency law after the bulk of Luddite activity had ceased. A penalty of seven years transportation was indicated under the 1797 Act and was the penalty typically imposed on those convicted of oaths at the Luddite trials.

Finally, there were five acts introduced in 1812 specifically to deal with the rebellions: two Preservation of Peace Acts (52 Geo. III c.17 and 52 Geo. III c.162) that gave magistrates enhanced authority to deal with Luddite activities, such as the authority to seize arms and ammunition, and a “rendering more effectual” of the Unlawful Oaths Act of 1797, i.e., the Unlawful Oaths Act of 1812 (52 Geo. III c.104), the Creating Malicious Damage Act (52 Geo. III c.130), and the Frame-Breaking Act (52 Geo. III c.16), introduced while Richard Ryder was home secretary, with support from Undersecretary John Beckett.<sup>48</sup> Like many previous emergency laws, these last three acts overlapped with previous legislation and were most useful at asserting state power, instilling terror by threatening capital charges rather than being used for actual convictions. For example, the Frame-Breaking Act applied to damaging or destroying stocking frames and was not applicable to other types of machinery. Debate on the Frame-Breaking Act contains the famous first speech by the poet Lord Byron—resident of Newstead Abbey in Nottinghamshire—to the House of Lords, unsuccessfully pleading the case of the

Luddites “meagre with famine, sullen with despair.” Because previous statutes dealing with frame-breaking were already in place, rather than improving criminal justice administration, this act illustrates use of legislative process to achieve suppression by instilling terror.

One instance of criminal actions often emphasized in Luddite historiography is the connection of machine-breaking to resistance against the explosion of technological innovation.<sup>49</sup> However, in this case, the historical evidence is against the narrative placing Luddites in the vanguard of anti-technology resisters. That machine-breaking was a common tactic used in disturbances stretching back to the mid-eighteenth century is evident from previous capital statutes dealing with machine-breaking, especially 3 Geo.III c.32 of 1763 and 22 Geo.III c.40 of 1782. Adrian Randall and, more recently, Jeff Horn demonstrate that machine-breaking was a common tactic of the crowd long before and well after the Luddites and that such actions were not confined to the Midlands or England.<sup>50</sup> Recognizing earlier evidence from A. Booth, Roberts finds the context, timing, and geography of frame-breaking “intertwining” with “food riots [and] other forms of protest.”<sup>51</sup>

As Langbein and other legal historians observe, criminal law was largely about non-elites and was not typically used as a direct mechanism of societal control. Both plaintiff and defendant were often from the lower classes. However, the Luddite rebellions are one of the exceptions where the regular course of justice was perceived, perhaps incorrectly, as incapable of achieving the goals of peace and tranquility and defense of private property essential to societal order. There are numerous sources “from above” claiming that initial judicial outcomes at the regular Assizes in various counties were insufficient to instill enough terror to quell the rebellions. In particular, the Nottingham Lent Assize of March 1812 tried eighteen Luddites who had committed offences going back to November 1811.<sup>52</sup> The trials at Nottingham ended with numerous acquittals and transportation for life was the most severe sentence imposed. Similar comments apply to the 1812 Lent Assizes at Derby and other counties. The following description of the leniency is provided by both Gurney and Howell:<sup>53</sup>

As the intimidation of the master manufacturers and owners of frames was found to render them extremely averse to prosecution, and it was therefore little likely that any prosecution would in their hands be carried on with effect,

it was deemed by the Government, to be absolutely necessary for the public good, that the course of justice should be opened, by taking the indictments out of the hands of the nominal prosecutors. And accordingly the whole of the causes were conducted by the Counsel for the Crown. It must be admitted that great lenity was shewn in these prosecutions. None of the prisoners were capitally convicted; and in many of the cases, where they were found guilty of felonies within the benefit of clergy, the punishment awarded fell far short of that which the law would have authorized.

This backdrop sets the stage for the “Special” Luddite trials at Chester, Lancaster, and York.

### **Trial Records and the Administration of Justice**

An insightful observation about the Luddites from Thompson is that: “Luddism ended on the scaffold.”<sup>54</sup> Whatever the motivations, methods, organization, or actions of the Luddites, it was ultimately the repressive imposition of capital punishment, the terror inspired by mass hangings, that marks the end of the 1811–1812 disturbances. Sir Alexander Thompson, one of two presiding judges at Lancaster and York, made the following observation concerning the eight hangings and other serious sentences resulting from the Lancaster Special Assizes: “it is sincerely to be wished, that the awful example which has been made will deter others from trampling upon the laws of the country.”<sup>55</sup> Evidence of severe repression at the Luddite trials is provided by comparing the number of capital convictions that had historically resulted in hanging with results from these trials. Though statutes of the Bloody Code were replete with capital penalties, it was not common for the most severe penalties to be carried out.

Recognizing that data on charges, convictions, and executions for capital offences during the eighteenth century were “inadequate,” with the first detailed returns on specific offences for England and Wales only becoming available in 1810, the seminal contribution by Radzinowicz uses resourceful historical detective work to produce revealing statistics about the increasing leniency toward those convicted of capital charges: “In the years 1749–58, more than two-thirds of the offenders who were capitally convicted were executed; in

the years 1790–1799, the proportion fell to less than one in three. But in the next eleven years (1800–1810) only about one offender out of every seven sentenced to death was executed.”<sup>56</sup> This earlier evidence given in percentages for all of England and Wales does not allow for changes in the number of those executed or differences in geographical distribution of execution rates produced in later studies.

Interpretation of such evidence on executions, and for crime statistics in general, is complicated. Recent work by Peter King and Richard Ward details the geographical distribution of executions, demonstrating that the level of executions in London and the Home Circuit—those counties surrounding the capital—were highest with execution levels, measured using the number of executions per 100,000 population, falling dramatically the further the distance from London. Far fewer people per capita were being hanged in the Midlands and West Country.<sup>57</sup> Those areas of Britain furthest from the capital—northern England and the outer regions of Scotland and Wales—had places where there were no hangings for substantial periods. However, the evidence from Ward and King is from the third quarter of the eighteenth century, a stable period preceding the higher numbers and percentage of executions that occurred in the last quarter of that century. As Gatrell recognizes, execution rates per capita are only part of the picture; pardon rates are also important. For the period of the Luddite trials (1810–15), Gatrell reports a pardon rate for England and Wales of more than 85 percent.<sup>58</sup>

Geographical distribution in the level of executions is as complicated to explain as the execution statistics are to interpret. In London and surrounding populated counties, executions invariably attracted large crowds and had an element of spectacle lacking in regions remote from London. Perhaps there was geographical variation in: the reluctance to undertake private prosecution; the pretrial phase of evidence collection and issuing of arrest warrants; and, the trial proper. In less populated areas, personal knowledge of the accused by the magistrate, constable and members of the jury may have had more influence. As the circuit judges at the Assizes also sat on trials at the Old Bailey where execution rates tended to be the highest, this suggests some influence of local officials on the Assize judges regarding trial conduct and sentencing. However, recognizing the lenient treatment of Luddite defendants at the regular Assizes, local influence is a problematic explanation for Special trial outcomes. Simon Devereaux provides some

possible guidance: “Hanoverian England’s ruling élites clung to ‘the Bloody Code’ precisely because its explicitly selective enforcement best served the purpose of maintaining those bonds of patronage and deference which were the quintessential features of a persistently aristocratic ruling culture.”<sup>59</sup>

Thus, the figures regarding executions per capital conviction can be compared with the outcome of trials at the Lancaster Special Assizes and Special Commissions at Chester and York in Tables 1–4. The difficulty with determining such figures is immediately apparent in interpreting the meaning of “convicted of capital charges.” The acts associated with many felonies allowed for hanging but such penalties were often not carried out due to jury recommendations for mercy, judges’ discretion in sentencing and reprieve, or Royal pardons. Given this, the results are revealing. The Chester Special Commission reveals more-or-less the historical capital rate (see Table 1). Of the sixteen sentenced to death, eleven were reprieved and given transportation for life. Of the five sentenced to hang, only two were hanged (on June 15, 1812) with the remaining three given temporary reprieves and ultimately full reprieves.<sup>60</sup> This is a ratio of one out of eight, which is consistent with historical outcomes for capital convictions during this period. In contrast, the results for the York Special Commission (Tables 2 and 3) and the Lancaster Special Assizes (Table 4) reveal seventeen out of eighteen hanged at York, and all eight, including one female and a youth of sixteen, hanged at Lancaster.

Evidence for the ruling elite repressively instilling terror through the public spectacle of mass executions to exert control over a rebellious populace stretches back to antiquity. Inferring motivations that led those executed to risk capital charges is more complicated. Criminal trial statistics such as charges laid, number of acquittals, and sentences imposed are notoriously difficult to interpret for purposes of inferring motivations. Criminals are often charged with crimes incidental to more serious offences that have been committed. For example, a skillful burglar may not be caught in the act of break and enter but might be later found in possession of stolen property and charged with that lesser offence. The “General Ludd” responsible for planning and leading riotous Luddite assemblies, when identified, often was not charged with the most serious offences.<sup>61</sup> In addition, because many acts used to charge Luddites carried a capital sentence as the most serious penalty that could be imposed, there is the problem, shown in Tables 1–4, of determining the precise charge(s) involved and whether a specific charge was

for a capital offence or something lesser. This situation is complicated by the cursory description available in sources for specific cases. Consider the case of John Heywood, eighteen, a carder from Hollingworth sentenced to hang at the Chester Special Commission. The description of the charges and verdict is given as:<sup>62</sup> “Committed by Peter Marsland, Esq. May 16th—Charged with having on Tuesday the 21st day of April last, assembled amongst a mob, or large concourse of people, at Tintwistle, in the county of Chester, and with having accompanied them to the cotton-mill, or factory of Messrs. William, James, George, Joe, and Thomas Sidebotham, there situate, and then and there entered the same, and broke and destroyed a machine, in the said factory, used for the purpose of cleaning cotton and doing other damage. Convicted of destroying Machinery—Death.” Being sentenced to death, the initial charge was obviously capital. However, it is not clear whether the capital sentence also was associated with unlawful assembly. The statute used for the capital conviction of destroying (cotton-cleaning) machinery was likely general malicious damage to property. In the absence of information on the specific statute determining the sentence of death, in Table 1 the charge for this case is arbitrarily recorded as destroying machinery.

Among possible primary sources for the Luddite trials are Assize and Special Commission records from the jail books, indictment files and deposition files for the relevant counties. For the period 1811–1813, these sources are typically cursory and incomplete. It was not until the emergence of the adversarial trial with professional counsel for defense and prosecution that court records become comprehensive. Other records of trial proceedings come in various forms: newspaper accounts, communications to the Home Office, letters of varying reliability and detail, and first-hand accounts written by those attending the trial.<sup>63</sup> Except for the Lancaster Special Assizes, and especially the York Special Commission, these sources only erratically and inconsistently provide detailed information about specific trials. In addition to the Special Commission at Chester in May 1812, there were also Luddites on trial at the Lent and Summer Assizes in Nottingham, Derby, Lancaster, York, Chester, and Leicester. At these Assizes, Luddite cases were included on the docket with those charged in unrelated crimes. Although the names of those charged, the presiding judge, and the trial date and location are consistently provided, other details such as residence, occupation, and age of the prisoners facing prosecution, jury members, and prosecuting attorney is often absent.



Information available about occupations from the Chester and York Special Commissions indicate the presence of prisoners from a range of occupations and ages. If typical of other Luddite locales, such variations would undermine support for the following description of an event often identified as the beginning of the rebellions: “On March 11, 1811, several hundred framework knitters gathered in the Nottingham marketplace, not far from Sherwood Forest, to protest their working conditions. Having been dispersed by the constabulary and a troop of Dragoons, they reassembled that evening in nearby Arnold, and broke some 60 stocking frames.”<sup>64</sup> Likewise, Adrian Randall refers to “the series of Luddite disturbances in the West Riding of Yorkshire in 1812, when the croppers or shearmen endeavored to stem the rapid rise of the cloth-dressing machinery that threatened their entire livelihood by smashing shearing frames and gig mills.”<sup>65</sup> Such singular working-class narratives claim more than the totality of sources can support.<sup>66</sup> Both the number and, especially, the “occupation” of crowd participants in Nottingham that were dispersed are not known with certainty; the identity of those that “reassembled” is unknown. Substantial variation in the occupations of those charged at the Special Commissions in York and Cheshire (see Tables 1 and 2) and those hanged at York (see Table 3) questions such singular occupational narratives for those locales.

There are some basic conclusions about the Luddite trials that do not require qualifications. Those charged and hanged were almost exclusively men with working-class occupations. At the York trials, all were working-class males. At Lancaster, one female—fifty-four-year-old Hannah Smith was convicted in two separate instances, one for stealing butter, another for stealing potatoes—was hanged for crimes characteristic of eighteenth century food riots. At Lancaster six other females and at Chester two females were charged and convicted of offences that, again, resemble actions associated with food riots of the moral economy.<sup>67</sup> Thus, a total of seven out of fifty-nine charged at Lancaster and two out of forty-seven charged at Chester were female. Beyond such basic observations, some care needs to be taken when considering the occupations listed in Tables 1–3. For example, the sixty-nine-year-old “hawker” and sixty-six-year-old “hatter” charged at York were likely not actively involved in those trades anymore. Neither would be directly affected by wages and working conditions for croppers. Likewise, individuals living on the urban periphery and in rural areas would likely be engaged in various seasonal

working activities; for example, serving as a “cloth-dresser” (cropper) when demand for agricultural labor was slack. Because the precise occupational composition of working men in a given area is not known, if the cloth-dressing element of the woolen trade was widespread in a given area then it would be expected that many of those charged would report such an occupation, whatever their motivations for participating in assemblies or violent activity. Finally, due to the vagaries of pretrial procedure, there is no assurance that the occupations of those charged reflect the actual occupational composition of all Luddite participants.

In the search for primary sources, Luddite historiography has identified a prominent role of the framework knitters of Nottinghamshire.<sup>68</sup> As Roberts details: “It was the villages and small towns to the north of Nottingham where the epicentres of Luddism were found. . . . Of the 151 reported Luddite incidents that occurred in the first and second phase of Luddism—March–April 1811 and October 1811–February 1812—only twenty-seven (18%) took place outside Nottinghamshire.”<sup>69</sup> It was not until after February 1812 that Luddism spread to the West Riding of Yorkshire and Lancashire. With guild traditions in Nottinghamshire descended from the Worshipful Company of Framework Knitters, chartered in 1657, the evolution of worker organizations in this industry featured the Stocking Makers’ Association for Mutual Protection, formed in 1776, and Union Society of Framework Knitters formed in 1812. In seeking to provide protection for workers these entities produced substantial sources; a local characteristic that was relatively absent in the industries prevalent in other counties. Older historiography in the mold of E.P. Thompson interprets these institutions as connecting the struggle for working class rights with the machine-breaking of Luddism. More recent historiography by Roberts and others places greater emphasis on “the desperation of the knitters,” especially the lower paid suffering in villages.

Despite the considerable evidence obtained from reported instances of Luddite actions involving frame-breaking, arson, threatening letters, riot, and other damage to property occurring largely in Nottinghamshire, the defining events of the Luddite trials—the murder of William Horsfall of Ottiwells near Huddersfield on April 28, 1812 and the attack on the mill owned by William Cartwright of Rawfolds in the Spen Valley on April 11, 1812—were aimed at “owners [that] had made themselves notorious for their determination to defy the Luddites.”<sup>70</sup> If the folklore relayed by Frank Peel is given credence,

Horsfall wanted to “ride up to his saddle-girths” in Luddite blood.<sup>71</sup> These violent acts were set against an apparent substantial increase in poverty among the property-less and disenfranchised at the time. Absent the guild tradition and institutions of the knitters in Nottinghamshire that arguably can present Luddism as a cohesive struggle for worker rights, the violent acts in Yorkshire speak more to localized battles between the propertied class and those seeking to advance issues of local justice for the disadvantaged poor. The numerous robbery charges for group begging at the Cheshire Special Commission also suggest poverty and hardship.<sup>72</sup> These issues included, but were not limited to, pauperism created by newer technology displacing workers.

Examining the type and number of charges at the Luddite trials in Tables 1–4 provides substantive evidence about the repressive administration of criminal justice. Despite the perception that Luddite sentences at the Nottingham Lent Assize were too lenient, charges at the Lancaster Special Assizes and Chester Special Commission were milder than those that followed from the York Special Commission. At these different trials, the timing of charges laid, convictions obtained and sentences imposed is essential to the narrative that influence was exerted over case preparation and trial conduct through the magistrates, prosecutors and judges. Evidence at the earlier trials was largely obtained prior to a defining, if often ignored, event in the timeline of the Luddite trials: the assassination of Prime Minister Spencer Perceval on May 11, 1812 during Richard Ryder’s tenure as home secretary.<sup>73</sup> Despite having no immediate connection to the Luddite disturbances, it is likely this event solidified upper-class resolve to repress rebellion and dissent. An illustration of this resolve is reflected in a letter from Robert Southey to Grosvenor Bedford that was written when Southey heard about the assassination of Percival: “This country is upon the brink of the most dreadful of all conceivable states—an insurrection of the poor against the rich.”<sup>74</sup>

Though Southey did not rise to the status of membership in the Old Corruption elite, his early education at Westminster School and Oxford University, writings in the *Quarterly Review*, and connection to the Romantic poets Wordsworth and Coleridge led to his “influential friends” having him named poet laureate in 1813, a position he held until his death.<sup>75</sup> Despite radical roots as a supporter of the French revolution, the assassination of Percival solidified Southey’s transition to a Tory, exposing him to subsequent public ridicule for hypocrisy by Lord Byron. As an Old Corruption mouthpiece

and fervent supporter of the Liverpool government, “his private letters have an enduring value. They provide an unsurpassed insight into the stresses of life in the England of his time.”<sup>76</sup> Writing to his brother Thomas on May 27, 1812 from the seclusion of Keswick in the northern Lake district<sup>77</sup>: “In the manufacturing districts there is clearly a system as well laid as that of the United Irish & carried on more dangerously,—because it is carried on by Englishmen . . . the Luddites. The danger is of the most imminent kind. I would hang about a score in the country and send off ship loads to Botany Bay; and if there were no other means of checking the treasonable practices which are carried on in the Sunday newspapers, I would suspend the Habeas Corpus. Shut up these bellows-blowers, and the fire may, perhaps go out.” Despite advocating a variety of social reforms, such as the restrictions on child labor and the need for universal education, for Southey “outrages of the Luddites” were “not occasioned by any grievances real or imaginary, nor by any actual distress,” but rather “have proceeded from a spirit of insubordination, created, fostered, and inflamed by the periodical press.”<sup>78</sup>

Connecting “Luddite outrages” to evils of the radical press was a constant theme for Southey. “It was not ‘Poverty and his cousin Necessity who brought them to those doings’, and to the deplorable end;—it was the spirit of factious discontent, excited for the purposes of revolution by demagogue orators, and demagogue journalists.”<sup>79</sup> This position stands in stark contrast to the claims of Lord Byron, set out in his first, now famous, speech in the House of Lords on February 27, 1812, in which he argued against the Frame Breaking Act of 1812:<sup>80</sup> “whilst these outrages must be admitted to exist to an alarming extent, it cannot be denied that they have arisen from circumstances of the most unparalleled distress. The perseverance of these miserable men in their proceedings, tends to prove that nothing but absolute want could have driven a large and once honest and industrious body of the people into the commission of excesses so hazardous to themselves, their families, and the community.” Introducing the bill for second reading, the Earl of Liverpool observed about the capital sentence imposed by the bill: “the terror of the law would in many cases operate, where the apprehension of lesser punishments would be found ineffectual.” In contrast, Byron refers to men “meagre with famine, sullen with despair, careless of a life which your lordships are perhaps about to value at something less than the price of a stocking-frame . . . surrounded by the children for whom he is unable to procure bread at the hazard of his existence.” Bryon

concludes the speech with an insightful glimpse into methods of manipulating criminal justice administration: “there are two things wanting to convict and condemn him; and these are, in my opinion—Twelve Butchers for a Jury, and a Jefferies for a Judge!”<sup>81</sup>

## The Role of Lord Sidmouth

The assassination of Percival precipitated a sequence of critical events for Luddite trials at the York Special Commission. The appointment by the regent on June 8, 1812 of Robert Banks Jenkinson, second Earl of Liverpool, as first commissioner of the Treasury, with authority to form an administration and become prime minister coincides with appointment of the ruthless and efficient Henry Addington, first Viscount Sidmouth, as home secretary. “The first words which his Lordship [Liverpool] uttered after he returned from the audience [with the Regent] to his colleagues were, ‘You must take the Home Department, Lord Sidmouth—it will be everything to me.’”<sup>82</sup> This event, following the outcomes in Cheshire and Lancaster but before York, provides an opportunity to compare these three Luddite trials to determine the extent to which the ruling elite was able to influence the administration of criminal justice outside of London and the Home counties. As Turner observes: “By far the most controversial of the Special Commissions during the Luddite disorders was the last, the York Special Commission. It is the only occasion during the Luddite trials where there is direct evidence of interference by the authorities in the selection of the trial judges. It also presents the clearest expression of how the terror and mercy of the law was used.”<sup>83</sup> To evaluate the extent to which Sidmouth, and the local authorities that represented the propertied classes in the counties, influenced the conduct and outcomes of the York Special Commission compared to the Lancaster Special Assizes and the Chester Special Commission, important sources include Home Office correspondence, the Sidmouth papers in the Devon Record Office, and the biographies by Pellew and Ziegler.

After an absence of five years from public life, in early April 1812, at the urging of Percival, Addington had returned to the ranks of the ruling elite as lord president of the council, a Cabinet position. Addington was a replacement at the Home Office for Richard Ryder, described by Southey as

in “infirm health,—a nervous man,—& very unfit for his office in such times.” In comparison to Sidmouth, Ryder was more concerned with adhering to the rule of law, preferring the conventional approach of passing terrorizing emergency acts before reluctantly employing a Special Commission. Interference with the rule of law is difficult to deny regarding Sidmouth, compared to Ryder. In addition to draconian mass hangings at York, the later tenure of Sidmouth included the temporary suspension of habeas corpus in 1817, the horrific Peterloo Massacre in 1819, and, in the same year, passage of the draconian Six Acts, arguably the most repressive group of emergency laws of the nineteenth century. Though Sidmouth did enter the Cabinet prior to the Luddite trials, the timing of ascendancy to home secretary means the York Special Commission was fully within his realm of responsibility.

Pellew’s biography of Viscount Sidmouth documents the home secretary’s “ceaseless struggle against the overt attempts or secret encroachments of anarchy, disloyalty, and sedition. For ten years, indeed, of almost unexampled excitement in the field of domestic politics, [Sidmouth] lived in a perpetual storm, during which he exhibited wisdom and moral courage of the highest order.”<sup>84</sup> Repression is glorified, not disguised: “Under his vigilant superintendence every attempt to create disturbance, and to clog the wheels of government, was immediately repressed, and no sooner did sedition any where raise its head than it was crushed.” The confidence of the ruling elite in the home secretary and former prime minister is affirmed: “To this uncompromising course of public duty he was encouraged by the gracious confidence of the Regent, and the respect and support of his colleagues.” Sidmouth counted among his “faithful friends” influential members of the ruling elite: “Mr. Vansittart, presiding over the Exchequer; Mr. Bathurst, Duchy of Lancaster, with a seat in the cabinet; Mr. Goulburn at the Colonial Office; and, Mr. Hiley Addington, Under Secretary of State for the Home Department.” A number of these friends entered the ranks of the ruling elite during Addington’s term as prime minister.

Even though the footprint of the repressive administration of criminal justice led by Sidmouth is carefully documented by Pellew, biographies are typically insufficient as primary sources. Depending on the author, boosterism or harsh criticism can obscure accurate interpretation of the available sources. Pellew was a booster. There is the claim concerning previous ineffectiveness: “the misplaced lenity of the learned Judge at the preceding spring assizes at

Nottingham, in assigning light punishments to the convicted rioters, and in regarding them as trivial offenders, encouraged the disaffected to more daring atrocities, and rendered an awful severity of retribution eventually necessary.” Following the October 1812 elections, Sidmouth moved with “urgent expediency of accelerating, as much as possible, the trial of the prisoners of a certain description then confined in York Castle, with the view of affording that degree of security which might be expected to arise to the inhabitants of the disturbed districts from their conviction and punishment.” In this regard, a Special Commission—another tool in the arsenal of repressive measures—was “immediately issued.” “By these prompt and vigorous measures, his Lordship carried into practice his favorite opinion, that the immediate suppression of turbulent proceedings by the strong arm of authority is not more essential to the interests of society than to those of the offenders themselves.”

In comparison to other tools of repression—infiltration by spies and *agents provocateurs*, use of regular troops and yeomanry, passage of terrorizing emergency laws—repression using trial manipulation is complicated by the protections of the Common Law. Juries are unpredictable; judges have discretion; case preparation and presentation can be problematic. In addition, the conspiracy of silence in most Luddite locales, especially in Yorkshire, undermined effectiveness of large rewards to identify perpetrators and obtain witnesses. Guerilla tactics used by the Luddites diffused the effectiveness of military forces and the use of the Riot Act. To ensure Luddites and sympathizers were terrorized into submission using the spectacle of mass hangings, Sidmouth needed: highly questionable pretrial tactics, especially by John Lloyd in securing testimony from accomplices and other “witnesses”; two compliant justices; and the services of effective “Counsel for Crown” to select and present the cases. Of these tactics, the most worrisome from the standpoint of adhering to the rule of law was the questionable manipulation of witnesses by John Lloyd and others, almost certainly with the knowledge, and possibly the direction, of Sidmouth.<sup>85</sup>

One lesson from the Special Luddite trials at Cheshire and Lancaster and the regular Assizes was that cases were often weak due to inability or unwillingness of witnesses to give evidence concerning the most serious felonies. In many instances, cases were not brought to trial due to lack of evidence even though, in some instances, there were strong suspicions about the identity of perpetrators. Though the most heinous Luddite crimes in Yorkshire, the

murder of Horsfall and the attack on Cartwright's mill, had been committed in April, it was not until mid-November, after the elections of October, that the York Special Commission was called in early January 1813. The delay was due to the inability to secure enough evidence, which Lloyd eventually did in late October. Lloyd, when acting as solicitor for the magistrates of Stockport, had been an active participant in calling for the Cheshire Special Commission.<sup>86</sup> Intimately aware of the difficulties in obtaining sufficient evidence to secure the charges, Lloyd used numerous devices to obtain witness statements from accomplices and others—including the use of violence and kidnapping. The misdeeds have been documented in various sources. After a thorough review of the primary and available secondary sources, Turner concluded: "Lloyd's actions enabled the authorities to secure the necessary exemplary convictions at the York Special Commission, but his ability to abuse authority with impunity made a mockery of the concept of the rule of law. For Lloyd and the home secretary, and possibly Henry Hobhouse, it would appear that expediency superseded the rule of law. The criminal code, not the rule of law was used to reestablish law and order. The government could risk endorsing Lloyd's activities because there was little likelihood that they would be exposed in the public forum."<sup>87</sup> Careful examination of pretrial and trial records raises the distinct possibility that some of those executed at York were innocent of the specific charge and those most guilty may have escaped penalties by giving evidence.<sup>88</sup>

One instance, from the Sidmouth Home Office papers in the Devon Record Office, where there is evidence that Sidmouth was directly involved in manipulating the rule of law concerns the selection of judges for the York Special Commission.<sup>89</sup> The convention for selecting judges for a Special Commission would have the presiding judges at the regular Assize session assume this duty. The commission of the grand jury at York was left open until January 1813 in anticipation that a Special Commission would be called, because the lack of evidence against prisoners committed to the jail and the small number of those committed prevented an early date for resumption.<sup>90</sup> In any event, lenient conduct by Judge Bayley, a presiding judge at the York Summer Assizes, raised concerns among some magistrates and possibly the lord lieutenant, leading to a subsequent call that Bayley be excluded. Discussion of the "delicate matter" at cabinet led to correspondence between Sidmouth and Lord Chancellor Eldon. Bayley was eventually excluded and



two Old Bailey judges selected: Sir Alexander Thomson (1744?–1817) and Sir Simon Le Blanc (c.1748–1816)—the same judges that sentenced eight to hang at the Lancaster Special Assizes, including Hannah Smith.<sup>91</sup> Heading the four counsels presenting the cases at York was James Alan Park, lead in the northern circuit, and heading a team of three attorneys preparing the cases was Henry Hobhouse, the Treasury solicitor. Park was the Home Office representative at Lancaster and Hobhouse at Cheshire.

Led by Lord Sidmouth as home secretary, the perception of the ruling elite was that sentences imposed for the Luddite defendants at the regular Assizes were too lenient to suppress Luddite activities. During the initial stage of the disturbances, “some of the justices on assize circuit had directed or encouraged acquittals . . . John Bayley, a puisne justice of king’s bench, did so at Nottingham in March 1812, at York in August 1812, and again, at Nottingham, in March 1815. George Wood, a baron of the exchequer, sat on a trial at Lancaster in August 1812 where thirty-eight were acquitted.”<sup>92</sup> Ignoring the possibility that sentences imposed at the regular Assizes were appropriate to the circumstances, Sidmouth proceeded with appointment of the York Special Commission affording the Home Office an opportunity to direct judges to have “different temper.” Sir Alexander Thompson, knighted in 1787, and Sir Simon Le Blanc, knighted in 1799, were suitable selections. Though there was no guarantee that these judges would produce the terrorizing outcomes desired by Sidmouth, their conduct at the Lancaster Special Commission strongly suggest such an outcome.

There were various avenues for discretion of judges to affect outcomes at the Luddite trials: the charge to the grand jury; directions to the trial jury; rulings on evidence; and, most important for the Luddite trials, decisions on sentencing, leniency, and applications for mercy. At York, having already facilitated rapid hanging of the Horsfall murderers, Le Blanc and Thomson “agreed to accept no applications for mercy for the remaining capital charges, leaving it to the discretion of the secretary of state.” In the end, mercy was recommended for only one of the eighteen sentenced to death.<sup>93</sup> Pellew observes that, having successfully ensured capital convictions were obtained, Sidmouth moved swiftly to “inflict that extensive retribution which the heinousness of the offences, the necessity for a striking example, and the mistaken lenity manifested at a previous assize, had rendered indispensable; and from this duty, painful as it was, Lord Sidmouth did not shrink.” With the approval of

Sidmouth, a final discretionary decision by the judges “to inflict extensive retribution” was to proceed to execution without delay, leaving no possibility for mercy. This resulted in sentencing and, contrary to regular practice but within the statutory language of the Murder Act of 1752 (25 Geo. II, c.37), three immediate executions on January 8, 1813, upon conclusion of the cases for Mellor, Thorpe, and Swift—convicted of the Horsfall murder and other offences. These hangings were before conclusion of other trials. A further fourteen hangings for various offences followed on January 16, 1813, once again soon after those cases were decided. Both a petition for mercy from Mr. Cartwright, owner of the mill that was attacked, and a request from defense counsel for mercy of some prisoners in exchange for a full confession and disclosure of an arms cache were denied.

## Conclusion

The diversity of opinion about crowd motivations in Luddite historiography speaks to the absence of primary sources providing the “voices of the rioters.” In contrast, the substantially greater number of quality sources from the literate propertied ruling establishment reveals the avenues for repressively administering criminal justice to deal with the rebellions ultimately leading to the mass public hangings of eight at the Lancaster Special Assizes of May 25–June 2, 1812 and, most significant, seventeen at the York Special Commission of January 2–12, 1813. The ample sources available “from above” reveal how, unsettled by the assassination of Prime Minister Spencer Percival on May 11, 1812 and perceiving ineffectiveness of previous efforts at repressing Luddite disturbances, the ruling elite led by Home Secretary Lord Sidmouth manipulated judicial levers of power to quash localized rural uprisings during a particularly harsh period of the Napoleonic wars. Largely ignoring the suffering and severe hardship of those that assembled on the urban periphery, sources “from above” provide self-serving interpretations for the motivations of the disenfranchised crowds. Despite Luddites risking the capital punishment associated with the limited avenues of protest available, the Luddite trials reveal in some detail how repression by the ruling elite ensured that: “Luddism ended on the scaffold.”

## Notes

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1. E. P. Thompson, *The Making of the English Working Class* (New York: Edward Palmer, 1963), 495.
2. Some secondary sources give a longer time frame for the rebellions (1811–17), to include risings and subsequent executions in Leicestershire during 1816–17. This time frame includes the machine-breaking in Loughborough, June 1816, which led to the execution of James Towle, in November 1816, and the executions of six people involved in the “Loughborough job” in April 1817. As demonstrated in Patterson, R. White, and Belchem, events in this later period have qualitative differences compared to the 1811–1813 rebellions. Using the year 1813 makes the executions of the York Special Commission the final event. A. T. Patterson, “Luddism, Hampden Clubs, and Trade Unions in Leicestershire, 1816–17,” *English Historical Review* 63 (April 1948): 170–188; R. White, *Waterloo to Peterloo* (London: Heinemann, 1957); J. Belchem, “Henry Hunt and the Evolution of the Mass Platform,” *English Historical Review* 93 (October 1978): 739–773.
3. One exception is Frank Munger, “Suppression of Popular Gatherings in England, 1800–1830,” *American Journal of Legal History* 25 (1981): 111–40. Matthew Roberts observes, “We still know relatively little about the worldview of the East Midlands Luddites . . . and what little we do know is limited to the literate minority.” Matthew Roberts, “Rural Luddism and the Makeshift Economy of the Nottinghamshire Framework Knitters,” *Social History* 42 (2017): 368.
4. The fascinating study of Luddite writings by Kevin Binfield provides what is available in primary sources from which we can infer from the “words of the largely illiterate rioters.” Binfield provides a starting date for the rebellions of November 1811 in Nottingham with the use of “Lud[d]” in threatening letters and other correspondence, and an end date of 1817 in Leicestershire. Kevin Binfield, ed., *Writings of the Luddites* (Baltimore, MD: John Hopkins University Press, 2004). This differs from Thompson (*The Making of the English Working Class*, 553), Roberts (“Rural Luddism”, 369), and others who give a start date of March 1811 with machine-breaking disturbances by large crowds in the village of Arnold near Nottingham. No accepted explanation has been provided for whether, how, or why the moniker of a youth from Anstey, near Leicester in Leicestershire, involved in the

possible smashing of needles from a stocking-frame in 1779, was adopted in Nottingham. The first published explanation for the use of “Ludd” appears in the *Nottingham Review* in the issue of December 20, 1811, after the first appearance of Ned Ludd in Luddite correspondence in early November 1811.

5. Although somewhat different time periods and names have been assigned to the “Age of Revolution,” this reference is to Eric Hobsbawn, *The Age of Revolution, 1789–1848* (London: World Publishing, 1962).
6. John Dinwiddy’s article is still a useful overview of earlier studies. John Dinwiddy, “Luddism and Politics in the Northern Counties,” *Social History* 4 (January 1979): 33–63. The older historiography includes F. Darvall, *Popular Disturbances and Public Order in Regency England* (New York: Oxford University Press, 1934); J. Hammond and B. Hammond, *The Skilled Labourer 1760–1832* (London: Longmans, Green, 1920). M. Thomis, *The Luddites: Machine-Breaking in Regency England* (Hamden, CN: Archon Books, 1970) and Eric Hobsbawn, *Labouring Men: Studies in History of Labour* (New York: Basic Books, 1965). These provide different approaches to the traditional emphasis on economic motivations. See also M. Thomis and P. Holt, *Threats of Revolution in Britain, 1789–1848* (London: Macmillan, 1977), and M. Davis, ed., *Radicalism and Revolution in Britain, 1775–1848* (New York: St. Martin’s Press, 2000). Opposition to Thomis and Holt is captured in E. Royle, *Revolutionary Britannia? Reflections on the Threat of Revolution in Britain, 1789–1848* (Manchester, UK: Manchester University Press, 2000).
7. Binfield, *Writings of the Luddites*; Roberts, “Rural Luddites”; Katrina Navickas, *Protest and the Politics of Space and Place, 1789–1848* (Manchester, UK: University of Manchester Press, 2016); Katrina Navickas, “Luddism, Incendiarism and the Defence of Rural ‘Task-Scapes’ in 1812,” *Northern History* 48 (2011): 59–73; Katrina Navickas, “The Search for ‘General Ludd’: The Mythology of Luddism,” *Social History* 30 (2006): 281–95; Carolyn Steedman, “At Every Bloody Level: A Magistrate, a Framework-Knitter, and the Law,” *Law and History Review* 30 (2012): 387–422; Craig Calhoun, *The Question of Class Struggle: Social Foundations of Radicalism during the Industrial Revolution* (Chicago: University of Chicago Press, 1982).
8. Navickas, “Luddism, Incendiarism,” 61.
9. *Ibid.*; Roberts, “Rural Luddites,” 368.
10. Reference to “anarchical spirit” is from George Pellew, *The Life and Correspondence of the Right Honourable Henry Addington, First Viscount Sidmouth*, vol. 3 (London: Spottiswoode and Shaw, 1847), 80. Reference to “deluded men” appears in sources that document the York Special Commission. These sources include J. Cowgill, *An Historical Account of the*

*Luddites of 1811, 1812, and 1813: With Report of Their Trials at York Castle, from the 2nd to the 12th of January 1813, Before Sir Alexander Thompson and Sir Simon Le Blanc, Knights, Judges of the Special Commission* (Huddersfield, UK: John Cowgill, 1862). In addition to providing a brief introduction, this source is a slightly different version of J. Gurney, *Report of proceedings under commissions of Oyer & Terminer and Gaol Delivery, for the county of York . . . before Sir Alexander Thomson . . . and Sir Simon Le Blanc . . . from the 2d to the 12th of January 1813*, 2nd ed. (London: Luke Hansard & Sons, 1813). Thomas Howell, *A Complete Collection of State Trials*, vol. 31 (London: T.C. Hansard, 1823), 959–1169 is the most complete source on the York Special Commission, also containing the regent's proclamation of February 1, 1813. Cowgill identifies jury members and Gurney provides a useful index for the names, occupations, charges, and sentences.

11. The regent's statement contains considerable content from a letter to the Home Office from Hobhouse (January 11, 1813, HO 42/132 [21]) conveying the views of Mr. Lascelles transmitted at a dinner of Hobhouse with the grand jury. Lascelles advised that such views would have most effect if expressed by the government. A word that recurs in HO 42 is "disaffected." See also n. 35 on physical location of relevant archives.
12. An important source on the use of penitentiaries in England is John Howard, *The State of the Prisons* (London: Warrington, 1777), condemning various practices in locally run jails. An aborted attempt to introduce a state penitentiary system was proposed in the Penitentiary Act (1779) leaving jails under local control. Elimination of jail fees in 1815 provided relief for those acquitted but still held (or held without trial) because they were unable to pay the fee. It was around this time that Elizabeth Fry began efforts to reform conditions in women's prisons. See J. Gurney, *Notes on a visit made to some of the prisons in Scotland and the north of England: in company with Elizabeth Fry with some general observations on the subject of prison discipline* (Edinburgh: Archibald, Constable and Co., 1819).
13. "The label of the 'Bloody Code' has survived to define the whole era of criminal justice in the long eighteenth century. This durability bears testimony to the power of the arguments of the early nineteenth-century law reformers who invented it." Phil Handler, "Forgery and the End of the 'Bloody Code' in Early Nineteenth-Century England," *Historical Journal* 48 (September 2005): 684. As reflected in the uneven process of legislative changes inspired by radicals and reformers, by the 1830s public opinion had turned against the use of capital punishment for all crimes but murder and treason. Leon Radzinowicz's *A History of English Criminal Law and Its Administration from 1750* (London: Stevens, 1948) is still an essential secondary source on the use of capital punishment in England during the eighteenth and early nineteenth centuries. See also n.38.

14. Among the excellent sources on the evolution of criminal trial procedure in England are John Langbein, *The Origins of the Adversary Criminal Trial* (Oxford, UK: Oxford University Press, 2005); John Beattie, "Scales of Justice: Defense Counsel and the English Criminal Trial in the Eighteenth and Nineteenth Centuries," *Law and History Review* 9 (1991): 221–67; Alan Cusack, "From Exculpatory to Inculpatory Justice: A History of Due Process in the Adversarial Trial," *Law, Crime and History* 9 (2015): 1–28; and, D. Lemming, "Criminal Trial Procedure in Eighteenth Century England: The Impact of Lawyers," *Journal of Legal History* 24 (2005): 73–82. On the specifics of the act, see Cerian Griffiths, "The Prisoners' Counsel Act 1836: Doctrine Advocacy and the Criminal Trial," *Law, Crime and History* 4 (2014): 28–47.
15. Alexander Shapiro, "Political Theory and the Growth of Defensive Safeguards in Criminal Procedure: The Origins of the Treason Trials act of 1696," *Law and History Review* 11 (1993): 215–55; James Phifer, "Law, Politics, and Violence: The Treason Trials Act of 1696," *Albion* 12 (1980): 235–56.
16. The "Old Bailey" refers to the trial court for cases of felonies committed in the city of London and the adjoining county of Middlesex.
17. Lemming, "Criminal Trial Procedure," 75.
18. Quoting the eminent English jurist Sir Edward Coke (1552–1634) in *R. v. Walter Thomas* (1613) 2 Bulstrode 147, 80 ER 1022. Baron Thompson's questioning of witnesses did not prevent Hannah Smith from being executed at Lancaster.
19. Cusack, "From Exculpatory to Inculpatory Justice," 7.
20. Bernadette Turner concludes, regarding one type of possible bias, "There is no evidence to suggest that the selection of the judges for the York Special Commission was undertaken on the basis that these judges would be able to secure convictions." Bernadette Turner, "Luddism and the Law" (Doctoral thesis, University of Queensland, 1993), 258.
21. On felony cases at the Old Bailey, see John Langbein, "Shaping the Eighteenth-Century Criminal Trial: A View from the Ryder Sources," *University of Chicago Law Review* 50 (1983): 1–136; on less serious crimes, see Norma Landau, "Indictment for Fun and Profit: A Prosecutor's Reward at Eighteenth-Century Quarter Sessions," *Law and History Review* 17 (1999): 507–36.
22. Munger identifies some jurisdictions that had evolved paid police services prior to this legislation. See Munger, "Suppression of Popular Gatherings." David Philips, "The 'Weak' State? The English State, the Magistracy and the Reform of Policing in the 1830s," *English Historical Review* 119 (2004): 873–91, is an essential source on English justice administration prior to the reforms starting in the 1830s. See also J. M. Beattie, *Crime and the Courts in England, 1660–1800* (Oxford: Clarendon, 1986); David Eastwood, *Governing Rural*

- England: Tradition and Transformation in Local Government, 1780–1840* (Oxford: Oxford University Press, 1994); and, John Archer, *Social Unrest and Popular Protest in England, 1780–1840* (Cambridge, UK: Cambridge University Press, 2000), ch. 6.
23. In addition to Philip Harling, “Rethinking ‘Old Corruption,’” *Past and Present* 147 (May 1995): 127–58, useful sources on the English Radical critique of Old Corruption include W. D. Rubinstein, “The End of ‘Old Corruption’ in Britain 1780–1860,” *Past and Present* 101 (November 1983): 55–86; Philip Harling, *The Waning of Old Corruption: The Politics of Economical Reform in Britain, 1779–1846* (Oxford: Clarendon Press, 1996).
  24. Harling, “Rethinking ‘Old Corruption,’” 127.
  25. “That a sizable proportion of those who flourished during the early nineteenth century were neither landowners in the strict sense, nor manufacturers nor merchants, but were engaged in activities which would now be classified as in the professional, public administrative and defence occupational categories, including especially Anglican clerics, soldiers, lawyers and judges, government bureaucrats and placemen. Nearly 10 per cent of all British half-millionaires deceased in the early nineteenth century, and as many as 23% of those leaving more than £150,000 but less than £500,000 during the years 1809–29 were engaged in such activities.” Rubinstein, “The End of ‘Old Corruption,’” 55–56.
  26. Philip Harling, “Equipose Regained? Recent Trends in British Political History, 1790–1867,” *Journal of Modern History* 75 (2003): 891.
  27. Philips, “The ‘Weak’ State?,” 878.
  28. Harling, *The Waning of Old Corruption*, 209–10.
  29. As reported in P. Ziegler, *Addington. A Life of Henry Addington, First Lord Sidmouth* (London: Collins, 1965).
  30. Eastwood, *Governing Rural England*, ch. 8–9. Being significant rate payers, members of the bench would often participate at the local governance component of the Quarter sessions.
  31. Ziegler refers to the Home Office under Sidmouth as “bombarded by a barrage of inflated and alarmist rumour.” Ziegler, *Addington*, 319–20. The Sidmouth Home Office correspondence in the Devon Record Office also indicates numerous letters dealing with information obtained by spies.
  32. Rob [Robert] Taylor, *The blackfaces of 1812: consisting of Dr. Taylor’s letter regarding the disturbances in Bolton in 1812, William Moor’s letter to the late Col. Fletcher: with an introduction containing some notice of the spy system in 1812, 1817, and 1819*, LSE Selected Pamphlets (Bolton: Bradbury, 1839). Taylor was part of a radical circle in Bolton, a branch of the Friends of Peace and was related to members of the larger more influential Friends of Peace circle of Liverpool, so this source is inspired by radical intent.

33. Clive Emsley, "The Home Office and Its Sources of Information and Investigation 1791–1801," *English Historical Review* 94 (July 1979): 532–61.
34. The letters can be found at HO 40/1/4 and some at HO 42/124. The depositions of suspected Luddites seized by the apparently overzealous Bolton militia in the middle of the night on May 8, 1812 and taken to the house of Colonel Fletcher for questioning can be found at HO 42/123.
35. In addition to the Home Office correspondence in the National Archives, the Sidmouth papers located in the Devon archives housed at the Devon Heritage Center in Exeter are an essential primary source.
36. William Cobbett, *Cobbett's Political Register* 21 (July 4, 1812): 8–26, contains references to a variety of different public perceptions of Luddite leadership objectives. For example, perception of revolutionary motives of the Luddite leaders is quoted by Cobbett from an article by the "vile editor" of the *Courier*, which states: "their hatred is against the whole form of our government, and that their object is to destroy it" (*Register*, 22–23).
37. See n. 17.
38. The "Bloody Code" is a loose reference, first introduced by Robert Peel, referring to the system of capital statutes employed in English criminal justice in the eighteenth and first part of the nineteenth century. In operation, the Bloody Code depended on the use of discretion by the jury and the judge to determine whether application of the capital penalty was warranted. As J. Beattie observes: "The scope for discretion in the administration of the law had arisen because the law was dominated by capital punishment; yet it was widely accepted that not every prisoner charged with a capital offense or even convicted of a capital offense would in fact be hanged. A large part of the business of administering the so-called Bloody Code was the selection of those who were to be hanged as examples." J. Beattie, "Scales of Justice: Defense Counsel and the English Criminal Trial in the Eighteenth and Nineteenth Centuries," *Law and History Review* 9 (1991): 231. The historiography of the Bloody Code includes: Radzinowicz, *A History of English Criminal Law*; V. Gatrell, *The Hanging Tree: Execution and the English People, 1770–1868* (New York: Oxford University Press, 1994); and references cited in Simon Devereaux, "England's 'Bloody Code' in Crisis and Transition: Executions at the Old Bailey, 1760–1837," *Journal of the Canadian Historical Association* 24 (2013): 71–113.
39. Pat Rogers, "The Waltham Blacks and the Black Act," *Historical Journal* 17 (September 1974): 465–86, referring to the seminal work by Radzinowicz, *A History of English Criminal Law*. Much of the relevant sections in *A History* on the Black Act appeared previously in Leon Radzinowicz, "The Waltham Black Act: A Study of the Legislative Attitude towards



- Crime in the Eighteenth Century,” *Cambridge Law Journal* 9 (1945): 56–81. More recent contributions include John Broad, “Whigs and Deer-Stealers in Other Guises: A Return to the Origins of the Black Act,” *Past and Present* 119 (May 1988): 56–72; and Eveline Cruickshanks and Howard Erskine-Hill, “The Waltham Black Act and Jacobitism,” *Journal of British Studies* 24 (July 1985): 358–65.
40. John Hostettler, *A History of Criminal Justice in England and Wales* (Hampshire, UK: Waterside Press, 2009), 175.
  41. W. Cornish and G. de Clark, *Law and Society in England, 1750–1950* (London: Sweet and Maxwell, 1989), 545.
  42. Radzinowicz, *A History of English Criminal Law*, 1:9.
  43. *Ibid.*, 1:25.
  44. This raises legal questions about the revolutionary motives of the Luddites. There is no evidence that Luddites engaged in treasonous activities, such as consorting with foreign powers to overthrow the government. However, various activities could have been considered seditious. The absence of sedition charges was a consequence of grand jury decisions following deliberations made in secret. Perhaps the determination was that capital convictions could be more effectively secured with other charges. For background on the legal aspects, see Roger Manning, “The Origins of the Doctrine of Sedition,” *Albion* 12 (1980): 99–121; and Michael Lobban, “From Seditious Libel to Unlawful Assembly: Peterloo and the Changing Face of Political Crime c1770–1820,” *Oxford Journal of Legal Studies* 10 (1990): 307–52.
  45. Handler, “Forgery and the End of the ‘Bloody Code,’” 689.
  46. On the first request by Nottingham magistrates for the “severe and awful example” of a Special Commission: Mr. Sherbrooke to the Home Office, November 23, 1811, HO 42/117 (544).
  47. Turner, “Luddism and the Law,” 248. On the Home Office view that the possibilities of capital convictions were remote, Ryder to Coldham, December 2, 1811, HO 42/118. A further request for a Special Commission is made in December: Coldham to the Home Office, December 13, 1811, HO 42/118 (49).
  48. The Unlawful Oaths Act of 1812 was a capital statute introduced by Ryder in May but did not pass into law until July when Sidmouth was Home Office secretary. This act had a provision for mercy if the accused confessed and the oath of allegiance was sworn within three months of the act passing into law.
  49. Kirkpatrick Sale, *Rebels Against the Future: The Luddites and Their War on the Industrial Revolution* (Reading, MA: Addison Wesley, 1995) and Robert Reid, *Land of Lost Content, The Luddite Revolt 1812* (London: Heinemann, 1986) are examples of this interpretation.

- See also F. Donnelly, "Luddites Past and Present," *Labour* 18 (Fall 1986): 217–221 for a discussion of this issue.
50. Adrian Randall, *Before the Luddites: Custom, Community and Machinery in the English Woolen Industry, 1776–1809* (New York: Cambridge, University Press, 1991); and Jeff Horn, "Machine-Breaking in England and France During the Age of Revolution," *Labour* 27 (Spring 2005): 143–66. See also, Adrian Randall, *Riotous Assemblies: Popular Protest in Hanoverian England* (Oxford: Oxford University Press, 2006), takes a moral economy interpretation of Luddism. An important earlier contribution is E. J. Hobsbawm, "The Machine Breakers," *Past and Present* 1 (February 1952): 57–70.
  51. Roberts, "Rural Luddism," 373, cites A. Booth, "Food Riots in the North-West of England, 1790–1801," *Past and Present* 77 (1977): 84–107.
  52. The trials at Nottingham and Derby were covered in some detail by the *Nottingham Review*, a newspaper founded in 1808. The *Nottingham Gazette* of 1813–15 considered the *Review* to have radical leanings compared to the other major newspaper in Nottingham, the long-established Tory-leaning *Nottingham Journal*. Coverage of the Derby Assizes in the *Review* were more detailed than in the *Derby Mercury*.
  53. Gurney, *Report of Proceedings*, vii; Howell, *A Complete Collection of State Trials*, 961.
  54. Thompson, *The Making of the English Working Class*, 495.
  55. Edward Greaves, *The Trials of all The Prisoners at The Special Assizes for the County of Lancaster, Commencing May 29, 1812 at The Castle of Lancaster* (Lancaster: William Munshull, July 22, 1812), iii. Sir Alexander Thompson, a knight and "one of the Barons of the Exchequer," presided with Sir Simon Le Blanc, also a knight and "one of the Justices of the Court of King's Bench" at both the Lancaster and York Luddite trials. The judges at the Cheshire Special Commission were Sir Robert Dallas and Francis Burton, MP.
  56. Radzinowicz, *A History of English Common Law*, 1:152. In addition to references in n.38, see also Simon Devereaux, "The Bloodiest Code: Counting Executions and Pardons at the Old Bailey: 1730–1837," *Law, Crime and History* 1 (2016): 1–36 (and the online database at [www.oldbaileyonline.org](http://www.oldbaileyonline.org)); Peter King and Richard Ward, "Rethinking the Bloody Code in Eighteenth Century Britain: Capital Punishment at the Centre and On the Periphery," *Past & Present* 228 (2015): 160–205; and D. Hay "Hanging and the English Judges: The Judicial Politics of Retention and Abolition," in *America's Death Penalty: Between Past and Present*, ed. David Garland, Randall McGowen, and Paul Merantz (New York: New York University Press, 2010), 129–65.
  57. King and Ward, "Rethinking the Bloody Code."
  58. Gatrell, *The Hanging Tree*, 613.
  59. Devereaux, "England's 'Bloody Code,'" 73.

60. *Leeds Mercury*, June 20, 1812, and *Chester Courant*, June 16, 1812. Turner maintains that the more lenient outcomes at Cheshire were related to the “difference in the decision-making process [that] appears to have been in the nature and circumstances of the offences.” Turner, “Luddism and the Law,” 371. If correct, this also speaks to the pretrial process of evidence collection for the cases that were presented. Recognizing that there is no direct evidence of government directions to the judges, it is possible there was an unsuccessful attempt to influence the executions at Cheshire by H. Hobhouse, the Treasury solicitor, in attendance at the Cheshire trials, expressing the view that at least one execution was required for each of three serious offences, “robbery under colour of begging, robbery under colour of purchasing, and breaking of machinery.” H. Hobhouse to the Home Office, May 30, 1812, HO 42/123 (69). The only two executed were for burglary and, in one case, arson. James Park, attorney general for Lancaster, and the lead prosecutor for the Special Commission at York, in attendance at the Lancaster Special Commission, notified the Home Office of the outcome of the Lancaster trials, June 2, 1812, HO 42/124.
61. Perhaps the most compelling example for this statement comes from the trial on May 27, 1812, at the Lancaster Special Assizes detailed in Edward Greaves, *The Trials*. Twelve men were tried for aiding and administering an unlawful oath to one of the eleven militia spies from the Bolton regiment that infiltrated a meeting on the moors, estimated at forty to fifty men (including spies), led by a “General Ludd.” Of the local militia members that gave evidence, a number referred to “one called General Ludd, who had a pike in his hand, like a serjeant’s halbert; I could not distinguish his face, which was very white, but not the natural colour.” Several witnesses, not all militia, identified “the General” as John Hurst, who was found guilty along with seven others at the meeting and sentenced to seven years’ transportation.
62. The source is from HO 42/123 (79), *A Calendar of the Criminal Prisoners In the Custody of Matthew Hudson, Constable of his Majesty’s Gaol, the Castle of Chester*, May 25, 1812. Unlike the York Special Commission and Lancaster Special Assizes, there is no detailed record available produced by an attendee at these trials. The local newspapers, often a useful source on the content of trial proceedings, only reported the trial outcomes. The *Chester Courant* only provided the initial charge to the jury and the sentencing.
63. The voluminous collection of jail books—also referred to as agenda books or minute books (indictment files and disposition files) or session papers—are housed at the National Archives. The jail books capture the names of the accused, the charges, the plea, the verdict, and the sentence. For the time period of the Luddite trials, indictment files that have a more formal statement of the charges and are “annotated” by the plea,

verdict, and sentence, are only occasionally available. The deposition files that contain pretrial witness statements also appear in Home Office correspondence.

64. Kevin O'Rourke, Ahmed Rahman, and Alan M. Taylor, "Luddites, the industrial revolution, and the demographic transition," *Journal of Economic Growth* 18 (2013): 373. This precise date for the start of the rebellions is qualified in some sources as "starting in Nottinghamshire in the spring of 1811" (see Royle, *Revolutionary Britannia*, 37) or "in the early weeks of 1811" in the small town of Arnold in Nottinghamshire. See Brian Bailey, *The Luddite Rebellion* (Gloucester: Sutton, 1998), 17. Some secondary sources also recognize earlier actions of "machine tampering," such as the removal of jack-wires that could be replaced. The date (March 11, 1811) refers to the first instance of machine smashing of wide-frames.
65. Adrian Randall, "The Philosophy of Luddism: The Case of the West of England Woolen Workers, ca. 1790–1809," *Technology and Culture* 27 (1986): 1. Frank Peel, *Risings of the Luddites Chartists and Plug-Drawers* (4th ed.) Introduction by E. P. Thompson. (London: F. Cass, 1968). Thompson and Binfield all recognize that there were numerous occupations, "representatives of almost every handicraft," involved in the rebellions. Not all these occupations appear in Tables 1–3. For example, John Booth, the parson's son and friend of George Mellor, who was killed in the attack on the Rawfold mill, has been identified as an apprentice to a "saddle maker" by Binfield and to a "harness maker" by Peel and Thompson. Neither trade appears among those charged at the Special Commissions.
66. The description of events in Nottinghamshire closely follows that provided in Francis White and Co., *Nottinghamshire: History, Gazetteer and Directory* (Sheffield: Samuel Harrison, 1864), 88–91. This source is largely compiled from accounts in newspapers and contains numerous references to the extent of hardship circa March 1811: "such was the depressed state of the hosiery trade, that large numbers of workmen were reduced to pauperism, and obliged to sweep the streets for a paltry sum." The tenor of this source as "from above" is reflected in statements such as: "midnight bands of distressed and deluded workmen, who were so closely bound together by illegal oaths, and so disguised, that very few of them could be brought to justice."
67. John Bohstedt examines issues surrounding the historiography of the food riots. On the role of women in the "food riots" and the making of the British working class. John Bohstedt, "The Moral Economy and the Discipline of Historical Context," *Journal of Social History* 26 (1992): 265–84. Also see, e.g., Paul A. Custer, "Refiguring Jemima: Gender, Work and Politics in Lancashire, 1770–1820," *Past and Present* 195 (May 2007): 127–58; Anna Clark, *The Struggle for the Breeches: Gender and the Making of the British Working Class* (Berkeley, CA: University of California Press, 1995).

68. In addition to the detailed evidence in Roberts, "Rural Luddism," a useful summary is provided by John Beckett, "Luddites," Nottinghamshire Heritage Gateway, <http://www.nottsheritagegateway.org.uk/people/luddites.htm>
69. Roberts, "Rural Luddism," 366, 369.
70. Thompson, *The Making of the English Working Class*, 560. The trial evidence for those convicted at York has only cloth dressers sentenced to hang for the attack on Cartwright's mill.
71. Peel, *Risings of Luddites, Chartists and Plug-drawers*.
72. See Turner, "Luddism and the Law," 271–73, for primary sources and discussion of charges and trials for group begging at the Cheshire Special Commission. In some instances, groups of men, women, and children numbering 150 were involved.
73. Gordon Pentland argues persuasively for "1812 as a year of profound crisis in the British state." Gordon Pentland, "'Now the great Man in the Parliament House is dead, we shall have a big Loaf!' Responses to the Assassination of Spencer Perceval," *Journal of British Studies* 51 (2012): 340–63.
74. C. C. Southey, *The Life and Correspondence of the Late Robert Southey*, vol. 3 (London: Longmans, Brown, Green and Longmans, 1850), 334. Bedford was a son of Charles Bedford, deputy usher of the exchequer. Grosvenor Bedford was educated at Westminster School, where he and Southey become lifelong friends. Though Bedford did some writing, his career as a civil servant captures the nepotism of Old Corruption. After a period as assistant clerk in the Exchequer Office (1792–1803) and clerk of the cash book (1803–1806), at the time of the assassination, Bedford was the clerk of registers and issues.
75. On the connection of Percy Shelley to the Luddites, see Stephen Pallas, "'The Hell that Bigots Frame': Queen Mab, Luddism, and the Rhetoric of Working-Class Revolution," *Journal for the Study of Radicalism* 12 (2018): 55–80.
76. Geoffrey Carnall, "Southey, Robert (1774–1843)," *Oxford Dictionary of National Biography* (Oxford: Oxford University Press, 2004). See also Philip Harling, "Robert Southey and the Language of Social Discipline," *Albion* 30 (Winter, 1998): 630–55.
77. Ian Packer and Lynda Pratt, ed., *The Collected Letters of Robert Southey, Part Four*, (College Park, MD: University of Maryland, Romantic Circle, 2013), [https://www.rc.umd.edu/editions/southey\\_letters/Part\\_Four/HTML/letterEEEd.26.2101.html](https://www.rc.umd.edu/editions/southey_letters/Part_Four/HTML/letterEEEd.26.2101.html).
78. Robert Southey, "Works on England," *Quarterly Review* (July 1815): 569–70.
79. *Ibid.*, 570.
80. From Hansard: <http://hansard.millbanksystems.com/lords/1812/feb/27/frame-work-bill>
81. The reference is to the Welsh judge, George Jeffreys (1645–1689), first baron Jeffreys of Wem, known as the "Hanging Judge," notorious for his disposition of the rebels from Monmouth's rebellion of 1685.

82. Pellew, *The Life and Correspondence of the Right Honourable Henry Addington*, 78. Ziegler indicates that although Sidmouth was an important member of the Old Corruption elite, he was not part of the inner circle of those closest to Liverpool. Ziegler, *Addington*.
83. Turner, "Luddism and the Law," 250.
84. The following quotes are from Pellew, *The Life and Correspondence*, 79–97, where the leading role of Viscount Sidmouth in repressing the Luddites is discussed in detail. The biographer George Pellew (1793–1866), was third son of Edward Pellew, first Viscount Exmouth. A theologian, educated at Eton and Oxford, Pellew married the second daughter of Henry Addington in 1820. See [https://en.wikisource.org/wiki/Pellew,\\_George\\_\(DNBoo\)](https://en.wikisource.org/wiki/Pellew,_George_(DNBoo)).
85. The numerous communications between John Lloyd and the Home Office in HO 40 and 42 are detailed in Turner, "Luddism and the Law." Though direct acknowledgement of Lloyd's activities by Sidmouth does not appear in either the Sidmouth papers in the Devon Record Office or Home Office correspondence, given the small number of employees working in the Home Office it is almost certain these activities were sanctioned by Sidmouth. Evidence that Lloyd's tactics were known at the highest level of the Home Office is found in: H. Hobhouse to the Home Office, January 13, 1813, HO 42/132 (44).
86. For example: J. Lloyd to the Home Office, April 18, 1812, HO 40/1/2 (10).
87. Turner, "Luddism and the Law," 425.
88. This includes the cases of those executed for the murder of Horsfall. For example, George Mellor had seven alibi witnesses that were possibly credible though the jury did not share this view. The effective prosecution of Mr. Park was able to raise enough doubt as to the credibility of those witnesses. Mellor was also found guilty of other capital charges for which the evidence was enough for conviction. According to the Hobhouse, "the murderers" were Luddite ringleaders and the harsh punishment received was warranted.
89. DRO, Home Office Correspondence, Sidmouth papers, Lord Sidmouth to Lord Eldon, November 13, 1812, 152M/C/1812/OH/33 and Lord Eldon, the lord chancellor, to Lord Sidmouth, 14 November 1812, 152M/C/1812/OH/35. There are related documents in Earl Fitzwilliam (lord lieutenant of Yorkshire) to the Home Office, November 4, 1812, HO 42/129 (347) and Mr. Justice Bayley to the Home Office, November 6, 1812, HO 42/129 (274).
90. See *Leeds Mercury*, July 25, 1812, 3 for the relationship between Judge Bayley and the grand jury.
91. This draconian sentencing was not always characteristic of Thomson and Le Blanc. Concerning their work as judges at the 1811 York Lent Assize, Alexander Bartholoman reports various cases tried before Baron Thomson, ending: "The Jury found the prisoner-GUILTY; and he received sentence of DEATH accordingly: but was reprieved by Sir

Simon Le Blanc before he left the city.” There were no hangings resulting from the 1811 Lent Assize at York. Alexander Bartholoman, ed., *The Trials and Causes that came on at the York Lent Assize, March 9, 1811* (York, UK: A. Bartholoman, 1811).

92. Douglas Hay, “Le Blanc, Sir Simon (1748/9–1816),” *Oxford Dictionary of National Biography* (Oxford: Oxford University Press, 2004).
93. See letter from Hobhouse, January 11, 1813, HO 42/132 (26–27); see also, Patrick Polden, “Thomson, Sir Alexander (1774?–1817),” *Oxford Dictionary of National Biography* (Oxford: Oxford University Press, 2004).