Coffee-House Politicians

John Barrell

> I hope to see the day to see the day when justice shall be open to Whig and Tory, and when these nick-names shall only be used among coffee-house politicians, as slut and jade are among apple-women, as cant terms of idle spite and rancour (Sir Walter Scott, *The Bride of Lammermoor,* vol. 1, chap. 8)

John Frost, a London attorney and Solicitor to the Lottery in the Stamp Office, had been a founder member of the Society for Constitutional Information (SCI) and one of the most active campaigners for parliamentary reform in the early 1780s. When the reform campaign reawoke in 1792, he was active again—accompanying Thomas Paine in his dramatic escape to France in September and at the end of November presenting, with Joel Barlow, the SCI's address to the National Convention of the newly declared French Republic.[1] Between those two events, however, he had returned to London and committed an indiscretion that would result, the following year, in his trial and imprisonment. On 6 November 1792, Frost attended the annual dinner of an agricultural society in a room above the Percy

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[1] For a very thoughtful account of how Frost placed himself within the socially highly stratified reform movement of the early and mid 1790s, see James Epstein, "'Equality and No King': Sociability and Sedition; The Case of John Frost," in *Romantic Sociability: Social Networks and Literary Culture in Britain, 1770–1840,* ed. Gillian Russell and Clara Tuite (Cambridge, 2002), pp. 43–61, esp. pp. 49–50. Epstein and I were working on the Frost case independently of each other and had each completed our own essays before we first saw the other's: the points of similarity between the two, therefore, though here and there quite striking, are coincidental. Epstein's excellent essay is mainly concerned to use Frost's case to map the various social spaces in which radicalism was lived and performed in the 1790s. Though the argument of my piece, as will appear, is rather different, there is much in Epstein's that adds to it, and which I wish I had thought of. See also Epstein, "Spatial Practices/Democratic Vistas," *Social History* 24, no. 3 (1999): 294–310.

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Coffee House, at the corner of Rathbone Place and Percy Street, just north of Oxford Street. At the end of a bibulous evening he went downstairs, intending to walk through the public coffee room to reach the street.

Before he could leave the Percy, however, he was engaged in conversation by an old acquaintance, Matthew Yateman. Yateman was a Percy Street apothecary, successful enough to be listed as a gentleman in London directories,[2] and a man with a developed sense of public duty. In 1790 he and his son had been among the fifteen members of a vigilante patrol formed at the Percy to protect the women of St. Pancras parish from the "London Monster," who was insulting and assaulting women in the streets from 1788 to 1790.[3] He and Frost had been fellow Street Commissioners for Percy Street, where Frost had lived before moving to the much more fashionable Spring Gardens. There are, unsurprisingly, some differences between the accounts of what happened when Yateman addressed Frost in the aisle of the coffee room. According to Yateman's version, he asked Frost, "Well, how do they go on in France?"—to which Frost rather oddly replied "I am for equality and no king." "What!" returned Yateman, "no king in this country?" "No king!" repeated Frost, shouting, so Yateman claimed, "as loud as he could holla." According to Frost's defense, Yateman addressed him with a question evidently designed to provoke him, if not to entrap him: "Well Mr. Equality, did you arrive?—I suppose you are for equality, and no kings?"[4] Frost's version has the merit of making more sense of the exchange, but he did not deny making an open declaration of his desire for a republic in Britain.

Public coffee houses contained, as well as a number of bookable private rooms, a public coffee-room; most public coffee-rooms—these details will turn out to be important—contained a common table for those seeking the company of friends or strangers, and one or more rows of "boxes" arranged along the wall. These boxes, which were a feature also of many taverns and pleasure gardens, might be like box pews in church, divided by low wooden walls and entered through a gatelike door; they might be like booths made of rows of tables between facing low-backed benches or high-backed settles; or they might consist simply of a range of

[2] *Directory to the Nobility, Gentry, and Families of Distinction, in London, Westminster, &c.* (London, [1793?]), p. 32; *The New Patent London Directory* (London, [1793?]), p. 51.

[3] See Jan Bondeson, *The London Monster: A Sanguinary Tale* (London, 2000), pp. 46, 48.

[4] T. B. Howell, ed., *A Complete Collection of State Trials and Proceedings for High Treason and Other Crimes and Misdemeanours from the Earliest Period to the Year 1783,* 21 vols. (London, 1816), and *A Complete Collection of State Trials and Proceedings for High Treason and Other Crimes and Misdemeanours from the Year 1783 to the Present Time,* vols. 22–30 (London, 1816), 22:486, 500 (hereafter cited as *ST* 22).

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tables and chairs divided by curtains.[5] Frost's words, spoken as he stood in the center aisle of the Percy, were overheard by a number of men sitting in the boxes near where he stood. One of them, Colonel John Bullock, claimed to have written down Frost's words as he spoke them, with the aim of having this memorandum signed by other witnesses, though in the excitement of the occasion he apparently forgot to collect the signatures. Among the speeches he attributed to Frost was one to the effect that "he wished to see equality prevail in this country," which no one else had heard or remembered. When another witness, Paul Savignac,[6] probably the son of a hosier, overheard Frost say "No king; there ought to be no king," he stepped out from his box and asked him, "How dare you hold a doctrine of that kind in a public coffee-room?" Frost repeated yet again that he was for equality and no king. "If you were not under the protection of the very king you are reviling," said Savignac, "I would kick you out of the coffee-room." "Do you doubt my courage?" asked Frost, daring him to try. Savignac did not: without courage, he said, Frost would not have spoken as he did, for it was a dangerous thing to use such radical expressions in a "public coffee-house."[7]

Now other customers began to intervene. John Taitt, an Oxford Street upholsterer, had been sitting two or three boxes from where Frost was talking to Yateman. He had not attended to the whole conversation, but the account he gave of it was more plausible than anyone else's. Yateman, he said, had asked Frost how long he had been back from France; Frost replied that he was just returned. How were they doing there? asked Yateman; very well, said Frost, adding that he would be making the crossing again shortly. Taitt's attention now drifted, until he heard Frost suddenly speaking more loudly: "I am for equality." At this Taitt left his box. "Who are you, Sir?" he demanded. "This is Mr. Frost," said Yateman. "How dare you utter such words?" asked Taitt. "I am for equality and no kings," replied Frost. "You should be turned out of the coffee-room," said Taitt. Frost walked up the room and turned his back to

[5] The layout of coffee houses is well-illustrated in various caricatures in the Catalogue of Political and Personal Satires, Department of Prints and Drawings, British Museum (BM). For the open table, see, e.g., *A Meeting of City Politicians* (BM 5613) and *Apothecaries, Taylors &c. Conquering France and Spain* (BM 5614); for boxes like box-pews, see *Full and Half-Pay Officers* (BM 7082); and for boxes made of facing settles, see *The Coffee-House Patriots* (BM 5923). Boxes divided by curtains are illustrated in Thomas Rowlandson's *The Coffee House,* printed in John Brewer, *The Pleasures of the Imagination: English Culture in the Eighteenth Century* (London, 1997), p. 37.

[6] There cannot have been many Savignacs in London. Paul was probably related to the hosier Charles Savignac, who kept a shop at 147 Strand; see *The General London Guide; or, Tradesman's Directory for the Year 1794* (London, [1794?]), p. 51.

[7] *ST* 22:487, 485.

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the fire like a cornered animal—"baited on all sides like a bull." Taitt had the impression that Frost was sorry for what he had said and wished to retract, but he did not do so and soon "quitted the room . . . after a general hiss from all the company."[8]

One or more of those outraged by Frost's language made a formal complaint about it in the next day or so, but no move was made to arrest him. On 15 November 1792 he attended a meeting of the third division of the London Corresponding Society (LCS) at the Green Dragon near Golden Square and gave what the spy Captain Munro called "a long inflammatory speech" to over two hundred people.[9] By 22 November he was in Paris again, in time to sign the famous Address of the British Club, presented to the National Convention on the same day as the address of the SCI. He was followed to Paris by Munro, who continued to report Frost's activities to London and described him as one of "the party of conspirators" that included Tom Paine, Robert Merry, Lord Edward Fitzgerald, Dr. William Maxwell, John Oswald, and John Hurford Stone. In January he tarnished his revolutionary credentials a little by successfully leading the opposition in the club to a motion by Paine and Merry for a second address to the Convention, recommending the invasion and liberation of Britain.[10]

When Frost left England he was unaware that he would be required to answer for his behavior at the Percy. No indictment was brought before the grand jury until early December, when he was known to be in France; but when he failed to appear to this indictment, a warrant was issued for his arrest, and he was proclaimed an outlaw, with a price of £100 on his head.[11] By 19 December Frost had heard of this proclamation and wrote an angry letter to the Prime Minister William Pitt, copying it to the *Morning Chronicle,* which published it on New Year's Day 1793. He denied that he had gone to Paris to escape prosecution and promised that he would soon return and would stand his trial with a bundle of letters in his hand, written to him by Pitt in the early 1780s when the two men had been fellow laborers in the cause, as Pitt described it to Frost, of "*the independence of Parliament, and the Liberty of the People*."[12] It seems probable that Pitt did not want the public to be reminded of how close he and Frost had once been and wanted therefore to dissuade Frost from returning. The ministerial newspapers began suggesting that Frost had left London to escape his

[8] *ST* 22:482–84.

[9] Mary Thale, ed., *Selections from the Papers of the London Corresponding Society* (Cambridge, 1983), p. 27.

[10] David V. Erdman, *Commerce des Lumières: John Oswald and the British in Paris, 1790–1793* (Columbia, Mo., 1986), pp. 242–43.

[11] *Morning Chronicle* (1 January 1793).

[12] The letter is quoted also in *ST* 22:494n., and see cols. 492n.–493n.

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creditors, and on 8 January the official government publication the *London Gazette* declared Frost a bankrupt. In fact, as his wife Eliza insisted in a long letter published in the *Morning Chronicle* the next day, and as Frost himself demonstrated when he returned to London on 9 February, he was solvent and perfectly able to satisfy his creditors. A few days later he voluntarily surrendered and was granted bail,[13] but by early March no progress had been made in the case, and Charles James Fox, Richard Sheridan, and their allies in the Commons were suggesting that the Government still wanted the matter forgotten.[14] Eventually, at the end of May, Frost was tried, found guilty, and sentenced to six months imprisonment and an hour in the pillory. After the trial a club began meeting at the Percy, which, according to the *Morning Post,* called itself, "in defiance of decency, '*The Society of Informers*' ".[15] Its members presumably included veterans of the victorious engagement between the Percy and the French Republic the previous year. They must have felt cheated when, after six months in Newgate, Frost was patently too ill with jail fever to be pilloried, and that part of the sentence was remitted.[16] In the event, the illness passed: Frost died in 1842, at the age of 92.

What intrigues me most about this incident, and the other that I shall recount later, is its relation to what we have been told about coffee houses by Jürgen Habermas and Richard Sennett. For both of them, the coffee house was the place of a new form of sociability characterized by a new form of freedom of speech. In late Stuart London, the freedom with which politics was discussed in coffee houses, and by men with, as it were, no title to discuss public affairs, led to coffee houses being seen by the government as the breeding grounds of sedition and treason. But sometime in the first decade of the eighteenth century, we are told, they became places where men could freely exchange their views, first on literary topics, later in the century on politics, supposedly without giving or taking offence. This was, however, a regulated freedom, at once the product of the new social space and constitutive of its development, and it involved a new relation of the concepts of public and private.

[13] See *Morning Post* (14 February 1793).

[14] Lucyle Werkmeister, *A Newspaper History of England, 1792–1793* (Lincoln, Neb., 1967), p. 236.

[15] *Morning Post* (30 July 1793), which refers simply to a "Coffee-house in Mary-le-bone," but I am aware of no other coffee house in the parish that might have housed such a society—presuming the society existed at all.

[16] See *Morning Post* and *Oracle* (19 December 1793). The story of Frost's indiscretion, trial, and punishment may be followed in Werkmeister, *The London Daily Press, 1772–1792* (Lincoln, Neb., 1963), pp. 365, 372–74, and her *Newspaper History of England,* pp. 135, 142–43.

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Coffee houses were public places, in the sense that anyone—anyone, at least, above a certain station in life—could enter them. But precisely because they were public, in this new sense of generally accessible, they were also places, as Habermas and Sennett point out, regulated by a particular notion of the private. The customers met as "private men," and between them, within the walls of the house, distinctions of status were supposedly suspended. As Habermas puts it, coffee houses "preserved a kind of social intercourse that, far from presupposing the equality of status, disregarded status altogether." Had they not, conversation, argument, would have been continually inhibited by the authority of and by deference to rank, wealth, or office. According to Sennett, the "cardinal rule" of coffee-house conversation was that, "in order for information to be as full as possible, distinctions of rank were temporarily suspended; anyone sitting in the coffee-house had a right to talk to anyone else, to enter into any conversation, whether he knew the other people or not, whether he was bidden to speak or not." And Habermas again: "the parity on whose basis alone the authority of the better argument could assert itself against that of social hierarchy and in the end carry the day meant, in the thought of the day, the parity of 'common humanity.'" This parity could only be assumed on condition that the participants in coffee-house conversation agreed that the space of conversation was a private space, even though, once out of the coffee room and on the street, wealth and rank would reassume their usual authority, and the bowing and scraping would start again. It is for this reason that though for Habermas the public sphere, first of literature, then politics, develops primarily within the space of the public coffee house, it is, as he puts it, "included in the private realm . . . for it was a public sphere constituted by private people"—by men who (even if they held public office or performed in some other sense on the public stage) were "private men" in coffee-house conversation.[17]

"The coffeehouse is a romanticized and overidealized institution," Sennett tells us, though his account does little to bring it down to earth. The idea of a public of private men was not "actually realized in earnest in the coffee houses," Habermas acknowledges, though rather in the tone of an afterthought; "but as an idea it had become institutionalized and thereby stated as an objective claim."[18] By the second quarter of the century, "coffee house politicians," as they came to be called, had become objects

[17] Jürgen Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society,* trans. Thomas Burger and Frederick Lawrence (Cambridge, Mass., 1989), pp. 36, 30; Richard Sennett, *The Fall of Public Man: On the Social Psychology of Capitalism* (New York, 1978), p. 81.

[18] Sennett, *Fall of Public Man,* p. 81; Habermas, *Structural Transformation,* p. 36.

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of satire—as men unnaturally preoccupied with public affairs at the expense of the private and domestic, as too concerned with the figure they cut in coffee-house conversation; most often as men in too low a sphere of life to take a legitimate interest in politics. By the third quarter of the century, and as the logical fulfilment of such satire, the coffee house declined, so the story goes, both in numbers and importance, in favor of more socially exclusive arenas for more polite conversation, the *salon* and the private club, the latter often meeting by appointment in the private rooms of taverns and coffee houses.

Anyone who has been brought up within the English class system, even as it is two hundred and fifty or three hundred years after the heyday of the coffee house, is likely to want to emphasize Sennett's and Habermas's warnings about these idealizations and to have doubts about how far distinctions of rank could possibly have been suspended in public coffee rooms. I am doubtful, too, about the supposed demise of the coffee house in the second half of the century. There were, famously, thousands of coffee houses in London around 1700, but the vast majority of these must have been little local "caffs," often in basement rooms and open only for a few hours a day, and patronized by tradesmen on their way to work, who no more expected to be drawn into a discussion of Shakespeare's neglect of the unities than to be offered a latte when they ordered a milky coffee.

No more than a handful of early eighteenth-century coffee houses can have come close to Habermas's or Sennett's ideal. And though there were far fewer coffee houses in 1750 than in 1700, for example, the establishments of the midcentury were often far larger, more profitable establishments than their predecessors. There was no question, of course, but that elite groups progressively established themselves into private clubs that controlled access with deliberate care. But that did not necessarily mean that members of those elites (like James Boswell, for example) did not also make frequent use of the public facilities of coffee houses (as Boswell did), and the houses must have been sustained too by the developing interest in politics among tradesman and artisans. When Edmund Burke, writing of postrevolutionary France, sneers at "the leaders of the legislative clubs and coffee-houses . . . intoxicated with admiration of their own wisdom and ability," he no doubt has in mind a kind of politician to be found in London as well as in Paris. Writing from Paris just prior to his trial for publishing the second part of *Rights of Man,* and five days after Frost's indiscretion at the Percy, Paine tells Sir Archibald MacDonald, the attorney general, "I have gone into coffee-houses, and places where I was unknown, on purpose to learn the currency of opinion, and I never yet saw any company of twelve men that condemned the book; but I have often found a greater number than twelve approving it, and I think this is

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a fair way of collecting the natural currency of opinion.'' In 1792 in England, Paine is saying, political conversation happens preeminently in coffee houses, wherever else it may also happen. Even after the events described in this essay and during the persecution of radicals in the mid 1790s, we find the ''institutionalized'' idea of coffee-house conversation, as Habermas put it, still surviving. When in 1796 the radical Thomas Spence published *The Reign of Felicity,* a discussion between a clergyman, a courtier, an ''esquire,'' and a radical farmer, he gave it the subtitle ''A Coffee-House Dialogue.'' As we shall see, it was by then almost impossible to imagine such a dialogue taking place anywhere, but Spence's subtitle suggests that if it could still be imagined, it would have to be set in a coffee house.[19]

So what might all this tell us about the unpleasantness in the Percy Coffee House? And what might that unpleasantness tells us about coffee houses in the early 1790s? What happened at the Percy was in of course an effect of the widespread alarm that the newly declared republic in France was attracting a dangerous degree of support in Britain. Suddenly, to those participating in that alarm, the duty to divulge what was spoken in coffee houses must have seemed greater than the duty to respect the private terms of conversation. But that sudden change would not itself have been possible had it not been prepared for by much more gradual changes; by the fact that

[19] *The Works of the Right Honourable Edmund Burke,* 14 vols. (London, 1815–22), 5:245–46; Philip S. Foner, ed., *The Complete Writings of Thomas Paine,* 2 vols. (New York, 1945), 2:513; *The Reign of Felicity, Being a Plan for Civilizing the Indians of North America . . . in a Coffee-House Dialogue* (London, 1796). There has been much excellent recent work on the coffee house, often focused on questions of gender, though mostly concerned with the late seventeenth and early eighteenth centuries: see Emma Clery, ''Women, Publicity, and the Coffee-House Myth,'' *Women: A Cultural Review* 2, no. 2 (1991): 168–77; Stephen Pincus, '' 'Coffee Politicians Does Create': Coffeehouses and Restoration Political Culture,'' *Journal of Modern History* 67 (December 1995): 807–34; Lawrence Klein, ''Coffeehouse Civility, 1660–1714: An Aspect of Post-courtly Culture in England,'' *Huntington Library Quarterly* 59, no. 1 (1997): 30–51; Helen Berry, '' 'Nice and Curious Questions': Coffee Houses and the Representation of Women in John Dunton's *Athenian Mercury,*'' *Seventeenth Century* 12, no. 2 (1997): 257–76, ''All Englands Rarityes Are Gathered Here: The World of the *Athenian Mercury* (1691–97),'' *Biblion: The Bulletin of the New York Public Library* 8, no. 2 (2000): 23–44, and ''Rethinking Politeness in Eighteenth-Century England: Moll King's Coffee House and the Significance of 'Flash Talk,' '' *Transactions of the Royal Historical Society,* 6th ser., 11 (2001): 65–68; Brian Cowan, ''What Was Masculine about the Public Sphere? Gender and the Coffeehouse Milieu in Post-Restoration England,'' *History Workshop Journal* 51 (Spring 2001): 127–57; Markman Ellis, ''Coffee-Women, 'The Spectator' and the Public Sphere in the Early Eighteenth Century,'' in *Women, Writing and the Public Sphere, 1700–1830,* ed. Elizabeth Eger, Charlotte Grant, Cliona o Gallachoir, and Penny Warburton (Cambridge, 2001), pp. 27–52. There are useful glances at the later history of coffee houses in Brewer, *Pleasures of the Imagination,* pp. 33–40; and Paul Langford, ''British Politeness and the Progress of Western Manners: An Eighteenth-Century Enigma,'' *Transactions of the Royal Historical Society,* 6th ser., 7 (1997): 53–72.

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the delicate negotiation between public and private on which coffee-house conversation was based had become increasingly precarious throughout the eighteenth century as the meaning of the terms "public" and "private," and the relations between them, changed. Those changes had been so slow as to have been often unnoticed; hence, the shock when they were suddenly illuminated at the Percy on the evening of 6 November 1792, and in the London Coffee House (as we shall see) a few months later.

Frost had engaged the great liberal advocate Thomas Erskine, the youngest brother of the Earl of Buchan, to defend him, and by doing so ensured that he would have the benefit of Erskine's trademark defense. The indictment stated that Frost had spoken with "maliciously, turbulently, and seditiously," with intent to "disquiet, molest and disturb" the peace and "to bring the king into great hatred and contempt."[20] Erskine argued, as he always did on such occasions, that before it could find Frost guilty the jury would have to be convinced that he had acted deliberately, with exactly the intentions attributed to him, and that he had not spoken (as he obviously had) inadvisedly, off his guard, on the spur of the moment, when "*to say the least*, [he] had drunk very freely."[21] But Erskine advanced another argument, too: that words spoken in a public coffee house were words spoken in a private space; that they were, so to speak, privileged; that they should not have been heard by those to whom they were not addressed; and that, if inadvertently overheard, they should not have been reported. Whatever else it was, the trial became a debate between Erskine and Sir John Scott, the new attorney general, on exactly what kind of a space a coffee house was.

In their cross-examinations of witnesses, the defense team were keen to establish who spoke first, Yateman or Frost. In part, they were attempting to show that Yateman had deliberately provoked Frost into making his unguarded remarks. They were also concerned, however, to show how the decencies of coffee-house conversation had been violated. They had been violated, first of all, by interruption. In 1780 the *London Magazine* had published a list of "RULES OF BEHAVIOUR, OF GENERAL USE, THOUGH MUCH DISREGARDED IN THIS POPULOUS CITY."[22] Rule 9 was, "At eating-houses, &c. not to be officiously forward in our discourse or ceremonies to strangers who, perhaps, desire to be unobserved, or incog." Customers in the public coffee-room who were willing to engage in promiscuous conversation with men unknown to them signaled as much by sitting not in a box but at the main table. Frost, however, had merely been passing through the coffee-room from the stairs to the street. Yateman was acquainted with Frost and so

[20] *ST* 22:471–73.
[21] *ST* 22:499.
[22] *London Magazine, or Gentleman's Monthly Intelligencer* 49 (1780): 197.

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perhaps had the right to "interrupt" him, as Erskine put it, "as he passed in silence towards the street"; but Savignac and Taitt, the defense insisted, had "interfered," in an "insulting manner," in a conversation that, however loud it had become, they should not have permitted themselves even to *hear*.[23]

Second, the decencies of the coffee house had been violated by the reporting of Frost's words to the authorities. "It is easy," Erskine insisted, "to distinguish where the public duty calls for the violation of the private one; criminal intention, but not undecent levities—not even grave opinions unconnected with conduct—are to be exposed to the magistrate." But no society can survive, Erskine insisted, unless it acknowledges the necessity of a private sphere, an area where "the most common and private intercourses of life" can be subject to a minimum of restraint, and freedom of speech is protected. Without such a sphere, the members of a society can enjoy no security or tranquillity, and the "security of free governments, and the unsuspecting confidence of every man who lives under them, are not only compatible but inseparable."[24] "Does any man," Erskine asks the jury,

> put such constraint upon himself in the most private moment of his life, that he would be contented to have his loosest and lightest words recorded, and set in array against him in a court of justice? . . . There are moments when jarring opinions may be given without inconsistency, when truth herself may be sported with without the breach of veracity, and where well-imagined nonsense is not only superior to, but is the very index to wit and wisdom. . . . Many things are indeed wrong and reprehensible, that neither do nor can become the objects of criminal justice, because the happiness and security of social life, which are the very end and object of all law and justice, forbid the communication of them; because the spirit of a gentleman, which is the most refined morality, either shuts men's ears against what should not be heard, or closes their lips with the sacred seal of honour.[25]

"The spirit of a gentleman"—it was that, not the law, which protected the private sphere. Erskine is not addressing the jury on behalf of some pettifogging attorney: Frost is always styled "Esquire" in official documents; the indictment itself describes him not as "John Frost, attorney-at-law," but as "John Frost . . . gentleman." This prosecution has arisen, Erskine is suggesting, because a group of low "coffee-house politicians," as he describes them—a hosier's son, an upholsterer, even an apothecary passing for a gentleman—do not have "the honour or the sense to make the due distinctions"—do not understand the codes, of coffee-house

[23] *ST* 22:484, 499.
[24] *ST* 22:501–2.
[25] *ST* 22:501–2.

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etiquette in particular, of polite life in general. When such riffraff "dog men into taverns and coffee-houses" to make "evesdropping attacks upon loose conversations," the government cannot approve their conduct, but neither can it ignore the information they offer. It is then "the office of juries," says Erskine, "as it is yours to-day, to draw the true line."[26] He was addressing a "special jury" made up entirely of freeholders, all of them too styled "Esquire" at least for the duration of the trial; temporary gentlemen, no doubt, and some of them no doubt professional jurymen, happy to collect the fee of a guinea for each trial to which they were summoned. The government chose to use special juries in political trials order to minimize the possibility of acquittals, but there was no advantage to Erskine in behaving as if they were anything other than independent gentlemen they purported to be, capable (or so he pretends) of responding on this occasion to the gentleman's calling.

Scott had probably anticipated that Erskine would mount some such defense. The indictment paraphrased the terms in which Savignac had challenged Frost in the Percy like this: "how he . . . dared to hold such language in any public *or private* company" (my emphasis); and both Scott and the judge, Lord Kenyon, quoted this as if Savignac had actually said it. In fact, however, when he came to give evidence, Savignac repeatedly insisted on the entirely public character of the space where Frost had spoken: it was a "public coffee-room" in a "public coffee-house." And Scott himself was at pains to confirm the point.[27] The jury's task was not, as Erskine would describe it, to draw the line between public and private; it was to decide whether Frost was to be "publicly permitted" to hold the views he did. In his reply to Erskine, he ridiculed the notion that Frost had spoken in a privileged private space. The prosecution, he declared, could not possibly be seen as "a breach of the sweet confidences of private life": the incident happened in a "public coffee-house." "Will any man tell me," he asks, "that if he goes into a public coffee-house, whether he comes into it from up-stairs, or whether he goes into it from the street, that he is entitled to the protection that belongs to the confidences of private life?"[28]

It is evident that Scott had no truck with the kind of distinction that Erskine was making. He was exclusively committed to a pragmatic map of social life that defined all spaces to which open access was permitted as "public" and as wholly public, and which—as his adjective "sweet" almost certainly implies—understood the "private" as virtually interchangeable with the "domestic," or at least as a sphere of life much more intimate than coffee-house conversation. It may be that for Scott the

[26] *ST* 22:506, 502–3.
[27] *ST* 22:473, 476, 516–17, 485.
[28] *ST* 22:481, 510, 511.

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necessary if not the sufficient condition for a space or an occasion to be "private" was the presence of women, who, though they evidently *were* admitted (even polite women) to some coffee houses, are unlikely to have been invited to participate in what appears to have been the exclusively masculine practice, even homosocial rite, of coffee-house conversation.[29] But whether that was how Scott saw things or not, he willingly conceded (at least for the sake of this argument) that he could hardly imagine a case "in which the public necessity and expediency of a prosecution should be so strong as to break in upon the relations of private life," in the clear sense here of "domestic."[30] Private houses were private, public houses were public, and that, for Scott, was the whole story. And for Erskine—the Honorable Thomas Erskine, as he was styled—this must have been enough to mark Scott, the son of a Tyneside coal barge owner, as a man as ignorant of "the spirit of a gentleman" as were Frost's accusers.

* * *

Eleven months after the unpleasantness in the Percy Coffee House, in the early evening of 30 September 1793, three men met for dinner at the King's Head Tavern in the Poultry. They were the Reverend William Pigott and his youngest brother Charles, a member of the twenty-fifth division of the LCS, a gambler, a political pamphleteer, and perhaps a blackmailer, and Dr. William Hodgson, a physician with a declining practice, a strong advocate of the political rights of women, and a member of the second division of the LCS. After they had eaten, Hodgson and Charles Pigott went to the London Coffee House on Ludgate Hill, intending to read the newspapers over a few glasses of punch.[31]

[29] That this was the situation also in the late seventeenth and early eighteenth centuries is suggested in Cowan, "What Was Masculine about the Public Sphere?" the best recent discussion of the women-in-coffee houses question. According to the poet, bigamist, and informer John Taylor, the comic actress Mrs. Lessingham used "to assume man's attire and frequent the coffee-houses" (this probably in the 1770s), which does not suggest that women found it easy to visit such places; see Taylor, *Records of My Life,* 2 vols. (London, 1832), 1:5–6.

[30] *ST* 22:510.

[31] William Hodgson, *The Commonwealth of Reason* (London, 1795), p. viii. For Hodgson, see Dictionary of National Biography, s.v. "William Hodgson"; for Pigott, see Nicholas Rogers, "Pigott's Private Eye: Radicalism and Sexual Scandal in Eighteenth-Century England," *Journal of the Canadian Historical Association / Revue de la Societe Historique Canadienne* 4 (1993): 247–63; and more especially two essays by Jon Mee: "'A Bold and Free-Spoken Man': The Strange Case of Charles Pigott," in *Cultures of Whiggism,* ed. David Womersley (Newark, Del., in press), and "Libertines and Radicals in the 1790s: The Strange Case of Charles Pigott," in *The Libertine Enlightenment: Sex, Liberty and Licence in the Eighteenth Century,* ed. Peter Cryle and Lisa O'Connell (London, 2004). The case and trial of William Hodgson are briefly but perceptively glanced at by Epstein in "Equality and No King," pp. 45–47, and in his "From Ritual Practice to Cultural Text," *Memoria y Civilizacion* 3 (2000): 127–60.

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In the 1770s the London Coffee House had become home to the pro-American "Whig Club" (the "Honest Whigs") whose members included James Burgh, Benjamin Franklin, Andrew Kippis, Richard Price, Joseph Priestley, and probably Hodgson himself, who was closely associated with many of these republican Whigs through the equally pro-American Deistic Society and the Club of Thirteen.[32] In the early 1790s, however, the coffee house was given a makeover, following which it became, according to one London directory, "the most elegant and extensive of any that come under the denomination of a coffee-house, in the three kingdoms." It boasted "first rate cooks, the best of waiters, the smartest chambermaids, hair dressers, porters and shoe blacks." It was now the "New London Coffee House," and like New Labour it was trying to change its clientele along with its name and decor. According to another directory, it had become the resort of "country gentlemen, manufacturers, foreign merchants, [and] clergy."[33] It still retained, however, the most characteristic feature of eighteenth-century coffee houses: there were still two rows of boxes ranged on either side of a central aisle.

Hodgson and Pigott sat down in one of these boxes, called for drinks and newspapers, and began discussing the news. Hodgson, probably the worse for drink, spoke loudly and incautiously.[34] Of the Duke of York, Commander in Chief of the British Army in the first Flanders campaign, who had just been defeated at Dunkirk, he remarked that "he respected no man, however exalted by rank, unless dignified by virtue." Pigott, who had vilified the duke in the first part of the anonymous, and scandalous, *Jockey Club,* prudently replied that whatever the duke's private character, "still he had a claim to respect, as the son of his king."[35] Another paragraph gave rise to a discussion about the treaty George III had made, as Elector of Hanover, with himself as King of England, guaranteeing to supply soldiers for the allied cause on condition of being paid 30/- for each soldier who

[32] Albert Goodwin, *The Friends of Liberty: The English Democratic Movement in the Age of the French Revolution* (Cambridge, Mass., 1979), pp. 54–55; Nicholas Hans, "Franklin, Jefferson, and the English Radicals at the End of the Eighteenth Century," *Proceedings of the American Philosophical Society* 98, no. 6 (1954): 406–26.

[33] "List of Coffee-Houses," *The New Patent London Directory, 1795* (London, [1794?]); *Roach's London Pocket Pilot* (1793), quoted in Bryant Lillywhite, *London Coffee Houses* (London, 1963), p. 339.

[34] Except where noted, my account of the events in the London Coffee House is taken from the transcription of the testimony of the prosecution witnesses in Hodgson's trial and his cross-examination (*ST* 22:1021–32).

[35] [Charles Pigott], *The Jockey Club, or a Sketch of the Manners of the Age,* 3d ed. (London, 1792), pp. 13–16; Charles Pigott, *Persecution: The Case of Charles Pigott: Contained in the Defence He Had Prepared, and Which Would Have Been Delivered by Him on His Trial, If the Grand Jury Had Not Thrown Out the Bill Prepared against Him* (London, 1793), p. 29.

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died. Hodgson, remembering Burke's "swinish multitude," called the king a "German hog-butcher, a dealer in human flesh by the carcass." According to the newspapers, on the previous day the king had been stag hunting near Windsor; Pigott expressed surprise that he should occupy his time in such "nonsensical amusements, while the mournful accounts of havoc and slaughter, in which his *own subjects* are so fatally involved, were almost daily arriving."[36]

By and large, however, Pigott seems to have been much more guarded in his remarks than Hodgson. At one point it seems that Pigott noticed Thomas Griffith Vaughan, a Bristol linen trader, sitting in the next box, listening to their conversation, and the two radicals began conversing in French, Pigott probably warning that they were overheard, Hodgson, who seemed bent on making some open demonstration of his jacobin virtue, probably saying that he didn't care if they were. Suddenly Hodgson began proposing toasts: first to "Equality," then to the "French Republic." John Buchanan, a Glasgow merchant in town on business and sitting in the same box as Vaughan, claimed that Pigott replied to the second toast, "I will join you in that, with all my heart," but no other witness heard him say so, and according to Pigott himself, he refused the toast, commenting that he would rather live under "the actual government of England, with its manifold abuses" than under "the present anarchy of France."[37]

White Newman, the son of a prosperous oilman in Newgate Street, was sitting in the opposite box across the aisle. Outraged by Hodgson's toast, he rushed to the bar, ordered a glass of punch, and repeatedly proposed "The King! The King! The King!" Everyone drank except Pigott and Hodgson. Newman rushed up to them, leaned into the box, threatened Hodgson with his stick, called him "Rascal!" and demanded he drink to the king. Hodgson replied by getting to his feet, proposing the French Republic a second time, and adding "and may it triumph over all the governments in Europe!" Reaching for his own stick, he said that Newman was the rascal, that as a medical man he was acquainted with Lavater's work and could see his rascally character written in his physiognomy. The loyalists appealed to the proprietor of the coffee house, John Leech,

[36] Pigott, *Persecution,* pp. 30–31. This last remark must have struck William Fielding, who led the prosecution at the subsequent trial, with a sense of *déjà lu;* in the comedy *The Coffee-House Politician* by William's more famous father Henry, the character Dabble reads to his table companions a passage from a newspaper that begins: "Fontainbleau, January 23. Yesterday his majesty went a hunting." In the play, of course, the humor lies in the fact that Dabble thinks such a trivial item of news could conceivably be worth reading aloud. See *The Coffee-House Politician; or, the Justice Caught in His Own Trap,* in *The Works of Henry Fielding, Esq., with an Essay on His Life and Genius, by Arthur Murphy, Esq.,* 10 vols (London, 1821), 1:421.

[37] Pigott, *Persecution,* p. 26.

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grandfather of the famous comic artist, to throw the jacobins out, but Leech, a member of the Association for the Defence of Liberty and Property against Republicans and Levellers, locked the front door and sent for a constable. The radicals were arrested and driven to the New Compter in Giltspur Street, with Hodgson allegedly shouting through the coach windows "Liberty!" "The French Republic!" Next morning they appeared before the magistrate, Alderman John Anderson, at Guildhall, who, no doubt uninfluenced by the fact that Pigott had charged him with corruption in a pamphlet published only a few weeks earlier, set bail at the impossible sum of £1,000.[38] They were ordered to be held in Newgate and a month later were indicted on a charge of uttering seditious words. The grand jury rejected the bill against Pigott but found a true bill against Hodgson, who was tried in early December 1793 and sentenced to two years imprisonment, fined £200, and required to find sureties amounting to £400 for his good behavior over the next two years. Unable to provide these, he remained in prison until 1797, when his debt to justice was paid by a public subscription.[39] Like Frost, Hodgson became a living example of the preservative powers of radical beliefs: he died at the age of 106. Pigott proved to be the exception to this apparent rule: in June 1794, he died of an infection he believed he had picked up in Newgate.

Hodgson's trial took at the Old Bailey on December 9, 1793, before Sir William Rose, the ultraloyalist Recorder of the City of London: the big guns who had contested the Frost case—Scott, Erskine, Kenyon—were all at the court of King's Bench, engaged in the trial of the proprietors of the *Morning Chronicle,* charged with seditious libel for reprinting the address of the Derby Constitutional Society.[40] The newspapers would not have space to carry reports of both trials, and so no full shorthand account of the speeches in Hodgson's trial seems to have been made, though the examinations of the witnesses have survived in an apparently full transcription. Hodgson chose to defend himself, and as far as we can piece together his speech from the newspaper reports, he based his defense on three main points: the illegality of his original arrest; the unqualified right of free discussion, which he claimed was guaranteed by the Bill of Rights; and the intention with which he had spoken.[41]

The third point was probably the strongest. Opening for the prosecution, Fielding is reported as having told the jury that the worst thing

[38] *Oracle* (3 October 1793); for the bail, see *Morning Post* (5 October 1793); for the charge of corruption, see Mee, "A Bold and Free-Spoken Man."

[39] For Hodgson's description of his plight in jail, see his *The Case of William Hodgson, How Confined in Newgate, etc.* (London, 1796).

[40] *ST* 22:953–1023.

[41] *Oracle* (10 December 1793).

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about Hodgson's behavior was that he had spoken as he did "in a Coffee-room where men of the first respectability assemble, where, if sedition could make its way, he declared he knew of no place in which it might be productive of more mischief."[42] This was a novel argument: the usual cause of the prosecution's anxiety in cases of seditious libel and seditious words was that they might be read or heard by the much less than respectable, and it was usually assumed that the kind of men Fielding had in mind were too intelligent, or had too much to lose, to be led astray by sedition. Accordingly, Hodgson argued that even supposing he had spoken all the words attributed to him by the prosecution witnesses, the fact that he had spoken them where he had was decisive evidence that he did not harbor any seditious intent. For if he had indeed had "a wish of exciting his Majesty's subjects to rebellion by seditious discourses, the London Coffee-house, which was known to be frequented by gentlemen violently opposed to such doctrines, would hardly be the place he should have pitched upon for that purpose; but should rather have gone where large bodies of persons were assembled."[43]

Though many of those involved in the trial must have been conscious of the similarity between the incident that had given rise to it and the case of Frost, there seems to have been little argument in the Old Bailey about the public or private nature of space in coffee house. Like Savignac in Frost's trial, Newman twice makes a point in his evidence that he had told Hodgson that he had no right to speak as he did "in a public coffee-room."[44] Like Erskine the previous May, Hodgson repeatedly tries to establish in cross-examination that the prosecution witnesses in the coffee house had spoken to him before he spoke to them: he had not sought their conversation, and far from attempting to seduce them from their loyalty to the king, he had spoken to them only when they interrupted his private conversation with Pigott.[45] There is no sign, however, that the division between public and private space received anything like the attention Erskine had paid to it in the former trial; nor does Hodgson make anything of it in the two accounts he subsequently gave of the affair—he seems

[42] *World* (10 December 1793).

[43] *The Times* (19 December 1793). Interestingly, however, the London did not entirely lose its liberal character in the 1790s. According to the *Oracle* (24 October 1794), when the jury that had just acquitted John Horne Tooke on a charge of high treason retired to the London, it "was received by a great number of Gentlemen with shouts of joy. One of them obtaining an audience, addressed them in this laconic speech—'GENTLEMEN, YOU HAVE SAVED YOUR COUNTRY.' Huzza! Huzza! Huzza!"

[44] *ST* 22:1028.

[45] Ibid., pp. 1023–24, 1026–31.

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more concerned, as he had been at his trial, with the illegality of his arrest and the infringement of his unqualified right to free speech.[46]

Pigott, however, as Erskine had done, understood the right to free speech in relation to the nature of the place of speaking, as he explained in *Persecution,* his pamphlet on the affair, which was published on December 4, just five days before Hodgson's trial, a forlorn attempt, no doubt, to influence the trial jury. Pigott fully acknowledges the public nature of the coffee house—in the sense in which Scott or Savignac or Newman understood it—as a place of open access. He had not drunk the toasts proposed by Hodgson, he explains, because "there was no occasion for rendering myself so very conspicuous in a public coffee house by so doing." Rebutting the charge that he had said what he was accused of saying seditiously, with an intent to bring the king and his government into dislike and disrespect, he points out that no one "harbouring such wicked designs" would "repair to a public coffee-house" to discuss them. Still less would he choose the London, a coffee house "notorious for being frequented by spies and informers, by clerks of arraigns, attornies, gaolers, and person of that description." "Is it not preposterous to imagine, that a rational being, possessed of such schemes, . . . should fix on a place of all others the most likely, were those schemes there promulgated, to ensure their defeat?"[47] Acknowledging, however, the virtual certainty that an expression of radical opinion in the London would be overheard and reported, Pigott still protests against the modern inability or refusal to grasp the private aspects of public spaces. In a sentence that loses itself in its own sense of outrage, he pleads that the code of privacy regulating conduct in public places is now more than ever needed—which is of course why it is now more than ever violated:

> In these eventful days, the human mind is eternally on the stretch of curiosity and speculation, and in all rooms of public resort, politics almost exclusively engross conversation; surely then, in the warmth of argument between two friends, if they should talk aloud;—if an unguarded expression should fall from either of them, and that expression is to be seized with venal officiousness, or malignant inveteracy, by persons to whom it was not addressed, and allowed to be brought forward as matter of criminal prosecution against him. A man on such terms would be far better in a desert, than in the meridian of all those *crocodile* enjoyments which this luxurious city apparently offers to his choice.[48]

[46] These two accounts are Hodgson, *The Case of William Hodgson,* and *The Commonwealth of Reason*.

[47] Pigott, *Persecution,* pp. 14, 45. The pamphlet is advertised in the *Morning Chronicle* (4 December 1794) as published on that date.

[48] Pigott, *Persecution,* p. 44.

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For Pigott as for Erskine, the pleasures of society cannot survive the continued infringement of the code of privacy; the sincerity of social life, and of the individual, depend entirely on the continued protection of the space of the private within public spaces.

Comparing the case of Frost with his own—and he had visited Frost in Newgate only a month or so before his own arrest—Pigott points out that, "oppressive" as Frost's prosecution certainly was, he had at least been charged for words spoken "*directly to the wretches who informed against him,*" whereas "Mr. Hodgson's conversation was addressed *only to myself*."[49] What is more—and this is the crucial point for Pigott, as well as for my argument—their conversation had taken place in a space that is, or that used to be, universally acknowledged to be privileged, to be private: "Can you really," Pigott asks his imaginary jury, "on your oaths, in your consciences, believe that toasts, or words, passing aloud between two friends in a public coffee-house, at a table where they were seated by themselves, are capable of the horrid construction imputed to them in the indictment; or that they ought to be cognizable by the other persons in the room, to not one of whom were they addressed in any sense whatsoever? Till now, it had been supposed, that the table or box in a coffee room, was as sacred and inviolable as a private room, nay, even as our own house."[50]

This is Erskine's point again, that the true coffee-house code does not allow words spoken there to be "cognizable," to be taken notice of, by those to whom they are not addressed. Pigott goes so far as to argue that the code of privacy would forbid their being repeated elsewhere even by one to whom they were addressed, sitting at the table, the most public space in the public coffee-room. But how much more sacrosanct are words overheard from a box? What is it for, the flimsy partition that defines the box, if it is not reminder and a reassurance that the privacy of those who occupy it is to be regarded as inviolable? The partitions are only tokens: it is inevitable that those in one box will be overheard by those in the next (indeed, listening to such private conversations was probably a common pastime).[51] But even though overheard, they must not be *heard*. What space, Pigott asks, could be more private than a public coffee house? If the

[49] For the visit, see Mee, "A Bold and Free-Spoken Man"; Pigott, *Persecution,* pp. 47–48.

[50] Pigott, *Persecution,* p. 17.

[51] Boswell's various London Journals are full of such overheard conversations; see also the letter of 1793 by "Mr. A.B.," reprinted in Tom Girtin, *Doctor with Two Aunts: A Biography of Peter Pindar* (London, 1959), p. 135. The point that partitions were "only tokens" was made most clearly at the Jew's Harp House and tea gardens in Marylebone Fields, where the privacy of the boxes was "guarded by painted deal-board soldiers"; see Warwick Wroth, *The London Pleasure Gardens of the Eighteenth Century* (London, 1896), p. 113.

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code of privacy is properly applied, as it would be, Erskine had argued, by those who are truly gentlemen, the private rooms in a coffee house could offer no more protection than the flimsy partitions of the box; even the inviolable privacy of the private house, every Englishman's castle, is, properly understood, no more private than is a table between two curtains in a public coffee-room; no more, indeed, than the public table in a public coffee-room.

Pigott does not actually say so, but he evidently regards himself, as Erskine had regarded Frost, as a gentleman fallen among newly affluent men with no grasp of how gentlemen should behave. Pigott was a member of an old landed-gentry family, prominent in Shropshire affairs, and his sense of the dignity of his status may have been made the more acute by its increasing fragility. He was a youngest son, and his eldest brother Robert, a fervent supporter of the French Revolution, had sold the family estates and gone to live first in Geneva, then in France. He was an old Etonian, claiming friendship with Fox and other aristocratic Whigs, but his ability to mix in such circles was threatened by his lack of funds and by an appearance so unprepossessing, and hygiene so rudimentary, that he was known in polite circles as "Louse."[52] He had done as much as he possibly could—by his antiaristocratic writings, and by his membership of the LCS, which was largely composed of artisans and craftsmen—to sink his own social status. Of all gentlemen-born, indeed, in the 1790s, he had arguably the smallest claim to be possessed even of the "spirit" of a gentleman as Erskine had defined it: in the three volumes of his *Jockey Club* he had made public every private secret he could dredge up about the lives of the aristocratic enemies of France and reform.

But still he regarded himself as a gentleman.[53] According to the *Oracle,* though the story may be merely malicious, when Hodgson and Pigott were asked to provide securities amounting to £1,000 each against their nonappearance in court, both objected (for neither had access to such an enormous sum) on the grounds that they were gentlemen and that their word was security enough; to which the magistrate replied that it was because they were gentleman that he was setting their bail so high.[54] Pigott's attack on the witnesses of the events at the London is full of invective de haut en bas. Newman, heir to a prosperous city business, is repeatedly dismissed as a "Pickle-man," a "pickle-merchant'; Vaughan,

[52] See, e.g., the sketch of Pigott's character in *An Answer to Three Scurrilous Pamphlets, Entitled the Jockey Club* (London, [1792]), pp. 11–12; *Oracle* (11 November 1793).

[53] Mee, in "A Bold and Free-Spoken Man," is particularly acute on Pigott's gentlemanly attitudes and on his attitude to his gentlemanly status.

[54] *Oracle* (8 October 1793); see *Morning Post* (5 October 1793).

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who had particularly disgusted Pigott by acknowledging, at the grand jury, that he had sat in the next box to the radicals "for the express purpose of *particularly* attending to our conversation," is described as "formerly I believe in the linen trade at Bristol," and the phrase "I believe" is in a tone suggesting that it would be beneath Pigott to possess any more certain knowledge of Vaughan's business.[55] Leech, the proprietor of the coffee house, is derided as having previously been its cook; he becomes "this loyal chief justice of the kitchen," whose "former culinary fire rose on his promotion from the kitchen . . . into a violent flame of attachment to royalty and rage against Levellers."[56] Pigott's gentle status may have felt to him fragile enough to need defending by taking this kind of tone with social inferiors. It was probably also real enough to account for the fact that the indictment against him was thrown out by the grand jury. No doubt he had been, as he claims, less outspoken than Hodgson; but it is hard to imagine a grand jury bothering to discriminate between the two men had both been impoverished physicians.

* * *

To understand what is at stake in these two cases, I want to suggest that we need to start by recalling a code of behavior that emerges in the very late seventeenth and early eighteenth century, or rather reemerges then, in the form of a distinction between "public" and "private," for something like it had certainly existed in earlier centuries and in other countries. It is a code addressed to the conduct of "public men"—men who participate in public life, who hold office under the crown, or who are qualified by birth, fortune, education, connections to do so. It is less concerned to regulate the conduct of such men as to control how their conduct will be judged by others, and it does so, in the first instance, by drawing a very firm line between public and private. Everything men do above the line, in their "public life," is supposed to be subject to judgment according to a strict notion of public virtue. They must (though they rarely do) display a passionate concern for the public interest, an unimpeachable integrity, a determined independence of judgment. If their public virtue is supposed not to be in question, then everything they do below the line, in private life, was nobody's business but their own. As John Dennis had put it early in the eighteenth century, "publick Virtue makes Compensation for all Faults but Crimes, and he who has this publick Virtue is not capable of Crimes."[57]

[55] Pigott, *Persecution,* pp. 15, 17, 19.

[56] Hodgson, apparently quoting Pigott (but from a text I have not discovered) in *The Commonwealth of Reason,* pp. xiii–xvi.

[57] Edward Niles Hooker, ed., *The Critical Works of John Dennis,* 2 vols. (Baltimore, 1939, 1943), 2:113.

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The notion that men were to be judged by their public, not their private, conduct, and that their private conduct was "cognizable" only when it disabled them from performing their duty to the public, was put under increasing pressure throughout the eighteenth century as part of the process whereby the moral values of the middle classes became increasingly hegemonic even in the sphere of high politics. Increasingly through the century, public men were coming to govern their behavior by a more modern, more middle-class expectation that their private life would be understood as reflecting on their public virtue. This change of course is one reason for the great popularity, at least by the 1790s, of the chaste and temperate George III, and of Pitt, who was free of all private vices except one. He did not chase women, he did not gamble, he did not talk nonsense or sport with the truth in private except when he was drunk, which he was, to be sure, much of the time. But if to many at the end of the eighteenth century, this moral system described by Dennis seemed a grand and a disgraceful anachronism, it was still tenaciously preserved among those Foxite Whigs who were to remain the parliamentary opposition when, in 1794, the majority Portland Whigs went into coalition with Pitt. Here, for example, is the pseudonymous "Hampden," taking issue with the Duke of Portland for splitting the party but reassuring him at the same time that his criticism will be based on matters of principle, not on "personalities." "Our ministers," he writes,

> may constantly be carried to bed in a state of complete intoxication without being reproved by me, while they do not reel or stutter in the Senate; they may every night drown their intellects in a sea of spirits and water at White's, if they attend to the national business in the morning; they may ruin themselves at play, if they faithfully administer the laws; they may be mean and parsimonious, if they do not defraud the public, and seize on pensions and sinecures beyond all bounds of decency and justice; or they may betray and calumniate private friends, if they do not renounce and vilify public principles.[58]

Hampden's sympathies remain, of course, with the minority of Whigs whom Portland had abandoned, led by Fox, a gambler, a drunkard, living openly with his mistress, yet constant in his attendance at Parliament and indefatigable in performing the duties of a patriotic opposition. Fox was the most conspicuous "public man" at the period described by this paper still taking extensive advantage of the freedoms this code of conduct offered.[59]

[58] Hampden [pseud.], *Letters to the Duke of Portland, on His Dereliction of the Cause of the People* (London, 1794), p. 30.

[59] Joanna Innes points out that the Proclamation Society, an association formed in the 1780s to promote the reformation of manners primarily of the lower classes, was unwilling

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The coffee-house code of privacy is a different thing with different purposes from the aristocratic code I have been discussing; but in part no doubt it owed its origins to the notion that coffee houses were among the places where the privacy of public men was lived out; places where they could unbend, could be "themselves," as we put it, or could be other than themselves and could enjoy, however guardedly, what Habermas calls "the parity of 'common humanity,'" without that reflecting on their public reputation. For that reason the code of the public coffee-room also demarcated a notion of the private at once visible but not to be inspected, audible but not to be overheard, and that notion too must have been put under increasing pressure in the course of the century, as first the aristocracy, and then the polite classes in general, began to use public coffee-rooms as places of refreshment merely, not of conversation. If it is true that during the century the coffee-room, considered as a place of conversation, was progressively abandoned to tradesmen, shopmen, artisans, then it may have been increasingly difficult to safeguard a notion of privacy that, originally instituted, in part at least, for the benefit of public men, now had to survive among men whose entire lives were lived in private, and who had nothing but private virtues on which to found a reputation.

One way of then understanding the incidents leading to these trials would be that Frost and Hodgson have fallen victim to a century-long change in manners, as notions of polite behavior have been slowly transformed as they percolated down from the aristocracy, through the prosperous, aspiring upper middle class, down to the shopman, commercial travelers, and artisans whom Frost and Hodgson met in the Percy and the London. I am not suggesting that their behavior would at any moment in the history of the coffee house have been thought appropriate: an often quoted seventeenth-century broadside, *The Rules and Orders of the Coffee House,* had warned customers to avoid the "Noise of loud disputes" and not to speak of "Affairs of State" with "an irreverent tongue."[60] But it is clear that Erskine and Hodgson believe that to infringe these rules, by speaking so loudly and irreverently about politics as to oblige others to hear what they are obliged not to hear, would not have been treated in the early or mid-eighteenth century as more than a breach of good manners, as a crime worthy of a long period of imprisonment. Perhaps the incidents at

to recruit Fox and his circle on account of their "notoriously lax morals"; see her "Politics and Morals: The Reformation of Manners in Later Eighteenth-Century England," in *The Transformation of Political Culture: England and Germany in the Late Eighteenth Century,* ed. Eckhart Hellmuth (London, 1990), pp. 57–118.

[60] Quoted, e.g., in Edward Forbes Robinson, *The Early English Coffee House* (1893; reprint, Christchurch, 1972), p. 110.

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the Percy and the London are a further stage in the same process as had earlier led to the formation of conversation clubs, as the more polite customers withdrew from the "public," "open" coffee-rooms to meet in private rooms to which access could be restricted. One reason for that withdrawal was probably that the more polite did not trust the less polite to know or to observe the conventions of privacy that had formerly been supposed to apply at the public table. Now Frost, Hodgson, and Pigott seemed to have reason to believe that nowhere in the public room was the notional privacy of conversation still respected and that now men who normally had no opportunity to act as men of public virtue—upholsterers, apothecaries, and drapers—might seize the chance to do so on the most inappropriate occasions.

What may have been part of a century-long revolution in manners seems to have been understood, however, by Erskine and Pigott, as something so sudden as to be unforeseeable; as though Frost and Hodgson had fallen foul not of the slow march of social change but of an overnight change in the rules governing social behavior. And of course it was that too. It does not seem that Frost's behavior was reported to the authorities until late November or early December 1792; until after, that is, the inaugural meeting at the Crown and Anchor on November 20 of the Association for the Preservation of Liberty and Property against Republicans and Levellers. The association, which immediately gave birth to numerous local branches, was dedicated to discouraging and suppressing seditious publications, tending to disturb the peace of the kingdom; but in fact it was equally, if not more, concerned with punishing those who uttered seditious words. Indeed, it was only after the foundation of the association had prompted or focused the anxieties of loyalists that outspoken radicals and reformers found themselves subject to prosecutions for seditious words, and, or so the popular radical John Thelwall claimed, every coffee house came to be "filled with party hirelings and venal associators" listening out for sedition, and "one-half the boxes" in any place of public refreshment came to conceal the spies of government.[61] There is a fascinating, anonymous, loyalist poem on 1795, *"The Coffee House*," in which one of the central incidents involves the narrator eavesdropping on the conversation of a bunch of scowling LCS members, cautiously murmuring "disloyal and unmanly" speeches to each other in their not-so-private box.[62] The extraordinary success of the Crown and

[61] John Thelwall, *Political Lectures. Volume the First–Part the First: Containing the Lecture of Spies and Informers, and the First Lecture on Prosecutions for Political Opinion* (London, 1795), p. 6; John Binns, *Recollections of the Life of John Binns: Twenty-Nine Years in Europe and Fifty-Three in the United States* (Philadelphia, 1854), p. 44.

[62] [Philip Smyth], *The Coffee House. A Characteristic Poem* (London, 1795), pp. 13–14.

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Anchor Society and its associated provincial societies in late 1792 and 1793 must have been inextricably linked to the developing sense that private behavior and conversation enjoyed at most a very qualified privilege, that private character could be a legitimate object of public concern, and that "public" places, places of general resort, concealed no abstract, notionally private refuge.

This is not the place to attempt to describe the activities of the loyal associations or, with any degree of detail, the various arguments of those who opposed them. But in guise of a conclusion, I want to suggest that the defense we have seen made by Erskine on Frost's behalf, and by Pigott of himself, allows us to reflect on an important aspect of the division between the popular reform societies and the polite opposition Whigs, unpersuaded of the desirability of universal manhood suffrage but certainly determined in their defense of the civil rights, which they saw as being so determinedly eroded under Pitt. When in 1793 the future Prime Minister Spencer Percival, under the auspices of the association, published, for the benefit of magistrates and associators, an account of the various violations of the public peace and how to deal with them, he defined "*Seditious Words*" with reference only to their content, and without regard to the circumstances in which they were uttered.[63] This appears to have been the policy on the matter of freedom of speech taken by the law officers of the crown in their prosecutions of those charged with uttering "seditious words." In contrast, William Hodgson, as we have seen, maintained the unqualified right of free speech and discussion, and this seems to have been the general view among the leaders of the LCS, although in practice, of course, prudence dictated what they were and were not prepared to say in public. The most moderate view among the leaders of the society was probably that of Thelwall, who maintained that speech should never be the object of prosecution by virtue of its content, though it might legitimately become so if the manner of its utterance amounted to an incitement to violence.[64]

This is not at all the view of opposition Whigs like Fox or like Erskine himself. For Fox, for example, the freedom of what he regards as public speech consists, like the freedom of the press, in the right to say whatever one likes, subject to no prior licence from the authorities; but if speeches, like publications, can be shown to have been seditious, to have

[63] [Spencer Percival], *The Duties and Powers of Public Officers and Private Persons with Respect to Violations of the Public Peace* (n.p., [1793]), p. 8.

[64] See, esp., John Thelwall, *Peaceful Discussion, and Not Tumultuary Violence, the Means of Redressing National Grievances: The Speech of John Thelwall, at the General Meeting of the Friends of Parliamentary Reform, Called by the London Corresponding Society, and Held in the Neighbourhood of Copenhagen-House; on Monday, October 26, 1795* (London, 1795).

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been delivered, at least, with seditious intent, the speakers must take the legal consequences of their words. The most audible if not the most vocal opponents of the loyal associations, the liberal Whigs, led by Erskine, who formed the Friends of the Liberty of the Press, did not insist on an unqualified right to freedom of speech. For such Whigs, the notion of freedom of speech has more the feel of "you may speak freely"—of the "undisguised" expression of opinion appropriate to private life. The Friends opposed the founding of the associations on two main grounds: first, that they constituted a usurpation of the powers of government, undertaken with the government's full consent, even connivance; and second, that they constituted an intolerable intrusion into areas of life previously understood as private. In his address as Chairman to the Friends, Erskine announced himself shocked by the associations' plan to offer rewards to informers so as "to punish opinions delivered even in the private intercourses of domestic life; unmixed with any act or manifested intention against the authority of our Laws." The evils of the associations, he declared, "become . . . absolutely intolerable, when extended to the stimulation of Spies to stab domestic peace, to watch for the innocent in the hours devoted to convivial happiness, and to disturb the sweet repose of private life upon the bosom of friendship and truth."[65] The anonymous author of a parody of this speech makes it clear how those who argued for this aristocratic desire to preserve the sphere of private life from the intrusions of the law was regarded by the associationists. It was no more than a concern to prevent the surveillance of private lives that could not bear such scrutiny. He quoted Erskine's sentence unchanged except for its final phrase: the Friends were seeking to preserve inviolate their right to enjoy "the sweet repose of private life" not "upon the bosom of friendship and truth" but "upon the bosom of our DOXIES."[66]

Aristocratic and genteel opposition M.P.s, of course, enjoyed the virtually unlimited freedom of public utterance guaranteed to them by parliamentary privilege and on occasion took advantage of it to its fullest extent, saying in the Commons what members of the popular reform societies would certainly have been prosecuted for saying in public meetings or even in what they would have regarded as entirely private conversations. Their concern is almost entirely with the prospect of losing the protection hitherto guaranteed to them by the code of a gentleman, or with their private conversations becoming the object of public notice. In his speech at Bristol previous to the election of 1780, Burke had warned of a

[65] *Proceedings of the Friends to the Liberty of the Press* ([London], 1793), pp. 8, 16.
[66] *An Address to the Public from the Friends of Freedom Assembled at Their Club, at the Goose and Gridiron, St. Giles's* (London, 1793), p. 11.

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regime of surveillance whereby "the very servant who waits behind your chair" is made "the arbiter of your life and fortune." This warning, repeated by Erskine in his defense of Frost, is repeated again, in letter or spirit, in speech after speech in parliament, and in pamphlet after pamphlet by relatively polite reformers and by gentlemanly and aristocratic opponents of the government and the associations, and it is, precisely, the free speech of gentlemen with servants that it is primarily concerned to protect.[67]

When the moderate Scots reformer, as he then was, Thomas Muir, was confronted at his trial in 1793 by the evidence of his alleged seditious words given by his servant Ann Fisher, he was as appalled as was Pigott at the notion that the words of a gentleman, spoken in private, in his case "in an unguarded moment within the sacred walls of a family," should become the object of a prosecution when reported by the less than genteel—by "the meanest and the lowest," by "domestics, who could hardly approach your presence even in their menial duties, who, (if the expression may be used) to the members of a family are almost unknown."[68] The evidence of this "domestic spy," exclaimed Fox, in the debate on this trial, "respecting the private and unguarded conversation of her master," was such that "no civilized country ought to be permitted."[69] The tone of these opposition defenses of free speech, especially one of the longest, by Fox in 1795, is

[67] Burke, *Works,* 3:390–91; for Erskine, see *ST* 22:502. Compare William Godwin on the Loyal Associations: "My very footman from behind my chair may be enticed by the ten guineas, so liberally proffered by the new Associations, to betray me, and thus to procure to himself the accursed wages of despotism." See his letter to Sir Archibald MacDonald, then still attorney general, on the prosecution of Crichton, signed "Mucius," *Morning Chronicle* (26 March 1793). Even Thelwall imagines the new threat to freedom of speech to be felt especially keenly by the employer of servants: "even our own houses and our own tables furnish no longer a sanctuary and an altar where it is safe to offer the free incense of friendly communication; and the very domestic who eats our bread stands open-mouthed behind our chairs to catch and betray the conversation of our unguarded moments" (*Political Lectures,* p. 6). For more, see n. 69 below.

[68] *An Account of the Trial of Thomas Muir, Esq., Younger, of Huntershill* (Edinburgh, n.d.), pp. 112–13.

[69] *The Parliamentary History of England* (*PH*), 36 vols (London, 1806–20), 30:1566. The Foxite Whigs make the same point when they return to reflect on the Muir trial during the debates on the two bills in late 1795. George Harrison: "A private letter dropped out of the pocket, the malice of a servant, the repetition of a conversation at table, with a thousand other circumstances, frivolous and innocent in their natures, might be magnified to dangerous portants" (*PH* 32:505–6). Fox: "If the detestable spirit of the Scotch law respecting sedition were established in this country, then farewell to all liberty of speech! farewell to the familiarities of conversation! The servant who stood behind his chair [i.e., Fox's chair: this is speech reported in the free indirect style], if wicked enough, might betray him, and, seduced by those in power, night give information which would endanger both his liberty and his life. The abandoned maid-servant of Mr. Muir had acted in a similar manner: violating the confidence reposed in every servant by a master, she communicated to the friends of government the honest, undisguised expressions of Mr. Muir's mind" (*PH* 32:517).

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that of former citizens of the Roman republic unlucky enough to have survived into the period of the empire, a period such as Tacitus describes, when "slaves were suborned to speak against their masters, freedmen against their patrons."[70] It is the language of a self-consciously virtuous classical republican elite, too elevated in rank and virtue to "know" their social inferiors, whose dependent status and character make them ever ready to be bribed into reporting on the private lives of their masters.

In short, then. At a time when the freedom of speech, along with the freedom of the press and freedom of association were under serious threat, and seriously curtailed, there was an unquestionable value in this defense of the freedom of private utterance, in the notion that private speech, of words spoken in private that are independent of any criminal intention, should not be the object of surveillance and prosecution. It is an intriguing index, however, of the difficulty with which the discourse of rights became established, that Fox, Erskine, and others, especially Pigott, who seem to have regarded this as a civil right essential to the survival of civilized society, found it so hard to express except in terms of class difference, of the right of an elite not to be overheard by their social inferiors and dependants.

[70] *PH* 32:409–21, but esp. col. 420; Tacitus, *The Histories,* trans. Kenneth Wellesley (Harmondsworth, 1975), p. 16.

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