

- times are in fact too dangerous for men to be allowed to say what Frost says.
- p. 253, l. 4: *the penalties of premunire*: see note to p. 240, l. 9, above. Blackstone sets out the punishments of premunire as forfeiture of his lands and possessions to the king and imprisonment at the king's pleasure; see Blackstone, vol. 4, pp. 117–18.
- p. 254, l. 10: *But I think he states*: Kenyon seems to be misremembering the details of the case set out at Foster, pp. 211–13. A paper posted at the Exchange in the reign of Charles I calling on the apprentices to rise against Archbishop Laud was deemed an overt act of treason because the apprentices did make an attempt the following day. Laud was Archbishop of Canterbury not York. In his discussion Foster struggled to see how this case as reported could constitute high treason.
- p. 256, l. 7: *Mr. Justice Ashhurst*: Sir William Henry Ashhurst (1725–1807), judge. His famous charge to the Middlesex grand jury of 19 November 1792, a defence of the monarchy and an attack on the reform movement, was printed and widely circulated by the Association for the Protection of Liberty and Property.
- p. 258, l. 7: *struck off the Roll of Attornies*: Kenyon's final declaration ensured that Frost could no longer practice law at King's Bench, the Court of Common Pleas, or the Court of Chancery: see headnote.

The Trial of Daniel Isaac Eaton, for Publishing a Supposed Libel

- p. 263, l. 5: *General Sessions of Oyer and Terminer*: meaning literally to 'hear' and 'determine', these judicial sessions sat primarily at the Old Bailey. They were convened to try misdemeanours and felonies at common law occurring in London and Middlesex. See Volume 2, note to p. 5, l. 7.
- p. 264, ll. 2–3: *a certain pamphlet*: The first three passages indicted, pp. 264–6, were from 'King Chaunticlere; or, The Fate of Tyranny' in *Politics for the People*, no. 8, published on 16 November 1793: see *Politics for the People or, A Salamagundy for Swine*, 2 vols (1794–5), vol. 1, pp. 102–7. The published article placed the allegory in the context of its origin in a speech made by the radical orator John Thelwall at the Capel Court debating society on the question of 'the comparative Influence of the Love of Life, of Liberty, and of

- the fair Sex', p. 102. An account of the debate from Thelwall's point of view can be found in *The Life of John Thelwall, by his Widow* (1837), pp. 107–11. Eaton is accused there of 'dressing it up in certainly very strong terms which Thelwall would never have used', p. 110.
- p. 266, l. 24: *THE REFLECTIONS OF A TRUE BRITON*: This brief collection of quotations and maxims also appeared in no. 8: see *Politics for the People*, vol. 1, p. 108.
- p. 266, ll. 26–7: Homer stiles them devourers of the people: the reference to Homer probably alludes to *Odyssey*, IV.918–22: 'Some kings with arbitrary rage devour; / Or in their tyrant-minions vest the power: / Ulysses let no partial favours fall, / The people's parent, he protected all'. See *The Iliad and Odyssey of Homer: Translated by Pope*, new edn, 4 vols (1783), vol. 3, p. 135.
- p. 266, l. 33: Mr. *FIELDING*: William Fielding, the son of the novelist Henry Fielding, was a special pleader who worked on the Home and Surrey circuits and appeared for the prosecution at Eaton's previous trial on 3 June 1793. Special pleaders generally prepared pleas for others; many barristers became special pleaders before being admitted to the bar in order to gain experience in legal procedure.
- p. 266, l. 33: Mr. *FELIX VAUGHAN*: Vaughan was on the defence team in the trials of Paine, Hardy and Tooke (see note to p. 48, l. 16, above, and Volumes 2–8).
- p. 266, l. 34: Mr. *KNOWLYS*: Newman Knowlys, advocate of Inner Temple, who appears to have operated only at the Oyer and Terminer sessions.
- p. 266, l. 34: Mr. *GURNEY*: John Gurney, son of the shorthand writer Joseph Gurney (see Introduction, pp. xxxvii–xxxviii), who worked the Home circuit and Surrey sessions.
- p. 266, l. 35: Mr. *RAINE*: Jonathan Raine, another special pleader, who worked on the Northern and Middlesex circuits.
- p. 266, l. 35: Mr. *WOODHOUSE*: perhaps Richard Woodhouse, Clerk of Bridewell and Bethlem Hospitals.
- p. 266, l. 37: Mr. *WHITE*: Joseph White, treasury solicitor, was also the prosecution solicitor at Paine's trial, see note to p. 48, l. 18, above.
- p. 266, l. 37: Mr. *BONNEY*: John Augustus Bonney, solicitor for the defence at Paine's trial, he had succeeded to the practise of John Frost by the time of Eaton's trial: see note to p. 48, l. 18, above.
- p. 267, l. 5: Mr. *Justice Ashhurst*: see note to p. 256, l. 7, above.
- p. 267, ll. 17–18: *the Defendant challenged two of the Jurors peremptorily*: see Note on Legal Procedure. Eaton had chal-

- lenged two of the jurors peremptorily, that is, without giving a reason, which the recorder had overruled. Eaton appears then to have claimed that the two jurors were prejudiced. The recorder and the prosecution acquiesced to the challenge and the trial was postponed until the following sessions.
- p. 269, l. 5: *Mr. RECORDER*: Sir John William Rose, Serjeant-at-Law, Recorder for the City of London.
- p. 270, ll. 23–4: *agitations lately about the power of a Jury*: Fox’s Libel Act afforded the jury the power to decide on the question of libel. There had been an extended debate about the issues at stake: see Introduction, p. xvii.
- p. 272, l. 30: *necessary innuendos*: see the Introduction, pp. xiv–xv.
- p. 273, ll. 20–1: *escaped in the heat of debate in parliament*: Fielding was mistaken. The phrase had notoriously appeared in Burke’s *Reflections*: see *BW*, vol. 5, p. 154. Gurney draws attention to the mistake, below, p. 295, ll. 4–10. Radicals quickly adopted the phrase as a badge of honour, as both title and sub-title of Eaton’s periodical indicate.
- p. 274, l. 2: *It begins indeed with poetry*: On its title page, *Politics for the People* no. 8 has two pieces of poetry: ‘On Mr. —’s projecting New Taxes’ and an extract, under the title ‘CHARACTER OF A MODERE IN POLITICS’, from Dryden’s Prologue to the tragedy he wrote with Nathaniel Lee, *The Duke of Guise* (1683).
- p. 274, l. 15: *Citizen Thelwall*: for John Thelwall, see the headnote to his trial in Volume 8. For his struggle to keep alive political issues in the face of the government clampdown on popular debating clubs, see the Introduction, pp. xxi–xxii.
- p. 275, ll. 4–5: *the fatal and melancholy catastrophe*: Louis XVI was executed on 21 January 1793.
- p. 275, l. 15: *Monsieur Condorcet*: Marie Jean Antoine Nicolas Caritat, marquis de Condorcet (1743–94), philosopher and mathematician. Condorcet represented Paris in the National Assembly and later became its secretary. He was also editor of the republican periodical *La Chronique* to which Fielding refers. Close to Paine and the Girondin faction in Paris, Condorcet was in favour of the trial of Louis XVI, but firmly opposed the king’s execution.
- p. 275, l. 20: *the author*: not known, but, as Fielding seems to be hinting, quite possibly Eaton himself.
- p. 275, ll. 27–30: *Monsieur Condorcet ... the farce of that day*: *Politics for the People*, vol. 1, p. 109.
- p. 277, ll. 18–26: *You must know then ... suppression*: *Politics for the People*, vol. 1, p. 104.

- p. 277, l. 35: the intention of the man: earlier Fielding had suggested that Fox's Libel Act had made only an 'extremely trifling' difference to the nature of prosecutions for seditious libel (see above p. 270, l. 25), but here, unlike most prosecution barristers, he concedes to the jury the full authority to decide whether the indicted passages were intended to disaffect the minds of the people.
- p. 278, ll. 5–6: *a pamphlet of Monsieur Brissot's*: Jacques Pierre Brissot (1754–93), lawyer and prolific pamphleteer; leading member of the Girondin party, member of the Legislative Assembly, later deputy of the National Convention. Fielding seems to refer either to *The Anarchy and Horrors of France, displayed by a Member of the Convention* (1792) or the more recent *J. P. Brissot, Deputy of Eure and Loire, to his Constituents on the Situation of the National Convention; on the Influence of Anarchists, and the Evils it has Caused* (1794).
- p. 278, l. 30: *the price*: The individual numbers of *Politics for the People* sold for two pence. As with the prosecution of *Rights of Man*, the price of Eaton's pamphlet was crucial to the charge that it was intended to spread disaffection among the lower orders.
- p. 279, l. 10: *a contrivance*: The development of the law of seditious libel in the early eighteenth century, primarily under the influence of Chief Justice Holt between 1696 and 1706, had made it clear that irony or figures of speech could be prosecuted according to the sense as understood by the generality of readers in the context of the whole work from which they came.
- p. 279, l. 34: *the book is not large*: *Politics for the People* no. 8 is sixteen quarto pages in length.
- p. 281, ll. 1–8: *These circumstances ... assert it*: *Politics for the People*, vol. 1, p. 107.
- p. 281, l. 38: *promulgation of the libel*: see the discussion in the Introduction of the exploitation of trials as a form of publicity, pp. xxxviii–xxxix.
- p. 283, ll. 23–4: *except one*: i.e. the second part of Paine's *Rights of Man*.
- p. 286, l. 11: *cases in law*: It was an established principle of law that the master was answerable for actions committed by his servant. At the trial of John Almon in 1770, Lord Mansfield insisted that this rule applied in libel cases and, consequently, the publication or sale of a libel by a publisher's servant was proof of the master's criminality: 'the publication – a sale at a man's shop – and a sale therein, by his servant,

- is evidence, and not contradicted and explained, is evidence to convict the master of publication'; *ST*, vol. 20, col. 836.
- p. 288, l. 2: *JOHN BOULT*: news carrier and ticket porter, he had bought a copy of no. 5 on 4 November, but the treasury solicitors decided it contained insufficient matter for a prosecution.
- p. 289, l. 14: *Mr. Bevan*: possibly Mr Bevan, Esq. of Red Lion Square.
- p. 295, ll. 8–9: *a book which has run through ten or twelve editions*: Gurney corrects Fielding's assertion that Burke's notorious phrase 'a swinish multitude' came from a speech in parliament: see note to p. 273, ll. 20–1, above.
- p. 295, l. 19: *hinc illæ lacrymæ*: 'hence those tears' (Latin): see Terence, *Andria*, l. 126. Gurney is saying that the cheapness of the pamphlet is what all the fuss is about.
- p. 296, l. 24: *Dean Swift's projector*: In Book III of Jonathan Swift's *Gulliver's Travels* (1726) a 'projector' in the grand academy of Laputa attempts to extract sunbeams from cucumbers.
- p. 297, ll. 36–9: *We have found monarchy ... free and happy*: Gurney seems to be imagining an address to posterity from the constitutional guardians of the past.
- p. 298, l. 4: *In the year 1782*: Gurney misremembers the date of the famous motion proposed on 6 April 1780 by John Dunning (1731–83), Whig MP and barrister, later Lord Ashburton, and carried against the government of Lord North by 233 votes to 215. As Gurney suggests, the Whigs found themselves unable to follow up this success with the reforms they intended.
- p. 299, l. 19: *But why, I ask again, is it to be supposed*: Gurney suggests that to understand the cock, the traditional symbol of the French, as a reference to the English monarchy is the kind of forced interpretation of figurative language that was supposed to be disallowed in indictments for libel.
- p. 299, l. 34: *the last Monarch of France*: Louis XVI.
- p. 300, ll. 21–2: *Æsop's Fables, is the most seditious book that ever was published*: Gurney's humour skates on thin ice here as Aesop's fables had regularly been used for political purposes in the eighteenth century. On the title page of *Politics for the People*, no. 5 (vol. 1, p. 53), published on 26 October, Eaton himself had printed the following lines under the title 'WHAT MAKES A LIBEL?: A FABLE':
- In *Æsop's* new-made World of Wit,
Where Beast's could talk, and read, and write,
And say and do as he thought fit;
A certain Fellow thought himself abus'd,

And represented by an Ass,
 And *Aesop* to the Judge accus'd
 That he defamed was.
 Friend, quoth the Judge, How do you know,
 Whether you are defam'd or no?
 How can you prove that he must mean
 You, rather than another Man?
 Sir, quoth the Man, it needs must be,
 All Circumstances so agree,
 And all the Neighbours say 'tis Me.
 That's somewhat, quoth the Judge, indeed;
 But let this matter pass.
 Since twas not *AESOP*, 'tis agreed
 But *Application* made the Ass

The poem, published just a few weeks before Thelwall's speech appeared, anticipates Gurney's defence. After Eaton's acquittal, radicals such as Thomas Spence made great play of the possibilities of political fable, explicitly offering it as a model for radical writers: see Jon Mee, "'Examples of Safe Printing': Censorship and Popular Radical Literature", *Essays and Studies*, 46 (1993), pp. 81–95.

- p. 300, l. 29: *fable of the Ape*: see *Æsop's Fables* (1775), pp. 63–4. On 2 November, 'The Land of the Apes – A Fable' had appeared in Eaton's weekly: see *Politics for the People*, no. 6, vol. 1, pp. 80–1.
- p. 301, l. 5: *the sacred scriptures*: Again, biblical parodies and other political uses of the scriptures had been part of British print culture for a long time; see, for instance, the title page of *Politics for the People*, no. 13, vol. 1, p. 181, where Eaton prints verses from 2 Samuel 21 and Jeremiah 46 and 52 describing the destruction of great cities (replacing the names of the cities with asterisks). Lord Loughborough had stated in the Lords during the debate on Fox's libel bill that in certain contexts even scripture could be construed as a seditious libel: see note to p. 171, l. 9–p. 172, l. 10, above.
- p. 302, l. 31: *Empress of Russia*: see note to p. 170, ll. 24–5, above.
- p. 302, l. 35: *Polish Breed*: Between 1772 and 1795 Poland was partitioned three times by its neighbours; Russia, Austria and Prussia. At the beginning of 1793 Russian and Prussian forces defeated a patriot army that was attempting to revive the Polish Commonwealth.
- p. 302, l. 36: *the King of Prussia*: Frederick William II (1744–97), King of Prussia, formed an agreement with the Holy Roman Emperor, Leopold II, to return France to a monarchy. In August 1792 a joint force under the Duke of Bruns-

wick entered French territory before being turned back at the Battle of Valmy. Britain joined what became known as the First Coalition at the beginning of 1793, after the execution of Louis XVI.

- p. 303, l. 26: *Charles the second*: see note to p. 161, l. 9, above.
- p. 303, l. 27: *Star chamber*: see note to p. 160, l. 22, above.
- p. 303, l. 27: *Jeffreys*: George Jeffreys (1648–89), Justice of King’s Bench and later Lord Chancellor, known as ‘the Hanging Judge’ for the severity of his convictions, some of which were based on wholly insubstantial evidence.
- p. 304, l. 8: *prima facie*: see note to p. 247, l. 25, above.
- p. 306, ll. 12–13: *the bright ornament of the english bar*: Thomas Erskine: see note to p. 48, l. 12, above.
- p. 306, ll. 18–19: *upon the whole matter ... indictment*: slightly misquoting Fox’s Libel Act of 1792.
- p. 307, ll. 10–11: Guilty of publishing: the inconclusive verdict in Eaton’s two trials of the previous year. On 3 June 1793 Eaton was tried for selling the second part of Paine’s *Rights of Man*. The jury returned a verdict of guilty of publishing only. Eaton’s defence regarded this an acquittal, but the Attorney-General Sir John Scott (see note to p. 48, l. 13, above) persuaded the presiding judge to refer the verdict to the twelve judges of King’s Bench. Eaton remained on bail. Before the verdict could be examined at King’s Bench, Eaton was arrested again and tried on an *ex officio* information, instigated by Scott, for publishing Paine’s *Address to the Addressers*. On 10 July 1793 at the Guildhall, the jury again returned a guilty of publishing only verdict. Scott again attempted to get a ruling from the judge that the verdict should be entered as guilty of the charges on the information. Justice Kenyon deferred to the decision of King’s Bench in Eaton’s previous case. King’s Bench never met to discuss either verdict and both cases seem to have been deliberately forgotten. Eaton was again released on bail. See *ST*, vol. 22, cols 780–4 and 820–2.
- p. 307, l. 39–p. 308, l. 1: *Convinced by Mr. Pitt’s speeches and the Duke of Richmond’s letters*: Gurney presents Eaton’s opinions as the result of taking the various reformist ideas propounded by Pitt and Richmond in the 1780s at face value: see Introduction, pp. x–xi. Like most members of the LCS, Eaton was a proponent of Richmond’s plan of annual parliaments and universal male suffrage.
- p. 308, l. 4: *sedition hunters*: The Association for the Preservation of Liberty and Property against Republicans and Levelers, see Introduction, pp. xvii–xviii.

- p. 308, ll. 7–8: *prosecutions for sedition in the reigns of the Stuarts*: The reigns of the Stuarts were notorious for the number of cases brought before the Star Chamber, usually by *ex officio* informations, widely regarded as unconstitutional in the eighteenth century.
- p. 309, ll. 25–6: *prosecutions are all on one side*: the exception was the prosecution of John Reeves, founder of the Association, for libelling parliament in his pamphlet *Thoughts on the English Government* (1795). The pamphlet contained a passage that was taken by the opposition, but also by Pitt among others, to imply that parliament was an expendable part of the English government. He was acquitted at his trial on 20 May 1796.
- p. 310, ll. 2–3: *Mr. Justice Blackstone*: Sir William Blackstone (1723–1780), judge and author; see note to p. 52, ll. 3–9, above.
- p. 310, ll. 16–17: *to stop the current of all the passions but fear*: unidentified, possibly a quotation garbled by Erskine or incorrectly heard by the shorthand writer.
- p. 311, ll. 17–18: *the eye of the political body*: see Lord Chesterfield’s speech against the state licensing of the theatres: *PH*, vol. 10, cols 328–41. Erskine’s defence of Paine contains a longer passage from this speech, in which this phrase occurs. Kenyon interrupted him to claim the metaphor for Samuel Johnson: see note to p. 167, ll. 16–19 and ll. 20–1, above.
- p. 312, l. 1: *already imprisoned near three months*: A grand jury had found sufficient evidence to initiate judicial proceedings on 4 December 1793. A true bill was found against Eaton two days later and he pleaded not guilty the next day. Judge Ashurst then set bail at such an enormous amount that Eaton was imprisoned until the start of the next sessions. Although the government obviously sought to cripple his business by keeping him in prison awaiting trial, Eaton’s family kept the shop in Newgate Street going and continued to publish *Politics for the People* and other pamphlets.
- p. 312, l. 31: *Special Pleader*: see note to p. 266, l. 33, above.
- p. 316, l. 29: *in an indifferent manner*: that is, without political prejudice, using what he calls ‘the common construction of language’, ll. 5–6.
- p. 319, l. 2: *speculative way*: If the supposed libel were part of a philosophical debate on principles – as had been claimed in Paine’s defence – then the charge that the words had been intended to disaffect the people from their sovereign could not be sustained.

- p. 320, l. 30: *Grand Jury*: The Recorder was keen to stress that this prosecution had not been brought forward via the kind of *ex officio* prosecution that had been used in the previous prosecution of Eaton.
- p. 322, l. 5: *Copy of the Information*: Gurney insisted that the jury be given a copy of the information, presumably so they focused on the specific legal issue of whether the innuendos were sound, rather than the subversive nature of *Politics for the People* more generally. In Eaton's two earlier trials Kenyon had also recommended that the jury take a copy of the indictment for their consideration: see *ST*, vol. 22, cols 782–4 and 820–2.