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ARTICLE

The Contested Right of Public Meeting in England from the Bill of Rights to the Public Order Acts

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Abstract

The 'right of public meeting' has historically been a key demand of extra-parliamentary political movements in England. This paper examines how public assembly came to be perceived as a legally protected right, and how national and local authorities debated and policed political meetings. Whereas previous histories have suggested that a 'liberal governance' dominated urban government during the nineteenth century, this paper offers an alternative framework for understanding the relationship between people and the state. It points to rights paradoxes, whereby the right of free passage and to 'air and recreation' often conflicted with the demand for the right of political meeting in challenges to use of public spaces. Local authorities sought to defend the rights of property against political movements by using the common law offences of obstruction and 'nuisance'. By the first half of the twentieth century, new threats of militant tactics and racial harassment by political groups necessitated specific public order legislation. Though twentieth-century legislation sought to protect certain types of assembly and protest marches, the implementation and policing of public order was spatially discriminatory, and the right of public meeting was left unresolved.

Keywords: Britain; public meetings; protest; public order

The 'right of public meeting' has historically been a key demand of popular political movements in Britain. The public meeting legitimated local elites within a constitutional process, but was also a site of contest, involving challenge to authority. All types of political associations in the eighteenth and nineteenth centuries claimed the legitimate right to hold meetings, alongside the rights of petitioning the monarch and Parliament and free speech, with reference to Magna Carta and the 1689 Bill of Rights. Perhaps even more than petitioning, participation in a public meeting was the most common

experience that most of the population had of political debate and collective action before and indeed still after enfranchisement. Yet there was no legal right of public assembly in England and Wales until the Human Rights Act of 1998, which came into force in 2000. While the right of free speech was evident in case law by the late nineteenth century, precedents for the right of public assembly were much more intermittent, and still remain contested.[1] What Americans usually refer to as the law governing 'freedom of assembly' generally translates in the English context to the law of 'public order'.[2] Contemporary legal scholar A. C. Dicey recognised this ambiguity in his article 'On the Right of Public Meeting' in the *Contemporary Review* in 1889, published at the height of the crisis over the policing of socialist rallies in Trafalgar Square in London. Dicey concluded that there was no clarity, whether in common law, statute or legal precedent. Even if a meeting started out as lawful, that is with permission from the local authorities, a small breach of the peace would transform it into an unlawful assembly.[3] The debated distinctions between rights and liberties to meet are at the heart of the tensions stoked by political movements throughout this period.

This paper examines how public assembly and protest came to be popularly perceived as a legally protected right in England, and how government and local authorities debated and policed political meetings. It argues that these debates were an integral part of how the constitutional polity has developed since 1689, in ways that allowed for participatory but not democratic involvement by the unrepresented populace until the early twentieth century. This is by no means a narrative of democratising progress. It is rather a story of tensions, setbacks and intermittent repressive legislation and policing. I argue that the legal, statutory and police control of public meetings were driven by three paradoxes of English law: the first conflating rights with liberties; the other two that privileged common rights of air and recreation and free passage in public spaces over the liberty of public assembly. The article demonstrates how the peak of debates about the right of public meeting in England was reached when the government had delegated much of the decision-making back to local authorities and the police, but public order legislation had to be introduced centrally in response to new challenges of militancy and racial harassment in the early twentieth century.

Defining the public meeting

Public meetings took various forms, both official and unofficial. Formally constituted public meetings were held by a panoply of institutions, including the parish vestry, town council, the lord lieutenancy and county, and gatherings of ratepayers, or corporate guilds, and, after incorporation in the mid-nineteenth

[1] D. Mead, *The New Law of Peaceful Protest: Rights and Regulation in the Human Rights Act Era* (2010), 4.

[2] R. Vorspan, 'Freedom of Assembly: The Right to Passage in Modern English Legal History', *San Diego Law Review*, 34 (1997), 940 n. 67.

[3] A. V. Dicey, 'On the Right of Public Meeting', *Contemporary Review*, 55 (Apr. 1889), 508–27; Vorspan, 'Freedom of Assembly', 921–46, at 941.

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century, increasingly town meetings. They usually followed an official process, called by a mayor or other official in response to a requisition from an (often specified minimum) number of 'respectable' inhabitants, usually to pass resolutions, sign a petition to Parliament or ratify an address to the monarch.[4] An 1857 House of Commons Select Committee, for example, reported that 'a public meeting should be a meeting lawfully called by the sheriff of a county or by the mayor of a borough, a meeting for the purpose of petitioning the Crown or either house of Parliament, a meeting of a town council, board of health or any public body'.[5] Though technically restricted to the membership of the body such as vestry members and ratepayers, in practice usually anyone could turn up, and entrance was only controlled in times of party political conflict.

Unofficial public meetings were called by acclamation or advertisement, and were just as mixed in their participation. The mass public meeting, held outside in town squares or marketplaces, or inside in civic or commercial buildings, often still abided by the ritual processes of an official meeting with speakers, committee, resolutions, amendments and voting. Open public meetings often shaded into other types of gatherings, like assemblies, demonstrations, electoral hustings and rallies.[6] Unlawful or tumultuous assembly was an offence under common law. Early modern legislation concerning public meetings aimed at preventing or restricting the practice of petitioning Parliament or the monarch. The 1661 Act against Tumultuous Disorders was intended to manage the huge volume of petitions that were taking up a significant proportion of parliamentary business, by limiting to twelve the number of persons who could present a petition. The 1689 Bill of Rights guaranteed the subject's right to petition, but the 1661 legislation ambiguously remained on the statute book and was invoked as late as 1817 during the 'March of the Blanketeers', when Manchester democratic radicals sought to stay within the rules to petition the Prince Regent. The 1714 Riot Act allowed magistrates to disperse tumultuous meetings by force with warning and was the main legislative tool used against public gatherings in the eighteenth century.[7]

An important shift in the form and purpose of public meetings occurred from the 1760s onwards. Emerging calls for parliamentary reform, and the populism of the agitation around renegade politician John Wilkes in 1768–9 created a new type of mass meeting. The pro-Wilkes crowds, independently of John Wilkes himself, appropriated and subverted official rites and processes of the county meeting and the electoral hustings.[8] From the 1790s onwards,

[4] See J. Innes, 'The Local Acts of a National Parliament: Parliament's Role in Sanctioning Local Action in Eighteenth-Century Britain', *Parliamentary History*, 17 (1998), 23–47.

[5] *Hansard's Parliamentary Debates* (hereafter *Hansard*), HL Deb., 13 July 1857, vol. 146, cc. 1363–6, https://api.parliament.uk/historic-hansard/lords/1857/jul/13/report-of-select-committee-presented.

[6] H. T. Dickinson, *The Politics of the People in Eighteenth Century Britain* (Houndmills, 1994), 103–5.

[7] M. Knights, '"The Lowest Degree of Freedom": The Right to Petition Parliament, 1640–1800', *Parliamentary History*, 37 (2018), 18–34, at 21–2; R. Poole, 'Petitioners and Rebels: Petitioning for Parliamentary Reform in Regency England', *Social Science History*, 43 (2019), 553–79, at 572.

[8] J. Rudbeck, 'Popular Sovereignty and the Historical Origin of the Social Movement', *Theory and Society*, 41 (2012), 581–601.

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with the emergence of the first working-class democratic movement, these extra-official forms of public meeting were regularised. Radical delegate conventions and the 'mass platform' hustings sought legitimacy by taking the same forms of requisitioning, chair and resolutions, but were increasingly sites of conflict as the local authorities refused permission for them to be held. The Peterloo Massacre in Manchester on 16 August 1819 was the result of long-running tensions between the working-class democratic movement, local authorities and national government over what, and who, constituted a public meeting.[9]

Social movement theorist Charles Tilly saw the 'rise of the public meeting' (by which he meant the mass platform demonstration) as a key part of the democratisation of British politics. Tilly identified a key shift in what he termed contentious gatherings, away from an early modern mode of parochial and riotous collective action aimed directly at local figures of authority or relying on intermediaries to speak to power, to a less violent and more national and Parliament-focused polity by the early nineteenth century. His treatment of the public meeting and other categorisations of types of action, however, conflated official and unofficial meetings. His progression thesis moreover underestimated popular participation in town meetings before the 1760s while overestimating the dominance of the Parliament-focused public meeting by the 1830s.[10]

The 'new political history' in the 1990s suggested a more pessimistic but equally teleological trajectory. Gareth Stedman Jones, James Vernon and others considered the middle decades of the nineteenth century, in particular, as a battleground of ideas between emerging liberalism and more militant claims by radicals to represent 'the people'.[11] These historians strongly argued for constitutionalism as the populist discourse that subsumed, if not vanquished, the language of class that Marxist interpretations had previously identified as the politics of the people. Vernon saw in the pattern of public meetings and legislation to 1867 the 'fall of political man and closure of the constitution's radical libertarian democratic potential'.[12] He emphasised a marked decline in the power of the people to create their own politics. The new political history and urban historians attributed this decline to the emergence of a 'liberal governmentality' by the mid-nineteenth century. Patrick Joyce argued that the relationship between local elites and the state was dominated by a middle-class morality that was implemented through policing, sanitation and civic regulation schemes.[13] While his approach was influenced by

[9] M. Lobban, 'From Seditious Libel to Unlawful Assembly: Peterloo and the Changing Face of Political Crime c.1770–1820', *Oxford Journal of Legal Studies*, 10 (1990), 307–52.

[10] C. Tilly, 'The Rise of the Public Meeting in Great Britain, 1758–1834', *Social Science History*, 34 (2010), 291–9.

[11] J. Vernon, *Politics and the People: A Study in English Political Culture, c.1815–1867* (Cambridge, 1993); P. Joyce, *Visions of the People: Industrial England and the Question of Class, c.1848–1914* (Cambridge, 1991); G. Stedman Jones, *Languages of Class: Studies in English Working Class History, 1832–1982* (Cambridge, 1983).

[12] Vernon, *Politics and the People*, 336.

[13] P. Joyce, *The Rule of Freedom: Liberalism and the Modern City* (2011).

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Michel Foucault, others drew from Norbert Elias's 'civilising thesis', whereby urban improvement likewise cemented the power of the middle-class and gentry elites over the streets.[14] Protest and popular politics was thereby controlled and regulated through municipal government and middle-class cultural hegemony in the city.

Studies of nineteenth-century popular politics have fragmented somewhat since the 1990s, examining individual political movements within a short time frame rather than across the whole period.[15] This paper encourages a return to a *longue durée*. One approach has been suggested by more recent work on petitions by Richard Huzzey, Henry Miller and Mark Knights among others.[16] They show how petitioning was a vital part of popular politics from the 1640s to the turn of the twentieth century. They also note a shift in how the right of petitioning Parliament was framed. Whereas earlier in the period, petitioning was claimed as an inherent right on its own, by the later eighteenth century there was, as Knights argues, an 'increasing tendency to view the right to petition as part of a group of mutually supporting rights, the most important of which were the right to assembly and the right to freedom of speech and print'.[17] I argue that the coalescence of the idea of the right to petition with a concept of the right of public meeting and free speech was an ongoing process of assertion of popular rights. Moreover, petitions were a major reason for many public meetings, but they were not the only purpose or result of them. There were many other types of political meeting and assembly, as we will see, that were just as integral to sustaining and contesting different relationships with the idea of the constitutional state.

This paper challenges the perceived extent to which the dominance of liberal elites resulted in diminished popular agency or class conflict. We need an alternative to both the optimistic trajectory charted by Tilly and the

[14] S. Gunn, *The Public Culture of the Victorian Middle Class: Ritual and Authority in the English Industrial City, 1840–1914* (Manchester, 2007)

[15] See for example R. Poole, *Peterloo: An English Uprising* (Manchester, 2019); Malcolm Chase, *Chartism: A New History* (Manchester, 2007).

[16] R. Huzzey and H. Miller, 'Petitions, Parliament and Political Culture: Petitioning the House of Commons, 1780–1918', *Past & Present*, 248 (2020), 123–64; M. Chase, 'What Did Chartism Petition For? Mass Petitions in the British Movement for Democracy', *Social Science History*, 43 (2019), 531–51; P. Loft, 'Involving the Public: Parliament, Petitioning and the Language of Interest, 1688–1720', *Journal of British Studies*, 40 (2016), 1–23; P. Loft, 'Petitioning and Petitioners to the Westminster Parliament, 1660–1788', *Parliamentary History*, 38 (2019), 342–61; H. Miller, 'Petition, Petition, Petition', in *Organising Democracy: Reflections on the Rise of Political Organizations in the Nineteenth Century*, ed. H. te Velde and M. Janse (2017), 43–61; H. Miller, 'Popular Petitioning and the Corn Laws, 1833–46', *English Historical Review*, 127 (2012), 882–919; B. Agnès, 'A Chartist Singularity? Mobilizing to Promote Democratic Petitions in Britain and France, 1838–1848', *Labour History Review*, 78 (2013), 51–66; P. A. Pickering, '"And your Petitioners, &c": Chartist Petitioning in Popular Politics, 1838–48', *English Historical Review*, 116 (2001), 368–88. Studies of petitioning from the empire include: *Native Claims: Indigenous Law against Empire, 1500–1920*, ed. S. Belmessous (Oxford, 2012); H. Weiss Muller, 'From Requete to Petition: Petitioning the Monarch between Empires', *Historical Journal*, 60 (2017), 659–86; K. O'Brien, *Petitioning for Land: the Petitions of First People of Modern British Colonies* (2018).

[17] Knights, '"The Lowest Degree of Freedom"', 32.

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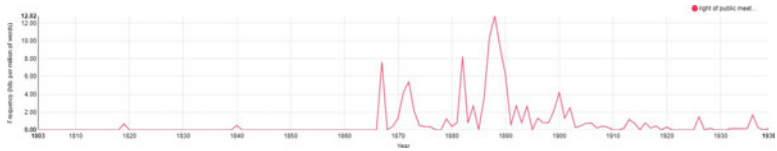

Figure 1 House of Commons debates, 1803–1939, frequency of the phrase 'right of public meeting', from *Hansard at Huddersfield* (2019), University of Huddersfield, https://hansard.hud.ac.uk

pessimistic model suggested by the 'new political history' that portrayed an increasingly exclusive and homogeneous political culture. Rather, the contests over the uses of public space for political meetings demonstrated the continuance of an independent radical tradition, and an active working-class politics separate from middle-class liberal discourse.[18] The paper draws upon the work of David Churchill, Christopher Hamlin and historians of nineteenth-century crime who challenge the model of liberal governance as structuring all relations between people and the state.[19] Rather, popular politics involved a more patchy and unfinished framework of policing and the law.

Debating the right of public meeting

There is a distinctive chronology to the debates around the idea of a right of public meeting. Using the text-mining tool of *Hansard at Huddersfield* we can track the use of the term in parliamentary debates from 1803 onwards (see Figure 1). The first instance of the term 'right of public meeting' was recorded in a House of Commons debate on 21 December 1819, on the Blasphemous Libel Bill, part of the Six Acts following the Peterloo Massacre. Lord Ebrington, a consistent supporter of the Whig opposition to the Tory government measures against popular radicalism, denounced the bill, claiming: 'Parliament had already restricted the right of public meeting.'[20]

The term 'right of public meeting' was already regularly employed in the constitutionalist discourse of popular radicalism. Political movements employed the rhetorical tropes of Magna Carta and the 1689 Bill of Rights to justify the right of public meeting. Yet the Bill of Rights only protected the right of petitioning the Crown, it did not guarantee the right of public assembly. Conventions and delegate meetings of parliamentary reformers and democratic radicals drew on the writings of James Burgh and other Whig calls on historical precedents in the Anglo-Saxon Witan, whose

[18] A. Taylor, 'Commons Stealers, Land-Grabbers and Jerry Builders: Space, Popular Radicalism and the Politics of Public Access in London, 1848–1880', *International Review of Social History*, 40 (1995), 383–407, at 394; M. Finn, *After Chartism: Class and Nation in English Radical Politics, 1848–1874* (Cambridge, 1993).

[19] D. Churchill, *Crime Control and Everyday Life in the Victorian City: The Police and the Public* (Oxford, 2017); C. Hamlin, 'Nuisances and Community in Mid Victorian England: The Attractions of Inspection', *Social History*, 38 (2013), 346–79.

[20] *Hansard*, HC Deb., 21 Dec. 1819, vol. 41, cc. 1414–45, https://api.parliament.uk/historic-hansard/commons/1819/dec/21/blasphemous-libel-bill.

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representation was claimed to have been destroyed by William I and the so-called Norman Yoke. From the 1780s onwards, these historicist frameworks were combined with notions of absolute natural rights drawn from interpretations of John Locke's and Thomas Paine's constitutional writings (though of course these rights were overtly confined to the 'freeborn Englishman' and did not include women or indigenous colonial subjects).[21]

The 'Two Acts' passed in 1795 restricted popular political meetings and widened the remit of treason. The popular response was national, and divided into petitions for and against the legislation. The resolutions of hundreds of meetings of vestries, towns and counties were all collated in the compilation *The History of Two Acts*. Many of the petitions against William Pitt the Younger's measures liberally employed Whiggish rhetoric claiming the right to public discussion or meeting as protected by the 1689 Bill of Rights. Whether this was deeply felt ideology or more tactical in speaking parliamentary language to convince, it nevertheless entrenched the connection. For example, the Northumberland county meeting at Morpeth on 25 November 1795 unanimously passed three resolutions:

> I. That the Bill of Rights is an essential component part of that original contract between the King and People, recognized and confirmed at the aera of the Revolution.
> II. That the Freedom of Public Discussion and Petitioning for Redress of Grievances is one of the ancient, true and undoubted privileges of the People of England, ratified to them by the Bill of Rights.
> III. That any attempt, directly or indirectly, to restrain or curtail the Freedom of Public Discussion is a violation of the Constitution, has a tendency to annul the Bill of Rights, and thereby to break the original contract between King and People.[22]

The 1817 and 1819 Seditious Meetings Acts, and the debates about the legality of the Manchester meeting that became the Peterloo Massacre, sought to draw a line between the officially called public meeting and the mass platform rally. The ultra-loyalist reaction to Peterloo was expressed in *An Inquiry into the Law Relative to Public Assemblies of the People* by Sir Codrington Edmund Carrington, chair of Buckinghamshire Quarter Sessions. Carrington melodramatically questioned the right of the people to use acclamation and consent to form a public meeting rather than go through the official channels of the requisition to the respectable local elites:

> A Right, it seems, is claimed and exercised by those who style themselves Radical Reformers, to assemble the people, by *public* notification, upon any *public* occasion, at any time, in any place, and in any numbers; and to propose such subjects of petition, remonstrance, deliberation, or

[21] T. M. Parssinen; 'Association, Convention and Anti-Parliament in British Radical Politics, 1771–1848', *English Historical Review*, 88 (1973), 504–33.

[22] *The History of Two Acts* (1796), 300.

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> resolution, to the *acclamation and consent* of the assemblage thus brought together, as they may think fit.
>
> In a country governed by law, with a Representative Body to watch over the interests of the people, have the Demagogues of the present day the right they so loudly assert, and so perilously exercise?[23]

By the time of the emergence of the Chartist movement in the late 1830s, the idea of the right was well established in radical discourse. William Lovett, secretary of the Chartist National Convention, was arrested and tried for seditious libel for his participation in the Bull Ring mass meeting in Birmingham in July 1839. At his trial, Lovett made an impassioned speech to the jury, proclaiming: 'an illegal and unconstitutional attack has been made on the right of public meeting; and be it remembered this right is broadly admitted and generally established by the fact of petitions emanating from such meetings being recognised by the legislature'. The counter-argument by the prosecution focused on the definitions set by the older seditious meetings legislation and common law: 'the meetings in the Bull Ring ... were not constitutional meetings; but tumultuous assemblies. The magistrates interfered with these meetings because they were called upon by the peaceable inhabitants to put them down.'[24] As crowds became more orderly and peaceful, authorities came to look upon the assembly itself – rather than its violence or seditious words – as the crime. The Seditious Meetings Acts, or more specifically trials of radicals arrested at mass demonstrations, had set the precedent that public meetings were seditious if they were judged by magistrates to cause 'terror to the respectable inhabitants'. Royal proclamations were issued against Chartist torchlit processions and meetings in the winter of 1838–9, but once they had expired, no further legislation was passed directly against political meetings. The somewhat amorphous and clearly class-based yardstick of fear among the well-to-do, whether the gathering was orderly or not, gradually replaced the more difficult-to-prove seditious libel spoken on the hustings as the reason given by authorities to refuse permission for mass meetings before they occurred and to disperse them by force if they took place.[25] Political meetings became a matter of local public order rather than national threats of sedition. This definition continued right through the nineteenth century. For example, in 1890 the Northampton magistrates sought to prevent a temperance meeting in the market square: their justification lay in a definition laid out by the Commissioners on the Criminal Code Bill of 1879: 'an assembly may be unlawful if it causes persons in the neighbourhood to fear that it will needlessly and without reasonable occasion provoke others to disturb the peace tumultuously'.[26]

[23] C. E. Carrington, *An Inquiry into the Law Relative to Public Assemblies of the People* (1819), 5, emphasis in original.

[24] *The Trial of W. Lovett ... for a Seditious Libel; ... at the Assizes at Warwick, the 6th of August, 1839*, 2nd edn (1839), 18.

[25] Lobban, 'From Seditious Libel to Unlawful Assembly', 345.

[26] *Return to an Address of the House of Commons*, 4 December 1890. Durham University Library, Earl Grey pamphlets collection: *Hansard*, HC Deb. 24 Jun. 1890, vol. 345, cc. 1807–21, https://api.parliament.uk/historic-hansard/commons/1890/jun/24/motionfor-adjournment.

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The term 'right of public meeting' did not register regularly in parliamentary debates again until the 1866–7 Second Reform Bill. Radical movements continued to quote the constitutionalist idiom. As Antony Taylor has pointed out in his study of the reform agitation of 1866, most radicals preferred to employ the more elastic and less provable tropes of Anglo-Saxon freedoms rather than follow Reform League leader and lawyer Edmond Beales's more intensive approach of forensically challenging the specifics of the by-laws and current legislation that prevented them from meeting in Hyde Park.[27] With a couple of intervening peaks around the Fenian disturbances in Ireland in 1871 and 1882, the largest number of speeches debating or prominently mentioning 'the right of public meeting' took place in 1888 (forty-four in total), as did the greatest frequency of use of the term in debates. The Social Democratic Federation (SDF)'s challenge over the use of Trafalgar Square and other sites in the capital in the 1880s led to a proliferation of debate, publications, trials and legal judgements on whether the right of public meeting existed or had precedents.

London plays a central part in these debates and their historiography, particularly in the 1860s to 1880s.[28] The spaces of Trafalgar Square and Hyde Park naturally attract attention because they were the subjects of key parliamentary debates, legislation and policing. London's popular politics was unique spatially because of its direct connection to the centre of power. The Metropolitan police and special constables were under the centralised direction of the Home Office, unlike the systems of lord lieutenants and county constabularies outside the capital. Chartism in the 1840s and the Reform League in 1866–7, as Taylor points out, 'thus directly confronted the apparatus of central government in the seat of its authority'.[29] There were two key turning points in the London situation. First, an Act of 1877 authorised the Metropolitan Board of Works to control and manage parks and commons, and make by-laws, including against public meetings.[30] Second, the appointment of Sir Charles Warren as Metropolitan police commissioner in 1886 gave rise to a more militaristic form of policing, part of which was the enforcement of a ban on public meetings in Trafalgar Square, leading to what became known as the Bloody Sunday attack on the socialists in November 1887. The radical agitation in the capital was strongly confrontational. The socialists in particular sought to make these contests into class conflict rather than sticking to polite liberal discourse. Magna Carta or the Bill of Rights were hardly if at all cited in these debates, though Liberals regularly referred to the more generic 'constitution' in defending the right of meeting.

[27] Taylor, 'Commons Stealers', 390.

[28] L. Keller, *Triumph of Order: Democracy and Public Space in New York and London* (New York, 2010); I. Channing, *The Police and the Expansion of Public Order Law in Britain, 1829–2012* (2017); H. Awcock, 'The Geographies of Protest and Public Space in Mid-Nineteenth-Century London: The Hyde Park Railings Affair', *Historical Geography*, 47 (2019), 194–217; A. Davin, 'Socialist Infidels and Messengers of Light: Street Preaching and Debate in Mid-19th Century London', in *The Streets of London: From the Great Fire to the Great Stink*, ed. Tim Hitchcock and Heather Shore (2003), 165–71.

[29] Taylor, 'Commons Stealers', 387.

[30] Keller, *Triumph of Order*, 106.

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The parliamentary response to the socialist and labour disturbances of the 1880s sought to define the status of public meetings once and for all, alongside more specific legislation relating to responsibility for managing public order in Trafalgar Square. Cunninghame Graham, the Liberal-turned-socialist MP for North West Lanarkshire, was one of those arrested for unlawful assembly in Trafalgar Square on Bloody Sunday. Upon his release from prison, he introduced the Public Meetings in Open Spaces Bill in the House of Commons on 13 July 1888.[31] The bill proposed an absolute and inalienable right of public meeting in open spaces that had been used for at least twenty years for that purpose. The local authorities could regulate such meetings in the spaces they controlled, but they could not be 'in restraint or prohibition of the general right of public meeting or freedom of speech'. The bill therefore was intended to be the first piece of legislation to actively recognise a general right of public meeting. It also associated it indelibly with another claimed right, that of freedom of speech.

The 1888 Public Meetings and the Trafalgar Square (Regulation of Meetings) bills failed to pass into legislation. The somewhat convoluted parliamentary debates about them also failed to resolve the question of the right of public meeting.[32] The result was that, rather than finally having definitive legislative guidelines on such rights, the police and local authorities were left on the ground 'using ambiguous and ill-defined powers under the breach of the peace doctrine' to marshal public assemblies.[33] This foregrounds a key point about the period from 1839 onwards, the reliance of the government on local authorities and delegating the decision-making on the ground to magistrates and chief constables of police, until 1908.

Contesting meeting sites

In a Commons debate of 12 May 1887, James Stuart, Liberal MP for Shoreditch-Hoxton in East London, was unsympathetic to the socialists' claims but attributed the problem of disturbances over the right of meeting to the fact that:

> There is no town in England so badly off in regard to facilities for the holding of public meetings as London. Take Bradford with its great St George's Hall, capable of holding 5000 or 6000 persons and used as a large meeting place for the people of that town. Go to the East End of London and you'll find that probably the biggest hall is that of Shoreditch, which is only capable of containing 2000 persons.[34]

[31] *Hansard*, HC Deb., 13 July 1888, vol. 328, c. 1350, https://api.parliament.uk/historic-hansard/commons/1888/jul/13/public-meetings-in-open-spaces-bill, Channing, *The Police and the Expansion of Public Order Law*, 121. The bill was preceded by an attempt to establish the right at common law, with a challenge by Edward Lewis, solicitor, to the Metropolitan police commissioner's prohibition: Ex Parte Lewis 1888 21 QBD 191.

[32] Keller, *Triumph of Order*, 136.

[33] Channing, *The Police and the Expansion of Public Order Law*, 122.

[34] *Hansard*, HC Deb., 12 May 1887, vol. 314, cc. 1746–70, https://api.parliament.uk/historic-hansard/commons/1887/may/12/public-meetings-metropolis-socialist.

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The atheist Liberal MP for Northampton, Charles Bradlaugh, had made the same point in his article, 'On the Right of Public Meeting', in Annie Besant's freethought journal *Our Corner* in 1885.[35] In the debate on 'public meetings in the metropolis' on 1 March 1888, Lord Charles Russell, MP for Hackney South and Attorney General and Irish Home Ruler, repeated the point again, and advocated that the state should provide a dedicated and independent space or hall for political public meetings for Londoners.[36] That somewhat utopian idea obviously never came to fruition, but it is intriguing that it was proposed as a solution by the Gladstonian Liberals. In their studies of the socialist agitation of the 1880s, Edward Royle and Antony Taylor pointed to the spatial restrictions in the capital compared with industrial cities in the north, and reiterated Russell's and Bradlaugh's laments about the greater opportunity for public meeting outside the capital.[37]

Contests over the right to use public spaces and civic buildings for political meetings continued in most towns across Britain throughout the long nineteenth century. And Stuart's claims about Bradford do not entirely hold true. During the Manningham Mills woollen workers' strike of 1891, a monumental event in trade union history, strikers were allowed to hold rallies in St George's Hall, but not in the town hall, where 150 police were then stationed to prevent them assembling. In April 1891, a demonstration of around 6,000 people was held in Peckover Walks, a heavily populated street, to protest against the police authorities 'in their stringent regulations in regard to the public buildings of the town, and demands facilities for a free expression of opinion on all questions affecting the welfare of society'. A socialist town councillor brought a charge of assault against two policemen who had arrested him at Peckover Walks, but the magistrates dismissed the case, as 'they did not consider it necessary to decide whether the ground in question was a place on which there was a right of public meeting. Whether it was a highway or not, it was undoubtedly a place of public resort and the plaintiff was causing an obstruction by attempting to hold a meeting'.[38] Groups such as the unemployed, who could not afford to hire St George's Hall, met on a piece of waste ground on Morley Street, known locally as the Forum. In 1913, a man was prosecuted for obstruction on Great Horton Street nearby, and during the case the defence lawyer asked the magistrates to provide a legal site for open-air meetings, which reflected the continuing struggle, despite Stuart's and Bradlaugh's earlier claims about socialists' easy access to sites.[39]

A case study of Sheffield similarly illustrates the integral part that political meetings played in popular politics throughout the long nineteenth century, and the contested spaces in which the right was claimed. Records of 550 political meetings from 1788 to 1936 were text-mined and manually extracted

[35] C. Bradlaugh, 'On the Right of Public Meeting', *Our Corner*, 1 Nov. 1885, 258.

[36] *Hansard*, HC Deb., 1 Mar. 1888, vol. 322, c. 1880, https://api.parliament.uk/historic-hansard/commons/1888/mar/01/public-meetings-in-the-metropolis.

[37] E. Royle, *Radicals, Secularists and Republicans: Popular Freethought in Britain, 1866–1915* (Manchester, 1980), 285; Taylor, 'Commons-Stealers', 398.

[38] *Bradford Daily Telegraph*, 2 Mar. 1891; *Huddersfield Chronicle*, 16 Apr. 1891.

[39] *Shipley Times*, 3 Oct. 1913.

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from a range of local and political newspapers, Home Office papers and council minutes.[40] Public meetings went on pretty much constantly throughout the nineteenth century. There was a peak during the Chartist agitation: 150 gatherings were conducted under the format of a public meeting (chair, requisition, resolutions) between 1839 and 1848. Twenty per cent of all the meetings were officially called by requisition and agreed by the master cutler, or mayor after the 1843 incorporation of local government. Seven and a half per cent were disallowed or prohibited by the authorities, and the status of the rest is unclear. The growing allowance of meetings held by advertisement or acclamation influenced the pattern. Requesting to the mayor to personally chair or convene the meeting, being refused, but proceeding because the authorities had not explicitly prohibited it from going ahead under other advertisement/chairing, were essentially the main narrative for most public meetings. The process of request, refusal and acclamation was almost ritualised in its frequency.

Only 18 per cent of the meetings were recorded as resulting in a petition or address. This finding tempers the conclusions of Richard Huzzey and Henry Miller about the centrality of petitions in nineteenth-century popular politics. It also challenges Tilly's progression thesis that contentious gatherings became predominantly centred on direct communication with Parliament.[41] Many public meetings were not aimed at effecting direct change in Parliament, and still sought either local redress, or were aimed at raising awareness and funds for international causes. For example, a public meeting at Sheffield Music Hall in September 1832 passed resolutions in support of the Polish nation and an address to the king calling on him to influence the Russian emperor to stop the cruelties against Poland; the meeting was led by Count Plater, 'a distinguished Polish nobleman'.[42] There were many meetings on the Eastern Question in the 1850s, convened by the political parties but where large numbers of varying opinions were represented.[43] Home Rule dominated the debates in the 1880s.[44]

Most open-air meetings of all kinds were held in Paradise Square. Its multi-party use was one of the more unusual features of Sheffield spatial politics compared with other industrial cities such as Manchester, where meetings were more geographically segregated between different civic sites. At a mass meeting in April 1848, Isaac Ironside, the firebrand Chartist and socialist local councillor, from the steps of the Freemasons' Hall on one side of the square, declared, 'this flight of steps belongs to the people – that this square

[40] Sources include: *Northern Star*; *Sheffield Times*; *Sheffield Register*; *Sheffield Iris*; *Sheffield Independent*; *Leeds Mercury*; *Peeps into the Past: Being Passages from the Diary of Thomas Asline Ward* (Sheffield, 1909); Home Office correspondence, 1791–1848, TNA, HO 40, 42, 52. Full database and sources available at https://historyofpublicspace.uk/political-meetings-mapper-2/political-meetings-in-sheffield.

[41] Huzzey and Miller, 'Petitions, Parliament and Political Culture'; Tilly, 'The Rise of the Public Meeting'.

[42] *Sheffield Independent*, 8 Sept. 1832.

[43] *Ibid.*, 1 Feb. 1851; *Halifax Courier*, 14 Jan. 1854.

[44] *Sheffield Daily Telegraph*, 3 Jan. 1888, 7 Feb. 1889.

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belongs to the people'.[45] The square did not belong to the people: it was owned by the trustees of the Shrewsbury Hospital. Permission to use the square for meetings was required from the master cutler of the Cutlers' Guild, who dominated the local government of the town. Debates were less over the right of public meeting and more over its definition and who constituted and convened it. Party political tensions within the local elites, notably over the incorporation of the town, also shaped the occurrence of events. During the election of 1852, the *Sheffield Independent* commented on the difference between indoor and outdoor public meetings. Paradise Square was regarded as more open because a 'certain set' could not dominate the hosting of the meeting.[46] The square was the venue for Reform League demonstrations in 1867 and rallies of the unemployed in the 1880s.[47] The continued contests over the square show that middle-class disciplining and regulation of civic spaces in industrial cities was never accomplished, and indeed was rather encouraged by a party political system responding to the expanding franchise. In 1884, the Liberal Association requisitioned the mayor for a public meeting in Paradise Square to debate the County Franchise Bill. The mayor

> expressed his willingness to call a public meeting, but pointed out that Saturday afternoon was a most unsuitable day for a mass meeting in Paradise Square. In the first place, there were many shopkeepers and tradespeople of all kinds who could not possibly leave their places of business on a Saturday afternoon. Working men themselves might reasonably object to Saturday afternoon, when they usually went into the country on fishing and other expeditions, while a very large number were engaged with their wives attending to their shopping and other purposes. He supposed the requisitionists really desired to have a representative gathering – in fact, a town's meeting – and he therefore suggested that they should not select Saturday.

The mayor thus made the distinction between a public meeting and a truly 'representative' town's meeting. The Liberals debated the date but decided to hold it on Saturday regardless.[48]

The notion of public space being created through custom and usage became part of the justification for the right to public meetings in those sites. In July 1907, the *Sheffield Telegraph* ran an editorial, 'Paradise Square – is it a public meeting place?' reporting on conflict over who had the right to use the space. The Wesleyan Methodist Central Mission had been holding Sunday evening meetings in the square since 1906. In July 1907 they sought to hold an anti-gambling demonstration, and confusion arose over who owned the square and whether the meeting had been prohibited. The Shrewsbury Hospital trustees objected to the holding of the demonstration. The newspaper noted, 'meetings

[45] *Sheffield Independent*, 11 Apr. 1848.
[46] *Ibid.*, 10 April 1852.
[47] *Ibid.*, 7 May 1867; *Sheffield Daily Telegraph*, 16 Feb. 1886.
[48] *Sheffield Daily Telegraph*, 29 Mar. 1884.

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of the Labour Party were similarly objected to and stopped some time ago'.[49] As with many privately owned urban areas, the common assumption arose that they were public spaces because they had historically been used for public meetings. The newspaper noted that because of this long history, 'people have got into the habit of referring to the place as if it were the public forum of the town'. But it warned, 'such meetings have been held in Paradise Square by permission and not as of public right. No right was ever acquired even by what the lawyers call long "user" for the very good reason that at least all the formal public gatherings held in the Square were the subject of a money payment to the trustees for the owners'. The Trustees had initially prohibited public meetings in the square, but this had been less of an issue due to falling demand for its use: 'One possible reason which we have heard alleged is the fact that after the electoral reform of 1884 political activity in Sheffield was decentralised. Each division has its own affairs to look after.'[50] This was not quite the full picture: although radicals used other spaces, the square continued to be used particularly for Conservative meetings. The newspaper noted the political shift in 1886: 'since the square ceased to be Radical and became Conservative it has been discovered ... that the "old forum" cannot afford room for more than 10,000'.[51] Hence the revival of public gatherings by the Methodists in 1906 was a novelty and caused conflict with the respectable occupants of the square who had not previously had to deal with the inconvenience.

Two paradoxes of common rights

From the 1860s onwards the right to public meeting was increasingly combined with or contradicted by two other established rights: the right to air and exercise in public spaces, and the right of free passage along the highway. These are what I term the 'parks paradox' and the 'highway paradox'. Edmond Beales's challenge to use Hyde Park before the Reform League riots was discussed in the conservative *Sheffield Independent* in 1864. The editor noted:

> Nobody wants to interfere with the right of Mr Beales's 'people' to hold open-air meetings; but unfortunately Mr Beales's 'people' want, or at least he says they do, to interfere with the rights of the people in general in the Parks. Unless listening to a speech of Mr Beales's can be fairly described as public recreation, the Parks are not kept up for him to address meetings in.[52]

This tension between liberties and rights came to frame the contests over use of open spaces well into the twentieth century.

[49] *Ibid.*, 23 July 1907.
[50] *Ibid.*, 23 July 1907.
[51] *Ibid.*, 20 Apr. 1886.
[52] *Sheffield Independent*, 17 May 1864.

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The Victorian public parks movement was in part a philanthropic endeavour to preserve access to open spaces, but also enacted a form of enclosure and regulation of behaviour.[53] Emparkment immediately meant more restrictions on use through by-laws and internal policing by wardens. Kennington Common in London was enclosed and laid out as a park in 1852–3, likely as an indirect reaction to the mass Chartist demonstration there on 10 April 1848. All political gatherings were thereby against park regulations.[54] The royal parks prohibited political meetings, leading to the Reform League's agitation in 1866. The 1872 Parks Regulation Act reinforced the ban. In 1880, the indomitable agitator and commons preservationist John de Morgan led the legal challenge against the Metropolitan Board of Works's new powers to enforce by-laws against political meetings in their parks and commons.[55] Corporations and councils across the country quickly followed suit with their own by-laws and amendments to park regulations, although the extent was varied in that some chose to ban meetings entirely while others set out a process of requiring permission.[56] The parks issue therefore, through de Morgan in particular, became indelibly linked with access and free speech and the working-class movement against the enclosure of the last of the metropolitan commons and open spaces across the country.[57] The demonstrators, pulling up the newly laid railings, employed modes of resistance that do not fit the political schema of either Tilly's progression thesis or the new political history's emphasis on the dominance of liberalism in mid-Victorian popular politics. A compromise was enacted in the London parks in 1925, with specific sites being allocated for meetings. Public meetings at Kennington Park were relegated, however, to a spot outside the boundaries of the main park, on a small triangle of ground between the tramlines.[58] The local authorities realised that allowing the socialists and other groups to meet on the symbolic site of the Chartist meeting would be too incendiary.

Outside London, the Boggart Hole Clough case in Manchester was the most politicised and well-known contest over the parks, owing to the national attention drawn to the case by Keir Hardie and the Independent Labour Party (ILP). In 1895 the Manchester Corporation parks committee purchased Boggart Hole Clough, a wooded valley to the north of the city. Under an earlier by-law against nuisance, the council immediately prohibited the holding of public meetings there, and charged local ILP speakers with annoyance at the police court. Large demonstrations ensued, including a gathering of up to 50,000

[53] C. O'Reilly, *The Greening of the City: Urban Parks and Public Leisure 1840–1939* (2019).

[54] *The Era*, 22 Aug. 1852; Taylor, 'Commons-Stealers', 399.

[55] De Morgan v Metropolitan Board of Works, 1880 5 QBD 155.

[56] *The Clarion*, 18 July 1896, listed the councils that had prohibited public meetings in their parks, including Manchester, Salford, Liverpool and Birmingham.

[57] Taylor, 'Commons-Stealers', 401; M. Gorman, *Saving the People's Forest: Open Spaces, Enclosure and Popular Protest in Mid-Victorian London* (Hatfield, 2020); N. MacMaster, 'The Battle for Mousehold Heath, 1857–1884: Popular Politics and the Victorian Public Park', *Past & Present*, 127 (1990), 117–54.

[58] Plans of public meeting sites, 1938, London Metropolitan Archives (LMA), London County Council Parks Committee papers, LCC/PP/PK/053.

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people to hear national ILP leader Ben Tillett in the park on 19 July 1896.[59] The legal cause against the corporation was taken up by a cross-labour alliance of ILP, socialists and the trades council. The contest was widely exploited by the labour movement for propaganda purposes. Keir Hardie summarised the challenge to use the park as 'a question of the rights of the citizen against the rights of the persons elected to do the business of the citizens'. Peter Gurney's study of the conflict followed Patrick Joyce's interpretation that this language represented populism.[60] I argue rather that it marked a distinctive working-class challenge to class relations and representation in both local and national government at a time of heightened class tensions.

Public parks were laid out later in Sheffield than elsewhere. The corporation allowed public meetings in its other parks, but only upon application. It was not until relatively late therefore that the SDF used the parks in Sheffield as their battleground.[61] During the 1908–9 election campaign, several SDF orators, including women, were arrested and fined for delivering public addresses in the parks.[62] *Justice*, the SDF newspaper, actively called for volunteers to break the by-laws by giving speeches. In July 1908, for example, Daisy Halling spoke in High Hazels Park, to a crowd that the newspaper alleged was about 8,000 people, and she was later charged and fined £3 at the police court.[63] A *Justice* editorial commented (in a reversal of Russell and Bradlaugh's earlier claims about London) that the conflict took place in

> Metropolitan Parks, at Peckham Rye, the World's End, Dod Street and innumerable other places where we fought and won the right of free speech and of public meeting. We do not claim either that we have any right to cause an obstruction or to make ourselves a nuisance to anybody. But there is no more reason why meetings should not be held in the Sheffield parks than there is why they should not be held in similar places in London.[64]

Notably the contests were framed as being over 'free speech' more than the right of public meeting. In 1910 a new Parks Committee was formed by Sheffield Corporation. Applications for use of the parks were submitted regularly by labour and trades groups, socialists and the Women's Social and Political Union (WSPU), and most but not all were approved.[65] Free speech was also the cry of the SDF in the other battle over public space for use of public meetings, over the use of the streets. This issue became crucial as the form and sites of public meetings shifted by the later nineteenth century. Excluded from the parks by by-laws and from public halls by costly hire charges,

[59] P. Gurney, 'The Politics of Public Space in Manchester, 1896–1919', *Manchester Region History Review*, 11 (1997), 12–23, at 13.

[60] Gurney, 'The Politics of Public Space', 15; *Manchester Guardian*, 4 July 1896.

[61] *Labour Leader*, 3 July 1908.

[62] *Justice*, 20 June 1908.

[63] *Ibid.*, 4 and 25 July 1908.

[64] *Ibid.*, 27 June 1908

[65] Parks Committee minutes, 1910–29, Sheffield Archives, CA 981/1/1/1.

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socialists, trades and unemployed groups used street corners as their meeting sites from the 1880s onwards.

The shift towards police using the common law offence of obstruction against protest assemblies was evident by the 1830s, when the secularist bookseller Richard Carlile was prosecuted for attracting large crowds outside his bookshop.[66] The 1835 Highways Act, section 72, gave police an extra tool for enforcing the right of free passage against obstruction. The number of tried cases does not represent the frequency of the use of obstruction, because the majority of cases were unreported, being tried at petty sessions, or did not reach court at all, simply being used by police to disperse a street activity.[67] The legal opinion on Carlile's prosecution also instigated a distinction between stationary and moving crowds, which was to become even more significant as the century went on and processions were privileged above static assemblies on the street and highway.

In August 1843, Thomas Duncombe, radical MP for Finsbury, brought a motion before the House of Commons regarding a petition presented to Parliament by Chartists in Hull complaining about the actions of the police. The magistrates justified using police to disperse a Chartist meeting in the marketplace by arguing it was an obstruction of the highway under the 1835 Highways Act. Duncombe declared that the charge of obstruction was 'impossible, because the meeting took place in the market-place, where he understood meetings had frequently been held so late ago as 1842, when the Right Honourable Baronet (Sir Robert Peel) was carrying the Corn Bill through the house'. Sir James Graham ordered the Hull authorities to conduct an inquiry, but argued that although 'he was not disposed, on light grounds, to interfere with popular meetings', it was an obstruction because 'the market place was a square on which four streets abutted and ... was completely obstructed'.[68] In the later contests over the use of Trafalgar Square, the space was legally classified as a right of way, not a square. Court judgements on Cunninghame Graham after his participation in the Bloody Sunday disturbances in 1887 determined that, under the Trafalgar Square Act 1844, the square was a thoroughfare and therefore the police were right to clear obstructions, though the police commissioner's permanent ban on meetings in the square was not valid.[69]

The SDF now moved from squares to the street. Fining the SDF and other groups for holding lectures and meetings on street corners and in unlicensed halls became an increasingly common option for police and magistrates.[70] Dod Street in Limehouse in the East End was the key site of contest, with thousands of people assembling on the pavements, but there are significant examples from almost every town in Britain from the 1880s to 1914. Joseph Chatterton, the socialist electoral candidate for West Leeds, and two other SDF members were

[66] *Morning Post*, 18 Dec. 1834.
[67] Vorspan, 'Freedom of Assembly', 936.
[68] *London Evening Standard*, 5 Aug. 1843.
[69] Vorspan, 'Freedom of Assembly', 972.
[70] Royle, *Radicals, Secularists and Republicans*, 284–5.

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tried for lecturing in the marketplace of Longton, Staffordshire, in September 1897.[71] Colne, Lancashire, saw a wave of cases against SDF speakers in 1894, the majority of which, however, were dismissed: 'the police have given the assurance that our comrades shall not be interfered with anywhere in Colne if they will keep off the side-walks'.[72] Questions were raised as to whether lecturers could obstruct a square as well as a highway, as at Trafalgar Square. In Birmingham, in 1908, the treasurer of the Unemployed Association was charged with obstruction for addressing a meeting in Chamberlain Square, the main civic area outside the town hall.[73] In Sheffield, local debate in 1905 centred on whether political and trades groups could continue to use the Monolith, a monument that had been erected for Queen Victoria for the 1877 Jubilee. As with the parks, the contest was framed in terms of free speech.[74] In early 1914, Sheffield city council prohibited the public meetings that had regularly been held at the Queen's Monument, ostensibly on safety grounds because of increased traffic. The decision was opposed by all the major activist groups – the Sheffield Trades and Labour Council, ILP, Socialists, Fabians, WSPU and Women's Labour League – who organised a mass procession and demonstration in March 1914.[75]

The offence of obstruction of the highway was used by the police against public gatherings for several reasons. It allowed the police wide discretionary powers within a vague and malleable concept, unlike previous specific definitions of open-air public meetings that the Seditious Meetings legislation had sought, and failed, to prevent. Moreover, it enabled the authorities to claim they were defending the common right of free passage, rather than discriminating against specific groups or behaviour.[76] Nuisance and annoyance are a key framework for understanding the reach, and attempts at urban ordering, of the later nineteenth-century state. Policing historians David Churchill and Christopher Hamlin have challenged older-established portrayals of Benthamite liberal governance of of the Victorian city. Rather than the Foucaudian channels of power that Joyce and Chris Otter saw as inherent in institutions of civic improvement and policing, they argue rather that liberal governance was patchy and incomplete within and between cities.[77] A key concern of all the debates, particularly over the use of public and civic space, was with the protection of private property. The role of property owners and ratepayers in defending their property was paramount, as opposed to the parallel emphasis on freedom to use the public highway.

Charles Bradlaugh, freethinker and instigator of much of the parliamentary debate about the right of meeting, naturally blamed the Salvation Army for fomenting the problem, in a piece in *Our Corner* in 1885:

[71] *Sheffield Evening Telegraph*, 3 Sept. 1897.
[72] *Justice*, 11 Aug. 1894.
[73] *Staffordshire Sentinel*, 14 Jan. 1908.
[74] *Sheffield Daily Telegraph*, 9 Feb. 1905.
[75] *Ibid.*, 9 Mar. 1914.
[76] Vorspan, 'Freedom of Assembly', 935.
[77] Churchill, *Crime Control and Everyday Life*, 100; Hamlin, 'Nuisances and Community'; A. Croll, 'Street Disorder, Surveillance and Shame: Regulating Behaviour in the Public Spaces of the Late Victorian British Town', *Social History*, 24 (1999), 250–68.

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> At street corners, religious bodies, Temperance advocates, Freethought speakers and others have for some 30 or 40 years habitually conducted their propaganda in the metropolis. The difficulties created by riotous opposition have been of late years enhanced by the outrageous proceedings of the Salvation Army.[78]

Precedents were set by legal cases involving the Salvation Army, whose parades were harassed by publicans' anti-temperance Skeleton Army in many towns, particularly on the south coast. An attack on a Salvation Army march at Weston-super-Mare, Somerset, resulted in a precedent-making legal case, Beatty versus Gillbanks in 1882, which authorized the processions to go ahead and the police to protect them against interruption.[79] These contests took place within a wider context of increasing regulation of street spaces. By the 1880s, proliferating regulations and by-laws controlled the way in which thoroughfares were used, by excluding sex workers, vagrants and other people regarded as undesirables, and keeping public spaces free from obstruction and dirt and other forms of pollution. As Constance Bantman's study of the policing of anarchists in London in the 1880s has shown, in this context political protest was recast as antisocial behaviour.[80] For example, in 1880, the shopkeepers of Westbar, Sheffield, complained to the town council about the state of the water pump. In the council debate, Mr Binney noted,

> he passed the pump several times on Sundays and there were a lot of idle characters assembled there. He believed the only useful purpose of the steps was as a platform for addressing the public. A chair would attain the same object and there would no longer be a standing nuisance.

Mr Bromley said 'it was not desirable in a thoroughfare like Westbar to have gatherings of a public character. Paradise Square was close by and was far more convenient.'[81] The result of these cases was that, firstly, marches and processions were increasingly distinguished from public meetings as separate, and secondly, there was more precedent for marches, as exercise of the right of passage along a highway deserved legal protection.

The public order acts

By the turn of the twentieth century, the emergence of new political movements using militant tactics raised different issues with regard to the right of assembly. The Salvation Army, and even the SDF, had been an easy target for police, but they were classed as a local public order problem rather than representing a threat to overturn the system. The militant activism of

[78] C. Bradlaugh, 'On the Right of Public Meeting', *Our Corner*, 1 Nov. 1885, 285.

[79] Vorspan, 'Freedom of Assembly', 950; Beatty v Gillbanks (1882) 9 QBD 308.

[80] C. Bantman, 'Anarchists, Authorities and the Battle for Public Space, 1880–1914: Recasting Political Protest as Antisocial Behaviour', in *Anti-Social Behaviour: Victorian and Contemporary Perspectives*, ed. S. Pickard (Basingstoke, 2014), 65–76, at 66.

[81] *Sheffield Daily Telegraph*, 15 Jan. 1880.

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suffragettes, however, went much further than the street demonstrations of the socialists and trades unions.[82] Later, in the 1930s, the emergence of the fascist movement, with its provocative marching and large rallies, also stretched the capacities of the police and pointed to the need for new legislation, not least to deal with incitement to racist violence. The right of public meeting was tested to the limits of the law. This final section examines the background to the Public Order Acts in response to these movements' occupation of public space for meetings and demonstrations.

The WSPU developed the specifically disruptive tactics of interrupting public meetings and heckling speakers, which were countered by arrests for obstruction.[83] During Winston Churchill's election tour of northern England in December 1909, the suffragettes attempted to gain access to his public meetings. WSPU newspaper *Votes for Women* editorialised:

> The protests have been based on certain principles. If the women are allowed into the meetings, there to raise relevant issues, as Miss Dora Marsden did at Southport or to put questions, like Miss Gawthorpe at Manchester, then extreme measures of protest are not taken; but if the women are not allowed to make their protest by word of mouth, then other methods have to be brought into use. In Preston, for instance, no woman was allowed into the Public Hall … hence local protesters attempted to address a meeting of protest outside the Public Hall, and for taking part in this three women were arrested.[84]

Rachel Vorspan notes how the novelty of the suffragette agitation in the history of obstruction law lay in their adoption of picketing, usually an industrial tactic, as a stationary street protest, especially outside the House of Commons. The government and courts treated picketing as functionally equivalent to a street meeting. The extension of public meeting to encompass picketing thus allowed 'the doctrine to expand to serve the government's interests'.[85]

The Public Meeting Bill was presented to Parliament in December 1908, by Conservative MP Lord Robert Cecil. The bill sought to create an offence of disorderly conduct at a public meeting by anyone intending to prevent the transaction of business.[86] The response of the Liberals to it was mixed, and centred on whether the measure would defend free speech at meetings or suppress it. The

[82] H. Miller, 'The British Women's Suffrage Movement and the Practice of Petitioning, 1890–1914', *Historical Journal*, 64 (2021), 332–56; L. E. Nym Mayall, 'Defining Militancy: Radical Protest, the Constitutional Idiom, and Women's Suffrage in Britain, 1908–1909', *Journal of British Studies*, 39 (2000), 340–71.

[83] *Manchester Evening News*, 17 Oct. 1905; Channing, *The Police and the Expansion of Public Order Law*, 171.

[84] *Votes for Women*, 10 Dec. 1909.

[85] Vorspan, 'Freedom of Assembly', 990.

[86] Channing, *The Police and the Expansion of Public Order Law*, 171; *Hansard*, HC Deb., 19 Dec. 1908, vol. 198, cc. 2328–43, https://hansard.parliament.uk/Commons/1908-12-19/debates. Henry Miller notes that Cecil however later defended some suffragettes at trials for obstruction. See *Votes for Women*, 3 Dec. 1909, 147, trial of Evelina Haverfield and Emmeline Pankhurst.

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legislation marked a shift from the reluctance of nineteenth-century governments to pass specific legislation against particular protest groups in Britain, and their reliance on the discretion of local policing. The laws of obstruction were now seen as insufficiently effective against the perceived threat. The Public Meeting Act 1908 nevertheless did not solve the issue of the duties and actions of the police at such meetings, which varied across forces. The uncertainty led Liberal Unionist MP Austen Chamberlain to prevail on the home secretary to instigate a departmental committee. It concluded that it was unwise for the police to interfere with political meetings and therefore remained uncommitted to supporting legislation which would mandate them to do so.[87]

Following the First World War, rival meetings and marches held by the fascists and communists became the main public order issue of the day. The rise of the race question in the 1930s raised the necessity for more specific public order legislation against racially incited speech.[88] The battle of Cable Street between Jewish residents and police over the right claimed by Oswald Mosley's fascists to march through the East End of London in 1936 marked the peak of tensions, but again the government response was reactive rather than preventative. The 1936 Public Order Act, rushed through Parliament, enabled police to prohibit processions in advance, proscribed the wearing of political uniforms, and consolidated existing measures relating to threatening words and behaviour. However, it did not cover static public meetings.[89] Echoing earlier arguments, politicians in and out of government sought to use the legislation to protect political speakers and prevent organised public disruption of political meetings. The Act marked another reversal of attitudes towards processions compared with static meetings, the right to move compared with the right to assembly in one place. In April 1848, the Chartist mass meeting at Kennington Common had been allowed but the procession to Parliament was not; this was reversed by the 1880s and 1890s, with processions and parades by the Salvation Army and SDF being allowed, but not their gatherings on street corners, nor later the suffragette picketing outside public halls; the 1930s fascist and communist agitation led to new legislation specifically against marches and military-style drilling.

More problematic was the definition of public meetings held on private premises. The Committee on the Duties of the Police with respect to the Preservation of Order at Public Meetings 1909 noted, 'if a public building is hired or even lent to an association or other section of the public for the purposes of a meeting, it becomes in law for the time being a non public place'. This definition caused immense problems with the policing of Mosley's fascist rallies in the mid-1930s, notably at Earls Court, raising debates over whether the police had the right to enter and intervene.[90] The issue was not resolved

[87] *Departmental Committee on the Duties of the Police with Respect to the Preservation of Order at Public Meetings* (1909).

[88] J. Lawrence, 'Fascist Violence and the Politics of Public Order in Britain', *Historical Research*, 76 (2003), 238–67.

[89] Channing, *The Police and the Expansion of Public Order Law*, 139.

[90] *Ibid*., 92.

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until the amendments to the Public Order Act 1936 in 1967 in response to race riots and hooliganism, which sought to extend the definition of 'public place' to include indoor privately owned venues such as 'dance halls, coffee bars, cafes, cinemas and bingo halls'.[91] Yet though the public order legislation was national, it was always patchily implemented as it depended very much on the proclivities of the individual police force on the ground. There was always a tension between the letter of the law and its practical implementation.

The Criminal Justice and Public Order Acts of 1986 and 1994 were spatially discriminative, again centred on the ongoing issue of policing the right of free passage along the highway, rather than the right of assembly. The Conservative governments aimed the legislation at specific groups seen to be a threat to the state who were obstructing the roads and occupying private land with vehicles: striking workers on flying pickets during the miners' strike of 1984–5; Gypsies, Roma and Travellers; New Age travellers holding raves; and environmental protesters campaigning against road building. The Acts created an offence of aggravated trespass, and gave local authorities and the police stronger powers to prevent and turn away convoys of travellers on the roads and encampments on both public and private land. They encapsulated the fact that the right to free passage of the public took legal precedence over the right of assembly, and that the government and police defined which people constituted 'the public' and which groups were excluded from that definition.[92] The right of public assembly was not defined in statute until the 1998 Human Rights Act. Later parliamentary and public debates, such as those about the Metropolitan police order against the environmental activist group Extinction Rebellion holding protests in any area of London in 2019, government restrictions on public gatherings under emergency health regulations during the Covid pandemic in 2020, and the passage through Parliament of the Police, Crime, Sentencing and Courts Bill in 2021 have again highlighted the tensions between the right of public meeting and policing of public order.[93]

Conclusion

How does this narrative change our picture of political participation in England during the eighteenth and nineteenth centuries? The evidence for public meetings demonstrates not a dominant liberal elite closing down constitutional discourse, but rather the continuity of well-established and personal modes of communication and participation in the political process. The contests over public meetings indicate that popular politics did not wholly fit a model of civilising elites in the later nineteenth century, nor a Foucauldian framework positing that

[91] Public Order Act 1936 revisions to deal with hooliganism, 1967, TNA, Home Office files, HO 325/7.

[92] R. Card and R. Ward, 'Access to the Countryside: The Impact of the Criminal Justice and Public Order Act 1994', *Journal of Planning and Environmental Law*, 6 (1996), 447–62.

[93] House of Lords and House of Commons Joint Committee on Human Rights, *The Government Response to Covid-19: Freedom of Assembly and the Right to Protest, Thirteenth Report of Session 2019–21*, 17 March 2021, https://committees.parliament.uk/publications/5153/documents/50935/default; Police, Crime, Sentencing and Courts Bill, 2021, https://bills.parliament.uk/bills/2839.

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the Victorian state became so bureaucratised and controlling that it governed a 'society of strangers'.[94] Public meetings retained, and indeed were predicated on, personal party politics and direct challenges between activists and local elites who knew each other. The right of public meeting was defended as an integral constitutional right, firstly together with the right to petition, and then from the later nineteenth century onwards alongside the right of free speech. Working-class agency was more than evident in the setting-up of meetings, resolutions and counter-resolutions, and the creative development of a wider range of public meetings, including the convention and the 'mass platform' demonstration. The widening franchise sustained the vitality of public meetings and the demands for these rights. Though often conducted within a liberal discourse, this did not preclude genuine challenges to the system and other potentially more revolutionary forms of protest. London saw the most contests over public meetings and their sites that were debated in Parliament, but similar contests were enacted in every town across the country, and formed a crucial part of provincial political cultures, social hierarchies and local government.

The evolution of legislation and regulation regarding public meetings was often reactive in that it followed some perceived threat to the political elites, but it was patchy, and often left to the discretion of local officials. The state could never fully discipline or control its subjects, either through liberal governance or more repressive measures. The shift in policing to use of the common law of obstruction against meetings illustrated how local authorities and police pitted other rights against the demand for public assembly: the right of free passage along a highway, and of air and recreation in open spaces. This tension between different rights was exploited by police on the ground to provide them with discretion as a way of getting around official policy. The rights of property were spatialised in the defence of the right of free passage over the right of assembly. By the turn of the twentieth century, however, new threats of militant tactics and racial harassment by political groups necessitated specific public order legislation. Though this sought to protect certain types of public assembly and protest marches, the implementation and policing of public order was spatially discriminatory. The Home Office and police commissioners decided who formed the 'public' in public order and public space. The right of public meeting was left unresolved until the 1998 Human Rights Act and remains highly contested.

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[94] Huzzey and Miller, 'Petitions, Parliament and Political Culture', 128.

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