

8. SPECIAL COMMISSION PROCESSES AND OUTCOMES

Following the Special Commission various newspapers and commentators expressed views about the way in which the commission dealt with the cases brought before them:

- Issues were raised by the legal profession about the management of the prosecutions by county authorities and also the conflicts evident in the involvement of magistrates in the committal process and then later serving as grand jurors in the proceedings against the prisoners. These protests were silenced by the judges
- The cases tried at Wiltshire were very similar to those at Winchester; with batch after batch of boys and men in the prime of life brought up to the dock for a brief trial and sentence of exile. Such was the haste that in one case at least the prisoners appeared with the handcuffs still on their wrists which elicited a rebuke from the judge, and an excuse of overwork from the gaoler.
- At Salisbury, as at Winchester, evidence about distress and wages was ruled out by the judges whenever possible as it was when **Samuel Harford** and his co rioters were being tried. But some light was thrown incidentally in the course of the trials on the circumstances of the prisoners. Thus one of the Pyt House prisoners urged in his defense: *'My Lord, I found work very bad in my own parish for the last three years, and having a wife and three children to support I was glad to get work wherever I could get it. I had some work at a place four miles from my house.'* He then described how on his way to work he was met by the mob and forced to join them. *'It is a hard case with me, my Lord; I was glad to get work though I could earn only seven shillings per week, and it cost me a shilling a week for iron, so that I had only six shillings a week to support five persons.'*
- Evidence about the inciting the labourers by landowners was also ruled out. When six men were being prosecuted for breaking a threshing machine on the farm of Mr. Judd at Newton Toney, counsel for the defense started a cross-examination of the prosecutor designed to show that certain landowners in the parish had instigated the labourers but he was stopped by Mr. Justice Alderson, who declared that such an inquiry was not material to the issue, which was the guilt or innocence of the prisoners. If the prisoners were found guilty these circumstances would be laid before the court in mitigation of punishment. However strong the mitigating circumstances in this case were, the punishment was certainly not mitigated, for all six men were sentenced to the maximum penalty of seven years' transportation.
- The proportion of charges of extorting money was smaller at Salisbury than at Winchester, most of the indictments were for breaking machines only. In some instances the prosecution dropped the charge of robbery, thinking transportation for seven years a sufficient punishment for the offence. Three brothers were sentenced to death for taking half a crown. In this case the three brothers, William, Thomas, and John Legg, aged twenty-eight, twenty-one, and eighteen, had gone at midnight to the kitchen door of the house of Mrs. Montgomery, wife of a J.P., and asked the manservant for money or beer. The man gave them half a crown, and they thanked him civilly and went away.
- At Salisbury, as at Winchester, the fate of the victims depended largely on the character reference given to the prisoners by the local gentry. This was especially the case towards the end when justice began to tire, and a good many charges were dropped. As we have already seen, three of the prisoners tried with **Samuel** received good character references and avoided transportation.
- In Wiltshire, as in Hampshire, the judges were particularly severe to those prisoners who were not agricultural labourers and gave them harsher sentences for being involved in a matter that did not affect their livelihood.

- The special correspondent of *The Times* who had been present at Winchester made an interesting comparison between the Hampshire and the Wiltshire labourers on trial (8th January 1831). The Wiltshire labourers he described as more athletic in appearance and more hardy in manner. *'The prisoners here turn to the witnesses against them with a bold and confident air: cross-examine them, and contradict their answers, with a confidence and a want of common courtesy, in terms of which comparatively few instances occurred in the neighbouring county.'*

When the time came for the last scene in court there was no trace of the bold demeanour which had impressed *The Times* correspondent during the conduct of the trials. For the people of Wiltshire, like the people of Hampshire, were stunned by the crash and ruin of this catastrophic vengeance.

- Thirteen men were transported for seven years and one for fourteen years for breaking threshing machines on the day of the Pyt House riot. Mr. John Bennett was satisfied with this in addition to the man killed by the yeomanry, and refrained from prosecuting for the stones thrown at him. For this he later took great credit in the House of Commons.

One hundred and fifty-four men and boys were sentenced to transportation, thirty-three of them for life, the rest for seven or fourteen years, with little or no prospect of ever returning to their homes. Justice Alderson and his brother judges in so punishing the wild actions of the rioters were not passing sentence only on the men and boys before them, they were pronouncing a similar doom on wives and mothers and children and their children in every village on the Wiltshire Downs.¹ **Samuel** was a typical case with a wife and child who was only a few months old.

One man begged to be allowed to take his child, eight months old, into exile, for its mother had died in childbirth, and it would be left without kith or kin. He was told by the judge that he should have remembered this earlier.

The sentence of final separation on all these families and homes was received with a frenzy of consternation and grief, and the judges themselves were affected by the spectacle. *'Such a total prostration of the mental faculties by fear,'* wrote The Times correspondent, *'and such a terrible exhibition of anguish and despair, I never before witnessed in a Court of Justice. Immediately on the conclusion of this sentence a number of women, who were seated in court behind the prisoners, set up a dreadful shriek of lamentation. Some of them rushed forward to shake hands with the prisoners, and more than one voice was heard to exclaim, "Farewell, I shall never see you more."*

The work of the Special Commissions was now over. Lord Melbourne had explained in Parliament that they had been set up *'to expound the law'* and to bring home to the ignorant the gravity of their crimes against social order. It was clear that the poor did not know how severe the law against rioting and discontent was.

In these three weeks of riots, the only man who had been killed was a rioter, according to the reports of the time by a yeomanry soldier, but according to local tradition by a farmer, and for that offence he had been refused Christian burial.

On the other side, not a single person had been killed or seriously wounded. For these riots, apart from the cases of arson, for which six men or boys were hung, aristocratic justice exacted three lives, and the transportation of four hundred and fifty-seven men

¹ The Village Labourer JL and Barbara Hammond Chapter 11 p177

In all 1976 prisoners were tried by 90 courts in 34 counties for offences committed during the Swing Riots. The following summary of the sentences:²

Sentence	No.	% of Total Cases	Comments	Special Comm. No.	% of S.C. Cases	Wilts. No.	% of Total Wilts Cases	% of S C's Total Cases
Death	252	12.8%	233 were commuted to transportation Some to prison.	230	22.5%	52	15.4%	5.1%
Executed	19	0.96%		5	0.5%	1	0.3%	0.1%
Transportation	505	25.6%	Of these only 481 sailed	359	35.2%	152	44.8%	14.9%
Prison	644	32.6%		239	23.4%	47	13.9%	4.6%
Fined	7	0.4%		2	0.2%	-	-	-
Whipped	1	0.05%		1	100%	-	-	-
Acquitted or Bound over	800	40.5%		402	39.4%	139	41.0%	13.6%
TOTAL CASES	1,976			1,021	51.7% of Total	339	17.2% of Total	33.2% of SC Total

The conclusion from this analysis is that the Government was successful in increasing the severity of sentences. While the percentage of acquittals is about the same, the Special Commissions had a much higher proportion of sentences of Execution or Transportation some 58% compared with 38%. The offset to this greater number was a lesser number in the five Special Commission Counties being sent to prison.

So far as Wiltshire is concerned, the percentage of acquittals is a little higher by almost 2%. However, there was a substantially higher percentage of Wiltshire cases, almost 45% compared with 35% for the total of the five counties, which were sentenced to Transportation. This reflects the very different nature of the Wiltshire riots which were primarily focused on breaking of threshing machines which were almost 30% of the cases brought.

All but three of the executions were for Arson and this followed the usual pattern of the times. In terms of the men transported the sentences seem quite severe. The men were wrested from their families and shipped to the other side of the world with virtually no hope of ever returning to their homes. The impact was felt most in a few southern counties where whole communities for a generation felt the blow. It was a bitter price for a protest against gross injustices of the time.

² Captain Swing EJ Hobsbwan & George rude Chapter 13