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Major A. W.H. Lees

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CIVIL AND MILITARY POWER.

By MAJOR A. W. H. LEES.

THE relations, responsibilities, and duties of the Civil and Military Power, when called upon to suppress disturbances of the public peace, give rise to several delicate points of law which are not always easy of elucidation. The laws of England, the bases on which the right of suppressing disturbances must rest, derive their authority from various sources. Firstly the Common law, the ancient customs of the land or unwritten law, though practically by this time preserved in writing, owing its dominion principally to its antiquity. In the quaint legal phraseology, these laws have been in existence "Time whereof the memory of man runneth not to the contrary." They have been confirmed, varied, or amplified, from time to time, by the decisions of the Judges presiding over the various courts of Justice. Secondly, the Statute Law, or laws expressly created by the power of the legislature, as laid down in the promulgations of Parliament. Disturbances of the peace vary in degree, as do also the severity of the punishments which the law imposes on those convicted of the offence. It is convenient to consider them in the following order:—

A.—Unlawful assembly.

B.—Rout.

C.—Riot.

D.—Insurrection.

By the Common law, an assembly of three or more persons with intent to commit a crime by force, or to carry out any purpose, either lawful, or unlawful, with some circumstances of actual or apprehended violence sufficient to alarm, not only foolish and timid people, but persons of reasonable firmness and courage, is an unlawful assembly. An assembly may be unlawful, though the object may be lawful, and no violence actually committed. A Chartist meeting at Newport, in 1839, where from three hundred to a thousand persons, many armed with sticks, were excited by orators to commit violence, was held to be an unlawful assembly. Punishment—fine and imprisonment.

If the assembly proceeds to execute its object, it becomes a rout, and if it actually commences to execute its design by a breach of the peace, to the terror of the public, it becomes a riot. Punishment for either rout or riot—fine and imprisonment.

The mere assembly of a crowd is not in itself an unlawful assembly.

Baron Alderson said: "There is no doubt that the people of this country have a perfect right to meet for the purpose of stating what are, or even what they consider to be, their grievances; that right they always have had, and I trust always will have."

If the object of the assembly is not of a private nature, but of

a general or public nature involving an intention to levy war against the King, or even act in defiance of the Government of the country, it becomes an insurrection. Punishment—death.

Baron Alderson says:—

“There is no doubt if you find these persons assembled together by delegates dispersed from any central jurisdiction in this Kingdom, and those persons so meeting together in consequence of a delegation from a central body commit any act of violence for the purpose of carrying into effect any general political purpose, they run the risk of being charged with high treason.”

The attention of the Council of Action might be usefully drawn to this charge of Baron Alderson's.

An unlawful assembly may be dispersed by force, although no act of violence has been committed. “A small amount of punishment in the first instance will probably save a great amount of crime afterwards.” (Alderson.) (Note General Dyer's case.)

The question next arises how, and by whom, is any or either of these illegal meetings to be dispersed, and what amount of violence may safely be employed in doing so? By the Common law, it is the duty of every subject to suppress such disturbances, which places a law-abiding citizen in a rather invidious position, for if he ignores or neglects the duty imposed upon him by the Common law, he may be indicted for neglect, and if he slays a man in carrying out his duty he may be tried for manslaughter. Even the Common law would not protect a subject who fired a machine gun on an unlawful assembly, though it almost certainly would if he fired it on a mob in insurrection. Practically, at Common law, it is not safe for a citizen to employ any lethal weapon until acts of violence, such as murder, looting, or arson, are being committed.

In order to strengthen the Common law, and protect the loyal subject, the Riot Act I, Geo. I (ST2, c.5), was passed, providing that if twelve persons or more are unlawfully, riotously, and tumultuously gathered together to the disturbance of the public peace, it is the duty of a Justice to go as near to them as he can with safety, and, after commanding silence, to read the Proclamation. “Our Sovereign Lord the King chargeth and commandeth all persons being assembled immediately to disperse themselves, and peaceably to depart to their habitations or to their lawful business, upon the pains contained in the Act made in the first year of King George for preventing tumultuous and riotous assemblies—God save the King!” All persons who remain after an hour has elapsed from the reading are guilty of felony. Punishment—penal servitude for life; imprisonment two years, with or without hard labour. And what is of even greater public interest, at least to the law-abiding public, the Act completely indemnifies the magistrates, officers, soldiers, or citizens, in the event of the death or injury of any of the rioters. So that if a rioter is killed an hour after the reading of the proclamation, his slayer cannot be convicted of murder or manslaughter. This is exemplified in a delightful *Punch* drawing by John Leech at the time of the Chartist movement, where

a terrified and diminutive special constable is shaking a trembling baton at a colossal navvy engaged in rolling up his sleeves.

"Now mind, you know, if I kill you it's nothing, but if you kill me by Jingo it's murder."

During the reading of the Proclamation, the object of the rioters should be to hit the magistrate in the mouth with a stone or other missile, for if he fail to articulate the peroration "God save the King" the Proclamation is invalid. (R. V. Child.)

How the magistrate is to approach a furious mob in safety, is not laid down in the Act. Possibly he would do well to enclose himself in a complete suit of plate armour from the local museum or shout the Proclamation through a megaphone.

Many people are under the impression that the Civil and Military Power cannot intervene until an hour has elapsed from the reading of the Proclamation, but far from this being the case, both the Civil and Military Power are liable to be indicted for neglect under the Common law should they remain idle spectators during the commission of felonious acts by the mob. This misconception has more than once led to extremely grave consequences, notably in the Gordon and Bristol riots. It is probable that the failure of the Civil Power during the former was due to the fact that in 1768 Mr. Gilham, an excellent magistrate, was tried for ordering the military to fire on the mob attacking the prison in St. George's fields. There was long provocation, and he twice read the Proclamation, which was a full defence in his case, and he was acquitted. This was during the Wilkes riots. At the same time, Green, an alehouse keeper, offended the coal-heavers, who attacked his house and lodged over two hundred bullets in it. Green, his maidservant, and a sailor, defended the house and shot dead eighteen of his assailants. No police or military arrived, the door was eventually forced, but the gallant defenders escaped. Green was tried for murder, but justified by the Common law and acquitted. Seven of the rioters were identified and executed. The coal-heavers in revenge brutally murdered Green's sister. (Walpole.)

The Gordon riots of 1780 were of extreme gravity. The movement was directed ostensibly against the Roman Catholics, but degenerated into an orgy of all the criminal classes of the Metropolis.

On June 2nd from fifty to sixty thousand persons met in St. George's fields, headed by Lord George Gordon, who was hardly responsible for his actions, and marched to Westminster to present a monster petition. They surrounded the Houses of Parliament and grossly abused all Members suspected of Catholic sympathies. Their leader harangued the mob from the gallery stairs, when a near relative, Colonel Gordon, went up to him and said: "My Lord George, do you intend to bring your rascally adherents into the House of Commons? If you do, the first man of them who enters, I will plunge my sword not into him, but into your body."

On the arrival of the Guards the mob dispersed, but proceeded to burn down the Romanist churches, during which thirteen rioters were arrested by the civil power and confined in Newgate. Saturday, the 3rd, passed quietly, but on Sunday all kinds of outrages were in

progress. About 6 p.m. Newgate was stormed, the prisoners released, and the prison burnt. Clerkenwell suffered the same fate, private houses were looted, and Lord Mansfield's mansion destroyed. A detachment of the Guards was present, but did not act, as all the magistrates had run away, and there was a mistaken belief that nothing could be done until an hour after the Riot Act was read, and there was no one to read it.

The Lord Chief Justice in his charge, during the Burdett riots, refers to this in the following words:—"The soldiers stood by with arms in their hands and saw felonies committed, houses burned or pulled down before their eyes by persons who they might properly have put to death if they could not otherwise have prevented them."

A veritable reign of terror ensued. London was on fire in thirty-six places. The Bank of England and the Pay Office were attacked, but successfully defended by a handful of military, while the mob planned, fortunately without success, to cut off the water supply of the City. The Civil Power was afraid to act; and the Lord Mayor Kennet, who kept out of sight, was afterwards indicted for neglect of duty. During his trial he was asked why he did not summon the *posse comitatus*, and ingenuously replied that he "would have done so but did not know where the fellow lived." The King and John Wilkes were among the few people who were not panic stricken. The King held three councils, and it was only at the third that he got Wedderburn, the Attorney-General, to affirm, that as outrages amounting to felonies were in active progress, the reading of the Proclamation was unnecessary; and it was the actual duty of the military to attack the rioters. He added that, in his opinion, "the tumult was rebellious," and it is probably right to class the Gordon riots, not as riots, but as an insurrection, so violent were the words used by the leader. "He would dictate both to the Crown and Parliament." "The King of England was a Papist, but let His Majesty dare to depart from his Coronation oath and his head should fall on the scaffold." (Geo. III. Beccles Wilson.)

The King thereupon ordered the Commander-in-Chief, Amherst, to act drastically without waiting for any warrant from the Civil Power, and on the following day the riots were over. There is a well-known print of the Honourable Artillery Company firing on the mob. The Guards drove the insurgents over Blackfriars Bridge, many being hurled over the parapet, and drowned in the water beneath.

The Northumberland Militia, after a forced march of twenty-five miles, reached Lincoln's Inn fields, and killed many criminals whom they found breaking into and burning houses.

"And raw in fields the rude Militia swarms,
Mouths without hands maintained at vast expense;
In peace a charge, in war a weak defence.
Stout once a month they march a blustering band,
And ever, but at times of need at hand."

Dryden was of course referring to a much earlier Militia, and not to the gallant sons of Northumbria, who arrived so opportunely; and

were practically the first regiment which acted vigorously against the forces of anarchy.

The fields he referred to could not have been those of Lincoln's Inn. The Militia may have been raw as to their feet, after their forced march; and no doubt the rioters considered them very rude indeed. Certainly on this occasion they were very much "at times of need at hand."

Two hundred and eighty-five insurgents are known to have been killed and numbers wounded. The loss of life must have considerably exceeded this figure, as the bodies were in many cases spirited away. There was some comedy to relieve the tragedy. Lord Eldon relates of the Barristers of the Temple: "We youngsters formed ourselves into a troop to assist the military. We armed ourselves as well as we could, and next morning drew up in the court of the Temple ready to follow out a troop of soldiers who were on guard. When, however, they had passed through the gate, it was suddenly shut in our faces, and the officer in command shouted from the other side, 'Gentlemen, I am much obliged to you for your intended assistance, but I do not choose to allow my soldiers to be shot in the back, so I have ordered you to be locked in.'"

After his release, a beggar, meeting Lord George Gordon, exclaimed: "God bless you my Lord, you and I have been in all the prisons in London."

"What do you mean, fellow? I was never in any prison but the Tower!"

"That's true, my Lord, and I've been in all the rest."

A very accurate account of these riots is given by Charles Dickens in *Barnaby Rudge*.

In 1816, a Captain, with his company of the Guards, was sent to defend the Spafelds Prison. "On our arrival we found that a troop of Horse Artillery, with their guns, had already taken up their position within the yard. The mob, which was not very numerous on our arrival, had by this time increased to an enormous multitude. Sixty or seventy thousand persons must have been present (Orator Hunt and others addressed the crowd from a cart). More violent and treasonable discourse it was impossible to make; and the huge multitude rent the air with shouts of applause. Several years after this event, at the time of the Reform Bill, Hunt was elected M.P. for Preston. I well recollect, but cannot describe, his amazement when I told him one evening, in the smoking room of the House of Commons, that if any attack had been made on the prison, I had given my men orders to pick off Major Cartwright, himself, and one or two more who were in the cart. Hunt was perfectly astonished. 'What, Sir, do you mean to say you would have been capable of such an act of barbarity?' 'Yes,' said I; 'and I almost regret you did not give us the opportunity, for your aim that day was to create a revolution, and you would have richly deserved the fate which you so narrowly escaped by the cowardice or lukewarmness of your 'followers.''" (Gronow.)

In August, 1819, occurred the meeting in St. Peter's fields, Man-

chester, which ended in what is popularly known as the "Peterloo" or Manchester massacre. This is an excellent example of an unlawful assembly, for though the crowd were orderly, this same Orator Hunt was repeating his Spafields performance, and inciting them to rebellion. In order to effect his arrest, the magistrates ordered the Yeomanry to charge the crowd, when 400 persons were killed and wounded. In spite of the chorus of indignation which their action aroused throughout the country, the magistrates were without doubt legally within their rights in dispersing the assembly by force, though it is possible that a different time and place should have been selected for the arrest, as the crowd might have dispersed peaceably, and several more or less innocent people who were only present as spectators lost their lives.

The Bristol riots of 1831 offer one of the most useful precedents for the respective duties of the Civil and Military Power; and an object lesson on how not to quell an *émeute*. The Civil Power proved totally inadequate; and the Military Power was for some time paralyzed and rendered nugatory through the imbecile conduct of the senior officer present. The arrival of Sir Charles Wetherell, Recorder of Bristol, a sturdy opponent of reform, to open the City Sessions was the occasion for a demonstration in which stones were thrown at his carriage and the Mansion House, to which he had retired for the night, surrounded by an angry mob. The opportunity was seized by all the criminal classes in Bristol and the vicinity to convert this demonstration into a terrible riot, nay, into something closely approaching an insurrection. The object of the majority of the malcontents was plunder, accompanied by its usual accessories, murder, house-breaking, and arson, while no doubt a few of the most desperate hoped it was the beginning of a revolution. On Saturday, 29th October, 1831, the constables guarding the Mansion House kept the crowd at bay and effected several arrests, the prisoners being lodged in gaol and only windows were broken.

A squadron of the 14th Light Dragoons and a weak troop of the 3rd Dragoon Guards, perhaps in all 150 men, were available to support the Civil Power under Colonel Brereton, commanding the District. During the afternoon affairs assumed a more serious aspect, large numbers of colliers having marched in from the neighbouring districts. Most of the constables were withdrawn in order to obtain some refreshment; and the mob broke into the Mansion House and prepared to set it on fire, while Sir Charles Wetherell and His Worship the Mayor, a certain Mr. Pinney, made an undignified but necessary retreat over some neighbouring roofs, barely escaping with their lives. The cavalry were ordered out, but remained passive spectators of the outrage, incendiarism, and looting, which ensued, no magistrate being forthcoming, and Colonel Brereton refusing to act in his absence, though he made a personal appeal to the crowd to disperse. The troops, who were on duty all night, and subjected to considerable violence and abuse, were withdrawn to their billets in the morning. The Doddington Yeomanry rode in, and their Commanding Officer reported himself to Colonel Brereton, but as no arrangements had been made to billet the men, or find forage

for the horses, and Colonel Brereton would give them no orders, they all went home again.

After a period of comparative calm, rioting was renewed on Sunday with increased violence. The Mansion House cellars, containing three hundred dozen of wine, were emptied, and an orgy of drunkenness followed, the iron railings were torn up to add to the weapons in the hands of the people, and, finally, the building was burnt to the ground, many of the rioters perishing in the falling ruins when the roof suddenly collapsed. The 14th Light Dragoons, who had been again ordered out, were subjected to a continual bombardment of stones, bottles, and large pieces of iron, by which several men and horses were seriously injured. The Mayor would not allow the military to fire, though he suggested that they should clear the streets. Colonel Brereton, on his part, refused to order a charge, saying that the troops could "walk the mob off," and he partially did so by pushing his horsemen among the people. When the rioters, as was to be expected, quickly returned and displayed even greater violence, he at last ordered the cavalry to charge, using only the flat of their sabres, but countermanded the order before it came to maturity, and withdrew the troops altogether, leaving the rioters in possession of the field of battle.

Another mob was by this time endeavouring to break into the Council House, a very fine building where the other troop of the 14th, under Captain Gage, was on detached duty. This officer, whose men were subjected to most brutal assaults, acted with promptitude, firmness, and decision, ordering two or three troopers to fire their pistols; one rioter was killed, the rest dispersed and the Council House saved. Colonel Brereton had retired to his headquarters, where he was engaged in a lengthy and acrimonious discussion with the Mayor, Town Clerk, and magistrates, who begged him to clear the streets. This he declined to do, and was asked by the Town Clerk whether he had received orders from Horse Guards to disobey the magistrates? Replying in the negative, he added that he himself would be responsible and the crowd would disperse. He appears to have been much distressed when news reached him of the demise of the rioter shot at the Council House, and mounting his horse rode off to again essay the gentle art of persuasion. He was received with loud cheers, to which, from the point of view of the criminal classes, he was fully entitled, and waved his hat in polite rejoinder. The crowd clamoured for the removal of the "bloody 14th," and, after shaking hands with several of his admirers, he promised there should be no more firing and that the 14th should be withdrawn. There is no space to reproduce his address, but the gist of it was that if the rioters were good children and went home to bed, the naughty soldiers should be packed off.

This naturally gave the law breakers the impression that he was in sympathy with them. He then returned to the Civil Power and reported that the crowd were "in a thoroughly good temper." As to whether this is attributable to the 3,600 bottles of wine consumed by the thirsty, history is silent. Opportunely, at this moment, several soldiers and constables were carried into headquarters dangerously wounded, and one of the former produced a piece of iron weighing

three or four pounds which had been thrown at his head. The Town Clerk asked Colonel Brereton if "this was a proof of the good temper of the mob," and urged that the military should act immediately and vigorously. The Colonel objected that the men and horses were tired out, and their lives would be endangered if they remained. The Town Clerk then asked "If that was a sufficient reason for a military officer to send away the troops?" as he understood they had been sent to protect the City. Whereupon Colonel Brereton departed to interview his too active subordinate, Captain Gage, whom he found with his men, and informed the Captain he was to leave Bristol at once. That officer naturally asked "why he was to leave?" when the following conversation ensued:—Colonel Brereton: "Captain Gage, you will march your squadron immediately out of Bristol; if you do not, the whole squadron will be murdered. For God's sake, Captain Gage, will you get out of the town?" Captain Gage: "Where are we to go?" Colonel Brereton: "Anywhere you please, only go away!"

As it was impossible for Captain Gage to disobey a direct order from his superior officer, he mounted his men and rode off, remaining himself at the rear of the squadron, and followed by a howling mob hurling abuse, and more material matter, at the crestfallen warriors. At last, a horse came down, and a crowd of ruffians rushed to attack the prostrate trooper, when the officer with two men rode back, shot the most truculent rioter and saved the injured man's life.

Having, for the time being, disposed of the 14th Light Dragoons, let us return to the City defended by twenty-five men of the 3rd Dragoon Guards and fourteen men of the Bedminster Yeomanry, who, by the way, did yeoman service. Colonel Brereton, placing himself at the head of the Dragoon Guards, paraded the streets until the close proximity of the forces of disorder again suggested to him the advisability of a strategical movement to the rear, when he retired to bed. Mr. Langdale's brewery was next broken into, fired, and fifty puncheons of rum flooded the gutters. Plunder and incendiarism increased, private houses were forced and terrified families dragged into the streets and subjected to violence and outrage. News was brought that the principal gaol was attacked, and the magistrates implored Colonel Brereton to send assistance. He ordered a young Cornet, a mere boy, to lead his dauntless twenty-five to the rescue, but on the young officer asking if he was to fire on the people, he was told that on no account must there be any violence. He at once asked what he was to do when he got there, and was told by the Colonel that he was "to come back again."

This military promenade having been successfully accomplished, the gaol, which was surrounded by 12,000 rioters, was forced and burnt. Two other prisons suffered the same fate, and all the criminals were let loose in the City. By 3 a.m. on Monday, forty-two private houses and warehouses were in flames, the public houses all emptied of their contents, and plunder and the grossest sensuality the occupation of the mob, who are described as "abandoned miscreants, not working men." The Mayor at last issued a Proclamation, calling on all loyal citizens to arm themselves and assist in restoring order, but considering the

example set by the military, it is not surprising that at first there was no very hearty response to his appeal. Later, when it was obvious that no one's life was safe and the whole city likely to be destroyed, the civilians came forward, and many displayed praiseworthy courage. On Monday, after a night of terror, Colonel Brereton, who was told by the Town Clerk that if no one else would represent his conduct to the authorities, he, the Town Clerk, would, recalled the 14th Light Dragoons, and the following instructions were written and signed by the Mayor: "You are hereby authorized to disperse any mob which may assemble in this city in a riotous or tumultuous manner in disturbance of the public peace."

The cavalry then acted with resolution, doubtless very glad of the opportunity. The Dragoon Guards (twenty-five men) charged a mob of a thousand rioters, and routed them, killing and wounding 120, one Dragoon was shot dead, for the mob had some firearms. The 14th Light Dragoons killed and wounded about 250, so that over four hundred persons were disposed of by the military, while a considerable number were burnt alive in the Mansion House and other buildings, or died of drink in the streets.

Half Queen Street, part of Princes Street, King Street, with fifty houses, the Customs House, Excise Office, warehouses, stores, three prisons, and the Bishop's Palace were destroyed. Some time on Monday one hundred and seventy men of the 11th Foot arrived, and the public peace was restored. It is a disputed point whether the Riot Act was read for some very considerable time, though the Mayor asserted that it was, but in any case it was clearly the duty of the senior military officer present to have suppressed the outbreak by force of arms as soon as acts of violence amounting to felonies had occurred, and this under the Common law he was fully entitled to do.

The summons from the Mayor to civilians is clearly upheld in the charge of Chief Justice Tindal (*R. V. Pinney*).

"Every magistrate, sheriff, constable, and other peace officer is required to do all that in him lies for the suppression of a riot, and each has authority to command all other subjects of the Queen to assist him in that undertaking. Every man is bound, when so called upon, to yield a ready and implicit obedience, and do his utmost to assist in suppressing any tumultuous assembly." The arming of civilians is also supported by the same learned judge. "If the riot be general and dangerous, every subject may arm himself against the evil-doers to keep the peace; such was the opinion of all the Judges of England in the time of Queen Elizabeth. . . . If the occasion requires immediate action, and no opportunity is given for procuring the advice or sanction of the magistrate, it is the duty of every subject to act for himself, and upon his own responsibility, in suppressing a riotous and tumultuous assembly; and he may be assured that whatever is honestly done by him in the execution of that object will be supported and justified by the Common law." The use of firearms is even more strongly upheld by the Chief Justice in the case of a citizen, who firing a pistol at one of the Bristol rioters, unfortunately killed a boy and was indicted for manslaughter. "If the firing of the pistol by Lewis was a rash act,

uncalled for by the occasion, or if it was discharged negligently and carelessly, the offence would amount to manslaughter, but if it was discharged in the fair and honest execution of his duty, in endeavouring to disperse the mob, by reason of their resisting, the act of firing the pistol was then an act justified by the occasion, under the Riot Act before referred to, and the killing of the boy would then amount to accidental death only, and not to the offence of manslaughter."

The sequel of the events described was the trial by General Court Martial of the unhappy Colonel Brereton, on several serious charges, which may be summarized as "Neglect of duty and temporizing with the mob to the prejudice of good order and military discipline."

Of course, if the poor Colonel had been living to-day he might have pleaded in his defence that not only Colonels, but bigger people, temporized and shook hands with murderers and their accomplices. All that can be said for that unfortunate officer is to record that he was a humane, and amiable man, and much esteemed in his private life, but totally unfitted by temperament for the responsible position in which circumstances placed him. The trial came to an abrupt conclusion, for on the third day, Colonel Brereton shot himself through the heart.

The Mayor, Mr. Pinney, was afterwards indicted for neglect of duty as chief magistrate, and it was laid down that mere honesty of purpose was not a sufficient excuse for failure to take action, nor was the fear of bodily injury, but it was not a magistrate's duty to head the special constables, or to arrange or marshal them, which is the duty of the Chief Constable. Like W. S. Gilbert's "Duke of Plaza Toro," Mr. Pinney "led his regiment from behind; he found it less exciting."

After the pusillanimity of Pinney, it is refreshing to hear of a magistrate who faced his difficulties with superb courage, Mr. Phillips, Mayor of Newport in Wales. In 1839, Frost, a magistrate, led between five and six thousand Chartists armed with guns, bludgeons, pikes, and axes, on Newport, with the avowed intention of seizing the town by force. The Mayor, with the constables and about thirty soldiers, was occupying an inn, when the mob arrived and demanded his surrender.

He faced them at one of the windows and refused, upon which they fired upon him, and he and several others were wounded. The troops returned the fire with deadly effect, following this up with a bayonet charge which scattered the riotous multitude in all directions.

The Rebecca riots, which had for their original object the destruction of turnpikes, were easily suppressed by the Civil Power, with the aid of a large body of troops, who were only seriously engaged on one occasion, but the disturbance caused such a panic that a coroner's jury, summoned to investigate the death of a poor old woman, foully murdered by the rioters deliberately shooting her, brought in the verdict that "she died from suffusion of blood which produced suffocation."

The Yeomanry were constantly called in to support the Civil Power, and in the Napoleonic period the Volunteers also rendered good service, but the Volunteer force of the Sixties was expressly debarred

from aiding the Civil Power as a military body, and the Labour Party have succeeded in extending this disability to the Territorial Army. Perhaps this verbal distinction is not of such vital importance as the Labour Party seem to imagine, for by the English law a soldier always remains a citizen, and the officers and men of the Regular Army possess no more power, and suffer no more liabilities, and are in no way secured from the consequences of any act they may commit, than armed civilians, which in the eyes of the law they are. But there is nothing in the law to prevent soldiers, acting as armed civilians, from making use of the discipline, and training, which render them, though vastly inferior in numbers, the masters of any armed mob. The projected attempt by the Fenians to seize Tynemouth Castle, and the large store of arms it contained, was frustrated by the Commanding Officer of the local Volunteers, who, well knowing that the Regulations forbade him calling out his men in aid of the Civil Power, was brilliantly inspired to order a parade, within the Castle walls, for purposes of drill instruction. He was quite within his rights, and the Fenians, learning that the Castle was strongly held by a military force, dispersed with their treasonable object unattained. A very difficult point is to ascertain what degree of force may be safely and legally used by the Military Power, or by armed civilians, in quelling a disturbance. This is governed by the custom or common law of the land, and it was laid down in the enquiry into the Featherstone Colliery riots, in 1893, that "Firing, to be lawful, must be necessary to stop or prevent such serious and violent crime as we have alluded to, and it must be conducted without recklessness or negligence. When the need is clear, the soldiers' duty is to fire with all reasonable caution, so as to produce no further injury than what is absolutely wanted for the purpose of protecting person and property."

A considerable portion of the English Press condemned General Dyer for using unnecessary force, completely ignoring the fact that he was not acting under the Common or Statute law, for Martial Law had been proclaimed, was actually in being and, consequently, he was under no legal restraint as to the amount of force he might choose to employ.

There is often confusion in the public mind as to the meaning of the terms "military" and "martial law," Military law simply deals with the government of soldiers, as soldiers, and apart from civilians. Martial law, when duly proclaimed, is no law at all, save the will of the officer who is administering it. It supersedes all Civil law, and the senior officer can do exactly what he pleases. Yet it is legal, for all Princes, Governments, and States, have a right to proclaim it in emergencies, such as war, or rebellion.

Martial Law has never been proclaimed in England, but it has in Ireland, and some of our Colonies, and the custom has been in the event of insurrection, to hand over rebels to the Civil power for trial and punishment; but a General is under no legal obligation to do so. Once Martial Law is in force he could, if he liked, shoot his prisoners at sight, without any trial whatsoever, as was done during the French commune, where communists were caught red-handed.

The suppression of a very serious riot in Quebec, by General Bland Strange, is a good example of a minimum degree of force successfully, and tactfully, employed. In his own words: "It was my habit when ordered on civil disturbance to fix bayonets before leaving barracks, with the treble object of keeping the fire low from the weight on the muzzle, producing the salutary effect on the mob which steel always does, and cheating the penny-a-liner of the opportunity of writing: 'At this point the blood-thirsty officer lost his head and ordered his men to fix bayonets and charge an inoffensive crowd.' Bayonets being fixed, the advance of the men by sections with trailed arms had all the effect of a charge, without any of the inconvenience of giving such an order. The men, who had long been exposed to the taunts and assaults of the mob, broke into a double, and the rioters fled before them, seeking refuge down lanes and in doorways, whence they emerged as soon as the retire was sounded. The Commanding Officer was afraid of getting his men out of hand and had hitherto refrained from opening fire for fear of injuring foolish spectators. He had long noticed the ringleader. 'Come on' he had been shouting: 'They are falling back! I know the bugle! We will crush them: they have been forbidden to fire!' I halted the rear section of eight men and opened fire. Half-a-dozen men and a cab horse dropped."

No less an authority than the late W. S. Gilbert has affirmed that "The law is the true embodiment of everything that's excellent. It has no kind of fault or flaw." Nevertheless, it is perhaps surprising what care the English law appears to take of the lives of evil doers.

Why should soldiers and police, who are only doing their duty, be expected to stand inactive for a long time exposed to showers of bricks, stones, and glass bottles, and receiving grievous bodily injuries, before they are allowed to kill a few of their assailants? What is the value to the State of the lives of men who are, for example, looting or burning houses? Why should they not forfeit their lives if they refuse to return home? Of course there is something to be said for the stringency of the law, for an unscrupulous debtor might welcome the opportunity afforded by a public disturbance to walk about with a shot-gun patriotically reducing the number of his creditors, quite irrespective of whether they were actual participants in the riot.

Really a soldier or armed civilian is in a rather unhappy position. During the Dock riots in London, an officer of the Guards was sent with a convoy of ammunition to the Tower, and surrounded on the way by a furious mob intent on overpowering the escort over the wagons. Several soldiers were seriously injured. He himself was struck on the back of the neck by a brick, and only the thickness of his bear-skin cap which came very low in the collar, saved his life. A rioter endeavoured to seize his horse and drag him from the saddle. He made his horse rear up, and it brought its fore feet down on the ruffian's head, which temporarily disposed of him. The officer did not allow a shot to be fired, yet brought his convoy through in safety. Sad to relate, he was severely reprimanded for fixing bayonets, but what would have been his fate had he allowed the rioters to capture all his ammunition? He would assuredly have been tried by Court Martial.

With reference to the insurrection lately in progress in Ireland, it has been stated several times in the Press that the troops fired over the heads of the crowd, a most pernicious practice, for it gives the insurgents the impression that the soldiers are in sympathy with them and do not mean to act seriously. It also increases the chance of killing innocent or comparatively harmless persons in the background.

Paragraph 960, King's Regulations, states that "An officer commanding troops, on every occasion when employed in the suppression of riots or the enforcement of the law, will take the most effectual means in conjunction with the magistrates for explaining beforehand to the people that in the event of the troops being ordered to fire, their fire will be effective." and paragraph 965: "Care will be taken not to fire on persons separated from the crowd. To fire over the heads of a crowd has the effect of favouring the most daring and guilty and of sacrificing the less daring and even the innocent." It is unfortunate if these regulations have been relaxed, for it will tend to increase the eventual loss of life if it becomes popularly supposed that troops will fire in the air.

It may be gathered from this article that it is *not* advisable to employ military power armed with deadly weapons in order to disperse an unlawful assembly, save in most exceptional circumstances. That it is advisable to employ military power in the event of a really serious riot, accompanied by felonious acts, but not to kill more people than necessary; and that it is a *duty* to employ military power at once, without hesitation, and ruthlessly in the event of an armed insurrection.

We have now passed in review the various degrees of public disturbance and studied actual examples of the action taken, rightly or wrongly, by the Civil and Military Power to preserve the public peace on such occasions as the unlawful assembly at Manchester, the riots in Bristol, and the insurrection of Lord George Gordon.

