The Great Enlargement: The Uses of Delinquency in Henry IV Part One

Nick Cox Manchester Metropolitan University

'Crime "a coup d'etat from below"'[1]

The impact of New Historicism in Renaissance literary studies during the last decade and a half has been perceived as an effect, amongst other things, of its deployment of certain motifs derived from the work of Michel Foucault. Perhaps the most influential of these was the conception of power relations in early modern culture which was to become known as the 'subversion/containment' thesis. In an essay that remains a *locus classicus* for the key tropes of New Historicism Stephen Greenblatt marked out the terrain of a new analytic of Renaissance power relations with his steely insistence that, for all its subversive potential, the Elizabethan theatre 'helps to contain the radical doubts it provokes' because it operates within a relation of complex and overdetermined complicity with the forms of sovereign power themselves. Whilst Greenblatt made no specific claim that this conception derived from Foucault and was quick to correct the view of resistance as always already contained which this account appeared to support, sympathetic and antagonistic critics of the argument of 'Invisible Bullets' traced its genealogy to what they claimed was an equally totalising conception of power in the work of Foucault.[2]

Yet, as Louis Montrose, one of the more subtle and theoretically sensitive practitioners of New Historicism, has recently pointed out: 'any strict argument for the containment of subversion that views power as crystallised in the state apparatus', as Greenblatt certainly does in 'Invisible Bullets', 'is inconsistent with Foucault's own view that volatile and contingent relations

of power saturate social space'. For Foucault, he goes on to say, 'power is never monolithic, and power relations always imply multiple sites not only of power but of resistance, sites that are of variable configuration, intensity, and effectiveness'.[3] Montrose's remarks provide an astute corrective to the simplistic equation which has been drawn between Foucault, New Historicism and an ultimately reductive account of power in early modern culture. Not only has the conceptualisation of power in New Historicism often been more sophisticated than that suggested by the subversion/containment thesis in its most sterile form, its relation to the work of Foucault has often been more tenuous and more complex than has generally been recognised. My intention here is not to offer a systematic critique of New Historicism but rather to suggest that one effect of the by now numbingly narrow concentration on the subversion/containment dialectic has been to restrict what could have been a productive engagement with the work of Foucault and its implications for the analysis of early modern culture to a narrow and limiting conception of power which has little relation to its putative antecedent.

In this essay I return to the terrain of Greenblatt's 'Invisible Bullets', the second tetraology of Shakespeare's history plays, in an attempt to consider how the interpretation of certain relations of power in early modern England and their rehearsal on the contemporary stage might benefit from a more systematic engagement with Foucault's work. That work, it hardly needs pointing out, is not homogeneous and what follows is an account informed by the analyses of technologies of punishment and practices of confinement in *Discipline and Punish* and their supplementation in his other essays and interviews. Whilst it would be grossly anachronistic to attempt to simply map Foucault's account, whose focus is the Classical period, onto the late sixteenth century there are, nonetheless, traces of the techniques and strategies of coercion and surveillance which were to become generalised in the exercise of disciplinary power in the Shakespearean period.

Foucault claims that the *Ancient Regime* can be identified by a 'margin of tolerated illegality in which *de jure* crimes were *de facto* means of survival for the mass of the population'. Amongst these forms of 'necessary illegality' Foucault cites as a periodic resort of the poorest classes a life of 'vagabondage (severely punished according to the terms of ordinances that were never implemented) with the pillage, the aggravated theft, even murder that went with it'. Vagrancy, he argues, 'provided a welcome environment to the unemployed, to workers who had left their employers in irregular circumstances, to domestic servants who had some reason to flee their masters, to ill-treated apprentices, to deserting soldiers, to all those who wished to escape the press-gang. So criminality merged into a wider illegality, to which the lower strata were attached as to conditions of existence'.[4]

For Foucault the moment when these forms of existence lose their ambiguous status and cease to be tolerated is 'the second half of the eighteenth cen-

tury' (DP, 84). Their criminalisation is an effect of the stricter definitions of property that accompany the transformation of the social formation in 'the transition to intensive agriculture' in the countryside, which 'exercised over the rights to use common lands, over various tolerated practices, over small accepted illegalities, a more and more restrictive pressure'. This transformation of agrarian social relations is echoed in the cities, where 'the development of the ports, the appearance of great warehouses in which merchandise was stored, the organisation of workshops … necessitated a severe repression of illegality' (DP, 85).

In late sixteenth century England these processes are already at work. Large scale dispossession of smallholders by capitalistic farmers; the enclosure of commons and wastes; the redefinition of previously tolerated forms of appropriation (gleaning, wood-gathering, poaching) as simple theft, are all evident in the late Tudor countryside. In London a massive expansion in manufacture was taking place in the extramural parishes, outside the regulation of the City authorities.[5] In A. L. Beier's account 'usurpation', the establishment of manufacturing outside of the regulatory structures of the gilds, 'was clearly central to the expansion of metropolitan production' in the early modern period. Like enclosure and engrossment in the countryside, the reorganisation of production in the capital involved a displacement of 'customary' rights and obligations (notably the function of apprenticeship) by capitalistic relations of production. In this new mode of production 'the producers' were no longer 'in charge' and 'big City merchants' now 'organised craft production'.[6] Employment under such conditions was unstable giving rise to endemic unemployment and the emergence of an unprecedentedly large population with no permanent means of subsistence. This 'reserve army of labour', to use Marx's phrase, was forced to sustain an existence on the margin of work and 'idleness'.

As a consequence, if contemporary accounts are to be relied upon, the last decades of the sixteenth century were marked by an epidemic of vagrancy in the capital, with the accompanying 'illegalities' its victims were forced to rely upon for survival.[7] Driven to commit crimes against property at a historical moment when the classes who owned it were becoming increasingly intolerant of theft, vagrants themselves came to be regarded as an intolerable menace. Paul Slack has argued that 'in the years up to 1600', when 'vagrancy was probably approaching its peak', the 'incidence of crime' was also rising 'and it was especially high in years of dearth like the later 1590s when high prices meant more crimes against property as well as more beggary'. He sees the statute of 1601 condemning 'the pretty crimes of "lewd and mean persons", who broke down hedges and stole wood for fuel, and stepped across the ill-defined dividing line between legitimate gleaning and the theft of corn', as symptomatic of a generalised anxiety about the coincidence between social mobility and theft.[8]

Foucault's account of the 'upheaval in the traditional economy of illegali-

ties' (DP, 89) needs, therefore, to be revised for a genealogy of English disciplinary mechanisms, for just as a large and expanding group of the dispossessed, driven to appropriate the means of existence by recourse to illegal acts, erupts onto the early modern scene so new practices and institutions emerge to supervise, coerce and transform it. 'With new forms of capital accumulation, new relations of production and the new legal status of property', Foucault argues, 'all the popular practices that belonged, either in a silent, everyday tolerated form, or in a violent form' to the Old Regime became, for the property-owning classes, criminal acts (DP, 86–87). Whilst, according to Peter Linebaugh, it was the 'Williamite criminal code' that secured the 'rights' of the property owning class against the 'illegalities' of the propertyless, by withdrawing benefit of clergy for 'robbery, breaking and entering, burglary and shoplifting',[9] the most significant elements of the late Renaissance response to the crime endemic within the metropolis involved what we might call extra-juridical experiments.

Foucault's 'raisons d'etre of penal reform in the eighteenth century' (DP, 89) can be traced in the strategies emerging in London in the 1590s to combat the 'infra-power of … illegalities' (DP, 87) most notably the emergence of a political technology that was to become increasingly significant in the latter part of the sixteenth century: surveillance. In the periodic 'searches' of the marginal spaces of the Renaissance capital for vagrants and petty thieves we can trace the formation of strategies designed to locate, apprehend and incarcerate, resettle or punish; which seek to situate the masterless as the objects of a sustained and intense scrutiny whose agents were the constables, sheriffs and magistrates of a bureaucratic infra-power operating under the aegis of the Privy Council and the City authorities.

As Beier notes, 'searches' were part of a systematic response to the growth of vagrancy, sometimes on a national scale.[10] In the late Tudor capital searches of the city become integral to the war of attrition between the various institutions of government and their disorderly targets. The participation of a hierarchy of civic officials in these practices positioned them as nodal points in a network of 'hierarchized surveillance': inspecting, recording, punishing; but also collecting and collating the information and relaying their 'findings' to the upper echelons of the juridico-political apparatus. This 'pyramidal organization' forms the network of 'calculated gazes' that marks, if not the realisation, then at least the constitution, of that 'continuous field' of surveillance which Foucault suggests would be indispensable to the exercise of disciplinary power (DP, 177).

Yet these searches were also, as Beier points out, a response to the threat to the stability of the capital posed by the large numbers of vagabonds who circulated in promiscuous and contagious confusion amongst the imperfectly regulated spaces of the city. This mobile, indigent and potentially dangerous population could not be policed through the familiar institutions of coercion and control, the household or workplace, and as such represented a novel

problem for early modern techniques of policing the metropolis. In the account of *Part One of Henry IV* that follows I argue that it is precisely this crisis in the technologies of subjection in early modern London that the play is concerned with and that it posits, not so much in the figure of the cynically manipulative prince who is the focus of Greenblatt's account, but through the strategies of surveillance and coercion through which he exploits his criminous companions, modalities of power that would come to play an increasingly significant role in the late Tudor capital.

II

> 'Delinquency functions as a political observatory' (DP, 281)

Part one of *Henry IV* opens with the words of a monarch 'So shaken', 'so wan with care', forced to 'Find … a time for frighted peace to pant,/And breathe short-winded accents of new broils' (1.1., 1–3).[11] The source of this anxiety is, of course, the aristocratic and regional rebellion against Bolingbroke's claim to the throne. This, conventionally, has been the space of 'politics' in the text, construed as a representation of the feudal warfare out of which the absolutist state emerged. Yet in the shadow of that privileged site of struggle, that grand narrative, the text addresses, or uncovers, a locus of what we might consider micro-political struggles. Whilst it could certainly be argued that the central objective of the absolutist state was the elimination of feudal rivalry, it might be more productive to acknowledge that the late Renaissance is characterised by a multiplicity of struggles, not all of which can be understood by an appeal, in the last instance, to sovereign power. The struggle between the late Elizabethan state and the criminal subculture of the London whose contours I have been tracing here does not conform to a concept of politics as the clash of opposed but homeomorphous edifices. Rather this is a struggle conducted at the level of what Foucault calls 'a micro-physics of power'. This is a concept of power 'conceived not as a property but as a strategy'; whose 'effects of domination are attributed not to "appropriation", but to dispositions, manoeuvres, tactics, techniques, functionings' and which is 'exercised rather than possessed; … not the "privilege", acquired or preserved, of the dominant class, but the overall effect of its strategic positions' (DP, 26).

Whilst *1 Henry IV* does continue to conceive of power as an effect of territory that one holds or appropriates, it is also marked by the localised, unspectacular manoeuvres of the 'perpetual battle' (DP, 26) in the capital between the state and civic officials and the masterless poor. The conventional literary critical vocabulary which refers to textual 'levels' has a peculiar pertinence here. The text establishes distinct domains roughly corresponding to 'the court' and 'Eastcheap' whose difference is indicated by a series of devices: verse/prose; seriousness/humour; ceremony/disorder; at

least until act three. That area of the text I have called 'the court' is dominated by a conception of politics that is classically feudal, concerned with dynastic power, warfare and territorial mastery. Its heterotopos, 'Eastcheap', operates according to strategies which mark a critical break with those forms of politics.

From the exalted perspective of the Court the 'madcap' prince is figured as a renegade, infected by the contagion of lawlessness and idleness, the father sees only the 'stain' of 'riot and dishonour' on 'the brow/Of my young Harry' (84–85). The 'inordinate and low desires' (3.2., 12) the King locates in Hal are an effect of the 'rude society' he is 'match'd withal and grafted to' (14–15): 'Such poor, such bare, such lewd, such mean' companions and the 'barren pleasures' (13–14) they afford operate, in the words of Falstaff in his travesty of this discourse, as 'pitch' that 'doth defile' (2.4., 8–9) the spectacle of regal majesty. Against this degraded nobility the King sets Hotspur. Yet the text figures this feudal warrior-lord as an anachronism, the brute violence on which his prestige depends mocked and rejected by the Prince in Act two. Hotspur's provincial sphere of operation in 'the north' is juxtaposed to the metropolitan domain occupied by Hal, and his 'low' companions.

In Eastcheap Hal, as both Stephen Greenblatt and Steven Mullaney have demonstrated, does not simply abandon the royal body to carnivalesque dissipation but rather works to intensify and broaden the ambit of power. Whilst their influential studies see Hal operating within a complex structure of subversion and containment overdetermined by the histrionic power of the Tudor monarchy, my argument will seek to construe the prince as a locus, within the text, for a political technology analogous to those novel strategies of disciplinary power whose logic informs the practice of metropolitan bureaucratic governance.[12] Hal is inserted, by the Shakespearean text, into the world of the tavern and the petty crime that circulates around it in order to establish a coercive hold over its idle and disorderly denizens.

That will to know that animates the discourse of the Elizabethan Privy Council is inscribed in the text in the soliloquy which ends Act one, Scene two. Yet, whilst the power that is the effect of an unbroken surveillance figures in the records of Tudor metropolitan governance as a precarious and uncertain one, in the play text it is demarcated as a knowledge the Prince has already acquired. 'I know you all', he insists, and has the measure of 'the unyok'd humour of your idleness' (1.2., 190–191). The strategic mastery the text ascribes to him is, moreover, manifested in a malicious tolerance which 'will awhile uphold' (190) the lives of the malefactors he has observed. Radically different from the typically absolutist image of a power that 'imitates the sun' by witholding and presenting itself, in order that it 'may be the more wonder'd at' (192; 196), within whose rhetoric it is inserted, the practice which is both knowing and discreet, judgmental and yet willing to withold punishment, is a technique characteristic of a power that 'insidiously objectifies those on whom it is applied; to form a body of knowledge about these

individuals, rather than deploy the ostentatious signs of sovereignty' (DP, 220).

The text pursues here the logic implicit in the techniques of surveillance operating in the Elizabethan city for, like them, it seeks to establish a mesh of observation over the marginal and the disorderly, but it also extends and exceeds that strategy in order to effect the installation of power relations 'inside the very texture' of the mass (DP, 220). Hal's infiltration of the small group of petty criminals and idle rogues circulating around Falstaff can be compared to those 'anonymous instruments of power' whose operation, Foucault claims, 'is coextensive with the multiplicity they regulate' (DP, 220).

The play's figuration of criminality marks a nascent recognition of the effects of domination to be obtained through the calculated exploitation of an economy of resistances. Yet it is, I would like to suggest, simultaneously haunted by the menace of those novel threats to order: vagrancy and petty crime, which were to necessitate the mutation in the exercise of power that *1 Henry IV* acknowledges and represents. The play partially displaces the threat of these 'disorders' by encoding them in a comic register, but the humour it generates is predicated on the recognition of a domain of 'criminality' that was not, as yet, successfully regulated or contained by the Renaissance state.

Falstaff alludes, tellingly, to the 'squires of the night's body … Diana's foresters, gentlemen of the shade, minions of the moon' (1.2., 24–26). The joke is at the expense of Elizabeth, 'our noble and chaste mistress', conventionally compared to Diana, 'the moon', 'under whose countenance we steal' (28–29). Thefts from under the regal nose had been committed in February of 1596 when 'a notorious theefe named Humfrey Hodges that hathe committed sondrie robberyes aswel here in Courte as in other places' was 'apprehended upon a robbery committed on Sir Henry Bagnall, knight, out of whose chamber at the Courte he took the some of cc li'. Hodges's motives were bizarrely Falstaffian for, the records say, he buried half of the money and used the remainder to buy 'certaine stuffe to make apparell and other thinges for a lewd woman that followed him, whom he alledged he meant to make his wife'. Hodges's story was obtained in Bridewell by 'put[ting] him to the manacles, [and] thereby constrayning him to deliver the whole trewth'. The confession extracted under torture provided, in the Privy Council's eyes, 'matter' sufficient for him to be 'prosecuted and punished according to law'.[13] In the play text, however, although Hal acknowledges that 'being governed … by the moon' (32–33) means that 'a purse of gold … got with swearing "Lay by!" and spent with crying "Bring in!" (33–35) leads to 'the foot of the ladder, and by and by' to 'the ridge of the gallows' (37–38), his preferred strategy is a mechanism which turns the malefactor into the agent of his own and others' punishment. When Falstaff demands: 'shall there be a gallows standing in England when thou art King?' (57–58) and implores 'Do not

thou when thou art king hang a thief' (59–60), the Prince's answer resonates with a cunning malevolence: 'No, thou shalt' (61).

Promising to give over 'the hanging of thieves' to Falstaff (64), Hal maps a future for the fat knight strikingly reminiscent of the career of the thief-taker Jonathan Wild who, in the eighteenth century, occupied a shadowy margin between government-sponsored *agent provocateur* and common criminal. Wild's 'complex and parasitic system of training thieves and impeaching thieves, of receiving stolen goods and returning lost property' became 'a system of municipal policing' in Hanoverian London.[14] Significantly, Wild's exploitation by Walpole's government marked its enforced resort to extraordinary mechanisms, beyond the threshold of legality, to contain an 'epidemic' of crime in the capital. Hal, as he had claimed he would, 'upholds' Falstaff's existence on the margin of criminality because it is one that can be regulated, exploited and turned into a mechanism of coercion.

In Elizabethan no less than Hanoverian London the absence of an organised police force made it impossible to prevent the 'crimes' committed by a mass of vagrant men and women in order to survive. The small group of masterless men and petty thieves who gather around Falstaff provide, however, a gang or cell that is easily held within the purview of Princely power-knowledge. As Foucault suggests, by tolerating a 'concentrated, supervised and disarmed illegality' (DP, 278) power substitutes 'for the vague, swarming mass of a population practising occasional illegality, which is always likely to spread, or again for those loose bands of vagabonds, recruiting as they move from place to place, … a relatively small and enclosed group of individuals on whom a constant surveillance may be kept' (DP, 278).

'A plague upon it when thieves cannot be true to one another' (2.2., 27–28): Falstaff's curse signals the efficacy of Hal's strategy of infiltration for, with Poins as his informant, he ambushes the gang and scuppers the Gad's Hill robbery. Hal's surveillance mechanism produces effects of domination because it works through the deployment of the 'criminals' themselves. The Prince guides Poins towards the denunciation of his comrades by posing as a ruluctant participant in the ambush, claiming 'I doubt they will be too hard for us' (176), but Poins seeks to ingratiate himself with his 'good sweet honey lord' (1.2., 156) by informing him of the inherent weakness of the robbers' gang: 'for two of them, I know to be as true-bred cowards as ever turned back; and for the third, if he fight longer than he sees reason, I'll foreswear arms' (177–80).

The Prince in possession of inside information offers a peculiarly comforting spectacle for the governing strata of Elizabethan London for he seemingly effortlessly roots out a form of illegality that was to become an anxious preoccupation for the owners of property in the later 1590s. Hal targets a gang who, Gadshill claims, 'prey' 'continually' on 'the commonwealth … for they ride up and down on her, and make her their boots' (2.1., 79–81) and it was on 'the usual highways towards' the 'city [of London] and her

majesties court' that 'great disorders' committed 'to the terror of all people professing to travel and live peaceably' were to be become increasingly common in the last decade of the century.[15] Moreover Gadshill's claim that 'we steal as in a castle, cocksure' (84–85) would have been a troubling one for the City and State authorities, for too often Elizabethan highwaymen seemed to 'have the receipt of fern-seed' and 'walk invisible' (85–86). 'Rogues' and 'vagabondes' who 'besetting the highe waies and doing much mischeefe in such riotous manner as the ordinarie course of justice suffiseth not to keepe them in awe' faded back into 'the cittie and suburbes thereof, and do there finde meanes to lie in covert in the howses of such evill disposed persons' who 'do willingely serve for the receipt of dissolute, licentious and riotous people.'[16] Typical pre-modern 'bandits', to use Eric Hobsbawm's term,[17] Elizabethan highwaymen seem to have relied on a network of support amongst the suburban poor to whom they returned, perhaps redistributing some of the wealth they had appropriated, and, as far as the Council were concerned, became invisible. These predations were particularly intolerable because, armed with 'pistolles, petronelles or other peeces', the 'rogues' had 'taken such boldnes' that 'her Majesty's officers appointed for conservacion of the peace and punishment of such offendours are terrified with their violence'.[18]

Thus, when Gadshill and his comrades who, he claims, 'will strike sooner than speak' (2.1., 76–77), cry 'Stand!' (2.2., 78) the wealthy traveller's terrified 'Jesus bless us!' (79) may have sent a *frisson* through the 'fat chuffs' (85) in the play's first audiences. Falstaff's bloodcurding 'Strike, down with them, cut the villains throats!' (80) is the preface to a speech whose rhetoric recalls the reality of the struggle between the dispossessed and the 'bacon-fed knaves' who 'hate us youth' (81–82). 'Down with them, fleece them!', he urges, and as the travellers lament: 'O, we are undone both we and ours together' mocks 'Hang ye, ye gorbellied knaves, are ye undone? No, ye fat chuffs, I would your store were here!' In accordance with the legitimating doctrine of *'taxation populaire'* he insists 'young men must live'. Momentarily the 'fat knight' operates in the register of the Essex labourer who demanded, in 1594, 'what can rich men do against poor men, if poor men rise and hold together'[19]; the Shakespearean text acknowledges the popular justice that would threaten the legal apparatus during the crisis of the 1590s in the Falstaffian boast which threatens: 'You are grandjurors, are ye? We'll jure ye, faith'. (82–87)

Yet Falstaff's gross body makes him an absurd advocate for those who really did starve in Elizabethan England and, whilst the text admits of the existence of desperate men engaged in armed robbery on the highways around London, it does so only in order to defuse the threat they posed. The King's money (52) is in possession of the robbers only momentarily before Poins and Hal comically reappropriate it; the thieves, according to the stage direction 'all run away' (98, sd.) as the Prince and his informant 'set upon them' (96, sd.) and Falstaff 'after a blow or two runs away too, leaving the

booty behind' (98, sd.). The whole incident is effectively enclosed in a strategy of entrapment in which the very real threat of violent confrontation between the propertied and an increasingly desperate section of the dispossessed becomes a 'good jest' (91) through which the prince intensifies the hold of power over the thieves. The money is, as Hal superfluously remarks, 'Got with much ease' (99) and a violent assault on state property defused as the prince's stratagem works to fragment the 'gang' into isolated and individualised subjects:

> The thieves are all scatter'd and possess'd with fear
> So strongly that they dare not meet each other;
> Each takes his fellow for an officer! (100–102)

Thus individuated the thieves become agents of one another's subjection and of a power that disperses and disarms them.

For an audience composed, at least in part, of wealthy property owners, the construction of these figures, whose 'criminal' status is so easily undermined by a reassuring ineptitude and which is always already under supervision by a Prince whose tolerance is revealed as a strategic ruse from the outset, works to make laughing matter out of the widespread and occasionally violent illegality London experienced in the 1590s. Indeed their infractions place them in a state of permanent subjection to a form of power, represented by the prince, which operates in excess of the law but whose grasp on them is all the more profound precisely because of that. Their ineptitude and disunity extinguishes their capacity to generate fear but the Prince's ambush provides him with a Damoclean power to punish that he trades on thereafter. Stealing from thieves he breaches the letter of the law in order to exercise a more efficient regime of subjection.

In this the text seems to represent a punitive rationality equivalent to that Foucault has described functioning through the production and exploitation of 'delinquency' by the prison which 'after purging the convicts by means of their sentence, continues to follow them' with a 'surveillance … which pursues as a "delinquent" someone who has acquitted himself of his punishment as an offender'. For Foucault 'the prison, and no doubt punishment in general is not intended to eliminate offences, but rather to distinguish them, to distribute them, to use them; … it is not so much that they render docile those who are liable to transgress the law, but that they tend to assimilate the transgression of the laws in a general tactics of subjection'. 'Penality' thus construed is 'a way of handling illegalities, of laying down the limits of tolerance, of giving free rein to some, of putting pressure on others, of excluding a particular section, of making another useful, of neutralizing certain individuals and of profiting from others. In short, penality does not simply "check" illegalities, it "differentiates" them, providing them with a general "economy"' (DP, 272).

Foucault argues that 'the organization of an isolated illegality' is coterminous with the formation of the prison and 'the development of police supervision' (DP, 280) in the late classical period. Nevertheless there are indications of the operation of something analogous to that 'ensemble whose three terms (police-prison-delinquency) support one another and form a circuit that is never interrupted' (DP, 282) in the Shakespearean moment. In early modern London, as we have seen, the response to widespread illegality was a political investment in mechanisms intended to produce effects of disciplinary power comparable to those obtained by a system of police surveillance. In the 1590s the routine searches of the masterless conducted by the Recorder, Mayor and justices of the peace were supplemented by provost-marshals with wide powers to arrest, incarcerate and punish vagrants. Instituted by Henry VIII, as an agent of military discipline, the use of provost-marshals against civilians marked an attempt to subject a potentially disorderly populace to a more sustained and intense policing than that provided by the ordinary officers of law; they were, as Beier points out, 'effective' in eliminating vagrancy and the petty crime that accompanied it because 'they were full-time and well paid'. Although the Renaissance state had no standing army or permanent police force, the provost-marshal provided aspects of the powers of coercion they were to exercise. In 1591 the provost-marshals were already being seen as a 'new invention' whose very efficacy marked its excess. In 1596 the City of London 'had sufficient doubts about the legality of the office to consult learned opinion' but the Privy Council saw the 'appointing of Provost Martialles' as the most efficient means 'to rid away those idle and vagabond people that keepe for the most parte about the citty'.[20] As the manifestation of absolutist power, overriding customary practice and legal process, the provost-marshals might be construed as a 'repressive state apparatus', to use an Althusserian category, designed to provide a beleagured state with exceptional force at moments of crisis.[21] Yet their use had become generalised in the 1590s in the struggle against vagrants and they formed a component in a *dispositif* whose rationale was not, or not simply, 'repressive'.

The marshals provided the London Bridewell with a stream of offenders who were examined, punished, resettled or subjected to its disciplinary regimen. The disciplinary rationale of the Bridewell has been discussed by Richard Wilson, amongst others, but here I want to look at another aspect of its functioning, its alleged 'failure'.[22] Not long after their formation contemporaries noted that the bridewells had the effect not of reforming but rather of sustaining vagabondage. Very quickly, as A. L. Beier notes, 'the houses of correction lost their original purpose of employing the willing poor and correcting the unwilling; instead they operated as places of confinement for a range of petty criminals and other 'deviants': of 'over 900 persons sent to London's Bridewell in 1600–1, over half were described as vagrants, a third were immorality cases (whores, mothers of bastards, bigamists), and the rest

were runaways and thieves'.[23] As early as 1587 John Howes complained that Bridewell had failed to sustain a separation betwen '*bonum'* and *'malum'* and that 'servingmen, soldiers and other honest youthes, whose lacks have been the cause of theire loytering, have been packte vp and punyshed alyke in Brydewell with roges, beggers, strompets and pylfering theves'; it was a place 'where nothing is to be learned but lewdness'.[24]

Such comments are sufficiently widespread to form a discourse, whose similarity to the 'monotonous critique of the [modern] prison' (DP, 268) is remarkable. Like the prison Bridewell worked not to annihilate illegality but fostered rather the implantation of a certain petty criminality (petty since the 'worst' offenders were gaoled and executed) within the population. By 1649 Chamberlen was still complaining that the bridewells were 'more apt to make men (from being poor) to become vagabonds and beggars'.[25] In the light of such critiques it is possible to ask why, if the house of correction 'failed', was it to remain in use on an increasingly broad scale until the birth of the modern prison? Sharpe suggests that 'by the early eighteenth century … the house of correction was obviously thought of as an appropriate means of punishing large numbers of petty offenders' and the 1598 Vagrancy Act installed it as the central institution in its assault on masterlessness.[26] It might be appropriate, therefore, to consider, as Foucault has done for the prison, 'what is served by the failure' of these institutions; 'what is the use of these different phenomena that are continually being criticized; the maintenance of delinquency, the encouragement of recidivism, the transformation of the occasional offender into a habitual delinquent, the organization of a closed milieu of delinquency' (DP, 272).

At the same time as their disciplinary mechanism was generalised it was recognised that bridewells would not eliminate vagrancy and the illegalities with which it was associated since, as a memorandum written in 1595 indicated, 'the number of vagrant poor within every shire, if they be all taken up, will be over large for one common receipt, or house of correction, and for the masters, governors of the said houses, to oversee and correct'.[27] Instead they simply resettled most of those they dealt with, incarcerating only a small subgroup of rogues who were to become the subjects of 'proto-bureacratic methods' of surveillance.[28] At Bury St Edmunds record was kept of 'the dates [offenders] entered and left, their ages, height, colour of hair, complexion, descriptions of clothing, places of birth and last abode, by whose warrants they were incarcerated and released, and any distinguishing features'.[29] In short: an archive was formed and held on them, their initial 'crime' subjected them to an incarceration that would not end with their release from the house of correction; for what use could all these details be if not as a means to an extension of its corrective technology beyond the bridewell's walls and into the social body? Moreover, since the bridewells increasingly failed to supply that training in productive labour that was their supposed rationale, those who left these austere institutions remained 'idle' and thus susceptible

of re-arrest, re-examination, re-subjection. Beier has suggested that there existed a 'hard core' of vagrants who were 'repeatedly arrested'. Rates of 'recidivism' were increasing in the period but 'still involved a minority'. The 'recidivist' is, of course a category whose very formation depends on the maintenance and deployment of a record on individual 'offenders'; the 'incorrigible rogue', like the nineteenth century 'delinquent', is born, or rather constructed, out of the bureaucratic minutiae of disciplinary power.[30]

Foucault suggests that the 'failure' of the prison 'gives rise to one particular form of illegality in the midst of others, which it is able to isolate, to place in full light and to organize as a relatively closed, but penetrable, milieu' (DP, 276). Perhaps we should understand the bridewell in the same way. Certainly there are indications that knowledge of the identity and movements of a section of the vagrant population in London in the 1590s, harried by provost-marshals and periodically incarcerated in Bridewell, might afford a target for 'supervision, colonization and use' (DP, 282).

It is certainly this modality of power which is discernible in that subtly coercive relation between Hal and Falstaff, a relation reminiscent of that 'disturbing moment when criminality became one of the mechanisms of power' (DP, 283). Falstaff's narrative of the Gad's Hill robbery is 'put … down' by the Prince's 'plain tale' (2.4, 251) produced from the record of the unseen eye that 'saw you four set on four' and then 'set on you four, and, with a word, out-faced you from your prize' (249–50; 252–53). The prince's surveillance of his conduct in the Gad's Hill incident renders Falstaff the 'slave' (257) of an incriminating knowledge that leaves him no 'starting hole … to hide thee from this open and apparent shame' (259–61). This subjugating power-knowledge forces him further into a relation of parasitic dependence on Hal, manifested in the abject plea that the Prince 'banish Peto, banish Bardolph, banish Poins – but for sweet Jack Falstaff … banish not him thy Harry's company' (468–69; 472–73). Whilst Hal's ominous reply 'I do, I will' (475) underlines the relation of domination he has established, the subjection thus constructed is too useful to be abandoned. Thus, when 'the sheriff with a monstrous watch' (476–77) appears, to search the Boar's Head and apprehend 'certain men' (501), one of them, 'A gross fat man' (503), who is 'well known' (502) to them, the Prince witholds Falstaff from arrest by stating 'I myself at this time have employ'd him' (506). There is in this suspension of judgement a darker purpose for, the prince says to Peto, 'We must all to the wars' (537) and in lieu of the death penalty he will 'procure this fat rogue a charge of foot, and I know his death will be a march of twelve score' (538–40).

Falstaff is saved from the gallows only to be enlisted to fight for the state he had earlier robbed; the money he and his companions would have stolen from the 'King's exchequer' (2.2., 53) will indeed 'be paid back again with advantage' (2.4., 540–41) for its theft is the means of Falstaffs productive redeployment in the state's interest. Here, then, the micropolitics of

'Eastcheap' are integrated into the macropolitical objectives of the state, to form those 'general conditions of domination' in which the 'dispersed, heteromorphous, localised procedures of power are adapted, reinforced and transformed' by 'global strategies' like war.[31] Again the text seems to trace here the pattern of contemporary strategies for, just as Hal makes recruits of Falstaff and his companions, so it was – according to Barnaby Rich – the practice of the Elizabethan press gangs to 'scour their prisons of thieves or their streets of rogues and vagabonds' for conscripts.[32] Historians have seen this as another signal of the 'failure of London's [carceral] institutions to cope with its social problems.'[33] Yet, as we have seen, the apparent dysfunction of the Bridewell was instrumental in forming a population who were effectively held within a broader net of surveillance and confinement. The knowledge constructed in the Bridewell Court Book might well have been a useful mechanism for determining, as the Privy Council put it, 'such men as are fittest' for the press.[34] Indeed Bridewell records reveal the institution's function as a mechanism for the 'impressment of London vagrants', a process which 'increased considerably in the late Elizabethan years.'[35]

In the play text the 'fat rogue's' enlistment by the war machine is itself a strategic deployment of his contained delinquency as an instrument in a more generalised assault on vagabondage. For, as the Prince must have known, Falstaff 'misuse[s] the King's press damnably' (4.2., 12). The 'good householders, yeoman's sons … contracted bachelors, such as had been asked twice on the banns' (15–17) buy 'out their services' and evade the press (22). This was common practice in early modern England where those 'warm slaves' (17) who were able to bribe their way out of conscription were necessarily the productive, industrious subjects who were too valuable a 'commodity' (17) to expend. Impressment was rather an instrument by which the country could be 'disburdened of many unnecessary persons that now want employment and live lewdly and unprofitably'.[36] It is precisely these 'unnecessary persons' who make up Falstaff's 'whole charge':

> slaves as ragged as Lazarus in the painted cloth, where the glutton's dog licked his sores … discarded unjust servingmen, younger sons to younger brothers, revolted tapsters, and ostlers trade-fallen, the cankers of a calm world and a long peace, … such have I to fill up the rooms as have bought out their services, that you would think that I had a hundred and fifty tattered prodigals lately come from swine-keeping, from eating draff and husks. (23–36)

That impoverished and dispossessed stratum of early modern society 'suspicious persons', as Paul Slack describes them, 'in the middle ground between the deserving poor and the criminal fraternity'[37] are invoked here but as an abject *detritus* easily dragooned into Falstaff's 'charge'.

Falstaff claims to be 'ashamed of my soldiers' (11) and will 'not march through Coventry' (38–39) to display 'such scarecrows' (38) to the citizens. Such furtiveness suggests Falstaff's collaboration in those 'petty forms of coercion' that 'obeyed economies too shameful to be acknowledged' (DP, 139) by the state so characteristic of disciplinary techniques. The archives of Elizabethan government, however, reveal his shameful practice to be precisely that of the Privy Council in the year in which the play was first staged. Falstaff's anxiety about the spectacle his men constitute is specifically generated by the way 'the villains march wide betwixt the legs as if they had gyves on' (40–41), a tell-tale sign that 'I had most of them out of prison' (41–42).

In January and February of 1596 the Privy Council had presided over a gaol clearance on a scale that massively exceeded Falstaff's haul of 150. In December they had written to 'the Sheriffes of the severall counties of the realme' to record 'what prisoners are presentlie remayning' in the gaols; 'for what severall causes or crymes they are comitted, howe many of them stand convicted and for what causes their executions have ben respited, and howe many otherwise are to receave their triall at the next gaole delivery and wherewith they are every one to be charged'.[38] They were 'likewise [to] advertise of what qualitie, yeares and habillitie of bodie every suche prisonner is'.[39]

This survey, which constituted the formation of a systematic knowledge of the prison population, was a crucial component in a strategic deployment of the incarcerated. The Council's concern was to know prisoners in their individuality. They sought out the conditions of their imprisonment: what had been their crime? Why had execution been staid for them? With what would they be charged? But they sought also a knowledge of them as physical units: their age, their 'quality' and their bodily strength. Together these elements formed a calculus from which judgements would be made as to their relative 'criminality' but also as to their relative usefulness. Why else would such meticulous concern be taken with the prisoners 'habillitie of bodie' if those bodies were not to be deployed as a 'useful force' (DP, 26)?

On 18 January the council wrote to the 'Sheriffes of London and Middlesex' acknowledging receipt of 'the names of the prisoners remayning in Newgate, the Compter in Wood Street and the Gatehouse, accordinge as by our letters of late sent unto you as required'.[40] The letter commanded the sheriffs to 'discharge the prisons' of those who had been 'acquited … as soon as conveniently you can … and set them at libertie'. Given that the council had detailed knowledge of these individuals and 'what frendes they have' it is perhaps unlikely that they would remain 'at libertie' for long.[41] In London recruits were being sought for the Cadiz expedition and these men, on the fringes of criminality and already held within the net of disciplinary power, would surely have been easy pickings for the press. Certainly in July 1597 the Council informed the Commissioners of Musters that, since there 'are at this present great nombers of masterles men … that doe kepe within and about

the cytty of London, havinge no meanes to maintaine them selves but by stealinge and lewde practizes', the Queen had determined that, 'because yt wilbe a great ease and good to the country to be ridd of those kinde of people', it would be expedient 'to imploy soche as be of *habillytie of body* to fill upp the bands that are in Pyccardy'.[42] The Mayor had been ordered to 'take upp so manie of thes kinde of people as maie be founde in the cytty and liberties' and, since the masterless were 'more narrowlie looked unto' by provost-marshals in the City authorities' jurisdiction, the Commissioners were to target the suburbs and organise 'generall serches' with the object of 'apprehendinge' all 'vagrant persons and masterles men that are able to serve' and sending them 'unto Brydwell'.[43]

Elizabethan gaols – as J. A. Sharpe has argued – were 'characteristically used as a place where suspects were held before trial rather than as a form of punishment'.[44] Their function was, in this respect, fundamentally different from that of the houses of correction, for they were places of simple confinement rather than agents of subjection. In early 1596 however it appears that some of the proto-bureacratic techniques of the bridewells had been deployed on the prison population.

Falstaff's troop of 'pitiful rascals' (64) are the perfect targets for impressment because they carry the signs of their poverty and criminality with them for, he says,

> There's not a shirt and a half in all my company … and the shirt to say the truth stolen from my host at St Albans, or the red-nose innkeeper of Daventry. But that's all one, they'll find linen enough on every hedge. (42–48)

Westmoreland considers them 'exceeding poor and bare, too beggarly' (68–69) for the fray, but the recruits sent to Piccardy in 1597 were 'base people and without apparell' and were 'sent over in naked and ragged sorte' under the orders, ironically, of one 'captaine Poore'.[45]

According to Douglas Hay 'eighteenth century conscription was explicitly directed … at those considered most likely to become involved in crime: vagrants, incorrigible rogues, men and boys without visible means of support' for it 'swept out of England thousands … from the class and age group most likely to face unemployment and destitution, those thought to be most likely to commit crimes, and a considerable although indeterminate number of those who had'.[46] By early 1596 the governing classes of Elizabethan England were already resorting to such practices 'to disburden the realme' of the 'dishonourable ragged' (30–31) and 'send them beyond the seas'.[47]

The Privy Council did not confine its strategy of enlargement to those who had been acquitted of their 'crimes'. 'For the parties condemned', they wrote:

> though as you write you have receaved commandment for their execucion … yet since her Majesty's pleasure hath been that prisoners in this manner be surveyed and particular notice taken of the prisoners, we thincke it meete that her pleasure be farther knowen concerning the condempned persons before you proceede to th'execution of any of them, and therefore do require you to forebeare th'execution untill you receave some direction from us in this behalf.[48]

A week later they were writing to the Justices of the Gaol Delivery to inform them that 'her Majestie' was 'mercifullie disposed to extend her clemencie' to 'some' of the condemned. The Justices were to 'certefie us particularlie which of the said condempned prisoners you thinke meete to be favoured for their lyves', but that decision would be overdetermined by what is the implicit rationale for the whole procedure: the prisoners' fitness 'to be bestowed in her Majesty's service for the warres with the hope of theire good demeanour hereafter'.[49]

The conjunction of these two concerns here is surely not coincidental. For, as Richard Wilson has so persuasively argued, 'mercy' is the mechanism by which what Foucault calls the 'modern soul' begins its formation in the late Renaissance.[50] The exercise of 'mercy' in the early modern state, as Hay has remarked of the disposition of pardons in the eighteenth century, operates to generate 'the spirit of consent and submission, the "mind-forged manacles", which Blake saw binding the English poor'.[51] As Wilson points out Hobbes 'considered that "the end of punishing is not revenge but correction", and defined punishment as "Evill inflicted by Authority to the end that the will of men may thereby be better disposed to obedience"'. 'In Leviathan', Wilson goes on to argue, 'law is directed away from the body of the prisoner to his soul, from vengeance to reform, and past to future. "Men look not at the evill past … but the good to follow. Wherby we are forbidden to inflict punishment with any other designe, than the correction of the offender, or direction of others"'.[52]

The 'good demeanour hereafter' of the men who were 'pardoned' by the Privy Council in the winter of 1596 was to be secured as an effect of their continued existence. The production of that subjection however could not be assumed as a spontaneous response to their release, the army would provide a mechanism for the disciplining of these men, their transformation into 'docile bodies'. The 'modern soul', in the Foucaultian account, is 'born … out of methods of punishment, supervision and constraint" (DP, 29), it is 'itself a factor in the mastery power exercises over the body' (DP, 30) and military discipline would be one of the earliest practices to produce the 'subjected and practiced bodies' (DP, 138) on and through which a 'new micro-physics of power' (DP, 139) would be generated.

When Falstaff repeats the joke of the 'mad fellow' who 'told me I had unloaded all the gibbets and pressed the dead bodies' (36–38) he leaves a tex-

tual trace of the manoeuvre by which the Privy Council sought to turn the bodies of the condemned into instruments of warfare and thereafter into agents of their own subjection. Yet, whilst Elizabeth's government may have planned a Hobbesian future of 'obedience' for its conscripts, the Shakespearean text figures a more grim and immediate end for those it announces are 'too beggarly' (69). Falstaff, whose own manipulated manipulation has drawn them into the war machine knows their reified function: 'good enough to toss, food for powder … they'll fill a pit as well as better; tush, man, mortal men, mortal men' (65–67). His own parasitic dependence forces him to 'follow' the strategic aims of the Prince 'for reward' (5.4., 161), but the 'honour' he culls from the battle is purchased with the lives of his 'ragamuffins' and, by the play's end, 'there's not three of my hundred and fifty left alive, and they are for the town's end, to beg during life' (5.3., 36–38). 'This same fat rogue' (181) does indeed, as the Prince had promised, prove 'a rare hangman' (1.2., 64–65).

Notes

1 Michel Foucault quoting Victor Hugo in 'Michel Foucault on Attica: an interview', cited in David Macey, *The Lives of Michel Foucault* (London, 1993), p. 265.
2 Stephen Greenblatt, 'Invisible bullets: renaissance authority and its subversion' in Jonathan Dollimore and Alan Sinfield (eds), *Political Shakespeare: New Essays in Cultural Materialism* (Manchester, 1985), p. 33.
3 Louise Montrose, *The Purpose of Playing: Shakespeare and the Cultural Politics of the Elizabethan Theatre* (Chicago and London, 1996), pp. 9–10.
4 Michel Foucault, *Discipline and Punish: The Birth of the Prison*, translated by Alan Sheridan, second English edition (Harmondsworth, 1979), p. 83. Hereafter cited in the text as 'DP' with page references in parenthesis.
5 A. L. Beir, '"Engine of Manufacture": the trades of London' in A. L. Beier and Roger Finlay (eds), *The Making of the Metropolis: London 1500–1700* (London and New York, 1986), 143–63 (pp. 155–59).
6 Beier, 'Engine of Manufacture', p. 160.
7 A. L. Beier, 'Social problems in Elizabethan London' in Jonathan Barry (ed.), *The Tudor and Stuart Town; A Reader in English Urban History 1530–1688* (New York and London, 1990), 121–38 (p. 134).
8 Paul Slack, *Poverty and Policy in Tudor and Stuart England* (London and New York, 1988), p. 101.
9 Peter Linebaugh, *The London Hanged: Crime and Civil Society in the Eighteenth Century* (London and New York, 1993), p. 54.
10 Beier, *Masterless Men*, pp. 155–56.
11 All references are to the Arden edition, edited by A. R. Humphries, second edition (London and New York, 1966).
12 Greenblatt, 'Invisible bullets'; Steven Mullaney, 'Strange things, gross terms, curious customs: the rehearsal of cultures in the late Renaissance' in *The Place of the Stage: License, Play and Power in Renaissance England* (Chicago, 1988).
13 *Acts of the Privy Council of England and Wales* (herafter *APC*), new series, edited by J. R. Dasent (London, 1903), XXV, 278–79; 251–52.
14 Linebaugh, *London Hanged*, pp. 27–28. For a detailed account of Wild's career see Gerald Howson, *The Thief-Taker General: The Rise and Fall of Jonathan Wild* (London, 1970).

15 *Tudor Royal Proclamations* edited by Paul L. Hughes and James F. Larkin, 3 vols (New Haven and London, 1969), III, 141.
16 *APC*, XXIX, 128.
17 Eric J. Hobsbawm, *Bandits* (London, 1969).
18 *APC*, XXIX, 128.
19 Quoted in Slack, *Poverty and Policy*, p. 100.
20 Beier, *Masterless Men*, p. 167.
21 Louis Althusser, 'Ideology and ideological state apparatuses: notes towards an investigation' in *Lenin and Philosophy and Other Essays*, translated by Ben Brewster (London, 1971), pp. 127–93. It is only fair to point out that Althusser does not view power as simply repressive either.
22 See Richard Wilson, *Will Power: Essays on Shakespearean Authority* (Hemel Hempstead, 1993), pp. 118–57.
23 Beier, *Masterless Men*, p. 167.
24 *Tudor Economic Documents*, III, 439.
25 Quoted in Beier, *Masterless Men*, p. 168.
26 Sharpe, p. 180.
27 Beier, *Masterless Men*, p. 166.
28 Beier indicates that the Bridewell incarcerated around 150 'offenders', *Masterless Men*, p. 166.
29 Beier, *Masterless Men*, p. 166.
30 Beier, *Masterless Men*, p. 124.
31 Michel Foucault, *Power/Knowledge: Selected Interviews and Other Writings 1972–1977*, edited by Colin Gordon (Hemel Hempstead, 1980), p. 141.
32 Quoted in Beier, *Masterless Men*, p. 94; see also J. R. Hale, *War and Society in Renaissance Europe 1450–1620* (London, 1985), pp. 85–89.
33 Beier, 'Social problems', p. 137.
34 Beier, *Masterless Men*, p. 94.
35 Beier, 'Social Problems', p. 136.
36 A letter to Hampshire Magistrates from the Privy Council in 1624, quoted in Beier, *Masterless Men*, p. 94.
37 Slack, *Poverty and Policy*, p. 93.
38 *APC*, XXV, 121–22.
39 *APC*, XXV, 122.
40 *APC*, XXV, 171.
41 *APC*, XXV, 172; 122.
42 *APC*, XXVII, 290. Emphasis added. The phrase 'habillytie of body' was identical with that used in the Privy Council's letter of December which called for a survey of the prison population.
43 *APC*, XXVII, 290.
44 Sharpe, p. 32.
45 *APC*, XXVII, 292; 300; 301.
46 Douglas Hay, 'War, Death and Theft in the Eighteenth Century: The Record of English Courts', *Past and Present*, 95 (May 1982), 117–60 (pp. 141–42).
47 *APC*, XXV, 154–55.
48 *APC*, XXV, 172.
49 *APC*, XXV, 182–83.
50 Wilson, *Will Power*, pp. 126–57.
51 Douglas Hay, 'Property, authority and the criminal law' in *Albion's Fatal Tree: Crime and Society in Eighteenth Century England*, edited by Douglas Hay, Peter Linebaugh *et. al.* second edition (London and New York, 1977), 17–63 (p. 49).
52 Wilson, *Will Power*, p. 146.