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THE SUFFRAGETTE MOVEMENT AND CIVIL LIBERTIES

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ABSTRACT. *The extent to which the English common law protected civil liberties in the past is widely debated. Were the judges protectors of core freedoms such as liberty and the right to protest or were they allies of the executive in their hostility towards them? Since at least Dicey, the common law has had a vision of itself as the former, but what does practice reveal? This article explores the many ways in which the advocates of female suffrage in the 10 years or so before the First World War interacted with executive and judicial authority in their effort to use what they saw as their ancient freedoms to protect their campaigning for the vote for women. The suffragette campaign generated a series of conflicts between the judicial and executive branches of the state while also testing the depth of the common law's commitment to civil liberties.*

KEYWORDS: *suffragettes*, *civil liberties*, *protest*, *rule of law*, *executive*, *judiciary*.

I. INTRODUCTION

The suffragette movement deserves re-examination from a civil libertarian perspective. The celebrations of the one hundredth anniversary of the winning of the right to vote[1] coincided with a renewed interest in the capacity of the common law, rooted in history, to defend civil liberties, ancient and modern.[2] Yet in neither of these realms of contemporary public discourse – which at times had been celebratory almost to the point of self-congratulation – was much attention paid to what the courts were doing during the years of suffragette struggle, broadly encompassing the Edwardian period through to the outbreak of the First World War. This lack of engagement is surely surprising. The campaign

*Professor of Human Rights Law, London School of Economics. This article is dedicated to Fiadh Nolan Gearty. Very sadly, Conor died before the article was in final proofs. This piece was a very long time in the making: Conor used to joke that it was the most protracted academic project of his career. He was grateful to many people for their kind advice as it developed over the course of several decades. You know who you are – thank you. Email: c.a.gearty@lse.ac.uk.

[1] See Prime Minister's Office, "PM Speech on Public Life to Mark the Centenary of Women's Suffrage", available at https://www.gov.uk/government/news/pm-speech-on-public-life-to-mark-the-centenary-of-womens-suffrage (last accessed 8 September 2025).

[2] T.S. Fairclough, "The Reach of Common Law Rights" in M. Elliott and K. Hughes (eds.), *Common Law and Constitutional Rights* (Oxford 2020).

for the vote for women represents the first great civil liberties campaign of the twentieth century. In the language of today, the right to vote counts not only as an essential civil liberty but also falls within most definitions of what constitutes a basic human right.[3] Yet the subject is given separate treatment in none of the standard legal works on civil liberties or human rights.[4] The big cases in the story about to be told here have hardly any presence. The famous force-feeding decision of *Leigh v Gladstone*[5] is not mentioned in Bailey, Harris and Jones's well-known and authoritative textbook,[6] and it appeared in Professor Feldman's extensive treatise only in the context of a general discussion of forced feeding, in which it was suggested (presciently, as it turned out) that the case "would not be followed today".[7] Other cases of equal importance to the suffragettes at the time are either not mentioned at all or are referred to merely in passing as illustrations of general legal rules,[8] with only the path-breaking work of David Williams in the 1960s devoting any substantive space to them.[9] Lesser decisions on criminal damage[10] are entirely invisible, as are (more seriously) the large-scale conspiracy trials which as we shall see were launched against the leaders of the suffragettes at critical moments in their campaign and which (as non-appellate proceedings) were reported only in the newspapers of the day. The Public Meeting Act 1908 is rarely explained by reference to its suffragist origins and what became known as the "Cat and Mouse Bill", which dealt with hunger-striking prisoners by temporarily releasing them, has disappeared altogether from public view.[11]

[3] Sometimes controversially so: *Hirst v United Kingdom (No. 2)* (2006) 42 E.H.R.R. 849.

[4] See e.g. S.H. Bailey, D.J. Harris and B.L. Jones, *Civil Liberties Cases, Materials and Commentary*, 6th ed., by S.H. Bailey and N. Taylor (Oxford 2009); P. O'Higgins, *Cases and Materials on Civil Liberties* (London 1980); H. Fenwick, *Civil Liberties and Human Rights*, 4th ed. (Abingdon 2007); C. Moores, *Civil Liberties and Human Rights in Twentieth-Century Britain* (Cambridge 2017); R. Costigan and R. Stone, *Civil Liberties and Human Rights*, 11th ed. (Oxford 2017).

[5] (1909) 26 T.L.R. 139.

[6] Bailey, Harris and Jones, *Civil Liberties.*

[7] D. Feldman, *Civil Liberties and Human Rights in England and Wales*, 1st ed. (Oxford 1993), 165. The case was not followed in *Secretary of State for the Home Department v Robb* [1995] 1 All E.R. 677. The second edition notes the change: D. Feldman, *Civil Liberties and Human Rights*, 2nd ed. (Oxford 2002), 297–98.

[8] See e.g. *Pankhurst v Jarvis* (1909) 26 T.L.R. 118; and *Despard v Wilcox* (1910) 26 T.L.R. 118, which are referred to in passing as "cases concerning suffragettes" in Bailey, Harris and Jones, *Civil Liberties*, 302. Likewise, *Lansbury v Riley* [1914] 3 K.B. 229 is presented as an illustration of how magistrates can deploy forms of preventive justice via binding-over orders and recognisances: ibid., at 401. None of the cases appears at all in O'Higgins, *Cases and Materials*; Moores, *Civil Liberties*; M. Tugendhat, *Liberty Intact: Human Rights in English Law* (Oxford 2017); R. Stone, *Civil Liberties and Human Rights*, 6th ed. (Oxford 2006); or in Costigan and Stone, *Civil Liberties and Human Rights*.

[9] D.G.T. Williams, *Keeping the Peace: The Police and Public Order* (London 1967) deals with the prosecution of Mrs. Pankhurst in 1909 at 128–29 (on which see text at notes 105–107 below) and *Lansbury v Riley* [1914] 3 K.B. 229, 97–98. The judgment is reported at [1914] 3 K.B. 229.

[10] See cases cited at notes 125–127 below.

[11] Prisoners (Temporary Discharge for Ill-Health) Act 1913.

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There is, it is true, a great deal of academic engagement with the suffragettes and much of this is relied upon in what follows, but very little of it falls within the discipline of law.[12] Yet issues of law are central to our subject, from its inception as a movement for an extension of the franchise as early as the mid-nineteenth century through to its reconfiguration as a violent insurgency in the run-up to the First World War. The arguments deployed by its protagonists were frequently cloaked in a legal form, one that was both narrowly law-based and broadly constitutional. Here was a group of protestors who wanted to join the status quo, not overthrow it, and who fervently believed that they had principle on their side. How did a self-consciously liberal polity (and one moreover on the road to universal *male* franchise) deal with such excess of affiliation? Where did the courts fit as referees in the disputes generated by such zealots for change whose belief in politics and the law rivalled (at least initially) their commitment to their cause?

II. Disruption

The effective start of the modern suffragette movement (as it later came to be described) can be traced to the formation on 10 October 1903, by Mrs. Emmeline Pankhurst and her daughter Christabel, of the Women's Social and Political Union ("WSPU"). Mrs. Pankhurst was of radical Lancastrian stock and her husband Dr. Richard Pankhurst, who died in 1898, had been heavily involved in two mid-Victorian political campaigns, the first to have the municipal vote accorded to women (achieved in 1869) and the second to give to a wife the right for the first time to retain her inheritance and her own earnings (secured with enactment of the Married Women's Property Act in 1882). There is a nineteenth-century feel to the whole suffragette movement.[13] It flowed directly out of the great Chartist and suffrage movements of that century and shared the very Victorian assumption that securing the franchise was an end in itself, which would inevitably carry with it other beneficial social and political consequences.

As Dr. Pankhurst's campaigning successes indicate, the issue of female emancipation in general and of votes for women in particular was never far from the surface of nineteenth-century public life. In 1825, Mr. Longman had published the famous appeal by the utilitarian William Thompson (with an introductory letter to his colleague Anna Wheeler) on behalf of "one half of the human race, women against the pretensions

[12] The recent K. Cowman (ed.), *The Routledge Companion to British Women's Suffrage* (London 2025) has 28 chapters, many of which are very rewarding, but none devoted to the law. This is also true of A. Hughes-Johnson and L. Jenkins (eds.), *The Politics of Women's Suffrage* (London 2021).

[13] See generally L. Nym Mayhall, *The Militant Suffrage Movement: Citizenship and Resistance in Britain, 1860–1930* (Oxford 2003). For a good survey of the party-political side, see generally C. Rover, *Women's Suffrage and Party Politics in Britain 1866–1914* (London 1967).

of the other half, Men, to retain them in political, and thence in civil and domestic slavery".[14] Just after enactment of the Great Reform Bill of 1832, a petition had been presented to Parliament that "every unmarried female, possessing the necessary pecuniary qualification, should be allowed to vote".[15] In June 1866, a similar petition to Parliament attracted almost 1,500 signatures. The passage of the 1867 Reform Act was a spur to further activity, with the Manchester Women's Suffrage Committee being formed in January of that year,[16] and with further petitions being presented to Parliament in March and April. John Stuart Mill included in his election address to the electors of Westminster in 1865 his commitment to votes for women, and in 1869 his essay *The Subjection of Women* was warmly received by many.[17]

By the time of this publication, however, the cause had suffered a sharp reverse in the law courts; courts proved determined not to engage in creative interpretation of past legislation to achieve suffrage by the back door.[18] When the WSPU began its operations in 1903, these earlier judicial reverses would have been little more than a dim memory from an earlier era of optimistic litigation. Year after year, motions in favour of the reform were passed in the House of Commons, but, without active government backing, such resolutions were doomed to failure – as all their parliamentary "supporters" knew well.[19] The women's movement, such as it was, drifted into a phase of gentle persuasion, so polite that it was invariably as ineffective as it was warmly received. In 1894, a quarter of a million women were mustered to sign a petition for the vote and during that decade the practice grew of "an annual suffrage deputation".[20] The lobbying involved was of a particularly genteel variety.

This changed once the WSPU became involved. New Pankhurst enterprises came thick and fast from the start. After a suffrage measure had been talked out on the floor of the Commons in 1904, the affronted Mrs. Pankhurst organised an impromptu protest meeting outside Parliament, which was, however, speedily broken up by the police before it was able to reconvene at the gates of Westminster Abbey. The WSPU organised a campaign of speaking engagements around the country in

[14] The appeal was ostensibly authored by the writer and philosopher William Thompson but Anna Wheeler would appear to have been closely involved; see W. Thompson, *Appeal of One Half of the Human Race, Women [. . .]* (London 1825).

[15] Cited in R. Fulford, *Votes for Women: The Story of A Struggle* (London 1957), 33.

[16] Further recorded details of which can be found in the National Archives, available at https://discovery.nationalarchives.gov.uk/details/r/604bfcb0-97a1-4dd9-899c-25b7564642d0 (last accessed 8 September 2025).

[17] J.S. Mill, *Three Essays* (Oxford 1975), 427–548.

[18] *Chorlton v Lings* (1868) L.R. 4 C.P. 374; *Chorlton v Kessler* (1868) L.R. 4 C.P. 397. These cases were decided at the same time and before the same judges.

[19] See H. Miller, "The British Women's Suffrage Movement and the Practice of Petitioning, 1890–1914" (2021) 64 The Historical Journal 332; H. Miller, *A Nation of Petitioners, Petitions and Petitioning in the United Kingdom, 1780–1918* (Cambridge 2023).

[20] A. Raeburn, *The Militant Suffragettes* (London 1973), 4.

1904–05, the purpose being to take its message about female suffrage to the country at large. When a general election campaign got under way in 1905, it was quite natural that the organisation should immediately seek to bolster its political activities as a way of bringing its ideas to the attention of the wider electorate. One obvious tactic was to ask questions of political leaders at election meetings, but it soon became apparent that there was a major problem with such a course of conduct, namely the convention – solidly adhered to at the time – that at such gatherings women were not expected to speak at all. On 13 October 1905, Christabel Pankhurst and a colleague, Annie Kenney, attended a meeting in the Free Trade Hall, Manchester which was being addressed by the future Foreign Secretary, Sir Edward Grey, and which had been organised in support of the Liberal candidate for Parliament in the district, Winston Churchill. After a question by Kenney had been predictably ignored (even when it had been reduced to writing and passed onto the chairman), the two women unfurled "a slightly tawdry"[21] banner on which was inscribed "Votes for Women".

A disturbance followed as the women persisted, only to be unceremoniously ejected from the hall while they shouted, "The Question, the Question, Answer the Question". Christabel promptly sought to address a meeting just outside and get the attention of the crowd as it left. Both she and Annie Kenney were arrested for assaulting a police officer with a calculated spit by Christabel (a law student who knew what it took to be jailed for a cause[22]) earning her an additional charge of assault when they were brought before the magistrates' court the following morning. When both women refused to pay the required fines, they were each jailed, Christabel for seven days and Annie for three. The incident received widespread publicity, making votes for women the topic of the day. The movement was learning about the value of legal provocation: "Pankhurst's address … became the means by which the organisation [the WSPU] was propelled to national attention."[23] That these were no ordinary extremist protestors was already becoming obvious; Winston Churchill appears to have gone to Strangeways jail in person in order to pay the fines himself, only to have his self-interested philanthropy foiled by an unimaginative but legalistic governor.[24] On 21 December the same year, a meeting in the Albert Hall addressed by the acting Prime Minister, Sir Henry Campbell-Bannerman, was disrupted in the same way. (The Government had changed pending the election.) Another meeting of Churchill's, now under-secretary of

[21] Ibid., at 127.
[22] "It was not a real spit but only, shall we call it a pout, a perfectly dry purse of the mouth": C. Pankhurst, *Unshackled: The Story of How We Won the Vote* (London 1959), 52.
[23] Mayhall, *Militant Suffrage Movement*, 38.
[24] The details appear in Fulford, *Votes for Women*, 128; and Raeburn, *Militant Suffragettes*, 7, 8.

state for the colonies and facing a then unknown Conservative opponent in the solicitor William Joynson-Hicks[25] in the forthcoming election, was thrown into pandemonium by women protestors. The *Daily Mail* invented a new label for these novel campaigners: the suffragettes.

The year 1906 saw a broadening of forms of suffragette protest in several new directions. In March, suffragettes were twice to be found lurking in Downing Street with the intention of meeting the now confirmed Prime Minister, Sir Henry Campbell-Bannerman. On 25 April, some campaigners managed to disrupt proceedings in the Commons during a late evening debate[26] and two months later they took to picketing the private residences of various Cabinet ministers (including the Chancellor of the Exchequer, H.H. Asquith).[27] An anonymous reader of the *Daily Mirror* successfully achieved what had been denied Churchill, paying the fine of one of the women involved in these protests, Teresa Billington.[28] Billington had become particularly notorious for having slapped her arresting officer "in the face three times, and, after she was arrested, [having] kicked him twice".[29] Her fine of £10 had already been reduced to £5 by the Home Secretary as a result, he told the House of Commons, of an appeal for leniency from the Chancellor of the Exchequer – a decision taken "with the concurrence of the learned Magistrate".[30] "Concurrence" was an odd choice of words here, suggesting a degree of proactivity on the part of the Home Secretary and passive acceptance on the part of the judicial decision maker, despite the fact that as the Home Secretary acknowledged the sentence was "reasonable and proper".[31]

This was to be the first of many incidents involving tension between these two branches of the state. A second quickly occurred, becoming an unwelcome precedent so far as the authorities in later years were concerned. In October 1906, a group of suffragettes were arrested after they had been part of a large congregation of women who had made a disturbance in Parliament and had then attempted to hold a meeting outside the House after they had been denied a direct engagement with the Prime Minister. They were sentenced to two months imprisonment at the Westminster police court after having refused "to enter into their own

[25] Who would later be Home Secretary with a very reactionary record so far as civil liberties were concerned: see K.D. Ewing and C.A. Gearty, *The Struggle for Civil Liberties: Political Freedom and the Rule of Law in Britain, 1914–1945* (Oxford 2000), chs. 3, 4.

[26] This occurred during an adjournment debate on the enfranchisement of women: HC Deb. vol. 155 cols. 1570–87 (25 April 1906), esp. at cols. 1584–85 where, Hansard reports, some partisan voices "were heard to shriek out" political remarks from the Ladies Gallery.

[27] I.F. Fletcher, "A 'Star Chamber of the Twentieth Century': Suffragettes, Liberals, and the 1908 'Rush the Commons'" (1996) 35 Journal of British Studies 504, 508.

[28] See "Papers of Teresa Billington-Greig", available at https://archiveshub.jisc.ac.uk/search/archives/45d69959-e186-3ed1-a81e-786dc904f676 (last accessed 17 July 2024).

[29] HC Deb. vol. 159 col. 648 (25 June 1906) (H. Gladstone).

[30] Ibid.

[31] Ibid.

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recognisances and to find one surety to keep the peace".[32] The Government was initially unyielding so far as their punishment was concerned; the Home Secretary assuring the Commons that the women could "secure their own release by obeying the magistrates' order" and in these circumstances he could "not interfere with the sentences".[33] Amongst the group's supporters was a second of Mrs. Pankhurst's daughters, Sylvia, who had also got herself jailed for causing a disturbance in court while these sentences were being handed down.[34] Her conviction and sentence (to 14 days) were also defended by the Home Secretary who informed the House that he had "communicated with the learned magistrate who tried the case" and whose opinion was that the offence was made out despite efforts by supporters of the defendant to question it.[35]

The convictions being unshakeable, attention then shifted to the division within the jail to which these various prisoners had been allocated. The governing statute was the then fairly recently enacted Prisons Act 1898, which distinguished between first, second and third divisions within the prison system and stated that the matter of which division a convicted person was to be placed fell under the sentencing judge's discretion.[36] The class basis of the statutory arrangements reads painfully today with the division between these classes being determined by the "nature of the offence and the antecedents of the offender".[37] The second division was the norm unless the sentencing judge specifically indicated in any given case that sentence was to be served in the first and this was something which had not happened in any of the cases now being disputed. While in the second division, therefore, the suffragette prisoners had to wear prison clothes albeit, as the Home Secretary, Herbert Gladstone, assured the House, they were not required to associate "with the ordinary criminal of the third class".[38] These protestors had put the authorities in something of a bind, appearing on the one hand keen to go to prison so as to help promote their cause, while on the other demanding once they were incarcerated special treatment on account of their being convicts more privileged – and politically motivated in an honourable way – than

[32] HC Deb. vol. 163 col. 519 (26 October 1906) (H. Gladstone).
[33] Ibid.
[34] E.S. Pankhurst, *The Suffragette Movement* (London 1931), 229–30.
[35] HC Deb. vol. 163 cols. 518–19 (26 October 1906) (H. Gladstone). The Home Secretary mistakenly referred to Sylvia by her first name Estelle: ibid., at col. 518.
[36] Prisons Act 1898, s. 6. On this generally, see L. Radzinowicz and R. Hood, *History of English Criminal Law*, vol. 5 (Oxford 1990), 439–60.
[37] Prisons Act 1898, s. 6(2). One prisoner marooned in the third division before her shift to the second was, according to the MP making her case for transfer in Parliament, "the daughter of a clergyman and a graduate in honours at the London University"; see HC Deb. vol. 195 col. 1696 (9 November 1908) (W. Byles). For a nuanced picture of the class basis of the suffragette movement, see D. Atkinson, *Rise Up Women! The Remarkable Lives of the Suffragettes* (London 2019). Radzinowicz and Hood are particularly scathing of the class-based approach that was so often in evidence: Radzinowicz and Hood, *History*, 450–51.
[38] HC Deb. vol. 163 col. 1110 (31 October 1906) (H. Gladstone). On the difference between these three divisions, see Radzinowicz and Hood, *History*, 440–41.

the ordinary run of inmate. No doubt seeking to reduce the political tensions the case had aroused in a way that did not question the jailing of these high-profile defendants, Gladstone agreed to a transfer into the higher division. In doing so he appears to have used the sentencing judge as cover for his decision. So far as such a transfer was concerned, it was true that these prisoners were unlike those convicted prisoners "whose treatment could be altered by a conditional pardon from the Crown"[39] and nor were they surety prisoners in respect of whom the sentencing magistrate had made an order for inclusion in the first division.[40] Leaving all casual talk of "concurrence" to one side, Gladstone was clear that such an order for a transfer of division could only be made by the court. A loophole appeared however in the silence of the accused upon their conviction. As no application for the first division had been requested at their trial, he felt able to bring "the matter to [the magistrate's] notice; and [he was] glad to say that [the magistrate] has seen his way to direct that they should be treated as first division offenders and has this morning sent an order to this effect to the prison authorities".[41] The Attorney General of the day, John Walton Lawson, seems to have confirmed that this was a legitimate course of action for the magistrate to adopt.[42] Sylvia Pankhurst was included in the list of prisoners so transferred,[43] as was another leader of the movement, Mrs. Pethick Lawrence, who immediately upon conviction had "collapsed with a nervous breakdown and two days later was released from Holloway, having given an undertaking not to take part in any further militant action for six months".[44] The rest were released after serving half their allotted sentences.

After this quasi-political judicial order, the first division was routinely accorded to jailed suffragettes throughout the rest of 1906 and into the following year.[45] It is probable that these interventions by the Home Secretary were resented by the magistracy, or at very least by influential figures within it. When suffragette militancy escalated in early 1908, magistrates reverted to consigning prisoners to the second division, provoking from the women's parliamentary supporters many demands for

[39] HC Deb. vol. 163 col. 1110 (31 October 1906) (H. Gladstone). The Home Secretary had in mind the cases of the crusading journalist W.T. Stead and Leander Starr Jameson. Having been convicted under the Foreign Enlistment Act 1870, the Home Secretary had moved Jameson to the first division by way of exercise in his favour of the prerogative of mercy.

[40] As was the case with the religious activist John Kensit, jailed in 1901: HC Deb. vol. 163 col. 1110 (31 October 1906) (H. Gladstone).

[41] Ibid. In the first division "they enjoy frequent visits from their friends, they are allowed books, newspapers, and writing materials freely; they can carry on their professional work as far as possible, and they are exempted from prison work if they so wish": HC Deb. vol. 164 col. 543 (17 November 1906) (H. Gladstone).

[42] HC Deb. vol. 195 col. 1212 (4 November 1908) (H. Samuel).

[43] HC Deb. vol. 163 col. 1110 (31 October 1906) (H. Gladstone).

[44] E. Crawford, *The Women's Suffrage Movement: A Reference Guide* (London 1999), 536.

[45] HC Deb. vol. 195 col. 274 (28 October 1908) (H. Gladstone). Some 127 suffragette prisoners were awarded first division status in the following five months: see Radzinowicz and Hood, *History*, 442.

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a reversion to the old practice. Still in post, Gladstone appeared by then to have repented of his earlier leniency, saying now that it had been "used, because of the privileges it conferred in prison, simply for the purpose of encouraging the commission of further offences of the same kind".[46] His approach to the magistrates in early 1908 was altogether more deferential than it had been in 1906. The justices, "having experience in these matters in the last year and a half, [had come] to the conclusion that action was necessary in the interests of the public and exercising that discretion fairly they have delivered their judgment" – without any order for transfer to the first division. It was "no part of the Home Secretary's duty to be constantly interfering with the discretion of the stipendiary magistrates, who are capable and experienced men doing their duty as well as they can in time of difficulty".[47] Glossing over his past actions, the Home Secretary thought that if he did "interfere in this case it would be a most serious discouragement to the stipendiary magistrates in doing what they think necessary in the discharge of their duty".[48] The point was made even clearer in an answer arising out of an earlier case: the magistrates' view was "that the persistence of such offences renders it undesirable to adopt that course [transfer to the first division] any longer".[49]

The issue could not be so easily resolved though. Later that year, the magistrates seemed to have overplayed their hand. On 28 October 1908, two militants belonging to the Women's Freedom League ("WFL"), a sister organisation of the WSPU, who chained themselves to the Grille in the ladies gallery of the House of Commons were promptly removed[50] and, together with 14 women arrested outside Parliament on the same occasion, were jailed for one month in the third division (in default of paying £5 fines) for obstruction of the police in the execution of their duty – no light binding-over order or relaxed prison conditions here but rather full exposure to the "ordinary criminals" as Gladstone had described them two years before.[51] The reaction to this was strong, one MP regaling Parliament with the horror of these fine ladies being marooned with "women serving sentences for theft, drink, or soliciting".[52] Change followed once again, albeit now with the Home Office making a more determined efforts than ever to cover its tracks. On this occasion the sentencing magistrate, A.A. Hopkins, had "obediently [fallen] into line" with the view of the Bow Street Chief

[46] HC Deb. vol. 184 col. 288 (14 February 1908) (H. Gladstone).
[47] Ibid.
[48] Ibid.
[49] HC Deb. vol. 183 col. 1361 (10 February 1908) (H. Gladstone).
[50] For a good account, see L.E. Nym Mayhall, "Defining Militancy: Radical Protest, the Constitutional Idiom, and Women's Suffrage in Britain, 1908–1909" (2000) 39 Journal of British Studies 340, 357. Actions by the WFL involving efforts to "doorstep" the Prime Minister in Downing Street led to convictions for obstruction before Henry Curtis-Bennett in early September: ibid., at 364–65.
[51] Fletcher, "Star Chamber", 523. For Gladstone's remark, see note 38.
[52] HC Deb. vol. 196 col. 1041 (17 November 1908) (G. Cooper).

Magistrate, Sir Albert de Rutzen, that the sentences should in fact be served in the second division. De Rutzen had himself been leant on by the Home Office which was in turn responding to pressure brought to bear on the Home Secretary by Keir Hardie in the House of Commons.[53] The Home Secretary was therefore able to assure the House that the move "was done by the Magistrate, not by me".[54] All he had done was "draw the attention of the magistrate to the fact that these ladies belonged to the class of prisoners for whom the second division was intended".[55] The rumour that there had been an earlier case of ministerial dictation was "entirely without foundation", being "due either to an extraordinary misunderstanding of a remark made by the magistrate, or to wilful invention".[56]

There were increasingly controversial police practices on show during this early period of suffragette engagement. To coincide with the State Opening of Parliament on 13 February 1907, a "Women's Parliament" had been established at Caxton Hall, from where a procession emerged to march on Parliament when it became apparent that the King's Speech contained no reference to women's suffrage. This large deputation was repelled by the police using both foot and mounted officers, an incident which led to many arrests and to the imprisonment of 54 suffragettes for two weeks. "Holloway is full up", the *Daily Mirror* reported. In March the same year, "two WSPU marches on Parliament in defiance of a sessional order to keep the way clear for MPs and peers were met by hundreds of police, including some on horseback, which led to damaging comparisons with Cossack attacks on demonstrators during the recent revolution in Russia".[57] The usual police devices were deployed to stymie the protestors, in particular the kind of minor charges that could be processed without the risks attendant on jury trial, as well as binding-over orders requiring an undertaking from the recipient to be of good behaviour, with these having the added advantage of not necessarily requiring proof of a criminal offence.[58]

The disturbances escalated further in 1908. A number of women managed to chain themselves to railings in Downing Street and one leading suffragette, Mrs. Drummond, actually contrived to burst into Number 10.[59] On 11–13 February, just as in the previous year, a "Women's Parliament" was established at Caxton Hall to mirror the State Opening of Parliament a short distance away. A deputation from this "Parliament" to see the Prime Minister was repulsed by the police with a total of 50

[53] Fletcher, "Star Chamber", 523.
[54] HC Deb. vol. 196 col. 253 (11 November 1908) (H. Gladstone).
[55] Ibid.; see further HC Deb. vol. 196 col. 1202 (8 November 1908) (H. Gladstone), making clear that it had been the chief magistrate through whom the Home Secretary had gone.
[56] HC Deb. vol. 195 col. 779 (2 November 1908) (H. Samuel).
[57] Fletcher, "Star Chamber", 508.
[58] Ibid., at 509 (footnote omitted).
[59] An account of this incident is provided in Pankhurst, *Suffragette Movement*, 207–08.

arrests being made.[60] Mrs. Pankhurst was herself arrested and, when she refused the conditions of the binding-over order offered to her (£20 surety for 12 months' good behaviour), she was dispatched to Holloway prison for six weeks. In May, 1,000 supporters of the women's franchise gathered on the Embankment, a deputation from which did succeed in meeting the Prime Minister. An attempt to "storm" Parliament on 30 June 1908 led to nearly 30 arrests. Sylvia Pankhurst described the movement as being made up of a "passionate love of freedom, a strong desire to do social service and an intense sympathy for the unfortunate"[61] and all three were in evidence with this engagement. When a plan to descend upon Parliament yet again emerged in October, it was met by the issuance of pre-emptive summons against the suffragette leadership for publishing a handbill inciting the public to do a wrongful and illegal act (the public were called upon to "help the suffragettes to rush the House of Commons"[62]). The information laid before the Bow Street magistrate, Sir Henry Curtis-Bennett, alleged that the three leaders (Emmeline and Christabel Pankhurst and their colleague Flora Drummond) "had conducted themselves in a way likely to lead to a breach of the peace".[63] The binding-over orders sought by the police had no pre-existing public order charge to underpin them: "no offense had as yet occurred, and the proposed binding orders were anticipatory."[64] When the women refused to appear they were promptly arrested, conveniently just a few hours before the action was scheduled to begin.[65] The "rush" on the Commons was attempted nonetheless. However, despite a very large crowd having gathered outside,[66] the actual intrusion into the building was largely prevented by a heavy police presence, though one person (Keir Hardie's secretary, Mrs. Travers Symons) did manage to get through onto the floor of the House, from which she was promptly removed "but not arrested because the police had no jurisdiction within the Palace of Westminster".[67]

Despite this operational success, the authorities persisted in acting on the summons and taking the suffragette leaders to court. Charges of unlawful assembly were avoided so as (it seems and as was usual in these cases)

[60] Ibid., at 277.
[61] E.S. Pankhurst, *The Suffragette: The History of the Women's Militant Suffrage Movement 1905–1910* (London 1911), iii.
[62] Mayhall, "Defining Militancy", 353.
[63] Fletcher, "Star Chamber", 516.
[64] Ibid.
[65] Fulford, *Votes for Women*, 186. See Mayhall, "Defining Militancy", 353; and, more generally, see Nym Mayhall, *Militant Suffrage Movement*. There is also a full account of the whole event in Fletcher, "Star Chamber".
[66] Estimated at 60,000 by A. Rosen, *Rise Up, Women! The Militant Campaign of the Women's Social and Political Union, 1903–1914* (London 1974), 111, cited in Mayhall, "Defining Militancy", 354.
[67] Fletcher, "Star Chamber", 516 (footnote omitted). After the Grille protest (see further below), the authorities made an effort to introduce legislation to allow prosecutions in the ordinary courts for incursions into Parliament, but the proposals never made it into law: ibid., at 526–27.

to avoid any claim to a right to trial by jury.[68] The defendants managed, however, to turn their appointment at the magistrates' court to their political advantage by contriving to have both the Chancellor of the Exchequer (David Lloyd George) and the Home Secretary called as witnesses for the defence – a "suffrage meeting attended by millions" as Emmeline Pethick Lawrence mischievously remarked.[69] (The basis for this ruse was that they had both been present in Parliament at the time of the "rush".) Christabel Pankhurst led for the defence and, keen student lawyer that – as we have already noted – she was, she clearly enjoyed the occasion, bamboozling prosecution witnesses and relying on ancient precedent to underpin what was, so far as the protestors were concerned, "a perfectly constitutional right to go ourselves in person to lay our grievances before the House of Commons".[70] Ian Fletcher recounts what happened next:

> In a short decision, Bennett cited the precedent of *Wise v Dunning*, in which the high court had upheld binding orders against an ultra-Protestant agitator in Liverpool in 1901, and referred to the numbers of injuries, arrests, and even stolen watches as evidence of the disorderly consequences of the "rush" appeal. He ordered Emmeline Pankhurst and Flora Drummond to be bound over in their own recognizances of £100 and find two sureties of £50 each for twelve months and Christabel Pankhurst to be bound over in recognizances of £50 and find two sureties of £25 each for twelve months. When they rejected these orders, he sentenced Drummond and the elder Pankhurst to three months' and the younger Pankhurst to ten weeks' imprisonment in the second division.[71]

None of the women was given any special status in prison, though they were released shortly before Christmas. The trial had "provided the WSPU with a forum in which it could be established definitively that not only were women excluded from the franchise, but they were denied also the constitutional means of redressing that exclusion".[72]

The official line hardened in the autumn of 1908, especially in relation to the chaotic speaking events which ministers were by now being routinely forced to endure, but perhaps also in light of the irritation understandably felt by senior ministers in being dragged into court proceedings by (as they saw it no doubt) campaigning defendants. There was more than the usual disorder at the Leeds Coliseum on 10 October, when "protestors tried to force their way into a Liberal meeting attended by Asquith and Gladstone", leading to the arrest of "the suffragette Jennie

[68] That was the view of *The Times*, cited in Mayhall, "Defining Militancy", 354.
[69] Ibid., at 353.
[70] Ibid., at 354. A flavour of the proceedings can be caught from the extracts from them to be found in F.W. Pethick Lawrence, "The Trial of the Suffragette Leaders" in J. Marcus (ed.), *Suffrage and the Pankhursts* (London 1989), 51–114.
[71] Fletcher, "Star Chamber", 522–23. *Wise v Dunning* is reported at [1902] 1 K.B. 167.
[72] Mayhall, "Defining Militancy", 356.

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Baines, the anarchist Alf Kitson, and a handful of others".[73] Both were "committed to the autumn assizes on serious charges of unlawful assembly, assault, and riot".[74] (The authorities were clearly becoming worried about the direct appeals the suffragette leaders were making for support among the unemployed.[75]) When the Leeds Coliseum case involving Jennie Baines and Alfred Kitson came for trial at the November assizes in Leeds, the authorities reacted quickly after the trial judge, Mr. Justice Pickford, looked as though he was going to accede to the defendants' request to summon both Asquith and Gladstone (who had been present at the Coliseum on the night of the disturbance). This ruse was not to be repeated. No less a dignitary than the Attorney General, now Sir William Robson K.C., took an interest in the case, applying to the Divisional Court on behalf of the Prime Minister and Home Secretary to have the subpoenas to testify, by now issued against each of those ministers by the trial judge in Leeds, set aside on the ground that the defendant Baines had no reasonable belief that the ministers had relevant evidence in their cases and that by seeking them the defendants had been motivated not to ensure a fair trial but to use the court for political propaganda. The Divisional Court (Mr. Justice Bigham and Mr. Justice Walton) agreed to the application: it would seem that the subpoenas were indeed the "flagrant abuse" that the Attorney General had claimed in court that they were.[76] Indeed, "it would be an idle waste of time and money to require [the ministers] to go down to Leeds to give evidence".[77] Sent back to Pickford J. and, without their reluctant star witnesses, both defendants were quickly found guilty by the Leeds jury. Kitson, the anarchist, duly paid his recognisance of £10 but Baines refused, ending up sentenced to six weeks in the second division as a result of her principled stand.[78] The suffragettes were pleased to have secured "a legal victory of sorts" in that there had been a trial by jury.[79]

By 1908, questions about women's suffrage were being asked at every meeting of the governing Liberal Party. Winston Churchill (now ensconced

[73] Fletcher, "Star Chamber", 514 (footnote omitted).
[74] Ibid.
[75] See generally ibid. According to Fulford, *Votes for Women*, 186, H.G. Wells had written in *The New Machiavelli* that around this time there had been "a pretty deliberate" appeal from the suffragette leaders to the unemployed to join forces with them. See H.G. Wells, *The New Machiavelli* (Harmondsworth 1978).
[76] Fletcher, "Star Chamber", 525. See *R. v Baines* [1909] 1 K.B. 258, 260. The Court made it clear that if, during the trial, it turned out that the ministers could give useful testimony the judge would be free to summon them again. (Kitson had not sought a subpoena and was content to await the judgment of the Court.)
[77] *R. v Baines* [1909] 1 K.B. 258, 261 (Bigham J.)
[78] Fletcher, "Star Chamber", 525. "[O]n her release [Baines] was drawn in a carriage for three miles by women dressed as mill-hands in clogs and shawls. She then went to London where she was met by a triumphal procession and taken to a meeting in Trafalgar Square": Crawford, *Women's Suffrage Movement*, 25. Powerful imagery was never far from the minds of the leaders of the movement: see L. Tickner, *The Spectacle of Women: Imagery of the Suffrage Campaign 1907–1914* (London 1987).
[79] Fletcher, "Star Chamber", 526.

in the Liberal Party Cabinet as President of the Board of Trade) continued to be a favourite target. After a by-election, Churchill had perhaps unwisely described the newly-formed WFL as having allied itself "to the tail of a public-house made agitation". He was pursued thereafter by a WFL member, Miss Maloney, and her "resounding muffin bell" with which she "attempted to drown all his speeches in the open-air" and as a result of which endeavours she "was given the sobriquet of La Belle Maloney".[80]

In early December, an event in the Albert Hall which involved Lloyd George as a speaker was later described by a government minister in the Lords as "pandemonium" and as giving rise to "a rumour that the Chancellor of the Exchequer intends to address no more public meetings if anything in petticoats is allowed to form part of his audience".[81] This may have been something of a turning point, the sentiment that "something/anything must be done" rising inexorably to the surface. The distinguished supporter of votes for women, Lord Robert Cecil, told a meeting of the Conservative and Unionist Women's Franchise Association on 8 December 1908 that the "other day a Cabinet Minister went to a great meeting in the Albert Hall, in order, as he said, to give a message to the women assembled in their thousands there" but that "[o]wing to circumstances which we all of us deplore and regret, and which many of those whom I am addressing actively protested against, he was not accorded that fair hearing which it is the privilege and the boast of all Englishmen that we give in this country".[82] Within two weeks of this speech, Cecil had steered onto the statute book a Private Members' bill aimed at this precise mischief. The Public Meeting Act 1908 passed through both Houses in record time, with Lord Newton commenting that "no Bill has been ever passed through the other House with greater rapidity than this one, except a Bill dealing with dynamitards which, about twenty years ago, was passed through all its stages in less than an hour".[83] The Prime Minister, Mr. Asquith, complimented its sponsor after its speedy passage through the Commons and pointed out "how easy it was to pass a Private Members' bill when there was general concurrence in its object".[84]

The purpose of the Act was to "make disorderly conduct at a meeting for the purpose of preventing the transaction of the business of the meeting an offence".[85] A fine of £5 or one month's imprisonment was provided for. Despite the unanimous support the measure attracted, it seems

[80] Fulford, *Votes for Women*, 168.
[81] HL Deb. vol. 198 col. 2207 (18 December 1908) (The Earl of Donoughmore).
[82] Lord Robert Cecil, "Address delivered on 8th December 1908 to the Conservative and Unionist Women's Franchise Association". Cecil was supportive of female suffrage but not at the price of "the most important of all political principles – namely the supremacy of the law", Viscount Cecil of Chelwood, *All the Way* (London 1949), 110.
[83] HL Deb. vol. 198 col. 2208 (18 December 1908).
[84] HC Deb. vol. 198 col. 2170 (17 December 1908).
[85] HL Deb. vol. 198 col. 2207 (18 December 1908) (The Earl of Donoughmore).

nevertheless to have been something of a dead-letter right from the start, as far as the suffragettes were concerned. The disruption of meetings continued, without any apparent hindrance from the Act. Speedy enactment has its disadvantages. A Member of Parliament complained, in a question to the Home Secretary in February 1909, that the police did not even know of the existence of the legislation.[86] Later that year, a departmental committee on the duties of the police revealed why the Act was not having the desired effect; the police had decided not to prosecute under it, leaving this responsibility instead with the promoters of the disrupted meeting.[87] But party leaders were predictably reluctant to be seen as the prosecutors of idealistic women. Despite the debilitating effect on the Act of the official policy of police forbearance, the committee recommended no strengthening of the law.[88] After a Divisional Court decision in 1911 on another matter (a public meeting on tariff reform that was broken up by antagonistic attendees) in which the Act played a tangential part,[89] the legislation more or less fell into abeyance, only to be revived in controversial circumstances in the 1930s, when the police used it as the legal basis for giving the names and addresses of disrupters of fascist meetings to the promoters of those meetings, an action that left the protestors less than secure in the weeks that followed.[90]

III. The Constitution to the Rescue?

What did the suffragettes hope to gain by their campaign of peaceful but noisy and inconvenient intervention in the political process? Clearly they believed in the rationality of their case and in the potential for change within the existing parliamentary process. Underlying their aggressive parliamentary tactics lay a conviction that they had both the law and the constitution on their side. This is how a scholar of the subject describes their commitment to petitioning Parliament and their belief in their entitlement to engage in this way:

> Suffragettes based their right to present petitions on two statutes. Clause 5 of the Bill of Rights, which was inscribed on WFL members' badges, guaranteed the right of British subjects to petition the monarch, and, by extension, petitioners argued, their ministers. This was partially qualified by the 1661 Act against Tumultuous Petitioning (Car. II, c. 5), which stated that petitions to Parliament or the king had to be signed by twenty or fewer individuals, only ten of whom could present their petition.[91]

[86] HC Deb. vol. 1 col. 558 (22 February 1909) (W. Sloan).
[87] *Report of the Departmental Committee on the Duties of the Police with respect to the Preservation of Order at Public Meetings*, Cd. 4673 (London 1909), paragraphs 40–41.
[88] Ibid.
[89] *Burden v Rigler* [1911] 1 K.B. 337.
[90] Ewing and Gearty, *Struggle for Civil Liberties*, 314–15.
[91] Miller, "British Women's Suffrage", 340 (footnotes omitted).

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The early nineteenth-century radical campaigns "revealed that the proscription of petitions with over twenty signatures was unenforceable, but the state resisted the right of petitioners (even when in groups of ten) to present their petitions".[92] One attempt to petition the king had directly led the authorities to consider whether the Protection of Her Majesty's Person Act 1842[93] might not be invoked, before it was judged by the Home Secretary and the King's Private Secretary that the statute was "inapplicable, and, if it were applicable, unwise".[94]

Despite the reverses earlier discussed, the suffragettes continued through 1909 to act on their belief in a right of petition, becoming increasingly aggrieved at the failure of the authorities to acknowledge what they were certain was the correct constitutional position. Matters came to a head on 29 June 1909. On this occasion the WSPU leaflets distributed as usual in advance of its march on Parliament promised delivery of "a petition to the Prime Minister in support of the enfranchisement of women". The leaflets quoted the Bill of Rights and asserted that "Mr. Asquith, as the King's representative, is bound, therefore, to receive the deputation and hear their petition. If he refuses to do so, and calls out the police to prevent women from using their right to present a petition, he will be guilty of illegal and unconstitutional action".[95] This (no less than the thirteenth) attempt to petition MPs led to some 120 arrests when Asquith's refusal to meet Mrs. Pankhurst caused "the pretence of an orderly peaceful deputation [to be] abandoned" with about 300 women trying "to force their way through to the House of Commons".[96] The women were prevented from entering not only St. Stephen's Hall but also the whole precincts of the House. When the matter was raised in the Commons by Keir Hardie the following day, Gladstone took "entire responsibility for the action of the police outside the House in giving effect to the Sessional Order of the House of Commons".[97] The Speaker intervened to remind Hardie that, under its terms:

> the Commissioners of the Police of the Metropolis do take care that, during the session of Parliament, the passages through the streets leading to this House be kept free and open, and that no obstruction be permitted to hinder the passage of members to and from this House, and that no disorder be allowed in Westminster Hall, or in the passages leading to this House, during the sitting of Parliament, and that there be no annoyance therein or thereabouts.[98]

[92] Ibid.
[93] 5 & 6 Vict. c. 51.
[94] Quoted in Miller, "British Women's Suffrage", 342.
[95] K. Grant, "British Suffragettes and the Russian Method of Hunger Strike" (2011) 53 Comparative Studies in Society and History 113, 129, quoting Rosen, *Rise Up, Women!*, 118.
[96] C.J. Bearman, "An Army without Discipline? Suffragette Militancy and the Budget Crisis of 1909" (2007) 50 The Historical Journal 861, 866.
[97] HC Deb. vol. 7 cols. 392–93 (30 June 1909) (H. Gladstone).
[98] Ibid., col. 393 (30 June 1909).

Hardie angrily replied that "these ladies [had been] escorted to the entrance of the House, and that there [had been] no disturbance of any kind up to that point".[99] The next day the same MP drew the attention of the House to the Tumultuous Petitions Act 1661, section 3 of which, as he explained to the House, specifically guaranteed that that Act would not "debar or hinder any person or persons, not exceeding the number of ten aforesaid, to present any public or private grievance or complaint to any member or members of Parliament after his election, and during the continuance of Parliament".[100] Since there had been, in Hardie's words, only "seven ladies who, in an orderly manner, sought to interview a Member of Parliament",[101] the point was clearly a strong one at first glance and it disconcerted the Speaker who responded by pointing out that the sessional order had been passed "I might almost say, for centuries, but at all events for a century" and that "it would seem almost impossible to conceive that all our predecessors in this Chamber have been acting ultra vires" and that in any event the issue was one for the law courts: "Indeed, I believe it is the subject of investigation and consideration in the Courts at present, and it would be an improper thing for me to give an opinion upon it."[102]

The suffragettes were greatly excited about the legal victory they felt sure they would now secure in the cases that were to follow the arrests that had taken place. *Ius Suffragi*, the journal of the International Woman Suffrage Alliance, waxed eloquently on the success of the "great demonstration of 29 June", which "had proved far more successful than was thought possible".[103] It was clear that the WSPU had cleverly designed the protest so as to be able to avail itself of section 3. As *Ius Suffragi* put it:

> It was decided to take advantage of an Act passed in the reign of Charles II, and send a series of deputations, each limited to 7 or 8 persons. By doing this, the women kept strictly within the letter of the law ... the first deputation which attempted to interview the Prime Minister was headed by Mrs Pankhurst, the beloved leader and founder of the Union. [Its] reception [...] from the large crowds assembled in the streets was enthusiastic in the extreme [and its] progress through the streets was like the progress of a triumphant army.[104]

That is, until it was stopped, refused entrance to the Commons and participants were arrested. The other arrests were mainly of women in similarly constituted deputations.

[99] Ibid.
[100] HC Deb. vol. 7 col. 610 (1 July 1909) (K. Hardie).
[101] This description of the deputation had been offered by Hardie the previous day: HC Deb. vol. 7 col. 394 (30 June 1909).
[102] HC Deb. vol. 7 cols. 610–11 (1 July 1909).
[103] *Ius Suffragi*, vol. 3, no. 11 (15 July 1909), 88.
[104] Ibid.

The case that was eventually taken to the appellate court, reported as *Pankhurst v Jarvis*,[105] involved Mrs. Emmeline Pankhurst and the Honourable Evelina Haverfield, both of whom were convicted for their part in the deputation, with the charges being obstructing and resisting a police officer in the execution of his duty under the Prevention of Crimes (Amendment) Act 1885. The magistrate found as a fact that the presence of the Pankhurst deputation at the St. Stephen's entrance to the Palace of Westminster (consisting of the appellants and six other women) had caused a collection of 50 or 60 persons in the area which had led to charges of obstruction of the police in the execution of their duty, and that the ladies had refused to disperse when requested to do so. The request to disperse was, he found, correctly made under the sessional order. In arguing against Haverfield's conviction[106] before a High Court bench made up of Lord Alverstone C.J. and Channell and Coleridge JJ., the barrister Lord Robert Cecil (who had of course sponsored the Public Meeting Act) stressed the point that the ladies themselves had not created the obstruction. Their right to petition a Member of Parliament involved a duty on the part of such members to receive such petitions. This was, he argued, a reasonable exercise of the right, directed against the Prime Minister, because he "more than anyone else in the country was a repository of political power".[107] Giving the judgment of the court, the Lord Chief Justice agreed that there was a right to present a petition but not that there was a right to present it by means of a deputation. Mr. Asquith's refusal to receive the deputation was quite legitimate albeit entirely different from any refusal to receive the petition, and he had not in fact refused to receive the petition. "Without throwing the slightest doubt on the right to petition", the Lord Chief Justice thought that "these ladies were breaking the law and were properly convicted".[108]

It is hard to see, however, how the court could have decided otherwise, unless it was willing to risk turning the Prime Minister into a full-time recipient of petitions in the central lobby. The reaction of the movement was however one of disappointment laced with bitterness, since the effect of the decision extended far beyond the Prime Minister to inhibit the lobbying of Parliamentarians generally: adverse legal decisions prompted more gloom about the viability of petitioning as a political tactic among militants. Sylvia Pankhurst believed that the Lord Chief Justice's

[105] (1909) 26 T.L.R. 118.

[106] Mrs. Pankhurst was not represented.

[107] (1909) 26 T.L.R. 118, 120. The focus on Asquith must have been exhausting. When the WFL finally changed its petitioning strategy at the end of October 1909, "over three hundred members of the League had logged more than seven hundred aggregate hours waiting to present Asquith with its petition": Mayhall, "Defining Militancy", 365.

[108] *Pankhurst v Jarvis* (1909) 26 T.L.R. 118, 121 (Lord Alverstone C.J.). According to *Ius Suffragi*, 93 other women apart from Mrs. Pankhurst were convicted arising out of the same episode: *Ius Suffragi*, vol. 4, no. 4 (5 December 1909), 28.

rejection of her mother's appeal in December 1909 had "rendered null and void" the "ancient constitutional right of petition". Her sister, Christabel, greeted the same verdict as having "torn up the Bill of Rights and rendered vain and meaningless the ancient, common law right of petitioning".[109]

The Vote, the organ of the WFL, lamented that:

> [t]he ruling will not improve matters. It will simply lead to further complications. The right to petition was admitted, but, ruled the Lord Chief Justice, it must be exercised in a reasonable manner. The question is how can one present it in a reasonable manner when the member whom you wish to present it to bolts out of back doors, hides in underground passages, dodges behind policemen, and says "Go away! Don't be silly!" and makes mysterious exits and entrances to public meetings like an elusive pantomimic clown?[110]

The case came at a time when a series of judicial reverses were dealing the suffragettes a rough lesson in the realities of political and legal power. We have already noted the failure to repeat the cross-examination of political witnesses in the *Baines* case the year before.[111] In 1908 as well, a four-man House of Lords had rejected the right of women graduates of a Scottish university to vote for the parliamentary representative of such a university.[112] Six weeks after *Pankhurst v Jarvis* came *Despard v Wilcox*, when an assembly of suffragettes waiting in Downing Street to see the Prime Minister unsuccessfully contested their conviction for obstruction of the police in the execution of their duty under the Metropolitan Police Act 1839, their unsuccessful argument having been that they had a right to use Whitehall and Downing Street in the way they could use any other highway.[113] The most serious reverse of all came one week after *Pankhurst v Jarvis*, in a case initiated by the campaigners when the Lord Chief Justice, Lord Coleridge, and a special jury found that the forcible feeding that had been introduced as a way of dealing with imprisoned suffragettes on hunger strike was justified under the general defence of "necessity".[114] The jury took no longer than two minutes to return a verdict for the defendants. The nightmare scenario from the Government's point of view, of reams of women being released rather

[109] Miller, "British Women's Suffrage", 350, quoting Pankhurst, *Suffragette Movement*, 473; see also *Votes for Women*, 10 December 1909, 168.
[110] *The Vote*, vol. 1 no. 7 (9 December 1909), 79.
[111] *R. v Baines* [1909] 1 K.B. 258.
[112] *Nairn v University of St Andrews* [1909] A.C. 147 (H.L.).
[113] *Despard v Wilcox* (1910) 22 Cox C.C. 258.
[114] *Leigh v Gladstone* (1909) 26 T.L.R. 139. The first suffragette hunger-striker, Mrs. Marion Wallace Dunlop, had been arrested for affixing a stamp to the wall in St. Stephen's Gallery in Parliament, the stencilling quoting an excerpt of the 1689 Bill of Rights about the right of petition in violet ink: Grant, "British Suffragettes", 117.

than starving themselves to death, had been averted by the intervention of a jury presided over by the most senior judge in the land.

IV. Violence

The year 1909 ended on a very low note for the suffragette leadership. As Bearman observes: "[o]n 1 December, [the WSPU] lost its legal action on the right of petition, and with it the pretext for political violence. Eight days later it lost its action against forcible feeding. The election result meant that it would have to resume negotiation with an unsympathetic Liberal government."[115] Mrs. Pankhurst's response was to declare "a suspension of WSPU militancy, in a 'truce' that lasted until November 1911".[116] The suffragette movement had been slow to turn to violence as an organised weapon in their fight for the vote.[117] There was some stone throwing in 1908 and 1909 but it was not co-ordinated with other popular actions. The breaking of windows at 10 Downing Street, in which Edith New and Mrs. Leigh (of subsequent *Leigh v Gladstone* fame) indulged on 30 June 1908, occurred during a demonstration at Westminster, and there was more concerted window-breaking in June 1909, a couple of days before the Dunlop defacement that was to set off the hunger strikes.[118] There had been the two members of the WFL who had poured acid into ballot boxes at the Bermondsey by-election of 1909 and the splashing of acid in the returning officer's face which also occurred during the action that led to the imprisonment of the two women for three and four months respectively when their case came before Mr. Justice Grantham and an Old Bailey jury.[119] But these were exceptions rather than the rule. Most of 1910 was quiet, with a promised Conciliation Bill appearing to offer the possibility of a political compromise in the summer of that year and with the death of the King Edward VII producing a sense of political repose, at least in this part of public affairs (aided no doubt by the WSPU "truce").

Things were to change when, at the State Opening of Parliament in autumn 1910, a statement by the Prime Minister, Mr. Asquith, indicated that in view of the pending general election, there would not be time to proceed with the promised Conciliation Bill. Anger boiled over on Friday 18 November 1910 – "Black Friday" – when the police used a high level of violence to break up a suffragette procession to Parliament. Plain-clothed and mounted officers were deployed, with Gladstone's

[115] Bearman, "Army without Discipline?", 887.
[116] Grant, "British Suffragettes", 135 (footnote omitted).
[117] There is a detailed account in C.J. Bearman, "An Examination of Suffragette Violence" (2005) 120 The English Historical Review 365.
[118] Mayhall, "Defining Militancy", 360. For the Dunlop incident, see Bearman, "Army without Discipline?", 887.
[119] The details appear in Mayhall, "Defining Militancy", 365–66.

successor as Home Secretary, Winston Churchill, afterwards claiming in the House that "some of the ladies who desired to be arrested made repeated efforts [to be apprehended], and, no doubt, a few of them exhausted themselves and may have required medical treatment".[120] Keir Hardie asked Churchill whether or "not some of the injuries [were] caused by the police breaking up the flagstaffs of the processionists".[121] A giant suffragette demonstration took place in London in June 1911 and the whole issue was then inflamed afresh by Asquith's provocative proposal, announced on 7 November the same year, to enact legislation providing for full *male* suffrage. Even the Conservative and Unionist Women's Franchise Association was moved to declare that its members "resent[ed] our demand for the removal of sex disability being artificially entangled with the widely different issue of adult suffrage".[122] The more radical reform movements were apoplectic. So much for the tactic of non-violence during the "truce" must have been the thought of many.

All the door-stepping, harassing and interrupting that Asquith had been subject to seems to have caused him to develop a deep personal antipathy towards the whole question of the women's vote. The bill for adult male suffrage and its introduction in June 1912, only three months after the final collapse of the once promising Conciliation Bill, showed that a political compromise was now less likely than ever. In a letter to Venetia Stanley, a British socialite with whom Asquith frequently corresponded, after the final possibility of extending the bill to women had disappeared, Asquith declared the outcome "a great relief" but went on to remark that "I dare say the militants will now again take to the war-path".[123] But by the time this letter was written (27 January 1913), the unlawful disruption had already returned with renewed energy.

In the autumn of 1911 and the spring and summer of 1912, the degree of violence in clashes between suffragettes and the Government escalated sharply. An attempt to set fire to a theatre that the Prime Minister was attending when in Dublin led to five-year sentences being handed down to two suffragettes.[124] Only now did window-breaking become prevalent as a subversive tactic - the more prestigious the window the better. The prisons began to fill with determined suffragettes doing their bit for the cause. One West End sortie on 1 March 1912 led to no fewer than 121 prosecutions. The charges were invariably brought under section 51 of the Malicious Damage Act 1861, under which the damage done had to exceed £5 in value. The law reports of the period contain a handful of

[120] HC Deb. vol. 20 col. 389 (24 November 1910).
[121] Ibid., at col. 390.
[122] *The Conservative and Unionist Women's Franchise Review* (1 January 1912), 4.
[123] M. Brock and E. Brock (eds.), *H.H. Asquith, Letters to Venetia Stanley* (Oxford 1982), 27.
[124] The redoubtable Mary Leigh (with a fellow activist Gladys Evans) laid on what Sylvia Pankhurst was latter to describe as a "spectacular show": Pankhurst, *Suffragette Movement*, 404.

cases in which ingenious arguments were advanced as to why the damage was less than £5, as in *R. v Hewitt*[125] (by taking into account and valuing only the broken glass that the owner had on his or her hands); *R. v Joachim*[126] (by arguing that two defendants did not act in concert when the damage done by one was less than £5); and *R. v Beckett*[127] (the witness giving evidence of the amount of damage was not a glass expert but had relied on hearsay from the clerk of works who had examined the window). The courts refused to class the window-breaking as a riot or civil commotion for insurance purposes,[128] though the WSPU was later successfully sued for the damage caused to business premises in the course of suffragette activity.[129]

The authorities reacted to the escalation in suffragette activity by falling back on that old standby of the common law, the charge of conspiracy. On 5 March 1912, a police raid on the WSPU headquarters at Clement's Inn led to the arrest of Mrs. Pankhurst and Mr. and Mrs. Pethick Lawrence. (Christabel, for whom a warrant was also issued, escaped to France.) On 16 May 1912, the three apprehended leaders were brought before Coleridge J. and a jury at the Central Criminal Court on the charge that they had "unlawfully conspired together with Christabel Pankhurst and other persons to incite members of the WSPU to commit damage, injury and spoil to the amount of £5 and upwards to certain glass windows".[130] One juryman was discharged after stating that "he had led a performance of an overture to the opera *The Wreckers* composed by the prominent suffragette Dr Ethel Smyth". Appearing for the Crown, no less a figure than the Attorney General, Sir Rufus Isaacs, declared that if the WSPU had been successful in its campaign, then this "would have meant nothing less than anarchy". The jury was unsympathetic to the defendants from the start. When the judge queried the relevance of a defence line of argument, some jurors intervened with "Hear, hear" and when Mr. Pethick Lawrence (who was representing himself) suggested that a file of the paper he was relying on be supplied to the jury, the foreman of the jury replied to general laughter, "We do not think it necessary". Just to be absolutely sure, the judge in his summing up reminded the jury that "some of the strongest expressions upon which the prosecution relied as evidence of inciting language had been neither denied nor disavowed by any of the accused persons" and that it "was

[125] (1912) 28 T.L.R. 378.
[126] (1912) 28 T.L.R. 380. A.T. Lawrence, Pickford and Avory JJ. heard both *Joachim* and *Hewitt* on the same day, 22 April 1912.
[127] (1913) 29 T.L.R. 332.
[128] *London and Manchester etc. Insurance Company Ltd. v Heath* (1912) 29 T.L.R. 103.
[129] *The Common Cause* (13 June 1913), 151.
[130] These details of the trial are gleaned from *The Times* (16 May 1912), 4e; *The Times* (17 May 1912), 4a; *The Times* (23 May 1912), 8c.

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also said that the motive of the defendants was political, but criminal law deal[s] not with motives, but intentions".

What was interesting about the jury finding was not its verdict of guilty against all three – practically inevitable – but its expression in a rider to the decision of its "unanimous desire" that the judge "exercise the utmost clemency" in light of the defendants' "undoubtedly pure motives". There was now a legal basis for such compassion. In March 1910, Churchill had tried to defuse the conflict over political status by promulgating a new prison rule, rule 243a, under which offenders jailed for crime not involving "moral turpitude" could be relieved of certain of the harsher aspects of the ordinary prison regime, thereby giving discretion to governors to treat them for all practical purposes as political prisoners.[131] Mr. Justice Coleridge's response to the jury's note was to jail all three for nine months, in the second division, namely without any of the canvassed special treatment or privileges:

> There are circumstances connected with your case which the jury have very properly brought to my attention. I have been asked to treat you as first class misdemeanants. If, in the course of this case, I had observed any contrition or disavowal of the acts that you have committed, or any hope that you would avoid the repetition of them in the future, I should have been very much prevailed upon by the arguments that have been addressed to me, but as you say openly that you mean to continue to break the law, to make you first-class misdemeanants would only be to put into your hands further capacities for executing that purpose.[132]

The Times thought the sentence "not excessive" in view of the "somewhat defiant speeches of the prisoners"[133] but there was a very strong public reaction against its uncompromising harshness. One juryman even wrote to the Home Secretary pleading for clemency. A special debate was initiated in the House of Commons by Keir Hardie on the very afternoon the sentences were handed down.[134] The Home Secretary, Reginald McKenna, who had replaced Churchill at the Home Office in autumn 1911, was immediately on the defensive, making conciliatory noises and emphasising that he would quickly consider "the circumstances and [. . .] form an opinion as to whether the cases are such as to which could properly be applied to rule 243(a)".[135] But the severe political and public pressure was not reduced by such procrastination. Eventually, in a decision announced to Parliament on 10 June 1912, McKenna indicated

[131] Grant, "British Suffragettes", 135. Details of the change appear at HC Deb. vol. 15 col. 178 (15 March 1910) (W. Churchill). The rule was abrogated by Churchill's successor Reginald McKenna two years later, leading to a new series of hunger strikes.
[132] Quoted verbatim by Keir Hardie: HC Deb. vol. 40 col. 656 (28 June 1912).
[133] *The Times* (23 May 1912), 9c.
[134] HC Deb. vol. 38, cols. 2021–32 (22 May 1912).
[135] Ibid., at col. 2029.

that full political status, or (in official language) a transfer to the first division, was to be accorded to all three prisoners.

This was a remarkable decision. As we have already seen, at the outset of suffragette activism, the Home Office had sought to have its prisoners assigned to the first division as a matter of course but that policy had been reversed, most likely on account of opposition from magistrates, the justices no doubt becoming increasingly infuriated by the suffragette-inspired disruption of their courtrooms.[136] No government-driven transfer to the first division had occurred since the enactment of the 1898 Prisons Act; there had been as noted earlier some subtle manoeuvring with regard to the Grille protest prisoners in 1908 but this had been very much under the surface.[137] Indeed an earlier minister in the Home Office had hidden behind the 1898 Act when under similar pressure, going so far as to declare "unconstitutional" the very action the Home Secretary was now proposing.[138] It was not surprising, therefore, that McKenna should have looked to the judiciary to provide a veneer of legitimacy for his political intervention, setting out in Parliament in painful detail how it had in truth been the judge who had changed his tune, albeit after being written to by McKenna. A contrived clarification by Mr. Justice Coleridge allowed the illusion of an independent rule of law to be maintained.[139] A minor controversy erupted, with even normally fairly anonymous MPs wondering aloud about the damage done to the rule of law.[140]

The Home Secretary felt able to conclude that in transferring these three prisoners to the first division, he had been "merely carrying out the sentence of the judge"[141] and "was not really exercising [his] own discretion in the

[136] Fletcher, "Star Chamber", 509–10.
[137] Ibid., at 523.
[138] HC Deb. vol. 2 col. 1739 (23 March 1909) (H. Samuel).
[139] HC Deb. vol. 39 col. 518 (10 June 1912). Needless to say, other imprisoned suffragettes immediately sought the same treatment: e.g. Keir Hardie's question to the Home Secretary on the case of Mrs. Gatty, on 12 June 1912 (ibid., at col. 1007) and the tough questions to which the Home Secretary was subjected in the Commons eight days later (ibid., at cols. 1854–59 (20 June 1912)). The Labour MP was particularly furious about the double standards, finding himself expelled from the Commons Chamber for a day (see HC Deb. vol. 40 col. 217 (25 June 1912)). In November 1912, Lansbury resigned his seat and stood for re-election on the specific platform of votes for women. He was defeated by 700 votes: for more details of this episode, see J. Shepherd, "A Life on the Left: George Lansbury (1859–1940): A Case Study in Recent Labour Biography" (2004) 87 Labour History 147.
[140] There was a short debate on the matter – here is the MP for Hampstead, J.S. Fletcher's, trenchantly expressed but not untypical view: "I would add only one word, and that is as to the mischief of the constant interference on the part of the Home Secretary with the decisions of the judges. That is a very serious matter. Our judges ought to be experts in the punishments they inflict. I have no doubt whatever that they make the amount and duration of the punishments they inflict a matter of very serious thought, and I say it is a very serious thing that a member of the Government, who is not supposed to be an expert in punishments, should continually interfere with the sentences so passed. I think it greatly interferes with the dignity of the position of the judge": HC Deb. vol. 40 col. 662 (28 June 1912). Fletcher was complaining not only about the transfer of the suffragette leaders but also about the use of the power to remit all or part of the sentences of other convicted prisoners, such as Tom Mann.
[141] HC Deb. vol. 40 col. 692 (28 June 1912).

matter".[142] But as the Labour member, Philip Snowden, remarked later in the debate:

> anyone who heard the words of the judge will agree that the construction which was put upon them later in the correspondence which took place between the judge and the Home Secretary – that an undertaking should be given – was not the construction which could reasonably have been put upon them at the trial, and was not the construction the judge himself intended to be put upon them.[143]

A rather sad footnote to this affair appears in a parliamentary written answer on 2 December 1912, where we learn what the costs were in *R. v Pethick Lawrence and others*. The contents of the Pethick Lawrences' home were sold to pay the legal bill of, among others, the Attorney General, Rufus Isaacs, (£351 16s 6d) and his prosecuting counsel, Mr. Bodkin, (£340 8s 6d).[144] Pethick Lawrence, an old Etonian and Fellow of Trinity College, Cambridge, had to sell his country home with its furniture to pay the costs and when this did not generate sufficient sums he was made a bankrupt, with the consequence that he was expelled from the Reform Club.[145]

The conspiracy trial of the Pethick Lawrences and Mrs. Pankhurst marked a dramatic escalation in the state's deployment of the law against the suffragettes. This in turn was mirrored by a sharp increase in the tempo of violence from the suffragette movement, particularly after a bitter split into factions that had occurred in the autumn of 1912.[146] In that calendar year, a total of 288 women and two men were jailed for suffragette-inspired criminal acts – more than 100 more than in the preceding year.[147] There was an atmosphere of tired inevitability about the deputation to Parliament in January 1913 which was broken up roughly by the police. Criminal actions continued to escalate and the prisons filled once again with hunger-striking suffragettes. On 15 April, George Lansbury was bound over to keep the peace merely on account of his involvement with the WSPU, with an inspector of the Metropolitan Police persuading the magistrate that Lansbury was "a disturber of the peace and an inciter of others to commit divers crimes and misdemeanours".[148] His subsequent High Court challenge to the jurisdiction of the magistrate was unsuccessful, with a three-man Divisional Court rejecting the argument that the magistrate had not had

[142] Ibid.
[143] Ibid., at col. 709.
[144] HC Deb. vol. 44 cols. 1902–03 (2 December 1912).
[145] Crawford, *Women's Suffrage Movement*, 541–42.
[146] Detailed in J. Purvis, *Emmeline Pankhurst: A Biography* (London 2002), 190–200. The break was with the Pethick Lawrences over "a new militant policy" which the Pethick Lawrences "found themselves altogether unable to approve"; see ibid., at 197.
[147] HC Deb. vol. 63 col. 519 (11 June 1914) (R. McKenna).
[148] *Lansbury v Riley* [1914] 3 K.B. 229, 229.

jurisdiction to make the order in a case involving seditious language.[149] In an echo of the nineteenth-century electoral cases, Mr. Justice Bray remarked that it was "much too late now to go behind those decisions and the law then laid down which had so long been laid down in the textbooks".[150]

The notorious "Cat and Mouse Bill"[151] was enacted on 25 April 1913 so as to allow the release of prisoners weakened through hunger strike until such time as they were well enough to be rearrested and imprisoned afresh.[152] The journal of the non-militant National Union of Women's Suffrage thought the bill as "in the long run as certainly 'torture' as forcible feeding" and as "abhorrent to every human instinct and opposed to the whole spirit of British law".[153] Needless to say, enforcement of the Act caused horrendous problems with the image of gaunt women being released from jail only then to be apprehended afresh in a barely improved condition. It could hardly be said that this approach was designed to persuade the neutral bystander that the Government was acting in the interests of justice. Serious violence surrounded efforts to deploy the Act against Mrs. Pankhurst, released under its provisions having been earlier jailed for three years at the Old Bailey following her conviction for the incitement of the commission of explosive offences at Lloyd George's home. On 30 April, a police raid on the headquarters of the WSPU led to the trial on conspiracy charges of the writers and printers of *The Suffragette*.[154] The Home Secretary warned in the House of Commons that "any newspaper, whatever its name, that publishes incitements to crime, is liable to prosecution. It does not matter what the paper is, or who sells or prints it. Any person who is concerned in the publication of a paper which advocates crime is liable to prosecution".[155] The police also began to warn the owners and lessors of halls that they faced prosecution if they allowed their premises to be used for WSPU meetings.[156] Long sentences were handed down to the publishers of *The Suffragette*, although by now of course sentences were never what they seemed and the "Cat and Mouse Act" was soon called into play. The defeat of a female suffrage amendment to the Suffrage Bill[157] in May 1913 (the last such defeat

[149] Ibid. In his autobiography, Lansbury recalled that, in 1913, six of his family were in prison or in danger of going there, owing to their involvement in various particular issues but especially the women's suffrage movement: G. Lansbury, *Looking Backwards and Forwards* (London 1935), 110–11.
[150] *Lansbury v Reilly* [1914] 3 K.B. 229, 232.
[151] Prisoners (Temporary Discharge for Ill-Health) Act 1913.
[152] For the second reading of the bill in the House of Commons, see HC Deb. vol. 51 cols. 404–76 (2 April 1913).
[153] *The Common Cause* (3 April 1913), 3.
[154] See HC Deb. vol. 52 cols. 1663–66 (5 May 1913).
[155] HC Deb. vol. 52 col. 1664 (5 May 1913) (R. McKenna).
[156] HC Deb. vol. 63 col. 1639 (23 June 1914). This took place "[u]nder no Act of Parliament, but under the ordinary exercise of common sense": ibid. (R. McKenna).
[157] https://api.parliament.uk/historic-hansard/commons/1913/may/06/representation-of-the-people-women-bill.

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before the war)[158] led to a frenetic bout of window-breaking and a short but destructive campaign of near-random violence.[159] On 4 June 1913 came the dramatic death of Emily Davison, the suffragette who threw herself under the king's horse during the running of the Derby.

The turmoil continued through 1913 and, by the end of the year, 183 suffragette activists had been imprisoned.[160] Any visit by a government minister was by now "likely to invite an attack, but the people most hated by the WSPU were Asquith, Lloyd George and Reginald McKenna".[161] McKenna's home "was raided by six women in March 1914, and the church of St John's, Smith Square was the target of two bombs because it was nearby. Suffragette vindictiveness extended to his family: the Mill House on the Bramsholt estate (near Liphook, Hampshire) was burned because the owner was McKenna's brother Theodore".[162] On 10 March 1914, the Rokeby Venus was slashed by a suffragette. That year had begun with the same combination of violence, prosecution and popular demonstration that had marked the preceding 18 months. The issue was the subject of a full-scale debate in the Commons on 11 June 1914,[163] but the outbreak of hostilities with Germany shortly afterwards led to the release of all prisoners and a cessation of activities by all but the small East London Federation led by Sylvia Pankhurst which had earlier split from the WSPU. By this point and as earlier noted, the suffragettes had been the subject of a number of bitter divisions, and it was certainly not as cohesive and united a movement as it had been at the time of the 1912 conspiracy trial.

V. Conclusion

It is impossible to tell how things would have turned out had war not intervened. The strong feeling was expressed by many in the Commons debate on 11 June 1914 that the suffragettes had actually prevented the vote being accorded to women, which reform (it was said) would have been countenanced by Asquith and the Liberal party had not the suffragette activities so alienated them. An early historian of the movement has concluded of the attacks on property that "the balance of historical opinion would undoubtedly support the contention that they postponed the vote".[164] On the other hand, it does seem hard to believe

[158] Representation of the People (Women) Bill 1913; Fulford, *Votes for Women*, 265–68.
[159] Ibid., at 280–84.
[160] HC Deb. vol. 63 col. 519 (11 June 1914) (R. McKenna).
[161] Bearman, "Examination of Suffragette Violence", 376.
[162] Ibid. (footnote omitted).
[163] HC Deb. vol. 63 cols. 508–60 (11 June 1914).
[164] Fulford, *Votes for Women*, 255. Here is an authoritative judgment from another scholar, writing in 2005: "... it is necessary to reconsider whether militancy can be said to have 'worked'. The consensus of historical opinion is that it did not": Bearman, "Examination of Suffragette Violence", 369, citing Rosen, *Rise Up, Women!*, 242–45; B. Harrison, *Separate Spheres: The Opposition to Women's Suffrage in Britain* (London 1978), 181–99.

that the polite supplications of an earlier generation of women would have ever delivered the goods and Mrs. Pankhurst's "truce" hardly paid off in 1910–11. Whatever might have otherwise happened, it is undoubtedly true that the war transformed the political atmosphere. On 28 March 1917, even Mr. Asquith – for so long as we have seen a particular object of hate in suffragist circles – was declaring himself in favour of woman's suffrage.[165] An Electoral Reform Bill giving the vote to women over 30 passed the Commons in December 1917, becoming law on 6 February 1918.[166] In 1928, the age limit was removed and thenceforth women were treated on the same terms as men.[167]

Every historical episode is specific to itself, but a few tentative general points can perhaps be made in closing about this short episode in British civil liberties history. First, it would seem clear that the willingness to break the law for a just cause was a vital part of the suffragettes' success in establishing themselves as a strong moral force. But this lawlessness carried the seeds of its own destruction, with the violence that resulted from (understandable) fury at continued political and legal rejection proving itself counter-productive to the wider cause. Avoidance of this escalatory tendency is a challenge with which all serious subversive violent groups have long grappled. A second general point can be made about the way in which the law operated in the "climate of dramatic conflict"[168] engendered by suffragette activism. Every type of legal device was mustered against the movement: new legislation in the shape of the Public Meeting Act and the "Cat and Mouse Act"; new common law such as *Leigh v Gladstone*; the deployment of well-tried procedural devices such as the binding-over order imposed on George Lansbury; the use made of criminal prosecution for conspiracy as well as multiple "ordinary" criminal prosecutions such as for criminal damage and assault; the annual sessional order construed so as to prohibit protest outside Parliament; local legislation on obstruction such as the Metropolitan Police Act 1839; and, perhaps most seriously of all, the exercise of police power in a draconian way, in the form of the strong-armed dispersal of meetings and the execution of intimidatory search warrants. A third and final general point may be the most obvious: the breadth and range of the law's hostility to the suffragettes was not unique to this period of history. Such flexible repression has long been a feature of many of the clashes between radical movements and the authority of the state, both before the suffragettes came along and well after.

[165] HC Deb. vol. 92 cols. 462–70 (28 March 1917). Asquith was, of course, no longer Prime Minister at this point.

[166] Representation of the People Act 1918, s. 4. For the background, including the key role played by the long-serving Speaker, James Lowther, see J.D. Fair, "The Political Aspects of Women's Suffrage During the First World War" (1976) 8 Albion: A Quarterly Journal Concerned with British Studies 274.

[167] Representation of the People (Equal Franchise) Act 1928.

[168] *Secretary of State for the Home Department v Robb* [1995] 1 All E.R. 677, 681 (Thorpe J.).

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