

PATRONAGE, RECUSANCY AND MALFEASANCE IN THE EARLY MODERN PRISON SYSTEM: A NEW SOURCE RELATED TO SAINT JOHN ROBERTS AND ROBERT CECIL

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Abstract

This article uses a previously unpublished document from the archives of Downside Abbey in Somerset to demonstrate that although the concept of malfeasance is generally thought to have developed in the late seventeenth century, some officials were already challenging malfeasance in the early years of James I's reign. It shows that the need to stamp out corruption was balanced and at times outweighed by security concerns in a period when Catholics were believed to present a serious threat. It also provides evidence of a previously unrecorded imprisonment of the Catholic martyr, St John Roberts.

Keywords: malfeasance, corruption, St John Roberts, recusancy, imprisonment

Introduction

During the final years of Elizabeth I's reign, the keeper of the Gatehouse Prison, William Okey, wrote to the Lord Treasurer, Robert Cecil, complaining that Ralph Dobbinson, the under-bailiff of Westminster, held on to the prisoners he arrested rather than handing them over to the Gatehouse. This apparently caused Okey a 'great loss', presumably because he lost out on the fees and bribes that running a prison could bring.¹

¹ 'Petitions to Sir Robert Cecil,' in *Calendar of the manuscripts of the most Hon. the Marquis of Salisbury, preserved at Hatfield House, Hertfordshire* (hereafter *HMMS*), M. S. Giuseppi & G. D. Owen (eds.) (24 vols. HMSO, 1968) 14 Addenda, p.284.

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It has long been accepted that what we would term ‘corruption’ was rife in the early modern prison system.² Ruth Ahnert argued that in some ways, the early modern regime benefitted from a ‘decentralised, privatised prison system’ because ‘it allowed the government to maintain a vast number of prisons with minimal cost’. Unfortunately, it also meant that the government ‘had very little control over how they were run’.³ Although early modern prisons were regarded more as a place to keep people in safe custody than a place of punishment, their keepers were not salaried officials, so the English criminal justice system relied on ‘unpaid amateur’ local officials who needed to make a profit from those they imprisoned.⁴ Prison keepers were self-employed masters who, as we saw in the case of Dobbinson and Okey above, earned their money from the fees they charged for bed, board and bribes. Bribes were such an accepted part of the system that Joel Hurstfield argued that, in the early modern period, ‘the word corruption is irrelevant and confusing’. He pointed out that although to modern eyes the sight of a minor official distorting financial accounts to the detriment of the government is clearly ‘corrupt’, at the time it was so widespread that it was almost expected. Indeed it was the only means by which a minor official could make a living as governments did not have the resources to pay their officials a living wage.⁵ How else was an up and coming English official ‘to convert the rewards and opportunities of royal service – which were by their very nature likely to be temporary... into a permanent landed patrimony that would provide for [them] and [their] family’?⁶ This view has been challenged by Linda Levy Peck, who argues that ‘Corrupt practices were endemic to English government, as were periodic efforts to root out abuses’, adding that, ‘Like a tip to a waiter, a bribe to low-level employees may improve performance’.⁷ More recently, George Bernard has gone so far as to claim that the charging of fees that went straight into the pocket of the official ‘was not about securing some special favor or unusual attention’ and that ‘Most officials would not have made a huge fortune from such payments’. Instead, he argued that ‘the payment of fees should be seen as conventional’, prompting Mark Knights to paraphrase Bernard’s view as suggesting that in the sixteenth and early seventeenth century, ‘there was no notion of corruption’.⁸

Ronald Kroeze, André Vitória and G. Geltner have identified two strands in the historiography of corruption. First, the belief that ‘corruption can be both legally and

² John L. McMullan, ‘Criminal Organization in Sixteenth and Seventeenth Century London’, *Social Problems*, 29(3) (1982) pp.311-323, p.316; Barbara Shapiro, ‘Law Reform in Seventeenth Century England’, *American Journal of Legal History*, 19(4) (1975) pp.280-312, p.304; Peter Lake and Michael Questier, *The Antichrist’s Lewd Hat: Protestants, Papists and Players in Post-Reformation England* (Yale University Press, 2002) p.188ff.

³ Ruth Ahnert, *The Rise of Prison Literature in the Sixteenth Century* (Cambridge University Press, 2013) p.19.

⁴ James A. Sharpe, *Crime in Early Modern England, 1550-1750* (Longman, 1984) p.21.

⁵ Joel Hurstfield, *Freedom, Corruption and Government in Elizabethan England* (Jonathan Cape Ltd, 1973) p.151.

⁶ George Bernard, ‘“A Water-Spout Springing from the Rock of Freedom”? Corruption in Sixteenth- and Early Seventeenth-Century England’, in Ronald Kroeze, André Vitória and G. Geltner (eds.), *Anticorruption in History: From Antiquity to the Modern Era* (Oxford University Press, 2017), pp.125-138, p.126.

⁷ Linda Levy Peck, *Court Patronage and Corruption in Early Stuart England* (Routledge, 1993) pp.211 & 8.

⁸ Bernard, ‘“A Water-Spout Springing from the Rock of Freedom”?’ p.130; Mark Knights, ‘Anticorruption in Seventeenth- and Eighteenth-Century Britain’, in Kroeze et al, *Anticorruption in History*, pp.181-195, p.188.

socially defined' and is linked to 'the abuse of public power and public interest', regardless of how those notions might have been constituted during any given period; and second, the identification of the point at which any given society moved from a corrupt 'traditional society' 'characterised by nepotism, bribery and clientism' to a modern one based on 'a well-functioning Weberian-style bureaucracy and a market economy'.⁹

Whereas the medieval understanding of corruption adhered to the recognisable form of putting one's private interests above the public, what exactly constituted 'public' and 'private' was more of a moot point. The medieval system relied on 'the more-or-less voluntary compliance of powerful individuals with the expectations placed upon them'. Notions of corruption were entangled with both the trust that things would be done legally and the discretion that when they were not, it would be for legitimate reasons rather than private lucre.¹⁰ In England until at least 1550, 'some overlap between public service and private advantage was evidently accepted'.¹¹ Here, accusations of corruption tended to involve competing self-interests – that is, an accusation was made when one person's personal interests came into conflict with another's. Accusations were justified, however, by the claim that was made that the activities in question undermined a disinterested greater good.¹²

Even by 1600, the laws concerning corruption were 'rudimentary' and 'ambiguous'.¹³ The easiest way to prosecute was through impeachment for 'high crimes and misdemeanours', but this was usually only used against high-status ministers such as Lord Chancellor Francis Bacon, who in 1621 was made to carry the can for the crown's unpopular financial expedient involving the sale of monopolies. To remove him from office, the House of Commons brought forward 28 cases where Bacon or his servants had improperly accepted bribes or loans.¹⁴ Nevertheless, the scope of crimes that impeachment covered was wide and certainly not limited to financial impropriety. Its use was 'highly political' and intended 'as much to shame as to punish'.¹⁵ It was not, therefore,

⁹ Ronald Kroeze, André Vitória and G. Geltner, 'Introduction: Debating Corruption and Anticorruption in History', in Kroeze et al, *Anticorruption in History*, pp.1-17, p.2.

¹⁰ John Watts, 'The Problem of the Personal: Tackling Corruption in Later Medieval England, 1250-1550', in Kroeze, et al, *Anticorruption in History*, pp.91-102, p.95.

¹¹ Watts, 'The Problem of the Personal', p.92.

¹² Watts, 'The Problem of the Personal', p.92. See also Bernard, "'A Water-Spout Springing from the Rock of Freedom'?", p.135.

¹³ Mark Knights, *Trust and Distrust: Corruption in Office in Britain and its Empire, 1600-1850* (Oxford University Press, 2022) pp.92-3.

¹⁴ <https://doi-org.ezproxy.lancs.ac.uk/10.1093/ref:odnb/990> Markku Peltonen, 'Bacon, Francis, Viscount St Alban (1561–1626), lord chancellor, politician, and philosopher', *Oxford Dictionary of National Biography* (hereafter *ODNB*) (04 October 2007), [accessed 15 June 2024]. For an account of Bacon's impeachment as part of an attack on the prerogative power of the king and the chancery courts in particular, see Damian X. Powell, 'Why Was Sir Francis Bacon Impeached? The Common Lawyers and the Chancery Revisited: 1621', *History*, 81(264) (October 1996), pp.511-526.

¹⁵ Knights, *Trust and Distrust*, p.101.

the best way to control minor government officials who might be tempted to line their own pockets with government money.

Another way to attack corruption was to use the press to highlight the iniquities of those holding public office. During the confederate wars in Ireland, a group of adventurers from the Grocers' Hall published a 26-page pamphlet called *The State of Irish Affairs*. It accused John Davies, the official charged with supplying goods and arms to the parliamentarian armies in Ireland, of overcharging the state by around £12,000 whilst he simultaneously supplied poor quality goods, that is, where any were received at all. He had, apparently, 'failed in all his undertakings, both for time, manner and matter', but 'dealt much more securely for himself, having still fingered so much Money in hand, upon the matter, as he hath acquired the Goods withall, that if he should never get in the rest, he can be no Loser by the hand...'¹⁶ These accusations were taken up by the Parliamentary Committee of Accounts, who investigated the charges of embezzlement. They eventually signed off on Davies' accounts but they also demanded an explanation from the Grocers' Hall as to why they had not raised their concerns earlier, given that the problems went back more than a year.¹⁷

Kroeze, Vitória and Gelner, have further argued that despite the interest in the history of corruption, its counterpart, *anticorruption*, has received little scholarly attention thus far. Even then, they note that anticorruption research has tended to identify the transition period towards 'efficient anticorruption' roughly in the period 1700-1900.¹⁸

This article uses a new document related to the Catholic martyr, Saint John Roberts, alongside a range of documents relating to Robert Cecil's patronage network and the letters of a Spanish missionary to London, Luisa de Carvajal y Mendoza, to demonstrate that although the concept of malfeasance is generally thought to have developed late in the seventeenth century, some were already challenging what was de facto malfeasance in the early years of James I's reign, as part of an early example of an 'ongoing search for effective anticorruption by different people and societies throughout history'.¹⁹ Although scholars have noted that James's reign was characterised by a growth in concerns over speculation because 'the insufficiency of royal revenue focussed attention on any abuse that bled money from the system',²⁰ this article will demonstrate that the need to stamp out corruption was balanced and at times outweighed by security

¹⁶ Committee of Adventurers in London for Lands in Ireland, *THE HOUSES of PARLIAMENT; As they lye represented before them, from the Committee of Adventurers in London for Lands in Ireland, sitting at Grocers-Hall for that Service* (1645), Thomason / E.314[7] pp.3-4.

¹⁷ For a full account, see Andrew Robinson, 'Clotworthy is a zealous man, yet hath his purse well lined': Sir John Clotworthy, John Davies and the politics of supply, 1644-45' in Patrick Little (ed.) *Ireland in Crisis: War, Politics and Religion, 1641-50*, (Manchester University Press, 2019) pp.79-99.

¹⁸ Kroeze et al, 'Introduction', p.3.

¹⁹ Kroeze et al, 'Introduction', p.3.

²⁰ Knights, *Trust and Distrust*, p.185. On the growth of anticorruption in James's reign, see, for example, Peck, *Court Patronage and Corruption*.

concerns in a period when Catholics were believed to present a serious threat to the king and commonwealth.

The Downside Document

While, as we have seen, the taking of bribes by prison officials was pretty much accepted, a previously unpublished document (transcribed in Appendix 1) housed in the archives at Downside Abbey reports something rather different - fraudulent charges made by the keeper of the Gatehouse prison in Westminster for the detention of Catholic prisoners during the reign of James I.²¹ Catholic priests who had returned from the continent to reconvert their fellow countrymen, along with those lay people who hid them, were deemed to be acting against the Protestant state religion of the British Isles. As such, they were all considered guilty of treachery. The document not only provides an interesting snapshot of investigations into malfeasance in the early seventeenth-century prison system, but also relates to the punishment of Catholics shortly after the Gunpowder Plot of 1605 and the ways in which they were able to exploit the prison system to their own ends.

The note, apparently written by Thomas Harlow for James I's Secretary of State and Lord Treasurer, Robert Cecil, accuses the Gatehouse keeper, William Meysey, of 'cossening' or cheating the king of more than £28 over the imprisonment of John Roberts, Charles Tregian, Francis Palmer, John Clarke and Edward Price. As no Privy Council records survive from this period, it is difficult to be certain about the council's actions in any given situation. The fraudulent charges being demanded by the keeper hardly amounted to a significant sum in the face of a monarchy whose expenditure was rapidly increasing alongside debt which was approaching £600,000.²² Nevertheless, Cecil requested that someone 'enquire of the keeper of the Gatehouse how he can answer the demand of this money'.

When the document was auctioned in 2006, the catalogue suggested that the document dated from either 1605 or 1608, the two years in which one of the detainees, the Benedictine Saint John Roberts, is widely known to have been imprisoned in the

²¹ Downside Abbey Archives, Stratton on the Fosse, Roberts Collection, Downside, 'Saint John Roberts and Robert Cecil', published by kind permission of the Abbot and Community of Downside Abbey (copyright of Downside Abbey Trustees).

²² Barry Coward, *The Stuart Age* (Longman, 1980) p.119. On the problems faced by the government in collecting fines from recusants (those who refused to attend Church of England services) and the advice given by a clerk of the exchequer on how income from Jacobean recusants could be maximised, see Michael Questier, 'Sir Henry Spiller, recusancy and the efficiency of the Jacobean exchequer', *Historical Research*, 66 (1993) pp.251-66. In addition to problems in the collection of incomes from recusants, Questier notes that there were divided opinions over whether Catholics should be milked as a source of income or 'blotted out' as traitors (p.264). For a description of Thomas Felton's lucrative career in collecting fines from recusants, and of his clash with Spiller, see Thomas Cogswell, 'Destroyed for doing my duty: Thomas Felton and the Penal Laws under Elizabeth and James I', in Kenneth Fincham and Peter Lake (eds.), *Religious Politics in Post-Reformation England: essays in honour of Nicholas Tyacke* (Woodbridge: Boydell Press, 2006) pp.177-192. Felton claimed that under Spiller's ascendancy, the crown's income from fining recusants had dropped from £9000 in 1603 to £2100 in 1605 (p.186).

Gatehouse Prison.²³ Certainly, because the document is signed 'R.S.', it cannot date from earlier than May 1605, when Robert Cecil became Earl of Salisbury, and it must relate to a period before the end of 1610, when Roberts was executed. John Roberts had already been arrested and banished twice when he was imprisoned in the Gatehouse immediately following the Gunpowder Plot in November 1605. Despite being exonerated of any involvement in the treason, his Catholicism was enough to see him exiled in July the following year in line with James I's proclamation of February 1604 which required all Jesuits and seminary priests to leave his kingdom. This obligation was reiterated in the anti-Catholic legislation of 1606. It is unlikely that the document relates to Roberts' 1605 arrest, however, because his seven-month detention in 1605-6 would have included some of the Michaelmas quarter as well as the Christmas quarter. The Downside document points out that Palmer and Clark, for example, were held during the Michaelmas and Christmas quarters. By contrast, for Roberts, it only records his imprisonment in the Christmas quarter, which suggests that unlike Palmer and Clark, he was not a prisoner during the Michaelmas quarter. The same reasoning can be applied to another arrest which took place in October 1607, even though Roberts is generally believed to have been incarcerated in the Gatehouse on that occasion also.

It seems that the Downside document points to a further period of Roberts' imprisonment in the Gatehouse which has been hitherto overlooked. In March 1609, in a letter to the Jesuit Joseph Creswell, Luisa de Carvajal y Mendoza, a Spanish Catholic missionary living in London, commented that 'Father Roberts is once again imprisoned in the Gatehouse'.²⁴ As this shows that Roberts was a prisoner in the Gatehouse during the Christmas quarter of 1609, it is possible that the Downside document dates from mid-1609, the period of Roberts' penultimate arrest.

This view appears to be corroborated by evidence relating to another of the inmates, Francis Palmer. A gentleman of St Andrew's Parish in Holborn, on 12 September 1608 Palmer was proclaimed with a number of others as a recusant (a person, often a Roman Catholic, who refused to attend Church of England services).²⁵ Such proclamations were made when an individual failed to appear in court to answer the charges made against them. An order for stay of proceedings was made on 1 December 1608 and Palmer, along with one Daniel Sparry, was discharged. Documents had been received that vouched for Palmer's attendance at St Edmund's parish church in London on 30 October 1608.²⁶ Holborn was known as a centre of Catholicism in London during the period. The parish was particularly difficult to regulate because at the

²³ <http://www.bonhams.com/auctions/14310/lot/174/> Bonhams Auction House, 'Bonhams Auction Lot 174, 7 Nov. 2006, Printed Books, Manuscripts and Photography - Downside: Saint John Roberts and Robert Cecil' [accessed 21 Apr 2023].

²⁴ Luisa de Carvajal y Mendoza, *The Letters of Luisa de Carvajal y Mendoza*, Glyn Redworth and Christopher Henstock (eds.) (2 vols. Pickering and Chatto, 2012) 2, p.65.

²⁵ <http://www.british-history.ac.uk/middx-county-records/vol2/pp210-229> 'Items from the Gaol Delivery Register: Temp. James I', in *Middlesex County Records*, J.C. Jeaffreson (ed.) (23 vols. 1887) [accessed 21 Apr 2023].

²⁶ <http://www.british-history.ac.uk/middx-county-records/vol2/pp33-47> 'Middlesex Sessions Rolls: 1608', in *Middlesex County Records* [accessed 21 Apr 2023].

time it lay across the boundary of the City of London and Middlesex. Catholics visiting London often stayed in the Holborn area because there they had access to priests who could administer the sacraments. Local inns and houses provided meeting points where Catholics could 'plan strategy and discuss political issues'.²⁷

A convincing reference to the Downside document's Francis Palmer, appears in a list of fifteen prisoners held in the Gatehouse in October 1609, with an ambiguous comment that 'he accused Clarke a recusant in Newgate'.²⁸ As there is no punctuation, it is impossible to tell whether Palmer accused Clarke of being a recusant, or if he accused Clarke, a known recusant, of something else, but it is interesting to note that Palmer and Clarke are the only two men listed as a pair on the Downside document. Yet despite this reference to Palmer's confinement in the Gatehouse during the Michaelmas quarter, it is unlikely that this was the quarter referred to in the Downside document for two reasons: first, Clarke was apparently in Newgate, not the Gatehouse; and second, John Roberts was banished in May 1609, only returning in early 1610 with no certain record of being imprisoned until December that year. It is possible, then, that Palmer and Clarke were still in prison twelve months after the Michaelmas quarter to which the Downside document relates.

Of the other prisoners mentioned in the document, little is known about Edward Price, except that he was indicted on 7 December 1610 for refusing to take the oath of allegiance.²⁹ The Tregian family, on the other hand, was well known to the authorities. As committed Catholic landowners from Cornwall, their downfall began with the arrest of their chaplain, the seminary priest Cuthbert Mayne, at their home, 'Golden', near Truro, in 1577. Francis Tregian the Elder was arraigned shortly afterwards and eventually held in the Fleet prison, where his wife was allowed to join him. He spent about 24 years in prison before he was finally granted parole in 1601. Following the accession of James I in 1603, Tregian travelled to Flanders before moving on to Spain in 1606. The remaining years of his life were spent as a pensioner of Philip III and he died in Portugal, another of the Spanish king's realms, on 25 September 1608.³⁰ A letter from Hugh Lee, the consul at Lisbon, to Cecil in February 1607/8 reported that, 'Here is newly come from the Court of Spain old Mr Trigeon, that was so long a prisoner in the Fleet in the days of the most worthy late Queen Elizabeth'. There were rumours that Tregian was living in a house provided by the king of Spain and procured by Joseph Creswell, the Jesuit to whom de Carvajal wrote with news of the imprisonment of John Roberts in March 1609. Lee

²⁷ Lisa McClain, *Lest We Be Damned: Practical Innovation and Lived Experience Among Catholics in Protestant England, 1559-1642* (Routledge, 2004) p.147.

²⁸ The National Archives (hereafter TNA), SP 14/48 f.207, 'List [by Sir Thos. Lake] of prisoners in the Gatehouse, Westminster; with grounds of their committal, Oct. 1609'. All TNA documents were accessed via *State Papers Online* (Gale Cengage) 21 Apr 2023.

²⁹ *London Sessions Records 1605-1685*, H. Bowler (ed.) (Catholic Record Society, 34, Privately printed, 1934) pp.51-2.

³⁰ For an account of the life of Francis Tregian, see R. F. Trudgian, *Francis Tregian 1548-1608, Elizabethan Recusant* (The Alpha Press, 1998).

believed that Tregian's house was on the river, close to the sea, to enable him to send and receive messages for the Jesuit community.³¹

Francis Tregian had three sons: Francis, Adrian and Charles. Charles was born in prison in 1581 and was subsequently educated at Rheims and Rome. Like his father, he was a devoted Catholic and he attended Cardinal Allen's funeral in Rome in 1594, where his brother Francis gave the address. Moreover, Charles is thought to have been the author of *Planctus de Morte Cardinalis Alani*.³² A list of 55 recusant fugitives in January 1602 includes a 'master Trugen' who might have been Adrian or Charles, or possibly one of their extended family, and Charles was later imprisoned in the Fleet for his faith.³³ It is therefore plausible that he was the Charles Tregian mentioned in the Downside document in 1609.

Malfeasance in the Early Modern Prison System

The problem reported in the Downside document was that the Gatehouse keeper, William Meysey, was not taking extra money from his prisoners but from the king. As we have seen, the concept of malfeasance, or official misconduct by a public official, is generally thought to have developed in the late seventeenth century. The Oxford English Dictionary records the first use of the term as occurring in 1663. Yet it was the case of *Rex v Bembridge* (1783), an event which Jeremy Horder describes as 'a watershed moment in British history, when the process of holding public officials to account for their use of public money began in earnest', made it more recognisably modern in character.³⁴ Charles Bembridge was a subcontracted clerk in the office of the Paymaster General. He failed to report £48,000 which the Paymaster General, Henry Fox, Lord Holland, owed to the state on his death in 1774 but which did not appear in the final accounts submitted by his estate. The Solicitor General argued successfully that if Bembridge were to be acquitted, then every man who held office might also do as they wished without fear of being held to account. He maintained that the role of clerk was a public office with public duties, and as such, this role made Bembridge 'publicly accountable'.³⁵ This case was only one element of 'an extensive reform process, beginning in the 1780s, which over the next seventy years sought to curb the excesses of, and eventually dismantle, the "fiscal-military" state which had created a system of pensions, patronage, reversions, sinecures and safe parliamentary seats for those in positions of political and social

³¹ 'Hugh Lee to the Earl of Salisbury, 14/24 Feb. 1607/8,' in *HMMS*, 20, p.80.

³² <http://www.british-history.ac.uk/magna-britannia/vol3/pp251-274> Daniel Lysons and Samuel Lysons, 'Parishes: Otterham - Probus,' in *Magna Britannia* (6 vols. T. Cadell and W. Davies, 1814) p.3 [accessed 21 Apr 2023].

³³ TNA, SP 12/283a f.36, 'List of 55 recusant fugitives, 26 Jan. 1602'; Trudgian, *Francis Tregian*, p.44.

³⁴ *Oxford English Dictionary*, s.v. 'malfeasance (n.),' July 2023, <https://doi.org/10.1093/OED/8890073090> [accessed 12 June 2024; Jeremy Horder, 'R v Bembridge (1783)', in Philip Handler, Henry Mares, and Ian Williams (eds.), *Landmark Cases in Criminal Law* (Bloomsbury Publishing, 2017), pp.81-10, p.82.

³⁵ Knights, *Trust and Distrust*, p.55.

power'.³⁶ According to traditional accounts, it was from this point on that patronage became 'a synonym for corruption'.³⁷

Although it does not use the word *malfeasance*, the Downside document nevertheless shows that the keeper of the Gatehouse, William Meysey, stood accused of several counts of what today we would call malfeasance. First of all, it was alleged that he had placed all five prisoners on the king's charge and kept them close imprisoned. Where prisoners were put on the king's charge, the Privy Council issued warrants so that cash could be issued to settle the gaoler's claim. Close prisoners were allowed only limited contact with friends and associates and a prison official should have been present at any such visit. This form of imprisonment was more expensive than the incarceration of those who were not kept close confined and it therefore it was used for those who were seen as a threat to the state. The laws against Catholics were therefore intended to 'crush a dangerous political and religious minority'.³⁸ But the five prisoners named on the Downside document had been close imprisoned when they had never been designated this form of confinement.

The second charge against Meysey was that he was claiming duplicate payments for his services. As well as claiming the fees for close imprisonment from the Privy Council, Meysey had taken a second payment from Trogeon and Price, while Price paid an extra 20 shillings over and above the basic fees. Although Roberts did not pay his own fees, he received no diet for half of his period of incarceration. The report in the Downside document therefore provides a uniquely detailed account of how the Keeper of the Gatehouse was playing the system for his own enrichment.

Prisons conditions, however, were a paradoxical combination of the brutal and the inefficient.³⁹ In February 1611, for example, several prisoners in the Gatehouse complained about the cruelties Meysey inflicted on recusant prisoners, which included the breaking of one prisoner's arm, and the withholding of food.⁴⁰ While mortality rates were high because of the inhumane conditions, prisons were nevertheless run with 'utter bungling inefficiency and laxity'.⁴¹ In 1602, the Catholic priest Thomas Bluet had asserted that 'In England a priest, even in danger of his life, is often released on his word'.⁴² Even

³⁶ Mark Knights, 'Anticorruption in Seventeenth- and Eighteenth-Century Britain', in Kroeze et al *Anticorruption in History*, pp.181-195, pp.182-183.

³⁷ Jens Ivo Engels, 'Corruption and Anticorruption in the Era of Modernity and Beyond', in Kroeze et al *Anticorruption in History*, pp.167-180, p.172.

³⁸ Questier, 'Sir Henry Spiller, recusancy and the efficiency of the Jacobean exchequer', pp.264 & 266.

³⁹ Lake and Questier, *Antichrist's Lewd Hat*, p.189.

⁴⁰ TNA, SP 14/61 f.185, 'Statement of Thos. Newton, John Buckley, and Jas. Campbell, recusants in the Gatehouse, of the Cruelties of their keeper'.

⁴¹ Lake and Questier, *Antichrist's Lewd Hat*, p.191.

⁴² 'Declaration of Thomas Bluet, March 1602', in *Calendar of State Papers, Domestic Series, of the Reign of Elizabeth, 1601-1603; with Addenda 1547-1565*, M. A. E. Green (ed.) (Longman, 1870) p.167.

political prisoners, who were supposed to be kept close confined, were able to leave prison when it suited them particularly if they were able to pay a bribe for the privilege.

Catholics in the Early Modern Prison

Keeping Catholic prisoners could therefore be a lucrative enterprise and one that saw competition between officials. Indeed, writing in 1606, Luisa de Carvajal explained that the Newgate gaoler 'had been upset at not having a priest' and that bribes paid by visitors to enter the prison came to 'a very good yearly income'. She asserted that 'the more that come, the more pleased he is, and he tries his level best to ensure there is no obstacle. When he does not have a priest, he tries to get his contacts among the justices to give him the first one who is arrested'.⁴³

Meanwhile, Catholics had long been able to use the prison system for their own ends. Plenty of recent scholarship has concentrated on the ways Catholic prisoners were able to circulate their writings through the prison network, but ordinary Catholics were also able to exploit the system.⁴⁴ Prisons provided a way for people to gain access to their spiritual leaders in an era when generally only the gentry were able to provide the cover needed to allow a Catholic cleric to minister to the faithful. This type of opportunity was more readily available in London where a higher number of prisons and prisoners existed in a relatively small area. Luisa de Carvajal had strong links with the seminary priests active in England, many of whom had been educated at the English College near to the residence in Valladolid where she lived before she moved to London in 1605.⁴⁵ Writing in November 1608, she implied that she regularly visited the capital's Catholic inmates: 'When I go to the prisons it breaks my heart that I have nothing to give them'.⁴⁶ Her letters demonstrate her intimate knowledge of the Catholic network in London and the depth of her involvement in its support.

One letter described how she visited John Roberts in Newgate prison on the night before his execution, an event which caused the examination of several witnesses, including the prison keeper, by the bishop of London.⁴⁷ In a further letter, she commented that Catholic rites could be celebrated by and for prisoners under the very noses of the people who were supposed to prevent such occurrences:

⁴³ Carvajal y Mendoza, *Letters*, 1, p.202.

⁴⁴ See, for example, Earle Havens and Elizabeth Patton, 'Underground Networks, Prison and the Circulation of Counter-Reformation Books in Elizabethan England' in James Kelly and Susan Royal (eds.) *Early Modern English Catholicism: Identity, Memory and Counter-Reformation* (Brill, 2016) pp.165-188; Thomas Freeman, 'The Rise of Prison Literature', *Huntington Library Quarterly*, 72(2) (2009) pp.133-146; McClain, *Lest We Be Damned*, pp.144-147.

⁴⁵ On Luisa de Carvajal's life, see Elizabeth Rhodes, *This Tight Embrace: Luisa de Carvajal y Mendoza (1566-1614)* (Marquette University Press, 2000) and Glyn Redworth, *The She-Apostle: The Extraordinary Life and Death of Luisa de Carvajal* (Oxford University Press, 2008).

⁴⁶ Carvajal y Mendoza, *Letters*, 2, p.53.

⁴⁷ Carvajal y Mendoza, *Letters*, 2, pp.156-157.

There are lots of women prisoners in Newgate, where there are seven priests and three or four lay people, and they were all together in a big room as they were hearing mass. The pursuivants, however, did not see this because another three or four Catholic prisoners held there blocked them off at the doorway.⁴⁸

Yet it was not just prisoners who were able to attend Catholic services in prison. For the majority of the capital's Catholics, prison was the place in which they were most likely to find spiritual guidance and access to the sacraments. Despite the common instruction to keep recusant prisoners confined as a threat to the state, it was reasonably straightforward to gain admittance to a prison, as long as a person was willing and able to pay a keeper the required inducement. De Carvajal described how the exile of one priest, formerly held in Newgate prison, adversely affected the Catholic community because:

the common and less trustworthy people, who can never gain access to the hidden fathers or priests, were left without a confessor. But now Our Lord's great providence has provided them with another priest who was arrested two or three weeks ago and put in Newgate.⁴⁹

She further claimed that 'The priest says mass each day and a hundred or more usually hear it'.⁵⁰ Glyn Redworth cast doubt upon de Carvajal's assertion that the congregation numbered so many, but nevertheless conceded that 'prisons, rather than private houses or possibly embassies, offered more reliable access to the sacraments for the poorest members of the recusant community'.⁵¹

Moreover, the crushing fines for non-attendance at church and the forfeiture of recusants' lands to the crown should have increased the revenue of the financially stretched exchequer, but they were only intermittently collected. In November 1609, for example, de Carvajal claimed that Cecil was lax in enforcing the recusancy laws, but by March the following year, when Roberts was back in the Gatehouse alongside Tregian, Clarke, Palmer and Price, she pointed out an increase in their enforcement, alleging that there were 'serches' for Catholics every day.⁵²

Prisons, Patronage and Local Politics

As well as throwing light on the prison system and Catholic prisoners, the document also illuminates Cecil's interest in finance and local politics in and around Westminster. As Pauline Croft notes, Westminster provided an 'urban power base' for the Cecils over sixty years.⁵³ In addition to his web of national and international intelligence agents, therefore,

⁴⁸ Carvajal y Mendoza, *Letters*, 1, pp.257-8.

⁴⁹ Carvajal y Mendoza, *Letters*, 1, pp.201-2.

⁵⁰ Carvajal y Mendoza, *Letters*, 1, p.202.

⁵¹ Carvajal y Mendoza, *Letters*, 1, p.201.

⁵² Carvajal y Mendoza, *Letters*, 2, pp.52 & 61.

⁵³ <https://doi-org.ezproxy.lancs.ac.uk/10.1093/ref:odnb/4980> Pauline Croft, 'Cecil, Robert, first earl of Salisbury (1563-1612)' in *ODNB* [accessed 8 May 2023].

Cecil had a strong network of local clients to serve his interests in the local community and the service of the crown. Patronage was the means by which all early modern offices were filled, because if what you needed was primarily someone who was reliable and trustworthy, then ‘the best way of finding him was to ask those whom you knew for recommendations’.⁵⁴ It was seen ‘as an opportunity rather than as a problem’.⁵⁵ And while Ahnert argued that the administrative inefficiency of the sixteenth-century prison meant that it was difficult for the government to ensure that cells were searched and suspicious writings were confiscated, it is clear that the seventeenth-century prison keepers in Cecil’s network had other means at their disposal to monitor and control Catholic prisoners.⁵⁶

Thomas Harlow, whose name appears in the margin of the document and is presumed to be its author, was William Okey’s son-in-law and had been recommended to Cecil by Thomas Ravis, Bishop of Gloucester, to take over as keeper of the Gatehouse Prison upon Okey’s death in 1606.⁵⁷ Ravis was himself a client of Cecil and held a Westminster prebend in addition to his bishopric.⁵⁸ A warrant shows that Harlow received payment as Gatehouse keeper in May 1608, at the same time as Sir William Waad received fees for five prisoners in his custody at the Tower.⁵⁹ Waad was a clerk of the Privy Council, much of whose time from the late 1580s was spent dealing with the perceived Jesuit threat to the monarchy by running spies and interrogating suspects on their behalf. He investigated conspiracies including the Gunpowder Plot as well as lesser recusant offences. He was closely allied to Cecil, to whom he owed his office as Lieutenant of the Tower.⁶⁰ Waad ran his own network of intelligence gatherers and was feared as a man whose techniques, such as installing servants in the Tower to listen in to other prisoners, were highly successful.⁶¹ Waad eventually resigned from his role as Lieutenant in 1613 amid accusations that he had embezzled jewels from one of his inmates, Lady Arabella Stuart, whilst simultaneously allowing her too much freedom.⁶²

⁵⁴ Bernard, “‘A Water-Spout Springing from the Rock of Freedom’?”, p.132.

⁵⁵ Bernard, “‘A Water-Spout Springing from the Rock of Freedom’?”, p.137.

⁵⁶ Ahnert, *Rise of Prison Literature*, pp.19-20.

⁵⁷ ‘The Bishop of Gloucester to the Earl of Salisbury,’ in *HMMS*, 18, p.114.

⁵⁸ <https://doi-org.ezproxy.lancs.ac.uk/10.1093/ref:odnb/23175> C. S. Knighton, ‘Ravis, Thomas (b. in or before 1560, d. 1609)’, in *ODNB* [accessed 21 Apr 2023].

⁵⁹ TNA, SP 14/35 f.12, ‘Warrant to pay to Sir Willm. Waad, Lieutenant of the Tower certain sums for fees, wages, &c., of officers there, and for diet of 5 prisoners; and also certain sums to Thos. Harlow, Keeper of the Gatehouse at Westminster, for similar purposes’.

⁶⁰ ⁶⁰ <https://doi-org.ezproxy.lancs.ac.uk/10.1093/ref:odnb/28364> Gary M. Bell, ‘Waad, Sir William (1546–1623)’, in *ODNB* [accessed 21 Apr 2023]. On Cecil’s development of a network of intelligence agents, see Christopher Mains, ‘Sir Robert Cecil and Elizabethan Intelligencing, 1590-1603’, Unpublished PhD Thesis, The Open University, 2021.

⁶¹ Dannielle Shaw, ‘A most wanted man: early modern intelligence-gathering at the Tower of London’, unpublished conference paper, Historical Association conference, Birmingham, 11 May 2024.

⁶² Bell, ‘Waad, Sir William’.

Nevertheless, when Waad was given a month's leave in 1608, James I commanded that Edward Forsett JP be made a temporary Lieutenant of the Tower.⁶³ Forsett was another of Cecil's clients. He was elected as MP for Wells in 1606, having been nominated for the position by Cecil and the Lord Chancellor, Ellesmere. At that time, Cecil needed support for his Bill of Union with Scotland. Not only did Forsett write in support of 'this good opportunity to reunite that which hath so long been sundered', but he also contrasted 'the well discerning eyes of all loyal subjects' with the 'treachery, that ever any subjects, of any Nation, though never so heathen or barbarous; of any age, though never so earthly or ironlike; of any religion, though never so erroneous or schismatical; upon any occasion, though never so extremely moving, did against their Sovereign and Rulers'.⁶⁴ He was, of course, referring to the Gunpowder Plot. Along with Waad, Forsett took a 'prominent part' in the examination of the conspirators.⁶⁵ Certainly, we have already seen that he was involved in the interrogation of the seminarian John Boswell (known as Francis Palmer) in 1606. He even 'composed a justification of the oath of allegiance in which he insisted on the importance of ensuring that Catholics took it'.⁶⁶ Forsett was active on the Middlesex benches throughout the early seventeenth century, and he was, according to the Downside document, responsible for committing at least two of the Gatehouse men to prison. Nevertheless, 'as one of the Middlesex justices enforcing the oath he seems to have exercised some leniency'.⁶⁷ Forsett was appointed as a member of the commission that Cecil set up to investigate the Office of Works in 1608 and the following year Cecil made it Forsett's responsibility to investigate the department's surveyor. Shortly afterwards he was added to the principal officers of the department, presumably reporting on its activities to his patron.⁶⁸

By the end of May 1610, the Keeper of the Gatehouse was not Thomas Harlow but Captain William Meysey. Indeed, Cecil's papers reveal that Meysey was using prisoners to inform on Jesuits who were held in his custody.⁶⁹ Meysey was himself due to be arrested at this time for 'div[er]se execu[tio]ns' but he managed to postpone or possibly even to avoid the action by claiming to be a servant of Cecil. Writing to the earl to request permission to put the instructions against Meysey into effect, Ralph

⁶³ TNA, SP 14/35 f.12, 'License to Sir William Waad, Lieutenant of the Tower, of absence during one month in the year, leaving Sir Roger Dallison or Edw. Forsett as Deputy'.

⁶⁴ Edward Forsett, *A comparatiue discourse of the bodies natural and politique VVherein out of the principles of nature, is set forth the true forme of a commonweale, with the dutie of subiects, and right of soueraigne: together with many good points of politicall learning, mentioned in a briefe after the preface. By Edvvard Forset (1606)* sig.lii & Hii.

⁶⁵ J. F. Merritt, *The Social World of Early Modern Westminster: Abbey, Court and Community 1525-1640*, (Manchester University Press, 2005) p.334.

⁶⁶ Merritt, *Social World*, p.334.

⁶⁷ Merritt, *Social World*, p.334.

⁶⁸ <http://www.historyofparliamentonline.org/volume/1604-1629/member/forsett-edward-1554-1630> Andrew Thrush, 'FORSETT, Edward (c.1554-1630), of Marylebone, Mdx. and Charing Cross House, Westminster,' in *The History of Parliament: British Political, Social and Local History* [accessed 8 May 2023].

⁶⁹ 'Henry Smyth to the Earl of Salisbury, 26 May 1610,' in *HMMS*, 21:221.

Dobbinson, by then the Bailiff of London, reported Meysey's declaration that 'he was yo[ur] lo[rdshi]p's servant and was placed here by yo[ur] Lo[rdshi]p and p[re]sumed upon yo[ur] ho[noura]ble favo[ur]'. Dobbinson asked whether Cecil was 'pleased to afford him privilege or leave him to the course of Justice'.⁷⁰ Peck showed that the increasing networks of patronage around the early Stuart court could indeed lead to some confusion about who was or was not a member of the king's service. Attaching oneself to the court not only promised reward but also freedom from suit and the Lord Chamberlain's papers are filled with petitions and directives about royal servants detained by local officials.⁷¹ Dobbinson himself was so trusted by Cecil that when the earl gave up several of his civic posts in Westminster in 1607, he handed them over to Dobbinson. Dobbinson also seems to have been acting as High Bailiff of Westminster in Cecil's stead from 1600 until 1612.⁷² If the 'executions' against Meysey were for debt, then this might go some way to explaining his actions in seeking additional and inflated payments from the king for the imprisonment of five men who not only should not have been close confined, but at least some of whom had paid their own fees.

Conclusion

The Downside document not only allows us to confirm a further period of incarceration for a well-known Catholic martyr, it also provides an insight into the way Jacobean criminal system allowed apparently corrupt individuals to stay in post despite their shortcomings. In understanding what Meysey thought he was doing, it is helpful to recall how Maryvonne Génaux has argued that the different words used to describe corrupt practices in the early modern period were not indicative of the intrinsic impropriety of the actions. Instead, they represented the political stance taken by the accuser. She argued that the understanding of corruption varied from one individual to the next and was dependent on their idea of what constituted public service. The vocabulary of corruption allowed an individual to attack a political adversary and, therefore, it 'carried weighty political implications: it was far too dangerous to apply it to the deviant behavior of those servants who served the king'.⁷³ This seems to be an important consideration here, where one office-holder - Meysey - was attacked by another - Harlow - under the cloak of charges of what was effectively an early instance of malfeasance.

The existence of the Downside document at the very least challenges the belief that overcharging and false accounting were an expected and accepted part of the early modern prison system. It has other values for the historian, however. While Mark Knights has argued that trust 'became a key way of thinking about office' from the mid-seventeenth century onwards, the Downside document reveals that a sense of fiduciary

⁷⁰ TNA, SP 14/54 f.56, 'Ralph Dobbinson to Salisbury, 7 May 1610'.

⁷¹ Peck, *Court Patronage and Corruption*, p.38.

⁷² Merritt, *Social World of Early Modern Westminster*, p.121.

⁷³ Maryvonne Génaux, 'Early Modern Corruption in English and French Fields of Vision', in Arnold J. Heidenheimer and Michael Johnston (eds.) *Political Corruption: Concepts and Contexts* 3rd edn (Transaction Publishers, 2002) pp.107-121, 110-111, 112 & 114.

trust existed as early as the first half of James I's reign.⁷⁴ In reporting Meysey for cozening the king, Harlow demonstrated a clear understanding that what Meysey was doing was not right – that is, that Meysey was undermining the trust put in him as a government official to uphold the standards of his office and carry out his duties to the benefit of the government. While bribing one's prisoners might be acceptable, Harlow's accusations demonstrate not only that he thought that defrauding the king was unacceptable, but that he had reason to think that others would agree. When the charges were brought to his attention, Cecil had to decide whether or not to continue to support Meysey. As such, the document shows that there was a concept of malfeasance in early Stuart England even if there was as yet no clear mechanism by which it could be punished.

Given that Meysey seems to have ousted Harlow as Keeper of the Gatehouse, it is obviously possible (perhaps even likely) that Harlow had an axe to grind in reporting Meysey's malfeasance, thus embodying the clash of interests which are thought to have explained medieval, Tudor and Stuart accusations of corruption. Nevertheless, it is also conceivable that Harlow challenged Meysey's false accounting on account of the grounds of what we would now see as anticorruption: believing that the keeper's actions in enriching himself at the expense of the crown undermined the moral standing of the government. Neither are the two necessarily mutually exclusive. Surely, regardless of Harlow's motives, it is clear that Cecil thought some form of illegality might have been committed. Whatever prompted Harlow to accuse Meysey, the outcome was a measure example of anticorruption in action - the investigation of whether Meysey had embezzled public money.

Whether or not the warrants received by Dobbinson in 1610 were put into effect, it seems unlikely that the accusations of Meysey's malfeasance as keeper of the Gatehouse in 1609 stuck. He was perhaps just too useful as an informant on the prisoners in his custody. Although Cecil was felt obliged to investigate the charges laid against his client, Meysey remained as keeper until at least March 1612, suggesting that Cecil, unlike his informant Thomas Harlow, was prepared to put up with some level of corruption in order to serve what he saw as a greater good: that of collecting intelligence on Catholic networks in London and beyond.⁷⁵ The picture is, of course, complex. As Bernard noted, early modern rulers usually 'failed even to try [to root out corruption] (chiefly because they did not see corruption as a great evil)'.⁷⁶ Here, however, we can

⁷⁴ Knights, *Trust and Distrust*, p.7.

⁷⁵ <https://doi.org/10.1093/ref:odnb/2561> Nicholas W. S. Cranfield, 'Blague, Thomas (c.1545-1611),' in *ODNB* [accessed 21 Apr 2023]. Although the *ODNB* here describes a Walter Meysey as 'keeper of a portion of the Gatehouse Prison at Westminster', based on A. L. Rowse, *Sex and Society in Shakespeare's Age: Simon Forman the Astrologer* (Charles Scribner's Sons, 1974) pp.138-9, it seems likely that Walter Meysey and William Meysey are one and the same person. A letter from March 1611/12 is also addressed to William Meysey as keeper of the Gatehouse Prison, so similarly it seems unlikely that he was a keeper of 'a portion' of the prison.

⁷⁶ Bernard, "A Water-Spout Springing from the Rock of Freedom"?, p.134.

see that the question was not only about whether Meysey's actions were intrinsically corrupt: there were bigger fish to fry. The Downside document intimately demonstrates the political working of patronage⁷⁷ – Meysey remained in position despite concerns about his character because in being able to monitor the comings and goings of Catholics, he provided a politically invaluable service to Cecil. The actions of Meysey and Cecil might not represent ideal government, but they nonetheless constituted good government if they supported the English Protestants against the counter-Reformation. Malfeasance had its uses.

⁷⁷ Bernard, "A Water-Spout Springing from the Rock of Freedom"?, p.133.

Appendix 1: Downside Abbey Archives, Stratton on the Fosse, Roberts Collection, Downside – Saint John Roberts and Robert Cecil.

<p>Tho[mas] Harlo[w] no[n] sol [non solutus = unpaid] in XPmas qu[ar]ter charged xvijs xjd</p>	<p>Charles Trogeon com[m]itted by the Lordes grace of Canterbury as [interlineated a] Com[m]issioner for recusancy, putt on the kinges chardge close prisoner by Captaine Meysy a weke in Michaelmas quarters bill, who payed all his owne chardges and was never com[m]itted close, wherin the kinge is Cosoned of xvijs xjd</p>
<p>no[n] sol in XPmas qu[ar]ter charged # viz Palmer = xxxiijs viijd and Clarke = xxxjs vjd</p>	<p>Francis Palmer & John Clarke com[m]itted by Justice Forsett and referred by the Lordes of his ma[jes]ties counsell to the Lordes grace of Canterb[ury] putt on the kinges chardge in Michaelmas quarter close prisoners, for xiiij dayes att the rate of xvijs xjd a peece per weeke Clarke lyinge in the lower wardes att the rate of viijs ijd the weeke, & Palmer att the servauntes table w[hi]ch is vjd a meale & iiijd a night for his lodginge att the rate of ix s iiijd the weeke, and were never Com[m]itted Close by the Lordes, wherin the kinge is Cosoned in xiiij dayes for their diett & lodgings xxxiijs</p>
<p>sol [solutus = paid] in o[ur] Ladie daie qu[ar]ter viz Clarke = xjli xiijs xjd and Palmer = xjli xiijs xjd</p>	<p>The said Francis Palmer and John Clarke putt on the kinges Chardge againe all Christmas quarter as Close prisouners [interlineated & yet not close] att the same rates wherin the kinge is Cosoned of xjli xiijs xjd</p>
<p>sol in o[ur] La[dy] daie qu[ar]ter</p>	<p>John Robertes a preist com[m]itted by the Lordes grace of Canterbury as a Com[m]issioner putt on the kinges Chardge by Captaine Meysy Close prisoner & yett not Close com[m]itted nor so kept, on Christmas quarter tenn weekes 3 dayes</p>

<p>ixli vjs viijd</p>	<p>who had no diett of him halfe the tyme wherin the kinge is deceaved of</p> <p style="text-align: right;">ixli vjs</p>
<p>sol</p> <p>in o[ur] La[die] daie qu[ar]ter</p> <p>iiijli xvsgd</p>	<p>Edward Price com[m]itted by the Lordes grace of Canterb[ury] as a Com[m]issioner for recusancy putt on the kinges chardge by Captaine Meysy on Christmas quarter v weekes 3 dayes and yett he laye in the Comon gaole and payed all his owne chardges & xxs over and aboue wherin the kinge is cosoned beinge rated at xvijjs xjd a weeke, of</p> <p style="text-align: right;">iiijli xvijs</p>
<p>28li 6s 10d</p>	<p>[In a different hand] I pray you enq[ui]re of the keeper of the Gatehouse how he can answ[e]r the demand of this Money</p> <p>RS</p>

On the reverse of the document is written in a different hand,

‘Accounts of the Keeper of the gatehouse prison,
Westminster, with a postscript signed R.S.1.9.

Robert Cecil, created on May 4. 1603 Earl of Salisbury’

This date of 4 May 1603 is not, as it suggests, the date on which Cecil was created Earl of Salisbury. It appears instead to be a confusion of two significant dates in Cecil’s career: 13 May 1603, when he was created Baron Cecil of Essenden, and 4 May 1605, when he was elevated to the earldom of Salisbury.