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**Coroners and Steam Boiler Explosions
The Case of Richard Palmer in
Early Victorian Preston**

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Series Editors:

John Callaghan and John Garrard

Foreword

The idea for this series was conceived some years ago as a platform for publishing original research reflecting the work of students and staff in Politics and Contemporary History at the University of Salford, along with that of distinguished outsiders. Good research does not always find a place in academic journals – which often have their own narrow agendas – much less with commercial publishers. The Research Assessment Exercise (RAE), while encouraging academics to publish the results of their research, may also discourage them from stepping outside their established areas of expertise or crossing disciplinary boundaries. In short, there are good reasons to promote a series which can afford to ignore such constraints.

Professor John Callaghan

Director of Politics and Contemporary History

August 2009

Foreword by Professor Steve Tombs

Across the social sciences, the relative paucity of British work on corporate and business crimes remains staggering. Yet, within history at least, some work in this area, or more specifically on crimes associated with health and safety in the factory system, stands out – not least that which focuses upon the struggles for legal control around the emergent factory system in England during the 1800s.

The state had, of course, first intruded into the workplace in 1802 with the Health and Morals of Apprentices Act, followed by the Factory Act 1833 – which, amongst other things, established a four-man factory inspectorate supported by seven superintendents (under-resourced even then!). Famously, of course, Marx has documented this period as one which saw the struggles around the early Factory Acts as central to the shift in factory production from an economy based upon the extraction of absolute to relative surplus value – a legal regime to which capital would never become reconciled, but which at the same time, for capital, was ‘epoch making’ (Marx, 1967/1976: 621).

Thus, through a series of material and ideological struggles, documented more latterly, and most expertly, by Kit Carson, what might have been marked out as an area of “real” crime by law and its enforcement in fact came to form the classic instance of what Edwin Sutherland later referred to as offences considered only to be *mala prohibita* – technical violations rather than immoral acts or real crimes. Thus factory crime came to be represented and seen as ‘conventional’ – subject to widely accepted ‘rationalisations and justifications’ and ‘routinely integrated with otherwise reputable activity’ (Carson, 1979: 38) – a view which holds enormous power to this day and which stands as the greatest obstacle to the more effective control of corporate violence in the workplace.

Yet there is so much more to be learned about this crucial period in the establishment of a legal architecture conducive to a rapidly expanding capitalist economy – and Gordon Glasgow’s micro-study of the role of Richard Palmer, Preston’s coroner at the time of the town’s two major steam boiler explosions of

the 1840s, is a key contribution. If the role of the coronial system in the regulation of economic life remains one drastically under-studied – Slapper's *Blood in the Bank* as the one notable exception – then, as Glasgow underscores here with meticulous detail, it is a site of struggle that should neither be ignored by social, economic and political historians, nor by contemporary socio-legal scholars.

Carson, W.G. (1979) 'The Conventionalization of Early Factory Crime', *International Journal of the Sociology of Law*, 7, 37-60.

Marx, K. (1867/1976) *Capital. Volume 1*, London: Harmondsworth.

Slapper, G. (1999) *Blood in the Bank*, Aldershot: Ashgate.

Steve Tombs, Liverpool John Moores University, August 2009

About the Author

Gordon Glasgow was educated at Merchant Taylor School, Crosby, Lancashire, and at the Universities of Cambridge and M. He holds the degrees of MA, LL.M and Mphil, and was President of the Southport and Ormskirk Law Society in 1972. He was admitted as a solicitor in 1953 and practiced in Southport for many years. Until retiring, he was HM Coroner for the Metropolitan Districts of Sefton, Knowsley and St Helens, and in recent years has been researching coronial history. Alongside the work presented here, Gordon has also done considerable research on the links between burial societies and infant death, and the role of coroners in uncovering these linkages.

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GHG August 2009

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Introduction

Much has been written about the human costs of the industrial revolution and attempts to bring those costs under various forms of legal control. However, relatively little attention has been given to one aspect of those costs, factory boiler explosions, still less to the role of coroners' inquests in adjudicating their results. This paper tries to address this gap via a micro-study of Preston in the 1840s. It has something to tell us about the relative parts played by statute and common law in dealing with the costs of industrialisation. It also has much to say about the ambiguous role of the expert and expert evidence in the emerging urban industrial world. This was a world that was becoming increasingly technological, with increasing need of expertise, yet which also, partly due to the factory system itself and the various ramifications of factory paternalism, remained substantially patronage-based and susceptible to the manipulation and deployment of private interest. Coroners were on the cusp between what were effectively two worlds. Some responded in reformist ways; others more conservatively. Either way, wittingly or unwittingly and whether leading by example or arousing public outrage by the perceived injustice of their verdicts, they could become very significant catalysts for factory reform and the agitation that built up in its support. Inquests provided workers, who had no statutory redress and only limited redress at common law, with visible platforms from which to challenge factory owners and means whereby the circumstances surrounding factory fatalities could be publicly investigated. These local events could in turn enhance the pressure for change enacted at Westminster.

This study will primarily focus on a coroner of the more conservative sort, and indeed one who entered on his long career through portals belonging to the patronage-based world, and whose reflexes may have been trained accordingly. He was Richard Palmer, Preston's coroner between 1799 and 1852. We shall focus particularly on his investigation of the town's two major steam boiler explosions of the 1840s, and the wide-ranging controversies which then ensued. After initially surveying the legal and other contexts within which coroners operated, we will explore Palmer's unopposed election as county coroner, his understanding of his coronial duties and his subsequent

role in the 1842 Preston Plug Riots. The paper will show how he responded to what became national as well as local safety issues.¹ Next, it will relate the story of two crucial inquests in 1848: those involving the massive explosions at the Royal Sovereign Mill and the Brunswick Mill. We will highlight the lack of expert evidence at those inquests at a time when new spheres of coronial action required new areas of expertise. The paper will then examine popular reaction to the perceived unsatisfactory inquests and the subsequent trial at Liverpool Assizes. Finally, we shall relate these urban problems to the Westminster scene as legislation, reflecting local concerns about industrialisation and working conditions, was enacted to remedy failings in the legal process and the inquest system.

2 Coroners and their world

The factory system flourished in the textile towns of Northern England, producing great wealth for some but also demanding a high price for many others in terms of death, devastating injuries and ill-health. Factory deaths in particular exposed the failure of the common law to protect workers.² Deaths from boiler explosions became an integral component of working with steam power. They increased over one hundred times; from 2 in 1800-10 to 209 between 1840 and 1850. At this time no regulations covered the use of steam boilers in cotton mills. Within the Victorian state apparatus of Parliamentary Committees and Royal Commissions, coroners' inquests remained to social reformers of different political hues the only public inquiries where liability could be brought home to factory owners. Yet there was much controversy about their purpose and effect. Benthamites like Sir Edwin Chadwick considered them 'an unsatisfactory method of determining the facts of steam-boiler explosions' and 'ill-suited to eliminate industrial dangers'. The eminent Manchester engineer, Sir William Fairbairn considered jurors incompetent to understand the operation of steam boilers.³ Furthermore, coroners only investigated 5-10 per cent of all deaths⁴, and the concern of central government focused on the inaccuracy of the statistics about occupational deaths used in Sessional Papers and published as Blue Books. This was particularly so since the civil registration of deaths, laid down by the 1836 Births Deaths and Marriages Act⁵, sought only to ensure that inquests provided a cause of death. Such causes of death only indirectly referred to the hazards of working life.

Although the first Factory Act was in 1802⁶ it was not until 1844⁷ that obligations were imposed on factory owners to fence machinery and compensate injured workers. Compensation was to be paid out of fines, on the recommendation of Factory Inspectors, following the Home Secretary instituting civil actions on behalf of the injured. The coroner became involved only if death occurred and, therefore factory legislation had limited coronial references. Lord Ashley's 1833 Ten Hours Bill had proposed⁸ that, on a coroner's verdict of 'accidental death by the culpable neglect of the occupier ... of a mill or factory'⁹, a charge of manslaughter should follow, committing prisoners for trial without going before petty sessions, thereby making inquests an integral part of the factory movement. If the jury found evidence of negligence by a named person, the coroner's verdict was to be one of manslaughter with committal for trial at the assizes. Further, since coroners' juries had, according to the traditionalist Toulmin Smith and the Manchester coroner Edward Herford, powers equal to those of grand juries, the indictment by-passed magistrates. Historically coroners' committals had existed long before the magistrates had been given similar powers. However, in the late 1840s, under 1 per cent of inquests resulted in committals for suspected homicide.

John Havard¹⁰ has pointed out that the rigidity of pleadings and forms of action available at common law caused the Royal Commissioners on the Criminal Law in the 1840s to doubt the efficacy of a coroner's inquisition, and to refer to coroners' bills of indictment as 'seldom ... good on the face of it'¹¹. Such bills in practice went before a Grand Jury of Presentment consisting of men of substance within the county community, often chosen from magistrates representing the county hundreds. That jury examined the bills, which were legally intricate documents usually drafted by a court attorney, to decide if there was a case to answer and, if so, to find the same 'true' by inscribing on the rear the words *billa vera*. If thus marked the indictments went before the trial judge at the assize courts. If rejected a new indictment could follow, but this was unusual, especially for coroners' indictments, since this might open coroners to grand jury criticism. Nineteenth-century trial judges often constrained the effectiveness of inquests by accepting that the established principles of binding precedent, or *stare decisis*, applied to the common law. They thereby limited judicial idiosyncrasies by restricting judicial freedom either to interpret or change existing law to meet new needs of industry and safety at work. Those principles could entail the spirit of the law being evaded via technical defects

like the omission of the word 'instantly' in an indictment and the use of paper and not parchment. Hence, to meet changing circumstances, the common law might be of little immediate use, and Parliament had to make new statute law.

The common law, handicapped by a series of legal 'fictions' (assumptions), could not cope with the demands of emerging industrial society. Particularly before 1850, the judge's summing up to the jury could be perfunctory, even non-existent. In the absence of legal precedent the common law was irrational and, since the harsh ruling in *Baker v Bolton*¹², provided no right of action for economic loss following a breadwinner's death; any such right died alongside injured parties. The law of tort was in its infancy and unable to cope with factory accidents or deaths. Hitherto actions for negligence based on the direct or proximate cause of the accident had been shown in *Scott v Shepherd*¹³ to be blurred by distinctions between immediate and foreseeable consequential injury and by the emerging doctrine of alternative danger or 'the dilemma principle'. Further, while the legal position of injured workers was unclear, judges viewed with alarm any possibility of widespread employers' liability for accidents. After *Priestley v Fowler* in 1837 the doctrines of common employment, contributory negligence and *volenti non fit injuria* prevented many injured employees from suing employers.¹⁴ In practice, when faced with deaths involving problems in proving who was the party responsible, the common law provided no remedy.¹⁵

An inquest open to the public represented an opportunity to secure, almost by popular demand, a coroner's committal of the party at fault, including, if applicable, a cotton-mill proprietor, following a jury's verdict of murder or manslaughter. That opportunity ensured inquests played a controversial role in the factory movement. The 'popular and constitutional inquest', described by the Oldham M.P. William Cobbett in his *Political Register* for 1 June 1833 as his favourite 'institution for the protection of life and limb', involved both working conditions and the popular constitutional rights of the workers.

The inquest had three components – the coroner, the jury and the open court; all three had mutually to combine to form the framework within which the inquest could be legitimised as an effective participatory force safeguarding mill workers, alongside the factory movement and Factory Inspectorate.

The first component was the coroner himself who, apart from the Sheriff, was the only elected judicial figure in the Quarter Sessions system. He held office for life and, unless a franchise coroner, was either a county coroner elected by the freeholders

at the hustings, or a borough coroner appointed by a borough council. As a judicial officer his duty was to inquire into accidental, suspicious, violent or unnatural deaths. With the proliferation of the professional class following the Industrial Revolution, expert witnesses like civil and mechanical engineers had a specialist role here. They represented what Harold Perkin has called the new 'professional ideal' centred on service and expertise and sometimes at odds with the demands of contemporary market forces, and still more with the patronage-based society they were replacing. By the mid-1840s, in an increasingly complex industrial society, coroners' jurors began, in the case of boiler explosions, to expect evidence from those associated with the technical application of mechanical science to boilers, and not just evidence from local boiler-makers. Yet the coroner chose experts on the basis of expense, immediate availability – inquests took place shortly after death – and competency in applying mechanical principles to the operation of steam boilers. The verdict recorded by the coroner was that given by the jurors on the basis of such evidence. Coroners always sat with a jury of 12-24 local men not subject to any statutory qualification, and with different juror rules applying for county and borough coroners.

The second component of the inquest system was the jury, summoned and often effectively chosen by the coroner to serve, in theory, on a rotational basis. Their verdict sometimes represented a form of popular justice reflecting contemporary attitudes to social issues combined with popular understandings of expert evidence. As stated above any number from 12 to 24 could be summoned but more than 15 were rare. Some activist coroners accepted that factory deaths raised questions beyond the physical cause of death and directed jurors about the availability of expert witnesses and about verdicts. If coroners wanted to call expert evidence, and if such witnesses were to be paid out of the rates and not personally by the coroner, coroners had to apply to the county magistrates or borough council for permission and many were reluctant even when pressed by jurors. To a limited extent, therefore, magistrates and councillors influenced coroners in witness selection. The Preston coroner, Richard Palmer, had local engineers and boiler-makers giving evidence but did not pay them. No statutory authority authorised payment. Presumably because of expense he never called Fairbairn from Manchester. The latter, sometimes waiving his fees, supplied reports on steam boiler explosions to other coroners in Bolton, Blackburn and Rochdale as well as to Herford in Manchester. Fairbairn frequently submitted those reports to the Home Secretary.¹⁶ Investigations into steam boiler explosions required

special knowledge of the mechanical principles involved in the construction, maintenance and operation of such boilers and, with increasing emphasis on expertise, the nineteenth-century inquest became a crucial check on unsafe working conditions. Jurors played a vital role therein.

The third component of the inquest system was its constitutional function as a people's court open to all and capable of publicizing highly charged social, humanitarian and political issues. As his critics made clear, Palmer did not sit in camera. He operated an open court but not as an extension of radical politics. Palmer knew Thomas Ferrand, the Rochdale coroner. He remembered the furore following the latter's cause célèbre, the John Lees inquest¹⁷, and the controversy about the open court. Although Palmer could have excluded the press and the public he never did; his inquests therefore became forums for contemporary concerns about working conditions.

As the factory system developed such working conditions deteriorated. Occupational deaths and accidents at work increased without adequate redress under common law for the dead and injured.¹⁸ In particular, as stated earlier, following the common law maxim *actio personalis moritur cum persona* promulgated in *Baker v Bolton*, any cause of action died with the deceased¹⁹ although in the cases of factory and railway deaths the inquest system, through coroners, found ways of compensating victims by reviving the archaic device of *deodands*. Some parliamentarians supported the coronial practice of circumventing the civil process. Speaking in the Commons during the 1846 debate on the Deodands Abolition (No 2) Bill, Stuart Wortley referred to deodands as the only 'cheap and ready compensation' available to the poor.²⁰ A *deodand* was the forfeiture of an object that occasioned or was the instrument of death. At common law the article or object, which the coroner's jury found had 'moved to the death' of an individual, could be declared a deodand and forfeited.²¹ The coroner could give the value of the forfeited deodand, fixed by the jury, to the family of the deceased by way of compensation. Apart from compensation it served as a punishment and deterrent. It was an indication of fault. Sometimes the amount was substantial: in the 1840s sums of £500 and £600 were awarded.²² During the 1846 Commons debates, the Attorney General, discussing the Death by Accident Compensation Bill, stated that 'it was very desirable that the deodand should be made the means of affording some compensation to the family of a person killed'.²³ He also pointed out that the compensation was not according to 'the injury inflicted but

according to the value of the instrument of injury'.²⁴ Although compensation did not reflect the measure of pecuniary loss, the innovative use of deodands circumvented the civil process at common law and thereby incurred the wrath of the judiciary and legislature. Both Houses of Parliament debated the abolition of deodands and ways of providing compensation for occupational deaths.²⁵

When Lord Campbell spoke in the Lords on 24th April 1846, during the debate on the Deodand Abolition Bill and the Death by Accident Compensation Bill, he accused coroners' juries of abusing the law by using deodands to punish negligence.²⁶ He disagreed with the Attorney General's statement in the Commons but agreed with Wakley's statement that no benefit arose from the present law of deodands. He wanted the Bills to go forward. Both were subject to political manoeuvring, reference to Select Committees and failure followed by resurrection.²⁷ Finally, after two years of debate, the 1846 Deodands Abolition Act²⁸ and the 1846 Fatal Accidents Compensation Act²⁹ became law, meaning that coroners and jurors could no longer award deodands as compensation. The first Act abolished the right of coroners' juries to provide compensation for occupational deaths by levying deodands. The second, by providing that dependants of a deceased person could claim damages, was intended to counterbalance any hardship resulting from the first Act, but legal action had to be instigated by the deceased's personal representatives and not by either the Factory Inspector, whose powers of providing compensation through fines under Section 24 of the 1844 Factory Act did not extend to the dead, or by the Coroner whose powers at inquests became confined to criminal indictments for murder or manslaughter. However, inquests continued to function as a mirror to aspects of factory legislation by using the emerging tort of negligence as a possible means of providing compensation through the civil courts subject to the difficulty that the common law rule against recovering damages from the employer – 'the fellow-servant' rule of *Priestley v Fowler* – was rigorously applied in early Victorian England.

3 Palmer and the Preston Coronership

Preston in many ways was an archetypal cotton town. Its population increased from 50,131 in 1841 to 69,542 in 1851. As shown by Myers' 1836 Town Map it had 35 cotton mills, the first dating from 1777.³⁰ By 1851 numbers had increased to 31 combined cotton spinners and manufacturers, 11 separate cotton spinners and 25

separate cotton goods manufacturers.³¹ Of these, 2 employed more than 1000 workers, 9 more than 500 and 19 less than 150. Most therefore employed 150-500 workers.³²

By the time of the 1848 Preston steam-boiler explosions, Palmer had been a county coroner for nearly fifty years. He was probably England's longest-serving coroner. To Prestonians, he represented the Tory Anglican Establishment, combining the coronership with other public appointments. He was Preston's Town Clerk. Before the 1832 Reform Act, this also entailed him being Clerk to the Preston borough magistrates. He was also a Preston solicitor with a substantial private practice and Clerk to the Preston Guild Merchant, Clerk to the Police Commission, one of the Clerks to the county magistrates, a Clerk to the Court of Chancery, Clerk to the Preston and Garstang turnpike roads, Clerk to the Commission for Income Tax and Registrar of the Preston Court of Pleas.³³ As Town Clerk and borough magistrates' Clerk, Palmer had stood alongside the Mayor and Chief Constable at the reading of the Riot Act during the Plug Riots³⁴ and the Preston massacre of 13th August 1842, which, together with the 1850 riots, led Karl Marx to liken Preston to St. Petersburg and the Russian Revolution.³⁵ Palmer's rise to so many high offices made him indebted to Preston's cotton magnates who, by 1851, employed 29.5% of the town's adult population.³⁶ It also made him an employee of borough and county magistrates and of borough councillors³⁷ many of whom were connected with the textile trade. Furthermore his professional work, with a solicitor's practice substantially dependent on cotton mill proprietors³⁸, influenced his approach to mill proprietors and factory deaths and, unsurprisingly, in the period 1831-46 Preston newspapers recorded few inquests where his jurors levied a deodand. The events shaping Palmer's early career and affecting the two 1848 controversial steam boiler inquests will now be outlined.

Palmer was born in Lancaster on 23rd February 1773, second son of Robert and Elizabeth Palmer who had moved to Preston to become licensees of the Plough Inn. When he was 12 he went to work for Nicholas Grimshaw, described by the nineteenth-century local historian Arthur Hewitson as 'one of the most notable men ever associated with Preston.' At that time, Grimshaw had a respectable solicitor's practice in Preston and 'wanted a sharp lad in his office'.³⁹ Therefore, on 6 June 1788, he accepted Palmer as his articulated clerk and Palmer was admitted as an attorney at the Lancaster March Assizes of 1794.⁴⁰ In the previous year Grimshaw had secured the part-time appointment of Town Clerk of Preston. That appointment, together with



RICHARD PALMER, HM CORONER FOR PRESTON 1799-1852

(Courtesy, Harris Library, Preston)

duties as Mayor of Preston, which office he held on 7 occasions, absorbed much of his time and Palmer assumed more responsibility within the practice, including attending to some of the legal matters of John Horrocks (1768-1804), cotton spinner and manufacturer of Penwortham Lodge near Preston.⁴¹ This produced a close friendship with Horrocks which, so far as the county coronership was concerned, proved important a few years later.

In October 1799 Mr Hankinson, county coroner for Amounderness and Leyland Hundreds and part of Blackburn Hundred, resigned. Hankinson's jurisdiction included Preston since, although by Royal Charter Preston's Mayor was automatically borough coroner while in office, the work was actually undertaken by the adjoining county coroner. County Coroners were elected by the county freeholders, and the only qualification required of candidates was that they were independent freeholders.⁴² Electoral addresses, canvassing and polling, in the event of a contested election, followed on lines similar to parliamentary elections.⁴³ Hearing of the sudden vacancy and in response to popular demand Palmer decided to be a candidate. He consulted Grimshaw, his partner and former employer, and 'his warm friend' the aspirant M.P. and father of the Preston cotton trade, the Quaker-Tory, Horrocks.⁴⁴ Both had experience of the hustings, having participated in some of Preston's fiercest and most costly political contests; although inexperienced in coronial elections, they promised Palmer support. At the 1796 parliamentary election Horrocks, nominated by the Tory Preston Corporation, had challenged the Whig interests represented by the town's most prestigious inhabitant, the Earl of Derby. After incurring considerable expense he had narrowly lost, but victory had cost the 13th Earl some £11,550. Horrocks had successfully dented the family's ascendancy in Preston. Palmer therefore welcomed his support and possible financial help if a contest occurred. After all, backed by Preston Corporation, Horrocks had amassed a huge fortune of £150,000 from the town's cotton mills, starting with the first large purpose-built mill between Church Street and Dale Street known as the Yellow Factory because of its colour.⁴⁵ Reassured Palmer appealed to Lancashire's freeholders.

He issued an election address, referring to 'very flattering promises of support and the powerful interest...already obtained by the active Exertions of those numerous Friends who stood forth in [his] Favor on this Occasion.' It was short, unpretentious and deferential, without reference to coronial duties or the importance of the open or public inquest in the investigation of death. It showed no conception of

inquests as focal points for reform, but this was not unusual. Only in the early nineteenth century did coroners' electoral addresses start taking account of political and social issues.⁴⁶ Palmer's printed letter, resembling in style addresses by parliamentary candidates⁴⁷, was intended as a handbill since in 1799 Preston had no local newspapers.

The election was to take place at 10 a.m. at the Town Hall on 12 November 1799. Palmer's nomination was proposed by the Rev. James Barton and seconded by Horrocks. Other candidates emerged – John Winstanley and Edward Forshaw, both Preston solicitors. The day before the election Horrocks called at Grimshaw's office. He found 'the clerks busily employed in the preparation of poll books in anticipation of a contest'.⁴⁸ John Addison, a friend of Winstanley, told Horrocks, 'it was a pity there should be a contest, for he thought...none of the "lads" had money to throw away, and that it would be better if some amicable arrangement could be made.'⁴⁹ Horrocks agreed but said 'you may make whatever arrangement you like, only Palmer must be the coroner'. Such was his influence that, by the day's end, Winstanley and Forshaw had withdrawn and Palmer was elected unopposed. Palmer was referred to as Horrocks' protégé and contemporaries accepted the latter had been 'mainly instrumental in securing [Palmer's] appointment'.⁵⁰ He thus began his coronership obligated to local cotton magnates, and under circumstances threatening his judicial independence.

In 1801 another potential threat to independence arose when Palmer became Town Clerk, and thereby Clerk to the borough magistrates. He inherited the position when his partner, Grimshaw, became Mayor. Initially, therefore, his responsibility was to the pre-1835 Preston Corporation, limited in number and dating from 1179. Following the 1835 Municipal Corporations Act new appointments had to be made by the enlarged borough council. However, more than thirty years after his initial appointment, the latter unanimously reappointed Palmer as Town Clerk. He therefore had become a part-time employee, removable by the council but, unlike his contemporaries, the flamboyant Joseph Heron, Manchester's Town Clerk, and the less flamboyant but equally energetic Samuel Johnson Town Clerk of Nottingham, he maintained a low profile midway in the hierarchy of Preston's borough officers. It was very much 'hold[ing] the Office during [the] Pleasure' of the Preston borough council.⁵¹ By the 1840s the council's structure was changing, with more councillors being not merely cotton manufacturers but also borough magistrates, thereby retaining

PALMER'S ELECTORAL ADDRESS

(Courtesy: Lancashire Record Office, Preston)

TO THE
INDEPENDENT FREEHOLDERS,
OF THE
COUNTY OF LANCASTER.

GENTLEMEN,

THE Office of one of the Coroners of this County being now vacant, by the Resignation of Mr. HANKINSON, I again take the Liberty of addressing you. The very flattering promises of Support, and the powerful Interest I have already obtained, by the active Exertions of those numerous Friends, who have stood forth in my Favor on this Occasion, are so highly gratifying to my Feelings, that I cannot hesitate declaring my fixed Resolution to persevere in the Contest, confident that such Exertions will not fail of ensuring me Success.

The Sheriff intends the Election to commence on *Tuesday* the 12th Day of *November* next, at the TOWN-HALL, in *Preston*, at Ten o'Clock in the Forenoon.

It being my wish to avoid, as much as possible giving any unnecessary Trouble to my Friends, I shall take care to inform them, in their different Districts, on which particular Day of the Poll their Attendance will be most conducive to my Interest.

I remain, Gentlemen,

YOURS, VERY RESPECTFULLY,

Richard Palmer.

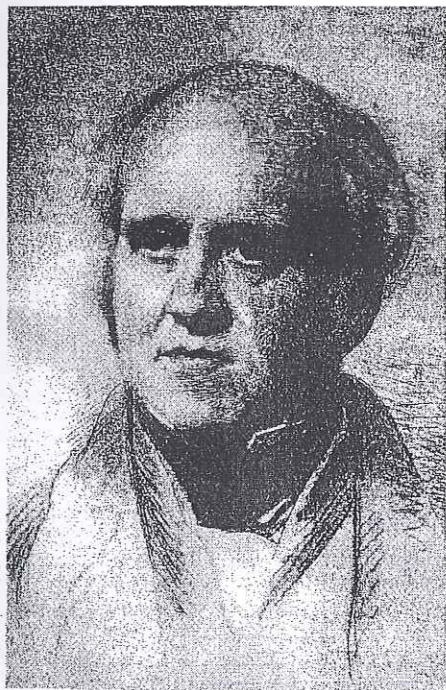
'the cotton lord's grip on local affairs'.⁵² For example, John Paley Senior, as well as being borough magistrate and councillor, was proprietor of several Preston cotton mills, including the Royal Sovereign Mill where the first boiler explosion occurred and the Bank Top Mill where there had been several fatalities. Similarly, Alderman Miller was part-owner of Horrocks Miller & Co cotton spinners, whilst Councillor Goodair jointly owned Napier & Goodair, one of Preston's largest mills.⁵³

Palmer's own magisterial appointments mainly occurred some years later when in August 1836, following the 1835 Municipal Corporations Act, he was reappointed clerk to the borough magistrates and in January 1838 a clerk to the county magistrates for Preston. These appointments potentially opened him to pressure in coronial investigations and magisterial prosecutions in the borough and county. According to the local press, Palmer, presumably having succumbed to such pressure, had few disputes with borough or county magistrates, and no arraignments for murder or manslaughter made by him on a coroner's inquisition failed to go before the grand jury. Disputes did not relate to factory deaths but concerned why he refrained from holding some inquests, particularly on new-born babies.⁵⁴ Palmer, like many fellow coroners, was sensitive about criminal jurisdiction in cases of suspected homicide; he also worried about the burden of proof, and about potential disputes with magistrates over coronial power to commit for trial for homicide, doubly so with the judiciary seeking to curb coroners' indictments and declare them void.⁵⁵ He realised some magistrates saw him as interfering, and duplicating the criminal process since the 1844 Factory Act involved using magistrates' courts for criminal prosecutions. For example, after the 1844 Act, Ewings, seeking prosecution for a factory offence, had to present a case to the borough magistrates for any prosecution to take place⁵⁶ and Palmer, combining the coronership with his position of magistrates' clerk, had to advise on indictments.

Palmer, elected coroner by the freeholders, was involved with an unelected Factory Inspectorate recruited almost entirely by political patronage. Inspectors were indirectly concerned with fatal accidents. Their primary concerns were safety at work, hours of work and the employment of women and children. They were not very active in the local magistrates' courts or at inquests and, in the mid-Victorian period, although the number of fatal accidents increased, the number of prosecutions declined.⁵⁷ Prior to the 1844 Act, their role was limited and many adopted the policy of explaining the law and relying on the good sense of employers to follow it. They

tended to be reluctant enforcers. Although inspectors attended some inquests, sitting on the bench alongside the coroner, they had no mandate to investigate accidents or occupational deaths beyond enforcing legislation about working hours. The 1833 Factory Act said nothing about safety. It was the 1844 Factory Act that introduced safety provisions about fencing machinery, largely due to the efforts of the first factory inspectors. The Act made no reference to steam boilers. However, in the 1840s, factory inspectors helped explain the shortcomings of factory legislation by submitting half-yearly reports to the newly created central factory office, and by appearing as 'expert witnesses' before Select Committees, although an engineering adviser within the department was not appointed until 1899. As 'expert witnesses', their qualifications were indeterminate. They came from mixed backgrounds and lacked the technical qualifications of mining inspectors. For example, Robert Rickards was partner in a firm of East India merchants, Robert Baker a Leeds parish surgeon, Thomas James Howell a successful Gloucester barrister. Indeed, under the patronage system, some appointments were politically motivated as with the controversial Scottish Whig newspaper editor James Stuart who had a few years earlier been tried for murder and acquitted. In any case, engineering expertise, particularly concerning steam boilers, was not easily available in the early Victorian period since the Institution of Mechanical Engineers was not formed until 1847 and its membership by 1850 was only 200. Understandably therefore, the head of the 12 Factory Inspectors was not a mechanical engineer but Leonard Horner F.R.S., eminent geologist, educationalist and former warden of University College London.⁵⁸

During his 26 years in office, Horner emerged as a national figure in debates about working conditions but also as someone difficult to label in class terms. His relationship with the Home Office was sometimes strained due to his association with factory reformers and conflicts with mill owners. In *Das Kapital* Marx referred to Horner as having 'a lifelong contest' with 'manufacturers [and] with the cabinet' and as having rendered 'invaluable service to the English working-class'. However, Marx makes no reference to Horner and the inquest system. Horner held meetings with doctors and leading Lancashire manufacturers, including members of the Manchester based Factory Law Amendment Association, about safety standards and the employment of child labour. In the cotton metropolis of Manchester he met mill owners like Henry McConnel, Robert Hyde Greg and James Aspinall Turner who protested against his dictatorial actions and in Preston confronted cotton proprietors



LEONARD HORNER (1785-1864)
H.M. CHIEF INSPECTOR OF FACTORIES

(Courtesy, University College London)

like John Paley, John Goodair, Robert Gardner and Samuel Horrocks who were less inclined to protest. In the 1840s Horner had no direct contact with the Manchester coroners James Chapman and Edward Herford and in early Victorian Preston, his limited contact with Palmer was confined to his role as Town Clerk and clerk to the borough magistrates. He expressed concern about child employment in Preston's cotton mills, their educational needs and the dangers of inadequately fenced machinery. Ten years after being appointed to the Factory Inspectorate he became a member of the 1843 Committee of Inquiry into the Employment of Children in Mines and Manufactories⁵⁹, and was consulted by successive Home Secretaries about drafting factory legislation from 1844 onwards. Based in Manchester his responsibility was to enforce that legislation throughout the Lancashire cotton towns. With so large a jurisdictional area it is unsurprising that Horner was not present at Preston inquests. Instead, Joseph Ewings⁶⁰, one of his twelve sub-inspectors, appeared on his behalf. Ewings, who lived in Preston, was the sub-inspector or Superintendent for the Preston area and a near-neighbour of Palmer. The two men knew each other well and Palmer knew that Ewings would not instigate prosecutions unless convictions were virtually guaranteed, because of the limited financial resources of the Factory Department, and because inspectors realised that failed prosecutions had adverse effects on compensation payments. Although Palmer allowed Ewings to participate in inquests, some Prestonians and borough magistrates were suspicious of local resident factory inspectors. They questioned qualifications and motives. Some mill owners saw them as informers. Local newspaper correspondents referred to them as 'men who knew nothing about steam power or the pressure boilers [were] calculated to bear', arguing they should be 'practical engineers, men fully conversant with such matters'.⁶¹ Newspaper advertisements supported that popular viewpoint, emphasising the need for engineering experts at inquests.⁶²

When Factory Inspectors attended Preston inquests in the 1840s they did so by grace and favour: Ewings had no authority over Palmer; indeed, Palmer could exclude him from inquests by holding them *in camera*. Indeed, it was not until the 1895 Factories and Workshops Act that Inspectors were required 'to watch the proceedings [at inquests]' and given limited authority over coroners. Section 19 of that Act required coroners, 'where a death has occurred by accident in any factory or workshop ... [to] adjourn the inquest', and then send the Factory Inspectorate written 'notice...of the time and place of holding the adjourned inquest'.⁶³ To a limited extent

that Act subordinated the coroner to the Factory Inspector. Before the 1895 Act brought the latter into the inquest system the 1883 Boiler Explosions Act had, by Section 6(1) at the direction of the Board of Trade, provided for a preliminary inquiry in open court before 'one or more competent and independent engineers practically conversant with the manufacture and working of boilers' but without reference to the coroner.

In the 1840s, local newspapers record Ewings sitting alongside Palmer at some controversial boiler explosion inquests although he had no practical experience of steam boilers. Palmer allowed him to question witnesses, and did not challenge his line of questioning even when it extended beyond why a particular boiler exploded, to issues of temperance and workers' moral character, irrespective of the dangers of steampower. The questioning hardly indicated familiarity with, or expertise in, steam boilers.

Palmer knew factory inspectors' powers were limited. He also realised there was internal pressure from men like Horner to make factory law enforceable and relevant to inquests. Yet, when appearing before coroners and magistrates, each factory inspector adopted different criteria in relation to factory law, the meaning of factory premises and sustainable convictions.⁶⁴ For example, Horner, unlike his fellow inspector T.J. Howell, prepared reports not on the number of mills but on the number of firms occupying any mill so that he did not specifically deal with factory premises like Hollins' Royal Sovereign Mill or Cooper and Garrington's Brunswick Mill which were integral units. When, as an objective reporter of working conditions, he presented his Report to the Commons for the half-year ended 31st October 1848, he effectively confirmed Palmer's understanding of the legal position by making no reference to Ewings or the deaths arising at the two Preston cotton mill steam boiler explosions or to the sustainability of any prosecution arising out of them. Instead, with a display of disinterested professionalism, he decided to ignore inquests, concentrating on the national picture with a summary of the fines imposed for infringement of the statutory provisions relating to safety at work. He accepted that not all mill owners could be trusted and that many had 'a very loose kind of morality' with regard to evasion of factory law. However, he did say that, whereas factory proprietors could be fined between £10 and £100 for an accident causing bodily injuries, the Law Officers of the Crown advised him that if that person died before a factory inspector had started legal proceedings then 'no penalty [was] incurred'.⁶⁵ He

was loath to prosecute. Therefore, when factory inspectors like Ewings attended inquests, virtually as reporters combining the role of information centre and pressure group, they asked questions about causation that might help the coroner and jurors but provided limited help to victims' families.

Ewings' presence at Preston inquests in the 1840s did not result in more prosecutions for manslaughter or murder at Liverpool Assizes and resulted in few prosecutions before the borough magistrates. Whereas in Manchester 118 prosecutions occurred between 1838 and 1851, only 8 took place in the same period in Preston.⁶⁶ Those prosecutions were not the result of evidence heard at inquests and Preston magistrates, guided by Palmer, were reluctant to impose the statutory fines referred to by Horner in his 1848 October Half-Yearly Report⁶⁷ especially since the 1844 Factory Act allowed charges to be laid for the same offence on a repetitive basis.⁶⁸ Magistrates were reluctant to convict fellow cotton manufacturers for 'doing nothing that they themselves were not doing in their own mills'.⁶⁹ Prosecution witnesses were sometimes subject to bribery or intimidation.

Evidence of pressure on Palmer from some cotton magnates emerged in a few controversial inquests especially in the 1840s when inquests were accepted forums for local people to investigate the causes and circumstances of occupational deaths. Sometimes they exposed negligence and jurors recommended legal changes affecting industrial safety and compensation for victims of industrial accidents.⁷⁰ By the 1840s Palmer had had many years experience as a part-time county coroner.⁷¹ Although lacking the experience of coroners like Philip Finch Curry in Liverpool and Herford in Manchester, he developed an individualistic approach to inquests with clear views about what evidence should be given, what witnesses summoned and the directions to be given to jurors about verdicts. Palmer allowed both Factory Inspectors and lawyers representing the parties to question witnesses, and allowed lawyers to address him but not the jury in court. However, his interpretation of the overall evidence and the law involved, combined with his directions about possible verdicts, appear to have been brief and blunt. He rarely took notes of witness depositions. A peremptory approach was manifested in the series of summing ups to jurors given in the 1842 Plug Plot Riot inquests, the 1848 Royal Sovereign Mill and Brunswick Mill inquests, the 1852 Colliery Explosion inquest at Coppull⁷² and the 1852 Lytham Life Boat Disaster.⁷³ How Palmer decided to conduct inquests will now be examined.

When Palmer was first elected county coroner he was inexperienced in coronial duties, which were anyway ill defined. He had not been a deputy coroner. Every coroner had to decide, in his discretion and within the law, how to investigate deaths reported to him. Apart from Worrall's 1756 *Coroner's Guide* and Umfreville's 1761 *Lex Coronatoria* together with Impey's *Office and Duty of Coroners* (1786),⁷⁴ coronial law manuals did not exist until Sir John Jervis' *On the Office and Duties of Coroners* in 1829.⁷⁵ As Umfreville, a Middlesex county coroner, explained there was no 'general uniform Practice'. Jervis was the forerunner of other books on coronial law.⁷⁶ Relying on these texts Palmer had to decide for himself how he conducted inquests. The full weight of conducting inquests, examining witnesses, taking notes of evidence, summing it up and advising juries about possible verdicts fell on Palmer. The Coroners' Society of England and Wales which, as Home Secretary Sir George Lewis pointed out, was designed to protect coroners against magistrates and promote suitable legislation on coroners' duties and remuneration, was not formed until 1846 and the Northern Counties Coroners' Association, with similar but more local objectives, was created some years later. By 1848, 18% of coroners belonged to the London-based Society whereas most of Lancashire's 24 coroners, Cheshire, Westmoreland and Cumberland joined the Manchester-based Northern Counties Coroners' Association, which met half-yearly. Palmer was a member of the latter body but not the former. He was therefore largely self-taught in coronial duties. Usually his inquests were uncontroversial, verdicts being predictable but some occurred where verdicts caused public outcry.

Between Palmer's election in 1799 and the 1840's the inquest system changed, with urbanization and greater emphasis on public participation and the use of expert witnesses providing medical, technical and scientific evidence.⁷⁷ The change was partly due to the 1836 Acts legislating for civil death registration and payment for medical evidence at inquests, and partly to industrialisation with increased numbers of reported occupational deaths.⁷⁸ The latter followed the growth of the statistical movement as part of the mid-Victorian response to industrialisation.⁷⁹ Until the Annual Reports of the Chief Inspector of Factories occupational deaths never figured in statistical records. Coroners supplied some statistics. They submitted Annual Returns to the Home Office of verdicts given. Inquests were the only recorded investigations available. They were popular forums wherein blame and liability could be discussed and, until 1846, if appropriate, deodands levied by jurors as

compensatory or punitive responses to negligence. One leading coroner wrote that when juries levied a deodand a verdict of manslaughter should follow.⁸⁰ Therefore inquests theoretically provided the State with some statistical data and families with evidence for future civil actions for negligence or for future criminal actions for manslaughter or murder, although in reality most families lacked the necessary financial resources.⁸¹

Palmer had to decide how to deal with investigations into occupational deaths. With the growth of Preston's cotton mills he came up against the tragedy of boiler explosions. Such disasters had been an early feature of the cotton industry in other Lancashire towns like Bolton, Burnley, Manchester, Rochdale and Wigan.⁸² How did Palmer respond to the problems associated with the increased use of steam-powered pressure engines with wagon boilers of the Cornish and Lancashire type and to industrialisation with dangerous working conditions in cotton mills? How did he reconcile his judicial position as coroner with his other appointments? The answers are available in contemporary sources, and surviving archival material.

Archives relating to Palmer's coronership are limited. Few of his inquest files, depositions or jury lists have survived and the records of the Northern Circuit Assizes and the Old Bailey sessions include only a few inquest files relating to committals for murder or manslaughter made by him.⁸³ Those files include signed depositions but not details of questions asked or summing up to jurors. Some material has survived in the Lancashire Record Office in the form of quarterly returns to Lancashire Quarter Sessions. The format is brief, stating only inquest dates, names of the deceased, mileages incurred and fees charged. Post-1836 it included surgeon's fees for post-mortems or inquest attendance. Meanwhile, in the National Archives, a few parliamentary papers include separate statistics relating to Palmer's inquests although after 1844 Lancashire's Clerks of the Peace, in their returns to the Secretary of State, combined the figures for the 8 Lancashire county coroners making it impossible, without complete sets of Quarterly Returns to Quarter Sessions, to identify inquests relating solely to the Preston coroner. However, figures across Lancashire increased from 1139 in 1843 to 1514 in 1842, with 1468 inquests in 1848.

The factory inspectors' half-yearly reports do not specifically refer to Palmer. Their internal papers relating to the Royal Sovereign and Brunswick Mills as well as the firm's business records have not survived among the Board of Trade papers in the National Archives. Newspapers, national and local weekly, together with the

transactions of the various societies of civil and mechanical engineers are therefore the primary source of contemporary material about steam boiler explosions. Although from the early-eighteenth century Preston had local newspapers like the *Preston Weekly Journal* (later the *Lancashire General Advertiser*) and the *Preston Review and County Advertiser* surviving issues are incomplete covering only 1740-1751. None cover the 1799 Palmer election. Apart from the intermittent *Preston Sentinel* and *Preston Observer* in the 1820s to 1830s, the first complete series of Preston newspapers begins in 1831. Meanwhile Palmer's inquests were sometimes briefly noted in *The Times*, *Liverpool Mercury* (founded 1811) and *Manchester Guardian* (founded 1821). After 1831 the position changed with the press in regular attendance before the coroner. Preston inquests were reported in the local press most Saturdays commencing with the Whig-Reformist *Preston Chronicle and Lancashire Advertiser* from January 1831, the Tory *Preston Pilot and County Advertiser* from the same date, the *Preston Observer* briefly from 1837 and the Liberal *Preston Guardian* under the directorship of Joseph Livesey from February 1844. Such newspapers were more than quarries of factual information. They disseminated news across provincial England. They were, as Asa Briggs noted in *Victorian Cities*, extremely effective propaganda agencies. They were organs of opinion expressed through diverse editorials, news reports, readers' letters and advertisements. Newspaper proprietors did more than reflect local opinion; they provided coherence to otherwise disparate and fissiparous activities. A vigorous partisan but distinctive provincial press aspired to define and direct opinions in Preston and the surrounding area.

Beyond Preston, Palmer's coronial jurisdiction comprised part of the Amounderness and Blackburn Hundreds, and all of Leyland Hundred. The population of the jurisdiction in 1841 was 147,332. Coronial duties involved substantial travelling. Surviving Quarterly Returns show steadily accelerating numbers and mileage in line with population. In the mid-1840s the number was averaging one inquest per 1240, having gradually increased. For example, in 1830 Palmer held 32 inquests travelling to Brindle, Coppull, Chorley, Longton and Much Hoole apart from Preston. His mileage was 262 in 1830 and 255 in 1831. In 1832 he held 30 inquests, 34 in 1833 and 53 in 1836. By the 1840s they had more than doubled. The yearly average for 1845-50 was 118, and in 1850-55 133. Palmer stated that his highest quarterly number of inquests was 40 for October-December 1849 and for any week was 11 (31st December 1849-5th January 1850). He tried to control the number and

expense incurred. In the year before his death he succeeded in maintaining the same level of inquests by treating multiple inquests as single inquests and reducing the average cost to £1.18s 2d.⁸⁴ Such economy earned him praise in the local press.⁸⁵

The *Preston Pilot's* Editor suggested Palmer managed this by conducting preliminary investigations on reported deaths in private without a jury before deciding to hold inquests.⁸⁶ Inquiries were investigative and not adversarial. Jurors were jurors of presentment, able to issue a warrant for trial, although judges criticised some for acting as trial or grand jurors if their verdicts produced manslaughter or murder indictments and subsequent hearings before a grand jury and petty jury to decide whether there was case to answer at Liverpool Assizes. Inquests began with the swearing in of an all male jury of 12-24 local men⁸⁷ with controversial inquests having 15, rendering majority verdicts easier.⁸⁸ Few details have survived about who served but coroners' jurors were exempted from the County Juries Act 1825.⁸⁹ John Henry Todd, Hampshire's county coroner, told the 1860 Parliamentary Select Committee that jurors required no qualifications whatsoever, and John Humphreys, the Middlesex coroner, told the same committee that his jurors were obtained from general tradesmen in the court-room neighbourhood.⁹⁰ Jervis confirmed that no property qualification was required but that jurors were expected to be *probi et legales homines*.⁹¹ Jurors have been described, particularly in early modern England, as 'men of middling status'⁹², usually unpaid, sworn to tell the truth and, as Gross put it in 1895, embodying principles of popular local representation.⁹³ Despite being exclusively male they represented community values, basing verdicts upon local knowledge and their assessment of evidence given by others as well as expert evidence and the coroner's summing up.⁹⁴

In Preston, Joseph Dearden, who lived near the Town Hall, was parish beadle, Town Hall Keeper and Palmer's coroner's officer. He usually summoned jurors by streets rather than voters register.⁹⁵ As such, tradesmen around the Town Hall and Market Square characterised Palmer's juries. In the *Preston Guardian* local social reformers like Joseph and John Livesey⁹⁶ criticised jurors as lacking the specialist engineering knowledge to understand boiler explosions. Jurors might appear several times. George Bateman, a Market Place innkeeper, was a juror at both the 1842 William Lancaster and the 1848 Brunswick Mill inquest. The same 15 jurors were used at both the Sowerbutts and MacNamara inquests of 1842⁹⁷ These were admittedly held on the same day and the jury summons (Form 20 in the Appendix to

Jervis) provided for more than one inquest, if necessary. On that basis, Palmer had a relatively open group of local male tradesmen available to him but few engineers or boilermakers since mid-nineteenth century Preston trade directories listed only 8 millwrights and engineers and 3 boilermakers, mostly actively involved with the machinery of the town's other mills. When it came to reaching verdicts, jurors usually followed Palmer's directions.⁹⁸

After the jurors were sworn, Palmer and the jurors went to make 'a view of the body', inspecting it for marks of violence.⁹⁹ They then returned to the inquest venue. Evidence about how death occurred was given by witnesses chosen by Palmer. After 1836 this included that of a paid medical witness (£1.1 for evidence only and £2.2 if involving post-mortem examination). During these proceedings Palmer or his deputy took notes. Jurors could ask questions and, in controversial inquests like the Royal Sovereign Mill and Brunswick Mill inquests, actively participated. Also representatives of the deceased, including family members, could ask questions although, as coroner, Palmer had absolute authority.

Because of his numerous public appointments¹⁰⁰ Palmer had close working relationships with both borough and county magistrates – several of the 10 borough magistrates were also on the county bench.¹⁰¹ For example, as county coroner he had to submit for approval quarterly accounts to the General Finance Committee at Preston respecting his inquest fees and expenses. The county magistrates on that Committee could refuse payment if they considered an inquest had been held unnecessarily or involved unjustifiable expenditure. Unlike many county coroners, including his successor Myres – and some borough coroners like Herford in Manchester, Palmer had few disputes with the magistrates.¹⁰² His quarterly accounts disclosed fiscal prudence and he was careful to state that he had personally held the inquests, trying thereby to avoid confrontation with the magistrates since some Lancashire coroners were noted excessively using deputies. The wording of his certificate was exact. In the Brunswick Mill inquests on 2nd August 1848 he certified on the 17th October 1848 he had 'personally [been] present and held each inquest although, in fact, his deputy in his presence had conducted the same.'¹⁰³ He knew what the county magistrates expected. These inquests illustrated first how Palmer curried favour with the county magistrates. Although charging his fee of £1.6.8 on each of the 8 inquests he charged mileage for just one; he only paid the surgeon one fee for

medical evidence; and paid 5 witnesses, all from Preston, 2s 6d each. He paid nothing to the boiler engineer, boilermaker or boiler engineer from Glasgow.¹⁰⁴

If Palmer's Quarterly Accounts are analysed on the assumption that witness fees reflected evidence given, conclusions are possible about his use of experts. For example, in the Quarter ending 5th April 1848¹⁰⁵ Palmer held 25 inquests, received coroner's fees of £33.6.8 plus mileage of £8.5.0 but paid £6.6.0 in medical fees and £2.12.6 other witness fees. For the Quarter ending 30th June 1848 he held 28 inquests, received coroner's fees of £37.6.8 plus mileage of £5.9.6 but paid £6.6.0 in medical fees (although holding 3 more than in the previous Quarter), and £4.10.0 in other witness fees. For the Quarter ended 18th October 1848¹⁰⁶ he held 36 inquests, received coroner's fees of £48 plus mileage of £10.7.6. However, although holding 8 more inquests than in the previous Quarter, he paid only £3.3.0 in medical fees and £4.4.0 in other witness fees. To some extent, the figures explain popular criticism of Palmer, particularly in local newspapers, for insufficient scientific investigation of boiler explosions since, apart from medical fees, witness fees in 1848 averaged just £4 for every 27 inquests. Expert witnesses were therefore few. This shows that Palmer's jurors did not usually ask for further evidence. They accepted his brief summaries of evidence together with his blunt directions on verdicts.¹⁰⁷ This acceptance of Palmer's authority was particularly apparent in the brief newspaper reports of the 4 hastily summoned inquests that, in circumstances reminiscent of the Peterloo Massacre and the 1819 John Lees inquest¹⁰⁸, followed militia actions during the 1842 Plug Riots.

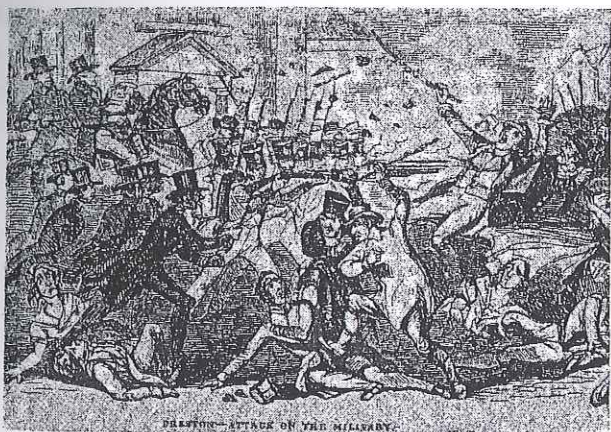
By the time of the Lancashire Plug Riots and the famous Preston Massacre of 12th August 1842¹⁰⁹, Palmer had accumulated forty-three years part-time coronial experience. He acknowledged conflicting interests. He adopted a back-seat approach to the inquest system and the Factory Movement and thereby took account of local circumstances as much as his understanding of the common law. He accepted the open court and a magisterial presence. Usually, he encouraged jury participation. However, the conduct of the 4 inquests on the victims of the massacre, with about 20 minutes for each, no questions asked, no legal representation and the jury 'almost immediately' returning the verdict Palmer wanted, indicated possible pressure from borough magistrates and cotton-mill proprietors. The Preston Massacre resembled the Peterloo Massacre of 16th August 1819¹¹⁰ in outcome but not in origins since it was a Plug Riot involving cotton mills and boiler plugs not the aftermath of a political mass platform. It was the only Plug Riot resulting in loss of life in the presence of a

coroner.¹¹¹ It involved 4, possibly 5, alleged rioters killed by the militia on the orders of the borough magistrates after discussions with Palmer, and after the reading of the 1715 Riot Act by the Mayor.

The Preston Riot was one of the Plug Riots spreading throughout the Lancashire mill towns in July-August 1842 and initiated by touring mobs descending on towns like Preston using workers to close down mills by withdrawing boiler plugs. Such attempts had usually failed in Preston since the town was not a Chartist stronghold.¹¹² Cotton spinners, unlike weavers who mainly worked at home, were relatively well paid¹¹³ and mill proprietors like the Paley and Horrocks families, John Goodair and Paul Catterall, had a paternalistic approach to the workforce in a highly volatile industry with ever-present risks of bankruptcy.¹¹⁴ The events of the weekend 11/12 August were therefore exceptional, being 'the worst in [their] personal consequences that [had] ever [taken] place in [Preston]'.¹¹⁵ They highlighted the dilemma facing Palmer.

On the evening of 11th August 1842 a crowd of several hundred led by William Lancaster from Blackburn had assembled in Chadwick's Orchard adjacent to Chadwick's cotton mill.¹¹⁶ The meeting was chaired by Hutchison, with speakers using 'violent language' urging those assembled to prevent the mills being started the following Saturday morning. At about 8am on Saturday the people went to Catterall and Company's mill, then to Mr Bladdon's, then to Mr Dawson's factory where stones were thrown and windows broken. By that time numbers had increased to include women and children, and the crowd was becoming threatening. It was confronted in Lune Street by John Woodford, the county's Chief Constable, Mr Banister, the Preston police Superintendent, Samuel Horrocks, Preston's Mayor, and numerous borough magistrates. Shortly afterwards Palmer, in his capacity as Town Clerk, joined them. The civic dignitaries were backed by a force of 32 soldiers from the 72nd Highlanders. Palmer was not convinced a riot existed; thus Horrocks read the Riot Act. Stones and missiles were thrown at Horrocks, Banister and Palmer. Horrocks was hit and injured but not Palmer. The mob then started stoning the soldiers from all directions and orders to fire were given by Horrocks with Palmer's approval. Four alleged rioters – George Sowerbutts, Bernard MacNamara, William Lancaster and John Mercer – were killed. One was from Blackburn but the other three were from Preston. The inquests held by Palmer attracted publicity and dramatic headlines in national and local papers, and *The Times* reported 'much interest'.¹¹⁷

THE 1842 PRESTON MASSACRE



The Lune Street Riots reproduced from:
Illustrated London News 20th August 1842

Both Sowerbutts and MacNamara died from gunshot wounds on 13th August 1842 and Palmer held inquests on both men at the Court House Preston three days later.¹¹⁸ Sitting alongside Palmer (reporters saying 'on the bench') were several borough magistrates including Colonel Austen, W. Birley Esq, W. Marshall Esq, T.M. Lowndes Esq and George Jackson Esq. Palmer summoned 15 jurors instead of the usual 14. They were from around the Court House and described as 'selected in the most impartial manner'. They comprised 1 publican (foreman), 2 pawnbrokers, 2 provision dealers, 1 draper, 1 clogger, 2 druggists, 1 meal and flour dealer, 1 corn merchant, 1 sizer and 2 shoemakers, together with 1 watchmaker.

Palmer called 8 witnesses to the Sowerbutts inquest of whom 4 gave evidence about the disturbances outside Paley's Mill. The other 4 included the beadle Dearden, Preston's police superintendent, Henry Rigby, county chief constable, John Woodford, and surgeon Thomas Dixon who stated that a gunshot wound had caused death. Palmer, who had witnessed the shootings, asked no questions. The families were not legally represented and, although present in court, asked no questions. No borough magistrate asked questions. No juror questioned witnesses. The evidence heard was accepted. Palmer's summing up was described in *The Times* as 'very brief'.¹¹⁹ He gave them no option about the verdict:

there could be no doubt in the minds of any that the firing of the soldiers was an act of necessity, both to preserve the lives of all and the peace. If it was not in the power of the civil authorities to preserve the peace and to protect the subject it became their painful duty to be under the necessity of calling in the aid of the military, and commanding them to fire ... *it was very plain that this act of the magistrates was an act of necessity and the jury could return no other verdict than that of justifiable homicide*¹²⁰ [emphasis added]

The jury 'almost immediately' returned the desired verdict, as they did in the case of MacNamara.

A few days later following two further deaths Palmer held inquests on Lancaster and Mercer.¹²¹ Both were held at the Town Hall on 22nd and 24th August. In both cases the coroner again summoned 15 jurors. On each occasion the jurors were different. As in earlier inquests, Palmer asked no questions and told the jury that 'according to the law laid down in the law books the magistrates were justified in giving the order to fire'. He did not define unlawful assembly, common law riot or statutory riot even though, when the Mayor had read the Riot Act, he was not satisfied a riot was in being. He told the jurors the magistrates had 'no way of quelling the

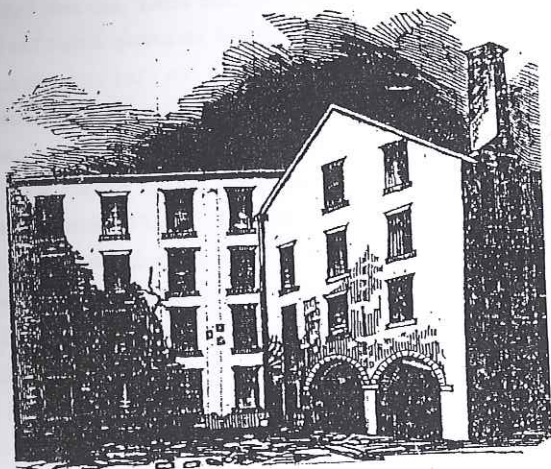
disturbance in any other way'. On that basis, Palmer told them 'the only conscientious verdict' would be justifiable homicide.¹²² In both inquests the jury returned the desired verdict. That procedure, involving coroner and jury, anticipated what happened six years later when Palmer investigated 14 deaths arising from two boiler explosions in Preston.

4. The Royal Sovereign Mill Disaster 17TH June 1848

Although deaths involving cotton mill boiler explosions had occurred previously in other Lancashire towns the first such disaster in Preston occurred on 17th June 1848.¹²³ That explosion, resulting in 7 dead, occurred in the boiler house under the spinning room at the Royal Sovereign Mill, Stanley Street. The mill, originally part of the Paley mill-owning dynasty, was owned by Edward Hollins.¹²⁴ Popular opinion, based on the dying statement of the engine tender, was that the boiler had been in 'a condition unfit for work for some time' and that there had been 'great negligence' by Hollins.¹²⁵ An editorial in the Tory Preston Pilot suggested 'the gauge for testing the boiler was out of order'.¹²⁶ As county coroner, Palmer presided over the inquest assisted by his deputy James Hayes. The inquest illustrated, first, the part played by local mill owners and borough magistrates¹²⁷ – 11 of the 19 Preston borough magistrates were cotton masters; second, the role of the local Factory Inspector and, third, the role of jurors.

The inquests occurred on 19th June 1848 at Preston Town Hall. Palmer was assisted by Hayes, who was also his partner in the legal firm of Grimshaw and Palmer. Three borough magistrates, William Taylor, Richard Pedder and John Paley Junior, sat next to Palmer – Pedder and Paley were themselves millowners.¹²⁸ Furthermore, John Stevenson, an engineer and Ewings, the local Factory Inspector sat alongside the coroner. The local press described them as 'on the bench'.¹²⁹ The beadle had summoned 14 jurors, all local tradesmen and shopkeepers from around the Town Hall, 'men of middle status',¹³⁰ and as representatives of the community perhaps prone to local bias, although none were mill proprietors. The Town Hall was 'nearly filled with anxious spectators' and 'a large crowd assembled round the street entrance door'. After the jury was sworn, Peter Catterall, a member of the Preston cotton-spinning family, rose and, as solicitor acting for Hollins, addressed Palmer on the rumours circulating in Preston about defects in the steam boiler.¹³¹ He said his clients

THE ROYAL SOVEREIGN MILL DISASTER



Exterior of the Royal Sovereign Mill Stanley Street Preston reproduced from Preston Guardian 24th June 1848. The boiler house doors are on the right.

DIAGRAM GIVEN BY PALMER TO THE JURY

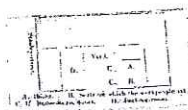


Diagram of the layout of buildings at Royal Sovereign Mill showing the position of the steam boiler, the boiler house and the seating area. This diagram was handed by Palmer to the jurors at the inquest. Preston Pilot 17th June 1848

were present and 'very glad...this investigation should have the most thorough sifting'. However, he wanted to highlight local press statements about the boiler because, if they were true, 'blame attached' to his clients. The complaints had been investigated and records proved the boiler had undergone 'a most thorough repair'. He suggested the explosion's real cause was the failure to supply the boiler with sufficient water, and this would be proved by inquest evidence. Palmer welcomed the statement and told the jury to disregard whatever they had heard and confine themselves to the evidence. The jury now left to view the bodies.

When they returned local political rivalry emerged. Richard Pedder, Preston's Tory Mayor and a borough magistrate, objected to Raw as jurymen and foreman, since he was a borough councillor and therefore disqualified under the 1835 Municipal Corporations Act from serving on the jury.¹³² The law being clear, Palmer accepted the objection and ordered Raw to withdraw. Another juror, John Greenall, was sworn in as foreman.

The inquest lasted 5 hours, with Palmer allowing considerable latitude to the Factory Inspector and magistrates to participate and to the jurors to ask questions. The investigation was in open court.¹³³ 14 witnesses were called. The first 6 gave evidence not about the cause of the explosion but about having witnessed it and accompanied the dying to the House of Recovery. The seventh witness, James Harrison the surgeon said all the deceased died from scalding. The remaining witnesses were the coroner's beadle, the boiler repairers and mill manager. The latter had been asked to give evidence, not by Palmer, but the mill-owner. Further, on jury insistence, the Preston engineer Stevenson, sitting alongside Palmer, gave expert evidence producing a model of the boiler to help the jury. At that stage, at his own request and with the coroner's consent, John Paley junior, a borough magistrate and cotton mill proprietor, addressed the court in support of Stevenson's evidence. Throughout the inquest Hayes and Ewings assisted Palmer. On several occasions Hayes interrupted Palmer. When Palmer preempted matters by asking if the jury had reached a verdict of accidental death, Hayes pointed out that the jurors were still awaiting further evidence. Although perceived as the cotton masters' protégé,¹³⁴ Palmer allowed Ewings to participate fully in the inquest. The latter asked not only about the state of the boiler but also about the engine-tenter's moral character and whether drinking of liquor had occurred.

After hearing details of the explosion Palmer called Dearden to give evidence about the deposition of the dying engine-tenter.¹³⁵ Dearden stated that when the engine-tenter William Durham made his statement he knew he was dying but 'was quite conscious of what he was saying' and 'appeared perfectly sensible'.¹³⁶ Durham's job was to manage the steam boiler and when asked how the explosion happened had replied, 'it was from the defective state of the boiler; that he had frequently noticed the water leaking from the boiler - and that he had warned the master of it three times and the bookkeeper once during the last week.'¹³⁷ When questioned about the rumour that the engine was short of water Durham, although he had seen water leaking from it, denied this was the case.

The next witness was John Stewart, a boiler-maker, who stated he had recently superintended repairing the boiler: 'We left [it] in very good repair ... [Durham] was present all the time, and examined it at the finishing ... and said that it was done perfectly well.'¹³⁸ In response to questions from Palmer, Stewart said that the boiler should have lasted 5 or 6 years, that the mill manager had asked him to do the repairs, and that he had seen Durham frequently but he never complained about the boiler. When asked about the explosion's cause he said, 'in his opinion ... the flue [had] been hot and the boiler short of water' and his partner Thomas Beverage had 'levelled the flue', whereupon Palmer stated that the inquest must hear evidence from Beverage.

Beverage said he had been working at the mill maintaining the machinery three or four times weekly and had seen Durham each time. He told the coroner that Durham had not complained about the boiler since the previous Good Friday and, on that day, they [Stewart and Beverage] had 'put the boiler in thorough repair'. Asked by Palmer about the cause of the explosion the reply was 'want of water'. Asked by Catterall, he identified 'an insufficient supply of water', adding that the water gauge was 'in proper condition'.¹³⁹ When Palmer asked about the alleged crack in the boiler's third plate he stated it had been repaired and had not caused the explosion.

At this point Palmer tried to terminate the inquest claiming enough evidence had been given to indicate no blame attached to mill-owner or manager or, in fact, to anyone. He said the explosion had been an accident, telling the jury: 'Gentlemen, there is not the slightest evidence to impute blame upon anyone. There are gentlemen here, Mr Stevenson and Mr Paley, who can both be examined if you wish it, and are not satisfied with the evidence already given.'¹⁴⁰ The jury was not satisfied and asked for further evidence from Stevenson and Paley. Reluctantly, Palmer recalled

Stevenson, asking his opinion about the cause of the explosion. He replied, 'the opinion...[he had] formed after examination [was] ... that the boiler ha[d] been short of water ... at the time the explosion took place [and that] there must have been a partial vacuum formed in the interior.'¹⁴¹

Ewings questioned the pressure the boiler could take and the reply was: if properly supplied with water, between 65 pounds and 70 pounds per square inch but it 'was scarcely in that state when the explosion occurred'. Ewings then turned to safety precautions asking about 'instruments that would indicate an insufficiency of water by some noise – a whistle'. Stevenson confirmed the existence of such devices saying that Paley used them in his cotton mills in Preston but they were not suitable for high-pressure engines like that at the Royal Sovereign Mill. He suggested as alternatives safety pipes inside the boiler about 6 inches below the water's working surface, the pipes being elevated according to the pressure required. Paley then stated that, as a cotton-mill proprietor, 'he was particularly acquainted with the working of steam engines and boilers' and that he agreed with Stevenson.

Palmer again tried to terminate matters but was forestalled by Catterall wanting the mill-manager to give evidence to refute Durham's dying statement admitted as evidence earlier that day.¹⁴² Although Palmer had not wanted to call the mill-manager he granted Catterall's request. John Cochrane stated he was the mill-manager and that, since the previous Good Friday, 'neither the deceased William Durham, nor any other person ever complained to him'. He had not observed anything about the boiler requiring repairs and 'examined it not less than 3 or 4 times a day'.¹⁴³ In response to a juror Cochrane said he was always 'anxious to see that all was right' since, 'Mr Hollins [was] so very particular. He ha[d] always impressed upon [his] memory ... the necessity of being as careful as [he] could, and certainly it was [his] duty.'¹⁴⁴ Ewings asked the mill-manager about Durham's character¹⁴⁵ and was told he was a 'steady man', he had 'never been seen the worse for liquor', and 'it was not likely to be the case on the day the accident happened'.

Having heard the final witness, Palmer asked the jury if they wished all the depositions to be read over to them. The juror, Swindlehurst, turned to consult fellow jurors and quickly turned back to Palmer who then asked 'What verdict do you find, gentlemen – accidental death?' Swindlehurst replied they were all satisfied whereupon Palmer said 'it was accidental' to which the juror replied that they did not require the depositions to be read. Hayes now explained that 'they had not considered

their verdict yet'.¹⁴⁶ Palmer apologised for his haste, inviting the jurors to retire to deliberate but did not address them on the evidence heard or the law. He gave no direction but had, in effect, earlier said 'accidental death'. After fifteen minutes the jury recorded the verdict that the deaths 'has been caused by an accidental explosion of the boiler'.¹⁴⁷

Palmer had the verdict he wanted. The crowd outside the Town Hall accepted this verdict, but perhaps from deference to the parties involved. The jurors, all local men, had actively participated. The borough magistrates and other dignitaries had influenced the outcome. Local humanitarian reformers had, independently of Palmer, arranged expert inspection of the boiler and a detailed report by Isaac Dodds, boiler-engineer of Glasgow, had alleviated public concern. The report, later printed in the *Preston Guardian*, made recommendations to prevent future explosions.

Two days later Preston's Mayor opened a subscription for relieving victims' families, with support from Palmer and several mill-owners. One local paper appealed for money, with subscription lists being available at the offices of three local papers, stating the Mayor would be responsible for distributing the funds among bereaved families.¹⁴⁸ Donations, including some from mill-owners, ranged from 10 shillings to £5. The total by late-July 1848 was £208.2.6. A Committee was set up to distribute the funds and the undistributed balance eventually paid over to Horrocks Miller and Co 'in trust' to pay a weekly allowance to each party.¹⁴⁹

Most Prestonians accepted Palmer's handling of the inquest and the verdict. The Mayor's public appeal after the inquest was exceptional and satisfied the bereaved families who also accepted funds managed by a committee established by mill proprietors. However, reactions the following month to the Brunswick Mill boiler explosion differed in several ways. First, Palmer took less interest in the inquest, which was immediately perceived by the public as incomplete. Second, the jurors, who were more active than in the Royal Sovereign Mill inquest, pressed the coroner for independent engineering evidence about the cause of the explosion and were partially successful in obtaining it. Third, popular dissatisfaction about evidence and verdict produced a public meeting at Preston Town Hall and an address from the Mayor to Sir George Grey, the Home Secretary, urging further inquiries. Fourth, lay and clerical philanthropists joined forces in exposing the dangers of boiler explosions and the moral responsibility of factory employers to look after their workers. Finally,

THE APPEAL OF 21ST JUNE 1848 FOR THE
ROYAL SOVEREIGN MILL DISASTER

The late Boiler Explosion.

AN APPEAL TO THE BENEVOLENT.

A Very general anxiety has been expressed that a subscription should be started for the families of those unfortunate persons who lost their lives in consequence of the boiler explosion at the Sovereign Mill, on Saturday last, the 17th inst.; and also to afford some assistance to those who, by the same cause, are thrown out of work, with large families depending upon them. The Mayor, and other gentlemen, feeling satisfied that such a melancholy occasion calls for an appeal to the public, beg to recommend the case to their liberality and support. The distribution of the money will be left to competent persons selected by the Mayor.

No persons but those with books containing the signature of Mr. Birchall, the Mayor of Preston, will be allowed to collect on this occasion.

Sheets for the names of Subscribers are now lying at the *Guardian, Pilot, and Chronicle* newspaper offices, at Messrs. ADDISON'S, booksellers, and at the Banks of Messrs. PEDDER, FLEETWOOD, and PEDDER, and Messrs. LAW, HUDSON, and LAW.

Preston, June 21st, 1848.

(reproduced from Preston Pilot 24th June 1848)

THE CLOSURE OF THE ROYAL SOVEREIGN MILL
PUBLIC SUBSCRIPTION 20TH JULY 1848

The Late Boiler Explosion			
		£	s. d.
Subscriptions already acknowledged 185		3	0 3
Messrs. Horrocks, Jackson, and Co.		5	0 0
People		0	13 9
Mr. George Smith's people		0	10 0
Messrs. Hinckman, Furness & Co.		2	0 0
People		1	11 7 1/2
Fire Brigade (Mr. Graham)		1	2 0
Mr. Calvert, Walton		1	0 0
Bairdson		2	0 0
Leach		1	0 0
Palmer		2	0 0
R. N. Liversay, Lytham		0	10 0
E. Gorst		0	10 0
Cochran		0	10 0
R. B. Waterworth		1	0 0
Dixon, currier		1	0 0
W. Elsworth		0	10 0
Rev. T. Clarke		0	10 6
Two small sums		0	10 0
Police Office		0	6 0
Messrs. Joseph Haslam and Sons		1	0 0
		£208	7 5
<p>THE Committee appointed to manage the Fund to be raised for the relief of the eight families in which loss of life took place in consequence of the disaster at the Sovereign Mill, think it due to the subscribers to state that the whole sum of £208 7s. 5d., so liberally contributed, has been disposed of in the following manner. The sum of £38 1s. 6d. has been expended in temporary relief, in providing clothing, and in several small outlays for suitable occupations; £8 4s. 6d. has been the cost of printing circulars, and of advertising and collecting the subscriptions. The balance £161 6s. 3d., has been paid over to Messrs. Horrocks, Miller & Co., in trust, who have very kindly consented to take the deposit and to pay the weekly allowance to each party, as specified by the Committee, which will extend, in the most destitute cases, over more than two years. Any subscriber may see a more detailed account of the appropriation and disbursement of the fund, on application to Mr. Bore, one of the Committee, at the Yard Factory of Messrs. Horrocks, Miller, and Co.</p>			
<p align="right">On behalf of the Committee, J. R. HIGGINS, Treasurer. J. Preston, 20th July, 1848.</p>			

(reproduced from Preston Guardian 22nd July 1848)

The Committee acknowledged earlier subscriptions by lists of donors displayed at the Town Hall and not by the 3 local papers.

the inquest produced the first indictment for manslaughter from a Preston boiler explosion. The circumstances and outcome will now be considered.

5. The Brunswick Mill Explosion 31ST July 1848

Six weeks after the Royal Sovereign Mill disaster, the second boiler explosion occurred at Brunswick Mill, Lambert's Bottoms, producing 7 fatalities and attracting considerable publicity in the London press as well as in the local press.¹⁵⁰ Rumours abounded that the boiler had been working at too great a pressure. Consequently Prestonians were 'thrown into a state of consternation' by the apparent lack of 'humane caution on the part of employers'.¹⁵¹ Many Prestonians turned again to Palmer for a full investigation, hoping for a manslaughter or murder indictment against the mill proprietors, urging bereaved families to consult some of Preston's 68 attorneys and obtain the legal representation not acquired at the earlier inquest. The Brunswick Mill explosion drew further attention to such explosions and to the role of Preston reformers like Joseph and John Livesey¹⁵² in investigating factory conditions. It also intensified popular demands for boiler inspections. Analysis of the circumstances of the Brunswick Mill explosion will reveal an unsatisfactory coronial investigation producing a prosecution at Liverpool Assizes. This originated not from Palmer's actions but from popular protest.

Brunswick Mill was a small, comparatively old cotton mill employing 85 workers in 1847, belonging to John Cooper and Thomas John Garrington, both of whom had reputations for concern for their workers' welfare. The mill had been built in 1825. It was steam-powered and Cooper had purchased it in 1841, taking Garrington into partnership shortly afterwards.¹⁵³ It was a four-storey building, with a spiral staircase at one end, and on the northern wall a short square-shaped chimney.¹⁵⁴ The boiler house, in the basement, contained two steam boilers, each about thirty-horse power. Above this, as in most Preston cotton mills, was the reeling or winding room containing six reeling frames.¹⁵⁵ Usually 12 women worked there. The steam boilers were of the wagon-and-single-flue Cornish type introduced by Boulton and Watt.¹⁵⁶ The boiler that exploded had been made by Joseph Clayton of Preston in February 1843 and had been used continuously since then.

The explosion had occurred at about 11.20am on Monday 31 July 1848, when all the mill hands were at work. Three men in the boiler house, including the engine-tenter and four women in the reeling room, died and many more were injured. The inquest was held at Preston Town Hall on 2 August 1848.¹⁵⁷ It attracted 'considerable interest' and at times 'the Town Hall was crowded to excess'.¹⁵⁸ Palmer was coroner but his deputy, Hayes, conducted the inquest.¹⁵⁹ Although not participating in the proceedings, Palmer was present throughout.¹⁶⁰ Indeed, in his quarterly account for fees to Preston Quarter Sessions, he certified he had personally held the inquest. As with the earlier explosion, a strong magisterial presence was evident.¹⁶¹ Messrs. T.B. Addison, W. Taylor, R. Pedder, W. Ainsworth, W. Birley and J. Paley junior were referred to as 'on the bench' alongside Palmer. Both Pedder and Paley had occupied similar positions at the Royal Sovereign Mill inquest. Other leading Prestonians included Messrs. J. German, J.G. Fisher, S. Cartwright, J. Livesey, Peter Haydock, H. Miller, R. Riley and T. Clough. The press made no reference to clergymen being present or to Ewings being alongside Palmer. However, it listed medical men including Messrs. W. Howitt, Halden, Spencer, Holden, Noble, Fearenside and Moore. The eminent Preston solicitor, Robert Ascroft, Liberal politician, Vestryman, Improvement Commissioner and Borough Councillor, who had represented the reformers at the Court of Revision of 1836 and 1837, appeared 'on behalf of the relatives and friends of the injured factory workers and others'¹⁶² and Catterall, who had represented Hollins at the earlier inquest, appeared for the Mill's proprietors and manager.

There were 14 jurors,¹⁶³ summoned from adjoining streets – 4 from Market Place behind the Town Hall and 2 from adjacent Friargate. None had served on the Royal Sovereign Mill inquest jury. They were mainly local tradesmen and, as the press commented, none had knowledge of steam boilers. The foreman was a hosier. Other occupations were tobacconist, grocer, innkeeper (3), corn dealer, watchmaker, ironmonger, druggist and manufacturer (2). Having inspected the mill's boiler and viewed the bodies, the jury was sworn and began hearing evidence.

The first witness was surgeon Bernard Haldan, who had treated the dying, who gave the cause of death as scalding. One of the dying was Robert Wilkinson, the engine tenter in charge of the exploding boiler. His evidence would have been vital but he died a few hours later. However, before dying he had told Haldan he knew he was dying but wanted to talk about the explosion. When Hayes asked what

explanation Wilkinson had given, Haldan replied that Wilkinson ascribed the explosion 'to the defective state of the boiler' and said he had expected it to explode 'for the last month or six weeks ... (and) had repeatedly mentioned (it) to Mr Fogg and Mr Garrington.¹⁶⁴ Wilkinson had also said the stays inside the boiler were in 'a bad state' and it 'leaked to a considerable extent and...the water dropped through'.¹⁶⁵

After hearing evidence from Wilkinson's daughter, a mill labourer, a brick setter and the manager of the House of Recovery, Hayes called John Stevenson to give evidence.¹⁶⁶ Stevenson said he was an iron-founder and engineer, and that, on the coroner's instructions and with the consent of Cooper, Garrington and their legal representatives he had examined the boiler. Having been told the jurors had also inspected the boiler, he handed them a sketch of it in its original and present conditions. He concluded the boiler had exploded because of extreme pressure, that it had wanted 'a little repair' but could not say that 'want of repair would be dangerous ... [he could] only account for the explosion by over-pressure which ha[d] been the act of the person who had the charge of it'.¹⁶⁷ When asked whether the boiler was sufficient to drive the works he replied that he had 'no doubt at all that the pressure exerted on the boiler was considerably greater than it was calculated for'.¹⁶⁸ When asked by Hayes whom he thought was responsible for the over-pressure he replied 'the person who had charge of [it]'. He did not directly name the engine tender but did say that 'the engineer ought to have charge of it and...judge whether it [was] right or wrong'.

The next witness was Joseph Clayton, an engineer and Government Inspector of boilers.¹⁶⁹ He stated he had repaired the boiler a few weeks earlier but on a temporary basis. Two stays inside the boiler had broken and his workmen had pieced them together and inserted a new strap, but 'nothing more'. There was then the following dialogue between Hayes and the witness:

Hayes: In your opinion was the boiler in any other condition than good working order?

Witness: The bottom or bridge of the boiler had given way a little, was going down.

Hayes: Would that prevent it being used safely?

Witness: Yes ... it was not safe to use it at the pressure they were using it, that is, at the pressure which the engine appeared to require to drive the machinery.¹⁷⁰

Clayton added that the mill proprietors were wanting the engine to do more than it was able to perform: 'the work required...would need a greater pressure than any waggon boiler would sustain ... [and] they were running a very great risk.'¹⁷¹ He had asked Fogg 'what had become of the boil-over pipes that had originally been placed upon [the boiler] and he replied he had removed them since the engine could not drive the machinery with them since 'they were perpetually boiling over'. Jurors then changed the line of questioning from the boiler's condition to the pressure at which it was worked and Clayton replied 'the pressure must have been 20 pounds at least when the boiler burst'.¹⁷²

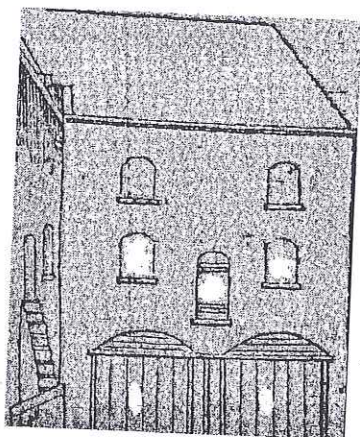
Ascroft, the Liberal solicitor, now interrupted the coroner. He wanted to call another boiler expert, Isaac Dodds.¹⁷³ He was the specialist engineer from Glasgow who, the previous month, had submitted a comprehensive report to the Editor of the *Preston Guardian* on the Royal Sovereign Mill explosion and had, on that occasion, helped alleviate public worries about safety. Ascroft wanted Dodds to be allowed to inspect the boiler and give evidence, whereas Hayes stated 'there was no doubt whatever about the cause of the accident'. However, Ascroft insisted, saying that Stevenson had not stated the cause of the explosion. After consulting the jury, Hayes agreed that Dodds' evidence could be heard and that Dodds could go to Brunswick Mill to examine the boiler before giving it.

In Dodd's absence further witnesses were called including a boiler-maker employed by Clayton and a book-keeper who had overheard conversations between Clayton and Fogg. When Dodds returned to the Town Hall, having examined the boiler, he said the feed-pipe or boil-over pipe that regulated the pressure had been defective. When asked if boiler defects or over-pressure had caused the explosion he replied:

In my opinion the accident has arisen from both; and I certainly believe, from the examination that I have made, that the previous defects, and the over-pressure upon the boiler, previous to its bursting, caused the explosion.¹⁷⁴

He then said the boiler was not designed to bear excessive pressure, but it was impossible to state what pressure was being used when it exploded. The jurors asked the effect of Fogg's removing the boil-over pipes, and Dodd agreed that such removal

THE BRUNSWICK MILL DISASTER



(reproduced from Preston Guardian 5th August 1848)

The boiler house at Brunswick Mill Lambert Bottoms Preston.
The arched windows on the ground floor are to the boiler house
containing the two steam boilers – the left hand boiler exploded.

The rooms above housed 6 reeling frames at which usually 12
females would be working. Cotton mills were constructed with
work rooms above the boilers. Preston Chronicle 5th August 1848.

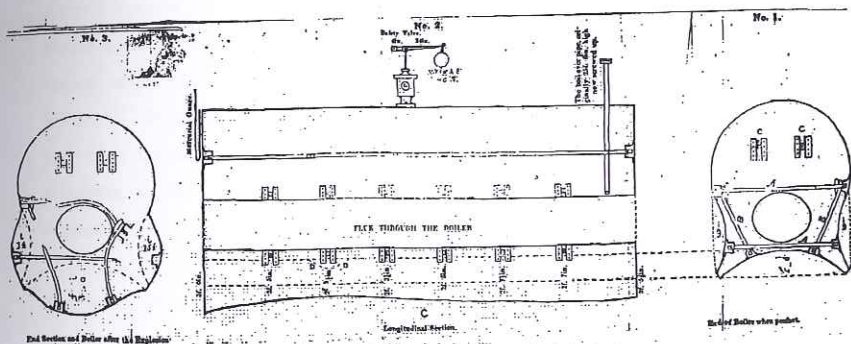
Local papers campaigned for building regulations prohibiting
workshops above boiler-houses. Preston Guardian 5 August 1848.

The issue was not raised by Palmer, Hayes or the jurors at
the inquest on 31st July 1848.

THE STEAM BOILER EXPLOSION AT BRUNSWICK MILL

31ST JULY 1848

PLAN PREPARED FOR THE JURY



(reproduced from Preston Guardian 5th August 1848)

Before the inquest the 14 jurors had inspected the boiler. At the inquest, with the consent of Palmer, John Stevenson who was an engineer, handed the jurors the above plan showing No. 1 End of Boiler when perfect, No. 2, position of the safety valve and No. 3 End Section and Boiler after Explosion. In some mills bricks were placed on safety valves (No. 2) in order to increase pressure.

'would necessarily have [reduced] the safety of the boiler'.¹⁷⁵ (In other parts of Lancashire, inquests arising from steam-boiler explosions had found that safety valves had been wedged down to try and extract high pressure steam from old and thin low-pressure boilers.¹⁷⁶)

Having heard Dodds, Hayes told the jury the evidence was concluded, but Ascroft objected. He wanted more technical evidence about steam boilers, and more evidence from management about instructions about boiler operation given to the engine tender – the only evidence thus far being supplied by 'a youth named Holden'.¹⁷⁷ Why had Fogg and Garrington not given evidence? They should on oath state what instructions had been given to Wilkinson. Hayes refused to call any further witnesses, stating that was the whole of the evidence. Neither Hayes nor Palmer summarised the evidence. Neither gave any directions to the jury about the law.

The jury retired at 9.25 pm. Shortly afterwards the foreman sent for Hayes. The jurors wanted clarification about the law, particularly about negligence and compensation,¹⁷⁸ and wanted advice about deodands. Hitherto, the latter had sometimes been used at inquests to express a 'sense of misconduct' or negligence by employers and, were therefore a means of compensating victims of occupational deaths.¹⁷⁹ The jurors wished to know if they could 'lay a deodand on the boiler'. Hayes replied that they could not as deodands had been abolished a few years earlier. After deliberating about an hour and an inquest lasting nearly 8 hours the jury's foreman announced the verdict:

Accidental death, caused by the bursting of the boiler. The jury are unanimously of [the] opinion that considerable blame is attached to the engineer and the manager in working the boiler at higher pressure than it was calculated to bear.¹⁸⁰

In the crowded court room the verdict of accidental death was heard 'with great disapprobation' and 'an almost unanimous expression of surprise'. Those present believed Cooper and Garrington were as much to blame as Fogg and the engine tender, who acted under orders; they believed the correct verdict was either murder or manslaughter. Outside the Town Hall people debated the verdict until after midnight. One outspoken critic was the well-known social reformer and temperance leader Joseph Livesey. He was not a political agitator¹⁸¹ but, whilst keeping aloof from the Chartists¹⁸², had supported 'Orator' Hunt, and had publicly supported Cobden and Bright's Corn Law repeal campaign. In Preston he was concerned, as 'the weaver's

son of Walton-le-Dale'¹⁸³, with improving factory working conditions, and the lot of the poor. Livesey attended the inquest throughout, and described the verdict as inexplicable and the inquest as superficial. He called for legal changes respecting coroners' inquests and for 'the adoption of stringent means for the better prevention of boiler explosions'.¹⁸⁴ He demanded a fuller inquiry.

The press took up the campaign, producing a public meeting at the Town Hall, an address to the Home Office, and a subsequent indictment and trial at Liverpool Assizes. We will now examine the events leading up to the trial and their significance.

6. Popular Reaction In Preston

Popular indignation about 'the strange verdicts' at the Brunswick Mill inquests was expressed by many Prestonians. Local reformers, humanitarians, reporters, clergy and 'a considerable number of medical gentlemen, solicitors, merchants, traders and shopkeepers' together with the families of the deceased and injured, all combined behind Livesey, demanding reform.¹⁸⁵ Some suggested consideration might be given to abolishing the office of coroner with 'the duties [being] consolidated with those of some other functionary'.¹⁸⁶ All three Preston papers covered the verdicts extensively, referring to them as unintelligible to the public. They criticised Palmer as a nullity and inconsequential, having delegated his duties to his deputy Hayes. They described the inquest as 'a flagrant case of official indifference' and 'improperly hurried and slurred over'.¹⁸⁷

the carelessness displayed by those whose duty it was to make every possible provision against danger, was so culpable as to demand punishment, as a warning to others, and as a means of preventing similar negligence and recklessness for the future; and this a verdict of manslaughter alone could have cleared the way for.¹⁸⁸

An editorial demanded Palmer's removal on grounds of age, 'his easy manner', 'his aversion for tedious analysis' and his failure to sum up to the jury.¹⁸⁹ Another paper called for a magisterial inquiry and better qualified jurors, referring to the evidence as 'a mass of twaddle' lacking scientific expertise. It further stated that the jurors had not been unanimous in their verdicts, that 4 or 5 had dissented, but being afraid of the mill owners 'did not publicly express their want of concurrence' even though a verdict of manslaughter had been called for.¹⁹⁰

However, popular protests required more than press reports and open-air demonstrations. They needed legally articulating. Journalists and lawyers like



JOSEPH LIVESY 1794-1884

(Courtesy, Livesey Collection University of Central Lancashire Preston)

Livesey, William Dobson¹⁹¹, George Noble, Joseph Bray, John Armstrong and William Banks realised the dubious legality of public meetings as protests in the Chartist period, particularly after the new law of unlawful assembly. They remembered the aftermath of the open-air meetings during the 1836 Preston spinning strikes and 1842 Plug Riots. As reformers, they understood the legitimising value of acting under borough council patronage.¹⁹² A requisition was therefore sent to the Mayor to call a town meeting; and, significantly, reform was now on the agenda as well as just an enquiry:

the inhabitants...of the borough...and its vicinity, deploring the loss of life which has resulted from the late boiler explosion at the Brunswick Mill, and entertaining a conviction that the enquiry into the same has not been so searching, satisfactory, and conclusive, as the grave importance of the case demands, respectfully request his worship the Mayor to convene a public meeting, or take such other steps as may appear advisable, for attracting the attention of the government thereto, and obtaining an investigation calculated to satisfy the public mind; and, if possible, to lead to the prevention of similar disasters for the future.¹⁹³

The requisition was signed by 111 men, and headed by 12 local religious leaders – Anglican, Roman Catholic and Dissenters – led by the Tory Vicar of Preston, the Rev. John Owen Parr M.A. of Brasenose College Oxford who, since moving to Preston eight years earlier, had become a borough magistrate, been appointed to several important public offices and become outspoken in opposition to Catholics and Dissenters. As Rural Dean of Preston, Parr presided over an out-dated Anglican parochial system consisting of 10 Anglican churches whose ministry included the town's cotton mills. Although the deanery was not equipped to face the social problems of industrialisation, Parr was concerned about factory working conditions. A few years earlier, at the annual meeting of the National Society for the Education of the Poor in the Principles of the Established Church, he had highlighted the dangers of the 'uncultivated mind' and called for religion and education in the workplace. He had worked with the Preston Committee on the 1846 Ten Hours Bill and, despite his sectarianism, tried to mobilise local Anglican, Catholic and Dissenting clergy. He attempted to revive the Church's support of factory reform, which until the 1840s had tended to be the preserve of middle class Dissenters and radical nonconformists.¹⁹⁴ Other petitioners included local newspaper editors like John Livesey¹⁹⁵ and William Dobson, solicitors like George Noble, William Banks and Ascroft, who eventually was to succeed Palmer as Town Clerk, as well as the surgeon John Clarkson and

liberal reformists like William Clemesha, apart from fifty two relatives of disaster victims. However, the signatories included none of the inquest jurors and only a few borough magistrates and council members. Although the requisition demanded the government institute a fuller investigation, it did not specify the type of investigation, directly attack Palmer, or seek to have the inquest verdict amended or quashed. It did not demand another inquest, although it was within Palmer's power to hold one with a new jury.¹⁹⁶ It implied agreement with Fairbairn's view that the inquest should not be the sole forum for the investigation of steam boiler explosions. The Mayor immediately called a public meeting in the Town Hall for 7pm on 9th August 1848.

7 The Meeting at the Town Hall

The meeting was well attended, indeed 'crowded to excess', people spilling onto the stairs, the lobby and out onto Fishergate and Church Street.¹⁹⁷ Birchall took the chair. Alongside him, on the bench usually reserved for borough magistrates, were Anglican, Roman Catholic and Nonconformist clergy, including the Rev. M. Atkinson, the Rev. John Kitten M.A. curate of St. John's Church, the Rev. J. Spence and the Rev. J. Havers. None had attended the inquests. They were responding to popular concern and, partly, motivated by Rev Parr. There were also several important local figures including the Whig solicitor Peter Haydock, Chairman of the Ribble Navigation Company; a borough magistrate, Bernard Haldan; one of the surgeons who had attended the injured and given evidence before Palmer; and the social reformer, temperance leader, and founder of the Mechanics' Institute, Joseph Livesey. Also present were the radical Preston solicitor Noble who had appeared for the reformers at the Court of Revision some ten years earlier, the influential liberal politician John Livesey and William Dobson. The latter two men were respectively editors of the *Preston Guardian* (described as 'the most influential paper in north Lancashire') with a circulation in 1853 of 323,000 and *Preston Chronicle* with a contemporaneous circulation of 98,000.

Birchall opened the meeting by stating that, as Mayor, he felt bound to convene it, first, in response to the 'numerously signed requisition', second, in deference to widely-held views that the inquest 'required a more full and searching investigation'. Those words produced resonant approval from the large audience. They caused Birchall to address the meeting cautiously.

he trusted...the meeting would feel...the position which he had...as the first magistrate of the town, would render it not only unbecoming, but improper, in him to take any part in discussing the topic of that meeting or in publicly espousing any individual opinion upon the subject as it was not impossible that the matter might be brought before him in his judicial capacity.¹⁹⁸

He also hoped speakers, 'would ... avoid expressing themselves in any manner...calculated to give pain to individuals; (and)...confine themselves...to the broad merits of the case.'¹⁹⁹

John Kitten, curate of Holy Trinity, and signatory of the earlier resolution, spoke first. He said he was not a social reformer and knew nothing of the owners and manager of the Brunswick Mill. However, some of his parishioners had died in the disaster 'being hurried into eternity without the slightest intimation'. He then outlined the evidence provided to the jury by Palmer at the inquest.

the late investigation had not been satisfactory, and, therefore, he was for another inquiry...to afford [the mill owners] if they thought proper another opportunity of meeting the charge made against them - that the accident had been caused through the defective state of the boiler, and that this had been repeatedly mentioned to them. It was only right...that this statement should be proved: but it was not for him to say what further steps should be taken.²⁰⁰

Kitten reviewed the evidence of Clayton and of Dodds, and affirmed that the mill-owners had not been given 'the opportunity [at the inquest] of meeting that evidence'. Significantly, he noted the quality of support at his back: 'not only the proprietors of the mill, but the gentlemen of [Preston] wished for a further and more complete enquiry, as no party was satisfied with the investigation that had been made.'²⁰¹ He also felt, 'the clergy ought to connect themselves more intimately than they had formerly done, with the social condition of the people, and especially the poor.'²⁰² His expressions of sympathy for the bereaved workers were greeted with loud applause. He concluded by moving that:

this meeting expresses the opinion that the recurrence of a boiler explosion in this town calls for a public expression of sympathy for the sufferers, and demands the fullest investigation of the cause of such disasters.²⁰³

The Rev. Robert Havers seconded, remembering he had been called to the Mill 'soon after the melancholy occurrence', and had remained with the injured until death. He knew the strong feeling among Prestonians that Palmer had not done enough to investigate the deaths. He spoke of 'neglect somewhere'. Witnesses who should have

been called had not been called; questions that should have been asked had not been asked. Palmer, himself, had asked none.

Common justice required...something should be done: for it appeared that both the people themselves and the managers were dissatisfied with the statement...made at the recent investigation, and with the judgment...given; and...that meeting had been called to gain a fuller, fairer and more impartial investigation of the circumstances...a further enquiry was necessary, for the good of the managers themselves, of the survivors and relatives of the deceased and of the public at large.²⁰⁴

The resolution was then passed unanimously. Yet some saw it as without force. They felt restricted by the magisterial constraints put forward by Birchall on naming individuals and, therefore, limiting the possible enforcement by Horner and the Factory Inspectorate of Ashley's Factory legislation. Some considered that Kitten and Havers, although outwardly men of conscience, had, as Ashley discovered when visiting Lancashire cotton mills a few years earlier, been 'cowered by the power and capital of the mill owners' into a half-qualified acceptance of factory conditions.²⁰⁵

Their spokesman was John Livesey, a son of temperance leader Joseph Livesey. He announced himself as unafraid of mill owners or magistrates. A few days earlier he had declared Palmer 'a nullity', and his inquest 'a flagrant case of official indifference.'²⁰⁶ and called for the transfer of the coroner's duties 'into more vigorous hands'. He now stated he had another resolution to offer the meeting and that, despite Birchall's entreaties, 'justice and common sense required that truth should not be subservient to false delicacy as the present feelings of certain individuals'. His resolution was that the causes of the explosion had not been fully and impartially investigated; that the inquest 'ought not to be concluded in the time and manner in which it was concluded', that all available evidence had not been heard. Livesey asked 'whether that investigation into circumstances so momentous, and so suspicious, should have been so summarily and precipitately disposed of as it was last week, and concluded in the manner and at the time it was.' He criticized Palmer in ways no other person had done. Palmer had not called important witnesses and 'there was a large quantity of unproduced evidence never gone into:

if this case had appeared before any other coroner in the United Kingdom, it would have received a more searching investigation...[In Preston, the evidence] did not receive that efficient, full, fair and satisfactory investigation which it demanded.

He accused Palmer of undue haste, official indifference to a disaster and of attempting to cover up what was, according to him, a criminal act. Palmer had conducted the inquest in an 'imperfect, informal, improper and reprehensible' manner.

the coroner ... had so conducted the investigation, and so received the evidence, and prevented the requisition for further testimony, as no humane and patriotic coroner in the country would have done. The way...it was conducted, was ... most unjustifiable and ridiculous.

He had failed to direct the jury on the evidence and law so that they returned a verdict that was 'contradictory in itself'. Thus Livesey proposed a further resolution allowing individuals like Cooper and Garrington to be named and vindicate themselves so that the stigma of the explosions could be 'removed from the character of the town of Preston', where, hitherto, 'employer and employee [had been] bound together by a mutual cord to each other'. The resolution was passed unanimously.²⁰⁷

However, this did not satisfy everyone, particularly not Palmer's fellow solicitors. Amongst these George Noble, who knew all the individuals involved in the Brunswick Mill explosion, other than Garrington, spoke forcefully and at length. He pointed out that Palmer could have held the inquest behind closed doors.²⁰⁸ Nevertheless Noble would force 'the parties in office [in Preston] and in the Government ... to take those measures ... to carry out effectively the expression of feelings expressed that night'.²⁰⁹ If there was blame 'the circumstances ought not to have been hurried to a gloss as it was'. He wanted a new investigation or inquest, preferably before a different coroner. He pointed out that Palmer was an old man of 76 years, although 'not as old as to have lost his talent to conduct such an investigation'.²¹⁰ However, Noble sensed a feeling that Palmer had been influenced by the borough magistrates and the mill-owners, and added:

they were there to investigate the reason of a fearful loss of life, which ought never to have taken place, and the causes of that dreadful calamity ... he [Noble]...move(d) the matter...be carried before Her Majesty's Secretary of State for the Home Department, in whose peculiar province such matters lay.²¹¹

He reminded the meeting that, although Palmer had held the inquest in open court he had, as was his prerogative, selected the witnesses and thereby restricted the evidence. A request had been made for further expert evidence but Palmer had insisted 'there was no necessity'.²¹² Noble said it was very important that all the evidence which

could have been got that could throw the slightest light upon what had taken place, ought to have been received ... the coroner ought to have received further evidence.

With a view to taking the two previous resolutions further by involving the Government and alleviating the potent injustice felt by Prestonians, Noble put forward a third resolution:

that a copy of the above [two] resolutions should be forwarded by deputation or otherwise to Sir George Grey, the Secretary of State for the Home Department, with a request from this meeting, in order to satisfy the demands of public justice, that a further and more searching inquiry under the circumstances of the late unfortunate disaster, should take place.²¹³

He further stated that the government had appointed inspectors to examine marine boilers on steam-boats, and suggested factory legislation be extended to cover boilers used in cotton mills. He argued that 'nothing more than common justice [required that] hard-working operatives employed in the vicinity of steampower be similarly protected'. The resolution, seconded by a cotton-spinning operative, was carried unanimously. It was decided that the 3 resolutions should be forwarded to the Secretary of State via the Mayor.

Distinguished local and national figures now expressed personal views about the deficiencies of the Brunswick Mill inquest. One was the editor of the *Preston Guardian*, liberal politician and eventually Preston borough councillor Dobson. He maintained the inquest had not been 'so full, nor fair, nor satisfactory as it ought [to have been]', that he had met no person in Preston 'in favour of the mode in which the inquiry was conducted' or 'in favour of the mode in which the verdict was delivered'. He 'he had no doubt that the attention of the Government would be called to this latest catastrophe with a view to having a further and more searching investigation'²¹⁴ This brought loud applause. Another speaker was Joseph Livesey, who had himself worked at cotton looms and had fought to improve the conditions of factory workers.²¹⁵ He said that, since the disaster, Prestonians had been saying 'the lives of the working classes were nothing thought of' and, 'it ought to be a matter of serious consideration with all classes above the working man to avert such feelings by kindness and sympathy...convince them that those above them had an interest in their wellbeing and comfort.'²¹⁶ To loud applause, Livesey asserted that property-ownership involved rights and duties, the most important of which was 'to protect the safety and welfare of those who laboured...to make their station as comfortable as possible'.²¹⁷

Livesey sympathised with the 14 jurors because Palmer had not attempted to 'lead [them], guide them and to impress upon their numbers the importance of the cause.'²¹⁸ They should not have been rushed into a verdict. Now, 'all had reason to want the [Brunswick Mill disaster] to be investigated further ... so that it might appear that justice having been done in one case there would be some surety for it being done in future.'²¹⁹ As a member of the Scotch Baptists and pioneer of practical religion²²⁰, Livesey supported the efforts of those clergy present at the Town Hall.

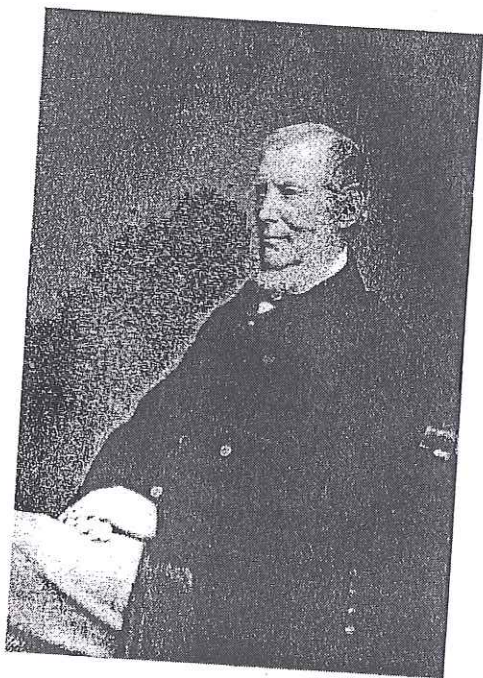
Prestonians empathised with Dobson and Livesey's views. The meeting was referred to as 'in excellent spirit and order'. The Mayor described it as representing the strongly-held opinions of all Prestonians. Every speaker attacked the Brunswick Mill inquests on the basis that Palmer's investigation had been superficial and that not all the evidence had been given to the jury. No one commented on the fact that catastrophic boiler explosions were frequent in these decades.²²¹ They did not take up the suggestion at the inquests from the boiler engineer Clayton that regulatory inspection of steam boilers in cotton mills, as was the position with marine steam boilers, should be undertaken. The agreed three resolutions involved two demands: a thorough investigation into how the explosion occurred; and Government action to 'prevent similar disasters for the future' No one mentioned the duties of factory inspectors of steam boilers in cotton mills.²²² Speakers had not pursued that issue for several reasons. The jurors had not mentioned it; nor had Palmer. No rider about recommendations to prevent future boiler explosions had been attached to the verdict and speakers, unlike the local press, were reluctant to criticise jurors. Further, both Preston mill proprietors and workers were suspicious of the idea of regulatory visits by boiler inspectors. Such visits were linked with compulsory insurance against boiler explosions. Workers disliked this because it would 'increase rather than diminish accidents, as it would induce a carelessness which ... should be punished rather than rewarded'.²²³

The Mayor now wrote to Home Secretary Sir George Grey, as the main point of contact between local and central government. Grey whose office dated back to 1782 and whose first spell as Home Secretary under Lord John Russell had begun two years earlier, was the most senior of Her Majesty's Secretaries of State. He belonged to the evangelical division of the Whig-Liberal Party, looking to the state to improve the life of the poor but, simultaneously, seeking to avoid bold innovations. His responsibilities included factories and inquests. Since he had limited financial

resources and a small conservatively minded staff of 22 permanent officials, he had little scope to adopt an active approach towards the burgeoning social problems revealed by coroners' inquests. He did not refer the Preston resolutions to Horner or Ewings. Instead, with localist proclivities, he sought to avoid conflict by referring them to the law officers of the Crown. The latter advised the matter be dealt with locally. The Attorney General did not order the new inquest wanted by Noble but stated that 'an indictment of manslaughter should be preferred [against] Fogg the manager of the mill'. The Solicitor to the Treasury instructed Ascroft to prepare the indictment and present it to the Grand Jury at Liverpool so that, if a true bill was found, the trial could take place at the forthcoming Liverpool Assizes. The Treasury Solicitor was responsible for Ascroft's fees, as otherwise the indictment would have been drafted by the clerk of assizes and presented to the Grand Jury with the relevant depositions. The defence played no part in the Grand Jury proceedings. Livesey welcomed the outcome because it would show that:

the lives of the poor are not of so slight a value as they seemed to be appraised at the meeting ... at the Town Hall; secondly, it will tend to throw the onus of the fatal accident on the right shoulders in as much as the evidence will be sifted in a thorough-going manner; and thirdly, it may make such an impression upon Government and the manufacturing community as will lead to the prevention of similar disasters for the future²²⁴

Others in Preston, including Dobson, were less pleased, believing that Grey, a former judge advocate-general noted for his minimalist tendencies, should have been more critical towards Palmer's conduct of the inquest. They considered that the hearing at Liverpool Assizes would not produce the detailed investigation required and that the proprietors rather than the mill manager should have been charged in order to establish the legal liability of mill-owners for their workers' welfare. They wanted a further inquest so that the committal to the Liverpool Assizes would be a coroner's committal based on publicly given evidence.²²⁵ They distrusted a committal by Grand Jurors, drawn from the aristocracy and gentry, on evidence behind closed doors in the absence of the accused and unavailable to bereaved families. Common Law provided powers for Grey to order the earlier inquest to be quashed on the grounds that Palmer had performed his duties through his deputy in a perfunctory and unsatisfactory manner by excluding evidence relevant to the cause of the disaster.²²⁶ It had, according to Livesey, 'neither [taken] trouble nor time in eliciting the ultimate truth about the matter'.²²⁷



SIR GEORGE GREY (1799-1882)
HOME SECRETARY 1846-52, 1855-8 and 1861-6

(Courtesy, University of Durham Library)

But the Attorney General's action, supported by Grey, complied with government policy in several ways. First, successive governments had attempted to control the burgeoning costs of prosecutions by reducing the number of indictments – in this instance, one indictment of the manager instead of the three required if the proprietors had been jointly charged. Second, by not ordering another inquest, backing had been given by central government to local officials – not just Palmer, but also, the unpaid county and borough magistrates and the Preston borough council.²²⁸ Third, Grey had deliberately shifted responsibility for Palmer's conduct in Preston, via the Attorney General, from the Home Office to a politically appointed judiciary whose inclinations in legal interpretation were to support government policy, thereby moulding and adjusting common and statute law to meet working conditions in a modern industrial state without too severely castigating local officials.

The bereaved families' reactions to the indictment of the mill manager was muted. Although some 52 relatives had attended the public meeting at Preston Town Hall none had been signatories to the requisition. They had not spoken at the meeting, nor made any public comment. They had not participated in proceedings. On their behalf Ascroft cautiously spoke of possible civil actions against the mill proprietors rather than against Fogg. However, when it became known that the mill proprietors had subscribed to the public appeal to compensate the families of the deceased, proceedings were shelved.²²⁹ Legal action was not taken for several reasons. First, bereaved families were often reluctant to sue. They enjoyed mixed feelings of employer paternalism and employee deference. On the one hand, social events associated with Church or Chapel linked employer and employee, with the latter tending to follow the politics and social responses of the former. On the other hand, employees often deferred to employers in 'hopeful expectation of work consideration'.²³⁰ So far as the Brunswick Mill disaster was concerned Fogg, a leading local Quaker, had a reputation for benevolent concern for the workers at times of cyclical depression. Also he was heavily involved with a Sick and Burial Society and several Friendly Societies.²³¹ Second, litigation was expensive when confronted by highly technical common law. Admittedly, since 1495²³² actions "*in forma pauperis*" for which the plaintiff did not have to pay, had been possible in all courts of record, including the Liverpool Court of Passage²³³, but only if the litigant had less than five pounds. Also, to be granted gratuitous legal services litigants had to obtain a lawyer's certificate that they had good cause of action.²³⁴ In practice, although Preston

was Lancashire's legal centre, such applications were few and, after the 1846 County Courts Act,²³⁵ it was assumed they were not available in those courts.²³⁶ Third, although by 1848 Lord Campbell's 1846 Fatal Accidents Act had become law, that Act was so narrow in interpretation that it did not immediately benefit victims of industrial accidents.²³⁷ It is doubtful if it was primarily intended to do so since it was designed to deter future accidents rather than provide compensation for bereaved families.²³⁸ Factory inspectors, primarily concerned with working hours and fencing machinery, recorded few instances of its use. Preston papers disclosed none in relation to Palmer's inquests. Working people did not turn to the 1846 Act, but rather to parish and poor relief, or sick and burial Clubs operated by paternalistic charitable institutions including the Preston District Visiting Society, the Provident Society, the Dispensary, and the 55 registered Preston Friendly Societies.²³⁹

8. Regina v Roger Fogg: Liverpool Assizes 26 March 1849

The Grand Jury having agreed Ascroft's bill of indictment of Fogg as a true bill²⁴⁰, the trial was listed for the Spring Assizes at St Georges Hall Liverpool. The London press referred to it as 'instituted ... to fix the responsibility of the proprietors of cotton mills if they should neglect to have good safe boilers connected with their steam machines'.²⁴¹ The trial itself illustrated what legal historians later identified as the Adversarial Revolution in relation to court procedure. It involved a new breed of proactive lawyers giving credence to a burgeoning campaign for law reform to meet contemporary shifting attitudes towards criminal justice, employment law and working conditions. Counsel outnumbered witnesses. Hitherto, the accused were only allowed representation to argue points of law on the indictment, but following the 1836 Trials for Felony Act full representation was allowed in criminal trials, although not to address the jury or call witnesses. Three of the five trial barristers appeared for Fogg. Counsels for the accused and prosecution both examined witnesses, argued points of law and, by admitting hearsay statements, decided proofs of evidence. However, the prosecution selected witnesses since, before the 1867 Criminal Law Amendment Act, the accused had no automatic right to require attendance from any witness. The right to call witnesses was uncertain and, if allowed, could not result in sworn and therefore admissible evidence. At Fogg's trial the prosecution selected three witnesses from the ten appearing at the inquest. However, the judge could

require further evidence but, in Fogg's case, did not do so. He did not require the attendance of the Preston factory inspector or any expert engineer. Although the boiler manufacturer gave evidence, the specialist engineer, who prepared the detailed report for the coroner, did not. The judge's charge to the jury consisted of four uninformative sentences, containing no summary of the evidence but stating there could be no doubt of Fogg's guilt.

Several factors explain all this. First, by 1848, governments and local authorities tried to reduce prosecution costs of which, since 1836, the Treasury paid half. Second, Fogg had no legal right to call witnesses. Third, witnesses were often reluctant to face battles of experts, with legal treatises like John Pitt Taylor's 1848 *Law of Evidence* expressing misgivings about witnesses in criminal trials giving evidence of both fact and opinions. Expert witnesses, although usually happy to appear within the inquisitorial framework of a dispassionate inquest, were hesitant to face adversarial confrontation in criminal trials. Finally, although Prestonians, following the Brunswick Mill inquest, petitioned the Government for further investigation after the drafting of the indictment by the Preston solicitor Ascroft, they played no part in the trial.

At the Liverpool Assizes on 26 March 1849 the judge was Mr Baron Alderson, formerly Sir Edmund Hall Alderson (1787-1857). Alderson was a notable opponent of codifying the law to meet the changing needs of industrialisation. He was critical of the voluminous references to law reform in Jeremy Bentham's early nineteenth century utilitarian writings. He believed the common law, embodied in judicial decisions and the development of binding precedent, could be reformed by self-adaptation. As a Baron of the Exchequer for 15 years and as a former judge of the Court of Common Pleas, he was a firm exponent of the common law's flexibility and ability to adapt to the Factory Movement. At the same time he was critical of Lancashire coroners and their juries and of coronial reference to the Assizes.²⁴²

The charge against Fogg, that had been initiated by Ascroft and not by Palmer, was that he had caused the deaths of Mary Hart and others by negligence in superintending the working of the steam boiler engine.²⁴³ Fogg pleaded not guilty. C.J. Knowles Q.C. of the Northern Circuit and Attorney-General of the County Palatine and C. Crompton, also of the Northern Circuit and a judge of the Liverpool Court of Passage, both appeared for the prosecution and the accused was defended by

Mr Sergeant Wilkins, Robert Segar of Preston and Recorder of Wigan, and James German. Knowles began by reminding judge and jury of the case's importance:

the inquiry into which you are now about to enter is one of very great public importance, because it will necessarily have the effect of calling attention to that which the public should fully know and be made intimately acquainted with, viz, the obligation which the law casts on every man, in the management of his business and the general affairs of life, to conduct that business and those affairs in such a manner as to prevent their causing an injury to other people.²⁴⁴

The law did not 'interfere with the ordinary management of business' but every mill proprietor should take 'proper care and caution to prevent accidents to [employees]'. Before outlining the events of the previous July at the Brunswick Mill, Knowles stated the grounds upon which Fogg had been indicted. Fogg had had 'the management of certain machinery...in his care' and he 'by neglecting to use such proper care and precautions' caused the death of Mary Hart. For convenience the charge was in respect of one death only.

Knowles then outlined the facts without reference to the evidence at the inquest. Up to 31 July 1848 Fogg had been manager at Brunswick Mill employed by Messrs Cooper and Garrington. The boiler explosion had resulted from 'an improper mode of working'. The crucial question was whether Fogg's responsibility for the boiler's working 'at that time was such as to make him criminally liable for the consequences...' Fogg was the person upon whom the management of the mill devolved. The boiler was 'kept at a pressure necessary to work the engine much greater than it was ever intended to perform'. It had been noted prior to the explosion that 'there was something wrong in the mode of working the boiler'. It had required frequent repairs. The boiler's makers had examined it and told Fogg and his employers of the dangers of working it at a pressure it could not bear. The engineer had recommended introducing boil-over pipes to stop excessive pressure. Fogg had had them removed and set the engine to work as before. The engineer had remonstrated with him, pointing out the danger and saying that if he had the same power as he had over marine engines he would not allow the boiler to work at all.

After his opening speech, Knowles called witnesses for the prosecution. Whereas at the inquest Palmer had called 10 witnesses including 3 engineers, Knowles called 3 – Lambert to supply details of Hart's death, Haldan to give evidence of death from scalding and Clayton to give evidence about the working of the steam boiler and contacts with Messrs Fogg, Cooper and Garrington. He did not call the

engineers Stevenson and Dodds. Clayton's evidence at Liverpool was stronger than that given at the inquest. Freed from the inquest's constraints and bolstered by the popular support at Preston Town Hall, he now implicated Cooper and Garrington as well as Fogg. He had informed all three men 'they were working the boilers at a greater pressure than they would bear and were running great risk in bursting them'.²⁴⁵ Clayton had told them the fault was not with the boilers but because 'they wanted the engine to do more work that it was capable of'.

The evidence having been heard and Wilkins being unable to 'alter the facts', Judge Alderson said 'he could not see the utility of allowing the case to go further ... there must be a conviction' but felt the mill-owners were as culpable as Fogg:

Fogg had been working the boiler in the manner described under the authority and full knowledge of his masters. I must say that I think Garrington is quite as culpable as [Fogg], if not more so. *He is certainly quite as much to blame. It was his duty when he became acquainted with the state of the boiler to have ceased working it in such a manner.*²⁴⁶ [author's emphasis]

Knowles agreed, but failed to explain government policy on limiting prosecution costs and why the indictment had been restricted to Fogg:

There can be no doubt ... Mr Garrington is quite as much at fault as [Fogg] – fully as criminal, no doubt of it. The government has directed this prosecution to be issued against [Fogg], thinking that such a serious matter ought to be fully inquired into, in order that the obligation resting on the situation in which [Fogg] has been placed should be known as widely and extensively as possible, and that the state of the law in such matters should be made familiar to all classes.²⁴⁷

Knowles was referring obliquely to the changing position in common law of employer and employee, the doctrine of common employment and the emerging tort of negligence, but made no direct statement, presumably not considering it relevant to the issues before the jury. Alderson agreed with him.

It is very proper that the government has ordered an inquiry into the case. There can be no doubt that it is quite necessary that such matters should be inquired into ... *it is desirable that there should be a supervision of factory and other engines, similar to that now applying to marine engines.* Surely the lives of poor people employed in factories require as much protection as do the lives of persons travelling by steamboats.²⁴⁸ [author's emphasis]

He added that the law had to provide for the safety of human life and it was very important that it 'should be properly known in these cases'. Mr Sergeant Wilkins, for Fogg, said he 'had acted wrong' but, in mitigation, he was of good character and 'a

more humane or Christian man did not exist'.²⁴⁹ Alderson addressed the jury as follows:

As regards the offence with which [Fogg] is charged, it is clear that if he caused the explosion intentionally, he is not guilty of manslaughter, but of murder. But if the explosion took place from his negligence, he is certainly guilty of manslaughter ... after what you have heard from [Clayton] who said to [Fogg] and his employers "if you go on in this way you will blow the boiler up" ... and there can be no doubt that he is guilty of the crime imputed to him.²⁵⁰

The jury, being told by Alderson that they must convict, consulted for a few moments and then said they found Fogg guilty of manslaughter but 'recommended him to mercy'. Alderson ruled that, as Fogg was 'of a good character and ... [that as an] award [of] compensation to the unfortunate sufferers was going on',²⁵¹ he would only fine Fogg £5 and order that he entered into his own recognisances for £100 to be of good behaviour for two years.²⁵²

Reactions to the verdict varied. Liverpool reporters referred to 'a most merciful punishment for most gross and wilful neglect'.²⁵³ In Preston, Livesey, Dobson and others welcomed the verdict with reservations. They focused on Alderson's words about the mill-owners' liability. They knew the Home Secretary Sir George Grey was antipathetic to personal injury proceedings and that, before financial compensation could be obtained, a successful criminal prosecution must be secured. Fogg's conviction was thus welcomed, doubly so because it indicated Grey would have to take action about working conditions. In an editorial Livesey wrote that, although the £5 fine was 'a mere bagatelle', the verdict itself was a triumph. 'The reckless system of factory working had been exposed'.²⁵⁴ Alderson had named Garrington as the really culpable person. In so doing he had pointed the way to obtaining financial compensation from employers. His reference to government inspection of factory boilers had given impetus to the expansion of industrial law and government policy into the area of safety in cotton mills and compensation for occupational accidents. Dobson wrote in the *Preston Chronicle* of 31 March 1849 that Alderson had:

prevented the perverse verdict of the coroner's jury being drawn into a precedent, and the whole affair ... cannot but have a salutary influence upon those who have large bodies of workpeople employed in the vicinity of machinery, the neglect of which may occasion such devastation. [author's emphasis]

Further, every 'appliance which science [could] dictate and [skill]...embody [should be] sought to provide for the safety and the comfort of [mill workers]' and this involved further central government legislation. He called on Grey to support this.

9. Conclusions

This reappraisal of boiler explosions, the inquest system and Factory Inspectorate in Preston in the 1840s highlights local concerns about safety and shows how inquests and regional reactions could put further legislative reform on the political agenda. Palmer was an Establishment figure, holding many public offices in town; his response to occupational deaths differed from that of more pro-active and better-known coroners less involved in other issues. Such coroners included William Baker, the veteran East Middlesex coroner,²⁵⁵ Herford, the populist Manchester city coroner,²⁵⁶ and William Smalley Rutter²⁵⁷, the assertive county coroner for the Manchester and Salford district of Lancashire. Nevertheless, Palmer's two high-profile Preston inquests of 1848 attracted critical national attention and local outrage, and in turn produced public, but not coronial, demands for some form of state intervention at a time of 'laissez faire' economics. The inquests themselves, culminating in the trial of Fogg at Liverpool Assizes, raised questions about the legal liability of employers to workers in the new industrial urban community and the need for changes in the law. Yet Palmer did not treat them as platforms from which to launch radical campaigns on health and safety, and law reforms. He did not attend the subsequent meeting at Preston Town Hall.

Palmer never campaigned for compulsory or voluntary steam boiler inspections, for altering the position of boiler houses, for insurance, or for proper compensation following the 1846 Deodands Abolition Act. He never urged the necessity of expert professional evidence to meet the demands of the modern state. He did not seek to recast the Victorian inquest as a forum for scientific expertise, legitimising grounds for state action in matters of health and safety. Unlike some coroners he never contacted either the Home Secretary or county magistrates for authority to pay specialist engineers to inspect steam boilers and attend inquests as expert witnesses.²⁵⁸ Probably it was because he tried, like adjacent coroners, William Carrick in Carlisle, Richard Wilson in Kendal and Henry Churton in Chester, to avoid magisterial confrontations. Or, perhaps, it was because he lacked the elite

professionalism of coroners like Wakley, Lankester, Herford and, to a lesser extent, John Taylor. Certainly his multifarious appointments listed earlier, had tied Palmer into the Establishment, and aged 75, in office since 1799, he represented an older more deferential, patronage-based rather than professionally-based world. Yet, in a world of rapidly changing public expectations, his conservative actions enhanced demands for reform almost as much as those of his reforming contemporaries.

The four hurried inquests, following the 1842 Preston massacre, clearly revealed conflicting interests. Mill-owners and borough magistrates influenced Palmer's inquests. Sometimes they even objected to his jurors. As for those jurors, whereas nationally coroners' jurors had, by the 1840s, come of age '[fighting] to control the associated hazards of a century undergoing exponential development'²⁵⁹, Palmer's 14 or 15 jurors, in contrast to the 24 grand jurors and the 12 trial jurors at Liverpool Assizes, were acquiescent and subservient, composed of tradesmen living or working in the vicinity of and influenced by Preston Town Hall.

As previously stated, inquests remained the only public legal forums investigating factory deaths so that the stance taken by coroners like Palmer was crucial. Palmer, outside his work as coroner, was highly respected amongst Preston's elite. As explained earlier he was associated with borough magistrates, cotton-mill proprietors and borough councillors.²⁶⁰ For example, a few weeks after the 1848 inquests, despite adverse public criticism, he was, alongside the borough magistrates, the subject of a toast at the Mayor's Annual Dinner at the Bull Inn Preston in the presence of some 120 guests. His recent work as coroner was tactfully not directly mentioned but he was effusively thanked for 'the highly respectable, quiet and dignified manner' in which 'he conducted his business'.²⁶¹

Yet, in reality, industrialisation intensified local loyalties and, combined with the developing tort of negligence, increased the importance and relevance of coroners and inquests as investigative forums. As stated earlier, after the 1846 Deodands Abolition Act and the 1846 fatal Accidents Compensation Act, inquest verdicts often became the only weapons available to the bereaved.²⁶² In themselves such verdicts were not enough since they usually disclosed neither the reasons for explosions nor sufficient evidence to satisfy the intricate technical pleadings required, before the 1852 Common Law Procedure Act, to sustain successful civil actions for damages. Therefore the post-1846 Westminster debates about factory working conditions involved a variety of divergent issues such as boiler inspections, compensation for

dependants²⁶³, insurance and the desirability of legislation changing the law about working conditions and balancing bureaucratic regulation with participatory local government.²⁶⁴

In response to the Preston outcry for legal directions following the inquests, the Home Secretary, through the Attorney General, initiated the indictment of the mill manager but not the mill proprietors. The trial at Liverpool Assizes was 'to fix the responsibility of the proprietors of cotton mills if they should neglect to have good and safe boilers connected with their steam machinery'.²⁶⁵ Although not unprecedented, it was intended to create legal history.²⁶⁶ In a way, it did so since, although manslaughter indictments of both managers and proprietors, following boiler explosions were exceptional, the trial implied that the Attorney general should have indicted both. The Preston explosions, together with inquests with similar denouements elsewhere in Lancashire, drew radicals' attention to working conditions. The reaction of Prestonians to insufficient expert evidence at inquests emphasised the need for Palmer to summon engineers as independent expert witnesses²⁶⁷ and indicated a shift in the suggested role of the jury with a growing demarcation between jurors and witnesses. It also raised the question of regular compulsory or voluntary inspection of steam boilers but also indicated possible concerns about government meddling.²⁶⁸

At a time of political flux, Palmer's contribution to the factory movement was the mobilisation of local cross-party humanitarian support for state welfare reform.²⁶⁹ But it was mobilisation by Preston's reformers and not its coroner. As the Preston town hall meeting showed, an array of philanthropists representing a range of socio-political groups attended inquests. They were motivated by middle class reformists like 'Honest Joe Livesey' and his family as well as by various categories of workers.²⁷⁰ As part of the plethora of issues surrounding the factory movement, they led protestations against unsatisfactory inquests, the absence of expert scientific evidence and urged coronial reform including even the abolition of the coronership and transferring its judicial powers to the magistrates. They addressed petitions to Preston Borough Council, sent resolutions and further petitions on local issues to the Home Office and secured indictments for manslaughter or murder.

The popular outcry in Preston, reinforced by similar responses in other Lancashire and Yorkshire cotton mill towns, provided a local variant to national debates on state intervention in factories and the importance of expert engineering

evidence.²⁷¹ It helped herald the reversal of common law trends antipathetic to the liabilities of employers. It helped initiate parliamentary opposition to the doctrine of common employment evidenced later by the 1880 Employers' Liability Act.²⁷² It provided impetus for further legislative changes through the Factory Acts 1802-1895, the two bills and the two Select Committee Reports possibly partly instigated by the Manchester Steam Users' Association and culminating in the 1882 Boiler Explosion Act²⁷³ and the 1897 Workmen's Compensation Act.²⁷⁴ The former Act required notification of explosions to be given to the Board of Trade²⁷⁵ and established a judicial tribunal to investigate the causes of steam boiler explosions more effectively and impartially than a coroner's court and in line with suggestions made by Preston journalists in 1848. The latter Act, by enacting that deaths arising 'out of and in the course of employment' irrespective of fault must be compensated by industry through compulsory insurance, conceded the end of common employment and pointed towards a welfare state.²⁷⁶ It was tacit recognition of an unsatisfactory legal process and of the common law's failure to come to terms with the chaos of industrialisation.²⁷⁷

In summary, nascent demands by religious humanitarians and rationalist Benthamites reflected concerns about unsafe working conditions exposed by inquests alongside the press and contemporary writers.²⁷⁸ In Lancashire and elsewhere the publicity surrounding boiler-explosion-inquests provided a check on the use of steam power in the workplace²⁷⁹ and in Westminster, the resulting regulatory legislation²⁸⁰ with its engineering dimension, secured mandatory boiler inspections. Alongside voluntary pressure groups²⁸¹ legislative provisions, requiring coroners to notify a Government Department of factory fatalities and, as stated earlier, to adjourn inquests for preliminary investigation by Factory Inspectors²⁸², reinforced, in a tenuous way, the juxtaposition of inquests and the Factory Inspectorate. It implied a deeper level of state involvement by inspection.²⁸³ That involvement emphasised the importance of safe working conditions and legal changes to provide compensation for occupational deaths. It entailed a fragmented campaign for an improved inquest system, freed from the mire of political and social unrest, as heralded by the three Preston resolutions submitted to Home Secretary Grey after the 1848 steam boiler explosions²⁸⁴ and as identified by contemporary Preston socio-political reformers, religious leaders and journalists like Parr, Dobson and John and Joseph Livesey in joint quest of 'the ultimate truth' about those explosions.²⁸⁵ It illustrated that, in a wider picture,

inquests, although sometimes flawed, played an essential part in exposing the dangers of steam boiler explosions in Lancashire cotton mills. The conclusion is that the 1848 steam boiler explosions inextricably demonstrated how local political parties, religious leaders and social reformers helped polarize public opinion about demands at a national level for political-administrative changes to secure safer working conditions in factories.²⁸⁶

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Dickens visited some of Preston's cotton mills collecting local colour for his novels. His imaginary Coketown is associated with Preston. He may have attended some of Palmer's inquests but the reference in *The Uncommercial Traveller* (PP194-8) to the 'nobly patient and humane coroner' is to the redoubtable Thomas Wakley and not to Palmer. However, Dickens used his writings to address current social problems including fatalities in cotton mills and the sharpening divisions between rich and poor. Hobsbawm referred to him [P.310] and Bartrip developed the Dickensian theme in relation to occupational deaths and Victorian social issues: Bartrip 'Household Words and the Factory Accident Controversy' in *The Dickensian*. 1979 No 387 Vol. 75 Part 1 pp.24-5

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Archon Books 1971 p.142. Peacock, p.206. Bartrip, *Safety at Work*. pp. 33-4. The National Archives (hereafter TNA). H.O.45.05.5219 Home Office Memorandum 29th December 1854.

- 57 Bartrip, *Safety at Work*. pp. 22-3
- 58 Leonard Horner, *The Factory Act, Explained, with some Remarks on its Origin, Nature and Tendency*. Glasgow 1834. W.R. Lee, 'Robert Baker: The First Doctor in the Factory Department' in *British Journal of Industrial Medicine*. Vol. XXI (1964) pp.85-93 and PP167-169. Eddie Crooks. *The Factory Inspectors. A Legacy of the Industrial Revolution*. Tempus Publishing Limited, Stroud 2005 pp.37-40. Bernice Martin, 'Leonard Horner: A Portrait of an Inspector of Factories' in *International Review of Social History* Vol. XIV 1969 Part 3. pp.412-444. Bartrip and P.T. Fenn, 'The Administration of Safety: The Enforcement Policy of the Early Factory Inspectorate, 1844-1864' in *Public Administration* 1980 Vol. 58 pp.82-102. Bartrip and Fenn, 'The Evolution of Regulatory Style in the Nineteenth-Century British Factory Inspectorate' in *Journal of Law and Society* 1983 Vol 10 pp.201-222, P. Wusterman, 'Leonard Horner. Inspector General of Factories' in *Her Majesty's Inspector of Factories 1833-1983. Essays to commemorate 150 years of Health Safety Inspection*. H.M.S.O. 1983 pp.9-13 and Nob Doran, 'From embodied "health" to official "accidents": class, codification and British factory legislation, 1831-1844' in *Social and Legal Studies* 1996 Vol. 5(4) pp.523-546. Doran suggests that in the 1840s the idea of an 'unavoidable accident' emerged with emphasis on risk and insurance instead of negligence and culpability. p.539. Gray. pp.86-91.
- 59 *Report of the Commission for Inquiring into the Employment and Condition of Children in Mines and Manufactories*. Parliamentary Papers (1843) XIII. Samuel referred to the evidence of Factory Inspectors as 'to be treated with care' and as 'limited and partial'. p.14.
- 60 Alan E. Peacock, *The Justices of the Peace and the Prosecutions of the Factory Acts 1833-1855*. Unpublished Ph.D. thesis University of York 1982 p.48, 215 and Table 4
- 61 Advertisements addressed to 'Engineers, Mill Owners and others using steam power' printed in *Preston Guardian* 21st June 1848 and 2nd October 1848. Letter dated 8th August 1848 from Philanthropus as to what inquiries the jurors should have made, Letter from J.A. Bowman and Letter from J.A. of Padiham all printed in *Preston Guardian* 12th August 1848. Sometimes factory inspectors were referred to as 'mere spies and informers' or as 'inferiors' or as impractical theorists. 'The National Association of Factory Occupiers. Special report of Executive Committee, July 1855 in *Cobbett Collection of Factory Pamphlets 1832-1856*. Goldsmiths Library, University of London. S.E. Finer, *The Life and Times of Sir Edwin Chadwick*. London 1952. P67. R.M. Gutchen, 'Local Inspectors and Centralisation in Nineteenth-Century England' in *The Historical Journal*. Vol. 4, 1961 p.85. Theodore Hoppen, *The Mid-Victorian Generation 1846-1886*. Oxford 1998 p.104
- 62 *Blackburn Standard*. 23rd November 1853. T.N.A. HO45/7605. File entitled 'Witnesses: Expert assistance to coroners at boiler explosion inquests'.
- 63 *Preston Guardian*, 24th June 1848. Departmental Committee Report on the Notification of Industrial Accidents (1902) and Departmental Committee Report on Accidents in Places under the Factory and Workshop Acts (1911)
- 64 Bartrip, *Safety at Work*, 'the inspectors ... failed to present a united front because of their differences [they] could give no clear lead on accident prevention [and were] still far from the vanguard of the movement to promote safety in the textile industry'. p.14. Crooks, pp. 42-3. 'inspectors had to establish a code of professional conduct in relation to the Home Office and the will of Parliament whilst at the same time they had to develop an independent authority if the law was to be properly observed.'
- 65 British Sessional Papers. House of Commons 1847-48. Vol. XXVI. Half-Yearly Report of Inspector Horner 31st October 1848 p.31 and p.145. W.G. Carson, 'White-collar crime and the institutionalisation of ambiguity:

- the case of the early Factory Acts' in Mike Fitzgerald, Gregor McLennan and Jennie Pawson (Compilers) *Crime and Society. Readings in History and Theory*. Open University Press. London 1981 PP142-3. Bartrip and Fenn 'The Conventionalization of Early Factory Crime: A Re-Assessment' in *International Journal of the Sociology of Law*. Vol. 8 (1980) pp.175-186, Bartrip and Fenn, 'Success or Failure? The Prosecution of the Early Factory Acts' in *Economic History Review*. Second Series. Vol. XXXVIII 1985 pp.423-427 and David T. Jenkins, 'The Validity of the Factory Returns 1833-50' in *Textile History*. 1973 pp.26-46. Factory Inspectors were slow to provide compensation for victims of factory accidents by prosecutions on behalf of victims before the magistrates because if such prosecutions failed the Factory Inspectorate became liable for costs. Further any prosecution on behalf of victims was automatically non-suited if those victims died before the court hearing. It was then left to the coroner's inquest. Sections 22 and 24 of the 1844 Factory Act.
- 66 Peacock, 'The Successful Prosecution of the Factory Acts 1833-50' in *Economic History Review*. Second Series. Vol XXXVII 1984 No 2, p.203. LRO DDCp. Box 5 Factory Inspection Papers 1845-6. Bartrip, 'British Government Inspection, 1832-1875: Some Observations' in *The Historical Journal*. Vol. 25(3). pp.605-626.
- 67 British Sessional Papers. House of Commons 1851. Vol. XXIII Report of the Inspector of Factories. p.348.
- 68 Peacock p.200 and Peacock, 'Factory Act Prosecutions: A Hidden Consensus?' in *Economic History Review*. Second Series. Vol XXXVIII 1985 pp.431-436
- 69 Bartrip, *Safety at Work*. p.33, Bartrip, *Workmen's Compensation*. p.5
- 70 The national press featured local inquests post 1860s but they concentrated on inquests affecting public safety rather than factory deaths. Cawthron, *Job Accidents*. pp.111-129.
- 71 In the 1840s Preston papers began regularly reporting local inquests held by Palmer. *Preston Chronicle* 27th August 1842. John Porter inquest, *Preston Guardian* 23rd March 1844 Edward Edington inquest, *Preston Guardian* 1st June 1844 Richard Kellett inquest, *Preston Guardian* 11th March 1848 William Sherrington inquest, *Preston Guardian* 29th July 1848 John Mellor inquest and *Preston Guardian* 2nd September 1848 Unidentified Male inquest.
- 72 *Preston Pilot*, 22nd May 1852, *Preston Chronicle*, 19th May 1852 and *The Times* 31 May 1852. Palmer offered the jury no choice but to bring in a verdict of accidental death. He told them that 'there could be no other verdict'. He said that 'it was perfectly clear that no one was to blame ... there could be no other verdict than one of accidental death'.
- 73 *Preston Pilot*. 9th October 1852.
- 74 J. Worrall, *The Coroner's Guide or, The Office and Duties of a Coroner: Containing a Variety of Precedents and Proper Instructions for the Execution of the Said Office, compiled from the Best Authorities*. Second Edition. London 1856. Edward Umfreville, *Lex Coronatoria or, The Office and Duties of Coroners in Three Parts*. London 1761. It was revised by the Bristol coroner Joseph Baker Grindon in 1822. J. Impey, *The Office and Duty of Coroner with an Appendix of Useful Precedents*. London 1786. There were three further editions in 1800, 1817 and 1822. Palmer used all three manuals.
- 75 John Jervis, *On the Office and Duties of Coroners. With an appendix of forms and precedents*. 1st Edition. London 1829
- 76 Richard Clark Sewell, *A Treatise on the Law of Coroner*. London 1843. Joseph Baker Grindon, *Compendium of the Law of Coroners* London 1850 and William Baker, *A Practical Compendium of the Recent Statutes, Cases and Decisions affecting the Office of Coroner*. London 1851.
- 77 Bartrip, *The State*. p.101
- 78 Burney, pp.52-80

- 79 Richard D. Altick, *Victorian People and Ideas*. London 1973 p.244. Lawrence Goldman, 'Statistics and the science of society in early Victorian Britain: an intellectual context for the General Register Office' in *Social History of Medicine*. Vol. 4 (1991) pp.415-34. Bartrip, p.8
- 80 Select Committee Appointed to Inquire into the operation of *Safety at Work*, the Act for the Regulation of Mills and Factories. Parliamentary Papers 1840. X Questions 2808-10
- 81 Bartrip, *The State*. P.100. Bartrip, *The Home Office*. pp.8-11.
- 82 Musson and Eric Robinson, *Science and Technology in the Industrial Revolution*. Manchester University Press 1969 PP393-427
- 83 *Preston Pilot*, 9th February 1833. *Preston Chronicle* 9th February 1833. Surviving prosecution files sometimes incorporate inquest files. T.N.A. PL 26/295 and PL 27/10 Box 1 Lancashire includes inquests held by Palmer. Samuel, P.15. Pamela J. Fisher, *The Politics of Sudden Death: The Office and Role of the Coroner in England and Wales circa 1726-1926*. Unpublished Ph.D. thesis University of Leicester 2007 P.141, n.83.
- 84 *Preston Pilot*, 11th December 1852
- 85 *Preston Pilot*, 25th October 1851. The Editor of *Preston Guardian* stated that Palmer had held a yearly average of 110 inquests since 1842 which provided him with a yearly income of £165. *Preston Guardian* 8th January 1853.
- 86 *ibid*
- 87 Burney, p.4
- 88 *Preston Pilot*, 17th June 1848. *Preston Chronicle* 5th August 1848. Grindon p.34 n. 40
- 89 Melsheimer, p.199. Cornish, *The Jury*, London 1968. pp.245-7.
- 90 *Report from the Select Committee on the Office of Coroner; together with the proceedings of the Committee and Minutes of Evidence*. 1860. (193) XXII Question 233 (p.277) and Question 767 (p.298)
- 91 Melsheimer, P.200. Inquests were excepted from 6 Geo.4.c50 County Juries Act 1825. s.52. *Halsbury's Laws of England*. London. Vol. 8. First Edition 1909. p.259
- 92 M. MacDonald and T.R. Murphy, *Sleepless Souls: Suicide in Early Modern England*. Oxford University Press 1990. pp.7-8. Michael Joseph Claria, *The History of Suicide in England and Wales 1850-1961 with Special Reference To Suicide by Poisoning*. Unpublished Ph.D. thesis University of Oxford 1993 pp..50-63.
- 93 C. Gross (Ed). *Select Cases from the Coroners' Rolls AD 1265-1413*. Selden Society, Vol. 9, London 1896 XXXIV
- 94 Carol A.G. Jones, *Expert Witnesses, Science Medicine and the Practice of Law*. Oxford 1994 p.23 Donald Prichard, *The Office of Coroner 1860-1926*. Unpublished Ph.D. thesis. University of Greenwich. 2001. p.38 and Katherine Watson, *Poisoned Lives. English Poisoners and their Victims*. Hambledon and London 2004 p.150
- 95 Anderson, *Suicide*.p.28 n.56
- 96 *Preston Guardian*, 5th August 1848
- 97 *Preston Pilot*. 18th August 1842
- 98 *The Times*, 31st May 1852
- 99 Melsheimer, p.35, 206 and 247
- 100 In the 1840s Palmer was paid £200 p.a. as Town Clerk of Preston which was more than his average fees as part-time county coroner. Letter from A St. Peter's Man headed 'Corporation Salaries' printed in *Preston Guardian*, 31st March 1849.
- 101 LRO. DDX/398/13
- 102 LRO. QSP/2951/99. QSP/8260/70. Palmer submitted his Quarterly Accounts to county magistrates and Herford to borough magistrates. The dividing line between county and borough magistrates and their

treatment of coroners was narrow, as 'there was little to choose between [them] ... over expenses [for expert evidence]'. Anderson, 'Did Suicide increase with industrialisation in Victorian England?' in *Past & Present. A Journal of Historical Studies*. Number 86 February 1980 p.163. Lancashire county magistrates, when examining the quarterly returns of the 6 part time Lancashire county coroners for the 10 years up to 1859 including 3 years of Palmer's Coronership disallowed only 0.57% of inquest fees. The percentages were much larger in other counties for example, 6.95% in Staffordshire and 4.62% in Durham. Fisher p.173 Table 6.1

103 LRO. QSP/3320/78. QSP/3326/100

104 LRO. QSP/3320/78

105 LRO. QSP/3326/100

106 LRO. QSP/3320/79

107 There were instances other than the steam boiler explosion inquests. Following the 1846 Coppull Colliery Explosion inquest John Hall of Preston wrote to Palmer complaining of his insufficient inquiry stating that 'juries upon inquests ... should not give the verdict until every means had been tried: every stone should have been turned before they [give] their decision, which I contend has not been done in this case'. Letter printed in *Preston Guardian* 12th December 1846. In the John Miller inquest where a 6 months old baby died of poisoning, the press recorded that, apart from the surgeon, no evidence was called. The verdict given by Palmer was 'died from the effects of poisoning swallowed accidentally'. *Preston Pilot* 11th October 1845. Sometimes Palmer was criticised for lack of independent medical evidence or for the failure to provide any medical evidence. For example, the 1848 William Ward inquest, involving a prison death, on Palmer's directions the jury 'immediately' returned a verdict of 'Died by the visitation of God' when the only medical evidence was that of the surgeon at the House of Correction. *Preston Pilot* 29th July 1848. A few days later Palmer held an inquest on a 14 year old boy who hanged himself. Palmer called three witnesses, two of them relatives, but no medical evidence. He directed the jurors to return a verdict that the boy 'hung himself whilst labouring under temporary insanity'. *Preston Pilot* 29th July 1848. A month later Palmer held an inquest on an 'Unidentified Male' found on Blackpool shore. That inquest was criticised by the public and the press for lack of identification and no cause of death. It was reported in *Preston Pilot* 12th August 1848 and was the subject of a Letter from An Observer dated 1st September 1848 and printed in *Preston Guardian* 2nd September 1848.

108 Glasgow, 'The John Lees inquest of 1819 and the Peterloo Massacre' in *Transactions of the Historic Society of Lancashire and Cheshire*. 1998. Vol 148 pp.95-119. Regardless of statistics the Peterloo deaths were immediately dubbed a massacre. The number of dead and injured has been questioned by historians. *Transactions of the Lancashire and Cheshire Antiquarian Society*. 2006 Vol. 102 pp.271-4

109 Walton, *Lancashire*, p.162. Karl Marx referred to the riots as part of 'the 1842 uprising'. Marx and Friedrich Engels, *Collected Works*. 1987 Vol 3. pp.204-5

110 Burney, 'Making room at the public bar: coroners' inquests, medical knowledge and the politics of the constitution in early-nineteenth-century England' in James Vernon (Ed) *Re-reading the constitution. New narratives in the political history of England's long nineteenth century*. Cambridge University Press 1996 pp.123-154

111 Aspin, p.154. The press reported 4 inquests. Dobson refers to 4 deaths and later to 5 deaths. p.20. The 1992 Memorial erected in Lune Street Preston records that 5 cotton workers were killed. R.P. Bradshaw, *The Preston lock-out: a case study of a mid-19th century Lancashire cotton strike and its role in the development of trade union organisation amongst the textile workers*. Unpublished M.A. thesis University of Lancaster 1972. Chapters 2 and 3.

- 112 Walton, P.112. Morgan, p.146. '[the Preston Chartists] knew nothing of it beforehand.' 'the conclusion is that the Preston Plug Plot riot of August 1842 was not originated either by Preston Chartists or in Preston'.
- 113 E. Baines, *History of the Cotton Manufacture of Great Britain*. London 1835 p.219.
- 114 *Preston Guardian* 3rd January 1846, 25th April 1846 and 1st January 1853. Mike Savage, *Unions and workers in the cotton industry of Preston, c.1890-1895*. Unpublished M.A. thesis. University of Lancaster 1981, Chapter 1 *ibid* *The Dynamics of Working Class Politics. The Labour Movement in Preston 1880-1940*. Cambridge University Press 1987 p.136. M.M. Edwards, *The Growth of the British Cotton Trade 1780-1815*. Manchester 1967. p.191. Boyd Hilton, *A Mad, Bad and Dangerous People? England 1783-1846*. Oxford 2006 p.398 and 631. 'Factory employers laid on annual dinners for employees' *Preston Pilot*, 14th August 1830
- 115 W. Pilkington, *Then & Now. The Illustrated Story of Preston's Progress for Seventy Years 1841-1911* Preston. 1911 pp.26-27. George C. Miller, *Bygone Preston. A brief study of Preston in Olden Days*. Preston 1956 p.19. Morgan, p.133, 146. L.R.O. QJD/1/80-84 and QJD/1/145-153 and QSO/2/211 being Quarter Session Order Book 1842.
- 116 *The Times* 18th August 1842. Hardwick, 'Lancashire Stump Oratory and Reminiscences of the Labour Battle' *Eliza Cook's Journal* XI (1854) pp.247-8. L.R.O. QJD Riot Deposition 1842.
- 117 *The Times* 18th August 1842. Thompson, pp.66-85
- 118 *Preston Pilot* 18th August 1842. In the 1819 John Lees inquest coroner Thomas Ferrand had 12 jurors.
- 119 *The Times* 18th August 1842. In his summing up Palmer made reference to the duties of the borough magistrates confronted by a 'riotous assemblage' but no reference to mass public meetings and the doctrine of unlawful assembly or to the reading of the proclamation under the 1715 Riot Act or to the one hour gap which transformed those present into felons. Unless a riot existed an hour was legally required to allow borough magistrates to authorise dispersal by the militia. 1 Geo. 1.c5 Riot Act 1715. s.11. It had no direct bearing on common law powers to disperse a mob threatening the Queen's Peace but the reading of the proclamation by Horrocks and Palmer indicated that, at that stage, they had not decided that they faced a riot. The Preston borough magistrates standing alongside them were predominantly Tory local mill owners. The response to the reading of the proclamation caused them to call in the militia. At the subsequent inquests the jurors briefed by Palmer accepted that decision. According to press reports they raised no questions as to whether or not an actual or imminent breach of the peace had existed entitling the militia to fire when they did. The families of the deceased had no legal representation. They did not challenge Palmer. Lobban, 'From Seditious Libel to Unlawful Assembly: Peterloo and the Changing Face of Political Crime c 1770-1820' in *Oxford Journal of Legal Studies*. 1990 Vol. 10. No 3 pp. 351-2. Richard Vogler, *Reading the Riot Act. The magistracy, the police and the army in civil disorder*. Milton Keynes 1991 pp.1-3; 12-14. John E. Archer, *Social Unrest and Popular Protest in England 1780-1840*. Cambridge University Press 2000 p.82. Fisher pp.128-130. T.N.A. H.045/249A fi-56. Home Office Papers relating to Chartism and the 'Plug Plot' Riots of 1842 in Preston. Letters of S. Horrocks to Home Office dated 13th August and 15th August 1842.
- 120 *The Times*. 18th August 1842. The press reported riots closing down cotton mills in Manchester, Oldham, Bolton, Blackburn, Preston and surrounding towns. Reporters inferred that the Preston riots which were 'altogether unexpected by [Palmer] and the authorities' were not extensive, they were 'rendered compulsory by popular movement' instigated by outsiders and that they should have been more quickly suppressed by millowners and by the borough magistrates. Palmer and the 4 Preston inquests, with verdicts of justifiable homicide, and with no legal representation for the families of the deceased and no questions asked, were symptomatic of that approach. *Liverpool Mail* 16th and 20th August 1842. *Liverpool Albion* 22nd August 1842.

- 121 *Preston Guardian* 27th August 1842. *Preston Chronicle* 27th August 1842
- 122 *The Times*. 18th August 1842.
- 123 *Preston Pilot*, 24th June 1848. *Liverpool Mercury*, 20th June 1848. Crooks, p.86
- 124 *Preston Guardian* 24 June 1848. LRO DDVc 8/1. Hunt, *A History of Preston*. Carnegie Publishing. Preston 1992 pp.148-52
- 125 *Preston Pilot*, 17th June 1848. *Preston Chronicle*, 17th June 1848. *The Times*, 19th June 1848 and 21st June 1848.
- 126 *Preston Pilot*, 24th June 1848
- 127 Dutton and King, p.234 n.47. LRO DDX/398/13 15th December 1852. Letter from Peter Catterall, Mayor of Preston, to J. Palmer enclosing a copy of unanimous resolution of the 10 borough magistrates recording 'our deep sense of the worth and usefulness of Mr Palmer ... during the long period he has acted as clerk to the Borough Justices.' LRO DDX/398/14. Those Preston borough magistrates with close ties to the cotton industry were mainly large mill owners and not proprietors of small cotton mills, like Edward Hollins and Cooper and Garrington employing less than 200 workers, who were regarded as their competitors. Clarke Nardinelli, 'The Successful Prosecution of the Factory Acts: A Suggested Explanation' in *Economic History Review*, Second Series, Vol XXXVIII 1985. p. 429. Gray provides an overview of recent research into factory legislation stating that its implementation by the Factory Inspectorate and the magistrates was 'highly contentious', marked by an 'uneven and spasmodic transition from employer resistance to "negotiated compliance" and by popular agitation which ... challenged the terms of reference of state officials'. pp. 163-189.
- 128 Hunt, *History* pp. 173-81. Morgan, P.183. By 1848 36 out of the 48 Preston borough councillors were either mill owners or professional men.
- 129 *Preston Chronicle*, 24th June 1848
- 130 Palmer usually held swiftly convened inquests often in pubs and public buildings and the occupations of the jurors varied according to the time and locality. However jurors tended to be summoned from tradesmen forming the bottom strata of the lower middle class. Few records have survived and modern researchers have failed to reach definitive conclusions as to the social structure of coroners' juries but scholars agree that in early modern England coroners' juries were 'men of middling status'. Gwen Seabourne, 'The medieval coroner's jury and its place in the proud history of jury perversity'. Unpublished paper delivered to the 1999 Conference on Legal History pp.6-10. Jurors were usually unpaid. Melsheimer P.201 and *Lancet* Pt 1 1897 pp.895-6. Editorial entitled 'Payment of Coroners' Juries.' The one shilling an inquest did not operate in Preston.
- 131 *Preston Pilot* 17th June 1848
- 132 *Preston Guardian*. 24th June 1848. The foreman of the jury was in a position to 'exert great influence on the jury's verdict'. Cornish, *The Jury*. p.48. Raw was replaced as foreman by Greenall and the appointment was made by the jurors and not by Palmer.
- 133 J.A. Dowling, *The whole proceedings before the coroner's inquest at Oldham on the body of John Lees*. Manchester 1820. The transcript of the 1819 John Lees inquest emphasises the constitutional relevance of the open court. Unlike Thomas Ferrand, who was the coroner in that inquest, Palmer held an open court but he did not comment on Ferrand's views.
- 134 William Dobson, 'Brief Memoir of the late Richard Palmer Esq.' reprinted from *Preston Chronicle* 12th and 18th December 1852. Local Pamphlets. Ref LEO2 Preston. Harris Library, Preston.
- 135 *Liverpool Mercury*, 20th June 1848
- 136 *Preston Guardian*, 24th June 1848

- ¹³⁷ *ibid*
- ¹³⁸ *ibid*. Steam boilers in the 1840s were almost entirely hand made. The plates that gave the boilers their jackets were punched out by machinery and then welded by hand-hammers. Hydraulic riveting was introduced in 1850s but made slow progress. At inquests boiler makers were more common as expert witnesses than mechanical engineers. Robert Armstrong, *Rudimentary Treatise on Steam Boilers*, London 1850 p.98. For an overview. Samuel p.42
- ¹³⁹ *Preston Pilot*, 24th June 1848
- ¹⁴⁰ *Preston Guardian*, 24th June 1848
- ¹⁴¹ *ibid*
- ¹⁴² Baker, p.298
- ¹⁴³ *Preston Pilot*, 24th June 1848
- ¹⁴⁴ *Preston Guardian*, 24th June 1848
- ¹⁴⁵ Geoffrey Best, *Mid-Victorian Britain, 1851-75*. London. Third Impression 1985, pp.242-3. The factory movement and industrialisation had an impact on the role of drink in Victorian social history.
- ¹⁴⁶ *Preston Guardian*, 24th June 1848.
- ¹⁴⁷ *ibid*
- ¹⁴⁸ *Preston Guardian*, 21st June 1848
- ¹⁴⁹ *Preston Guardian*, 21 July 1848
- ¹⁵⁰ *The Times* 1st August 1848 and 4th August 1848, *Liverpool Mercury* 1st August 1848, *Preston Pilot* 5th August 1848
- ¹⁵¹ *Preston Chronicle* 5th August 1848. *Preston Guardian* 5th August 1848 and *Southport Visitor* 5th August 1848 which reprinted the account in *Manchester Guardian* describing the mill as 'of old construction'.
- ¹⁵² *Manchester Guardian* 3rd September 1884. *Gazette & News* 9th September 1884.
- Brian Harrison, *Drink and the Victorians. The Temperance Question in England 1815-1872*. Keele University Press. 2nd Edition 1994. p.112 and p.29. John Baker 'The Public Figure' in Ian Levitt (Ed) *Joseph Livesey of Preston: Businessman, Politician and Moral Reformer*. Preston 1996 p.33.
- Livesey Collection. Special Archives Department, University of Central Lancashire Preston, H.C.G. Matthew and Harrison (Eds), *Oxford Dictionary of National Biography in association with the British Academy. From the earliest times to the year 2000*. (hereafter *O.D.N.B.*) Oxford 2004 Vol. 34 P.58 and John Greenaway, *Drink and British Politics since 1830. A Study in Policy Making*. Basingstoke, Palgrave Macmillan 2003 Chapter 1
- ¹⁵³ Dickinson, *Preston Mill Engines*. p.4.9. *Preston Guardian*, 8th May 1847
- ¹⁵⁴ Scott, Vol. 2 p.36
- ¹⁵⁵ *Assessment of Cotton Mills in Preston about 1844*. Harris Library Preston Ref. D74ASS. Boiler houses usually had two storeys above them. Fairbairn stated that 'it was advisable ... to have boilers in a separate building distinct from the factory'. Letter dated 28th March 1863 printed in Pole, p.275-7.
- ¹⁵⁶ Dickinson, *Preston Mill Engines*. 10.1 The Lancashire boiler, whose small twin furnace tubes were much stronger than the large single one of the Cornish boiler, was not patented by Fairbairn and John Hetherington of Manchester 1844. Pole p.258
- ¹⁵⁷ *Preston Guardian*, 5th April. *Preston Pilot* 5th August 1848
- ¹⁵⁸ *Preston Chronicle*, 5th August 1848. *Preston Guardian*, 5th August 1848
- ¹⁵⁹ Mannex, p.665. Hayes had only recently joined Palmer's solicitors practice. He is not shown in the 1845 Law List. The latter shows some 68 attorneys in practice in Preston which was a larger number per head of population than in other Lancashire towns. *The Law List being a List of the Judges and Officers of the*

- Different Courts of Justice: Counsel with the dates of their call and Inns of Court; Special Pleaders, Conveyancers, list of certificated Attorneys, Notaries etc in England and Wales.* London 1845, pp.359-360.
- Preston Law Society founded 1st September 1834 was one of the earliest local law societies to be established in England. Hewitson, *History* p.285. 'Preston is a legal stronghold'. Peter Borsay, *The English Urban Renaissance. Culture and Society in the Provincial Town. 1660-1770.* Oxford 1989. p.206. 'Preston, home of the Duchy of Lancaster courts and a place well populated by "attorneys, proctors and notaries"'. Borsay, 'The English Urban Renaissance: The Development of Urban Cultures c.1680 – c.1760' in Borsay, (Ed.) *The Eighteenth-Century Town. A Reader in English Urban History 1688-1820.* London. 1990. p.165 'Preston ... nurtured a growing legal profession'.
- 160 *R v Perkin* (1845) 7 QB 165. An inquest held by a deputy is properly described as taken before the coroner and is properly signed in the name of the coroner. Referred to in *R v Johnson* (1873) 42 L.J.M.C 41
- 161 *Preston Pilot*, 5th August 1848
- 162 *Preston Chronicle*, 5th August 1848. Morgan, p.240
- 163 *Preston Pilot*, 5th August 1848
- 164 *ibid*
- 165 *ibid*
- 166 John Stevenson & Co of Canal Bank Foundry Preston had been established by 1837. It specialised in boilers and supplied them to many Preston cotton mills. Dickinson, *Preston Mill Engines*. p. 2.2
- 167 *Preston Guardian* 5th August 1848. Stevenson would have been called by the Blackburn county coroners to give expert scientific evidence at the 1853 Eagle Mill explosion if Fairbairn had not been available. *Blackburn Standard* 9th November 1853
- 168 *Preston Pilot*, 5th August 1848. Fairbairn referred to steamboilers as 'not infrequently worked ... [by] incompetent or ignorant men unable to see when danger arose or unscrupulous as to overtaxing the powers of the apparatus'. Pole p.266
- 169 W.A. Dinsdale, *History of Accident Insurance in Great Britain.* London. 1954 p.40 and pp.133-145. Employees as well as employers resented intrusion by boiler inspectors. Clayton had established his foundry in Preston in 1835 and 'had the boiler monopoly for [Preston]'. Dickinson, *Preston Mill Engines* 2.1
- 170 *Preston Guardian*, 5th August 1848
- 171 *ibid*
- 172 *ibid*
- 173 LRO QSP 3326/1000. Dodds was not paid any expenses by Palmer. Neither were Stephenson, Clayton or Lomax. Others were paid 2/6 apart from Holden, who was paid £1.1.0
- 174 *Preston Guardian*, 5th August 1848. W.H. Chaloner, *National Boiler 1864-1964. A Century of Progress in Industrial Safety.* Manchester 1964 P.1 Manchester Steam Users' Association investigated the cause of every boiler explosion and circulated an abridged account of the cause of each explosion – basic cause was that the boiler was too weak for pressure at which it was worked or original malconstruction or lack of repair. Pole, P.282
- 175 The safety device of Fairbairn's Lancashire boiler post 1844 is fully set out in Dickinson, *Preston Mill Engines*. 10.1 to 10.2. *Preston Guardian*, 5th August 1848
- 176 G.N. Von Tunzelmann, *Steam Power and British Industrialisation to 1860.* Oxford. 1978. P.88 citing Artizan Vol. III. 1845 PP87-91
- 177 *Preston Guardian*, 5th August 1848

- 178 *Liverpool Mercury*. 11th August 1848. In the Sarah McCluskey inquest a few days earlier Liverpool jurors had asked similar advice about deodands. However, the use of deodands against mill machinery or boilers as distinct from railway engines was not common. Cawthon, *Job Accidents*. P.170 n.22
- 179 *The Times* 25th August 1848. Sutton, 'The Deodand and Responsibility for Death' in *Journal of Legal History*. Vol. 18. No 3 December 1997. P.47
- 180 *The Times* 4th August 1848. *Preston Guardian* 5th August 1948. *Preston Pilot* 5th August 1848. 'that there will be a further investigation there seems to be little doubt'. Von Tunzelmann. P.88
- 181 *Liverpool Mercury* 3rd September 1884 *Liverpool Daily Post* 3rd September 1884 *Leeds Mercury* 3rd September 1884 and *Southport Visitor* 4th September 1884. Dobson, *Proud Preston*. Livesey was a member of the first elected Preston Council. P.9. Morgan, P.107
- 182 Walton PP164-5. Pearce, *The Life and Teachings of Joseph Livesey*. 'I seem at present to have little taste for politics' P.50. Margaret Clark, 'The Business and Family Man' in Levitt, *Joseph Livesey of Preston* '[he] emphasized the social gospel characteristic and his concern for the poor is a genuine and outstanding characteristic'. P.25. *Biographical Dictionary of Modern British Radicals*. Vol 2 1830-1870 Edited by Joseph O. Bayless and Norbert J. Gossman. Harvester Press Sussex 1984 P.293
- 183 L.R.O. DDX 398/19 and LRO DDPd. 15.3
- 184 *Preston Guardian*. 5th August 1848
- 185 Joseph Livesey collection: obituary notices and press cuttings 1884 Harris Library Preston Ref. M0081250
LC
- 186 *Preston Chronicle* 12th August 1848. Charles Hardwick, *History of the Borough of Preston in the County of Lancaster*. Preston 1857 PP327-8 N.J.
- 187 *Preston Chronicle* 12th August 1848
- 188 *Preston Chronicle* 5th August 1848
- 189 *Preston Guardian* 5th August 1848
- 190 *Preston Chronicle* 4th August 1848
- 191 The Dobson family were the proprietors, jointly with Isaac Wilcockson, of the *Preston Chronicle*. William Dobson, keenly interested in liberal politics, was Editor until March 1868. *Preston Guardian* 13th August 1884 and *Preston Chronicle* 16th August 1884. Hewitson, *History* PP341-4
- 192 Vernon, *Politics and the People* P.193. Lobban, 'From seditious libel to unlawful assembly: Peterloo and the changing face of political crime.' in *Oxford Journal of Legal Studies* X (1990) P.329. David Newsome, *The Victorian World Picture. Perceptions and Introspections in an Age of Change*. London 1997 PP74-5
- 193 *Preston Guardian* 12th August 1848
- 194 Cheryl R. Tabor, *The Preston Cotton Unions. An Account of their organisation and activities c 1830-1850*. Unpublished B.A. dissertation University of Manchester 1972 P.30 and P.36. Hewitson described Canon Parr as 'the smartest man Preston Protestants could have' to promote social reforms cited in Smith. *A Popular History* PP44-6. Canon Parr's sectarianism is apparent from sermons and lectures published post 1850: for example, *Two Sermons on the Christian Ministry preached in Preston*. Preston 1851, *Restrictive Laws against Rome necessary: a sermon preached in the parish church Preston*. March 9th 1851. Preston printed by H.C. Barton 1851. *The Recent Attacks on the Church of England. Letters in reply to Father Cobb*. Preston printed by the Herald Newspaper Co Ltd 1866 and *Mutual Subjection: A Sermon preached in the Parish Church before the worshipful mayor Thomas Monk Esq and other members of the Corporation of Preston on Sunday February 8th 1852*. Preston. H.C. Barton 1852. The above are included in the Parr Collection held by the Harris Library Preston. Morgan, PP155-157.

- ¹⁹⁵ John was one of the sons of Joseph Livesey. From 1844-59 the family managed the *Preston Guardian* which has been described as one of 'the most influential papers in north Lancashire'. Baylis and Gossman P.294. Morgan, PP.96-8
- ¹⁹⁶ F. Pollock and F.W. Maitland, *The History of English Law before the time of Edward I*. Second Edition. Cambridge 1952 Vol II P.643. R.F. Hunnisett (Ed) *Bedfordshire Coroners' Rolls*. Publications of the Bedfordshire Historical Record Society. Vol XLI Luton 1960 P.VIII
- ¹⁹⁷ *Preston Chronicle*. 12th August 1848
- ¹⁹⁸ *Preston Guardian*. 12th August 1848
- ¹⁹⁹ *Preston Pilot*. 12th August 1848
- ²⁰⁰ *ibid*
- ²⁰¹ *Preston Chronicle* 12 August 1848
- ²⁰² *ibid*
- ²⁰³ *ibid*
- ²⁰⁴ *ibid*
- ²⁰⁵ Edwin Hodder, *Life and Works of the seventh Earl of Shaftesbury*. London 1886. Vol. 1. P.346. 'if [children] perished in the machinery it was a rare thing for a coroner's inquest to be held and rarer still for it to issue anything but a commonplace verdict'. P.140. G.F.A. Best, *Shaftesbury*, B.T. Batsford Ltd, London 1964 PP38-9. Ward, (Ed) *Popular Movements c. 1830-1850*. London 1970 P.73
- ²⁰⁶ *Preston Guardian*, 6th August 1848
- ²⁰⁷ *Preston Chronicle*. 12th August 1848
- ²⁰⁸ *Garnett v Ferrand* (1827) 6 B&C 611 *Jewison v Dyson* (1842) 9 M.&W. 540. Prichard, P.119. 'apart from the basic statutory requirements ... [the coroner] controlled everything else, including whether the court should be held in camera'.
- ²⁰⁹ J. Bowman. Letter to Editor printed in *Preston Guardian* 12th August 1848
- ²¹⁰ *Preston Guardian* 19th August 1848 'the oldest practising solicitor in Preston'.
- ²¹¹ *Preston Chronicle*. 12th August 1848
- ²¹² Letter from J.A. to Editor dated 8th August 1848 headed 'The Boiler Explosion at Brunswick Mill' printed in *Preston Guardian* 12th August 1848
- ²¹³ *Preston Pilot*. 12th August 1848
- ²¹⁴ *Preston Guardian* 12th August 1848
- ²¹⁵ Pearce, *Life and Times* P.122. *Manchester Guardian* 3rd September 1984. Livesey was associated with the majority of Preston's Liberal causes. His Christian beliefs were the basis of his social conscience and of his concern about working conditions in the town's cotton mills. T. Walmsley, *Reminiscences of the Preston Cockpit and the Old Teetotalers*. Preston 1892 PP16-17 and F. Coupe, *Walton-le-Dale. A History of the Village*. Preston 1954 PP155-6
- ²¹⁶ *Preston Chronicle*. 12th August 1848
- ²¹⁷ *ibid*
- ²¹⁸ *Preston Guardian*. 12th August 1848
- ²¹⁹ *ibid*
- ²²⁰ Harrison, P.31
- ²²¹ Dinsdale, P.37
- ²²² Dickinson, *Cotton Mills* P.86. Coroners featured spasmodically in the national scandal of boiler explosions. The latter were frequently identified with Lancashire and Yorkshire cotton mills. Boilers were of the Waggon and single flue Cornish type of crude construction and 'most unsuitable in meeting the increased pressure

demanded'. P.85 and Pole P.260. Popular demand for regulatory action was often initiated by recommendations from coroners and coroners' jurors at inquests arising out of tragedies like the 1844 John Brooks Mill explosion, the 1845 Rothwell and Kitts explosion both in Bolton, the 1848 Royal Sovereign Mill explosion and the 1848 Brunswick Mill explosion both in Preston, the 1852 Finsley Mill explosion in Burnley, the 1853 Eagle Mill explosion in Blackburn, and the 1854 Bridgefield Mill explosion in Rochdale. Sometimes coroners adjourned inquests in order to obtain scientific evidence as to steam boilers. For example, Fairbairn provided expert evidence to the Bolton borough coroner John Taylor in the 1845 Rothwell and Kitts inquest. On his evidence the jury recorded a verdict of manslaughter against Kitts and recommended that his Report 'should be forwarded to the Secretary of State Home Department with a view of bringing the subject of steam-boilers before the legislature'. *Bolton Chronicle* 27th December 1845 and *Bolton Free Press* 27th December 1845. A few years later Fairbairn provided evidence to the Blackburn county coroner John Hargreaves at the 1853 Eagle Mill explosion when the jury returned a verdict of manslaughter and called upon the Mayor to hold a meeting of mill owners and boiler manufacturers to consider steam boiler inspections. *Blackburn Standard* 2nd November 1853 and 9th November 1853. The jurors asked that Fairbairn's Report to the coroner be published 'as a very important document in its general bearing upon the management of steam boilers'. *Blackburn Standard* 16th November 1853. Pole, P.268 and Chapter XVI. An association called 'The Manchester Steam Users' Association for the Prevention of Steam Boiler Explosions and for the attainment of Economy in the Application of Steam' was founded by Fairbairn to provide engineering advice with a system of voluntary inspection. It wanted the government to set up an independent tribunal to make 'a most searching investigation in the event of every explosion' and it wanted 'another and more competent court, entirely independent of the coroners'. In effect, it was another pressure group. Letter of Lavington E. Fletcher, Engineer to Manchester Steam Users' Association dated 5th July 1876 printed in Pole, PP.281-284. However, legislation was delayed a generation until the 1882 Boiler Explosion Act which was largely the result of efforts of the Manchester Steam Users' Association initiated in part by coronial recommendations.

Musson, 'Industrial Motive Power in the United Kingdom 1800-70' in *Economic History Review*. Second Series. Vol 29 1976 PP415-439

- 223 *Manchester Steam Users' Association. Jubilee Book 1854-1904*. P.27 Opinions differed as to the propriety of combining inspection of steam boilers with insurance but inspection was the foundation upon which engineering insurance was built. Dinsdale P.142. Inspection and insurance feature in Fairbairn's evidence about coroners' inquests and steam-boiler explosions given to the Chairman of the Select Committee on the Causes of Steam Boiler Explosions. Report of Proceedings. Minutes of Evidence 1870 (370) X. 459 P.2
- 224 *Preston Guardian*. 19th August 184. Watson, P.196
- 225 Havard, PP170-181
- 226 *R v Carter* (1876) 45. LJQB. 72. Jervis, P.275
- 227 *Preston Guardian*. 19th August 1848
- 228 Harold Perkin, *The Origins of Modern English Society*. London 1969. P.168 citing K.K. Macnab, *Aspects of the History of Crime in England and Wales between 1850 and 1860*. Unpublished D.Phil. thesis University of Sussex 1965. D.F. Smith, 'Sir George Grey and the mid-Victorian Home Office' in *Canadian Journal of History*. Vol. 19. December 1984 PP361-386. *O.D.N.B.* Vol. 23 P.840. Howard Taylor, 'Rationing Crime: the political economy of criminal statistics since the 1850s' in *Economic History Review* L1.3 (1998) pp.569-590
- 229 *Preston Pilot*. 19th August 1848. *Preston Guardian*. 31st March 1849 The family of one injured mill worker wrote to say that 'their treatment [had] more resembled that of parents than of strangers' Letter of John Taylor

- dated 23rd June 1848 printed in *Preston Pilot* 24th June 1848. Morgan, P.364 'an hierarchical dependence on the master with overtones of family loyalty in the mill'.
- ²³⁰ *Preston Chronicle*, 19th June 1841 and 7th August 1847. P.H.J.H. Gosden, *The Friendly Societies in England 1815-1875*. Manchester University Press 1961 pp. 6-12. Gosden, *Self-help: voluntary association in nineteenth century Britain*. London. B.T. Batsford 1993 Chapter 1. B. Supple, 'Legislation and Virtues: An Essay on Working-Class Self-Help and the State in the Early Nineteenth Century' in Neil McKendrick (Ed) *Historical Perspectives: Studies in English Thought and Society in honour of J.H. Plumb*. London 1974 pp. 211-55. Gray, P.226 'language of deference and gratitude ... limited to the workplace and the immediate community'. Hoppen, p. 256 'textile mills began to function like urban visions of landed estates'. Musson, 'Craft Unions, Welfare Benefits and the Case for Trade Union Reform 1867-75: A Comment' in *Economic History Review* 2nd Series Vol. 29. 1976 pp.626-30 provides an overview of earlier research. R.J. Morris, 'Structure, culture and society in British towns' in Daunt, p.406 'the paternalism of the mill town ... found a ready response in the 'populist' perceptions of social reality which pervaded the culture of these towns'. Hilton, p.590
- ²³¹ *Preston Guardian*, 3rd January 1846, 30th May 1846 and 27th June 1846.
- ²³² 11. Hen. 7 c12. Suing in forma pauperis 1495. J.M. Maguire, 'Poverty and Civil Litigation' in *Harvard Law Review* Vol.XXXVI (1923) PP361-88. F.C.G. Gurney-Champion, *Justice and the Poor in England. An Account of the position of the poor in legal matters in England and Wales; and a study of the inequality in the administration of justice, where they are concerned, and of the remedies which have been attempted and suggested*. London 1926. p.2. 'the constitutional right to equality in the administration of justice'. The 1495 Act was repealed in 1883 by the Statute and Civil Proceedings Act. 46 & 47 Vict. c49. P.C. Alcock, *A Study of Legal Aid and Advice in England and Wales*. Unpublished M.Phil. thesis CNA 1976 p.27 cited in Bartrip, *Workmen's Compensation*. P.13 n6 Christopher W. Brooks, *Lawyers, Litigation and English Society, since 1450*. London 1998 pp.27-147. Watson, pp.197-9
- ²³³ Charles Russell, *The Practice of the Court of Passage of the Borough of Liverpool with an Appendix of Statutes, Rules, Practical Forms and Pleading Precedents*. Liverpool 1862. 'the plaintiff must swear that, except his apparel and the matter in question in the cause or intended cause he is not worth £5.' p.90
- ²³⁴ Stein, p.725
- ²³⁵ 9 & 10 Vict. c95 An Act for the Recovery of Small Debts and Demands in England [28th August 1846]
- ²³⁶ *Cook v Imperial Tobacco Co Ltd*. [1922] 2. K.B. 158. B. Abel-Smith and R. Stevens, *Lawyers and the Courts. A Sociological Study of the English Legal System*. London 1962. p.138
- ²³⁷ 9 & 10 Vict. c93 Fatal Accidents Act 1846 required legal action to be brought by personal representatives of deceased persons on behalf of dependants. The latter were narrowly defined. The cost of a grant of representation, usually between 16s and 20s, was beyond the means of working families but was not within the ambit of actions in forma pauperis. Only after the 1864 Accidents' Compensation Act was funding provided for a grant of representation. Even then litigants were deterred by the complex and rigorous system of pleadings. Bartrip and Burman. p.94, p.108 and pp. 115-16
- ²³⁸ Simpson, *Leading Cases* 'given the cost of litigation, and the poverty of the working population, tort law was largely irrelevant'. PP.117-118. Bartrip, *The Home Office*. p.7 Cawthron, *Job Accidents* 'in no instance did the Secretary of State actually bring suit in the name of an injured factory employee'. p.141. In the majority of occupational deaths the inquest was the only court of law available to the families of the deceased. In Preston, therefore, Palmer was the presiding judicial officer investigating the same on their behalf. The efficacy of this investigation depended on him. Cawthron, *Occupational Accidents and the Law. The Role of Coroners' Inquests in England 1830-1850*. Unpublished Ph.D. thesis. University of Virginia 1985 pp.442-3

- ²³⁹ Bartrip and Burman, pp. 97-125. Early friendly societies, like coroners' inquests, held their meetings in local public houses. They provided 'the means by which a group of men could mutually provide for sickness and the support of widows and orphans'. Their development in the 1840s arose partly out of the failure of the common law to provide compensation for the increased number of factory accidents and partly out of fear of the poor law. Bruce. p.11; Morgan, p.151
- ²⁴⁰ Baker, *An Introduction to English Legal History*. London 1971 pp. 276-7 The printed trial report has not survived in the Northern Circuit assize court records and cannot be found in the Old Bailey Sessional papers.
- ²⁴¹ *The Times* 27th March 1849
- ²⁴² *O.D.N.B.*, Vol.1 pp.614-5. *Preston Pilot* 10th March 1849. Editorial headed 'Baron Alderson and Coroners' Juries'. *Law Times*, 31st January 1857 and 7th February 1857.
- ²⁴³ *Liverpool Mercury*, 27th March 1849. *Liverpool Mail* 31st March 1849 and *Liverpool Albion* 2nd April 1849
- ²⁴⁴ *Preston Guardian*, 31st March 1849 and *Preston Pilot* 31st March 1849. Usually trial juries heard the same evidence as presented to the coroner but Knowles called fewer witnesses than had given evidence at the inquest.
- ²⁴⁵ *Preston Guardian*, 31st March 1849
- ²⁴⁶ *ibid*
- ²⁴⁷ *Liverpool Mail*, 31st March 1849. 'the obligation which the law casts on any man in the management of his business not to work to the injury of other people'.
- ²⁴⁸ *Preston Guardian*, 31st March 1849
- ²⁴⁹ *Liverpool Mercury*, 27th March 1849 and *Liverpool Mail*, 31st March 1849
- ²⁵⁰ *Preston Pilot*, 31st March 1849
- ²⁵¹ *Liverpool Mail*, 31st March 1849 'a gentleman at Preston had been appointed to consider the question of compensation' and Alderson acknowledged the submission of Wilkins. *Liverpool Albion*, 2nd April 1849
- ²⁵² *The Times*, 27th March 1849
- ²⁵³ *Liverpool Mercury*, 27th March 1849
- ²⁵⁴ *Preston Guardian*, 31st March 1849. Dobson wrote that the nominal sentence had 'caused much surprise as being out of all proportion to the offence.' but he went on to say that Fogg was 'not the real criminal' and that Cooper and Garrington were 'the real culprits'. However he did not urge a further indictment against them being content that Alderson's verdict represented 'a [triumph] being recorded against the reckless system of working with imperfect machinery.'
- ²⁵⁵ The Victorian Steamship Explosion Inquest was adjourned six times for expert evidence, and lasted over two months. See *The Times* 18, 23, 27 and 28 June 1838; 4 and 19 July 1838; and 2, 15, 18 and 22 August 1838.
- ²⁵⁶ The Charles Carlisle Inquest and the Pooley Cotton Mill Steam Boiler Explosion, *Morning Chronicle* 30 October 1850.
- ²⁵⁷ The Bailey Dewhurst Cotton Mill Explosion and the three inquests arising from the tragedy, *Manchester time* 30 October 1846.
- ²⁵⁸ Letters from coroners of Durham, Oxford, Portsmouth and Barnstaple to the Secretary of State Home Department listed in T.N.A. HO45/7605 'Expert assistance to coroners at boiler explosion inquests'. Adjoining Lancashire coroners instructed Fairbairn. For example, at the 1846 Bailey and Dewhurst cotton mill explosion at Ashton under Lyne the East Lancashire coroner adjourned the inquest for Fairbairn to examine the boiler and to give evidence. *Manchester Times*. 30th October 1846. At the 1851 Hardman and Price cotton mill explosion at Bury where 9 died and where the circumstances were similar to the 1848 Royal

- Sovereign Mill explosion at Preston, Herford instructed Fairbairn and 'other practical and scientific men'. Herford summed up the evidence for the jurors in detail directing attention to repeated cautions having been given of the dangers of running the engine with too little water in the boiler. The jurors retired for 3 hours to consider a verdict. They then handed Herford a written verdict of manslaughter against both the engine tender and the employer. Both were committed to Liverpool Assizes. *Preston Chronicle*, 12th August 1851
- 259 Maria White Greenwald and Gary I. Greenwald, 'Coroners' Inquests. A Source of Vital Statistics: Westminster 1761-1866' in *The Journal of Legal Medicine*. Vol. 4. No 1. 1983 P.83
- 260 *Preston Pilot*, 11th December 1852
- 261 *Preston Guardian*, 23rd September 1848. P. Whittle, *The History of the Borough of Preston in the County of Lancaster*. Vol II. Preston 1837. P.297 Whittle's admiration of Palmer pre-dated the controversial 1848 inquests. LRO DDX 398/79 Resolutions of Preston Borough Council dated 9th December 1852 addressed to Palmer's family following his death.
- 262 *Select Committee on Steam Boiler Explosions*. Parliamentary Papers, 1871, XII. Question 962. *Cawthron, Job Accidents*. p.153. '[the Acts] were (at best) legalistic in form and narrow in interpretation ... an ill-disguised attempt ... to kick the teeth out of the one type of legal forum which had shown any sustained sympathy for the victims of occupational accidents - the coroner's inquest.'
- 263 *Liverpool Mercury* 16th August 1844 and *Liverpool Journal* 17th August 1844 featuring the 1844 John Brooks Linen Mill steam boiler explosion in Bolton reported in *Bolton Chronicle* 13th July 1844 and *Bolton Free Press* 13th July 1844. That steam boiler explosion was followed by the 1845 Rothwell and Kitts steam boiler explosion reported in *Bolton Chronicle* 20th December 1845 and 27th December 1845. Terence Ingman, *The origin and development up to 1899 of the Employer's Duty at Common Law to take reasonable care of the safety of his employee*. Unpublished Ph.D. thesis. CNA 1972, p.249. Ingman, 'The Rise and Fall of the Doctrine of Common Employment' in *Juridical Review* Vol. 23 (1978) pp.106-9 and Bartrip and Fenn, 'Factory Fatalities and Regulations in Britain, 1878-1913' in *Explorations in Economic History*. Vol. 25 (1988) pp.61-3.
- 264 Burney, *Bodies* p.9
- 265 *Liverpool Mail* 31st March 1849. *Liverpool Albion* 2nd April 1849. Earlier cases included *R v George Branscombe* a trial for manslaughter at South Lancashire Assizes 15th August 1844 reported in *Liverpool Mercury* 16th and 17th August 1844 and *Bolton Free Press* 24th August 1844.
- 266 *Liverpool Albion* 2nd April 1849
- 267 T.N.A. HO45/7605 Coroners and inquests: Inquest into a boiler explosion. Jones, pp.22-5
- 268 G. Kitson Clark, *The Making of Victorian England*. London 1962. p.280 'they did not see the full import of what they had to learn'.
- 269 Walton, *Social History* pp.184-5. Ward, PP230-1 and Gray, P22 'a language of reform, Christian benevolence and social and moral order'
- 270 Pearce, *Life and Times*. pp.31-4
- 271 T.N.A. HO45/7605. File. 'Boilers: Explosions: suggestions for prevention'. In press reports of steam boiler explosion inquests in the 1840s boiler manufacturers and boiler engineers were generic variants of the same. Sub-specialists in engineering were emerging with the Institution of Civil Engineers in 1818 and the Institution of Mechanical Engineers in 1847, but this spread of advanced industrial technology was not evidenced by Palmer's use of such experts at Preston inquests.
- 272 R.F.V. Heuston, *Salmond on the Law of Torts*. Eleventh Edition. London. 1953 PP123-4. Bruce, P.70 and H.M. Lynd, *England in the Eighteen-Eighties*. London 1945. p.160. The Act has to be studied in conjunction with the 1897 Workmen's Compensation Act. See Reference 273.

- 273 Letter of Lavington E. Fletcher dated 5th July 1876 printed in Pole, PP281-2
- 274 Bill for compensating Families of Persons Killed by Boiler Explosions through Neglect or Default of Owner 1864 (89) 1.103
 Bill to promote more efficient Remedy to Persons injured and Property damaged by Explosion of Steam Boilers from Negligence. 1871 (273) VI. 201. 1872 (2) V. 603
 Bill to make better provision for Inquiries with respect to Boiler Explosions. 1881 (39) 1.379 1882 (4) 1.383 [as amended in Ctee and in Consideration as amended] 1882 (100) 1.389 [Lords' Amendments] 1882 (210) 1.397
 Select Committee on Cause of Steam Boiler Explosions
 Rep. Proceedings. Mins. of Ev. Ap. Index 1870 (370) X. 459
 Rep. Proceedings. Mins. of Ev. Index 1571 (298) XII 267
 Although the Committee was established in 1870 it did not complete its report before the end of the Parliamentary session.
 60 & 61 Vict. c.37. An Act to amend the Law with respect to Compensation to Workmen for Accidental Injury suffered in the course of their Employment. [6th August 1897] [The Workmen's Compensation Act 1897].
- 275 Bartrip, *The State*. p.89
- 276 Midwinter, 'hitherto the employee had to take care of himself; now the state secured for him adequate insurance'. p.52. P. Thane, 'Government and Society in England and Wales 1750-1914' in Thompson, *The Cambridge Social History of Britain 1750-1950*. Vol. 3. Cambridge University Press 1990 PP44-50 and Bartrip, *The Home Office*, p.282.
- 277 R.C.K. Ensor, *England 1870-1914*. Oxford 1936 p.237. Derek Fraser, *Power and Authority in the Victorian City*. Oxford 1979 PP151-3. Bartrip, *Safety at Work*, pp10-24, Bartrip, *Workmen's Compensation*, pp.1-15, Keith Laybourn, *The Evolution of British Social Policy and the Welfare State c1800-1993*. Keele University Press 1995 PP75-80, Lubenow, p.10, Waller, pp.240-80. Alan Fowler, *Lancashire Cotton Operatives and Work 1900-1950. A Social History of Lancashire Cotton Operatives in the Twentieth Century*. Aldershot 2003. PP174-179 and Bernard Harris, *The Origins of the British Welfare State. Society, State and Social Welfare in England and Wales 1800-1945*. Palgrave Macmillan. Basingstoke 2004, pp15-53
- 278 McKendrick, 'Home Demand and Economic Growth: A New View of the Role of Women and Children in the Industrial Revolution' in McKendrick (Ed.) *Historical Perspectives*. pp.152-210
- 279 Baker, P.113
- 280 The Workmen's Compensation Act 1897. Bartrip and Burman, pp.207-19 '[the Act] provided injured workers and relatives of those killed with an alternative to tort action as a means of gaining financial redress'. Bartrip and Fenn, *Factory Fatalities*, p.65. Until 1906 the application of the Act was limited to certain dangerous occupations but it was the harbinger of the welfare state.
- 281 E.L. Woodward, *The Age of Reform 1815-1870*. Oxford 1949. p.429 and R.A. Buchanan, 'Engineers and government in nineteenth century Britain' in MacLeod PP4-47
- 282 48 & 46 Vict. c.22 An Act to make better provisions for Inquiries with regard to Boiler Explosions [12th July 1882] Section 5 and 53 & 54 Vict. c.35 An Act to amend the Boiler Explosions Act 1882 [4th August 1890] Sections 3 & 4 58 & 59 Vict. c.37 An Act to amend the Law with respect to Compensation to Workmen for accidental Injuries suffered in the course of their Employment. [6th August 1895]. Hitherto, the requirement as to notification to the Factory Inspectorate had been restricted.
- 283 W.L. Burn, *The Age of Equipoise. A Study of the Mid-Victorian Generation*. New York 1965 pp.223-4. Hoppen, pp108-110

²⁸⁴ Burney, *Bodies*, p.165 'the government's attempts to manage the claims of science and of the public... reinscribed in important respects their deeply entrenched and complex relation even as it was ostensibly being resolved'. Although Burney's comments referred primarily to the state, medical science and the public, the same were equally applicable to the history and sociology of the science of engineering in relation to steam boiler explosions, the state and the public.

²⁸⁵ *Preston Guardian*, 19th August 1848. Morgan, p.317

²⁸⁶ Fisher, p.211-2. Fisher argues that the Victorian inquest was 'expected to be the eyes and ears of central government if not one of its agents'. The 1848 Preston steam boiler inquests reflected those expectations.

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