

**Gender and Criminality in the East Midlands during the Personal Rule,
Civil Wars, and Interregnum.**

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for the degree of Doctor of Philosophy.

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“We had some laws (but now no laws)”: Gender and Criminality in the East Midlands during the Personal Rule, Civil Wars, and Interregnum.¹

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¹A Mad World, My Masters’ in Charles Mackay (ed.) *The Cavalier Songs and Ballads of England from 1642-1684*, (London: 1863), p.14.

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For Grandad B.

Published Works

Before Submission

Erin Newman, 'Wicked Whores or Virtuous Victims: Bastardy and Court Records 1630-1660', *Women's History Network*, (9 August 2021) [Wretched Whores or Virtuous Victims: Women, 'Bastardy' and Court Records 1630-1660, by Erin Newman – Women's History Network \(womenshistorynetwork.org\)](https://www.womenshistorynetwork.org/2021/08/09/wretched-whores-or-virtuous-victims-women-bastardy-and-court-records-1630-1660-by-erin-newman/)

Erin Newman, 'Gender and Assault in Nottinghamshire in 1630', *EPOCH Magazine* (31 August 2022) [Gender and Assault in Nottinghamshire in 1630 \(epoch-magazine.com\)](https://epochmagazine.com/gender-and-assault-in-nottinghamshire-in-1630/)

Abstract

Crime is irrevocably intertwined with financial, topographic, demographic, cultural, religious, and political aspects, and this is certainly true of the years incorporating Charles I's Personal Rule, the Civil Wars, and the Interregnum. These periods endured considerable governance, jurisdictional and administrative changes that filtered into local issues. This research demonstrates how these factors impacted crime at a local level in the counties of Derbyshire, Lincolnshire, and Nottinghamshire. Furthermore, the study explores how concerns regarding religious, social, and cultural aspects at a national level filtered down to the localities, affecting their judicial priorities.

Another factor that this study explores is the connection between crime and gender. It considers how a crime may have gendered associations regarding who was committing the crimes, the punishments given or the motivations. Moreover, the research engages with notions of gender performativity as to whether those who were offenders enacted idealised gender characteristics in their criminal acts or to mitigate punishments potentially. The study also engages in debates regarding the application of judicial authority within the localities and the mitigations of case outcomes.

The study utilises a statistical and case study analysis of the Quarter Sessions records to explore who was committing the chosen crimes of bastardy, theft, plus recusancy and absence from church (in terms of both gender and occupation); what crimes were committed and what punishments were given; when and where these crimes occurred; and to consider why these crimes happened.

KEYWORDS:

Crime, theft, bastardy, recusancy, gender, Personal Rule, English Civil War, Interregnum, Quarter Sessions, East Midlands, seventeenth-century popular literature.

Contents

Copyright Statement.....	i
Acknowledgements.....	ii
Published Works	iii
Before Submission	iii
Abstract.....	iv
Contents.....	v
List of Tables	x
List of Figures	x
Software.....	xii
List of Abbreviations	xiii
Miscellaneous	xiii
Transcriptions	xiii
Dates	xiii
Money	xiv
Introduction.....	1
Methodology:.....	10
Crimes and Counties	10
Popular Literature	13
Approach.....	17
Historiography:	18
Overview	18
Crime and Gender	20
Crime in the County	25
Crime and the Period	29
Structure:	33
Chapter One: Crime, the Courts, and the County in the East Midlands between 1630 and 1660.	36
Introduction:	36
The Criminal Process:.....	38
Definition	38
The Judicial System	40
Court Documentation and Difficulties	42
Roles within the Judicial System	46
Judicial Context	54
Locality:	56

Derbyshire:.....	58
Lincolnshire:	64
Nottinghamshire:	72
Conclusion:.....	79
Chapter Two: Wicked Whores or Runaway Rogues.....	81
Introduction:	81
Methodology:.....	84
Historiography and Originality:.....	88
Derbyshire:.....	92
Introduction:	92
Who (Sex):.....	92
Who (Occupation):.....	96
What:.....	98
What (Punishment):.....	101
When:.....	103
Where:	105
Concluding Thoughts:	106
Lincolnshire:	107
Introduction:	107
Who (Sex):.....	108
Who (Occupation):.....	112
What:.....	114
What (Punishment):.....	116
When:.....	118
Where:	121
Concluding Thoughts:	123
Nottinghamshire:	124
Introduction:	124
Who (Sex):.....	125
Who (Occupation):.....	130
What:.....	134
What (Punishment):.....	137
When:.....	140
Where:	146
Concluding Thoughts:	150
Conclusion:.....	151

Chapter Three: Pilfering Poor and Troublesome Thieves	159
Introduction:	159
Methodology:.....	162
Historiography and Originality:.....	164
Derbyshire:.....	167
Introduction:	167
Who (Sex):.....	168
Who (Occupation):.....	171
What (Stolen):.....	172
What (Punishment):.....	175
When:.....	177
Where:	178
Concluding Thoughts:	181
Lincolnshire:	182
Introduction:	182
Who (Sex):.....	182
Who (Occupation):.....	185
What (Stolen):.....	187
What (Punishment):.....	191
When:.....	196
Where:	198
Concluding Thoughts:	202
Nottinghamshire:	203
Introduction:	203
Who (Sex):.....	204
Who (Occupation):.....	206
What (Stolen):.....	207
What (Punishment):.....	211
When:.....	218
Where:	221
Concluding Thoughts:	228
Conclusion:.....	229
Chapter Four: Religious Radicals or Targeted Tolerance	235
Introduction:	235
Methodology:.....	237
Historiography and Originality:.....	239

Derbyshire:.....	242
Introduction:	242
Who (Sex):.....	243
Who (Occupation):.....	247
What:.....	250
When:.....	251
Where:	254
Concluding Thoughts:	260
Lincolnshire:.....	261
Introduction:	261
Who (Sex):.....	261
Who (Occupation):.....	263
What.....	265
When.....	266
Where	269
Concluding Thoughts	271
Nottinghamshire:.....	272
Introduction:	272
Who (Sex):.....	273
Who (Occupation):.....	279
What:.....	281
When:.....	283
Where:	286
Concluding Thoughts:	292
Conclusion:.....	292
Conclusion	298
Introduction	298
Regional Crime	298
Who (Sex).....	298
Who (Occupation).....	300
What.....	302
When.....	305
Where	307
Significance of this Study	309
Crime.....	309
Time	311

Gender	313
Conclusion.....	315
Bibliography	317
Primary Material:	317
Secondary Material:.....	324
Images	335
Software	336
Appendices.....	337
Appendix One - Links to Maps.	337
Appendix Two - Transcriptions	338
Derbyshire.....	338
Lincolnshire	345
Nottinghamshire	348
Appendix Three – Oath of Abjuration Transcription	351

List of Tables

Table 1: List of active Nottinghamshire JPs 1630 – 1660	Page 49
Table 2: List of active Derbyshire JPs 1630 -1660	Page 50
Table 3: List of active Lincolnshire JPs 1630 -1660	Page 51
Table 4: Bastardy punishments by sex and type in Nottinghamshire	Page 137
Table 5: Theft case pleas by sex in Derbyshire	Page 175
Table 6: Theft case pleas by sex in Lincolnshire	Page 192
Table 7: Theft outcomes by sex in Lincolnshire	Page 194
Table 8: Theft punishments by sex in Lincolnshire	Page 195
Table 9: Theft outcomes by sex in Nottinghamshire	Page 213
Table 10: Theft punishments by sex in Nottinghamshire	Page 215
Table 11: Religious case outcomes by sex in Nottinghamshire	Page 283

List of Figures

Figure 1: John Speed Map of Derbyshire	Page 59
Figure 2: GeoMap depicting garrisons in Derbyshire	Page 64
Figure 3: John Speed Map of Lincolnshire	Page 65
Figure 4: GeoMap depicting garrisons in Lincolnshire	Page 71
Figure 5: John Speed Map of Nottinghamshire	Page 76
Figure 6: GeoMap depicting garrisons in Nottinghamshire	Page 78
Figure 7: GeoMap of bastardy incidences in Derbyshire	Page 106
Figure 8: Line chart of bastardy by year in Lincolnshire	Page 119
Figure 9: Line chart of bastardy by year and sex in Lincolnshire	Page 119
Figure 10: GeoMap of bastardy incidences in Lincolnshire	Page 122
Figure 11: Bar chart of bastardy by occupation in Nottinghamshire	Page 130
Figure 12: Line chart of bastardy by year in Nottinghamshire	Page 140
Figure 13: Line chart of bastardy by sex and year in Nottinghamshire	Page 145
Figure 14: Line chart of bastardy by sex in the 1650s in Nottinghamshire	Page 146
Figure 15: GeoMap of bastardy incidences in Nottinghamshire	Page 149

Figure 16: Bar chart of theft by sex and occupation in Derbyshire	Page 172
Figure 17: Bar chart of items stolen in Derbyshire	Page 173
Figure 18: Bar chart of items stolen by men in Derbyshire	Page 174
Figure 19: Line chart of theft by sex and year in Derbyshire	Page 177
Figure 20: GeoMap of theft in Derbyshire	Page 180
Figure 21: Bar chart of theft by sex and occupation in Lincolnshire	Page 186
Figure 22: Bar chart of items stolen in Lincolnshire	Page 188
Figure 23: Bar chart of items stolen by men in Lincolnshire	Page 189
Figure 24: Bar chart of items stolen by women in Lincolnshire	Page 190
Figure 25: Line chart of theft by sex and year in Lincolnshire	Page 197
Figure 26: GeoMap of theft in Lincolnshire	Page 199
Figure 27: Plate from Ogilby's Britannia (1675) showing the Great North Road section at Northallerton.	Page 200
Figure 28: Heat map of rate of incidences in Lincolnshire	Page 201
Figure 29: Stacked bar chart of theft by year and sex in Nottinghamshire	Page 206
Figure 30: Bar chart of theft by sex and occupation in Nottinghamshire	Page 207
Figure 31: Bar chart of items stolen in Nottinghamshire	Page 208
Figure 32: Bar chart of items stolen by men in Nottinghamshire	Page 210
Figure 33: Bar chart of items stolen by women in Nottinghamshire	Page 210
Figure 34: Line chart of theft by year in Nottinghamshire	Page 219
Figure 35: Line chart of theft by year and sex in Nottinghamshire	Page 220
Figure 36: Plate from Ogilby's Britannia depicting the Great North Road at Tuxford to South Muskham	Page 223
Figure 37: Heat map of rate of incidences in Nottinghamshire	Page 226
Figure 38: GeoMap of theft bases by sex in Nottinghamshire	Page 227
Figure 39: Bar chart of religious crimes in Derbyshire	Page 243
Figure 40: Pie chart of religious recidivists by sex in Derbyshire	Page 244
Figure 41: Pie chart of religious sole offenders by sex in Derbyshire	Page 247
Figure 42: Stacked bar chart of recusancy and church absence in Derbyshire	Page 251

Figure 43: Line chart of total incidences of religious crimes by year in Derbyshire	Page 252
Figure 44: Line chart of total incidences of religious crimes by year and sex in Derbyshire	Page 253
Figure 45: Heat map of church absences in Derbyshire	Page 256
Figure 46: Heat map of recusancy in Derbyshire	Page 258
Figure 47: GeoMap of religious crimes and garrisons in Derbyshire	Page 259
Figure 48: Pie chart of religious sole offenders by sex in Lincolnshire	Page 263
Figure 49: Pie chart of religious recidivists by sex in Lincolnshire	Page 263
Figure 50: Line chart of total incidences of religious crimes by year in Lincolnshire	Page 266
Figure 51: Bar chart of total incidences of religious crimes by year and sex in Lincolnshire	Page 268
Figure 52: GeoMap of religious crimes in Lincolnshire	Page 270
Figure 53: Bar chart of religious crimes in Nottinghamshire	Page 273
Figure 54: Pie chart of religious sole offenders by sex in Nottinghamshire	Page 274
Figure 55: Pie chart of religious recidivists by sex in Nottinghamshire	Page 275
Figure 56: Flow chart of Molyneux family tree	Page 278
Figure 57: Bar chart of religious crimes by sex and year in Nottinghamshire	Page 284
Figure 58: Line chart of total incidences of religious crimes by year in Nottinghamshire	Page 284
Figure 59: GeoMap of religious crimes in Nottinghamshire	Page 290
Figure 60: Heat map of religious crimes in Nottinghamshire	Page 291

Software

Incidence of Crime Maps have been created using Orange Data Mining Software using the Geomaps Function. <https://orangedatamining.com/>

Hotspots of Crime Maps have been created using Scatter Mapbox on Python. <https://www.python.org/about/>

List of Abbreviations

DRO	Derbyshire Record Office
EBBA	English Broadside Ballads Archive
LA	Lincolnshire Archives
JP	Justices of the Peace
NA	Inspire Nottinghamshire Archives

Miscellaneous

Transcriptions

All English transcriptions have been completed by myself. For the minor number of Latin cases in Lincolnshire, I received greatly appreciated aid from Catherine Gower, PhD Candidate of Nottingham Trent University and Dr Paul Dryburgh of the National Archives – although none were related to crimes within this thesis.

The following changes have been made during transcription: capitalisation has been modernised, obsolete punctuation (e.g. ‘./.’) has been modernised, superscript has been transcribed as the regular script, standard abbreviations (e.g. ‘Qtr’ = ‘quarter’) have been expanded, shorthand symbols have been written out, and visible strikethrough words in the same hand have been translated into the main text and noted (scratched through). [?] denotes an unintelligible word in the original document that has been unable to be transcribed to the date of this submission. Words in [] are modern inputs to ensure the quotes make grammatical sense.

Derbyshire Record Office, Lincolnshire Archive, and Inspire Nottinghamshire Archives have kindly granted permission to reproduce transcriptions of the Quarter Session Records.

Dates

The dates of the court records follow the Julian-style calendar and are directly transcribed from the documents themselves. However, it has been modernised to one year for quantitative analysis, so January 1630/31 is analysed as January 1631.

Money

All monies are in their traditional form and value – pennies, shillings, pounds. These are often denoted as d for pennies, /- for shillings, £ for pounds. For example, 6d is sixpence, 5/- five shillings, and 5/3 is 5 shillings 3 pence.

Introduction

Gender and criminality are intrinsically linked. For instance, through gendered notions that certain crimes were typically committed by one sex or the other, the types of punishments given to either sex, the portrayal of the criminal as victim or perpetrator, the motivations for crime, or even cultural perspectives on the type of crime itself. A deeper insight can be gained into the lives of those considered 'outside' society – those who were often outcast for their criminal acts because they broke the law or undermined society's morals - by analysing the connection between these different aspects of crime and gender. Yet gender and social status were crucial to the processes for dealing with crime. For example, people who committed illegalities were not always deemed 'criminal' if those acts were perceived to have been enacted through desperation or if they adhered to gendered expectations.

These connections were even more apparent during turbulence and civil unrest when the laws of the land were often in question or rapidly changing. In times of war and constitutional change, national concerns regarding structure, administration, and governing institutions catalysed changes in laws and defined acts considered immoral and criminal, leading to targeted prosecution. These changes depended entirely on the ideologies of those on the 'winning side' who maintained political power at the time. This thesis will examine criminality and gender from 1630 to 1660, encompassing Charles I's Personal Rule, the Civil Wars in Britain and Ireland, and the Interregnum. It was a period of significant upheaval demographically, socially, ecclesiastically, and culturally – all of which impacted the laws in numerous ways. For instance, as well as changes in the laws themselves, this period saw changing perceptions of criminality, influenced crime motivations and resulted in fluctuating prosecution rates.

This thesis will consider whether female and male criminals defied or complied with specific gender ideals within these thirty years and those of the broader seventeenth century by examining the crimes they committed and their

possible motivations. For early modern women, there were often fundamental gender ideals that determined binary stereotypes of good versus bad women – mainly the maid; the wife; and the widow in contrast to the whore; the witch; and the scold.¹ It is possible that women who committed crimes were seen as inherently evil and referred to in such terms. However, there were instances where women who had otherwise fulfilled their traditional roles as wives or mothers ended up on the wrong side of the law. In such cases, exploring how these women were characterised is vital. The complexity of the factors that influenced how authorities dealt with crime provides a fascinating area for studying the intricate connections between gender and criminality during a period when the social order was in flux.

Mark Breitenberg has argued that ‘masculinity was considered inherently anxious’ in this period, especially because people were questioning what it meant to be an honourable man in times of war.² For instance, there was a divergence between Cavalier and Puritan ideals of masculinity. Both centred on loyalty to the family, authority, and morality but were practised differently – characteristics now used by historians to evaluate attitudes to Civil Wars masculinity. For instance, Puritan notions of morality were based heavily on their religious ideals, whereas the Cavaliers incorporated a greater breadth of factors, including concepts of chivalry and the idea of gentlemanly values. The timeframe of 1630 to 1660 created significant pressure on the man of the household to support his family whilst potentially being away from home for long periods. This research explores and builds on ideas about masculine anxieties by examining how the men who were considered criminals and thus often on the margins of their local community navigated the societal and gendered expectations of what it meant to be a man during these thirty years.

J. A. Sharpe determined that for the seventeenth century, ‘however valid other approaches to the history of crime might be, the most important advances,

¹ Patricia Crawford and Sara Mendelson, *Women in Early Modern England*, (Oxford: Oxford University Press, 1998), p.65.

² Mark Breitenberg, *Anxious Masculinity in Early Modern England*, (Cambridge: Cambridge University Press, 1996), p.2.

given the current state of research into the subject, are now to be made through the detailed examination of county archives' because of the level of detail they contain.³ For instance, the Quarter Session minutes hold Indictments, Recognisances, Witness Statements, Depositions and, although more sporadic, Case Outcomes. As Gowing has outlined, 'litigation was relatively accessible, and regulatory prosecutions often demanded the involvement of laypeople,' meaning that in some cases, a considerable amount of documentation provides insight into social groups often absent from other written records.⁴ Analysis of these documents allows for a more comprehensive contextualisation of the crime, for example, by exploring familial or local networks found in the case records. Community connections can be further explored through the extraneous detail held in the local court documents, such as lists of constables and jurors, alongside the replications of Acts or Orders. This wider material in the local archives provides a rich analysis of crime. This study aimed to focus on a familiar and accessible locality that also had significance to the examined period. Therefore, the three counties of Nottinghamshire, Derbyshire, and Lincolnshire were selected as case studies, as they have the most robust survival rates for pre-modern court records within the East Midlands region, and Nottinghamshire has the most consistent records. Furthermore, these counties were prominent in creating a barrier between the North and South and held some key communication routes between the divided armies during the Civil Wars. This makes them crucial to understanding the potential impact of this turbulent period on crime in the localities.

The statistical analysis of criminality in these counties focuses on the period between 1630 and 1660 and will be drawn from the Quarter Session records. These courts dealt with a range of crimes and social issues deemed minor felonies (those which did not require punishment by death). These crimes were considered ordinary rather than severe or sensational crimes such as murder, infanticide or witchcraft, which form a significant proportion of the legal canon on crime during

³ J. A. Sharpe, *Crime in Seventeenth-Century England: A County Study*, (Paris: Maison des Sciences de l'Homme, 2008), p.14.

⁴ Laura Gowing, 'Women's Bodies and the Making of Sex in Seventeenth-Century England', *Signs: Journal of Women in Culture and Society*, vol.37: no.4 (2012), pp.813–22: p.815.

the Early Modern period. In this research, three categories of crime will be examined in the first instance to make feasible the number of reviewed records, but also because the three petty crimes selected can be analysed both in terms of gender and in connection to the thirty years being studied. Scholars writing on the origins of the British Civil Wars agree (in the majority, although some prioritise differently) that the leading causes stem from three main factors: economic, religious, and domestic. Socially, England was far from stable; there was a polarisation of the economic divide and a fear of 'the capacity of religion to cause political trouble during the seventeenth century.'⁵ Thus, the case study crimes have been selected for this research to represent these categories. The first two relate to the factors seen to heighten tensions during this period, whilst the third category of domestic crime will be used to address the impact of the Civil Wars and Interregnum on the home, essential for analysing gender for both male and female roles. However, it is also crucial to understand how gendered ideals, local concerns, and national issues are connected to all three of these crime categories.

The research will seek topographical, social, and economic motivations for crimes specific to this region and determine any patterns or changes in criminal activity for this period in this region. It will investigate who was committing these crimes in terms of sex, but also their occupation. It will also analyse the crimes committed and the possible motivations of those who committed them. This evidence will be compared against different cultural associations with the specific crimes identified, and plotted chronologically based on when these crimes were committed. Although it has been acknowledged by several historians of crime that, for various reasons, surviving figures can never truly represent the total number of particular incidences committed, considering the numbers where evidence is available can still be valuable when addressing how crimes were prosecuted.⁶ The

⁵ David Underdown, John Morrill and Brian Manning, 'What was the English Revolution?' in Peter Gaunt (ed.) *The English Civil War*, (Oxford: Blackwell, 2000), pp.14-32: p.28; Mary Fulbrook, 'The English Revolution and the Revisionist Revolt' in Peter Gaunt (ed.) *The English Civil War*, (Oxford: Blackwell, 2000), pp.59-78: p.71; Conrad Russell, 'The British Problem and the English Civil War', *History*, vol.72: no.236 (1987), pp.395-415.

⁶ J.M Beattie, 'The Pattern of Crime in England, 1660-1800', *Past and Present*, vol.72 (1974), pp.47-95; J.S. Cockburn, 'The nature and incidence of crime in England 1559-1625: a preliminary survey' in J.S. Cockburn (ed.) *Crime in England 1550-1800*, (Abingdon: Routledge, 2016), pp.55-78.

study will also explore where these crimes were committed and specific topographical or demographic factors that may have impacted these potential hotspots. Following the “who”, “what”, “when”, and “where” sections in each chapter, there will be an overall analysis of why these crimes were being committed to explore how far the motivating factors linked to wider tensions during this period or other local factors. It will also examine how the representation of offenders, or the motivating factor for each crime, supported or challenged the hegemonic notions of gender between 1630 and 1660.

Contemporaneous social and cultural approaches to gender will be addressed by examining popular literature of the Civil Wars and Interregnum, such as street and conduct literature. These can then be used to evaluate to what extent those who committed these crimes challenged or embodied social norms. These texts can also provide insight into society’s attitudes towards these crimes and who was responsible for them, as well as yield insights into why contemporaries thought people committed them. For instance, contemporary conduct literature indicated that ‘if a man and his wife commit a felony jointly, it seemeth the wife is no felon, but it shall be wholly judged the husband’s fact.’⁷ This suggests that where a husband-and-wife criminal duo committed crimes, because the wife was subservient to her husband’s power, she was not seen as a criminal but potentially a victim. Overall, these materials are essential for contextualising attitudes of the time towards gender and crime.

However, the use of contemporaneous literature must be balanced with wider historiography regarding gender relations during the early modern period. For instance, specific changes, particularly during the seventeenth century, created greater freedom for women to challenge traditional gender ideals, sometimes resulting in criminal activity. Whittle and Hailwood determined that women spent as much time in agriculture as they did in housework and more time in commerce than in care work and, therefore, had greater independence and exposure within

⁷ *The Complete Justice: A Compendium of the Particulars Incident to Justices of the Peace, Either in Sessions or Out of Sessions*, (London: 1637), pp.236-4.

the community.⁸ Developing on this, David Underdown, although focusing on carnivalesque performances and their use to reinforce gender ideals, found that this greater independence within the household and greater access to markets, alluded to by Whittle and Hailwood's study, allowed women power and knowledge to turn the world they knew upside down by challenging patriarchal authority with their actions.⁹ Moreover, Susan Amussen furthers this by outlining that the 'world turned upside down' framed the gap between the expectation of a fixed gender order and the reality of one that could not ever be fully realised.¹⁰ This study explores how the criminality of women engages with this gap between achievable and idealised gender norms, especially when employing a conscious effort to engage with such ideals. Therefore, this study has engaged with the contemporaneous and scholarly literature to address gender relations and attitudes towards the sexes and analyse how these may affect perceptions of criminality.

Before commencing this research, my expectations were that men would be the most prominent figures committing crimes in these counties, primarily due to early modern cultural beliefs regarding women's criminality and their precarious position within the law as individuals. The research aims to demonstrate that for crime overall, men comprise the more significant portion of offenders, but that the situation is far more complex when examining different crimes. One crucial aspect that may have impacted those who committed these crimes is the application of poor law. It was thought that those considered the poorest of society most often committed these crimes as they were most vulnerable to transient changes and lack of parish support. However, Steve Hindle identified that a distinct group of people received poor relief: the young, recently married, and the elderly – not necessarily the absolute poorest in the communities.¹¹ Furthermore, he notes that

⁸ Jane Whittle and Mark Hailwood, 'The Gender Division of Labour in Early Modern England', *The Economic History Review*, vol.73: no.1 (2020), pp.3–32: p.4.

⁹ David Underdown, 'The Taming of the Scold: The Enforcement of Patriarchal Authority in Early Modern England', in Anthony Fletcher and John Stevenson (eds.) *Order and Disorder in Early Modern England*, (Cambridge: Cambridge University Press, 1985), pp.116–36: p.135.

¹⁰ Susan D. Amussen and David Underdown, *Gender, Culture and Politics in England, 1560-1640: Turning the World Upside Down*, (London: Bloomsbury Academic, 2017), p.159.

¹¹ Steve Hindle, *On the Parish?: The Micro-Politics of Poor Relief in Rural England c.1550-1750*, (Oxford: Oxford University Press, 2004), p.297.

in terms of the operation of the poor law, parish relief was the last resort after potential recipients had sought informal relief through gleaning, kin or neighbourly support. In some instances, the poor also committed crimes of necessity to support themselves.¹² Therefore, it will be essential to examine whether these particular groups are brought before the court, especially when considering the notion of the deserving and undeserving poor and whether this created a specific subset of the poor that the authorities sought to prosecute.¹³

However, the poor were also subjected to the authority of those with a higher social position, who often oversaw the poor law, courts and regulation of the laws. Linda Lees has already identified that 'what is evident in Nottinghamshire is that there was an attempt by the better sort to impose their standards of morality on the lower orders,' suggesting that there was a contemporaneous belief that the poor were seen as immoral by those with power.¹⁴ Further, it implies that persons who did not comply could very well be subject to judicial procedures if they challenged laws pertaining to morality and sin in the hopes of correcting their behaviour, thus creating a higher number of 'the poorer sort' presented at court. This is evident in some crimes, but the current study argues that this is not true of all the offences examined.

Disparity in the survival of the records means it is difficult to judge the full extent of criminality in specific periods. Despite this, trends in the statistical analysis provide insight into when certain Acts were sanctioned and changes in prosecution priorities if certain crimes began to peak or disappear from the records. Looking at trends over time provides a valuable method of analysing national and local fears and measuring the influence of social concerns during the period. For instance, according to John Briggs *et al.*, there was a change in judicial focus during the 1650s because 'from the mid-sixteenth century onwards, governmental attempts at enforcing a body of regulatory laws superimposed a new background to

¹² Hindle *On the Parish?*, p.8.

¹³ Alexandra Shepard, *Meanings of Manhood in Early Modern England* (Oxford: Oxford University Press, 2006), p.60.

¹⁴ Linda Jane Lees, "'Thou Art A Verie Baggadge": Gender and Crime in Seventeenth Century Nottinghamshire and Staffordshire', (Nottingham Trent University, 1999), p.332.

prosecutions' based upon Puritanical ethics and morals.'¹⁵ The present research will examine how this may have impacted the prosecution of the crimes examined within this research during the 1650s - notably, fewer crimes were recorded within the Quarter Sessions in this decade. A greater focus on parish management of crimes, such as ensuring the correct weights and monies for trades, repairs and fixtures in the community, as well as clamping down on immoral behaviour like hare coursing, suggests there may have been a significant drive by the local administration to promote peace within the parishes.

Topographical features impacted the demographics and influenced the places where crimes were committed. An aspect of where crimes were being committed is the human ecology of a region. Although John Langton's critical chapter focuses on Oxfordshire a century after this thesis, his premise regarding how the land impacts demographic, welfare, and cultural practices will be used to examine how the land could also affect crime between 1630 and 1660.¹⁶ He cautions that there are more significant differences in the amount and the kind of relief provided between an arable and a pastoral area adjacent to each other, but in different hundreds, than in an arable and pastoral area in a single hundred due to the systematic variation of magistrates in various regions. Furthermore, he determines overall that pastoral areas had a higher relief burden and fewer poor than arable areas, which he attributes to the natural resources (underlying soils and their fertility or proximity to woodlands, for example), location relative to market to markets and the fluctuation in labour demands.¹⁷ Therefore, it is crucial to acknowledge that although topographical features may create pockets of certain crimes, different jurisdictional districts will have varying prosecution priorities, creating varying crime levels within adjoining districts.

A higher concentration of crimes might be expected when there was an increased number of people convening for trade; to work, or live. Crimes could also

¹⁵ John Briggs, Christopher Harrison, Angus McInnes, and David Vincent, *Crime and Punishment in England: An Introductory History*, (Abingdon: Routledge, 2005), p.17.

¹⁶ John Langton, 'The Geography of Poor Relief in Rural Oxfordshire 1775-1832', in Steven King and Peter Jones (eds.) *Obligation, Entitlement and Dispute under the English Poor Laws*, (Newcastle-upon-Tyne: Cambridge Scholars Publishing, 2015), pp.193–234: p.234.

¹⁷ Langton, 'The Geography of Poor Relief in Rural Oxfordshire 1775-1832,' p.233.

be linked to trade routes which provided networking opportunities or accessible routes to abscond, so features such as roads and rivers might influence the number of crimes or even types of crimes in the surrounding areas. The analysis of these three crime categories will show whether the three crimes examined were influenced by the topographic features of the region, especially the landscape characteristics for theft and religious crimes and trade routes for bastardy. The most significant influence is expected to be the trade and communication routes, such as the River Trent that runs through all three counties.

Most importantly, a multitude of factors could influence why these crimes occurred. The Civil Wars and the Interregnum probably did impact criminality in the counties. For instance, in Nottinghamshire, the recording of the Quarter Sessions ceased between 1642 and 1646, so there are no criminal records to analyse for the period, suggesting that the local administration's priorities were directed elsewhere rather than directing the Quarter Sessions. War often brings an array of military crimes to contend with, such as pillaging, which affects the ordinary commoner. Yet, it may not always leave an imprint within the minor felonies' records examined in this study. The deduction of this research is that it is more likely that the Wars were a secondary factor behind more local or pressing concerns at a parish level.

Analysis of gendered themes will be woven throughout the thesis in addressing who, what, when, where, and why questions concerning the crimes being committed. The offenders created an interesting position as although they challenged society's ideals in their criminal activity; they may have been doing so to uphold the gendered ideals of their role in the family dynamic. As Alexandra Shepard has noted, patriarchal masculinity in early modern England was fractured as 'many [men] also claimed manhood in ways which actively resisted, indirectly undermined, or simply ignored patriarchal dictates.'¹⁸ This research expands upon this by considering whether a particular subset of men – criminal offenders - challenged or maintained their gendered ideals and how they utilised these principles to justify their criminal actions. For instance, this may well apply to men

¹⁸ Alexandra Shepard, *Meanings of Manhood*, p.17.

who stole out of necessity to provide food for their family – presenting a conflict as the man adhered to patriarchal ideals of the male being the provider for the family whilst he undermined judicial authority in committing the crime.

This study also aims to explore Gowing's assertion that 'the power structures that produced legal records are the same ones that shaped gender' by analysing if and how male and female criminal activity challenged the hegemonic and shared ideals of gender that were embedded within the elite patriarchal society that enforced judicial authority.¹⁹ It will also consider whether criminals could maintain the gender ideals set out by these patriarchal power structures whilst undermining the legal authority these elites also maintained. Fundamentally, this thesis will aim to examine how the crimes committed by men and women in this period either challenged or supported gendered ideals and reflected local factors.

Methodology:

Crimes and Counties

Initially, this study intended to review all crimes in the three counties that could be categorised as economic, religious and domestic, adding a fourth category of social disorder to address whether disorder was an active response to changes within the government or was influenced by more personal and local factors. However, among the four categories of crime identified, almost fifty individual crime types could be classified within each category. Social Disorder ranged from Disorder to Harboursing Vagrants; economic crimes incorporated Engrossing Grain and Extortion; religious crimes could include Contempt to Disturbing the Vicar. Domestic crimes varied too, for example, Adultery or Scolding. Such a wide variety of crimes produced a significant number of records to be analysed across the proposed period. The total number of these crimes for the county of Nottinghamshire - within the Quarter Session Minute Books of Nottingham, Newark-on-Trent, and East Retford - was 675 during 1630 alone. However, it is critical to note that recidivists committed a proportion of these crimes, and they were often for the same offence. As a result,

¹⁹ Gowing, 'Women's Bodies and the Making of Sex in Seventeenth-Century England', p.820.

the scope of the archival material for this study needed to be reduced geographically, chronologically, and by crime.

For economic crimes, this thesis focuses on the crimes of Theft, Felony, and Larceny, all variations of the same act but of different material and scope. This crime is beneficial in evaluating the growing economic divide between the rich and poor and the impact of topographical factors. The focus will be on Recusancy and Absence from the Church for religious crimes. These will help measure the toleration of religious differences and networks within society during this turbulent period. The main domestic crime that will be explored is Bastardy. This crime has been selected as it is traditionally a moral crime with a visible output, which helps to analyse the impact of the 'Godly' reform on morality crimes, as well as indicating evidence of sexual crimes in areas connected with soldiers.

There were also gendered considerations when choosing these crimes for statistical analysis. Theft, in particular, does not align with one sex, as 'female theft should not be interpreted in terms of pettiness or lack of bravado any more than male theft should be seen as inevitably proud or courageous.'²⁰ Information about theft crimes is a valuable comparison for examining gendered crime trends in the popular literature, as it seems to be without explicit cultural connections to either sex. It will also help identify any gendered trends with stolen items; for instance, did women steal more material goods, and men more livestock as occupational spheres may have dictated opportunity. However, the findings of Whittle and Hailwood, that the agricultural environment had much overlap for both sexes, could challenge this differentiation between the sexes and occupational environments.²¹ Both men and women were indicted for recusancy and absenteeism from church, although there was a greater association of women with this crime due to their perceived role within the household. The final crime of bastardy was chosen because, like theft, this is a neutral crime in that both parents conceived the child – although there are moral connotations, especially in popular literature regarding female

²⁰ Gathine Walker, *Crime, Gender, and Social Order in Early Modern England*, (Cambridge: Cambridge University Press, 2003), p.176

²¹ Whittle and Hailwood, 'The Gender Division of Labour in Early Modern England', p.16.

culpability for sexually immoral crimes. Assault was also considered as a possibility for exploring domestic tensions, but there were very few cases of women taking men to court for this; thus, records for analysis were minimal.

Initially, the research intended to analyse the records of Northamptonshire, Leicestershire, Lincolnshire, Nottinghamshire, and Derbyshire. However, even with the limitations on the number of crimes already imposed, it was established that it might result in 1000 crimes a year across the five counties to be analysed, a potential total of 60,000. Further reductions in scope were made by reviewing the availability of records in each county. The Leicestershire collection of court records starts from 1665 after the identified period, and Northamptonshire, Derbyshire, and Lincolnshire only had a sporadic collection of records between 1630 and 1660. Nottinghamshire had the best survival rate of their Quarter Session records with consecutive years remaining except between 1642 and 1652, for which the Minute Book is missing. Lincolnshire and Derbyshire had intermittent years available throughout the period but generally had a reasonable survival rate. Nottinghamshire and Derbyshire shared similar characteristics, such as their administration, topography, and trade systems, making them ideal counties for comparison. Nevertheless, due to the personal dynamics at play, Derbyshire was considered Parliamentarian under the control of Sir John Gell, first High Sheriff of Derbyshire in 1635 and later lieutenant-colonel for the Parliamentarians. Nottinghamshire was Royalist, controlled under the various governors of Newark-on-Trent despite the challenges presented by John Hutchinson, Parliamentarian Colonel and later MP for Nottinghamshire and his wife, Lucy.²² Lincolnshire and Nottinghamshire also had similar topographical features and trade networks. Derbyshire, Nottinghamshire, and Lincolnshire also form a continual band from the Peak District to the East Coast, thus providing geographical proximity to address similarities and differences and explore a broader representation of the East Midlands.

²² See Alfred C. Wood, *Nottinghamshire in the Civil War*, (Oxford: The Clarendon Press, 1937) for a general account; primary account in Lucy Hutchinson, *Memoirs of the Life of Colonel Hutchinson*, (Cambridge: Cambridge University Press, 2010).

The original intention was to include crimes of Social Disorder – essentially crimes of Riot or Affray. The two crimes are often indicted together because of their similarity. To riot or to cause affray was frequently a marker of protest (although on different scales) – thus, these crimes are valuable in examining any unofficial action against monarchical or governmental control. However, due to the impact of COVID-19 closures in archives and because there were no records of either Riot or Affray in the sample for Derbyshire and only minor numbers for Lincolnshire and Nottinghamshire, this category of crime was discarded from the research.

Popular Literature

This research has engaged with early modern popular literature, including conduct books, proverbs, and broadside ballads. The material was collated and selected by topics related to the crimes under investigation and the period in which the literature was written or produced in England during the first half of the seventeenth century.

Broadside ballads had contemporary significance due to their accessibility (they were cheap, available in oral and written forms, and associated with non-elite perspectives). Most importantly, ‘ballads of crime not only conveyed information about current events taking place all over the country but also reflected and shaped popular attitudes towards different kinds of criminal behaviour.’²³ The ballads have been sourced from a collection by Hyder E. Rollins, one of the foremost scholars on the broadside ballads, and the English Broadside Ballad Archive (EBBA), which is an online database of broadside ballads produced in England during the seventeenth century. The collections include those belonging to Samuel Pepys – held by Magdalene College, University of Cambridge; the Roxburghe Ballads – held by the British Library; the Euing Collection at the University of Glasgow; and the Huntingdon Library collection – held in Pasadena.²⁴ Various works explore the

²³ Sandra Clark, *Women and Crime in the Street Literature of Early Modern England*, (London: Palgrave Macmillan UK, 2003), p.105.

²⁴ Hyder E. Rollins (ed.), *Cavalier and Puritan Ballads: Ballads and Broad-sides Illustrating the Period of the Great Rebellion 1640-1660*, (New York: New York University Press, 1923); English Broadside Ballad Archive (Housed at the University of California at Santa Barbara, Department of English) Director: Patricia Fumerton – Associate Director: Carl Stahmer – Assistant Director: Kristen McCants Forbes: <https://ebba.english.ucsb.edu/page/collections>

production, dissemination, and reception of broadside ballads throughout England alongside their worth as primary source material.²⁵ Still, it is crucial to outline the limitations of this type of text to understand their value to this research. In the early seventeenth century, a limited number of publishers were legally allowed to print broadside ballads – collectively known as The Stationers Company – due to a royal patent. Those within the company were based around St Paul’s Cathedral, and thus, the vast majority of ballads were published in London. Rollins estimates half of the ballads that survived were registered via the Company, and it would be rare for a ballad to have been published from within any of the towns or counties this thesis examines.²⁶ Yet, as ballads began as an oral tradition, they could have started within more rural areas even though they were eventually published in London.

Despite this, the broadside ballads were disseminated country-wide by peddlers (a person going from place-to-place selling wares), carriers (professional conveyers of goods), and Chapman (specific to the early modern travelling trader of broadside ballads, chapbooks and pamphlets), meaning they did have a level of influence on the counties. One potential problem with using popular literature throughout any period is assessing its reception, which is notably more difficult with seventeenth-century ballads. However, if multiple copies exist amongst the different libraries, by various publishers, or even in different versions with slight variations, it does suggest they had widespread popularity. Moreover, choosing ballads by well-known balladeers such as Martin Parker (sometimes simply known by his initials MP) whose work ‘exist[s] in multiple editions, and, given the catastrophic survival rate of early seventeenth century broadsides, this suggests that his works were highly popular’ ensures these ballads were an appropriate reflection of contemporaneous ideals.²⁷ Parker’s works referenced in this research

²⁵ See Angela McShane, *Political Broadside Ballads of Seventeenth Century England: A Critical Bibliography*, (London: Pickering & Chatto, 2011); Margaret Spufford, *Small Books and Pleasant Histories: Popular Fiction and Its Readership in Seventeenth-Century England*, (Georgia: The University of Georgia Press, 1981); Patricia Fumerton, *Broadside Ballad in Early Modern England: Moving Media. Tactical Publics*, (Philadelphia: University of Pennsylvania Press, 2020).

²⁶ Hyder E. Rollins, ‘The Black-Letter Broadside Ballad’, *PMLA*, vol.34: no.2 (1919), pp.258-339: p.281.

²⁷ Joad Raymond, ‘Martin Parker’ *Oxford Dictionary of National Biography*, (23rd September 2004), p.1 <https://www.oxforddnb.com/display/10.1093/ref:odnb/9780198614128.001.0001/odnb-9780198614128-e-21326>

include 'No Naturall Mother but a Monster', a ballad previously examined by historians such as Garthine Walker and Sandra Clark.²⁸

Another method of gauging popularity is using ballads procured by popular book-sellers who also mass-distributed broadside ballads, such as Francis Coles or Francis Grove, whose name is also attached to several of the ballads referenced in this study.²⁹ One example is 'A lamentable Ballad of the Ladies Fall' printed 1658, of which there are five still existing copies in EBBA; the one this study uses is at the University of Glasgow Library, but there are others at Magdalene College and Manchester Central Library, along with two copies at the British Library.³⁰ The number of surviving copies of a ballad could indicate its popularity and spread, making this a valuable piece of contemporary popular literature to examine gendered ideals. For this research, the ballads have been chosen to represent common themes within popular literature that focus on the subject matter. For instance, if themes were reoccurring in ballads on specific subjects, such as the fears of Roman Catholic toleration in the 1630s, then it does suggest that this was representative of concerns within the general population – especially considering whom these ballads were primarily intended for. However, knowing how representative these ballads are of feelings in the East Midlands region is not easily verifiable, but they can be mediated through the abovementioned approaches.

Few ballads refer to the countries of Derbyshire, Lincolnshire, and Nottinghamshire between 1600 and 1660, and the topics which these ballads focus on are not always pertinent to the focus of the study. For instance, one focuses on the destruction of the floods in Lincolnshire; another, the plight of a couple, she from Nottinghamshire and him from Leicestershire, who were encouraged not to

²⁸ Martin Parker, 'No Naturall Mother, but a Monster. / Or, the Exact Relation of One, Who for Making Away Her / Owne New Borne Childe, about Brainford Neere London, Was Hang'd at / Teyborne, on Wednesday the 11. of December, 1633.' (F.Couls, 1634), Manchester Central Library - Blackletter Ballads: BRf821.04 B49, <http://ebba.english.ucsb.edu/ballad/36049/xml>.; Walker, *Crime and Gender*, p.148; Clark, *Women and Crime*, pp.86, pp.96-98.

²⁹ Raymond, 'Martin Parker', p.1

³⁰ Unknown, 'A Lamentable Ballad of the Ladies Fall, / Declaring How a Gentlewoman through Her Too Much Trust Came to Her En[d] / and How Her Lover Slew Himselfe.' (F.Couls, 1658), University of Glasgow Library - Euing Ballads 196, <http://ebba.english.ucsb.edu/ballad/31953/xml>.

marry each other, resulting in a tragic ending. Then on Derbyshire, there is one ballad that mocks the Rump Parliament stating, 'when their proper place (as Will Prynn doth swear) is at the Devils arse in Derbyshire.'³¹ Therefore, it was more appropriate to focus on ballads produced during the first half of the seventeenth century that referenced the crimes this study addresses rather than the geographical area due to the focus of the study being on the perception of criminals and understanding potential motivations for these crimes.

Sandra Clark has used broadside ballads to focus on women's sensational crimes, such as husband murder, as she finds that there is a bias towards murder in the ballads. This thesis will build upon some of her findings for sensational crimes that 'gender in the sense of imagining femaleness, in these ballads of criminal women, is directed not so much towards explaining their fates or accounting for their crimes, as towards self-preservation' to see if this is also applicable to ballads that focus on petty crimes.³² For instance, this may be most applicable to broadside ballads that focus on bastardy; rather than justifying their sexual exploits in the ballads, in an attempt to preserve their reputation, women present themselves as a victim. A characterisation that then may be performed by bastard-bearers in the Quarter Sessions. Moreover, although there is a focus on female criminality, Clark does find that 'the man can emerge in a heroic light, rather than criminal' in broadside ballads that denote male murderers and highwaymen.³³ Thus, this

³¹ Richard Tarlton, 'A Very Lamentable and woful discours of the / fierce fluds, which lately flowed in Bedfordshire, in Lincolnshire and iu many other / places with the great losses of sheep and other Cattle. The v. of October./ anno Domini 1570', (1570) Huntington Library – HEH 18344 EBBA 32584 <https://ebba.english.ucsb.edu/ballad/32584/xml>; Unknown, The two Nottinghamshire Lovers, or the Maid of Standon of Not- / tinghamshire, and the Leicestershire Man, which were linked together contra- / ry to their Friends minds, but she was inflamed in loue, that she reque- / sted him from thence to goe; and he resolved her so to doe, ap- / pointing the place where they should meet, but it was a heavy / meeting as ere was knowne, as in the Ditty shall be showne.' (1630?) Magdalene College – Pepys – Pepys Ballads 1.356-357 EBBA 20166 <https://ebba.english.ucsb.edu/ballad/20166/xml>; Alexander Brome, 'BUMM-FODER / OR, / VVASTE-PAPER / Proper to wipe the Nation's RUMP with, or your Own.' (1660) Houghton Library - EB65 A100 660b, EBBA 34393, <https://ebba.english.ucsb.edu/ballad/34393/xml>, l.34-35.

³² Clark, *Women and Crime*, p.85.

³³ Clark, *Women and Crime*, p.82.

research will examine whether this can be applied to those committing petty rather than sensational crimes.

Approach

In his strong critique of the field regarding crime in the early modern, John McMullan stated that there needed to be a greater exploration of social control, law, crime, and class relations.³⁴ He is largely dismissive of the quantitative element of archival analysis, arguing that a particular type of criminal is being created in the petty courts due to the hierarchical nature and that 'we do not have in these number rates and trends an answer to the questions of the realities of crime as experience, relationship, and structure.'³⁵ Although this research supports McMullan's thoughts that statistical analysis is not helpful for exact crime figures, it argues against his notion that microhistories of presentments and court records do not 'result in stimulating generalisations about law crime and power.'³⁶ This thesis demonstrates that the trends and numbers can reflect the experiences of the prosecution priorities – especially analysing this from a gender perspective in terms of the numbers, as well as punishment and outcome statistics. Trends in the prosecution rates and spikes in crimes can also be related to broader social concerns and influences from the national government.

This study utilises a quantitative and qualitative approach to outline how population pressure; economic necessity; violence and stress in society; and a general disregard for conventions can provoke instances of crime.³⁷ It aligns with those in the field who use this approach, such as Beattie, Walker, and Sharpe, to 'provide a unique insight into the experiences and attitudes of the mass of the populace [...] it also provides considerable illumination on how power was perceived and wielded among higher social groups.'³⁸ This thesis is unique in that it

³⁴ John L McMullan, 'Crime, Law and Order in Early Modern England', *British Journal of Criminology*, vol.27: no.3 (1987), pp.252–74: p.259.

³⁵ McMullan, 'Crime, Law and Order', p.268.

³⁶ McMullan, 'Crime, Law, and Order', p.252.

³⁷ Peter C. Hoffer and N.E.H. Hull, *Murdering Mothers: Infanticide in England and New England, 1508-1803*, (New York: New York University Press, 1981), p.114.

³⁸ J. A. Sharpe, *Crime in Early Modern England 1550-1750*, 2nd ed. (Harlow: Pearson Education Limited, 2014), p.270.

applies this methodology and a county study approach to understanding national and local factors that affected petty crimes in these counties. Such crimes have not previously been explored during these specific thirty years.

Historiography:

Overview

Despite crime being a long-standing feature of society, the analysis of crime as a field of history only began to emerge during the 1970s and 1980s after the boom of Social History during the 1960s. Gender analysis concerning crime is far newer, arising in the late 1990s and early twenty-first century: this gendered analysis within crime is asynchronous with the Third Wave of Feminism, its Post-Structuralism, and Intersectionality. The examination of gender in crime began to challenge ideas regarding female experience within the court under patriarchal judicial authority. Linda Lees argued that studies by J. S. Cockburn, J. A. Sharpe and T. C. Curtis, amongst others, 'whilst providing a sound and excellent basis for any investigation into crime and early modern society, largely failed to address the issues of male categorisation of criminality, thereby missing an opportunity to investigate the social construction of male and female identity.'³⁹ This research will be valuable to the field by developing gender theory that has already 'explored the construction and contestation behind many seemingly natural ideas about women and men' to see whether these concepts also pertained to criminals or were manipulated by them in their proceedings within the Quarter Session Records for Derbyshire, Lincolnshire, and Nottinghamshire during the Civil Wars and Interregnum period.⁴⁰

Examining crime and gender during these thirty years between 1630 and 1660 is also an asset to studying the Civil Wars and the Interregnum period. Scholars such as Christopher Hill, Brian Manning, and Conrad Russell have examined mainly the broader national issues that instigated this unstable period. Yet, in the

³⁹ Lees, "Thou Art A Verie Baggadge", p.9.

⁴⁰ Judith. M. Bennett, *History Matters: Patriarchy and the Challenge of Feminism*, (Pennsylvania: University of Pennsylvania Press, 2007), p.18.

last thirty years, there has been a movement away from the motivations and military aspects of the Civil Wars to address personal experiences as well as gender issues. For instance, Ann Hughes examines how one's sex affected people's experience of the Civil Wars: notably, women were left, in the absence of husbands or fathers, to shoulder the responsibilities of men, and this altered what was acceptable in terms of femininity during the war.⁴¹ For men, their experiences included managing the conflicting duties of fighting God's War whilst maintaining their independence, especially as the head of the household under the various parliaments.⁴² Furthermore, Martyn Bennett's work *The Civil Wars Experienced* provides an account of differing people's experiences across Great Britain amid the Civil Wars. His approach differs from previous historiography by shifting the 'grand narrative' to the background to focus on personal histories.⁴³

This thesis builds upon his approach to examine the experiences of those within the localities rather than the larger narratives of centralised administration, political movements, and wars during the Civil Wars and Interregnum. By examining a group largely absent from major histories during this thirty-year timeframe – minor criminals – this research aims to show how the factors that motivated the Civil Wars and Interregnum could be intertwined with criminal motivations. For instance, it will show how religious concerns at a national level may have influenced prosecution priorities at a local level or how concerns regarding the sexual activity of soldiers during the Civil Wars may have been reflected in the bastardy numbers at local courts. It also provides an opportunity to examine whether the tensions and tumultuous period of 1630 – 1660 directly impacted the experiences of petty criminals.

Four key areas have been influential in this study to address crime and gender under Charles I's Personal Rule, the Civil Wars and the Interregnum. The first aspect is gender expectations of men and women throughout the seventeenth century to understand potential motivations for these crimes; to do so, this thesis

⁴¹ Ann Hughes, *Gender and the English Revolution*, (Abingdon: Routledge, 2011), p.31.

⁴² Hughes, *Gender and the English Revolution*, p.113.

⁴³ Martyn Bennett, *The Civil Wars Experienced: Britain and Ireland 1638-1661*, (London: Routledge, 2000), p.x.

engages with different gender theories regarding gender performativity, anxious masculinity, and women's agency in a traditionally patriarchal society. Second is the issue of crime in the broader early modern period and, where available, the seventeenth century to understand not only the judicial process but attitudes regarding crime and punishment, as well as mindsets towards those who were offenders. Thirdly, underpinning this research are the broader discussions regarding these three short periods (Charles I's Personal Rule, The Civil Wars, and the Interregnum), including the key political, religious, social, and administrative aspects. Last, the specific county context will be explored separately in the 'Crime, the Courts, and the County' chapter. A basic overview of these elements is vital as it helps to understand likely prosecution priorities regarding different crimes and potential motivations for them.

Crime and Gender

Current historiography on the field of crime emphasises that crime does not happen in isolation; it is undeniably connected to other factors such as demographics, economics, and political movements, as well as more localised elements such as trade, topography, or cultural aspects. This study will explore how this is established by examining petty crimes in Derbyshire, Lincolnshire, and Nottinghamshire. This research will engage with and develop several more specific debates and theories: these primarily arise separately from the fields of gender and crime history but also where the two intersect.

One central idea this research engages with is gender performativity by those who were deemed criminals. Butler uses this theory to examine the stability between masculine and feminine notions, the difference between the two sexes, and how this may be impacted by those such as drag artists. Her idea that 'gender proves to be performative – that is, constituting the identity it is purported to be' will form a line of inquiry for this study.⁴⁴ It is significant to note that Butler views this as an iterative process rather than one consciously enacted, which is where this research seeks to develop upon the theory. It explores examples where both male

⁴⁴ Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity*, 2nd ed. (Abingdon: Routledge, 2002), p.34.

and female criminals were attempting to deliberately perform idealised gender characteristics in the hopes of leniency in the eyes of the court and their community.

Walker has argued that overall, 'the idea that women were treated leniently within the criminal justice process has been found wanting.'⁴⁵ This perceived leniency was because women were viewed as less criminally culpable and not deemed responsible for their actions, as previously outlined in this introduction. On the other hand, there has been some debate regarding the double standard between men and women, mainly regarding the cultural perception of their sexual behaviours and that women's immorality was deemed more reprehensible than a man's and, thus, treated accordingly. Yet Bernard Capp argues that 'the double standard is embedded in that women were at a disadvantage due to cultural beliefs, but the contrasts between female and male honour have been exaggerated.'⁴⁶ Martin Ingram furthers this argument, stating that 'cultural beliefs fed into the double standard, but this cannot be overstated as it was a matter of degree between the sexes rather than a dichotomy.'⁴⁷ Therefore, it is crucial to examine the case outcomes for the three crimes in these three counties to see if women were treated equally or more or less leniently than men for sexual, as well as the other, crimes analysed. The hypothesis is that the outcome for women is dependent upon the type of crime being committed and their marital status.

Another significant influence on the history of gender and crime is Connell's theories regarding gentry masculinity and its engagement with the state and hegemonic masculinity - this is crucial in terms of crime, as those who were often meting out judicial authority were gentry. Although Connell outlines that 'gentry masculinity involved a much more brutal relationship with the agricultural workforce, [which was] still the bulk of the population' in terms of enforcing maleness, this research explores how the gentry may use judicial authority to

⁴⁵ Walker, *Crime and Gender*, p.270.

⁴⁶ B. Capp, 'The Double Standard Revisited: Plebeian Women and Male Sexual Reputation in Early Modern England', *Past & Present*, no.162 (1999), pp.70–101: p.98.

⁴⁷ Martin Ingram, *Church Courts, Sex and Marriage in England 1570-1640*, (Cambridge: Cambridge University Press, 1988), p.303.

enforce their notions of masculinity rather than physicality and brutality.⁴⁸ As the gentry were often the JPs, there may be an element of hierarchical authority enforcing masculinity through the judicial process rather than violence, especially if the offenders are most commonly those of the labouring poor. This research explores crimes of recusancy and absence from church, whether there was more balance between the minor gentry and labouring groups, and whether social status and influence in the community meant the gentry was treated differently by the elite judicial authority. It also examines the censure of masculinities by the judicial authorities and how this may reflect social class dynamics. Gowing refers to the patriarchal authority embedded within the judicial system and its regulation of women's bodies in court records due to the restrictive and inflexible language used.⁴⁹ Thus, this thesis builds upon our knowledge of elite patriarchal authority within the judicial system. It explores how the language used within the court records themselves - especially in bastardy cases where the crime is focused on the woman's body and dishonour – reflects that patriarchal authority.

Also, most historians tend to acknowledge the hierarchical nature of the judicial system, although there is a debate regarding the degree of involvement at a local level in maintaining that process. According to Herrup, 'the application of the law was often a community affair and one of parish diligence rather than the practice of legal professionals.'⁵⁰ Local involvement did not simply rely on the provision of witness statements but also the capturing of criminals, acting as mediators to settle matters outside of court, and fulfilling other roles such as constables, goalers, and the jury – roles which were not usually dependent upon one's social status and education. In his thesis exploring seventeenth-century crime and punishment in Norfolk, Keith William Parry outlines that a division between official court actions and unofficial community actions is too simplistic, and often, there was a combination of these actions determined by the community itself.⁵¹

⁴⁸ R.W. Connell, *Masculinities*, (Cambridge: Polity Press, 1995), pp.189-191.

⁴⁹ Gowing, 'Women's Bodies and the Making of Sex in Seventeenth-Century England', p.820.

⁵⁰ Cynthia B. Herrup, *The Common Peace: Participation and the Criminal Law in Seventeenth-Century England*, (Cambridge: Cambridge University Press, 1987), p.4.

⁵¹ Keith William Parry, 'Crime and Punishment in Early Modern England, with Special Reference to Seventeenth-Century Norfolk', (University of East Anglia, 2003), p.7.

Although it can be challenging to determine what actions were taken unofficially in the locality as there was often no record of this, this research will build upon Parry's findings by identifying where the community may have influenced actions for minor crimes in the East Midlands. It will also explore how considerations on behalf of the community might have impacted the judgments, for example, in bastardy cases where the financial concerns of the community were considered when deciding where the child should be raised and who was to pay for its maintenance.

Historians have also suggested that despite the law, punishments could often be altered due to a reluctance to see the whole sentence of the crime enacted. For instance, Shapiro has shown that in some cases of theft, the values of items were lowered to avoid the potential death sentence given for grand larceny.⁵² This study expands upon this by exploring whether there were mitigations in the punishments given for bastardy and religious crimes as well and why that might be. For example, if a man of gentleman status or above was not fined even though he failed to attend Church, this might be because JPs were reluctant to prosecute men of the same social standing. In bastardy cases where a child was conceived under questionable circumstances, the punishments sometimes deviated from those outlined in previous bastardy acts. Case studies are, therefore, crucial for examining the full circumstances around any crime and its punishment to draw accurate conclusions. This research could challenge Herrup's findings that 'extenuating circumstances were not generally acceptable as a defence against either a conviction or a condemnation' apart from insanity.⁵³ It is important to note that the circumstances might not equate to an acquittal, but there could be examples in these three counties where extenuating circumstances mitigated the punishments given.

This thesis must also engage with the theory of crime statistics and what they represent. The difficulties in addressing a statistical analysis of crime have been widely discussed in the field as 'all criminologists and historians of crime are

⁵² Barbara Shapiro, 'Law Reform in Seventeenth Century England', *The American Journal of Legal History*, vol.19: no.4 (1975), pp.280-312: p.286.

⁵³ Cynthia B. Herrup, 'Law and Morality in Seventeenth-Century England', *Past and Present*, vol.106: no.1 (1985), pp.102-23: p.105.

sensitive to the existence of the “dark figure” – that body of criminal behaviour never prosecuted or even reported.⁵⁴ The numbers collated in this study do not reflect all crimes. Instead, as Patricia Ann Johnson has found in her thesis examining short and long-term changes in the seventeenth-century Lancashire Quarter Session and Assize documentation, the crucial argument is that records reflect prosecution priorities rather than any significant changes in social behaviour.⁵⁵ For Johnson, who focuses on economic distress, this was related to changing grain prices and the targeting of those who may be engrossing grain in times of desperate need for their gain.⁵⁶

Sharpe has also found that ‘crime statistics are especially likely to be affected by changes in institutional practices or might vary by fluctuations in the efficiency of the officers of law enforcement or the courts.’⁵⁷ For example, there have already been examinations of the galvanising effect of the publication of the Book of Orders in 1631 within the parish socially and judicially; its formalisation of local government mechanisms was innovative, according to Langeluddecke.⁵⁸ This research will evaluate as far as possible to what extent the crime figures might represent prosecution priorities rather than criminal behaviour by examining the potential impact of how various Acts, especially in the 1650s, or changes in institutional practice affected crime rates during the Civil Wars and Interregnum periods. Herrup has found in her analysis of criminal practice in the localities during the seventeenth century that there was a heavy emphasis on the law being integrated with notions of morality and sin.⁵⁹ This thesis expands on this by examining the impact of religious concerns during Charles's Personal Rule and concerns of morality during the Commonwealth. Thus, this study focuses on a chronological period that has previously not been explored in depth, as the works

⁵⁴ Sharpe, *Crime in Early Modern England*, p.61.

⁵⁵ Patricia Ann Johnson, 'A Study of Aspects of Crime and Distress in Seventeenth-Century Lancashire', (University of Central Lancashire, 1994), 'abstract'.

⁵⁶ Johnson, 'A Study of Aspects of Crime and Distress in Seventeenth-Century Lancashire'

⁵⁷ Sharpe, *Crime in Early Modern England*, p.61.

⁵⁸ Henrik Langelüddecke, 'Law and Order in Seventeenth-Century England: The Organization of Local Administration during the Personal Rule of Charles I', *Law and History Review*, vol.15: no.1 (1997), pp.49–76: p.52.

⁵⁹ Herrup, *The Common Peace*, pp.1-10.

above have primarily focused on the broader sweep of the seventeenth century or the Early Modern period.

Crime in the County

It is crucial to outline the notion of community or society that this research will use when discussing the factors affecting crime. First, it is vital to acknowledge the challenges in defining a society; Phythian Adams determines that the problem lies at the level of abstraction: 'in using the actual term "society" it is possible to allow its applicability to those living, as it were, associatively in rural and urban communities and their immediate neighbours.'⁶⁰ This notion is how this study understands a local society, primarily a parochial community. One key distinction is that groups of villages may make a larger "neighbourhood area" due to their shared topographical features.⁶¹ For instance, Andy Wood's examination of the Derbyshire Peaks has determined that peak miners' identity was defined on a parochial level that was very distinct within the limited boundaries of the lead field.⁶²

Moreover, class identities were linked to the space alongside local and regional cultures, and in contesting the traditional authority by excluding those such as lords, gentlemen, priests and employers from their culture, Peak miners and peasants decentred and unbalanced local systems of power.⁶³ Crucially, this centres back to Phythian-Adams' fundamental theory that 'it follows that where people "are" in practical spatial terms must be regarded as quite as fundamental as where they are in that abstract vertical scale of superiority and inferiority.'⁶⁴ He underpins the importance of where people are spatially, such as the Peak Miners of Derby or the Fenlanders of the Isle of Axholme, as creating a society as fundamental to that as a class-based society identity. More significantly, Phythian-

⁶⁰ Charles Phythian-Adams, 'Introduction: An Agenda for English Local History', in *Societies, Cultures and Kinship, 1580-1850: Cultural Provinces and English Local History*, (London: Leicester University Press, 1993), pp.1–23: p.4.

⁶¹ Anne Mitson, 'The Significance of Kinship Networks in the Seventeenth Century: South-West Nottinghamshire' in *Societies, Cultures and Kinship, 1580-1850: Cultural Provinces and English Local History*, (London: Leicester University Press, 1993), pp.24–76: p.25.

⁶² Andy Wood, *The Politics of Social Conflict: The Peak County, 1520-1770*, (Cambridge: Cambridge University Press, 1999), p.33.

⁶³ Wood, *Politics and Social Conflict*, p.19.

⁶⁴ Phythian-Adams, 'Introduction: An Agenda for English Local History', p.5

Adams indicates that only through localised levels of society can women and children be reincorporated into history.⁶⁵ As criminals were often considered those outside of the vertical society, this is vital to this study and understanding gendered patterns of where crime occurred.

In this research, providing an overview of the development and changes throughout the analysed countries is critical. Building upon the identification of local society and the neighbourhood abovementioned, Mingay determines that each village had 'its own peculiar features in relation to soil and topography, markets and communications, the area of commons and waste and the size of the remaining open-fields, the existing system of cultivation, whether developed or still backwards and the structure of land ownership and farm sizes.'⁶⁶ Although he focuses on the agricultural revolution, which he determined began in the sixteenth century, it is vital to understand these aspects, alongside the demographics for the neighbourhood areas this study examines, as these features impact the local society and likely, therefore, criminal activity. Adair divided England into two super regions, the Highlands and the Lowlands; the three counties of this study would be designated as Lowland counties, which were determined to be predominantly arable.⁶⁷ However, individual regions had topographical characteristics that could impact economic and social development. For example, Mingay determined that alternate husbandry had failed to penetrate the Midlands due to its base of wet, cold clays; yet on the more amenable Midland clay soils, ley-farming or convertible husbandry was introduced.⁶⁸ Therefore, areas across these three counties dependent upon arable farming were more susceptible to years of harvest crises and fluctuations in grain prices, creating a potentially unstable revenue and income. For example, Thirsk determined that within the Claylands of Lindsey:

the decay of peasant farming was the outcome of a succession of exceptional farming years from 1617 to 1631, beginning with years of plentiful harvests and disastrously low prices from 1617 to 1621,

⁶⁵ Phythian-Adams, 'Introduction: An Agenda for English Local History', p.5

⁶⁶ G. E. Mingay, 'The "Agricultural Revolution" in English History: A Reconsideration', *Agricultural History*, vol.37: no.3 (1963), pp.123–33: p.132.

⁶⁷ Richard Adair, *Courtship, Illegitimacy, and Marriage in Early Modern England*, (Manchester: Manchester University Press, 1996), p.110.

⁶⁸ Mingay, 'The "Agricultural Revolution"', p.129.

followed by a series of unusually wet years from 1621 to 1623 and 1629 to 1631 when the corn harvest was meagre, and the stock succumbed to disease. Barlet prices, wool prices and rents fell simultaneously.⁶⁹

Circumstances such as these may have generated higher rates of disorder, crime, and prosecution rates due to the economic situation.

Concerning the economic circumstances within the regions, social developments were often led by 'the farming country gentleman, the better owner-occupiers and large tenant farmers [who] formed the real spearhead of technical advance.'⁷⁰ Similarly, Mitson has identified that it was core groups of dynastic families, mainly from the middling economic scale and likely to have been husbandmen and yeoman due to the agricultural nature of the area, that kept alive and passed on local culture.⁷¹ However, the role of these members and their actions could generate discord in local society and enforce social polarisation. For instance, as previously identified, Wood explores the challenge between the lead miners and 'the main noble and gentry families who built their own mills to make quick profits' and Thirsk identified in the Claylands and Marshlands of Lindsey, there was a contestation between the commoners and the wealthy, often gentry, drainers who sought to drain and enclose the land.⁷² Once this element of discord was introduced to the social order, as these dynastic families or country gentlemen were often those with positions of power and authority within the local society, there is the possibility that this created a reluctance to adhere to that authority, creating a potential for more crimes of disorder or even targeted acts of theft against authoritative figures within these areas.

Population changes throughout these counties were linked with mobility, a crucial aspect throughout the seventeenth century, which may have impacted crime and prosecution priorities. Mitson identified in South-West Nottinghamshire, only 25 per cent of the population remained within their parish, with the majority

⁶⁹ Joan Thirsk, *English Peasant Farming: The Agrarian History of Lincolnshire from Tudor to Recent Times*, (London: Routledge, 2006), p.193.

⁷⁰ Mingay, 'The "Agricultural Revolution"', p.126.

⁷¹ Mitson, 'Significance of Kinship Networks', pp.50-51.

⁷² Wood, *The Politics of Social Conflict*, p.58; Thirsk, *English Peasant Farming*, pp.112-119, pp.189-191.

moving into their neighbouring area and a smaller portion further afield across the county or county border.⁷³ On the other hand, as mobility was often linked to work, some areas experienced considerable booms through employment migration. For instance, within Derbyshire, 'the sudden expansion of the mining industry meant that thousands of poor people flocked into the lead field, particularly to the deserted High Peak deposits.'⁷⁴ Thirsk noted that due to the drainage within the Fenland areas of Lincolnshire due to the new land to be put under the plough, the unstinted common pastures, and the various common rights, there was an increased population in these localities during the seventeenth century.⁷⁵ This is crucial as Hindle determined particular ecologies connected to a higher need for parish relief – for instance, the coalfields were considered pauperised places, quick-growing parishes also had higher pauper rates, and so did forest areas.⁷⁶

As has already been identified, significant population booms in certain counties' areas put pressure on the local resources and coffers, potentially leading to theft out of necessity. Moreover, Ingram has noted that in response to harsher economic conditions, there was an increased restraint on fertility, which may create more stringent prosecution for crimes such as bastardy.⁷⁷ Other areas in the counties aligned with Hindle's findings; for instance, Derbyshire and Nottinghamshire had significant coalfields. For the former, these stretched from Ilkeston to Alfreton, Chesterfield, and Dronfield on the left of the Derbyshire/Nottinghamshire border. For the latter, these stretched the right-hand side of the border surrounding Nottingham Town in Strelley, Wollaton and Radford, around Hucknall, and as far afield as Mansfield. Therefore, addressing whether there were more crimes in line with the concerns regarding pauperism in these areas and using natural resources will be critical.

Underdown has argued that female challenges to patriarchal authority were more prevalent in towns and woodland parishes. Crucially, Nottinghamshire has the

⁷³ Mitson, 'Significance of Kinship Networks', p.35.

⁷⁴ Wood, *The Politics of Social Conflict*, p.58.

⁷⁵ Thirsk, *English Peasant Farming*, p.141.

⁷⁶ Hindle, *On the Parish?*, p.284.

⁷⁷ Ingram, *Church Courts*, p.166.

Sherwood Forest, and South Derbyshire around Swadlincote and Melbourne has significant forestry, so examining crime around the region will be crucial.

Underdown determined this connection was because:

these were the communities most subject to the destabilising effects of economic change, and to the decline of old habits of neighbourliness. There were more poor and disorderly – even masterless – poor in these places than there had previously been, or than there were in the more “closed” arable parishes; and there were less effective means of pacifying them.⁷⁸

This distinction will be examined for all crimes within this study and whether this is also true of male criminals, as there are more incidences in these areas. However, Ingram found that ‘even within economically and topographically distinct regions there was a considerable diversity of economic and social development at parochial levels’, and so although a crime may generally be more prevalent within one region, there may be differences in crime hotspots or type of crime within that topographical area at a parochial level.⁷⁹ This study will analyse this aspect further for Derbyshire, Lincolnshire, and Nottinghamshire, and to enable this, more details regarding the topography and economic and social development of the three counties will be provided in Chapter Two.

Crime and the Period

British Civil Wars historiography tends to focus on the contentions regarding the causes of the Wars, starting with the Whiggish interpretations until the 1940s and 1950s when a Marxist-based influence determined that the Wars were reactionary movements against the norms, identifying socio-economic causes alongside long-term clashes between the classes. This interpretation developed further in the 1970s and 1980s with a revisionist approach that expanded the examination of the Wars to include Ireland, Scotland and Wales, as well as examining ‘short-term’ factors such as the rapidly developing religious tension.⁸⁰ The post-revisionist

⁷⁸ Underdown, 'The Taming of the Scold', p.135.

⁷⁹ Ingram, *Church Courts*, p.21.

⁸⁰ For Whiggish interpretations see R. S. Gardiner, *History of England From the Accession of James I to the Outbreak of the Civil War, 1603–1642*, 10 vol. (London: Longmans, Green and Co. 1883–84)

development from the 1990s onwards was significantly impacted by the Cultural Turn, focusing on the period's perception and including the people's experiences during the Wars.⁸¹ This research examines how the Civil Wars and the Interregnum period impacted minor criminals – largely absent from current historical discussion during these thirty years. It will determine if the Wars, their potential causes, and Acts raised during the Interregnum affected the experience of those considered criminals.

Thus far, examinations of crimes committed during the Civil Wars are focused mainly on martial crimes. For instance, Barbara Donagan explores notions of Englishmen's conduct towards each other during the wars on home soil (a focus away from the atrocities of the Irish Rebellion of 1641), but this is essentially an examination of the professional codes of war and how these were or not adhered to.⁸² Furthermore, various historians have shown that 'troopers' presence increased crime[s], mainly in areas such as plundering, disorder, and moral issues.⁸³ Such studies focus on the soldiers' impact on civilians during this period or the civilian's response to these crimes associated with the Wars. This thesis intends to examine areas of crime that are not generally associated directly with the conduct of war.

<https://archive.org/details/historyengland00gardgoog/page/n6/mode/2up>; *History of the Great Civil War, 1642–1649* vol. 3 (London: Longmans, Green and Co. 1893)

<https://archive.org/details/historyofgreatci03garduoft/page/n5/mode/2up> vol. 4 (London: Longmans, Green and Co., 1901)

<https://archive.org/details/historygreatciv06gardgoog/page/n4/mode/2up> and *History of the Commonwealth and Protectorate, 1649–1660* vol.4 (London: Longmans, Green and co., 1903)

<https://archive.org/details/historyofcommonw04garduoft/page/n5/mode/2up>; for Marxist interpretations see Christopher Hill *The World Turned Upside Down: Radical Ideas during the English Revolution*, (orig.1972 – London: Penguin, 1980) and Brain Manning *The English People and the English Revolution*, (Harmondsworth: Penguin, 1978); for Revisionist approaches see Conrad Russell, *Parliaments and English Politics 1621-1629*, (Oxford: Oxford University Press, 1979) and John Morrill, *The Revolt of the Provinces: Conservatives and Radicals in the English Civil War*, (London: Allen and Unwin, 1976).

⁸¹ Diane Purkiss, *The English Civil War: A People's History*, (Hammersmith: Harper Perennial, 2007); Hughes, *Gender and the English Revolution*; Bennett, *The Civil Wars Experienced: Britain and Ireland 1638-1661*.

⁸² Barbara Donagan, 'Atrocity, War Crime, and Treason in the English Civil War', *The American Historical Review*, vol.99: no.4 (1994), pp.1137-1166.

⁸³ See Ronan Bennett, 'War and Disorder: Policing the Soldiery in Civil War Yorkshire' in Mark Charles Fissel (ed.) *War and Government in Britain, 1598–1650*, (Manchester: Manchester University Press, 1991), pp. 248–273; Ann Hughes, 'Parliament Tyranny? Indemnity Proceedings and the Impact of the Civil War: A Case Study from Warwickshire', *Midland History*, vol.11 (1986), pp.49–78; Caroline Boswell, 'Meddling Soldiers' in *Disaffection and Everyday Life in Interregnum England*, (Woodbridge: Boydell and Brewer, 2017), pp. 123–63: p.129.

The offences explored are considered petty crimes, and although soldiers may have committed them, they were primarily associated with civilians and did not have a long-standing connection with the military.

Works on the Civil Wars in the Midlands largely focused on military operations within the region, including narratives on wartime administration, personnel and the allegiances formed.⁸⁴ Examples of this include Roy Sherwood's overview of regional developments during the Wars as well as military accounts of skirmishes, sieges, and movements that took place in the Midlands and Martyn Bennett's work that explores a previously neglected area of study: the royalist cause across the North Midlands, which examines the resources and funding of the royalist command as well as the internal conflicts within its structure.⁸⁵ In contrast, this research investigates the experiences of lower social classes, especially those considered on society's fringes. To supplement the local context for the region, this thesis will draw from crucial works such as A.C Wood's, Brian Stone's, and Clive Holmes' monographs on the counties of Nottinghamshire, Derbyshire, and Lincolnshire respectively, to provide an overview of what occurred within the county during this period.⁸⁶ This study mirrors, to some extent, elements of a county study approach and will seek to highlight in Chapter One where there were skirmishes, garrisons, or even local allegiances to the warring sides, which may have had some impact upon where and why crimes had taken place: as well as how these factors influenced prosecution priorities within the local administration at the time.⁸⁷ However, this research makes the county study approach more applicable

⁸⁴ Simon Charles Osborne, 'Popular Religion, Culture and Politics in the Midlands', (University of Warwick, 1993), p.5. Osborne's thesis has a substantial list of works including articles and thesis that span the Midlands region such as Leicestershire, Worcestershire, and Warwickshire.

⁸⁵ See Roy Sherwood, *The Civil War in the Midlands 1642-51*, (Stroud: Alan Sutton Publishing Limited, 1992) and Martyn Bennett, *In the Midst of the Kingdom: The Royalist War Effort in the North Midlands 1642 – 1646*, (Warwick: Helion and Company, 2001).

⁸⁶ Wood, *Nottinghamshire*; Brian Stone, *Derbyshire in the Civil War*, (Northampton: Scarthin Books, 1992); Clive Holmes, *Seventeenth Century Lincolnshire - History Of Lincolnshire Vol. VII*, (Lincoln: The History of Lincolnshire Committee, 1980).

⁸⁷ For county study approaches to the English Civil Wars see: Alan Everitt, *The Community of Kent and the Great Rebellion*, (Leicester: Leicester University Press, 1973); Ann Hughes, *Politics, Society and Civil War in Warwickshire 1620-1660*, (Cambridge: Cambridge University Press, 1987); John Morrill, *Cheshire 1630-1660: County Government and Society during the English Revolution*, (Oxford: Oxford University Press, 1974).

to crime by identifying those who held power judicially, alongside understanding the topographical, demographic and trading patterns of the counties that influenced the experiences of the criminals. Each of these aspects influences the petty crimes this thesis examines; thus, it is vital to have a foundational knowledge of the counties.

This research also offers opportunities to explore more expansive ideas regarding the fall of the Commonwealth. According to Austyn Woolrych, the failure of the Protectorate 'was due to Richard [Cromwell]'s lack of flair but also fractures in the Council and as he had no standing within the army itself.'⁸⁸ Woolrych's central argument is that the failure stemmed at a national level from Parliament's inability to take notice of concerns being raised by the army regarding pay, civilians' fears regarding the army's behaviours, and threats to freedom of worship.⁸⁹ Although he does explore sect and class divides and military coups, Brian Manning largely attributes the Commonwealth's fall to the people's economic concerns. He argues that 'the republic had not established the material foundation for an alternative to monarchy, in which people would be better off economically.'⁹⁰ Crucial to this study, he draws on Sir Arthur Hesilrige's notion that the people 'care not what government they live under, so as they may plough and go to market' questioning how far people were concerned about what government they were living under.⁹¹ This thesis will also examine whether the Protectorate's fall or discontent with the Commonwealth is evident in the Quarter Session records of the East Midlands. As previously noted, the considerable drop in the number of riot crimes during the 1650s (causing that crime to be removed from the study) suggests that there may not have been a significant level of public dissent, or if there was, it was not exhibited through public disorder. Therefore, the analysis of crime within specific localities can enhance our understanding of the changes

⁸⁸ Austin Woolrych, *Britain in Revolution, 1625-1660*, (Oxford: Oxford University Press, 2002), p.708.

⁸⁹ Woolrych, *Britain in Revolution*, p.720.

⁹⁰ Brian Manning, *Revolution and Counter-Revolution in England, Ireland, and Scotland 1658-60*, (London: Bookmarks, 2003), p.207.

⁹¹ J T Rutt (ed.) *Diary of Thomas Burton*, (4 vols, London: H.Colburn, 1828), vol.3, p.257.

during the Commonwealth and how this may have affected the people under the central government.

Structure:

This study will be split into four chapters: one focusing on the context and three addressing the individual crimes previously specified, followed by the conclusion, drawing together any notable patterns or marked differences identified across the three crimes and providing a contextualised critical analysis.

The first chapter of this research, 'Crime, the Courts and the County in the East Midlands 1630-1660', provides background for the counties that are being researched. The first section of the chapter will focus on the context of crime nationally – essentially, what this meant and entailed in the early modern period - before focusing specifically on the East Midlands. There will be an examination of the more comprehensive judicial system, its aims, and the judicial roles at the county level. It will also highlight the issues with court documentation and the difficulty of collating accurate crime figures. This chapter will also provide a foundational knowledge of the localities themselves, for instance, an overview of the country's topography, demographics, and trading patterns on which crime analysis is built throughout the remaining chapters. This section will also briefly outline the counties' roles in the Civil Wars, Interregnum, and other factors that potentially impacted criminality in the area. This chapter is crucial as understanding crime in the community is vital to know the context of the localities where the offences were committed.

Then, the three following chapters will focus on the individual crimes: one for theft, one for bastardy, and one for recusancy and absence from church – all following the same layout. Each chapter will introduce the specific crime, including the definition and key elements, such as the punishments. Chapter Two focuses on the crime of bastardy in Derbyshire, Lincolnshire, and Nottinghamshire, and in each of these county sections, the research analyses who was committing the crime (in terms of sex and occupation), what the outcomes were, when, and then where the

crime was being committed. For bastardy, the chapter will engage with the critical arguments of gender performativity in the potential hopes of leniency or preserving one's reputation within the court and community. Bastardy is also valuable as it demonstrates how extenuating circumstances were considered when punishments were given. It is also critical to determine whether prosecution drives targeted a specific subset. Chapter Three focuses on the crime of theft in the three counties. It will explore the essential components of who, outcomes, when, and where. It will also examine the items stolen by the different sexes to see if there is a correlation between the gendered spheres and items taken. Theft will also engage with the historiography regarding the community element of law by examining potential actions taken by locals to avoid judiciary involvement. Religious crimes, recusancy and absence from church will be analysed within Chapter Four. Again, this will demonstrate an analysis of who, in terms of both sex and occupation, when, where, and the outcomes given. A key argument of this chapter is that religious crimes are vital in understanding some of the power dynamics within judicial authority and how this may impact those listed for the crime and their judgments. Each chapter will explore how local and national issues impacted why these crimes occurred or were deemed prosecution priorities. The central thread to this argument is that the prosecution of crimes correlates to the influence of certain Acts and heightened national concerns (as seen with bastardy and religious crimes) alongside specific local worries (notably with theft and bastardy crimes).

Finally, the conclusion will compare the crimes across the three counties and address the significance of this study for examining the impact of the Civil Wars and Interregnum on crime during this period. It will explore how local petty crime reflects broader contemporaneous issues and concerns, plus how this thesis has engaged with the wider historiographical field of gender theories alongside notions of power within the judicial authority and local input. This structure of examining one crime for each county per chapter was deemed the most appropriate strategy as it identified trends for the specific crime across each county, allowing for a regional aspect to be analysed at the conclusion of each chapter. If the structure

followed a county-by-county approach for each chapter, then the comparison element of the crime analysis across the counties may not have been as evident.

The study of crime is crucial because ‘the history of crime and punishment cannot be divorced from demographic, economic, religious or political events of the time’; thus, it is crucial to understand how these factors during Charles I’s Personal Rule, the Civil Wars and Interregnum period impacted theft, bastardy and certain religious crimes.⁹² Very few works have focused on crime in this specific period – previously, they have focused mainly on the seventeenth century or the early modern period. Moreover, most works that focus on this revolutionary period have examined, for the experience element, the middle and lower cohorts of society’s reaction to taxation, plundering and billeting soldiers, or acts of resistance such as the Clubmen.⁹³ Therefore, this study brings a unique aspect by building upon the notion that ‘the Civil Wars happened and they had a major effect on the people who lived through them’, including those considered outside of society – those classified as criminals.⁹⁴ The thesis analyses how Personal Rule, the Civil Wars, and the Interregnum period have impacted crime and gender in the East Midlands region. It will also examine how local judicial authority was affected by the community and mitigating circumstances and how the criminal could employ gendered expectations as either an offender or a victim during this period.

⁹² Biggs, et al., *Crime and Punishment*, p.18.

⁹³ Peter Gaunt, ‘Introduction to Part III: The Course of the Civil War’ in Peter Gaunt (ed.) *The English Civil War*, (Oxford: Blackwell, 2000), pp.164-165.

⁹⁴ Bennett, *The Civil Wars Experienced*, p.15.

Chapter One: Crime, the Courts, and the County in the East Midlands between 1630 and 1660.

Introduction:

This chapter will provide essential context regarding the process of crime between 1630 and 1660 within Derbyshire, Lincolnshire, and Nottinghamshire. It will include an overview of the numerous roles in the local judicial system, including who undertook them, contemporary definitions and understandings of crime, and seventeenth-century prosecution beliefs. Chapter One will provide substantial background for understanding the system that criminals undermined and challenged and the reasonings behind their judgements before exploring specific crimes in the individual chapters. Recognising the difficulties with using court records as the substantive primary material is also crucial. As the Introduction outlines, historiography suggests that a quantitative analysis of crime can never accurately represent all criminal activity - often termed “the true figure of crime.” This impacts the reliability of any conclusions drawn; however, valuable information and details can still be collected from such material. Combined with a case study approach and measured against cultural norms displayed in contemporary popular literature, a fruitful insight into crime in seventeenth-century East Midlands can be gleaned.

This chapter also provides context for the counties where this research is focused. Although Derbyshire, Lincolnshire, and Nottinghamshire are all in the East Midlands region, each varies in terms of topography, economics, demographics, religion, trade, and administration during these thirty years. These factors impacted who committed crimes, where they were committed, what crimes occurred and when they were carried out, and the crucial aspect of why they happened. Furthermore, it is vital to engage with the wider background of the law to understand contextual changes. For instance, historians like Laslett and Sharpe

have tried to demonstrate how certain crimes declined during the Commonwealth.¹ The records analysed in this study also suggest it was a more peaceful period with a considerably lower number of crimes recorded overall – as outlined in the Introduction, rioting crimes declined in Nottinghamshire during the 1650s drastically – and a greater focus on parish and moral management than in the years leading up to the Civil Wars.

This chapter will also provide context for the counties in the chronological parameters of this research. Between 1630 and 1660, the three counties experienced vast changes from the Personal Rule of Charles I to the English Civil Wars and the Commonwealth. Each of these eras brought vast constitutional, governmental, and social changes at a national level that affected those within the localities. For Derbyshire, Lincolnshire, and Nottinghamshire, this meant significant adjustments in the local administration of the county as personal and political allegiances were consistently under pressure. Notably, these constitutional changes impacted administrative priorities within the individual counties, especially with movements such as those led by the Major Generals who, although military men, took charge of local administration between August 1655 and January 1657. Both elements impacted crime and the Wars in the counties, and each feature also affected the types of crimes committed during this period.

The geography of the counties began to change with the inclusion of garrisons, yet permanent features such as travel, trade, and communication networks remained. Furthermore, Hindle determined that ‘significant variations in social structure, wealth distribution, and demographic experience even between adjacent parishes, but also the realities of labour mobility’ affected the administration of poor relief, and these elements also impacted the occurrence of

¹ See for Bastardy Peter Laslett, 'Introduction: Comparing Illegitimacy over Time and between Cultures,' in Peter Laslett, Karla Oosterveen, and Richard M Smith (eds.) *Bastardy and Its Comparative History: Studies in Illegitimacy and Marital Nonconformism in Britain, France, Germany, Sweden, North America, Jamaica and Japan*, (London: Edward Arnold Publishers Limited, 1980), pp.1–64; for Theft J. A. Sharpe, *Crime in Early Modern England: A County Study*, (Paris: Maison des Sciences de l'Homme, 2008), pp.92-98.

crime.² For instance, in his examination of scolds, Underdown noted that there were increased instances of scolds in wood-pasture parishes, which he outlined as:

often larger in area, with scattered settlement patterns rather than nucleated centres. Manorial institutions were weaker or non-existent, they were less likely to have resident squired, and their mode of agriculture – dairy-farming or cattle raising – involved individually owned, enclosed farms rather than the more cooperative systems of farming that prevailed in open-field villages³

which allowed for these heightened instances of disorder. Therefore, it is vital to understand these underlying features for the three counties to explore how the three crimes were shaped.

The Criminal Process:

Definition

First, it is crucial to understand the multifaceted definitions of crime, as Sharpe determined that crime is a blanket term that can differ depending on the people and the time.⁴ The current definition is 'crime is an illegal act for which a person can be punished by law' or 'a grave offence, especially against morality.'⁵ Crucially, there are two elements to the definition of crime: one that is irrefutable – a broken law is a crime - and one that is slightly more subjective, where a person's morality is used to define an offence. The fluidity of the definition or meaning of crime was fundamental to the legal process during the seventeenth century. For this study, this flexibility allows for that space where the offenders could be seen as breaking the law whilst acting morally or per expectations of their sex. It is this duality that allowed for gender performativity by offenders to preserve their reputation in the community but also resulted in the modification of punishments for those who may

² Steve Hindle, *On the Parish?: The Micro-Politics of Poor Relief in Rural England c.1550-1750*. (Oxford: Oxford University Press, 2004), p.294.

³ David Underdown, 'The Taming of the Scold: The Enforcement of Patriarchal Authority in Early Modern England,' in Anthony Fletcher and John Stevenson (eds.) *Order and Disorder in Early Modern England*, (Cambridge: Cambridge University Press, 1985), pp.116–36: p.126.

⁴ J. A. Sharpe, *Crime in Early Modern England 1550-1750*, 2nd ed (Harlow: Pearson Education Limited, 2014), p.5.

⁵ Collins English Dictionary 'Crime' <https://www.collinsdictionary.com/dictionary/english/crime> accessed 17/10/2022; Merriam-Webster Dictionary 'Crime' <https://www.merriam-webster.com/dictionary/crime> accessed 17/10/22

have been adhering to society's moralistic and gendered ideals despite being criminals as judged by the law.

The combined element of the crime as law-breaking and a threat to morality underpinned law and legal practice within the seventeenth century because the criminal process in this period was established in common law. Based upon the societal customs, principles, and morals used to decide cases that could not be otherwise determined within civil law or statutes. These decisions set the precedent for future rulings. Cynthia Herrup has written extensively on law within seventeenth-century England, outlining three types of crime: felony - an act which deliberately hurt someone (this could be physically, financially, or their standing and reputation in their locality); trespass – an act that violated the community but not malicious enough to be a felony; and violation of a statute.⁶ Critically, she notes that crime was rooted in felonies, which were often sinful and violated biblical teachings, as well as being a legal crime. Felonies frequently impacted the community as a whole, as they threatened society.⁷ Thus, when addressing crime within the seventeenth century, it is vital to understand the intricacies of where the law, society, and morality met and how this impacted those determined as criminals.

Sharpe argues that there is a danger in limiting the study of crimes to those defined as severe by modern standards, as this results in an incomplete picture of criminal activity within a community.⁸ These types of crimes (burglary, rape, and murder) were not committed as often, yet still had a degree of notoriety; therefore, restricting analysis to these types of felonies would discount crimes that were more typical in a local community. As petty crimes were far more common and more characteristic of the local parishes, this 'in many ways [made them] more entitled to be described as 'real' crime [than] the serious offence[s],' and as such this thesis will focus on minor crimes to explore their intrinsic connection to the community.⁹

⁶ Cynthia Herrup, *The Common Peace: Participation and the Criminal Law in Seventeenth-Century England*, (Cambridge: Cambridge University Press, 1987), pp.2-3.

⁷ Herrup, *The Common Peace*, p.3.

⁸ Sharpe, *Crime in Early Modern England*, p.6.

⁹ Sharpe, *Crime in Early Modern England*, p.6.

The three categories of crime examined in this thesis reflect different aspects of concerns present within the communities.

The Judicial System

The highest judicial authority in England during this period was the Court of the King's Bench, this could deal with a range of serious to petty offences, but it was primarily a court of review. For this research, the most significant aspect is the Writ of Certiorari, where cases could be removed from an inferior court, such as the Quarter Sessions, and reviewed by a higher court. There is one instance of this in Nottinghamshire, in the case of Riot, Assault and Battery, committed by thirteen people in one occurrence on the 4th of September 1657, which was held at a Special Sessions in Mansfield specifically for this instance.¹⁰ The Star Chamber, where the King's council sat as court, was often centred on large-scale cases that disturbed the peace. For example, Andy Wood has shown that there were miners' riots in Derbyshire that were seen before the Star Chamber, yet there is no surviving mention of these in the Quarter Session Rolls.¹¹ Evidently, with the fall of the monarchy, the Star Chamber ceased in 1641.

The Assize Court was the senior court above the Quarter Sessions and dealt with significant felonies, those which required punishment by death, such as arson, rape, murder, witchcraft, and robbery, among several others. This court was essentially the primary criminal court within the counties, but it also passed information on behalf of the national parliament to the local administration. The Assizes and Quarter Sessions interacted where crimes were referred from the Quarter Sessions to the Assize court to be dealt with as major felonies. For instance, Henry Smyth of Collingham received a recognisance through the Quarter Sessions yet was to be prosecuted at the Assize court by Richard Crane and John Fotherby,

¹⁰ 'Writt of Certorari for Richard Wheate the elder, Richard Wheate the younger, Thomas Vissy, Nicholas Webster, Thomas Wheate, John Gervase, John Wright, Elizabeth Clarke, Elizabeth Wasse, Samuel Wibley, Thomas Sheldon, Gervase Wyld, and Robert Trippett' *Mansfield*, (11th January 1658) – Nottinghamshire Archives (NA) – Quarter Session Minute Books Transcribed (QSMB) – C/QSM/1/12 vol 2.

¹¹ Andy Wood, 'Social Conflict and Change in the Mining Communities of North-West Derbyshire, c. 1600–1700', *International Review of Social History*, vol.38: no.1 (1993), pp.31–58; Andy Wood, 'Beyond Post-Revisionism? The Civil War Allegiances of the Miners of the Derbyshire 'Peak Country'', *Historical Journal*, vol.40: no.1 (1997), pp.23–40.

from whom Smyth had stolen a sheep. This case was likely seen before the Assize because the value of the sheep was over a shilling, making it a grand rather than petty larceny.¹²

This thesis focuses on the Quarter Sessions as they processed petty crimes. The Quarter Sessions were essentially a peripatetic court within each county that dealt with minor felonies and administrative elements – they were an essential part of local administration and crime control. These were presided over by the Justices of the Peace (JPs), of which there had to be at least two, and were held four times a year: Epiphany (December/January); Easter (April); Midsummer (July); and Michaelmas (September/October). Quarter Sessions were held in specific towns within the county: in Derbyshire, Derby, Chesterfield, and Bakewell; in Nottinghamshire East Retford, Newark on Trent, and Nottingham; and in Lincolnshire, Caistor, Horncastle, Louth, and Spittle on the Street. Occasionally, Special Sessions could be held where there was a considerable cause – often a significant riot. For instance, in Nottinghamshire, Special Sessions were held at Papplewick on 25 June 1632, when eighteen women were brought before the Justices for Riotous Trespass and Affray committed at Arnold.¹³

The Borough Sessions dealt with a range of major and minor felonies (thus a combination of both Assize and Quarter sessions) for the incorporated borough towns. For Derbyshire, this was Derby and Chesterfield; for Lincolnshire, there was Gainsborough, Boston, Lincoln, Grantham, Wainfleet, Louth; and for Nottinghamshire, Nottingham, Southwell, East Retford, and Newark-on-Trent. More locally, there were Manorial Courts, both the Baron and Leet courts, in which the former mainly dealt with land matters and the latter minor crimes such as verbal violence, assault and petty theft.¹⁴ The Church Courts dealt with moral offences and transgressions such as lewd and disorderly behaviour. Manorial and Church courts

¹² 'Recognisance of Henry Smyth' *Newark-on-Trent*, (12th January 1631) – NA – QSMBT – C/QSM 1/74/2.

¹³ 'Indictment of Jane Burrows, Mary Barbour, Isabel Sulley et al,' *Papplewick*, (25th June 1632) – NA – QSMBT – C/QSM 1/74/2.

¹⁴ John Briggs, Christopher Harrison, Angus McInnes and David Vincent, *Crime and Punishment in England: An Introductory History*, (Abingdon: Routledge, 2005), p.12.

were where 'people used to settle their disputes or curb their disorderly neighbours', emphasising that these courts were largely concerned with maintaining community relations.¹⁵ Although the Church Court's jurisdiction ceased in 1641, it had a significant role in addressing ecclesiastical matters in the communities before its end. These community courts dealt with crimes that could also be judged within the Quarter Sessions, which may affect the accuracy of figures for the crime if cases were being recorded in multiple courts.

Court Documentation and Difficulties

The documents found throughout most of these courts are formulaic in both structure and language. The seventeenth-century criminal process started with a deposition, a confession, examination, or witness statement, which was given under oath and sworn by the deponent. In Quarter Sessions, these were often included in the Session Papers, which also included the Recognisance, which outlined the charge and bound the deponent or offender to appear, generally, at the subsequent sessions. This documentation usually included the date, the deponent's name, the village where they lived, occupation, and the suspect's name. The deposition included far more circumstantial details about the case. These elements made up the pre-trial.

Notably, there is a difference in the language within the recognisances between Charles I's Personal Rule and that of the Commonwealth and Interregnum that may suggest a change in the judicial focus. During the 1630s, within Nottinghamshire and Lincolnshire, the recognisances stated that a person was to be of good behaviour in general. For instance, in 1637, Elinor Tupland received a recognisance for a felony which reads:

The condition of this recognisance is such that if the within named Elinor Tupland personally appear at the next general quarter session of the peace to be holden at Caystor before his Maj[esties] Justices of the Peace there and do then and there appear and censure of the court for the felonious stealing of four sheepe five geese and a turkey and in the mean tyme to be of her good

¹⁵ J. A. Sharpe, *Crime in Early Modern England 1550-1750*, 2nd ed. (Harlow: Pearson Education Limited, 2014), p.39.

behaviour that this recognisance be voyd and as none effect to remaine in the full force and vertue.¹⁶

This documentation outlines that whilst under this recognisance, Ellen was to maintain good behaviour with no further specification. Yet recognisances later in the period became slightly more focused in their terminology, for example:

Be it remembred that John Bland of Kermond in the county of lincolne lab the XViiI th day of Aprill in the yeare of our Lord 1657 came before me esq[ui]re one of the justices of the peace within the parts of Lindsey in the county of lincoln [and] acknowledged himself to one to his highnes Oliver Lord Prtecto[r] of the ComonWealth of England. The condition of this Recognisance [...] and tht in the meane tyme to be of good behaviour towards all the people of this ComonWealth then the sayd Recognisance to be voyd [and] of none effect or else to stand in force [and] effect.¹⁷

This recognisance is one example from the 1650s that expected the accused to demonstrate good behaviour towards everyone within the Commonwealth rather than just a general requirement for good behaviour. This may indicate that during the Interregnum period, more emphasis was placed on parish management through morals and godly behaviour fitting to the values of the Commonwealth, starting with ensuring those within the localities behaved as expected towards each other. Under Charles' rule, the justices were outlined as being "the majesties justices", whereas under the Commonwealth and Protectorate, they were described as "the Keepers of the Liberty of England by Authority of Parliament." This reflects a shift from the authority of one leader to a collective supposed to represent the people. Furthermore, this removal of monarchical authority over court officials in favour of the liberties of England suggests that the judicial process was perceived as being of and for the people of England, which may reflect a more community-based approach to the judicial process and the aims of the Interregnum central government.

Once those involved in the case attended the court, either in lieu of the Recognisance or from Gaol, all the case information from the depositions was included, plus the Indictment – the summary of the crime. This information was

¹⁶ 'Recognisance of Elinor Tupland' *Caistor*, (1637) – Lincolnshire Archives (LA) – Quarter Session Rolls (QSR) – LQS/A/1/9/74

¹⁷ 'Recognisance of John Bland' *Caistor*, (20th April 1657) – LA – QSR - LQS/A/1/15/153

then reviewed by a grand jury who decided whether the case constituted a True Bill, for which it became a trial before the petty jury for judgment, or Ignoramus – sometimes termed ‘we find not’ or no true bill – in which the case was dismissed. From this, a verdict was recorded, sometimes including the punishment. Before the Quarter Sessions, there were also Presentments, which were often ‘a less formal charge against less serious offenders’; these often had elements of community grievances.¹⁸

However, it is crucial to note that there are issues with the information held within the court records. This study has determined that place of residence is not always consistent with where the crime occurred. However, often, if the crime happened in a different place, especially outside their parish, then this is noted in the documentation. Thus, it was likely that these crimes occurred within their residential area or at least their locality and neighbourhood area. Furthermore, this research challenges the notion that ‘details of occupation were frequently inaccurate, [so] analyzing those accused of felony by occupation or status [is] a meaningless exercise’, as there is value in exploring how different social standings more broadly affected the treatment of criminals.¹⁹ From this research's records, the greatest occupation interchangeability was between yeoman and gentleman. One example of this was William Smyth of Boughton in Nottinghamshire, who was listed continuously for religious crimes: between 1630 and 1633, he was termed a yeoman, yet for 1634, 1636, and 1637 a gentleman.²⁰ Gentleman was a notoriously fluid term that revolved around social status and character, although it was broadly recognised as a class of men who could live without labouring and have the money to raise coats and arms.²¹ However, they were also subject to ‘taxes and public

¹⁸ Sharpe, *Crime in Early Modern England*, p.57.

¹⁹ Sharpe, *Crime in Early Modern England*, p.54.

²⁰ ‘List of Recusants’ *East Retford*, (13th July 1630) – NA – QSMBT – C/QSM 1/74/1; ‘List of Recusants’ *East Retford*, (14th January 1631) – NA – QSMBT – C/QSM 1/74/2; ‘List of Recusants’ *East Retford*, (13th April 1632) – NA – QSMBT – C/QSM 1/74/2; ‘List of Recusants’ *East Retford*, (11th January 1633) – NA – QSMBT – C/QSM 1/74/2; ‘List of Recusants’ *East Retford*, (18th July 1634) – NA – QSMBT – C/QSM 1/74/3; ‘List of Recusants’ *East Retford*, (15th January 1636) – NA – QSMBT – C/QSM 1/75; ‘List of Recusants’ *East Retford*, (14th July 1637) – NA – QSMBT – C/QSM 1/75.

²¹ William Harrison, *The Description of England*, Holinshed Chronicles 1587 ed.: The Folger Shakespeare Library, (ed.) Georges Edelen (1968), p.114.

<https://archive.org/details/descriptionofeng0000harr/page/n7/mode/2up>

payments as is the yeoman or husbandman'; thus, there was some interchangeability in classification between these roles.²² A husbandman traditionally was a tenant farmer, with a yeoman owning their land. It is essential to acknowledge this issue with occupation in the records; however, outside of those on the cusp, it is still a valuable method of analysing general associations between status and crime and addressing the impact of hierarchical power within the judicial system.

Within the court records, women were primarily denoted by their marital status, reflective of early modern ideals centred on a woman's life cycle being intrinsically linked to her marital status. Therefore, there were often only four categories into which women were placed: single woman, wife, spinster, or widow. Unfortunately, unless their husband and his occupation were listed alongside the wife, there was often no further information about her social status. There are minimal exceptions, and all those noted are identified as a servant of some type, such as Mary Bramall of Glossop, who was listed as a maid when brought before the Derbyshire Quarter Sessions for theft of linens and cloths from her master.²³ This determination of women by their marital status rather than occupation removes the possibility of a comparison between the sexes. Instead, it allows historians to address differences in patterns between female offenders who were single women (including spinsters and widows) and those who were married.

For Derbyshire and Lincolnshire, this information is stored within the Session Papers, a mix of Depositions, Recognisances, Presentments, Petitions, and Indictments, as well as various other court documentation such as jurors' and constables' lists. In Nottinghamshire, the Quarter Sessions Minute Books summarise the Depositions (often brief compared to the session rolls), Recognisances and Presentments, and case outcomes and punishments.²⁴ The Quarter Sessions Minute Book of Nottinghamshire is written in English, as well as

²² Harrison, *The Description of England*, p.114.

²³ 'Information of Thomas Brough' *High Peak*, (6th October 1638) – Derbyshire Record Office (DRO) – Quarter Session Papers (QSP) – Q/SB/2/60.

²⁴ Although in some counties the case outcomes were kept in a separate Quarter Session Order Book.

the Session Papers of Derbyshire, whereas for Lincolnshire, particularly up to 1636, there is a mixture of both Latin and English. The language appears to be largely dependent upon the clerk and the formulaic aspects of the documentation. Moreover, different clerks for the sessions wrote the elements of the documentation differently and may or may not have included all aspects. For instance, there are some accounts where occupations or residences are not included, affecting the detail within these records.

In terms of survival rates for the archival material, this differs for all three counties examined. For Nottinghamshire's Quarter Sessions, apart from during the Civil War years when the Quarter Sessions ceased in 1641, there is material from each Quarter for each Sessions for every year between 1630 and 1660. The Quarter Session Minute Book for 1646 to 1652 has not survived. Derbyshire's Session Rolls' data comes from several of its hundreds, but the records available are highly sporadic. There appears to be no pattern of which years survived and which did not. For the period 1639 to 1648, there are no records available at all, suggesting that the Civil Wars did stop the Quarter Sessions, although there was likely to have been another form of judiciary. Lincolnshire only has one set of hundred records collected, that of East Lindsey, which included Spittle, Louth, Horncastle and Caistor – unfortunately, Grantham, Stamford, and Kesteven are non-existent or inaccessible. Thus, when this study outlines an analysis of Lincolnshire, it only references the Lindsey area and records. Despite this, there are several years in which records are available throughout the 1630s, 1640s and 1650s. Again, notably, no records survive between 1642 and 1648 amid the Civil Wars. The survival rates of the court record materials make it impossible to quantify total figures for crimes, but it is still valuable to address some statistical matters, such as when there may be absences in the records and why this may be. The three-county approach helps to ameliorate some of the gaps so that at least one county's worth of data is available for analysis for each year (excluding the active Civil Wars years).

Roles within the Judicial System

Due to the impact of felonies in the broader community, the common law process involved a range of people within the community out of necessity. These people

undertook various roles to maintain the peace and help with the prosecution alongside individuals appointed in an official capacity.

The High Sheriff had a range of tasks that included 'the holding of the county court, the collection of the revenues of the crown, and the execution of writs from local courts and those of Westminster,' as well as manning and sustaining the gaol, plus seeing to the general maintenance of law and order in the county.²⁵ These tasks were often carried out and supported by officials such as the Undersheriff and Bailiffs. Those appointed to these positions were usually titled or lower landed gentry as they needed a substantial income from elsewhere to support these unsalaried roles, which could be taxing. Moreover, the Sheriff's officials were often lawyers/attorneys with some degree of experience. High Constables were also responsible for any dictates from the Quarter Sessions within each of the hundreds. Below this was the petty or parish constable who aided the High Constable in maintaining morality and law within their distinct locales.

For this thesis, the most important official was the Justice of the Peace – this person had an essential role in local government and crime control in the counties. Their role varied, including hearing numerous pre-trial depositions and sending offenders to gaol at the opposite end of the trial. They also had a significant role in local administration: for instance, managing responsibility for highways, ordering maintenance payments, and overseeing the sales of corn. These aspects, and others, were filtered through the Quarter Sessions. As noted above, those who undertook the role of JP were often independently wealthy from the landed and lower gentry. For Derbyshire, JPs were often from families who had long-term residence within the county, whereas, for Nottinghamshire, there was a more balanced mix, including families who had arrived in the county in the sixteenth century.²⁶ Due to the combination of the authority entrusted to the role and their social status, 'the powers of a justice were susceptible to infinite abuse', as Clive Holmes identified. He described how north-west Lincolnshire was managed

²⁵ Jill R. Dias, 'Politics and Administration in Nottinghamshire and Derbyshire 1590-1640', (University of Oxford, 1973), p.130.

²⁶ Dias, 'Nottinghamshire and Derbyshire', p.162.

between Sir Richard Williamson and Sir William Hickman in the early seventeenth century, who used their position to prosecute the others' supporters within Gainsborough.²⁷

Table 1 is a list of the Justices of the Peace for Nottinghamshire who were active at the Nottinghamshire Quarter Sessions during the period encompassed by this study, noted by their listing within the Quarter Session Minute Books and correlating this against the information from Jill Dias and AC Wood's Appendices.²⁸ In the three following tables outlining the JPs, those with a known allegiance to one or other side during the Civil Wars are stated, where there is a question mark next to the initial for either Parliament or Royalist; this is for a suspected allegiance that has not yet been confirmed.

²⁷ Clive Holmes, *Seventeenth Century Lincolnshire*, (Lincoln: The History of Lincolnshire Committee, 1980), p.98.

²⁸ See Alfred C. Wood, 'Appendix II' *Nottinghamshire in the Civil War*, (Oxford: The Clarendon Press, 1937), pp.217-224; Dias, 'Appendix I' in 'Nottinghamshire and Derbyshire', pp.481-483.

Table 1: List of active Nottinghamshire JPs 1630 – 1660

Period	Name	Residence (if known)	Allegiance
1637 - 1642	Gilbert Boun	Nottingham	Royalist
1635 - 1642	Richard Byron	Strelley	Royalist
1610 - 1642	Sir Gervase Clifton	Clifton	Royalist
1600 - 1640	William Cooper	Thurgarton	
1617 - 1642	Sir Thomas Hutchinson	Owthorpe	Parliament
1604 - 1640	Sir George Lascelles	Sturton	
1629 - 1642	Gilbert Millington	Felley	Parliament
1634 - 1640	John Neville	Mattersey	P?
1627 - 1642	Sir Mathew Palmer	Southwell	Royalist
1627 - 1642	Sir Isham Parkyns	Bunney	Royalist
1618 - 1642	Timothy Pusey	Selston	Royalist
1617 - 1640	Robert Sutton	Averham	Royalist
1617 - 1642	Gervase Tevery	Stapleford	R?
1622 - 1642	Sir Francis Thornhagh	Fenton	Parliament
1608 - 1637	Sir Hardolph Wastnes, Baronet	Hedon	
1610 - 1632	Robert Williamson	Walkeringham	Royalist
1639 - 1642	Sir Thomas Williamson, Baronet	Great Markham	Royalist
1609 - 1640	John Wood	Lambley	Royalist/Parliament
1619 - 1642	Sir Francis Wortley, Baronet	Wortley, Yorks	
1630 - 1642	William Mosely		
1630 - 1642	John Millington	Sturton	Royalist
1630 - 1642	Richard Stringer	Sutton on Lound	R?
1630 - 1642	William Clarkson		
1652 - 1653	Sir John Hutchinson	Owthorpe	Parliament
1652 - 1659	Edward Cludd	Norwood Park	Parliament
1652 - 1659	Thomas Charleton		P?
1652 - 1657	William Wightman		
1652 - 1659	Edward Neville	Grove	Parliament
1652 - 1655	Alexander Ashwall		
1653	Francis Pierrepont	Nottingham	Parliament
1653 - 1655	Clement Spilmen	Norfolk	Parliament
1653	Robert Reynes		
1653 - 1658	Henry Sacheveral	Burton Joyce	
1653	William Cartwright	Ossington	Royalist
1653 - 1656	William Landen		
1653, 56, 58	Gilbert Millington	Felley	Parliament
1653 - 1657	Samuel Bolles	Osburton (?)	R ?
1653	Edward ?wise		
1653	Thomas Lindley	Skegby	Parliament
1654	Gabriell Armstrong		
1654 - 1659	Charles White	Newthorpe	Parliament/Royalist
1656	Edward Whaley	Screveton	Parliament
1656 - 1659	James Chadwick	Nottingham	Parliament
1658 - 1659	Joseph Widmerpoole	Widmerpool	Parliament
1658	Robert Sherbrooke		
1659	John Parker		

Table 2 lists the Justices of the Peace who were active in the Derbyshire Quarter Sessions and the decades in which they were active; this meant those who

were listed on the Session Papers, for instance, those who took depositions, granted warrants, and declared orders. This table has also been cross-referenced with Jill Dias' appendices for information regarding residence and allegiance.

Table 2: List of active Derbyshire JPs 1630-1660

Period	Name	Residence (if known)	Allegiance
1630s	Baronet Francis	Sutton Scarsdale	Royalist
1630s	John Gell	Hopton	Parliament
1630s	John Bullock	Darley	Royalist
1630s	Sir Thomas Burdett	Foremark	Parliament
30s, 50s	William Newton		
1630s	William West		
30s, 40s	Randolph Ashenhurst	Beard Hall (New Mills)	Parliament
1630s	Edward Revell	Carlingthwaite (Carnfield)	Parliament
1630s	John Greaves	Beeley	
1640s	Henry Wigsall		
1640s	Robert Eyre	Edale	Parliament
1640s	Baronet George	Drakelow	Parliament
1640s	William Walley	Matlock	R?
1640s	Sir Edward Coke	Longford	Neutral
1650s	Lionel Fanshawe	Cowley Hall (Darley)	P?
1650s	Ralph Clarke		
1650s	Gervase Bennett	Snelston	Parliament
1650s	John Speckman		
1650s	Nathaniel Barton	Little Ireton	Parliament
1650s	Samuel Taylor		P?
1650s	Edward Manlove	Ashbourne	Parliament
1650s	James Abney	Willesley	Parliament

Lastly, Table 3 depicts the active Justices of the Peace for Lincolnshire; again, these are the names taken directly from the Session Papers held by the Lincolnshire archive, and they depict the years they were actively involved in the Quarter Sessions. The information regarding their residence and allegiance, if known, has been outlined with the aid of Clive Holmes' *Seventeenth Century Lincolnshire*.

Table 3: List of active Lincolnshire JPs 1630-1660

Period	Name	Residence (if known)	Allegiance
1630 1631 1632	Sir Willoughby Hickman	Gainsborough	
1630 1637	George St Paule	Snarford	
1630 1637	John Estofofte		
1630 1631 1632	William Llanden	Dalby	
1630 1631 1632	Sir Ralph Maddison	Fonaby	
1630 1640s	Sir Gervase Scrope	Cockerington	Royalist
1630 1631 1632	Thomas Massingbred	Gunby and Ormsby	
1630 1631 1632	William Hansarde	Wragby (South Kelsey)	
1630 1640s	Rutland Snoden		
1633, 1636 1657 1658	Sir Edward Ascough	South Kelsey	Parliament
1633 1634 1637	John Farmens/Farmerie (diocese chancellor?)	Heapham	Royalist
1633 1637	Sir John Bolles	Scampton	
1633	William Armicotts		
1633	George Ashton	Minting	
1633	Sir Walter Norton	Ashby	
1633	William Cayers		
1634 1637	Thomas Sandersen	Fillingham	R?
1634 1637	William Lincoln(Clinton?)	Kirstead	
1634	Sir John Wray (2 nd Bt)	Glentworth	Parliament
1634	Marmaduke Dorell		
1634	Vincent Sheffield		
1634	Sir Charles Bolles	Haugh	Royalist
1634 1641 1642	William Coney	Little Sturton	
1636	Theophilus Clinton-Fiennes, Earl of Lyncoln		Parliament
1636 1638	Sir Phillip Fyefitt/Tyrwhitt	Stainfield	Royalist
1636	William Pelham		
1637	Sir John Monson	South Carlton	Royalist
1638	Phillip Llanden	Dalby	
1638 1641 1642	Richard Towthby	Towthby	Neutral
1638	Thomas Traynor		
1641 1642	Sir Henry Radley	Yarborough	
1641	William Guarding		
1641	Henry Guarding		
1641	Edward Towney		
1648	Richard Hilman		
1648 1649 1652 1655 1657	Baron William Willoughby?	Parham	Parliament
1648	Edward Nelthorpe	Scawby	P?
1648	Alex Emerson		
1649	Francis Mussendon	Boston	P?
1649	Richard Busan		
1649 1652 1655	Richard Filkin	Langton by Partney	
1649 1652 1655 1657	Robert Stone		
1652	Thomas Coupledike	Harrington	
1652	Richard Bryan		
1652	Michael Monson		
1652	Sir Christopher Wray (4 th Bt)	Glentworth	Parliament
1655	Sir Drayner Massingbred	Gunby and Ormsby	Parliament
1655	Theophilus Hawcrose		
1657 1658 1659	Humphrey Walcott	Boston	P?
1657	Nick Monton		
1657	William Lister		
1657 1658 1659	Sir Robert Christopher	Alford	Royalist
1657	Robert Yarborough	Yarborough	
1657	Thomas Johnson		
1657 1658 1659	Jon Barnard	Caistor?	
1657 1658	Francis Clinton	Little Sturton	P?
1657	Nehemiah Rawson	Birkwood	Parliament
1657	Joseph Whitening		
1658 1659	Theophilus Hart		
1659	John Disney	Swinderby	

As is evident from the tables, the men involved in the judicial process were often considered elite within their communities. Familial names such as the Wrays of Glentworth Lincolnshire have appeared throughout the decades. Father Sir John Wray, the second baronet, was succeeded to the bench by one of his sons, the 4th baronet Sir Christopher - not to be confused with his cousin Sir Christopher Wray of the Ashby line who was the 6th Glentworth baronet and 2nd baronet of Ashby. Furthermore, there were more distant relations among those who were JPs; for instance, in Derbyshire, Sir George Gresley's son Thomas Gresley, a deputy lieutenant, married Sir Thomas Burdett's daughter Bridgett in 1622. This further cemented the relationship between the families when the mother of Lady Jane Burdett (Sir Thomas' wife and Bridgett's mother), who had already been widowed once, married Hastings Burdett, Sir George Gresley's brother.²⁹ These connections further suggest that the Justice of the Peace position was ripe for nepotism and abuse of power; this was a problem which, according to Shapiro, Parliament desired to remove, avoiding 'the pressure or corruption from government or suitors' to gain the role. One way in which they hoped to achieve this was through providing a salary for the judges' position.³⁰

It is crucial to understand who was leading the Quarter Sessions throughout the period as this may have impacted the prosecution levels and aims during their period alongside broader societal elements. Certain JPs may have had associations that influenced the crimes they focused on in the courts. For instance, Edward Whalley was active in Nottinghamshire during 1656, the middle of the Major-Generals' rule (August 1655-January 1657). Whalley was the Major-General for Derbyshire, Leicestershire, Lincolnshire, Nottinghamshire, and Warwickshire, and in line with Cromwell's ideals of Godly Rule, Beats argues that Whalley 'was primarily concerned with social and economic policy.'³¹ In January of that year, Whalley

²⁹ Falconer Madan, *The Gresleys of Drakelowe: An Account of the Family, and Notes of its Connections by Marriage and Descent from the Norman Conquest to the Present Day*, (1899), pp.89-90. https://archive.org/details/The_Gresleys_of_Drakelowe/page/n103/mode/2up

³⁰ Barbara Shapiro, 'Law Reform in Seventeenth-Century England', *The American Journal of Legal History*, vol.19: no.4 (1975), pp.280-312: p.289.

³¹ Lynn Beats, 'Politics and Government in Derbyshire 1640-1660', (University of Sheffield, 1978), p.328.

wrote about his assigned counties, asserting that 'We are ... very busy in casting out scandalous and ignorant ministers, suppressing alehouses, taking order that the poore in all places under our charge may be set a worke and beggars suppressed.'³² This may be some indication as to why, within the Quarter Sessions Minute Books during the 1650s, there was a 'community management' approach on morality rather than a focus on what may be considered petty crimes. Whalley had already outlined that this was where his priorities would lie.

The community management of crime also included people in the parish taking on certain aspects of the prosecution process. According to Herrup, 'the propertied community shared the obligation to identify and investigate criminal suspects', often leading to a community approach in dealing with petty crimes.³³ This was generally in terms of people providing information to the court regarding a particular accusation or event that became a part of the depositions or detaining a suspect until the parish constable could be roused. For instance, in bastardy cases, it was often local women who were responsible for identifying women pregnant outside of wedlock and who the possible father may have been. For example, in Derbyshire, a 'petition of various women present at the birth, [declared] that Elizabeth Bucklowe, daughter of widow Bucklowe, was gotten with child by Rowland Allsopp.'³⁴ These examples demonstrate that, although they did not play an official role within the judicial system, the community was a vital and effective part of the prosecution process, particularly at the start. Moreover, in certain cases, community members acted as mediators and arbitrators to avoid bringing the case to the courts, which could be costly for everyone involved. There was an awareness that in some instances, prosecuting certain types of crime like thefts to the fullest extent of the law through the courts was viewed as unneighbourly, predominantly

³² 'Letter Major General Whalley to Secretary Thurloe' Thurloe State Papers, vol.4. (18th January 1656) p.561, accessed 19/10/2022 <https://www.british-history.ac.uk/thurloe-papers/vol4/pp427-439#highlight-first>

³³ Herrup, *The Common Peace*, p.4.

³⁴ 'Petition against Rowland Allsopp' *Wirksworth*, (1649) – DRO – QSP – Q/SB/2/137.

if the theft was driven through need, and it was accepted that these were sometimes better dealt with by the community.³⁵

Judicial Context

This section of the chapter will outline the broader context for ideas about crime and prosecution priorities in the seventeenth century, providing a background on which the research will analyse the identified crimes in the East Midlands.³⁶ During the early modern period, the use of the law was fundamentally seen as power and a way to control the local population. Herrup notes that ‘complaints in the 1620s and the 1630s reflected not only local concerns but also those of Westminster; the governor in the capital encouraged, indeed demanded, that judicial officers give greater attention to regulatory matters.’³⁷ This suggests that significant priority was given to regulating the people and their activities and that officers sought to apply the law from central Westminster to the localities. An example is the use of the Book of Orders, released by Charles I on 31st January 1631, that focused on pushing local magistrates to adopt more efficient methods of managing social welfare, such as poor relief alongside public disorders.³⁸

As the judicial process was largely community-based throughout the early modern period, the prosecutions throughout the Quarter Session records were often personally motivated and primarily reflected local issues. Some wider national factors impacted the prosecution priorities of local Quarter Sessions. For instance, J. A. Sharpe noted that:

fluctuations in the prosecution of unlicensed ale-house keepers, of bastard bearers, of swearers of profane oaths and the like were very likely to be reflections of ‘control waves’. On the other hand, it is probable that the historian is on firmer ground when discussing changes in the level of property offences or homicide [as these were not directly linked to national priorities].³⁹

³⁵ Sharon Howard, 'Investigating Responses to Theft in Early Modern Wales: Communities, Thieves and the Courts', *Continuity and Change*, vol.19: no.3 (2004), pp.409–30: p.414.

³⁶ Numerous works such as Herrup's *The Common Peace* and Sharpe's *Crime in Early Modern England* outline the application of the judicial system far more extensively.

³⁷ Herrup, *The Common Peace*, p.39.

³⁸ See B. W. Quintrell, 'The Making of the Charles I's Book of Orders', *The English Historical Review*, vol.95: no.376 (July 1980), pp.553-572.

³⁹ Sharpe, *Crime in Early Modern England 1550-1750*, p.63.

This supports this research's hypothesis that the prosecution of certain crimes was indeed impacted by either the Personal Rule or parliamentary priorities during the Interregnum. In terms of the crimes that this research analyses, bastardy and recusancy/absence from church are likely to be impacted by the 'control waves' of the central government. Theft was likely to have been affected by other factors outside prosecution priorities. For instance, before the start of the Civil Wars, there may have been increased attempts by the local administration to identify recusants as there were heightened concerns regarding Catholic influence from the court spreading throughout the country. Or, after the Commonwealth Adultery Act (1650) and The Marriage Act (1653), there may have been a higher number of crimes related to the domestic relationships between men and women, such as those which created bastard children.

Early modern punishments had different priorities to the case outcomes, such as 'deterrence, retribution and ritual cleansing, and [later ...] the endeavour to reform the wrongdoer.'⁴⁰ There were a variety of punishments given throughout the period. In terms of petty felonies, these were usually in three areas: monetary, physical or committal (the latter generally resulting in being sent to the House of Correction). Each outcome served a mixture of purposes, such as the punishment of being stripped, stocked, and whipped. This served as retribution for the crime, but the shaming element also deterred the wrongdoer and others. The individual chapters of this thesis will explore the punishments and outcomes for each particular crime in more depth to address how these were applied. Again, one crucial aspect of the consequences and punishments given is the community aspect of the judicial process. The outcomes considered matters such as the parish coffers, and some judgements were negotiated given mitigating circumstances that officials may have been aware of due to their involvement in the community.

⁴⁰ Briggs et al., *Crime and Punishment in England*, p.85.

Locality:

This research has a geographical focus on Derbyshire, Lincolnshire, and Nottinghamshire, and the counties will be individually analysed for each crime, with some comparisons drawn over the wider East Midlands region in the conclusion. However, this research also investigates areas on a smaller scale, for instance, districts or wapentakes – types of county division. There will be a focus on local areas - predominantly the village of the offender or where the crime was committed - and those immediately surrounding it, as these often coincided with the parish structures. Furthermore, these are particularly useful when discussing the demographics or topography within a county; as has been previously mentioned, areas within a hundred can differ vastly in terms of ecology and can share more significant connections with adjacent districts than within its own due to this.⁴¹

It is useful to consider their population, landscape character, and markets to provide context for Derbyshire, Lincolnshire, and Nottinghamshire between 1630 and 1660. Historians have often employed a county-history approach to provide comprehensive accounts of these counties' topography, demographics, trades, and networks and it is vital to understand this context as the backdrop against which these crimes were committed. Although their focus is the impact of the Civil Wars on the counties being analysed, the following works have been crucial in providing a fundamental basis for knowledge about the counties. Despite being 80 years old, Woods' work on *Nottinghamshire and the Civil War* gives a vital overview of the topography of Nottinghamshire, the socioeconomics of the county, and local religion in the thirty years being examined in this thesis, and Miston's examination of kinship adds a cultural and societal element to Nottinghamshire's examination. Brian Stone's recent work provides contextual knowledge of Derbyshire geographically, economically, and demographically - alongside Andy Wood's significant examination of society within the Peak District. Clive Holmes's critical work, *Seventeenth Century Lincolnshire*, gives a thorough overview of Lincolnshire's

⁴¹ John Langton, 'The Geography of Poor Relief in Rural Oxfordshire 1775-1832' in Steven King and Peter Jones (eds.) *Obligation, Entitlement and Dispute under the English Poor Laws*, (Newcastle-upon-Tyne: Cambridge Scholars Publishing, 2015), pp.193–234: p.233.

social and cultural aspects, with chapters focusing on religion, government, and the villages and townships, whereas Joan Thirsk's work focuses largely on the agricultural, economic and demographic elements of Lincolnshire. This thesis provides a new Midlands perspective by addressing criminality across Derbyshire, Lincolnshire, and Nottinghamshire, and rather than focusing on the leading families, the local administration, or the culture of such at a county-by-county level, instead, it builds upon these individual works to understand how each of these factors may affect the judicial system and crime across the East Midlands.

The following sections of this chapter are fundamental to understanding the circumstances in which these crimes took place. Knowledge of the landscape is vital in understanding where crimes occurred or, when combined with demographics, where crimes were absent. In terms of demographics, it is crucial to note that 'the redistribution of population into the industrial and pastoral [...] was part of a general trend manifest across the whole country as the population was drawn to upland, pastoral and industrialising areas.'⁴² Therefore, it is crucial to understand where these areas are in the counties as the extra pressure from an increased population may create higher instances of crime. Moreover, the county topography may impact which crimes appeared where – for example, what items may have been stolen in what areas of the county, such as higher numbers of livestock thefts in places of significant animal husbandry because arable farming was not possible. The predominant trades in certain county areas may also impact this. Understanding the networks such as travel, trade, and communication that traversed the counties and connected different settlements is also crucial to identifying access to networks of criminal activity and potential escape routes, for instance, making use of boundary lines between the counties.

It is important to consider the impact of the Civil Wars on the county. Although the Quarter Sessions ceased during that period, the build-up to and the aftermath of the Wars are likely to have impacted crime. For instance, the locations of garrisons within the county may also reflect crime hotspots because they relied

⁴² Andy Wood, *The Politics of Social Conflict: The Peak County 1520-1770*, (Cambridge: Cambridge University Press, 1999), p.63.

on the same aspects of functionality, such as communication and travel systems, as well as higher populations. Moreover, understanding the county's allegiance may have influenced how effectively those counties implemented the changes in the Commonwealth. For example, Lincolnshire was a largely Parliamentary-controlled area so that it might show more religious crimes under the Commonwealth and the Act of Reaffirmation. Nottinghamshire, with long-standing Royalist associations and a significant contingent of recusants, may have recorded comparatively fewer religious crimes as the JPs had been more liberal in enforcing these laws. Thus, it is vital to understand how conditions within the county interacted with motivations for such crimes and their prosecution.

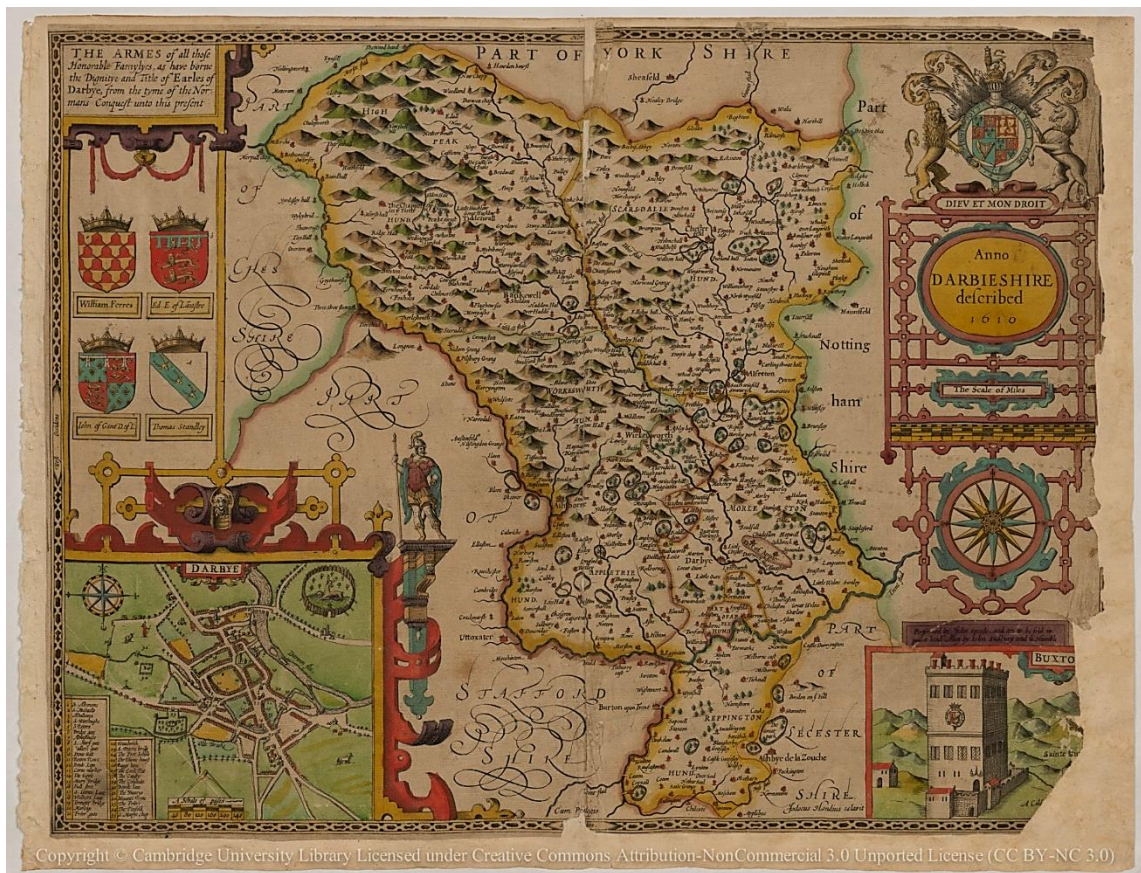
Derbyshire:

In Derbyshire, there is a clear geographical divide between the north-western corner of the county and the south-east. The county's northern half from the top of the Yorkshire boundary is shaped by the Pennines Peak District and marshland, and the Dales along the Western edge of the county from Ashbourne into the Wirksworth wapentake. Whereas the Northeastern side of the county and towards the centre, such as around Crich, was shaped by Craggs, the South, including Morleston and Litchurch, and the Repton and Gresley wapentake were valleys that gave way to flat meadowlands towards the plains of the river Trent. This mix of lands throughout the county meant that 'in the early seventeenth century, the country was famous for its grazing of cattle and sheep' as the mixture of clay, sand moorland, heaths and crags made for small fertility levels.⁴³ In terms of the overall population, Wood ascertained that 'between 1563 and 1664, Derbyshire's population probably increased by around half. Such a growth was most obvious in the lead-mining area of the north-west.'⁴⁴

⁴³ Dias, 'Nottinghamshire and Derbyshire', p.5.

⁴⁴ Wood, *Politics of Social Conflict*, p.63.

Figure 1: John Speed Map of Derbyshire



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Landscape and People

In terms of the types of landscape, there was a sizable expanse of moorland in the very northern tip of the county, running between Buxton and Glossop, which ‘in the wintertime people could easily die while crossing the moors which separated the region from the Scarsdale hundred, Staffordshire and the North-West.’⁴⁵ This element of inaccessibility, with no significant travel routes and a scarce population due to the inability to maintain agriculture on the land with its geology, meant there may have been a considerably lower number of crimes occurring within the Moors areas of Derbyshire.

The lead mining area was significant across the High and Low Peak areas, in the Wirksworth Wapentake, Bakewell, and Matlock. Wood noted that ‘population, poverty, and industry all coincided within lead mining townships’ throughout the Peaks and Wirksworth wapentakes, alongside the coalfields, to the point that ‘elite observers expressed concern over food supplies to the industrial north of the

⁴⁵ Wood, *Politics of Social Conflict*, p.36.

county, in which some sixty per cent of Derbyshire's population was concentrated by 1638.⁴⁶ The westernmost section of Derbyshire, especially around Bolsover, was largely limestone gorges, and then from the area surrounding Chesterfield down to Alfreton, Heanor, and Long Eaton, it was coalfield. Lead and coal were the primary economic elements for Derbyshire in the seventeenth century. The expansion of towns and villages within these industrialised areas created pressure on local resources, and the short-term fluctuations in lead/coal prices created higher rates of paupers.⁴⁷ This could motivate criminals and lead to a greater focus on prosecution to protect the parish's resources.

The adjacent section of Derbyshire that roughly follows the same path, just to the left of Chesterfield and Lower Derwent (from Matlock down), including South Wingfield, Belper and a stretch over to Ashbourne, is primarily woodland slopes, valleys, and pastures. This variation generated a mixed region regarding agriculture and, thus, potentially different societies. For instance, Underdown determined that for wood-pasture parishes, 'these villages had a less effective mechanism for informal mediation of disputes and their parish elites were more likely to be puritan and thus to have a more rigorous concept of order than their counterparts in the sheep-corn regions.'⁴⁸ Therefore, it may be that there were higher recordings of crime in this area as the offenders are dealt with in courts rather than informally. On the other hand, the parish elites in such regions may offer extra resources to support their parishioners. For instance, Hindle found that 'access to common waste or woodland was granted by the "goodness and good favour" of a paternalistic landlord, as was reported by the inhabitants of Duffield Frith in Derbyshire in 1587.'⁴⁹ This giving of informal relief by the elite landlords may have eased tensions within such parishes and, therefore, a lower level of disorder.

The Appletree Hundred was mainly claylands and sandstone, primarily used for grazing. Then there are the riverside meadows of the Trent running from

⁴⁶ Public Record Office SP16/405/pt.2 in Wood, 'Social Conflict and Change in the Mining Communities of North-West Derbyshire, c. 1600–1700', p.35.

⁴⁷ Hindle, *On the Parish?*, p.284.

⁴⁸ Underdown, 'The Taming of the Scold', p.126

⁴⁹ F. Strutt and C. J. Cox, 'Duffield Forest in the Sixteenth Century,' *Derbyshire Archaeological Journal*, no.25 (1903), p.210 in Hindle, *On the Parish?*, p.34.

Dovebridge, through Hatton and Willington, and across the Nottinghamshire border of Long Eaton.⁵⁰ Underneath this band are more farmlands across the Melbourne estates and the Mease and Sence lowlands. The mix of lands across these districts led to an association of grazing, particularly of bovine and ovine, potentially leading to larger thefts of farm animals. However, particular areas of this hundred suffered flooding issues created by the Trent – the Trent Wastelands - which made maintaining agriculture considerably tricky and, hence, less sparsely populated.

The Trent was not the only major river in the county; there was also the Derwent, which ran from Buxton through Bakewell, Matlock and Derby to join the Trent south of the county. Plus, the River Dove, which begins in the Southern Peak District, flows through most of the Derbyshire Dales, keeping to the Eastern edge before taking a wide sweep across the Staffordshire boundary through Uttoxeter and Tutbury to join the Trent at Derbyshire's Newton Solney. Despite the Derbyshire water networks, which in the Scarsdale hundred were used to transport coal to other areas of the North, the county did not have any significant national travel or communication routes, which limited the number of travellers, traders, and general accessibility throughout the county.⁵¹ This potentially resulted in a lower number of opportunistic crimes. A main artery road served the county between Derby and Chesterfield and more minor routes, such as those between Bakewell and Tideswell. During the seventeenth century, there were two urban centres for Derbyshire, Derby and Chesterfield, and a minimal number of major market towns, ten in total across the county, with Derby being the most Southern. Alongside Ashbourne, it supplied the three hundreds of Appletree, Morleston and Litchurch, and Repton and Gresley.⁵² Although Miston outlines in her examination of marriage connections in southwest Nottinghamshire, several smaller market towns existed along the Nottinghamshire Derbyshire border at Heanor, Ilkeston and

⁵⁰ For a far more detailed outline please see 'The Landscape Character of Derbyshire Map' by Derbyshire County Council (2013) <https://www.derbyshire.gov.uk/site-elements/documents/pdf/environment/conservation/landscapecharacter/the-landscape-character-of-derbyshire-map.pdf>

⁵¹ Beats, 'Politics and Government in Derbyshire 1640-1660', p.1.

⁵² Beats, 'Politics and Government in Derbyshire 1640-1660', p.7.

Long Eaton, which created social and economic connections between the counties.⁵³

Civil War/Interregnum

Figure 2 denotes the garrisons within Derbyshire county around the time of the invasion of Newcastle in the Winter of 1643. It also indicates garrisons on the borders of neighbouring counties that potentially impacted Derbyshire. During the early years of the war, the county was seemingly neutral, with little to no engagement with the war or ongoing political issues until the first petition of 1642 by John Curzon.⁵⁴

Despite several Royalist garrisons in the north of the county, along the southern borders with Staffordshire and Leicestershire, Derbyshire has generally been considered under Parliamentary control. This was mainly due to the influence and impact of Sir John Gell, who, upon taking Derby in October of 1642, maintained its Parliamentary occupation throughout the wars and succeeded in his 1644 campaign to capture several of the previously Royalist garrisons. Furthermore, there appears to have been scant Royalist resurgence and more of a focus on internal policies after the second civil wars as 'between 1646 and 1650 Sir John Gell was attacked on three fronts: the army inspired by Mr Sanders; the subcommittee of accounts and the county committee where moderates were being usurped.'⁵⁵ These suggest an internal division in the county concerning the new local administration and political divides amongst parliamentary forces rather than a Royalist threat. However, the strong Royalist association in the North of the county may have generated more recusancy crimes in that area due to a perceived association between political and religious factors, which will be explored in the

⁵³ Anne Mitson, 'The Significance of Kinship Networks in the Seventeenth Century: South-West Nottinghamshire,' in *Societies, Cultures and Kinship, 1580-1850: Cultural Provinces and English Local History* (London: Leicester University Press, 1993), pp.24–76: p.59.

⁵⁴ Brian Stone, *Derbyshire in the Civil War*, (Northampton: Scarthin Books, 1992), pp.11-12.

⁵⁵ Thomas Sanders was a Parliamentarian who commanded a troop of horse under Sir John Gell; they had opposing religious (Sanders was an Independent; Gell a Moderate) and poetical views and continued to class in their roles Gell was to lead the military whilst Sanders was on the Committee to finance said military and maintained the cavalry under Gell. Sanders continued throughout the wars to undermine Gell's position and follow Gell's orders for the troops. Sanders along with other enemies of Gell led a petition to Parliament against Gell's behaviour and lead of the army for parliament in the Midlands. Beats, 'Politics and Government in Derbyshire 1640-1660', pp.270-271.

religious crimes chapter. It is important to understand the shape of the county during these years, such as key allegiances or situated garrisons, as there is potential that these may have coincided with crime figures or types of crimes that were prosecuted.⁵⁶

⁵⁶ There is a wealth of historiography on the subject of loyalties within Derbyshire, especially that of the lead miners and the aristocracy that can be found in work such as Andy Wood's, Lyn Beats' and Brian Stone's that provide a more in-depth examination of the county during the Civil War.

Figure 2: GeoMap depicting garrisons in Derbyshire



Lincolnshire:

As outlined previously, due to the survival rate and accessibility of the records, only the Lindsey Sessions have been analysed throughout this research. Fortunately, this is the largest district out of the three in Lincolnshire and was also the more densely populated. Furthermore, as Thirsk has demonstrated, it incorporated all geological and topographical aspects found in the Lincolnshire county, making it a vital snapshot of issues faced during the seventeenth century in

a county with a deeply rooted tradition of peasant farming.⁵⁷ The Holland and Kesteven districts are more sparsely habituated due to the Fenlands, as demonstrated by Figure 3, John Speed's map of the early seventeenth century. Overall, between the sixteenth and eighteenth centuries, the population in Lincolnshire increased. However, this was disproportionate in some areas as Clive Holmes determined that 'in the greater part of the county, population stagnated through the course of the seventeenth century; it fell sharply, by a quarter in the Wolds. Conversely, population increase was considerable in the towns [...] and the Holland Fens.'⁵⁸ These changes were due to the various economic developments, such as enclosure and drainage, throughout the county.

Figure 3: John Speed Map of Lincolnshire



⁵⁷ Joan Thirsk, *English Peasant Farming: The Agrarian History of Lincolnshire from Tudor to Recent times*, (London: Routledge, 2006), p.2.

⁵⁸ Holmes, *Lincolnshire*, p.19.

Landscape and People:

The landscape character of the county is varied. The county can almost be split into five even strips from the Yorkshire border to the Cambridge/Northamptonshire border.⁵⁹

If the most western strip is strip one (along the Nottinghamshire/Leicestershire border), this is made up of various clays and miscellaneous soils. This strip incorporates Gainsborough and Grantham, stopping just before its western edge hits Lincoln. An anomaly in this area is the Fenland in the furthest Northwest corner, the Isle of Axelholme, which was subject to drainage as a venture to improve the land during this period. However, this disturbed the local economy and created considerable tensions between the landowner who undertook the drainage and the commoners who felt their rights were being threatened and faced a drastic reduction in their pasture resources and land fertility – possibly creating a greater level of disorder and thus criminal activity around this area.⁶⁰ The third strip is again miscellaneous and clay soil, like the first. It starts at the Humber and cuts straight in the middle of the county to Bourne, and it incorporates towns such as Market Rasen, Wragby and Folkingham. Notably, most of the enclosure activity during the sixteenth and seventeenth centuries occurred in the Clayland's region of Lindsey, 'noticeably on the sandy soils and the Wetlands along the banks of the River Witham, an area exposed to flooding and so best used for cattle feeding.'⁶¹ However, unlike the drainage, there were few employment issues or demographic changes, potentially meaning no significant impact on levels of crime and disorder in these areas.

The second strip to the right of this starts at Glamford Briggs, includes the city of Lincoln, and continues to the corner where Lincolnshire, Northamptonshire

⁵⁹ Please see Jeremy Lake, Adam Partington *Building the evidence base for Historic Farmsteads in Greater Lincolnshire* [data-set], York: Archaeology Data Service [distributor] (2015) Image: National Character Areas in Greater Lincolnshire COPYRIGHT: Natural England [https://archaeologydataservice.ac.uk/archiveDS/archiveDownload?t=arch-2128-1/dissemination/jpg/Lincolnshire Guidance/Farmstead and Landscape Statements/FLS Images/Page 4.jpg](https://archaeologydataservice.ac.uk/archiveDS/archiveDownload?t=arch-2128-1/dissemination/jpg/Lincolnshire%20Guidance/Farmstead%20and%20Landscape%20Statements/FLS%20Images/Page%204.jpg); John Lord and Alastair MacIntosh (Lincolnshire County Council) *The Historic Character of the County of Lincolnshire Report* – English Heritage Project No.4661 (September 2011) <https://www.lincolnshire.gov.uk/downloads/file/2205/the-historic-character-of-lincolnshire-pdf>

⁶⁰ Thirsk, *English Peasant Farming*, pp.187-191.

⁶¹ Thirsk, *English Peasant Farming*, pp.180-182.

and Leicestershire meet, and this is mainly limestone-based land. This section had properties similar to the top of the fourth strip, the Lincolnshire Wolds, which runs from Horncastle up to Caistor and then the Humber, mainly chalk-based soil. For instance, 'conditions in the limestone cliffs north of Lincoln are similar to that of the central wolds, in the sparseness of its population and experience of large enclosures.'⁶² These two areas have been collectively termed the Uplands. Wool was the chief commodity of the Uplands, and as such, 'the dominant reason for enclosure until the mid-seventeenth century was to increase the production of sheep across the heath, cliff and wolds.'⁶³ Furthermore, the number of families across these geological regions remained stable, with the most significant population changes clustered around Louth, where there was movement from rural areas into the townships.⁶⁴ This stability potentially created a disparity in where crimes occurred across these regions; the pastoral rural areas remained constant, but the increased population pressure in towns may have created greater instances.

Strips four and five are split in half; the bottom halves are all fenlands. These stretch from Stamford on the Northamptonshire border up to just below Horncastle, incorporating all of Holland district and some of Kesteven. The bottom of strip five borders along the Wash on its western edge, up to the Bolingbroke wapentake in Lindsey, the Fens were largely unsettled, especially around the river Witham, due to drainage issues. The Fenland class structure was founded on a broader base of small peasants possessing very little or no land for who extensive commons were essential to life; however, there was an increase in population after drainage from those seeking profitable land, which threatened to undermine the previously stable egalitarian society.⁶⁵ Critically, Hindle noted that 'one of the numerous attractions of these [fenland] environments was the very fact that they were not overshadowed by either manor house or parish church and were

⁶² Thirsk, *English Peasant Farming*, p.161.

⁶³ Thirsk, *English Peasant Farming*, p.163.

⁶⁴ Thirsk, *English Peasant Farming*, p.168.

⁶⁵ Thirsk, *English Peasant Farming*, pp.116-119; Holmes, *Lincolnshire*, pp.20-21..

therefore somewhat ineffectively regulated.⁶⁶ Thus, although there may not be fewer instances of crime, it may be that these were not pursued or recorded at the Quarter Sessions due to the lack of hierarchical authority.

Lastly, the coastal marshes are the top half of the fifth and most western strip. These run from the Humber through Grimsby down to Wainfleet and across to Louth. It is vital to note that there was a general decline in the population along the coast; in the northern areas, this was due to silting, whereas further south, this was the erosion of the coastline – this led to gains in population further inland.⁶⁷ This is important to note for this research as it may coincide with where there were crime hotspots across Lindsey. Crucially, 'by the early 1630s, the marshland peasant had fallen behind the rest of the Lincolnshire peasantry in wealth and scale of the farming enterprise, and they remained the poorest at the end of the seventeenth century.'⁶⁸ The underpinning of this was 'the growth in the English countryside of large accumulations of property in the hands of great landlord accumulations created mainly at the expense of the small owner, the lesser gentry and owner occupiers.'⁶⁹ In the coastal lands of Lindsey, manorial lords and larger yeoman appropriated the land for their own use, largely for sheep grazing.⁷⁰ This societal division and change in land use may have created uncertainty and tensions, leading to heightened instances of crime across the Lindsey Marshland region.

There are many rivers and waterways throughout Lincolnshire, such as Rivers Idle, Trent, Ancholme, Witham, Bain, Lymn/Steeping, Sleas, and Welland. A number of these previously transportable rivers were impacted by drainage and siltage during the early seventeenth century, such as the split of the Old and New River Ancholme, the creation of the new River Idle, and the impassability of the Witham due to silting. In terms of roads within Lincolnshire, the Great North Road was a significant travel and communication route throughout the county, starting in Stamford and continuing through to Grantham, where it travels the border

⁶⁶ Hindle, *On the Parish?*, p.33.

⁶⁷ Thirsk, *English Peasant Farming*, pp.142-146.

⁶⁸ Thirsk, *English Peasant Farming*, p.147.

⁶⁹ G. E. Mingay, 'The "Agricultural Revolution" in English History: A Reconsideration', *Agricultural History*, vol.37: no. 3 (1963), pp.123–133: p.126.

⁷⁰ Thirsk, *English Peasant Farming*, p.149.

between Lincolnshire and Nottinghamshire, dipping into Nottinghamshire between Fernwood and Newark-on-Trent and continues into that county. Such a major road could affect where crimes happened in the county, especially the ability to move stolen goods through the various villages and towns on its route. There was a roadway between Louth, Spilsby, and Boston connecting these major market towns, as well as between Caistor and Horncastle along the east and southern sides of the county.

In terms of market towns, there were several across Lincolnshire: in Lindsey, there was Alford, Barton upon Humber, Glamford Brigg, Caistor, Gainsborough, Grimsby, Horncastle, Lincoln, Louth, Market Rasen, Spilsby, and Wainfleet All Saints. Boston, Bourne, Grantham, Holbeach, Long Sutton, Spalding, and Stamford are in the Holland and Kesteven districts. The Quarter Sessions were held regularly across Horncastle, Louth, Caistor, and Spital-in-the-Street, which, despite their size (Spittle being a hamlet), were considered the central hub for their areas. There were more sporadic, often regarded as, Special sessions held at Bolingbroke, Partney, and Tattershall.

Civil War/Interregnum

Lincolnshire had a fairly active role as a county throughout the Civil Wars period. The county saw some skirmishes, especially around Gainsborough, Grantham, and the Northamptonshire border. Figure 4 denotes the garrisons throughout Lincolnshire as they stood in the Summer of 1643, with the majority of the fringes being held by Royalists along with the city of Lincoln.

However, one battle became the turning point for Parliamentary forces in the county: Winceby on 11 October 1643. Under threat from the Earl of Newcastle advancing into East Anglia, the Earl of Manchester's Eastern Association, including Lieutenant Generals Cromwell and Fairfax, moved from Bolingbrook Castle to meet the Royalist forces, who marched from Horncastle, resulting in a Parliamentary success. The outcome was a general sweeping-up of remaining Royalist strongholds across the county, such as Lincoln and Gainsborough, and lastly, defeating the Earl of Newcastle's forces at the siege of Hull. Lincolnshire was a strategically vital area

as it was the space between Hull and the Eastern Association stronghold of East Anglia.

In terms of local administration in the aftermath of the Civil War, Lord Willoughby's control over the county was challenged by his fellow Parliamentarian, a military man, Edward King, particularly once Lincolnshire became a part of the eastern association. Although during the Second Civil War, there was some attempt by staunch Royalist Sir Philip Monckton to regain strongholds, such as the Bishop's Palace at Lincoln and particularly around the Yorkshire and Nottinghamshire border, ultimately, the county remained under Parliamentary control.⁷¹ As such, there is a possibility this created a more stringent application of Acts, such as the 1657 Act of Reaffirmation, especially if the presiding JPs had Parliamentarian allegiances.

⁷¹ Please see 'The Effects of the Civil War' and 'The Interregnum' chapters in Holmes' *Lincolnshire*, pp.177-192: pp.200-203 for a greater account of this. Sir Philip Monckton was captured at Willoughby Field (Nottinghamshire) and he was then exiled until 1651, subsequently, he was involved in two Royalist uprisings against Cromwell for which he was imprisoned to be released in 1658. He believed in his own importance to the Restoration of Charles II in 1660. See Andrew J. Hopper's 'Sir Philip Monckton' *Oxford Dictionary of National Biography* (23 September 2004)

Figure 4: GeoMap depicting garrisons in Lincolnshire



Nottinghamshire:

As a county, Nottinghamshire has a varied landscape and demographic, with apparent differences in each corner and a number of different geological regions. Furthermore, Nottinghamshire was complicated in terms of county control during the Civil Wars because it was the place where Charles I raised his standard on 2nd August 1642, signalling the start of the First English Civil War, along with Newark Castle acting as the last Royalist stronghold until May 1646, leading to Charles capture by the Scots. Demographically, Alfred Wood determined 'that not more than 80,000 people lived in Nottinghamshire in the reign of Charles I.'⁷² Furthermore, Chambers noted that between 1606 and 1641, the population had not altered considerably in size, therefore suggesting a level of population stability in this period across the county.⁷³ However, there were variations in density areas, such as Nottingham Town, intermingled with sparsely populated areas like Sherwood Forest.

Landscape and People

Regarding the landscape, the county's northern tip was a low-lying, sparsely populated Carr land (wetland). This area stretches from Blyth up to the Yorkshire border. This area was sparsely populated due to the marshland nature of the area, which created an impracticality of using the land with significant swamps and little fertile soil.⁷⁴ Moreover, this topography and lack of roads created an increased inaccessibility. Thus, with a lower-density population, it could be that a lower number of crimes occurred in such areas.

On the very western edge of the county, lining the Derbyshire border – sharing its craggy landscape, is the Magnesian Limestone Ridge, starting just under Blyth; this runs along the border down to Nottingham city incorporating part of the Bassetlaw and Broxtowe wapentakes. This area was predominantly agricultural where 'the heart was in the villages and hamlets or on the great open fields tilled and reaped co-operatively by the age-long customs of manorial tradition.'⁷⁵

⁷² Wood, *Nottinghamshire*, p.1.

⁷³ J. D. Chambers, *Population, Economy, and Society in Pre-Industrial England*, (Oxford: Oxford University Press, 1972), p.45.

⁷⁴ Wood, *Nottinghamshire*, p.1.

⁷⁵ Wood, *Nottinghamshire*, p.8.

Manorial tradition is crucial to maintaining societal structure and order; for instance, the authority of the manorial society may offer an element of mediation in criminal cases. For example, Herrup determined that 'as local gentlemen, justices were natural arbitrators in the community' and could settle disputes before they became the business of the courts.⁷⁶ As such, this may have meant fewer crimes recorded at court in these manorial-based communities.

In contrast:

Wood-pasture parishes, were often larger in area, with scattered settlement patterns rather than nucleated centres. Manorial institutions were weaker or non-existent, they were less likely to have resident squired, and their mode of agriculture – dairy-farming or cattle raising – involved individually owned, enclosed farms rather than the more cooperative systems of farming that prevailed in open-field villages.⁷⁷

Such wood-pasture parishes were situated above Nottingham, running alongside the Ridge and up to the Carr land, the Sherwood region, including the Sherwood Forest. This area is a mixture of forests, sand lands and estates, such as Welbeck and Clumber Park belonging to William Cavendish, Duke of Newcastle. Therefore, due to the lack of manorial oversight and the individualistic nature of farming within this region, there may have been fewer crimes recorded or less of a commitment to prosecution driven by the judicial authority in such areas. However, another attribute to a lower level of recorded crime is that 'the vast area of Sherwood was thinly inhabited and in many parts entirely unoccupied [...] it offered only a scanty hard-earned livelihood to those who snared wildlife or encroached by petty enclosure.'⁷⁸

Next to the Sherwood region was another strip that ran from the Yorkshire border down to Nottingham city, and this was the mid-Nottinghamshire farmlands of the Thurgarton hundred, typically a rural area with woodland and mixed farming. This area also incorporated the higher and lower districts of the Bassetlaw

⁷⁶ Herrup, *The Common Peace*, p.54.

⁷⁷ Underdown, 'The Taming of the Scold', p.126.

⁷⁸ Wood, *Nottinghamshire*, p.1.

hundred.⁷⁹ Along the Lincolnshire border, the Newark wapentake is wholly the East Nottinghamshire sand lands, again essentially an area of mixed agriculture. Underneath the farmlands is the Vale of Belvoir, which spreads from the Western to the Eastern edge of the Bingham Wapentake to the Lincolnshire border. It was largely clay where Nottingham malt was a great industry, with the hops being sent as far afield as Lancashire, Cheshire and Shropshire.⁸⁰ Similarly, the Rushcliffe Wapentake was solely the Nottinghamshire Wolds that bordered Leicestershire, largely clay and soil-based; it was used for mixed farming, and it was a sparsely settled remote rural region. This is crucial as 'there is some evidence to suggest that informal relief may well have proved more resilient in smaller rural parish than in larger pastoral ones or market towns.'⁸¹ As such, in these more rural regions, there may be greater incidences of crimes due to actions considered as informal relief. For instance, Hindle determines gleaning, the gathering of leftover or unprofitable crops, fuel-gathering, the axing of woodlands, and crimes of necessity as informal relief, which could be defined as theft in the courts.⁸²

Running alongside the whole of the River Trent, from Nottinghamshire to the Lincolnshire/Yorkshire border, is the Trent Washlands (which largely borders the underneath of the Thurgarton wapentake.) This area is primarily meadow and wetlands, the majority of which were used for arable farming. Similarly, underneath the Trent Washlands from Nottingham city up to Newark on Trent is the South Nottinghamshire Farmlands, which was slightly more densely populated during the seventeenth century and largely consisted of arable farming land. As Wood noted, 'the wider fertile valleys of the Trent and its tributaries were the richest areas of the shire – the alluvial marl and Clayland's gave superb soil for corn growing and

⁷⁹ See Nottinghamshire County Council, *Nottinghamshire Landscape Guidelines: Landscape Types Plan* (2003) <https://www.nottinghamshire.gov.uk/planningsearch/DisplayImage.aspx?doc=cmVjb3JkX251bWJlci02NjY5JmZpbGVuYW1lPVxcbnMwMS0wMDI5XGZpbGVkYXRhMiRcRElwMy0wMDMwXFNoYXJlZEFwcHNcRExHU1xQbGFuc1xQTEFOTklOR1xGLTMzNzNcbGFuZHNjYXBldHlwZXNwbGFuLnBkZiZpbWFnZV9udW1iZlXI9MjMmaW1hZ2VfdHlwZT1wbGFubmluZyZsYXN0X21vZGlmaWVvX2Zyb21fZGlzaz0yNy8xMS88yMDE1IDE2OjE0Ojly>; The Countryside Charity – Nottinghamshire, *The Landscape Character of Nottinghamshire*. <https://www.cprenotts.org.uk/discover/landscape-character-of-nottinghamshire/>

⁸⁰ Wood, *Nottinghamshire*, p.5.

⁸¹ Hindle, *On the Parish?*, p.287.

⁸² Hindle, *On the Parish?*, pp.36, 44, 84-85..

pasture.⁸³ However, 'a bad harvest which was not mitigated by stored-up or alternative supplies of food would have immediate effects on the mortality rates of what has been term the 'harvest sensitive' group of the population,' therefore in times of dearth it may be that this area saw a hotspot of thefts, especially if the 'victims had to resort to the consumption of their own seed corn.'⁸⁴

The last landscape in Nottinghamshire was the coalfields, along the very fringe between Derbyshire and Nottinghamshire in the Broxtowe hundred, with mining being the focus. The mining was in two key areas, around Nottingham town 'at Wollaton, Strelley, Bramcote, Billborough and Trowell, coal was mined in substantial quantities both for local fuel and industrial purposes, and for export out of the county' which was transported via the Trent.⁸⁵ The other was further north, in proximity to Newstead. Notably, 'a period of demographic expansion was accompanied by the now familiar signs of enlargement of aggregate national resources, side by side with falling capital income under the pressure of increasing numbers on the relatively inelastic output of agriculture.'⁸⁶ Therefore, industrial areas within Nottinghamshire, such as the coalfield and iron ores, may have seen an increase in population density in line with the move from agriculture to industrial uplands in the face of falling wages agriculturally.

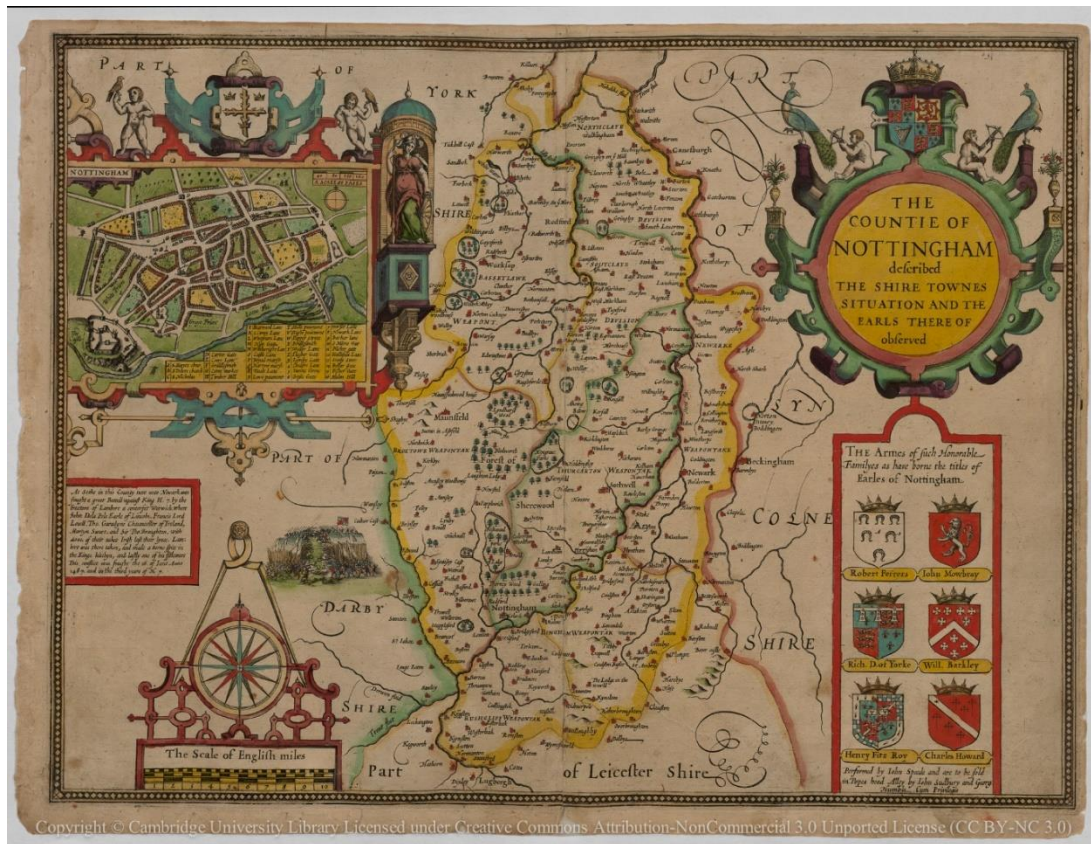
⁸³ Wood, *Nottinghamshire*, p.3.

⁸⁴ Chambers, *Pre-Industrial England*, p.13.

⁸⁵ Wood, *Nottinghamshire*, p.7.

⁸⁶ Chambers, *Pre-Industrial England*, p.27.

Figure 5: John Speed Map of Nottinghamshire



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The principal rivers in Nottinghamshire were the Trent River in the southern part of the county, which travelled to the Yorkshire border, and the River Idle in the north. The Trent formed the boundary between Derbyshire and Leicestershire, then Nottinghamshire and Lincolnshire, and passed through major centres such as Nottingham, Newark, and Gainsborough, hence making it a vital waterway for trade during the seventeenth century. In terms of road networks, the Great North Road ran through the Eastern side of the county from Newark, crossing through Retford to Bawtry on the Nottinghamshire/Yorkshire border. Newark was strategically located as a central town on the River Trent and the Great North Road. A main artery road between Nottingham and Mansfield also joined two larger market towns. Several key urban centres within the county, including Nottingham, saw a significant boom in hosiery manufacture during the early seventeenth century, East Retford, and Newark, where the Quarter Sessions were held. Bingham, Mansfield, Southwell, Tuxford and Worksop were also market towns. A greater concentration of crimes in these urban spots, such as bastardy, might be expected due to the

heightened number of opportunities for fleeting encounters as people may have travelled to these towns for trade.

Civil War/Interregnum

Nottinghamshire saw the declaration of the Civil War, the last minor battle of the First Civil War at Willoughby-on-the-Wolds, and the capture of King Charles at Kelham. Yet, there was not a straightforward or cohesive allegiance throughout the county. From the beginning of the Civil Wars, not long after the standard was raised, Nottingham Castle was held by the Parliamentarians and overseen by Colonel John Hutchinson. The other major garrison in the county, Newark Castle, was held consistently by the Royalists under different governors. Notably, most of the fringe garrisons throughout the county were held by the Royalists, especially in the early years of the war.

Newark experienced significant challenges throughout the wars, including three sieges. The third and final saw the surrender of Charles I, which lasted from the winter of 1645 to the spring of 1646. This interest in Newark was primarily because of its prominence along the Great North Road, the Roman Fosse Way, and the River Trent, as well as its proximity to the boundary of Lincolnshire. The rest of Nottinghamshire experienced minor skirmishes over strongholds throughout the county, yet the plundering was the most disruptive. As A.C Wood outlined, 'Hotham and his men – ill-disciplined and taking their cue from their master – lay at the quarters around Nottingham carrying rapine and plunder in their train.'⁸⁷ Most notorious for their plundering around Nottinghamshire were the royalists, as 'complaints poured up to London from Lincoln, Leicester, and elsewhere about the ravages of the Newarkers coupled with urgent pleas for help' – this was also a complaint regarding the effectiveness of Royalist taxation.⁸⁸ Moreover, there were some Royalist risings during the Protectorate, such as the one which met at Rufford Abbey in March 1655 and another led by Lord Byron. There was also a widening divide between those who supported the military and the Independents. This divide in the county's administration under the Commonwealth and Royalist resurgences

⁸⁷ Wood, *Nottinghamshire*, p.46.

⁸⁸ Wood, *Nottinghamshire*, p.95.

may have caused an impact on the rigidity of the application of the law during this period.

Figure 6: GeoMap depicting garrisons in Nottinghamshire



Conclusion:

This chapter has provided an overview of what crime meant during the seventeenth century and the different components that made up the judicial process during the period, as well as providing context for the character and features of the counties to explain how this could impact the crimes analysed.

Crime during the seventeenth century had an association with sin and morality. It is this disconnect between the two arms of seventeenth-century law that allows for this study to examine notions of gender performativity as criminals could adhere to idealised gender morals whilst at the same time undermining the law, as well as the acceptance of extenuating circumstances and how this may mitigate punishments given for these crimes. The application of law in the early modern period was primarily community-based, with those in prominent and sometimes unwanted positions being selected from within the locality. This created a dynamic where the law could be applied as a personal vendetta or, conversely, where exceptions were made because of community involvement in the process – which will be explored throughout each crime chapter. This is especially pertinent when considering how the power of judicial authority was conceived and manifested and how this might be used to enforce hegemonic ideas of gender upon those of lower social standing. The following chapters will explore these ideas, focusing on individual crimes.

It is important also to understand that the examination of crime carried out in this thesis does not claim to provide a holistic reflection of crime numbers. This would be impossible due to the cross-over of various courts, crimes being dealt with outside the courts, or simply undiscovered. The numbers considered here are more reflective of prosecution priorities of the contemporaneous central government, which has clear implications for understanding the three crimes this research analyses: theft, bastardy, and recusancy/absence from church. It must also be considered how language within the records changed and reflected national and local concerns regarding crime, gender and society.

Considering the dynamics of the counties is vital to understanding potential motivations and reasonings for the crimes being researched. Key factors such as

landscape, trade, and county networks could all impact crime differently. The three counties under consideration are primarily shaped by features like the River Trent, the Great North Road, and the Fosse Way – routes that could provide opportunity, access to criminal networks, or means of escape. They also all had agrarian foundations that generated local trades, such as tanning, beef and crop production – which impacted the demographics in certain areas and the types of people committing crimes. However, these different trades were also subject to short-term fluctuations in price, supply and demand, which likely impacted when such crimes occurred. Moreover, Chambers determined that ‘increases in population tended on the whole to accompany, if not precede, rises in prices’, both of which occurred during the early seventeenth century before the Civil Wars. Therefore, this increased pressure on wages, which also fell due to the surplus in the labour market, potentially led to higher instances of theft in these rapidly growing areas.⁸⁹ As well as higher instances of bastardy, Ingram found that greater economic stresses within a parish created less tolerance to bridal pregnancies and illegitimacies during the 1600s.⁹⁰ In each chapter, this study will explore how these elements affected the crime.

Parliament held the principal city for all three counties examined, with the fringe garrisons primarily being held by Royalists. During the Protectorate, they all faced internal administrative crises between those who were a part of the military organisation and those who wanted greater parliamentary control rather than facing organised rebellion by remaining royalists. These allegiances are important as they may have affected the stringency with which judicial authority was applied. Although records are unavailable for the Civil Wars years, their impact on these counties may have influenced minor crime throughout the East Midlands. This will be explored in the next chapters alongside the effects of Charles’s Personal Rule and Interregnum.

⁸⁹ Chambers, *Pre-Industrial England*, p.24.

⁹⁰ Martin Ingram, *Church Courts, Sex and Marriage in England 1570-1640*, (Cambridge: Cambridge University Press, 1988), p.166.

Chapter Two: Wicked Whores or Runaway Rogues

Introduction:

Bastardy, historically, was the begetting of an illegitimate child or children in contravention of the bastardy acts of 1576 and 1610, which criminalised this perceived deviance.¹ First identified in the fourteenth century, the illegality of bastard-bearing is now obsolete as many societies' moral and cultural beliefs have been modified. Yet in the early modern period, acts such as the 1576 Elizabethan statute empowered JPs to employ discretion when punishing unwed parents and establishing regulations for maintaining bastards. These were also enacted as methods through which the elite tried to maintain control of sexual morality over those in the lower orders of society who were considered more morally corrupt. For instance, in his examination of sexual immorality before the Church courts, Ingram found that the Parish tried to stop marriages between the very poor, at any age, a measure to prevent them from becoming a burden on the parish as Hindle determined a subset of the poor reliant on parish relief was the recently married overburdened with children whom they could not support.²

This crime overtly challenged the hegemonic gender ideals of what it meant to be a woman as, instead of being obedient, pious, chaste, and silent as they ought, they were perceived as whores who had lost all womanly qualities and were capable of villainy. Moreover, bastardy also challenged ideals of fatherhood and masculinity in this period. For instance, a father was expected to be responsible for his offspring, but often, in cases of bastardy, fathers evaded this as much as possible. Furthermore, men were always expected to maintain self-control in all aspects of their lives, so giving into lustful urges outside of or before marriage was a

¹ 1576 18 Elizabeth 1. C.3; 1610 7 James C.4.

² Martin Ingram, *Church Courts, Sex and Marriage in England 1570-1640*, (Cambridge: Cambridge University Press, 1988), p.131; Steve Hindle, *On the Parish?: The Micro-Politics of Poor Relief in Rural England c.1550-1750*, (Oxford: Oxford University Press, 2004), p.274.

direct contradiction to this notion of masculinity. As bastardy transgressed the common teachings of sexual morality, it often featured in broadside ballads in the guise of various warnings to its audience – reinforcing that this crime adds to the understanding of cultural attitudes and beliefs towards gender and the sexes during this period before, during, and after the Civil Wars.

Examining the prosecution of bastardy uncovers the changing attitudes towards sex, society, and morality:

bastardy was taken as a prime example of something which interrupted the proper functioning of social processes and revealed a failure of social control: the control of individual behaviour by family and kin, by political and educational authority, by all the influences which persuade most people to obey the established norms.³

Simply put, bastardy was a failure of societal control as it undermined the gendered expectations as outlined above; it destabilized the culturally accepted notions of the idealised nuclear family, and it challenged familial responsibility towards kin. Moreover, the examination of bastardy provides an insight into prosecution priorities as ‘extramarital activity was only disapproved of when it threatened the community peace or had economic implications.’⁴ This suggests that not all cases of sexual immorality may have faced the courts; instead, it was specific instances that threatened wider community ideals. For instance, there is the example of Joseph Stalker of Caunton, who was brought before the court for ‘having begotten a bastard chyld (since dead) on the body of Anne Chappell his wife's sister in the lifetime of his wife.’⁵ This case unequivocally undermines the notion of family as John has betrayed the marriage vows between him and his wife. Although, under the new 1650 Adultery Act, this would not legally have been deemed as incest, the act of John and Anne undermined the notions of family in terms of Old Testament and Anglican beliefs in familial relations and created potential legitimacy concerns

³ Peter Laslett, ‘Introduction: comparing illegitimacy over time and between cultures’ in Peter Laslett, Karla Oosterveen, and Richard M. Smith (eds.) *Bastardy and its Comparative History: Studies in Illegitimacy and Marital Nonconformism in Britain, France, Germany, Sweden, North America, Jamaica and Japan*, (London: Edward Arnold Publishers Limited, 1980), pp.1-64: pp.1-2.

⁴ Ingram, *Church Courts*, p.160.

⁵ ‘Recognisance of Joseph Stalker’ *Newark-on-Trent*, (14th July 1658) – NA – Quarter Sessions Minute Books (QSMB) – C/QSM/1/12 vol 2.

for inheritance.⁶ Ultimately, bastardy challenged familial, gendered, social and cultural expectations as well as being a criminal act.

Furthermore, bastardy was ‘the most serious sexual offence because the unfortunate child was likely to become a charge on the parish’, and so it was of the utmost priority that the parents provided for the child to ensure the protection of parish resources.⁷ The 1576 act had already determined that the mother or putative father should pay maintenance for a bastard child.⁸ Yet the Bastardy Act of 1610 declared:

Every lewd woman which shall have any bastard which may be chargeable to the parish, the JPs shall commit such woman to the House of Correction, to be punished and set on work during the term of one whole year.⁹

This created a gendered divide in the judgements given for bastardy cases, as it was the reputed father who primarily received fiscal orders, whereas women were often committed. It was not until the Bastardy Act of 1733 that fathers could be imprisoned for the crime until they could find surety or a marriage agreement with the mother.¹⁰

This chapter will examine the bastardy court figures between 1630 and 1660 for Derbyshire, Lincolnshire, and Nottinghamshire to analyse the intersection of gender, criminality, and prosecution, as well as how these factors were affected by the Civil Wars and Interregnum period at a local level. To fully understand gendered associations with bastardy, this study will undertake a gender-balanced approach, considering both men and women and broader familial connections. It will consider who committed bastardy offences; this will be in terms of both numbers of each sex, as well as considering the social status or occupation of those indicted. The analysis will identify trends in the incidence of bastardy concerning its occurrence in

⁶ For a summary of the changes to the laws regarding incest and the reasoning behind this see Hannah Dongsun Lee ‘Intellectual History and the Problem of Incest’ *Centre for Intellectual History Blog* (3 February 2022) <https://intellectualhistory.web.ox.ac.uk/article/the-problem-of-incest-and-intellectual-history>

⁷ John Briggs, Christopher Harrison, Angus McInnes and David Vincent, *Crime and Punishment in England: An Introductory History*, (Abingdon: Routledge, 2005), p.44.

⁸ 1576 18 Elizabeth 1. C.3

⁹ 1610 7 James C.4.

¹⁰ 1733 6 George II C.31.

terms of location and timing and how it was punished to offer insight into its prosecution and the gendered implications for each of these aspects. This provides an insight into the intersecting factors of gender and criminality in bastardy cases throughout the East Midlands during these 30 years.

Methodology:

Bastardy is the most helpful crime to analyse when exploring the link between crime, gender, and cultural attitudes towards these factors between 1630 and 1660 because it is the most visible sexual deviancy crime. It 'leave[s] its mark in the shape of a child needing provision, [so] that it appears very much more often in the records than other offences' as there were concerns to ensure that some maintenance was provided for the child, wherever it came from.¹¹ Although other crimes like adultery or domestic assault could have been a measure of domestic crime, such cases were often not evident in the Quarter Session records for various reasons: for example, adultery was dealt with at the Assizes as a major felony. In the court records, bastardy appears more prominently, and it is crucial to analyse these intersecting factors of gender and criminalisation.

Bastardy cases could appear before many officiates and across different official records; for instance, it might be presented to the Churchwardens and thus the Ecclesiastical Courts as a moral offence or to the parish constables and the overseers of the poor and therefore be referred to the Quarter Sessions. The cases seen before the JPs were those where maintenance orders were required for the child, disputes over fatherhood, or even where the father had absconded. Some cases required more significant secular input due to the circumstances – such as sexual assault or connections with other crimes. Moreover, 'court cases are only a small part of the process and do not reveal the likely negotiations that had been ongoing' between families as mediation to avoid presenting before the court.¹² Therefore, although the records from the Quarter Sessions do not provide

¹¹ Alan Macfarlane, 'Illegitimacy and Illegitimates in English History' in Peter Laslett, Karla Oosterveen and Richard M. Smith (eds.) *Bastardy and its Comparative History: Studies in Illegitimacy and Marital Nonconformism in Great Britain, France, Germany, Sweden, North America, Jamaica and Japan*, (London: Edward Arnold Publishers Limited, 1980), pp.70-93: p.72.

¹² B. Capp, 'The Double Standard Revisited: Plebeian Women and Male Sexual Reputation in Early Modern England', *Past & Present*, vol. 162 (1999), pp.70–101: p.83.

comprehensive crime numbers for bastardy, these records are still a significant aspect to examine as they provide insight into prosecution rates and potential influencing factors.

Alongside a quantitative analysis of the court records on bastardy, as outlined in the introduction, popular seventeenth-century literature provides essential insights into gendered ideals and fears surrounding bastardy and a perception of society's beliefs regarding this crime. One fear for men was that they could be tricked into raising and providing for another man's child. This was a serious concern due to the importance of lineage and legal inheritance in the family. The ballad by prolific balladeer Richard Climsall, *Joy and Sorrow Mix't Together* relayed those fears. A newly wedded husband found that he had been cuckolded as his wife was pregnant by another:

what Man living can brook this wrong,
to father another man's child?
[...] with patience I must be content,
tis many men's fortune like mine.¹³

This implies there were concerns that a man's masculinity could be diminished through being conned by a 'lewd' woman. This type of attitude positioned women as the 'villains' in these cases of bastardy, as their lascivious ways created this situation and undermined teachings on femininity. For instance, in the religious conduct literature of John Dounane, he proclaimed: 'though the Devil was everywhere, tempting and trying souls, only the weak and wanton succumbed. The harlot who concealed her sin was the antithesis of the submissive Christian wife and mother.'¹⁴ This text suggests that circumstances of masked paternity thoroughly undermined the idealised domestic female. Furthermore, 'women who were desperate, destitute or merely unscrupulous might harness males' fears of disgrace and possible prosecution in a variety of other situations, in order to seek redress, apply pressure, exact revenge or extract money' from a previous lover, the

¹³ Richard Climsall, *Joy and Sorrow mixt together: Or, a pleasant new ditty, wherein you may find conceits that are pretty to pleasure your mind.* (ed.) John Wright (1634-1658) British Library – Roxburghe C.20.f.7.170-171 [online source] <http://ebba.english.ucsb.edu/ballad/30107/xml> accessed on 12th May 2020, l.116-121.

¹⁴ John Dounane, *The Christian Warfare*, (London: 1604), pp.101-104.

reputed father.¹⁵ This notion offers the woman an element of power in this scenario, although it potentially opens her up for further scrutiny should her claims rebound. This study will explore if there is evidence of these fears within the three counties examined.

On the other hand, women were often portrayed as victims of men's lust and sexual urges. This was a prevalent theme in the ballads, potentially reflecting the broader societal concerns over the responsibility for these illegitimate children.

One ballad by renowned London bookseller F. Coules depicts:

his former promises so kind he turned to jest [...]
Sir Knight remember your vow yowth she,
that you to me did say,
with child alas you have gotten me
and can it not deny,
so mayst thou be yowth he faire flower
and the child be none of mine,
unless thou canst tell me the houre,
and name to me the time.¹⁶

The 'lasse' proves the child to be the knight's, thus making him follow through with his promise of marriage. Despite an acceptance in common law that if there was a marriage agreement, a betrothed couple could lie together and then wed, which did result in pre-marital sex and bridal pregnancies, there was still a considerable concern that women could be tricked into this and then the male might renege on the agreement.¹⁷ The tone of the ballad suggests that women were often seen as the victims in these situations, and this depiction will be analysed to determine whether it correlates with the court records for the East Midlands.

In comparison, there is the representation of women's degradation through their sexual behaviour. Throughout the period, 'wanton' women who produced bastards and the threat they posed to the ideals of motherhood were explored in popular literature. The 1634 ballad *No Naturall Mother, but a Monster* depicts, in

¹⁵ Capp, 'The Double Standard Revisited', p.99.

¹⁶ *The Westerne Knight and the young maid of Bristoll their loves and fortunes related.* (ed.) F Coules (1629) Magdalene College – Pepys Ballads 1.312-313 [online source] <http://ebba.english.ucsb.edu/ballad/20148/xml> accessed 12th May 2020, l.59-60: l.71-80.

¹⁷ Patricia Crawford and Sara Mendelson, *Women in Early Modern England*, (Oxford: Oxford University Press, 1998), p.119.

the first-person, a narrative of a girl who was hanged for the murder of her bastard child. She states that:

But my unbridled will,
Did put me forward still,
From bad to further ill,
As appear'd.
[...]
My carriage was to wild,
Woe is me woe is me,
And I was got with child,
Take heed faire maidens.¹⁸

This ballad outlined the fear that once women began to challenge the ideals of chastity and only having children outside of marriage, their lascivious behaviour could lead to other crimes, such as infanticide, which was the ultimate betrayal of what it meant to be a good mother. Yet the ballad picks upon early modern notions of punishment as a deterrent – an aspect this study will seek to explore within the three counties. The ballad serves as a disincentive to women against being loose with their morals and sexual activity to preserve their reputations as the same ballad suggests women should:

Strive yourselfe to free,
From shame and slander.¹⁹

Ballads often depict advantages being taken of vulnerable women. For instance, there was a particular concern regarding the position of servants and masters or even other men of the house: 'a master was betraying his moral responsibilities twice over if he fathered a child on one of his servants and could expect considerable opprobrium from his neighbours' for undermining the idealised notions of the seventeenth-century household.²⁰ One ballad invokes this:

one good man [...] these words in curtesie he said,
unto Elizabeth his maid,
you labour hard and take great paine,
but other follies have all the gaine [...]
all this did Besse the maid no good,
for though poore soul her belly did ake [...]

¹⁸ M.P. *No naturall Mother, but a Monster*, ll.20-24: ll.33-36.

¹⁹ M.P. *No naturall Mother, but a Monster*, ll.167-168.

²⁰ Capp, 'The Double Standard Revisited', p.72.

with speeches mild I by my master am with child.²¹

There may also have been some concern as to whether these acts were consensual or not. Popular literature provides insight into broader cultural beliefs surrounding bastardy but also gives ideas of where society may apportion the blame in such cases. This thesis examines whether this range of attitudes was also evident in the court records.

Incorporating both a quantitative and qualitative aspect provides a varied insight into societal beliefs regarding bastardy and gendered notions regarding the crime, alongside the legal process and notions of authority in the domestic household. Examining popular literature and court records offers an overview of how these aspects interact in the parish.

Historiography and Originality:

Few works focus specifically on bastardy as a crime itself in this period. Bastardy is often suggested within works that address infanticide, for instance, Anne-Marie Kilday's monograph *A History of Infanticide in Britain c.1600 to the present* or Laura Gowing's article 'Secret Births and Infanticide in Seventeenth-Century England' have determined it was largely unmarried servants committing infanticide alongside the concealment of birth.²² Developing on this foundation, the research will explore how true it is, of these counties, that a significant proportion of women who had bastard children were also servants.

One of the fundamental works on bastardy is Richard Adair's *Courtship, Illegitimacy, and Marriage in Early Modern England*, of which the critical argument is that failed courtships amongst the poorer sort, for whatever reason, is the most

²¹ Unknown, *The Constant wife of Sussex, Unto you here I will declare, A story wonderfull and rare for a wife to prevent her husband's shame.* (ed.) Fr Colles (1632) Magdalene College – Pepys Ballads 1.414-415 [online source] <http://ebba.english.ucsb.edu/ballad/20195/xml> accessed 14th May 2020, l.21-4: l.52-54: l.72.

²² See Anne-Marie Kilday, *A History of Infanticide in Britain c.1600 to the present* (Basingstoke: Palgrave Macmillan, 2013); Laura Gowing, 'Secret Births and Infanticide in Seventeenth-Century England' *Past and Present*, vol.156 (1997), pp.87-115.; Keith Wrightson, 'Infanticide in Earlier Seventeenth Century England', *Local Population Studies*, vol.15 (1975), pp.10-22; Peter C. Hoffer and N. E. H. Hull, *Murdering Mothers: Infanticide in England and New England, 1508-1803*, (New York: New York University Press, 1981).

satisfactory theory for early modern illegitimacy in England.²³ This is due to a significant connection between the economic circumstances of the courting couple and their financial stability. When wages were high, courtship activity increased (as couples would not copulate unless they had the security to marry); therefore, so did marriage activity (although the age of marriage decreased). Due to this increase in courtship activity, the number of disappointed or failed courtships rose and, therefore, the number of illegitimate births.²⁴ However, later in the book, he outlines how poorer economics could also lead to increased illegitimacy. Adair divides England into two super regions: the Highlands (incorporating the North and West) and the Lowlands (South and East). He finds that the Highlands saw higher levels of illegitimacy than the Lowlands - due to their beliefs in the shaded degrees of marriage (a general acceptance of copulations between the couple between spousal and marriage), alongside population increases and land pressures which lead to poorer economics and so couples were waiting longer to marry, hence an increase in bridal pregnancies and illegitimacies. In contrast, the Lowlands had greater demarcation of marriage and shorter courtships between betrothal and wedding overall, which led to lower levels of bastardy and later-term bridal pregnancies.²⁵ Derbyshire is on the fringe of his Highland region, and Nottinghamshire and Lincolnshire are within Adair's Lowland region, for which he found a clear overall pattern that 'cities in regions show higher bastardy rates than their rural counterparts' – this will be examined for the three countries.²⁶

Another critical work is the edited collection by Peter Laslett, Karla Oosterveen, and Richard M. Smith. Although this work's range is broad chronologically and geographically, including Europe, Asia, and America, the section focusing on Britain is pertinent to this research. Two pieces focus on bastardy in England during the early modern period, specifically the seventeenth century. One by Keith Wrightson addressed the potential links between Puritan beliefs and

²³ Richard Adair, *Courtship, Illegitimacy, and Marriage in Early Modern England*, (Manchester: Manchester University Press, 1996), p.9.

²⁴ Adair, *Courtship*, p.16.

²⁵ Adair, *Courtship*, pp.121-127, p.188.

²⁶ Adair, *Courtship*, p.192.

bastardy, and the other by Wrightson and David Levine addressed the economic situation and the social factors linked to bastardy.²⁷ Other works in this section address those most likely involved in these bastardy cases. For example, Laslett goes so far as to determine that the bastardy-prone sub-society was 'a series of bastard producing women, living in the same locality, whose activities persisted over several generations, and who tended to be related by kinship or marriage.'²⁸ However, Adair challenges this as he determines that 'there is no swell in repeaterdom to compliment a rise in bastardy in the sixteenth and early seventeenth centuries.'²⁹

Adair's findings for the Highland super region are consistent with Anthea Newman, who outlines that this bastardy-prone sub-society was 'most likely to consist of the type of family where the distinction between legal and illegal marriage was not clear.'³⁰ The limited information in the Quarter Sessions regarding familial connections makes it difficult to assess whether these sub-societies existed throughout the East Midlands. Adair identifies that the subset listed within the Parish records for the illegitimate births were mainly the mothers only in the southeast super region.³¹ He attributes this to the feeling that 'bastardy was the sole responsibility of the mother of the child, a feeling more prevalent in the east of the country', whereas, in the northwest, both parents were listed in the register because the 'relationship was generally stable and serious and because the couple

²⁷ Keith Wrightson, 'The Nadir of English Illegitimacy in the Seventeenth Century', in Peter Laslett, Karla Oosterveen, and Richard M Smith (eds.) *Bastardy and Its Comparative History: Studies in Illegitimacy and Marital Nonconformism in Britain, France, Germany, Sweden, North America, Jamaica and Japan*, (London: Edward Arnold Publishers Limited, 1980), pp.176–91; David Levine and Keith Wrightson, 'The Social Context of Illegitimacy in Early Modern England', in Peter Laslett, Karla Oosterveen, and Richard M Smith (eds.) *Bastardy and Its Comparative History: Studies in Illegitimacy and Marital Nonconformism in Britain, France, Germany, Sweden, North America, Jamaica and Japan*, (London: Edward Arnold Publishers Limited, 1980), pp.158–75.

²⁸ Peter Laslett, 'The Bastardy Prone Sub-Society' in Peter Laslett, Karla Oosterveen, and Richard M Smith (eds.) *Bastardy and Its Comparative History: Studies in Illegitimacy and Marital Nonconformism in Britain, France, Germany, Sweden, North America, Jamaica and Japan*, (London: Edward Arnold Publishers Limited, 1980), pp.217–39: p.217.

²⁹ Adair, *Courtship*, p.70.

³⁰ Anthea Newman, 'An Evaluation of Bastardy Recordings in an East Kent Parish' in Peter Laslett, Karla Oosterveen, and Richard M Smith (eds.) *Bastardy and Its Comparative History: Studies in Illegitimacy and Marital Nonconformism in Britain, France, Germany, Sweden, North America, Jamaica and Japan*, (London: Edward Arnold Publishers Limited, 1980), pp.141–57: p.152.

³¹ Adair, *Courtship*, p.79.

were perhaps involved in the marriage process.³² This distinction suggests the opposite may be true of the Lowlands, as they had a short period between spousal and marriage, leaving less opportunity for illegitimate births during the betrothal. However, the Quarter Session records suggest that those presented before the court were predominantly men, not those in long-term relations or intended to marry once the child had been born. This subset is indicated in the requirement of maintenance payments and orders for the care of the child, which likely would not be required for common-law partners maintaining a relationship or those who married after having an illegitimate child. Therefore, those in the courts may have been specifically targeted to pressure them into marriage or ensure appropriate financial support to avoid needing parish aid.

Alexandra Shepard examines the father's role in bastardy cases and the factors that influence the actions of the putative fathers, such as class, familial pressures, and financial means.³³ Her evidence has come from various archival centres, primarily Warwick and Worcestershire County records and the Quarter Sessions for the County of Somerset. Walter King argues that bastardy was more of an economic concern as cases were brought mainly to court for maintenance concerns rather than moral concerns – although King does differentiate that in terms of judgement, men were punished in terms of economic considerations and women for moral reasons.³⁴ The raw data for this article primarily came from the Lancashire Quarter Sessions between 1601 and 1658 periodically and with less frequency Somerset between 1608 and 1648; Warwickshire from 1625 to 1660; and Hertfordshire from 1619 to 1660. This thesis will develop upon the findings of Shepard and King by examining the choices and role of the putative father, whether bastardy was essentially a financial concern, and motivations for the punishment of

³² Adair, *Courtship*, p.79.

³³ Alexandra Shepard, 'Brokering Fatherhood: Illegitimacy and Paternal Rights and Responsibilities in Early Modern England' in Steve Hindle, Alexandra Shepard, and John Walter (eds.) *Remaking English Society: Social Relations and Social Change in Early Modern England*, vol.14, (Woodbridge: Boydell and Brewer, 2011), pp.41–64.

³⁴ Walter J King, 'Punishment for Bastardy in Early Seventeenth-Century England', *Albion: A Quarterly Journal Concerned with British Studies*, vol.10: no.2 (1978), pp.130–51.

both sexes within the Quarter Sessions records for Derbyshire, Lincolnshire, and Nottinghamshire.

This study will explore the three counties individually and examine any similarities and differences between the regions in the conclusion. Each county section will analyse who was involved in bastardy crimes in terms of sex and occupation, alongside what punishment was given, when these crimes happened, and where, especially as Ingram determined, there was 'no topographical/demographical association with bastard cases, instead correlation is with population size and density. For instance, illegitimacy was more prevalent in populated industrialised areas of poverty than in the sheep/downlands, as there were sparser populations, so fewer cases were reported and detected.³⁵ This examination will use data analysis and case studies from court records and draw upon broader national fears evident in the popular literature to address the way element for each of these questions.

Derbyshire:³⁶

Introduction:

Within Derbyshire, only twelve instances of bastardy cases were recorded between 1630 and 1660 in the Quarter Sessions. This could be for several reasons. For example, the survival rate of the Session Rolls for Derbyshire is extremely low and sporadic sessions survived between 1630 and 1660. Despite this, there are still details within the court documentation that provide insight into attitudes towards those who conceived bastard children in this county in these thirty years.

Who (Sex):

Analysing who was involved in bastardy cases in terms of sex is a significant aspect of addressing gendered associations with this crime, mainly as popular literature of the time was vociferous in its stereotypes. Although the crime of bastardy would involve two people to conceive said child, in the Quarter Session Rolls for

³⁵ Ingram, *Church Courts*, p.275.

³⁶ Elements of this section have developed from a blog post written for the Women's History Network titled: [Wretched Whores or Virtuous Victims: Women, 'Bastardy' and Court Records 1630-1660, by Erin Newman – Women's History Network \(womenshistorynetwork.org\)](#) (9 August 2021)

Derbyshire, only one parent out of the two was brought to court for each case of bastardy identified. This may suggest that the parent whom the community felt most responsible for the circumstances was presented in court. However, it may also indicate that the court required a different approach or judgement for each parent.

When examining the numbers of men and women who were listed in the Quarter Session Rolls for Bastardy, there was a slightly larger number of women listed; they were 58 per cent of those charged with bastardy compared to the proportion of men at 42 per cent. This may be because, although family members could provide names of possible fathers or men could claim fatherhood of a child, it was the claims of the mother, whether herself or through midwives, that the JPs could put the most legal value in when naming the father or potential fathers of the child. Identifying the father of the child was a crucial first step that the rest of the proceedings of the bastardy case relied upon. Without knowing the putative father, maintenance could not easily be sought, and judgment could not always be given. Once the father had been identified, these cases could be dealt with outside of the courts if no further input was required from the court. For example, if the situation was deemed a bridal pregnancy, there was no contention over the child's father or if there were already means and agreements for maintenance. This determination to identify the father could be seen in the case of Elizabeth Jodrill; it was not upon her information, but instead of her midwives that the Justice heard the account:

of Ellin Lingard a [?] Woman and Anne Hadfield and Ellin Lomhouse taken upon Oath before Randalph Ashenhurst, Esquire, one of his majesties Justices concerning the filliating[?] of Elizabeth Jodrill, her child. Who informe and say that they being all present with the other women and when Elizabeth Jodrill was in her extremities of Labour that she the said Elizabeth Jodrill took it upon her death that Arnold Kirke of Chappell Miltowne was the only father of her child and no man else.³⁷

There is no further evidence relating to the outcome of this case, but it shows how women were also vital to processing bastardy cases. In this case, not only was the

³⁷ 'Information of Ellin Lingard, Anne Hadfield and Ellen Lomhouse' *High Peak*, (6th March 1638) – DRO – QSP – Q/SB/2/86.

mother named at court, but three others were involved too, Ellen Lingard, Anne Hadfield, and Ellen Lomhouse, who were present at the birth of the bastard child and then took on an authoritative role. Midwives were there 'not just to give help but to examine the truth and to withhold, if necessary, their help until the mother confessed the father's name.'³⁸ Their actions may have been encouraged as a duty to the parish. There was a general fear that the parish would end up responsible for financing the bastard child should the father be unknown, and thus, midwives had unique capabilities to act in the name of the parish and the court.

The case of the recidivist, Elizabeth Green, a spinster of Bowden Chappell, who was identified by the court on two separate occasions, in 1630 and 1656, for having bastard children by unknown fathers, highlights further gendered criticism of illicit motherhood. In 1630, a petition was brought to court on behalf of Anthony Bradshaw, whom Elizabeth had charged as the father of her two bastard children. The petition, signed by their fellow parishioners and brought before the Quarter Sessions, indicated that their community was not convinced that Anthony could have done such a thing, begetting a bastard child outside of his marriage.³⁹ This may be solely on what they know of Anthony Bradshaw, but seventeenth-century notions of female culpability for sexual misconduct may also influence this. One early modern proverb noted that 'women were weak, unstable, lustful, desirous of power, the Devil turned first to them in order to destroy mankind', which was reflective of Greene's claims as they could have destroyed Bradshaw's standing with his wife and amongst the community, should they have believed Green.⁴⁰

Elizabeth was later presented to court again for bastardy, where five potential fathers were identified. Two potential fathers, who had declared the child theirs, paid maintenance to Green's father and brother. Yet, despite Elizabeth and the family accepting these maintenance payments and seven witnesses accounting for different fathers, Elizabeth did not accuse any particular man of fathering the

³⁸ Gowing, 'Secret Births and Infanticide in Seventeenth-Century England', p.103.

³⁹ 'Certificate of the inhabitants of Bowden Chappell about behaviour of Elizabeth Greene, mother of two bastards', *High Peak*, (n.d thought to be c.1630) - DRO – QSP - Q/SB/2/21a. For the original manuscript and transcription, please see Appendix 2.

⁴⁰ Crawford and Mendelson, *Women*, p.71.

said child.⁴¹ Interestingly, two of the five suspected fathers (not those who supplied maintenance payments) in this latter case were a father and son, who shared the same surname with Anthony Bradshaw, the accused male in the aforementioned Green bastardy case. Thus, this may well have been a targeted attack on the Bradshaw family – as Anthony Bradshaw (of the prior case) was described as having ‘a wife of his own whom he was in good amity with’, and so this may be a case of a jilted lover or a disgruntled mistress.⁴² Or indeed, Green might have lain with several of her fellow villagers and lacked confidence as to who the father could be. Such wanton behaviour certainly undermined the ideals of chastity and the nuclear family and challenged accepted female stereotypes.⁴³ Unfortunately, contextual information about the circumstances in which these three bastard children were conceived and the punishment meted out is not listed in the Session Rolls. However, the language used in the records, such as sundry (meaning several different types; not important enough to list), being used to demark the number of people involved in both her cases, suggests identifying the father was a secondary concern to criminalising her lewd behaviour in the community and the challenge it represented to their parish and idealised femininity.⁴⁴

There were also gendered expectations of men and their sexual behaviour during this period that bastardy cases served to undermine. It was expected that a man should always be in control of himself, and should he lose control, it would be detrimental to his masculinity. Foyster argues that early modern men held a ‘fear that by “letting go” during sex they exhibited a lack of self-control which will allow women in the future to dominate them’ as with a weakened notion of masculinity they could be overrun by others, such as women, children, and domestic staff –

⁴¹ ‘Examination of Ellen Cowper, widow, Ann Kelsall and Elizabeth Bramwall touching the reputed father of the child of Elizabeth Greene’ *High Peak*, (29th September 1656) – DRO – QSP – Q/SB/2/225; ‘Examination of Elizabeth Greene of Combs in Bowden Chappell and others concerning the father of her child’ *High Peak*, (11th August 1656) – DRO – QSP – Q/SB/2/226.

⁴² ‘Certificate [...] Elizabeth Green’, *High Peak*, (c.1630) - DRO – QSP - Q/SB/2/21a.

⁴³ Erin Newman, ‘Wretched Whores or Virtuous Victims’ *Women’s History Network* (9 August 2021) <https://womenshistorynetwork.org/wretched-whores-or-virtuous-victims-women-bastardy-and-court-records-1630-1660-by-erin-newman/>

⁴⁴ Cambridge English Dictionary ‘Sundry’ <https://dictionary.cambridge.org/dictionary/english/sundry> accessed 29/12/2023.

those who relied on patriarchal authority within the household.⁴⁵ If this loss of control resulted in a bastard, they would then be subject to payments for, or even coerced to, marry the woman they had compromised. This was considered especially dishonourable if this act was a catalyst for other vices that could further cause a man to lose self-control. For example, William Pick of Breaston was charged with begetting a bastard child on the body of Jayne Johnson, who confessed 'she [...] let past him in the house but denyth he had any carnall knowledge of her except it may at one time when he was drunk,'⁴⁶ suggesting the child was conceived whilst in his drunken state. Thus, William Pick fell short of the gendered ideals of the accepted seventeenth-century masculinity through several character defects.

Who (Occupation):

Examining the occupations of those involved in bastardy cases provides a crucial insight into social relations and concerns regarding the morality of the household during this period. Details about the occupation of those recorded for bastardy were sparse across Derbyshire, only four in total: two women and two men – a husbandman and a locksmith. The two women were listed as maids or servants of some kind, and they had bastard children with their masters. For instance, Mary Hunter, in her examination, declared that:

she is a singlewoman and that she never was married she is now with child that she became a hired servant to Christopher Brittlebank about a month after Michaelmas last for [?] Time that accordingly she hath lived in his house eversince and still doth and that about a weeks before Candlemas last the said Brittlebank and her self this examine did lye together and that the said Brittlebank had then and together from time to time since had carnall knowledge of her body. She aforesait that the said Brittlebank is the father of the said childe now in her wombe and further saith not.⁴⁷

⁴⁵ Elizabeth A. Foyster, *Manhood in Early Modern England: Honour, Sex and Marriage*, (Harlow: Longman, 2014), p.74; Alexandra Shepard, *Meanings of Manhood in Early Modern England*, (Oxford: Oxford University Press), p.70.

⁴⁶ 'Examination of William Pick of Breaston, husbandman charged with fathering a bastard child of Jane Johnson of Breaston' *Morleston and Litchurch*, (5th June 1651) – DRO – QSP – Q/SB/2/191.

⁴⁷ 'Examination of Mary Hunter of Hathersage, singlewoman, naming Christopher Brittlebank as father of the child she is carrying' *High Peak*, (4th September ?1651-1653) – DRO – QSP – Q/SB/2/206.

In this case, Mary was frank about who the father of her child is, their living situation, and their continued relations. This frankness in discussing her continued relationship with her master, Christopher Brittlebank, suggests that there may have been a consensual relationship. Nonetheless, this type of relationship would still pose a concern to the social order because of the disruption it would cause domestic dynamics. In this instance, Mary, the maid, would be overstepping her place of service in the household and started encroaching into the role of the mistress of the house. It is unclear whether Brittlebank had a wife, but if he were married, Mary's relationship with him would have usurped the role of her mistress, creating tensions within the household.

Moreover, as the master of the household, Brittlebank would be seen as undermining the gendered ideals of the patriarch in his relationship with his servant Mary, as he could be seen to be abusing his position. For example, Gowing has determined that 'the small hierarchical nature of the early modern household made harassment and abuse a frequent risk.'⁴⁸ Whereas Foyster and Shepard argue it was expected that those in the service of a household would have an element of protection afforded to them from any male members within the space due to the control the male head of the household should have over himself, his family, and his domestic staff – although both acknowledge this was not always the case.⁴⁹ Creating a relationship with a servant undermines the expectations surrounding their role and his patriarchal position. It was indicative of his loss of control sexually, and an illegitimate pregnancy would bring the household into disrepute.

In comparison to Mary Hunter, Mary Wylde was far more reluctant to admit who the father was. Hence, other women had to provide information regarding the reputed father rather than Mary herself. Midwife Elizabeth Butlor, widow Ann Syddall, and single woman Ann Bradburie all determined that upon 'ask[ing] her whoe was the child's father and the said Mary answered that if were any mans it

⁴⁸ Laura Gowing, 'Women's Bodies and the Making of Sex in Seventeenth-Century England', *Signs: Journal of Women in Culture and Society*, vol.37: no.4 (2012), pp.813-822: p.816.

⁴⁹ Foyster, *Manhood*, p.87.; Shepard, *Meanings of Manhood*, p.70.

was her Maistors John Greene.⁵⁰ The reluctance to name her master directly as the child's father is in direct contrast to the previous example. It may be that the bastard child was conceived in different circumstances, or there were different attitudes regarding their sexual relationship and concerns over their difference in social status. For instance, Mary Wylde may not have been in such a consistent relationship with her master as Hunter was and might have been more worried for her future. Confirming her master as the father of the bastard child may have put her in a precarious position in terms of current employment, especially regarding maintenance payments. Further, having a relationship with her master that created a bastard child would significantly affect her reputation and would reduce her chances for employment in the future. Both case studies' evidence concerns that a bastard child between servants and masters brought problems to the home for both the mother and the wider household.

The relationship between a servant and master was often a storyline depicted in popular literature such as broadside ballads like the example in the chapter introduction of Besse the maid, impregnated by her married master. Mendelson and Crawford suggest that 'the typical unmarried mother who was brought before the secular courts was the maidservant whom her master or fellow servant had impregnated', and Lindsey Moore also identifies in her examination of Colchester Quarter Session that one of the common accounts in depositions is that of being the 'victim of a predatory master.'⁵¹ Although this narrative of victimhood is not wholly apparent within the Derbyshire Quarter Session Rolls, there is a concern over maintaining appropriate relations between maid and master and the differing narratives regarding their begetting of bastards during the mid-seventeenth century.

What:

Individual examinations, in some instances, provide further information regarding the circumstances in which the bastard child was conceived. The language and tone

⁵⁰ 'Examination of Elizabeth Butlor, midwife, concerning a bastard child of Mary Wylde, John Greene being reputed father' *Derby*, (5th May 1653) – DRO – QSP – Q/SB/2/202.

⁵¹ Mendelson and Crawford, *Women*, p.96.; Lindsay Moore, 'Single Women and Sex in the Early Modern Atlantic World' *Early Modern Women*, 5, (2010), pp.223-227: p.225.

of the Derbyshire records' examinations, information, and details reflect attitudes towards gender and crime at the time.

Although rare in the records, there were instances of bastard children created through non-consensual acts. The only record in Derbyshire in which this is explicitly stated was that of Ellen Stoppard, who in 1651 was:

Charged with being the mother of a child about fourteene days old which was left upon a shop bulke in the Parish of St Alkmund, Derby, upon the third day of April last in the evening suspected to be a bastard. The examine confesset she did leave the said infant on the said Bulke upon the third of Aprill last behind Derby faire about eight or nine of the Clock at night and did stay in a little lane not far away so that she might hear it but she saw it was found and taken away which was about for of the clock and the returned to her fathers house in Heage. But saith the child was borne the thirteenth of March last at Samboy[?] in one Widdow Milnes house and there baptised by the minister of the P[ari]sh And this examine further saith that a soldier who called himself Rolfe Johnson is the father thereof who overtooke thy examine neare her house in Belper ward as she was going Derby who forced her to his owne designe.⁵²

This case was brought to court because the child was abandoned and suspected to be a bastard. Ellen confessed that she did leave the child upon the shop baulk, yet she stayed close, even going back for the child, but the child was taken away. The intention behind highlighting this to the Justices was to demonstrate that Ellen was concerned for her child's safety. Moreover, by emphasising that the child had been baptised upon birth, she demonstrated that she was fulfilling her role as a good Christian mother.⁵³ This is crucial because in cases of suspected infanticide, mothers often used their actions up to the birth, such as creating baby clothes, and at birth, such as baptising the child, as evidence that they meant the child no harm and thus had no intention of murdering their baby.⁵⁴ Ellen may have been using similar tactics in performing these expected gender traits to ensure she achieved the standard of evidence to demonstrate that she was a victim of her circumstances.

⁵² 'Examination of Ellen Stoppard of Heage, single woman, charged with being the mother of a child about 14days old left upon a shop bulke in the parish of St Alkmund Derby' *Derby*, (8th April 1651) – DRO- QSP - Q/SB/2/186.

⁵³ Newman, 'Wretched Whores or Virtuous Victims'.

⁵⁴ See Kilday, *A History of Infanticide in Britain*.

This situation invariably meant that she could not keep the child but was concerned for its best interests. This form of self-representation may have been borne of self-preservation. As indicated previously, women who had bastard children were in a precarious position because of the challenges they presented to the idea of the nuclear family and idealised gender stereotypes.

The details Ellen provided about the child's conception when 'a soldier forced her to his own design' present her as a victim, potentially of a travelling soldier during the Civil Wars. She clearly outlined the circumstances in which she became pregnant and that it was not of her own volition.⁵⁵ Ellen's experience must be somewhat in her voice (not mitigated through that of other women) for this testimony as '[this] is the opportunity to shape their versions of the story, [it] offered women a vital opportunity to salvage their sexual reputations before the communities.'⁵⁶ The confession Ellen gives to the court creates a sense of her as a victim not only because of the circumstances and in her attempts at being 'motherly' but in her attempts to try and avoid the shame patriarchal society directed against unwed mothers despite the circumstances. This account may not fully describe the events as Ellen told them, but an amended or abbreviated version for the court. Yet despite her voice likely having been mediated through the clerk who recorded this account, she was able to present herself as a victim of the circumstances in which the child was conceived.

In the case of Mary Hunter, although we perceive her voice again through the examination process, there is no sense of victimhood; she was portrayed as confident in discussing the sexual exploits in which she had engaged. Hunter was willing to share her exploits with the Justices of the Peace and information regarding the carnal relationship with the baby's father. Hunter employed agency in her examination to discuss her liaisons with her master openly, even though she was likely to be judged by her fellow parishioners for her sexual conduct outside of marriage. Yet, by affirming the regular nature of their copulations, Hunter may have been establishing that there was a steady relationship to some degree, helping to

⁵⁵ 'Examination of Ellen Stoppard' – DRO - Q/SB/2/186.

⁵⁶ Moore, 'Single Women', p.225.

establish that Brittlebank was the father of her child should he try to contest the matter. Thus, Hunter has used her voice to ensure the paternity of her child directly to the court. Yet it is crucial to remember that those who presided over the cases and recorded them were ingrained within the power system of patriarchal authority. Thus, this representation of Hunter may serve a greater purpose in aiding the reiteration of negative gender ideals for women. Significantly, though, these case studies suggest that women did have the means to and could employ the circumstances of how their bastard child was conceived to present themselves in the best way to suit their case.

What (Punishment):

Although there is little information in the Derbyshire Quarter Session Rolls regarding the judgements or outcomes, the records still provide insight into the narrative and attitudes regarding bastardy crimes. Only one case in these Rolls holds details of the outcome given for a bastardy case.

The case of William Allen, a locksmith of Chesterfield and although the outcome of this case may not be a corporal punishment or a committal, it still provides a judgment and fiscal penalty:

The order of Mr William Newton, Mayor of Chesterfield, for the time being and Lionel And Ralph Clarke Justices of the Peace within the County for the keeping of a bastard child begotten by William Allen (..) upon the body of Elizabeth Kay of Barley made at Chesterfield aforesaid upon the 28th of March 1651. Upon examination of the said Elizabeth Kay who did judge the said William Allen to the reputed father of the said child order as followeth:

1. First the saith Elizabeth Kay shall keepe the said child untill it come to eight years of age.
2. Secondly that the said William Allen upon notice of the Order shall by such notice pay in to the hands of one of the Overseers of the Poore of Barley (for the time being) after the rate of eight pence a week with the arrears from the birth of the saide childe to be paid monthly every year towards the maintenance of the said childe until it come to eight years of age.
3. Thirdly the said Allen shall abide forth further for putting the said childe to be an apprentice for the better of the said [parish] when the said childe was borne as shall be made by the two Justices to Barley aforesaid if the said bastard child be then living.

4. Fourthly the said William Allen presently give good sureties to one of the Overseers of Barley aforesaid to performe this order.⁵⁷

This order by the Justices outlines instructions for the child's care for both the mother and father and accounts for the long-term maintenance of the child. Elizabeth was to keep the child in her care until the child was eight years of age, and during these years, the father, William Allen, was to pay eight pennies a week monthly to the Overseers of the Poor towards the maintenance of the said child. Once the child reached eight years of age, the father was to ensure the child was placed in an apprenticeship if the child still lived.⁵⁸ Notably, in this case, the mother maintains responsibility for the child through its nurturing years, indicative of early modern concepts regarding child raising and a mother's responsibility for this, but this also kept child-rearing costs down.⁵⁹ Whereas the father was solely responsible for the monetary aspect of the child's maintenance and securing an apprenticeship at the appropriate time, both elements ensured that this child did not become a burden unto the Parish. This case suggests that the primary concern of the JPs and the mayor was to safeguard the child's upkeep, not out of the parish coffers. Crucially, the type of punishment given enforced idealised gender ideals of the middling and elite within the locality – the mother is to oversee the care of the child, and the father is to provide the financial security, reflecting the separate roles of the sexes in the early seventeenth-century family.

There is only one other instance where there is any indication of the outcome for a case in Derbyshire, in this period, and that is through 'the petition of various women present at the birth that Elizabeth Buclowe, daughter of Widow Buclowe, gotten with child by Rowland Allsopp son of Robert Allsopp be made allowance for maintenance by the said Rowland.'⁶⁰ This is the only information available for this case; thus, even though Rowland was named and an order was made against him for maintenance, he was not called upon to account for any

⁵⁷ 'Order of William Newton, Mayor of Chesterfield, and of two justices touching the upkeep of a bastard child of William Allen of Chesterfield, locksmith, and Elizabeth Key of Chesterfield' *Scarsdale*, (28th March 1651) – DRO – QSP – Q/SB/2/185.

⁵⁸ 'Order of William Newton' – DRO – Q/SB/2/185.

⁵⁹ See Mendelson and Crawford, *Women*, specifically 'Chapter Three: Childhood and Adolescence'.

⁶⁰ 'Petition of various women present at birth Elizabeth Buclowe' *Wirksworth* (1649) – DRO – QSP – Q/SB/2/137.

information at the Sessions: this may be because the reputed father only provided further information via examination when his paternity was contested. There were no further details as to what order for maintenance was put into place for this child and how much Rowland was to provide. However, with the focus in this petition being on the maintenance order from the father rather than any focus on the mother, it is suggestive that the priority in bastardy cases was ensuring financial security for the child from the father. Although a tiny cohort, these two case studies do speak to the broader findings in the field regarding bastardy in the seventeenth century that the focus in the outcomes of these cases was, first and foremost, ensuring there was financial support for the child to prevent them being a burden on the parish coffers.⁶¹ Especially as there was no reference in either of these Derbyshire case studies of the outlined punishment for mothers of bastard children, that of being sent to the House of Correction, rather the sole mention of monetary orders.

When:

As with all crime records, it is crucial to understand that these records do not accurately reflect all bastardy cases in Derbyshire between 1630 and 1660. For bastardy in particular, cases may not have always made it to the courts if the child had not survived for very long or if the pregnancy was a bridal pregnancy – where a betrothed couple, known to the parish, had been lying together in the months preceding the marriage causing the pregnancy, although generally the child had not been born before the marriage took place.⁶² In certain instances, bastardy cases could also be seen in the Church courts as a moralistic crime rather than a judicial matter for the Quarter Sessions. Despite this, analysing the available data allows for inferences about the numbers regarding bastardy throughout this period.

Derbyshire may also have a low incidence rate for bastardy as ‘the majority of affiliation arrangements did not involve the courts, and even formal negotiations between JPs, parish officials and the putative fathers may have masked informal

⁶¹ See King, ‘Punishment for Bastardy in Early Seventeenth-Century England’, Alan Macfarlane, ‘Illegitimacy and Illegitimates in English History’, pp.71–85.

⁶² Newman, ‘An Evaluation of Bastardy Recordings in an East Kent Parish’, pp.141-157.

aspects of a child care that left no record.⁶³ For instance, although it could be that the outcome of the case has not survived or was not recorded, it could also be that the case of Richard Ball was settled outside of the Quarter Sessions. Ball was simply listed 'for getting a male child upon the body of Susan Wholar, who is charged' with no further outcome.⁶⁴ Although it cannot be confirmed, it may be that if he did not contest fatherhood and was willing to pay for the child, they did not need further secular input at the Quarter Sessions, and thus, the outcome was not recorded. Different local administrations may have had various methods for settling maintenance outside the courts, which may account for the smaller number of cases recorded in the Rolls.

Only one case was recorded at the Quarter Session for six of the years available, one year with two cases, and then there was a slight spike in bastardy cases in 1651 with four cases. Although there was a minor surge overall, this may reflect more expansive notions regarding the bastardy rate during the Interregnum period. With an uptake in the overall trend, it is suggestive that, with an increased Parliamentary focus on sexual immorality in the community, there was a rise in the prosecution rates of such crimes. However, Peter Laslett and Karla Ooversteen noted that 'as nearly everyone would expect, the decade of the 1650s when the brief reign of the Puritans ran its course in England, was indeed the time when the illegitimacy ratio was apparently the lowest' which implies that the increased control over sexual morality ordained by the Puritans potentially lowered the rates of bastardy.⁶⁵ However, there is the possibility that although the bastardy rate itself was at its lowest during this decade, the prosecution rate may have been higher. This was due to a primary focus of the local administration being the enforcement of the new and more stringent laws against sexual immorality introduced during the Interregnum period. Therefore, the numbers presented within court cases reflect prosecution drives rather than a reflection of the crime itself.

⁶³ Shepard, 'Brokering Fatherhood', p.50.

⁶⁴ 'Presentment of Richard Ball' *Derby*, (15th April 1634) – DRO – QSP – Q/SB/2/51

⁶⁵ Peter Laslett and Karla Ooversteen, 'Long-Terms Trends in Bastardy in England: A Study of the Illegitimacy Figures in the Parish Registers and in the Reports of the Registrar General 1561-1960', *Population Studies*, vol.27: no.2 (1973), pp.255-286: p.257.

Where:

With the small number of cases in Derbyshire, confident conclusions cannot be drawn from the data without aligning this with the other counties. For Derbyshire, moral crimes such as bastardy, especially ones that could also be dealt with by the ecclesiastical courts, may not have been such a priority for the Quarter Sessions. However, some aspects will still be noted for the regional comparison later in this chapter.

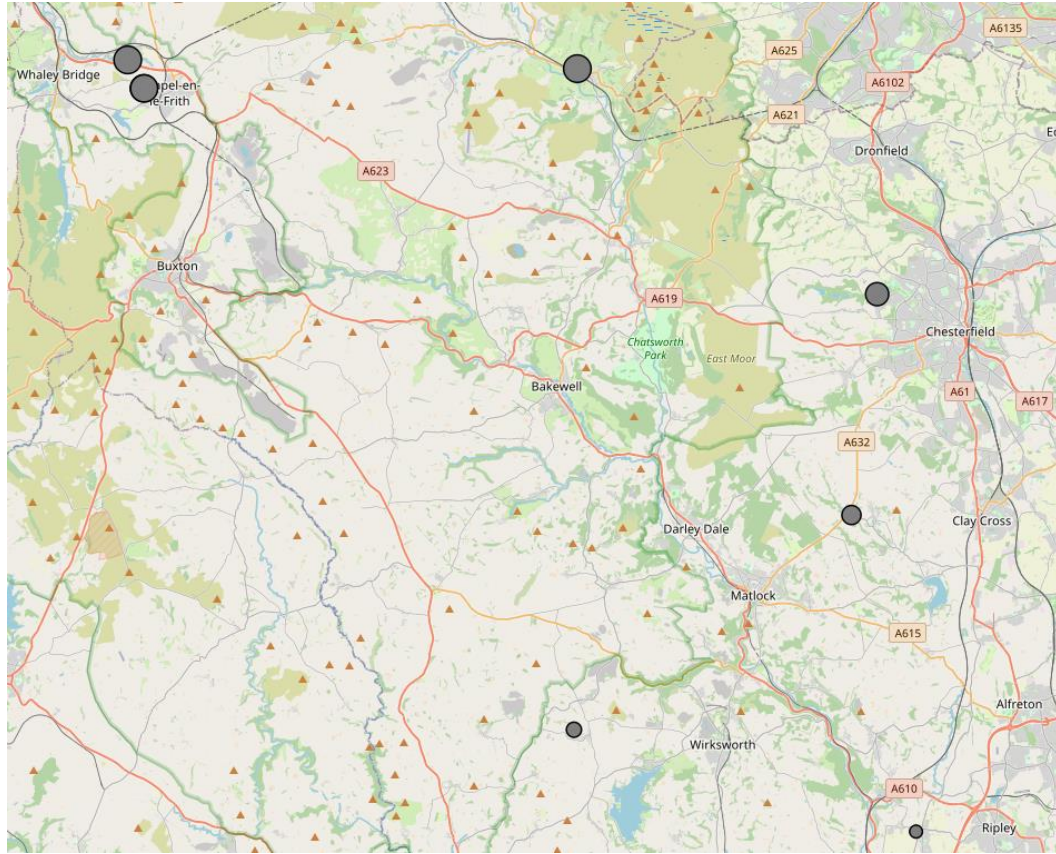
It is apparent from Figure 7 that there were a larger number of instances of bastardy in the Northwestern area of the county, particularly in the High Peak hundred – the larger the data point, the greater the number of cases. This may have been due to greater concern over immoral practices where the reach of the law was inhibited. For instance, the rugged terrain across the peaks and marshlands, especially in periods of bad weather, made it largely untraversable, which could make it difficult for constables, JPs or any of those acting on the behest of the court to enact judicial authority in such parts. Thus, this led to a more significant application and implementation of the law when there were instances of crime to enforce moral standards in an area that presented a challenge to maintaining secular authority.⁶⁶ On the other hand, as previously indicated in the context chapter, there was a significantly rapid population growth in the High Peak due to the emergence of mining communities. So, the rapid rise in demographics in this hundred may correlate with an increase in the number of instances of bastardy. Especially as Ingram noted that ‘economic pressures made local interests sensitive to the setting-up of new households (especially by the poor) and to forms of popular behaviour which could easily lead to a bastard birth.’⁶⁷ Therefore, the rapidly expanding area of lead-mining, which attracted new labourers alongside the incumbent peak miners, created extra pressure on the resources, thus creating a

⁶⁶ For an account on the terrain see Lynn Beats, *Introduction* in ‘Politics and Government in Derbyshire 1640-1660’, (University of Sheffield, 1978); Jill R. Dias, *Organisation of Economy and Society 1590 - 1640* in ‘Politics and Administration in Nottinghamshire and Derbyshire 1590-1640’ (University of Oxford, 1973).

⁶⁷ Ingram, *Church Courts*, p.234.

targeted prosecution of young fathers of illegitimate children to protect the parish resources.

Figure 7: GeoMap of bastardy incidences in Derbyshire



Concluding Thoughts:

Examining individual examinations and depositions brought before the Derbyshire Quarter Sessions allows for a greater insight regarding attitudes surrounding gender and bastardy during these 30 years. For Derbyshire, a slightly higher proportion of women were presented before the Quarter Sessions in bastardy cases. This was to determine who the reputed father was, as without this information, it would be challenging to take the case forward for maintenance payments. Interestingly, most of these women were single and in a serving position, which confirms the findings of McFarlane, Mendelson, and Crawford regarding those who were typical bastard bearers.⁶⁸ Despite the low numbers of this crime within Derbyshire, the Depositions provide a wealth of information regarding the circumstances in which bastardy

⁶⁸ Crawford and Mendelson, *Women*, p.98; Macfarlane, 'Illegitimacy and Illegitimates in English History', p.81.

occurred in this county during the period. For instance, although not conclusive from one county, there were examples of how some women reflected the dichotomous representation of bastard-bearers prominent in the popular literature of the time – those who were victims, whether that be of a sexual assault or at the hands of a master, and those who flaunted the expectations of charity and sexuality for seventeenth-century women. The problematic nature of the quantitative analysis of archival material is also highlighted by examining bastardy in Derbyshire. The low record survival rate makes it difficult to address trends across the thirty years and draw conclusions about where Derbyshire aligns with current historiography. Notwithstanding the low numbers in the county, valuable evidence can be found for perceptions about those accused of this crime, as well as the roles and involvement of the community in these cases.

Lincolnshire:

Introduction:

In Lincolnshire, forty-three instances of bastardy were recorded between 1630 and 1660 for the Quarter Sessions of West Lindsey. The level of detail that the Lincolnshire indictments, depositions, and examinations contain is extremely valuable – especially for analysing the circumstances and the gendered aspect of the crime of bastardy. Interestingly, Adair notes that Lincolnshire had a low level of illegitimacy even by Lowland standards and provides the most significant discrepancy between the urban and rural figures in his findings that the Lowlands had higher urban rates of bastardy than rural areas.⁶⁹ Although he offers no definitive explanation for this, it may be that Lincoln was the county's most significant metropolitan centre and, therefore, a higher population density in a considerably vast rural area, experiencing high migration and low wages. The significance of such factors will be explored throughout this section.

⁶⁹ Adair, *Courtship*, p.193.

Who (Sex):

There is a quantitative and qualitative benefit to examining the offenders' sex for Lincolnshire's bastardy cases. The quantitative aspect provides insight into prosecution priorities and those involved in these cases. For most of the cases in the West Lindsey sessions, only one parent was brought before the court – and these were often single cases with few instances of recidivism. In terms of the numbers of men and women who were listed before the JPs for bastardy crimes, there was a significantly higher proportion of men than women, greater than 4:1 (83 per cent to 17 per cent), who were processed in the Quarter Sessions, suggesting men were targeted explicitly for prosecution through the secular courts. The records provide qualitative information about the relationships between gender, families, and bastardy in the county.

One reason why there may be more men before the courts in Lincolnshire is that it was male figures in the family who were raising these cases rather than the mother of the bastard child. For instance, one Robert Stanynton of Haxey brought a petition to the court on behalf of his daughter Anne, a servant of Gregory Moody, but, unfortunately, William Moody, son of Gregory, having first promised her marriage, begot her with child. Subsequently, Gregory discharged Anne, despite William confessing he was the father to the said child; this forced Anne back home to her father, Robert, who was described as poor and had six children to support.⁷⁰ It may be that Robert was attempting to preserve as much as he can of his daughter's reputation by presenting the narrative of intended marriage to the JPs, evoking notions of victimhood for his daughter - potentially in the hopes that they and their community may look upon her more favourably. Adair found that 'when a marriage was looming, family and society alike were happy to condone a very marked relaxation of the usually tight norms governing sexual relations'; therefore, Robert felt a responsibility to then step in on behalf of his daughter to try and ensure a marriage occurred or that the reputed father was held responsible for the child.⁷¹ Moreover, Adair reasons that 'such an attitude fits very well with the

⁷⁰ 'Petition of Robert Staynton' *Lindsey*, (January 1630) – LA – QSR - LQS/A/1/3/1.

⁷¹ Adair, *Courtship*, p.170.

observed facts of low bastardy and the strong bias towards late-term bridal pregnancy characteristic of the lowlands.⁷² However, it is apparent that where courtship failed did not result in marriage - such as Anne and William – there was a priority to prosecute, the men especially, to encourage marriage or secure financial maintenance.

Critically, Robert was performing gendered ideals of fatherhood, such as supporting and protecting one's children, in opposition to the father of the bastard child, William Moody. Robert's intention was possibly to portray those of the Moody family as challenging accepted fatherhood roles in the eyes of the judicial authority, again in the hopes that his petition would be more likely to be accepted. This case study is one instance of how those who were not the parents could manipulate the narrative within bastardy by drawing on gendered notions of one's sex and parental roles.

Putative fathers may have been brought before the courts not just to ensure maintenance but also due to concerns regarding pre-marital pregnancy and a moral need to secure a marriage thereafter. There were clear indications that some women had been duped into fornication on the promise of marriage in Lincolnshire. Hellen Needham, a widow, had a bastard child by one Richard Hustwaite, a victualler of Spillesby. In her deposition, she declared that:

[he] pretending himselfe to be a suitor to her this informant came to her house att Hanna within the psh of Spillesby [and] suffringe great love [and] friendship to her [and] that he would take her to wife [and] marry her hee the said Hustwaite upon his fair pmses [and] prtences did [?] wth this informant to have the carnall knowledge of her body. And this informant saith that about the tyme aforesaid hee the Hustwaite in the place of her owne house att Hanna aforesaid upon a bed in the said place had the carnall knowledge of her body and for two or three days after had the same knowledge of her body: he gott her a bastard child.⁷³

There is a clear indication in this deposition that Hellen had understood there was a promise of marriage, thus engaged in sexual activity and confirmed that 'the said

⁷² Adair, *Courtship*, p.170.

⁷³ 'Information of Hellen Needham' *Louth*, (January 1659) – LA – QSR - LQS/A/1/18/83.

Richard Hustwaite, no other, is only the father of the said bastard child'.⁷⁴ Yet the case was bought before the Quarter Sessions to ensure that the reputed father was to pay maintenance for this child, especially if Hustwaite had absconded. Although there was no direct reference to this in the court documentation, it was undoubtedly a perpetual fear at the time. These concerns were even more remarkable when those who promised marriage reneged on the deal, as indicated in the Needham case above, making a bridal or pre-marital pregnancy a bastardy case.

In these circumstances, the mothers of the bastard child were seen as victims; in the popular literature, these women were often portrayed as pitiful. For instance, *A Lamentable Ballad of the Ladies Fall*, of which there are five remaining copies in the EBBA, suggesting a considerable popularity due to its survival rate, denotes the female character as being jilted:

Hast thou forgot thy promise made,
and wilt thou perjud prove.
And hast though now forsaken me,
in this my sad distress;
To end my daies in open shame,
which thou mightst well redresse.⁷⁵

This more sympathetic representation of the mother challenged alternate notions of bastard-bearers as lewd and lascivious. Needham may have been aware of this trope being depicted in contemporaneous literature and attempted to evoke this within her deposition, with language such as 'pretending himself to be a suitor.' This was crucial as notions of equity regarding culpability in the circumstances in which the child was conceived, such as in bridal pregnancies, negate the considerable blame placed on the mother of the bastard child.⁷⁶

The cases in the Lincolnshire Quarter Sessions are valuable because of the depth and detail they contain. They also allow for a close reading of the language used to consider how court records reflect gender ideals at the time, especially

⁷⁴ 'Information of Hellen Needham' *Louth*, (January 1659) – LA – QSR - LQS/A/1/18/83.

⁷⁵ Unknown, *A Lamentable Ballad of a Ladies Fall*, ll.95-100.

⁷⁶ Garthine Walker, *Crime, Gender, and Social Order in Early Modern England*, (Cambridge: Cambridge University Press, 2003), p.230.

ideas about women's behaviour and sexuality. This was especially evident in the petition created on behalf of one Elizabeth Windsor. The petition reads as follows:

to the Honrble and right worll Justices of the Peace sitting in sessions at Horncastle. The humble petition of Elizabeth Windsor a poore distressed prisoner in the house of correction at Tattershall. Showeth that ye poore ptr by ye iust sentence and for the due desert of her sinne (in having a bastard child) hath long suffered in this place of miserye where thorough the great Mercy of the Lord [and] execution of Justice shee hath not only been brought to [damagd] sense and understanding of the haynousnes of her sinne agaynst almighty God, scandale of Christianity, evill examples of gods people and transgresion of the lawes of the Land; but also to a serious detestation of her former evill [and] ungodly life, with unfayned sorrow [and] repentance for her misdoings [and] steedfast resolution through the divine assistance to become a new creature [and] wch deed to say It was good for mee that I was afflicted that I might receive the statutes of Lord. Now most humbly beseecheth this Honrble Bench to ioyne mercy with Justice and after her long [and] greivous suffering ready to perish with penury to vouchsafe ye Honer manumission and deliverance out of this place of torment [and] disgrace. Who in all humble thankfullness shall daylye pray for ye [?]case in Honr [and] happiness.⁷⁷

The language depicting her crime, such as 'the heinousness of [a] sinne against almighty God', suggests the seriousness in which the begetting of a child was viewed and how sexual liaisons outside of marriage were integrated with religious morals. However, this petition focused on Elizabeth's redemption through the suffering she faced in the House of Correction and the 'divine assistance' she received. This aligns with the concept that early modern punishment focused on 'deterrence, retribution, ritual cleansing [...] and an endeavour to reform the wrongdoer.'⁷⁸ Moreover, the approval that Elizabeth was pursuing from the Justices in seeking to be released from the House of Correction further solidifies the patriarchal authority within the judicial system and over gender ideals. As 'insults to honour had [an] effect by shaming people into conformity' thus, the language within Elizabeth's petition, such as 'a serious detestation of her former evil [and]

⁷⁷ 'Petition to the Honourable Justices – Elizabeth Windsor' *Horncastle*, (1648) – LA – QSR – LQS/A/1/11/32. For the original manuscript and transcription please see Appendix 2.

⁷⁸ John Briggs et al., *Crime and Punishment in England*, p.85.

ungodly life' may be used to shame her previous behaviour in the hopes of strengthening her redemption and conformity to gender and society's ideals.⁷⁹

Who (Occupation):

Most of those involved in bastardy cases in Lindsey between 1630 and 1660 were often considered amongst the poorer sorts in the community. For men in Lincolnshire, labourers were the most prominent putative fathers, with the vast majority of others being spread across low-skilled craftsmen, who had roles such as weavers or carpenters. For women, it was those outside of marriage who may have been the most vulnerable or had the most freedom if they were not in a patriarchal household.

The scholarly consensus is that the poorest wage groups of seventeenth-century society were those bearing bastards due to the low wages received, the mobility required for the work, and the demographic expansion.⁸⁰ Although focusing on this from an infanticide aspect, Gowing further determines that 'the economic and domestic situations of servants made them the most likely to produce children whom they could not support.'⁸¹ This could stem from situations where youthful members of the opposite sex lived in very close quarters, creating the opportunity for unplanned pregnancies. There is one incidence in the sessions of the father being the servant; however, for most of Lindsey's cases, the mother was the servant, and the father was often above the status of domestic help.⁸²

Some instances in the records referred to a female servant's vulnerability within a master's house. For example, Master Wright's servant Elizabeth Moodie was begotten with a bastard child, and Master Wright charged one William Wright, a tailor, as the father as the said, 'William having confessed before me that he hath

⁷⁹ Laura Gowing, 'Women, Status and the Popular Culture of Dishonour', *Transactions of the Royal Historical Society*, vol. 6 (1996), pp.225-234: p.225.

⁸⁰ Karla Oosterveen, Richard M Smith, and Susan Stewart, 'Family Reconstitution and the Study of Bastardy: Evidence from Certain English Parishes', in Peter Laslett, Karla Oosterveen and Richard M. Smith (eds.) *Bastardy and its Comparative History: Studies in Illegitimacy and Marital Nonconformism in Great Britain, France, Germany, Sweden, North America, Jamaica and Japan*, (London: Edward Arnold Publishers Limited, 1980), pp:86–140; Levine and Wrightson, 'The Social Context of Illegitimacy in Early Modern England', pp:158-175.

⁸¹ Gowing, 'Secret Births and Infanticide in Seventeenth-Century England', p.92.

⁸² 'Recognisance of John Cowlon' *Spittle*, (17th April 1655) – LA – QSR – LQS/A/1/14/29 is the only case where both mother and father are of listed as servants.

had carnall copulation with her.⁸³ This demonstrates a different side to the role of masters in bastardy cases as they could identify the fathers and hold them responsible for their actions, whether the perpetrator was related to them or not. No women were listed as a servant and charged for bastardy because, in Lincolnshire, these women were merely listed within the recognisances against the fathers, such as in the Wright case above. This is potentially because the judicial authority was more concerned with criminalising masters having bastards with their servants as it undermined social hierarchy and familial authority - the inter-status nature of these liaisons was problematic.

Moreover, especially in apprenticeship situations, the male of the house often took on a pseudo-paternal role over the servants; thus, in situations of sexual relations between master and female servant, it subverts those expectations within the house. One instance of this was of Thomas Noddle, a husbandman of Bigby, who had begotten a bastard child upon his servant Mary Turkey.⁸⁴ This concern regarding the unbalancing of household relations may also be reflected in fears regarding the possible effect men of a particular position had over others. For instance, in Lincolnshire, three yeoman and two husbandmen (such as Noddle above) were charged with bastardy, and it may be that the local JPs in traditional manorial-based areas had a greater agenda against these men. For example, yeoman and husbandman were likely to own/manage a small farm and have in their employments farm hands and labourers, so there may have been a concern that if they were undermining the hegemonic ideals of family, sex and the domestic, this could negatively influence those associated with that household. As William Gouge argued, adultery in men was far worse than in women because of 'how much the more it appertaineth to them to excel in virtue, and to governe their wives by example' as well as others in their household.⁸⁵ Bastardy suggests a failure of masculinity in Noddle's lack of control over his sexual urges that were outside accepted male and social behaviour.

⁸³ 'Recognisance of William Wright' *Lindsey*, (29th March 1637) – LA – QSR - LQS/A/1/8/158

⁸⁴ 'Recognisance of Thomas Noddle' *Caistor*, (9th January 1654) – LA – QSR – LQS/A/1/14/68

⁸⁵ William Gouge, *Of Domesticall Duties*, (London: 1622), p.219

What:

The Lindsey Quarter Sessions demonstrate the significant involvement of the community and families in bastardy cases – as well as fears about bastardy undermining idealised gender norms. The case of Ellen Hodgson and Thomas Bushey of Friskney is particularly notable. Thomas was under recognisance to answer for the begetting of a bastard child upon the body of Ellen Hodgson, with one Humphrey Mott and his wife bound to appear as witnesses.⁸⁶ In her examination, Ellen declared that:

shee is gott wth child by John Fforsman [and] yt he had use of her body about a week before Maydaye last And yt he had ye use of her but one tymes. She further acknowledgeeth that since yt tyme One Tho: Busher had y use of her body two or three tymes betwixt ye latter end of May [and] midsommer but certainly knowes not ye day or weeke.⁸⁷

In this examination, Ellen admits to having sexual relations outside of marriage, and she does this on numerous occasions with more than one man, clearly defying norms of appropriate sexual behaviour for women. The language used does not suggest that Ellen was coerced or unwilling to sleep with multiple men; it may be that she was an active participant in these circumstances, even if she cannot recall the exact details. Hence, she embodies the fear surrounding lascivious females and their disruption to sex in marriage culture. In this instance, Ellen was even more challenging as having numerous partners meant that she could not confirm who the father of her bastard child was to determine who should pay maintenance. In some cases, this may be deliberate to avoid burdening the biological father with debt and potential poverty. This case may support R. A. Marchant's finding that 'women were punished more severely than men in bastardy cases because juries were reluctant to convict men on the sworn word of women alone.'⁸⁸ Although there is no outcome in this case, it does seem to reflect the fear that men could be judged on women's words, especially if that woman was questionable.

⁸⁶ 'Recognisance of Thomas Bushey' *Horncastle*, (22nd October 1658) – LA – QSR – LQS/A/1/17/68.

⁸⁷ 'Examination of Ellen Hodgson' *Horncastle*, (22nd October 1658) – LA – QSR – LQS/A/1/17/68.

⁸⁸ R.A. Marchant, *The Church under the Law, Justice, Administration and Discipline in the Diocese of York 1560-1640*, (Cambridge: Cambridge University Press, 1969), p.224.

Thomas' confessed that 'he had ye use of ye body of ye said Hellen 2 or three tymes but he had not gott her wth child nether would he marry her', demonstrating he lacked proper masculine values.⁸⁹ One instance of copulation might be a mistake, but for him to commit this carnal act continually would be seen in the eyes of the community as detrimental to his status and manhood as he demonstrated a deficiency of self-control over his sexual urges. For instance, 'in their bids for manhood, young men embraced precisely this kind of behaviour – violent disruption [...] illicit sex – condemned by moralists as unmanly, effeminate and beast-like.'⁹⁰ Moreover, although he claimed the child was not his, his determination not to marry her after their liaison could see him as licentious for his continued engagement with Ellen outside of marriage. It may also bring into question that this may not be the only woman with whom he lay, and if it were not, this would certainly further undermine his masculinity in the eyes of the patriarchal authority.

Another interesting aspect of this case is the roles played by the witnesses, particularly Alice, Humphrey Mott's wife. The Motts confessed that 'when ye said Amy pceived ye said Ellen Hodgson to be wth child [and] examined her ther uppon ye said Ellen confessed that Tho: Bushey sonne to the said Amy who lived in ye house wth her had gott her wth child.'⁹¹ Thus, as has been noted in numerous previous works, there was community involvement in identifying a pregnancy outside marriage and a responsibility to determine the father.⁹² It is notable in this case that the paternal grandmother confronted her son on this matter. As Thomas' determination that he would not marry Ellen was discussed in his parents' deposition, it seems that this had been presented to him as an option already by them, again indicative of the broader involvement of grandparents in bastardy cases and their desire for children to be produced within wedlock. Furthermore, this case also demonstrates the opportunity for non-related opposite-sex youths

⁸⁹ 'Information of Humphrey Mott: Amy his wife' *Horncastle*, (22nd October 1658) – LA – QSR – LQS/A/1/17/68.

⁹⁰ Shepard, *Meanings of Manhood*, p.94.

⁹¹ 'Information of Humphrey Mott: Amy his wife' *Horncastle*, (22nd October 1658) – LA – QSR – LQS/A/1/6/155.

⁹² See Gowing, 'Secret Births and Infanticide in Seventeenth Century England', p.100.

living under the same roof to fornicate outside of marriage. For example, 'Tho: Bushey sonne to the said Amy who lived in ye house wth her had gott her[Amy] wth child', this has been transcribed and interpreted that Alice was the mother of Thomas and that Thomas and Amy lived in the same house.

Although this sub-section has focused on one case study, this example was chosen because it reflects numerous seventeenth-century concerns regarding challenges to gender ideals for both sexes, how the wider family could be involved in these cases, and which circumstances could be a cause for concern in terms of conceiving bastard children. The behaviours undermining ideals of chastity for women and sexual self-control for men, in this case, are representative of other cases that have been referenced in this wider section on Lincolnshire. Thus, this case is extremely valuable for analysing as an overview of the concerns regarding bastardy in Lincolnshire during these thirty years.

What (Punishment):

Unfortunately, there is very little quantitative data for the judgements and punishments received for bastardy cases in the Lindsey Quarter Session; only one woman was committed, and three men received financial orders. Nonetheless, the case studies provide some insight into the different mitigating circumstances and gender implications that impacted the judgements given.

Anne Russell from the Horncastle district received two outcomes for mothering a bastard child. The order was that 'Anne Russell should endure the pains of the House of Correction for one whole year. The town was to take care that the child received nourishment and that Anne Russell pay monthly after the first year, twelve pence for the maintenance of the child.'⁹³ Thus, not only was Anne to be sent to the House of Correction, as outlined by the 1610 Act, while there, the town took her child, but she was also subject to financial penalties on her release to ensure the maintenance of the child afterwards, despite the Act making no reference to monetary aspects for the mother. In comparison, the reputed father, Anthony Collyson, who had fled, 'was to pay the churchwardens 2s 6d. These

⁹³ 'Warrant of Anne Russell' *Horncastle*, (20th February 1633) – LA – QSR – LQS/A/1/17/68.

payments were to continue until the child was fit to be bound in apprentice at the charge of the said father and mother.⁹⁴ Collyson only received the financial punishment on his return despite having sex outside of marriage to create an illegitimate child and then initially abandoning his responsibilities by fleeing, whilst Anne received moral and financial punishments for solely conceiving a child outside of wedlock. This could be indicative of the 'sexual double standard operated whereby women's chastity was seen as more crucial and thus its absence was treated more harshly than men's.'⁹⁵

On the other hand, men could also present themselves as victims in bastardy orders, as their circumstances might impact the outcome, and punishments could be amended. An instance of this is Edward Hutton of Toynton, who raised a petition with the JPs to moderate the judgment:

that whereas the petitioner was unjustly charged with the begetting of a child on the body of one Elizabeth Brigg, late of Little Steeping, the inhabitants of the same have procured an order from Sir William Quadringe and Mr Massingbeard, whereby the petitioner is overcharged in paying 10pence a week to maintain the child, which is far above his ability to pay, because he has nothing to maintain himself, his old mother (who is both old, blind, and lame) and a sister who is unable to work, may it please the Justices to mittigate the charge. Therefore, not only the petitioner, his poor old mother and sister, but also us, the inhabitants of the same town will pray for the health of your worships etc. signed Lawrence Freeman, Thomas Overay, Thomas Henny, William Jackson, John Octoby, Richard Pensall, John Chester.⁹⁶

Hutton identifies that he was 'unjustly charged' with fathering the bastard child, suggesting he believed he was not the child's father in this instance, and so the charges should be alleviated. However, the central theme of the petition was his ability to pay. It is indicated that he was poor, but then, as the male household member, he needed to support his mother and sister, who could not work. This is crucial because it implies that due to his poverty, the town would have potentially needed to support him in making those maintenance payments to ensure the

⁹⁴ 'Warrant of Anne Russell' *Horncastle*, (20th February 1633) – LA – QSR – LQS/A/1/17/68.

⁹⁵ Ann Hughes, *Gender and the English Revolution*, (Abingdon: Routledge, 2011), p.15.

⁹⁶ 'Petition of Edward Hutton' *Horncastle*, (1634) – LA – QSR – LQS/A/1/6/169.

previous order was met. There must have been some merit in this self-representation by Hutton as the request was endorsed: 'the partie shall pay Vld [five pence] a week until the next sessions and then the parish may have vertue to prosecute against him and it appeare he is able then shall he submit himselfe to ye next sessions.'⁹⁷ Through the petition, Hutton reduced the maintenance order by half, a significant difference. It is impossible to say what directed the JPs decision; however, this is the only case evidenced in Lincolnshire, where the maintenance order was reduced. This could suggest that his self-representation of performing idealised gender aspects in caring for those of his household already, alongside the parishioners' financial concerns, may have had some influence over his successful request for mitigation.

When:

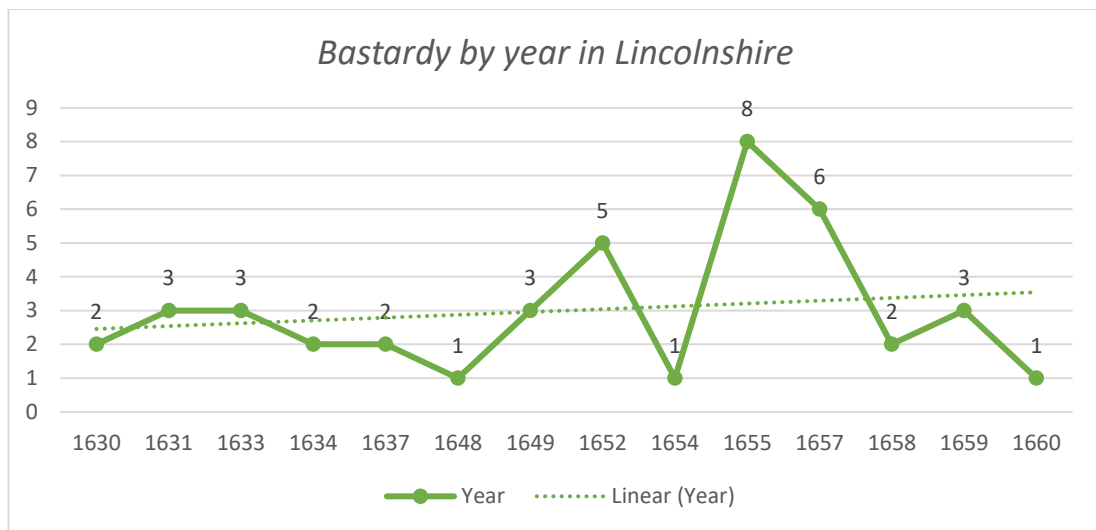
In the Lindsey Quarter Sessions between 1630 and 1660, there appeared to be an increase in the prosecution of bastardy cases, as indicated in Figure 8. Although the illegitimacy rate was at its lowest point in the decade of the 1650s, particularly 1655-1659, the prosecution rate was at its highest in Lindsey, with the peak in 1655. However, the numbers drop towards 1660, which aligns with the falling illegitimacy rate.⁹⁸ It was not until 1650 that fornication was declared punishable only by secular authorities; thus, this may account for the increase in the number of bastardy cases listed before the Quarter Sessions throughout the 1650s in Lincolnshire.⁹⁹

⁹⁷ 'Petition of Edward Hutton' *Horncastle*, (1634) – LA – QSR – LQS/A/1/6/169.

⁹⁸ Laslett, 'Introduction: Comparing Illegitimacy over Time and between Cultures', p.15.

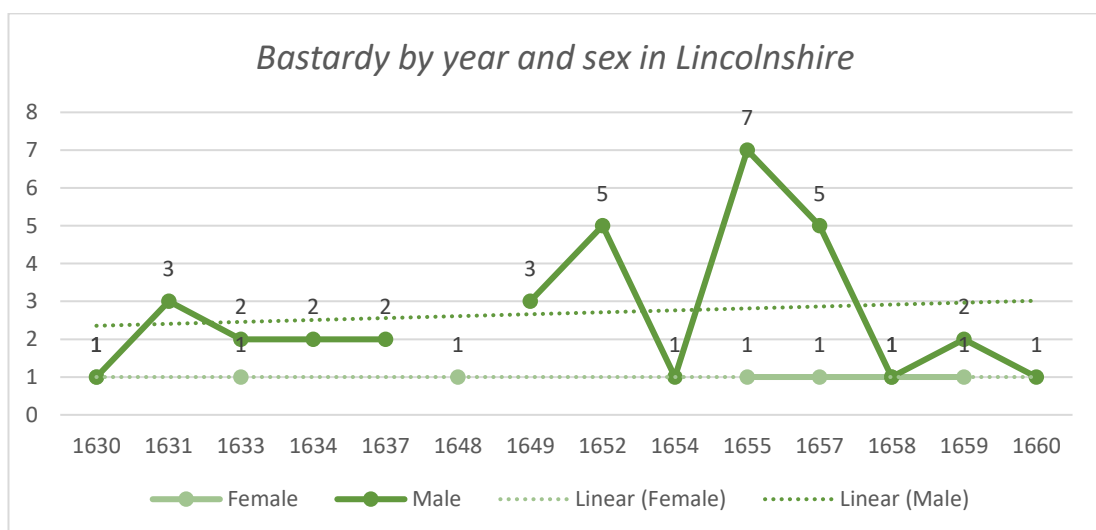
⁹⁹ King, 'Punishment for Bastardy in Early Seventeenth-Century England', p.134.

Figure 8: Line chart of bastardy by year in Lincolnshire



When examining the sexes individually, there was not a vast difference in the number of women prosecuted for bastardy crimes throughout the decades. Yet, there was a significant increase in the number of men charged from 1649 onwards. This may be influenced by the Commonwealth and its focus on moral policing and control over sex that intertwined with the persecution of bastard-bearers, especially as Wrightson argues, ‘the formal regulation of sexual behaviour in the period was dependent upon local support for its efficacy.’¹⁰⁰ Thus, it is likely that the priorities of the local administration influenced the number of prosecutions in the Quarter Session records to fluctuate.

Figure 9: Line chart of bastardy by year and sex in Lincolnshire



¹⁰⁰ Wrightson, ‘The Nadir of English Illegitimacy in the Seventeenth Century’, p.176.

In the 1650s, there was a greater inclusion of the examinations of the mother of the bastard bearers, which may be due to survival rates; with this, it is difficult to draw definitive conclusions. But, there appears to be a trend across these women's depositions in West Lindsey that the men they had lain with had carnal knowledge of their bodies multiple times.¹⁰¹ In two of these instances, it was the women who were brought before the court for the crime of bastardy, which may have been indicative of 'the law be[ing] understood to have been a means of controlling and punishing poor women's disorderly sexual behaviour.'¹⁰² One instance of this is Elizabeth Oatterton of Alford, a widow who was:

with quicke childe and that Christopher Jackson of Beesby in the said pts and county Glower is the only and true reputed father of the said child [and] no other pson And being asked when and what tymes the said Christopher Jackson had the carnall knowledge of the examint shee confesseth that the said Christopher Jackson had carnall knowledge of her body three severall dayes together in the parlour of his owne house att Woodthrope And being asked the tymes when shee confesseth it was about February last.¹⁰³

The repeated instances of this fornication within Jackson's house suggest a mutual relation of sorts, in which Elizabeth was an active agent in this immoral behaviour. Despite no recorded outcome, this case indicates there may have been a greater focus on cases of lewd behaviour during the 1650s that coincided with a greater prosecution rate of bastardy within the Lindsey Quarter Sessions.

Especially as there was a greater number of cases where the parents were involved with multiple partners as well as a greater number of copulations. For instance, there was one Robert Norton, who was discovered to have numerous lovers. In an examination, the mother of the bastard in the case declared that he 'had the carnall knowledge of her and two others severall times by which carnall knowledge shee conceived and is with a bastard child' indicating that he had three lovers with whom he had liaisons.¹⁰⁴ Whereas for Avis, the mother, there was no

¹⁰¹ 'Examination of Susanna Copper' *Lindsey*, (1st January 1658) – LA – QSR – LQS/A/1/17/14; 'Examination of Elizabeth Oatterton' *Lindsey*, (15th October 1658) – LA – QSR – LQS/A/1/17/37; 'Information of Hellen Needham' *Louth*, (January 1659) – LA – QSR – LQS/A/1/18/83.

¹⁰² Walker, *Crime and Gender*, p.228.

¹⁰³ 'Examination of Elizabeth Oatterton' *Lindsey*, (15th October 1658) – LA – QSR – LQS/A/1/17/37.

¹⁰⁴ 'Examination of Avis Walmsley' *Louth*, (5th May 1657) – LA – QSR – LQS/A/1/15/177

other man who had any carnal knowledge of her body except Norton. Thus, it was also males who had their sexual behaviour displayed and judged in the court, even if the legal system did not directly punish that immoral behaviour. These case studies, alongside the increased prosecution rates, could essentially be an initiative of the drive in the 1650s to regulate sexual morality.

Where:

Although there were less than fifty identified bastardy cases in the Lindsey sessions, it is crucial to address where these happened to examine any trends in the geographical analysis. Figure 10 shows that there appears to be a greater concentration of bastardy cases localised around larger towns, which are identifiable by the number of occurrences and the more pronounced data points. There were notable hotspots around Brigg, Market Rasen and Spilsby. There were other instances in the county's more rural areas, but these were sparse and in smaller numbers, as shown through the small circumference data points. Laslett determined that there was a longstanding belief 'that bastardy in the town must everywhere and always be higher than bastardy in the countryside' in the nineteenth century due to the beliefs of immorality and corruption in the cities.¹⁰⁵ Crucially, Adair found that higher bastardy rates in towns during the early modern period could be from women travelling in for their confinement and because of the low population in the cities compared to the rural counties, a relatively small number of migrating women from rural to urban centres made a significant difference in the bastardy ratio in the urban centre.¹⁰⁶ This difference is particularly notable in the coastal section of Lincolnshire, as most incidences are centred around the towns of Louth and Alford, and critically, Thirsk identified that during the seventeenth-century, there was a population movement from the coast further inland, particularly between Louth and Skegness.¹⁰⁷ Therefore, the higher population density moving inland and towards the towns may have created more instances within the area, as seen in Figure 10. There may have been a more

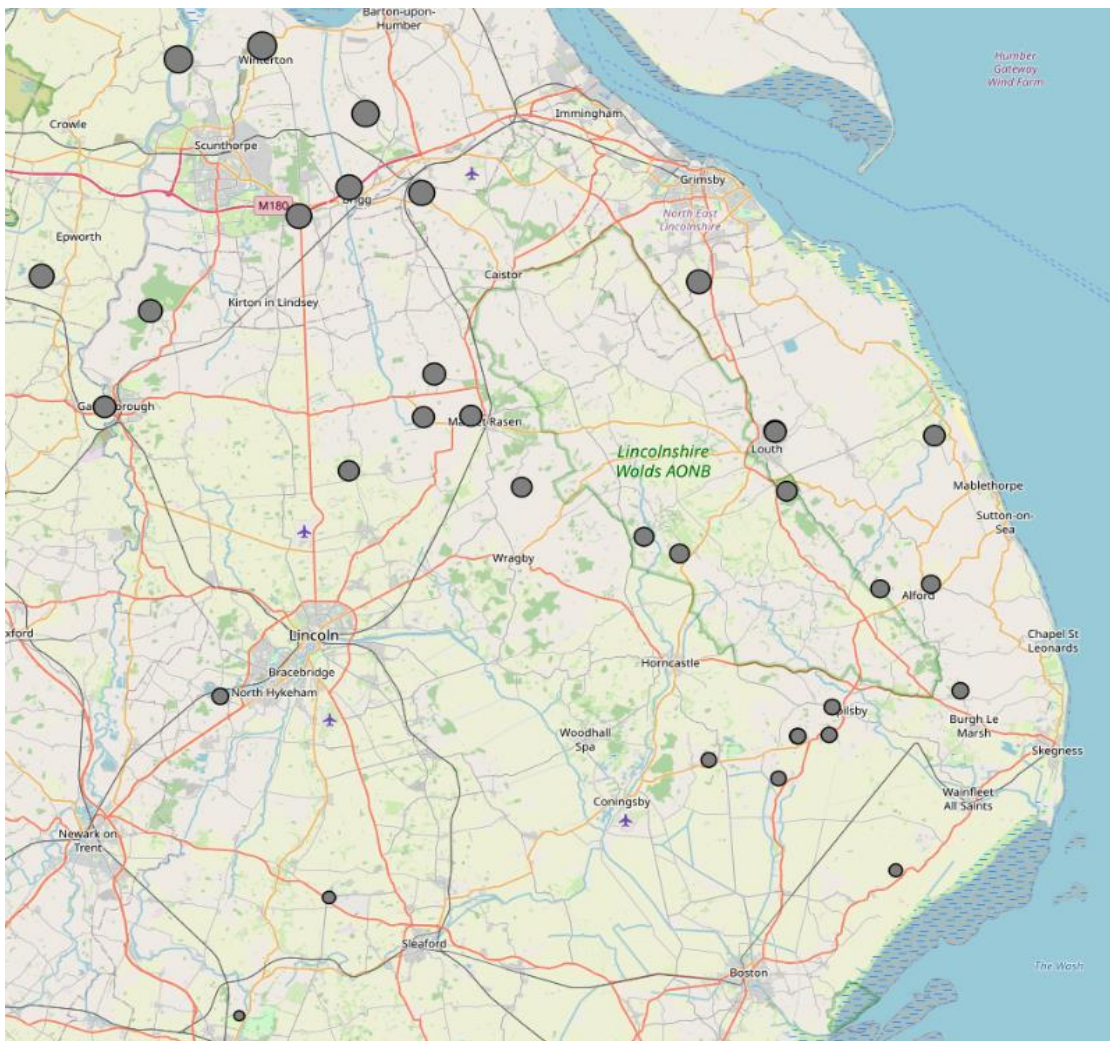
¹⁰⁵ Laslett, 'Introduction: Comparing Illegitimacy over Time and between Cultures', p.62.

¹⁰⁶ Adair, *Courtship*, p.200.

¹⁰⁷ Joan Thirsk, *English Peasant Farming: The Agrarian History of Lincolnshire from Tudor to Recent Times*, (London: Routledge, 2006), p.146.

significant drive to prosecute bastardy for the migrating population to maintain control over parish resources and morality. At first glance, the analysis of Lindsey's data appears to support this view throughout Personal Rule, Civil Wars and Interregnum.

Figure 10: GeoMap of bastardy incidences in Lincolnshire



This is connected to the reasons already identified within the chapter about the various opportunities and access such larger towns and cities provide for couples to engage in illicit sexual activity. The urban areas allowed for:

the high mobility of adolescents and young adults; their assimilation to a popular culture centred on alehouses rather than the church, which permitted a considerably larger flexibility on social and sexual behaviour that was strictly allowed by either church or magistrate; and their ultimate selection in marriage

partners in a situation relatively free of either the constraints or safeguards of parental control.¹⁰⁸

For the youths who travelled with their masters or under their trade to the markets at Louth or Rasen, encountering others who may be living in the towns provided the occasion to seek illicit sexual encounters. For instance, there were two instances around Rasen, the East Rasen case is particularly key as Willyam Locket was a fellmonger – a dealer in hides – and so would be a prominent figure in the market, which may have provided him with the opportunity to beget the bastard child he was being charged for in 1659.¹⁰⁹ The prosecution rates may be higher in these places to ensure maintenance was secured for bastards that might otherwise become chargeable to the parish when the parents returned to where they came from, whether this was another parish in Lincolnshire or another county.

Concluding Thoughts:

During the Personal Rule, Civil Wars and Interregnum years in the Lindsey district in Lincolnshire, a higher proportion of men were presented before the Quarter Sessions concerning bastardy cases – suggesting this was a male-centric crime in the secular courts, as this particular subset was being criminalised under the judicial authority. The Lindsey Sessions have explored that one element could be that men were going to court on behalf of the bastard's parents, whether that was fathers to protect their daughters, paternal grandfathers for encouraging a son's abscondment, or masters identifying their servants as fathers. Furthermore, there were broader moral and social concerns in encouraging those charged to pursue marriage contracts with the women, which required a greater involvement of the local administration. Those with the poorest jobs, such as labourers and servants, were the most common group involved in generating bastard children in this district, although some were skilled/artisanal workers. This may reflect the thought that 'there was an attempt by the "better sort" to impose their standards

¹⁰⁸ Levine and Wrightson, 'The Social Context of Illegitimacy in Early Modern England', p.169

¹⁰⁹ 'Recognisance of Willyam Locket' *Lindsey*, (22nd December 1659) – LA – QSR - LQS/A/1/18/50.

of morality on the lower orders.’¹¹⁰ One method of achieving this end was prosecuting lewd behaviour, of which bastard children were tangible evidence.

Evaluating different case studies from the Lindsey sessions has demonstrated how both parents involved in producing bastard children might be challenging accepted gender norms; women risked their chastity while men gave up their control and shirked responsibilities. The case studies also demonstrated how the punishments provided insight into how severely the court and society judged these infractions and measured people against the ideals expected of their sex. Focusing on the case outcomes also allows for examining how those involved in the bastardy cases could present themselves and engage with contemporaneous societal concerns to affect their punishment. Even though the data available for Lincolnshire is limited, there are still sufficient, complex cases that allow us to draw some conclusions about how prosecution priorities changed throughout the thirty years and how new laws may have impacted those priorities. Addressing where these crimes occurred in one district cannot be considered representative of the picture for the whole county, but it does allow us to offer some comparisons with the other counties in this thesis.

Nottinghamshire:

Introduction:

Between 1630 and 1660, in Nottinghamshire, 326 cases of bastardy were recorded in the Quarter Sessions Minute Books. The level of detail within each Nottinghamshire bastardy case varies; generally, the examination has the most details, which may reflect the styles of different recording clerks. The larger number of bastardy cases for this county will provide a more substantial basis for analysing quantitative aspects, such as when these crimes happened, but also give a more comprehensive range of recorded outcomes for bastardy cases.

¹¹⁰ Linda Lees, “‘Thou Art A Verie Baggadge’”: Gender and crime in Seventeenth-Century Nottinghamshire and Staffordshire’, (Nottingham Trent University, 1999), p.332.

Who (Sex):

The analysis of the offenders' sex in bastardy cases in the Nottinghamshire Quarter Sessions provides a broader insight into views on sexual immorality between 1630 and 1660. In these Nottinghamshire cases, there is often a listing for both parents and, in some cases, even the wider family, particularly grandparents and other members of the community in some instances. These records provide strong evidence for considering how cases of sexual immorality became community prosecutions.

When examining the numbers of men and women who were called before the JPs for bastardy crimes, there was a significantly higher proportion of men than women, a ratio of 3:1, whom the Quarter Sessions processed. Men, being the most significant portion of offenders in Nottinghamshire, may represent concern regarding responsibility for the child, potentially, men were targeted to encourage either marriage or ensure financial commitment. Moreover, the larger number of men in court may have been due to those who attended court to challenge paternity accusations. There may also be cases where men were brought before the court several times because they were philanderers and may have had multiple bastard children. For example, Thomas Barrett of Lowdham was a clear example of a male recidivist for bastardy. He had fathered illegitimate children with different women across the south of Nottinghamshire and was brought before the court on multiple occasions for this. The second instance of his reputed fatherhood was in October 1637 with Elizabeth Owen, and it was ordered that the child be sent to Lowdham, the residence of Thomas Barrett.¹¹¹

The first and more complex instance of Thomas Barrett's bastards was on the 1st October of 1634 with one Elizabeth Townend.¹¹² In this case, the outcome was an order for Thomas to pay 12d a week towards the maintenance of this child.¹¹³ Interestingly, William Barrett, the father of Thomas, was also listed at court via a Recognisance to appear to answer for the advice to his son to abscond. As

¹¹¹ 'Order of William Barrett' *Nottingham*, (2nd October 1637) – NA –QSMBT – C/QSM 1/74/3.

¹¹² 'Order of William Barrett' *Newark-on-Trent*, (8th October 1634) –NA –QSMBT – C/QSM 1/75.

¹¹³ 'William Barrett' (8th October 1634) – C/QSM 1 /74/3.

Shepard argues in the wider national context, 'it was fathers of men charged with paternity who were most often in the frame for shielding their sons from the burdens associated with answering for an illegitimate child.'¹¹⁴ This was evident in Nottinghamshire as William Barrett was brought to court for attempting to shield his son from potential financial burdens and protect his future marriage prospects. This may also account for more men being at court as the fathers of the reputed fathers were also brought before the Quarter Sessions.

Another significant aspect of the Townend/Barratt case was that the mother of Barrett's bastard child, Elizabeth Townend, married another man, complicating parental responsibility for the child and determining where the child should be settled. This came to light in 1638, four years after the child was born, and the initial order indicates that there was the following:

difference about the settling of a bastard child by Thomas Barratt (absconded[.]) Elizabeth [Townend] asked the court that the child was kept at Lowdham where it was born for Quarter of a year after birth and then taken by the mother of the putative father to Lindley for two years when she carried it back to Lowdham to its mother, who meanwhile had married.¹¹⁵

It appears that after the child was born, Thomas Barrett's mother raised the child for two years, which supports the idea that 'fathers [or parents] of defaulting fathers who became complicit in their sons' negligence might find them directly charged with a child's care.'¹¹⁶ As indicated in this case, it was possible that Thomas Barrett's mother, rather than the father, cared for the child as she was listed as Widow Barrett. The outcome was that at the end of the four years, Richard Barrett, Widow Barrett and George Barrett were to take the child and be responsible for any further charges, likely because Thomas was still at large.¹¹⁷ The shared surname is indicative that these were all relations of the reputed father, Thomas Barrett, further emphasising that bastardy had a far more significant impact on family

¹¹⁴ Shepard, 'Brokering Fatherhood', p.53.

¹¹⁵ 'Order of Barrett' *Nottingham*, (2nd April 1638) – NA – QSMBT – C/QSM 1/76.

¹¹⁶ Shepard, 'Brokering Fatherhood', p.54.

¹¹⁷ 'Order of Barrett' *Nottingham*, (9th July 1638) – NA – QSMBT – C/QSM 1/76.

networks than just the mother and reputed father – it often became a familial and community affair.

Another factor that may have impacted the grandmother's decision to raise the child was Elizabeth Townend's subsequent marriage. During the period, raising another man's bastard child might have cast aspersions on the masculinity and virility of the husband, and they would have been deemed foolish for undertaking that responsibility.¹¹⁸ Moreover, there were concerns presented throughout popular literature that women who were bastard-bearers sought husbands under the guise of false, idealised female characteristics to create a family and preserve their reputation in the community. For example, a London-produced 1631 ballad depicted the bastard child's mother as:

No-one could be demurer:
nor seeme a Virgin purer¹¹⁹

And it was under these pretences that:

A Taylor did woo her,
He never could part fro her,
till she was made his wife:
He for a mayd did take her.¹²⁰

Although there is no detail in the Townend-Barratt case as to why the grandmother raised the child initially, the examination of seventeenth-century concerns in popular literature regarding the mother's marriage to another man presents potential reasons for this. Townend may have been reluctant to take her child back now that she had a new husband, as the deposition indicates she had married in those two years, especially if he was unaware of the illegitimate child. After the child was returned to the mother, Elizabeth Townend could only keep the child for three weeks, as the Lowdham inhabitants being displeased, sent the child back to

¹¹⁸ Foyster, *Manhood*, p.122.

¹¹⁹Unknown, *A New little Northern Song called, Under and over, over and under: Or a pretty new jeast, and yet no wonder: or a mayden mistaken, as many now bee, view well this glass, and you may plainely see* (ptd.) H.G (1631) Magdalene College – Pepys Ballads 1.264-265 [online source] <http://ebba.english.ucsb.edu/ballad/20122/xml> accessed 12th May 2020, l.120-121.

¹²⁰Unknown, *A New little Northern Song called*. l.128-131.

Lindley parish where the child had been raised with the paternal grandmother for two years.

Yet the record indicates the court was 'finding some difficulty in settling the mother', which may suggest her reluctance to accept the child into her new family/household if she obscured a permanent abode, and so ordered the child to be kept at Lowdham where it had been born until the assizes when the Judges would be moved to give their opinion as to which parish the child should be maintained in.¹²¹ The parishioners in Lowdham most likely felt Lindsey parish had continuing responsibility for the child as they had been supporting the child previously. The outcome was that 'the child of Elizabeth Townend by Thomas Barrat to be placed at Lowdham for the next four years, Lowdham and Lindley to pay equally' suggesting that the two parishes where the parents had lived at the time the child was born held equal financial responsibility.

Moreover, Richard Barratt, Widow Barratt and George Barratt were to pay 40/- to Lowdham, potentially to cover expenses for the three weeks the child was there and for court costs, as it was likely their relative that absconded creating the issue of maintenance initially.¹²² This case demonstrated the vast network of those who could be involved in the care and maintenance of a bastard child. As well as the concerns that parishes felt over their contributions to their upbringing as the 'economic provisions for the child was of direct concern to parish officials and justices of the peace so [much so] that quarter sessions [...] throw light on the attitude to and the maintenance of bastards.'¹²³ This case shows the concern and compromises that the parishes and those involved had to ensure the child was provided for, but also how a later marriage could impact the outcome of a bastardy case.

There were instances in Nottinghamshire when the parents of a bastard child did marry after its birth. For example, one William Edwards of Bulwell was

¹²¹ 'Order of Barrett' (2nd April 1638) – C/QSM 1/76.

¹²² 'Order of Barrett' (9th July 1638) – C/QSM 1/76.

¹²³ Macfarlane, 'Illegitimacy and Illegitimates in English History', p.72.

brought before the court via Recognisance 'to answer the begetting of a bastard child on the body of Margaret, his now wife borne before he married her And shall in the mean tyme be of the good behaviour towards all the people of England And not depart the court without lycence thereof. Then this recognisance to be voyd.'¹²⁴ Even when the parents of the bastard child had married, there were reasons for this to be brought to court. In this instance, although Edwards accepted responsibility for the child through marriage, no occupation was provided for him. Thus there may still have been financial concerns about the child's upkeep. However, it may be that as there is no further evidence in the subsequent sessions regarding the outcome and answer to this charge, the case was dropped. The parishes sometimes accepted that if a couple were betrothed, with the local church and community's acceptance, the couple could lay together during the period before their marriage, which often resulted in bridal pregnancies.¹²⁵ These were not necessarily frowned upon if they occurred with the expectation of marriage. These might not be listed as bastardy cases due to this level of acceptance in the community. It is this particular subset that Adair determined as a prominent cohort for producing illegitimate children.¹²⁶ However, it appears that in Nottinghamshire, with one case alluding to a subsequent marriage, these were not the prominent couples criminalised before the secular courts. Instead, it was lone males in casual or fractured relations.

However, the fractured courtship theory, in which women were jeopardised if there was a delay to the impending marriage for any circumstances and the child was born beforehand, or even in the case that they became jilted, accounts for a proportion of those targeted at the Quarter Sessions.¹²⁷ This would result in the child being determined as a bastard rather than a bridal pregnancy, and the parents were at risk of being brought before the courts, which may have been the case here for the Edwards'. Although in this instance, it was the father who was listed in court rather than the mother, despite the 1603 statute, which specifically outlined

¹²⁴ 'Recognisance of William Edwards' *Nottingham*, (11th January 1658) – NA – QSMB – C/QSM 1/13

¹²⁵ Laslett, 'Introduction: Comparing Illegitimacy over Time and between Cultures', p.57.

¹²⁶ Adair, *Courtship*, p.227.

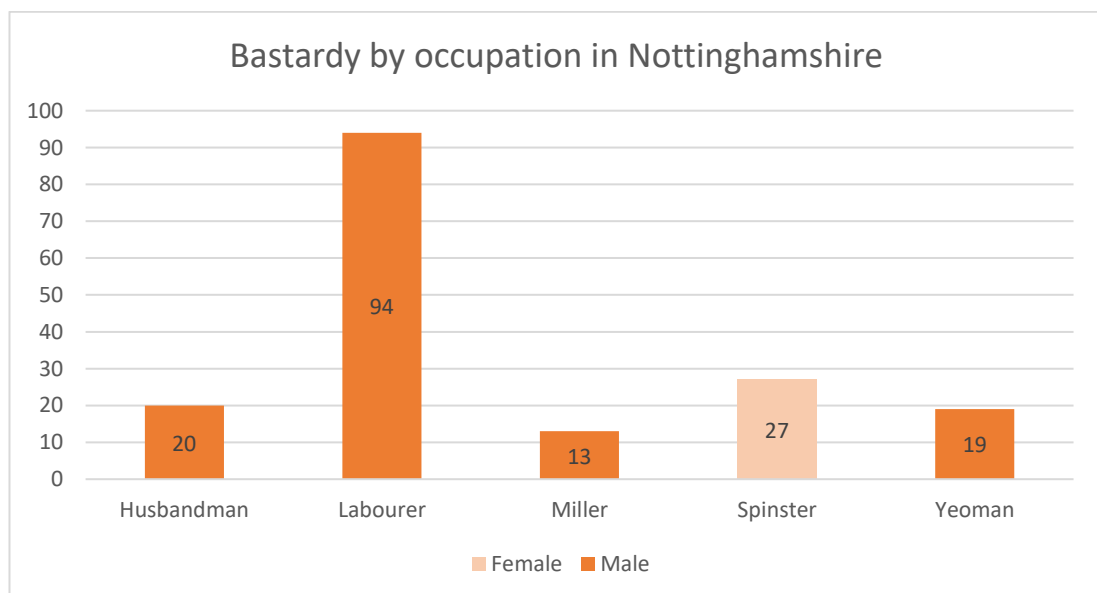
¹²⁷ Kilday, *A History of Infanticide in Britain*, pp.28-30.

mothers to be punished based on the crime's moral aspects, it may be that the marriage between the two parents ameliorated their sin and thus neither was punished.¹²⁸ This section has also provided fruitful insight into how the marriage of one or both of the bastard's parents could potentially affect the outcome of bastardy cases and provide further insight into community concerns regarding sex and marriage.

Who (Occupation):

Examining the occupations of those involved in bastardy cases in Nottinghamshire between 1630 and 1660 provides a crucial insight into social relations and concerns regarding the household in these localities. Although 'Unknown' was the largest category, there was a substantial proportion of cases, 67 per cent of all cases, where the occupation of those involved was listed, providing significant insights into the socio-economic background of Nottinghamshire men who fathered bastard children. Figure 11 depicts men's five most common occupations and the single occupation for women listed for bastardy during this period.

Figure 11: Bar chart of bastardy by occupation in Nottinghamshire



Most of those involved in bastardy cases at the Quarter Sessions were from low-paid professions, often labourers and minor craftsmen. The Huggetts and Peachy used data from across Wiltshire, Suffolk, Herefordshire, and Devonshire to

¹²⁸ 1610 7 James C.4.

provide an insight into prices and wages throughout the seventeenth century whilst acknowledging the challenges of undertaking such a study when the prices fluctuated seasonally and in response to supply and demand.¹²⁹ Although not focused on Nottinghamshire, having a general notion of the wages based on occupation allows an insight into the precarious position of those in such roles in this county and the impact bastardy orders could have had on their situation. For instance, a Tailor could earn between three and four pence a day plus food, a wright six pence a day plus food.¹³⁰ One bastardy order could deduct a considerable portion of their week's wages; for instance, in 1640, Robert Barnby, a tailor, was ordered to pay sixpence a week to Abigail Boswell, the mother of his bastard child and in line with Huggett's and Peachy's findings this could have been equivalent to around a day and a half's labour for a tailor.¹³¹ A building labourer could make ten pence a day, a farm labourer could make twelve pence a day, and day labourers could make between four and sixpence a day through harvest, depending on the time of year. Whereas those significantly skilled craftsmen such as a joiner made eighteen pence a day, a mason sixteen to eighteen pence a day made them closer to the middling sort.¹³²

This may be why considerably more labourers and poorer workers were persecuted in the Quarter Session records. There was a more prominent concern over how they may pay the bastardy fines on top of their expenses if they received minimal wages. Thus, bringing them to court may have allowed further plans to be officiated should there have been any difficulties in the father making payments. This association between poverty and bastardy was also evident in the language used in the records. For instance, one John Taylor of Snenton, a labourer, was depicted within the Order as 'a poor labouring man.' The outcome was for him to pay foster parents eight pence a week for his child's care, which would potentially be around a day's work if he was a building or farm labourer.¹³³ The child in foster

¹²⁹ Robert Huggett, Jane Huggett, and Stuart Peachey, *Early Seventeenth Century Prices and Wages*, ed. Living History Reference Book Series (Bristol: Historical Management Associates, 1992), p.3.

¹³⁰ Huggett, Huggett, and Peachey, *Prices and Wages*, pp.5-8.

¹³¹ 'Order of Robert Barnby', *East Retford*, (17th April 1640) – NA – QSMB – C/QSM 1/76.

¹³² Huggett, Huggett, and Peachey, *Prices and Wages*, pp.5-8.

¹³³ 'Order of John Taylor' *Nottingham*, (11th January 1638) – NA – QSMBT – C/QSM 1/76.

care was likely due to the mother, Hellen Bragg, absconding and the need for Taylor to work to avoid becoming a burden to the parish.

Being an agricultural labourer created greater opportunities for young men to have various sexual liaisons, either before moving on again in search of work or because their work took them to multiple markets. The mobile nature of the profession made it easier to avoid parental or, more likely, financial responsibilities. For example, one William Alwood, a labourer of Skegby, was the reputed father of a bastard child by Casandra Harrison, who resided in Derbyshire, and so 'the court doth not make an Order for keeping the child because it was borne in Derbyshire where the mother still lives with it and nobody complains.'¹³⁴ Crucially, Mitson has determined in her examination of south-west Nottinghamshire kinship relations, in terms of marriage in the area, more spouses came from Derbyshire than Nottingham town, which she attributed to the small border markets.¹³⁵ Skegby is along the very western edge of Nottinghamshire, and therefore, this case may have been a reflection of the cross-border opportunities offered not only in marriage but illicit sexual liaisons. Furthermore, this case demonstrates that there may have been a plausibility to conceiving a bastard child in another county to avoid potential charges and the reach of the birth county's judicial authority. Thus, the mobility afforded to those in poorer positions while searching for work may have allowed them greater freedoms from jurisdiction and the confines of parochial, societal, or familial figures of authority.

This element of mobility was also significant for the mothers. Ooversteen, Smith and Stewart found that mothers of bastards were often viewed as 'immigrants' because of their roles serving in the households of others; thus, they had bastards at the time when they were most geographically mobile.¹³⁶ For example, Margaret Watson was 'engaged as [a] servant to William Moody, East

¹³⁴ 'Recognisance of William Alwood' *Nottingham*, (9th January 1654) – NA – QSMB – C/QSM 1/12 vol 1. 247

¹³⁵ Anne Mitson, 'The Significance of Kinship Networks in the Seventeenth Century: South-West Nottinghamshire,' in *Societies, Cultures and Kinship, 1580-1850: Cultural Provinces and English Local History* (London: Leicester University Press, 1993), pp.24–76: p.61.

¹³⁶ Oosterveen, Smith, and Stewart, 'Family Reconstitution and the Study of Bastardy: Evidence from Certain English Parishes', p.105.

Retford, yeoman – [which she] left there of her own and worked for a week or two first with one then another. Suspected of being pregnant, ordered to return to Moody and there work for her wages and not wander.’¹³⁷ Although there was no indication as to who the father could be, this does reflect the fears as to which parish could be paying for the maintenance of a bastard child if the parent was a passing worker. Forcing Watson back to her original place of work and wages may have ensured some indemnity for the parish and potentially knowledge of the father. Hence, low-paid and transient jobs impacted rates of bastardy in Nottinghamshire.

On the other end of the social spectrum, no one above the status of minor landed gentry was listed in Nottinghamshire, and there were only two instances where a gentleman was involved in a bastardy case. On two occasions, John Walker of Epperston was part of an order to maintain a mother and child: the first instance of 1640 was Rachel White, ‘his mothers maid, according to the agreement made between neighbours of Epperston that each free tenant maintain this poor.’¹³⁸ There was no clear indication that Walker was the father. Instead, the language suggests he might have been part of a collective supporting this mother and child. However, it might also be the case that Walker was the child's father but refrained from acknowledging it within the official setting of the Quarter Sessions. This could be because he had concerns about maintaining his social standing within his community with such claims laid against him as ‘even the most mundane of public offices could not be served by men with doubtful sexual reputations.’¹³⁹ If Walker was seeking a local administrative position or even to maintain his social reputation, official confirmation of his illicit sexual activities could well be damaging to his position among the lower gentry.

The second instance of 1642 was a case relating to Elizabeth Sponge, who made a complaint to the court that:

¹³⁷ ‘Order of Margaret Watson’ *East Retford*, (9th October 1653) – NA – QSMB – C/QSM 1/75

¹³⁸ ‘Order of John Walker’ *Newark-on-Trent*, (15th July 1640) – NA – QSMB – C/QSM 1/76 For the original manuscript and transcription please see Appendix 2

¹³⁹ Foyster, *Manhood*, p.118.

having had her last dwelling upon the land of John Walker one of the lords of that town is of late destitute of harbour and hath had a bastard childe by one William Simperton who is runaway, whereby both this woman and child are like to be lost and for want of harbour. Which is only some present course be taken for their mayntenance it is therefore ordered by this court that the churchwardens and overseers of the poor of the parish of Epperston shall upon sight of that order take present course for the care and maintenance of the said Sponge and her bastard child until the reputed father of the child may be apprehended and further ordered taken therein. And for that it appeared to the court that there is an ancient custom and course in Epperston that the sevall Lords have and doe usuallii maintain the poor which happens upon those several lands. It is thought fit by the court that the greatest part of that charge which shall for the possession and maintenance of the said woman and her child shall be raised and levyed upon the said John Walker for the reasons aforesaid.¹⁴⁰

This suggests that the Gentleman John Walker was, again, not charged as the father of this child, but it seems that there was a custom in Epperstone that the minor gentry may have had a specific fund to help support and maintain bastard children. It appears to have been used if the gentleman was the employer at the time when their employee became pregnant with a bastard, potentially to protect their finances or to avoid the risk of being named as the father.

What:

The examinations, orders, and Recognisances in Nottinghamshire provide more exhaustive insights regarding the circumstances of some of these bastardy instances as well as attitudes and ideas regarding how gender ideals were challenged through both the mother's and the reputed father's promiscuous behaviour. The details in the Nottinghamshire records provide insights into the family dynamics, especially those who had absconded or tried to create the idealised family of the seventeenth century.

One instance of this from Nottinghamshire is Richard Dewick, a labourer of Caunton, who was found to have begotten a bastard child on the body of Alice

¹⁴⁰ 'Order of maintenance Elixabeth Sponge' *Newark-on-Trent*, (13th July 1642) – NA – QSMB – C/QSM 1/12.

Hutchinson of Hockerton.¹⁴¹ The outcome of the case provides further information regarding the bastard's parents: Alice has 'fledd away', which undermined the expected role of the nurturing mother and 'Richard Dewick being a very poore man and ha[d] a wife and a child to maintaine' indicates that Dewick was already married man and thus undermined ideals of a husband's faithfulness and family.¹⁴² For the bastard child, Dewick was ordered to pay eight pence weekly to the parish overseers towards that child's maintenance and education. It was possible that Dewick's wife did not want to raise her husband's bastard child because of the impact it may have had on her reputation as a wife and mother. For instance, she may have been seen as a failure in being unable to provide further children or a failure to satisfy her husband – roles that were an integral part of family and female identity during this period. However, the language in the order suggests that Dewick may have been too poor to incorporate the child into his already-established family, and thus, much of the responsibility lay on the parish with what little financial aid he could provide.

On the other hand, there were also significant fears for fathers potentially raising children that were not their own. In 1630, a Mr Wright of Averham was ordered to pay 40/- to a Mr Travers who married Mary, said Mary having had a child by Mr Wright only four [weeks/months is unknown] previously: on receipt of this payment Mr Travers was to keep the child and keep the parish of Tuxford indemnified.¹⁴³ This indicates that there was some acceptance of raising another man's child in a new marriage/family if there was some financial recompense. Despite the possible bearing this may have had on his idealised masculinity as 'an attack [...] on married women could always be perceived as bearing on their husband's reputation'; thus, if Mary had been scolded in the community for her lascivious behaviour, it could also have negatively impacted Travers reputation.¹⁴⁴

¹⁴¹ 'Recognisance of Richard Dewick' *Newark-on-Trent*, (14th January 1657) – NA – QSMB – C/QSM 1/13

¹⁴² 'Order of Richard Dewick' *Newark-on-Trent*, (15th July 1657) – NA – QSMB – C/QSM 1/13

¹⁴³ 'Order of Richard Wright' *Newark-on-Trent*, (21st July 1630) – NA – QSMBT - C/QSM/1/74/1.

¹⁴⁴ Gowing, 'Women, Status and the Popular Culture of Dishonour', p.228.

Bastardy cases were, in some instances, linked to other illicit sexual acts. For example, during the Interregnum, in May 1650, The Act for suppressing the detestable sins of Incest, Adultery and Fornication was enacted, wherein Adultery would be adjudged Felony. The Act declared that:

And be it further Enacted by the authority aforesaid, That in case any married woman shall from and after the Four and twentieth day of June aforesaid, be carnally known by any man (other then her Husband) (except in Case of Ravishment) and of such offence or offences shall be convicted as aforesaid by confession or otherwise, every such Offence and Offences shall be and is hereby adjudged Felony: and every person, as well the man as the woman, offending therein, and confessing the same, or being thereof convicted by verdict upon Indictment or Presentment as aforesaid, shall suffer death as in case of Felony, without benefit of Clergy.¹⁴⁵

Due to the seriousness of this crime – a felony punishable by death – the Assizes dealt with these cases. However, in Nottinghamshire, the details were still collected by the JPs through the Quarter Sessions, where adultery produced a bastard child. Thomas Tinker, a miller of Ordsall, was ‘to answer for the begetting of a child on the body of Elizabeth wife of Robert Sorbey of Ordsall the said Robert Sorbey being alive as is supposed’. Moreover, Elizabeth Sorbey was to appear at the next Assizes, and Goal delivery for the supposed adultery and ‘to answer for having a bastard child begot on her body by Thomas Tinker[,] her husband being alive as is supposed’.¹⁴⁶ As Elizabeth was already married and it was suspected her husband was still alive, she was being indicted for Adultery as well as having a bastard child. The specific use of the word ‘supposed’ throughout these two Recognisances regarding Sorbey’s husband may suggest a doubt over their marriage – this may indicate a lack of marriage records kept throughout the war years or the validity of their marriage. It may also be that ‘being alive as supposed’ meant Sorbey was active in the Civil Wars but had not yet returned to the county – although it is crucial to note that the 1650 Adultery Act does not extend to any woman whose

¹⁴⁵ ‘May 1650: An Act for suppressing the detestable sins of Incest, Adultery and Fornication.’ in C H Firth and R S Rait (eds.) *Acts and Ordinances of the Interregnum, 1642-1660*, (London: His Majesty’s Stationery Office, 1911), pp.387-389. *British History Online*, accessed July 4, 2023, <http://www.british-history.ac.uk/no-series/acts-ordinances-interregnum/pp387-389>.

¹⁴⁶ ‘Recognisance of Thomas Tinker’ *East Retford*, (15th January 1658) – NA – QSMB – C/QSM 1/13; ‘Recognisance of Robert Nodle’ *East Retford*, (15th January 1658) – NA – QSMB – C/QSM 1/13

husband shall be three years absent. This case demonstrates the connection between sex-based crimes and how they undermined the idealised notion of family.

What (Punishment):

A range of factors influenced the outcomes and punishments given in bastardy cases: for instance, the circumstances in which the bastard child was conceived, the wealth of the families involved, and the marital status of the parents. The Nottinghamshire records between 1630 and 1660 demonstrate the numerous mitigating factors that impacted the case outcomes. Overall, Nottinghamshire has the greatest survival rate and depth of detail for the case judgements and outcomes, allowing for quantitative and qualitative data analysis.

Table 4: Bastardy punishments by sex and type in Nottinghamshire

Sex	Acquitted	Committed	Maintenance	Money	Other	Physical
Female		58		9	2	1
Male	3	18	18	83		2

Of the 326 individual bastardy cases in the county over these thirty years, there were known case outcomes for 195 individuals, as demonstrated in Table 4. It is apparent that in line with the Bastardy Acts, many women found guilty were sent to the House of Correction, and most men received financial orders or fines to ensure the parish was indemnified. This pattern is largely mirrored by King’s findings across Lancashire, Somerset, Warwickshire, and Herefordshire; for men, this punishment was a financial concern, whereas for women, it was a moral misadventure, and this was how the JPs prosecuted it. King found that in Warwickshire, mothers with both chargeable and non-chargeable bastards were sent to the House of Correction despite the 1610 act outlining chargeable bastards.¹⁴⁷

During this period, the cultural expectation was that the father held the financial responsibility for his offspring, and this was why the focus was on the financial responsibility of the men - to ensure that the child would not be a burden on the parish. Nottinghamshire has an interesting case in William Gyles Junior as it

¹⁴⁷ King, ‘Punishment for Bastardy in Early Seventeenth-Century England’, p139, pp.143-14.

incorporates several people's involvement in the case that impacted upon the financial recuperation of the parish. William Gyles Senior was listed in the case details, although not charged, 'for persuading his son [Junior] to leave his [Junior's] bastard child by Katherine Cragg on the parish.'¹⁴⁸ As Gyles Junior had absconded, leaving the child chargeable to the parish, there was a concern regarding its maintenance. It appears this was settled at a later Quarter Session as Katherine was ordered to pay 5/ a year to the churchwardens and overseers.¹⁴⁹ Yet Cragg's employer, Thomas Middleton, was also charged with a bastardy fine of sixpence a fortnight by weekly payments as he was aware of Gyles and Cragg's relations and was therefore encouraged to dismiss Katherine to ensure the child did not become chargeable to the parish.¹⁵⁰ Yet she remained in his employment, so her bastard child became a parish burden, reinforcing the idea that the economic concern was the highest priority for those determining the case outcome. Although the financial responsibility was primarily considered that of the father, it could be applied to anyone responsible for the child becoming a burden to the parish, suggesting there was a targeted prosecution at the Quarter Sessions to ensure financial security for the child.

Some allowances were made for those considered too poor to pay because of their circumstances. One example of this is the Pearson family. John Pearson Junior was charged with the begetting of a bastard child upon the body of one Alice Punter. However, he fled upon the advice of his father, John Pearson Senior. The session ruling was that John Pearson Senior was to pay sixpence weekly towards the maintenance of the child (his grandchild); however, John Pearson Senior declared that he 'was not able to pay six pence weekly having an old lame wife and himself to maintain butt was contented to deliver one of his cows to the overseers of Treversall towards the maintenance of the said child.'¹⁵¹ The JPs

¹⁴⁸ 'Warrant: to answer at the Assizes' *Newark-on-Trent*, (21st July 1630) – NA – QSMB – C/QSM 1/74/1.

¹⁴⁹ 'Order of Thomas Middleton' *Newark -on-Trent*, (6th October 1630) – NA – QSMB - C/QSM 1/74/1.

¹⁵⁰ 'Order of Thomas Middleton' *Newark -on-Trent*, (6th October 1630) – NA – QSMB - C/QSM 1/74/1.

¹⁵¹ 'Recognisance of Thomas Tinker' *East Retford*, (15th January 1658) – NA – QSMB – C/QSM 1/13

accepted the cow as payment until the child's father, John Pearson Junior, could be apprehended. This demonstrates that the penal system reflected community considerations. Impoverishing an already struggling family would create further dependence on the parish, and accepting a cow would provide some economic benefit, whether as goods or in trade value. It also demonstrates that in the father's place, the paternal grandfather could undertake financial support and shows the flexibility of sentencing in the local penal system under different circumstances. Moreover, there was an element of gender performativity in that the grandfather was showing his willingness to fulfil his patriarchal role in already caring for his wife. Then, in addition to the paternal role in providing for the child in the absence of his son, he may be using this to his advantage to encourage the JPs to accept his compromise of the cow.

Only in one instance did the mother of the bastard child receive a punishment that was neither financial nor a sentence of being committed. This was a unique case, the only one of its kind encountered across all three counties examined. One Katherine Mee, a spinster of Beeston, was sentenced to be stocked, stripped, and whipped for having a male bastard by her father.¹⁵² Furthermore, it was on the evidence of her siblings, her unnamed brother and her sister, Anne, that Robert Mee, their father, was convicted of having three bastard children by his daughter Katherine, and he was ordered to the House of Correction.¹⁵³ This may suggest how seriously the JPs viewed Robert's undermining of Christian family relations. This decision kept the punishment in line with those outlined for lewd mothers under the 1610 act, indicating the JP's may have viewed Robert as the most immoral in this case or potentially the instigator of these relations as he was committed rather than Katherine.

Robert may have been seen as abusing his position as the patriarchal authority in the household in which he was supposed to be the leader and demonstrate idealised notions. Furthermore, for his actions, he received a punishment that would considerably impact his earnings for the year he was

¹⁵² 'Order of Katherine Mee' *Nottingham*, (2nd April 1638) – NA – QSMB – C/QSM 1/76

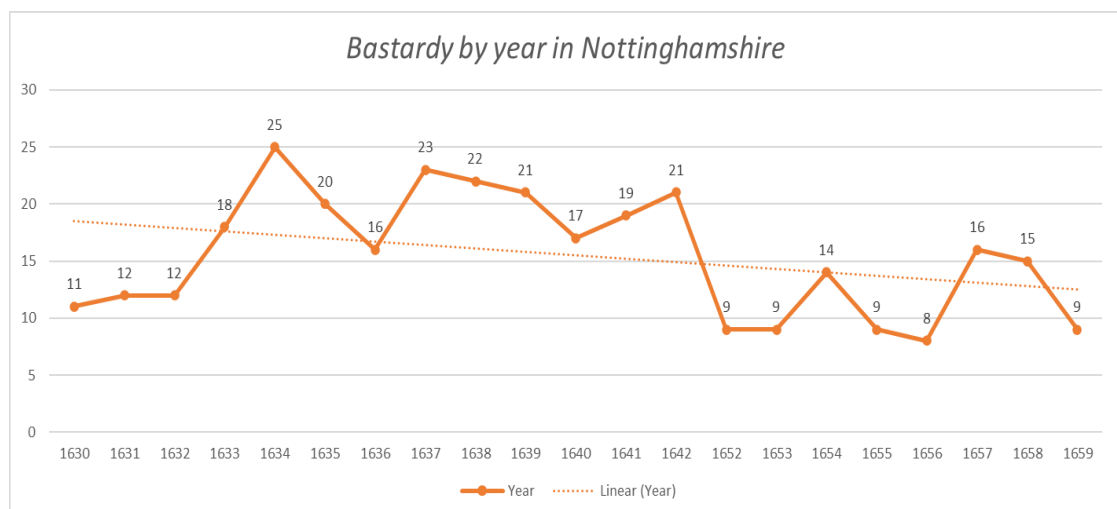
¹⁵³ 'Order of Robert Mee' *Nottingham*, (2nd October 1637) – NA – QSMB – C/QSM 1/75

committed, adding another layer to the sentence he received. Although Katherine was punished for the mothering of bastard children, this was not the standard punishment usually given to women in the Quarter Sessions for Nottinghamshire for bastardy. Although these circumstances were not an accepted defence against Katherine’s conviction, as Herrup suggests only insanity was, it does, however suggest that the broader circumstances were taken into consideration.¹⁵⁴

When:

Although the number of bastardy cases presented before the Nottinghamshire Quarter Session courts is not wholly accurate, especially as it was not until ‘Parliament abolished the criminal jurisdiction of ecclesiastical courts in 1641, then the courts themselves in 1646’, there is still value to quantitatively analysing bastardy cases across the county for indications of prosecution trends or local factors that may impact upon the numbers.¹⁵⁵

Figure 12: Line chart of bastardy by year in Nottinghamshire



One expectation might be that as the analysis moves through the late 1630s and 1640s, with the establishment of garrisons and of troop activity moving through the country as part of military actions, there would be an increase in the number of bastardy cases brought to the Quarter Sessions. This was based on notions of soldiers’ sexual activities and broader fears regarding this found in

¹⁵⁴ Cynthia B. Herrup, *The Common Peace: Participation and the Criminal Law in seventeenth-century England*, (Cambridge: Cambridge University Press, 1987), p.105.

¹⁵⁵ King, ‘Punishment for Bastardy in Early Seventeenth-Century England’, p.134.

popular literature during the period. This would have created significant local concerns regarding soldiers' behaviours, especially in highly militarised areas such as around Newark Castle. This Royalist stronghold often received travelling companies such as Prince Rupert, who led around 6,000 troops across the county to support the garrison in the second siege of Newark in 1644. If the soldiers' sexual behaviour did result in bastard children, as they potentially returned to their native county, there would have been increased pressure on the mother's local parish coffers and, thus, a greater need to determine maintenance for the children.

For instance, in the 1649 ballad *There I Mumpt You Now*, Meg's betrothed 'fought against the Cavaliers, behold my wounds and scars', yet Meg outed his sexual escapades:

'Six Milkmaids met at Islington,
'mongst whom there was much strife,
thy promise was to everyone,
that she should be thy wife:
and five of them thou got'st with childe,
more cunning knave art thou.'¹⁵⁶

Although this was no doubt an exaggerated example, it does harken to fears about travelling soldiers and bastardy rates, as he, 'being a more cunning knave,' also impregnated five maids in Islington after promising to marry them and then another in Billingsgate, ruining her future.¹⁵⁷ While this is a work of fiction, it does suggest that people were concerned about how soldiers could move from county to county, leaving a string of bastard children in their wake. From the graph, it is apparent that there was a spike in cases in 1637, but this continually decreased until 1640. This may have been because the local administration focused on other aspects, such as the organisation of military efforts. Yet there was a continual rise between 1640 and 1642, and these years are pertinent as they were amid the start of the English Civil Wars. They incorporated in the Bishops War (1639-1640), the Irish Confederate Wars (1641-1653), and the First English Civil War (1642-1646) and as such, there was a considerable amount of troop movement across the nations

¹⁵⁶ Unknown, 'There I Mumpt You Now: or Mumping Megs Resolution and Love to her old Sweetheart' (ed.) printed for F.G. (London: 1649) in *Cavalier and Puritan Ballads and Broad-sides Illustrating the Period of the Great Rebellions 1640-1660*, pp.299-300.

¹⁵⁷ Unknown, 'There I Mumpt You Now: or Mumping Megs Resolution and Love to her Old Sweetheart' pp.298-303.

for each of these wars. This suggests there may have been an increased prosecution rate to ensure maintenance for the children whose fathers were involved in the wars, whether these were travelling soldiers or local men who may not return from the fighting, so it was vital to have provisions for the bastard in place.

Significantly, three cases in the Nottinghamshire Quarter Session Minute Books refer to the soldiers of the Civil Wars, all between 1639 and 1640. Thomas Hardy of Nuthall was 'bound over to appear for [a] bastard by Alice Ludlam born at Radford, having been pressed for [a] soldier in Scotch War, child is like to be chargeable to Radford. Nuthall advised to pay 5d a week to Radford until putative father returns and further order to be taken.'¹⁵⁸ Although this case was of a mother and a reputed father in the same parish, it indicates how the Civil Wars impacted bastardy cases because the father's engagement in the war meant the child had become a burden to the parish. It may be in this instance that Nuthall parish supported the child because of the father's absence rather than the burden falling onto the parish where the child was born. In all three cases, the fathers had been pressed to be soldiers, which put the maintenance of the child in jeopardy and required court input.¹⁵⁹

Lees notes that the 1630s across both Staffordshire and Nottinghamshire saw increasing numbers of single mothers whose bastard child had already died, being presented and punished, 'revealing a hardening of attitudes towards immorality especially against women.'¹⁶⁰ It is important to note that the majority of cases Lees notes for Nottinghamshire were from the 1620s, with one case study of Jane Noble from 1637.¹⁶¹ This idea is in line with the 1610 Act and demonstrates that despite the death of the child, the women still needed to be punished for bad behaviour. This research shows that this trend continued between 1630 and 1660 as all six of the women who had a bastard child who had since died were

¹⁵⁸ 'Warrant of Thomas Hardy' *Nottingham*, (22nd April 1639) – NA – QSMB – C/QSM 1/76

¹⁵⁹ 'Verdict for Christopher Clarke' *East Retford*, (17th July 1640) – NA – QSMB - C/QSM 1/76; 'Recognisance of John Smyth' *Newark-on-Trent*, (15th July 1640) – NA – QSMB – C/QSM 1/76.

¹⁶⁰ Lees, "'Thou Art A Verie Baggadge'", p.110.

¹⁶¹ 'Order of Jane Noble' *Nottingham*, (7th April 1637) – NA – QSMB – C/QSM 1/75.

committed to the House of Correction.¹⁶² This approach and moral attitude are exemplified in the case of Gartrude Stafford, who was depicted in the records as ‘being a very lewd woman and hath had divers bastard children and two lately at a birth dead shall be sent to the House of Correction there to be remained until she shall from there be lawfully sett at liberty.’¹⁶³ This notion that women who had bastard children were of ill repute was evident in the language throughout the records. For instance, Margaret Watson, the ‘mother of a bastard born at Gamston, charged Thomas Parker and not Oliver Godborne previously charged’, was described as having ‘misconducted herself with two other men [as well and was] to go to House of Correction.’¹⁶⁴ Another example of the language used to depict women’s reprehensible behaviour is of Margaret Henson, who ‘having had two bastards already and not punished, [?] Lives incontinently with Rolt Taylor of Stapleford and wanders about refusing to work’ was sent to the House of Correction as punishment for her behaviours.¹⁶⁵ Thus, there is some evidence that there was a concern over women’s lewd behaviour that either leads them to misconduct themselves with men further, have more bastard children or commit further immoral behaviour, such as refusing to work, and therefore, this would justify their punishment.

When looking at men’s experience by comparison, the Nottinghamshire records between 1630 and 1660 show that there was a difference in the outcomes of these cases depending on which parent was being judged. For men, often their cases received no further outcome if the child had passed away, despite the child being tangible evidence of the crime of bastardy; for instance, Christopher Clarke was exonerated, and William Constable’s case was discharged.¹⁶⁶ This suggests that

¹⁶² ‘Order of Jane Noble’ *Nottingham*, (7th April 1637) – NA – QSMB – C/QSM 1/75; ‘Order of Gartrude Stafford’ *Nottingham*, (9th July 1655) – NA – QSMB – C/QSM 1/13.; ‘Order of Anne Hewitt’ *Newark-on-Trent*, (7th October 1657) – NA – QSMB – C/QSM 1/13.; ‘Order of Elizabeth Richmond’ *Newark-on-Trent*, (21st April 1658) – NA – QSMB – C/QSM 1/13.; ‘Order of Helen Earns’ *East Retford*, (23rd April 1658) – NA – QSMB – C/QSM 1/13.; ‘Order of Elizabeth Lawrence’ *East Retford*, (17th July 1658) – NA – QSMB – C/QSM 1/13.

¹⁶³ ‘Order of Gartrude Stafford’ *Nottingham*, (9th July 1655) – NA – QSMB – C/QSM 1/13.

¹⁶⁴ ‘Verdict of Margaret Watson’ *Nottingham*, (11th January 1638) – NA – QSMB – C/QSM 1/76.

¹⁶⁵ ‘Verdict of Margaret Henson’ *Nottingham*, (2nd April 1638) – NA – QSMB – C/QSM 1/76.

¹⁶⁶ ‘Verdict of William Constable’ *Newark-on-Trent*, (19th April 1637) – NA – QSMB – C/QSM 1/75; ‘Verdict of Christopher Clarke’ *East Retford*, (17th July 1640) – NA – QSMB – C/QSM 1/76

the role of the father was negated if there was no child for which to pay maintenance in the eyes of the Nottinghamshire JPs. This may represent the notions regarding seventeenth-century fatherhood and their role as financial providers rather than child-rearers. Notably, there is only one case identified where the father of a child who had died was ordered to pay a sum of money. However, this was not to the mother but to pay Robert Wyld, labourer of Radford brother of Bridget in whose house she was confined. 40/- towards the expenses incurred: 20/- to be paid now and 20/- at Midsummer next.¹⁶⁷ This implies that this was not for the cost of the bastard child itself but rather for charges incurred during the delivery. There is another case where the father did not receive a financial punishment for the bastard child that had died, but rather, he was to be 'stocked and he [is to] receive 12 strokes on his bare body.'¹⁶⁸ This suggests that the death of the child for men did have an impact as generally, men received a financial penalty, but this corporal punishment suggests a morality aspect as well. These findings would counter Lees's hypothesis that the hardening of morality was primarily aimed at women in some respects, as evidence from Nottinghamshire shows that some men still received corporal punishments to a degree when their bastard child died. This could indicate an overall hardening of moral policing for both sexes.

Figure 13: Bastardy by sex and year in Nottinghamshire

¹⁶⁷ 'Order of George Ward' *Nottingham*, (29th April 1633) – NA – QSMB – C/QSM 1/74 vol.3.

¹⁶⁸ 'Recognisance of John Key' *Nottingham*, (11th January 1636) – NA – QSMB – C/QSM 1/75.

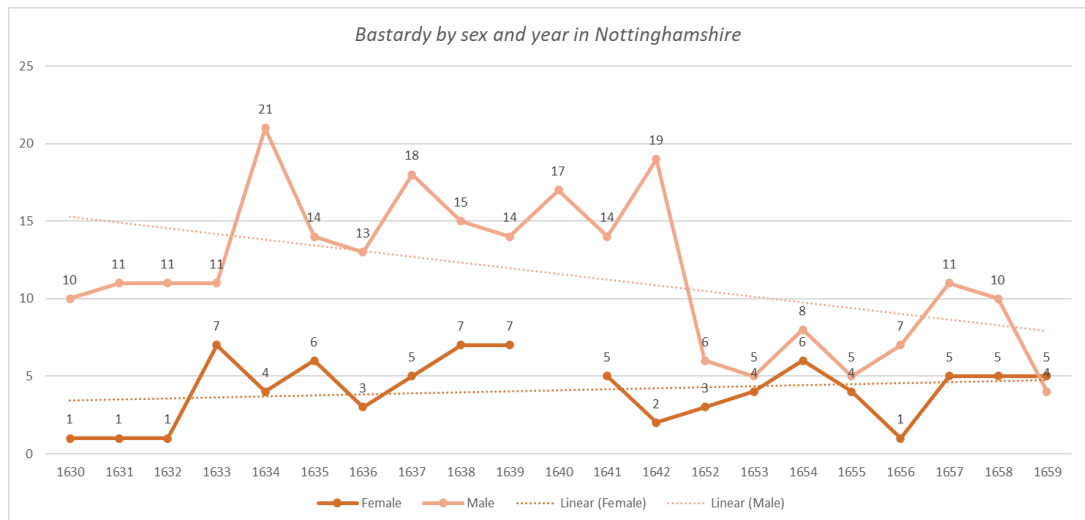


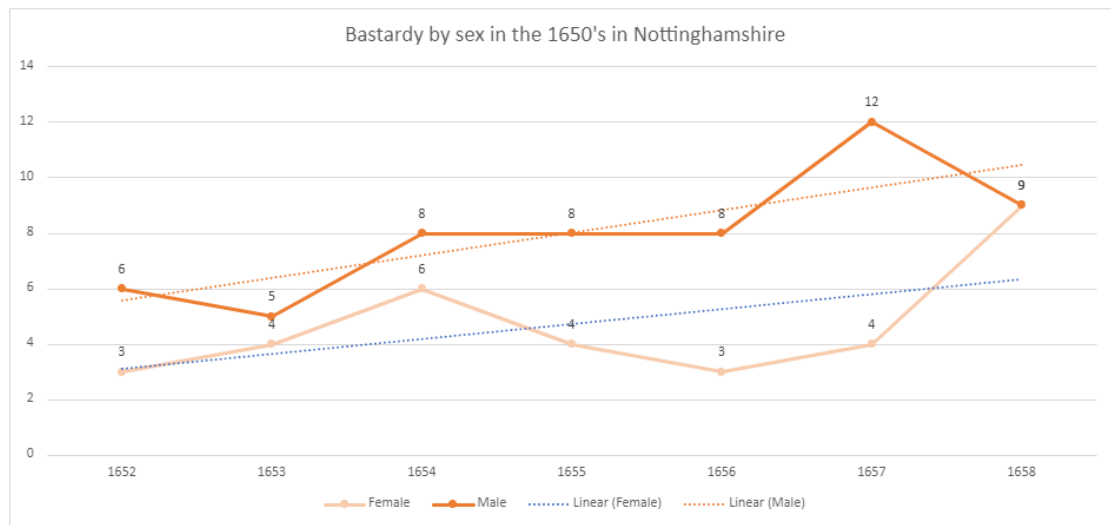
Figure 13 shows that women were absent, and there was a peak in the number of men listed for bastardy cases in 1640 during the wars of the Three Kingdoms. This may suggest there was a greater concern regarding men who could be going away and at risk of not returning due to the Wars. Thus, it was a priority of the Nottinghamshire Quarter Session to secure financial maintenance for their bastard children. Overall, for men, the general trend between 1630 and 1659 was that their numbers before the Quarter Sessions were declining, whereas, for women, the trend was that their numbers were slightly increasing. However, when solely examining the decade of the 1650s, demonstrated in Figure 14, although there were smaller numbers before the JPs, the numbers of men and women listed for bastardy increased in a similar trajectory between 1652 and 1658. This implies that the priority of the Commonwealth government to control sexuality, such as the August 1653 Marriage Act, which aimed to regulate the officiation and recording of marriages as outlined below:

Be it Enacted by the authority of this present Parliament, That whosoever shall agree to be married within the Commonwealth of England, after the Nine and twentieth day of September, in the year One thousand six hundred fifty-three, shall (one and twenty days at least before such intended Marriage) deliver in writing, or cause to be so delivered unto the Register (hereafter appointed by this Act) for the respective Parish where each party to be married liveth, the names, surnames, additions, and places of aboad of the

parties so to be married, and of their Parents, Guardians or Overseers¹⁶⁹

created peaks in bastardy cases, potentially because of unregistered marriages under this new Act, as in 1654. This demonstrates the influence these centralised laws had on prosecution priorities at a local level and that this affected both sexes equally in Nottinghamshire.

Figure 14: Bastardy by sex in the 1650s in Nottinghamshire



Where:

As Nottinghamshire had the greatest number of bastardy cases in the Quarter Session records, where these crimes were being committed provides important information about identifiable trends. The map (Figure 15) suggests that bastardy had a greater spread across the county's south and east as there are more data points. However, these are smaller in circumference, indicating a single or a smaller number of instances in that specific locality, particularly those between Bingham and Long Eaton along the border with Leicestershire. The data points along the western perimeter and the occurrences in the north of the county, although sparser, are larger, indicating a greater number of incidences in those individual areas. It also appears that there was a higher concentration of incidences within

¹⁶⁹ 'August 1653: An Act touching Marriages and the Registring thereof; and also touching Births and Burials,' in C H Firth and R S Rait (eds.) *Acts and Ordinances of the Interregnum, 1642-1660*, (London: His Majesty's Stationery Office, 1911), pp.715-718. *British History Online*, accessed January 7, 2024, <http://www.british-history.ac.uk/no-series/acts-ordinances-interregnum/pp715-718>.

market towns, such as Mansfield and Worksop, in these parts of the county. There also seem to have been some cases around Newark and the outskirts of what is now Nottingham City. A greater number of bastardy incidences in the more densely populated areas, such as the market towns, might be expected because of the demographics and increased opportunities for social interaction and copulation. For instance, when people travelled to and from the markets, there were better opportunities to meet potential lovers and more places to have liaisons, such as inns. Greater mobility may also have allowed putative fathers to abscond, especially if they were from a different parish or locality.

This may also explain why there were a greater number of incidences on the right-hand side of the county in the vicinity of the Great North Road (indicated by the purple line in Figure 15). There were likely to be a greater amount of people traversing this road in terms of trade as it connects several market towns such as Grantham, Stamford, Newark, Retford, Bawtry, Doncaster, and York. But also, those more local who were mainly in search of work as it travels through the middle of the Trent floodplains and so could provide numerous labouring opportunities, which may be why there was a considerable number of cases between Newark and Tuxford, where, as outlined in the context chapter, these wetlands were mainly used for arable farming. This could also connect with why there was such a significant presence of labourers in terms of the occupation of those who fathered bastards if this area was predominant for where bastards were being born. For instance, Anne Hewitt, a spinster of Cromwell (which sits directly on the Great North Road), was committed to the House of Correction for a bastard child who had sadly died. The father was one James Backe, who had since fled away.¹⁷⁰ The Great North Road may have provided him with an ideal opportunity to escape his responsibilities with direct links to not only other parishes or localities but also other counties, towns, and cities.

From Figure 15, there appears to be a greater number of instances of bastardy along the edges of the counties, mainly bordering North Lincolnshire and

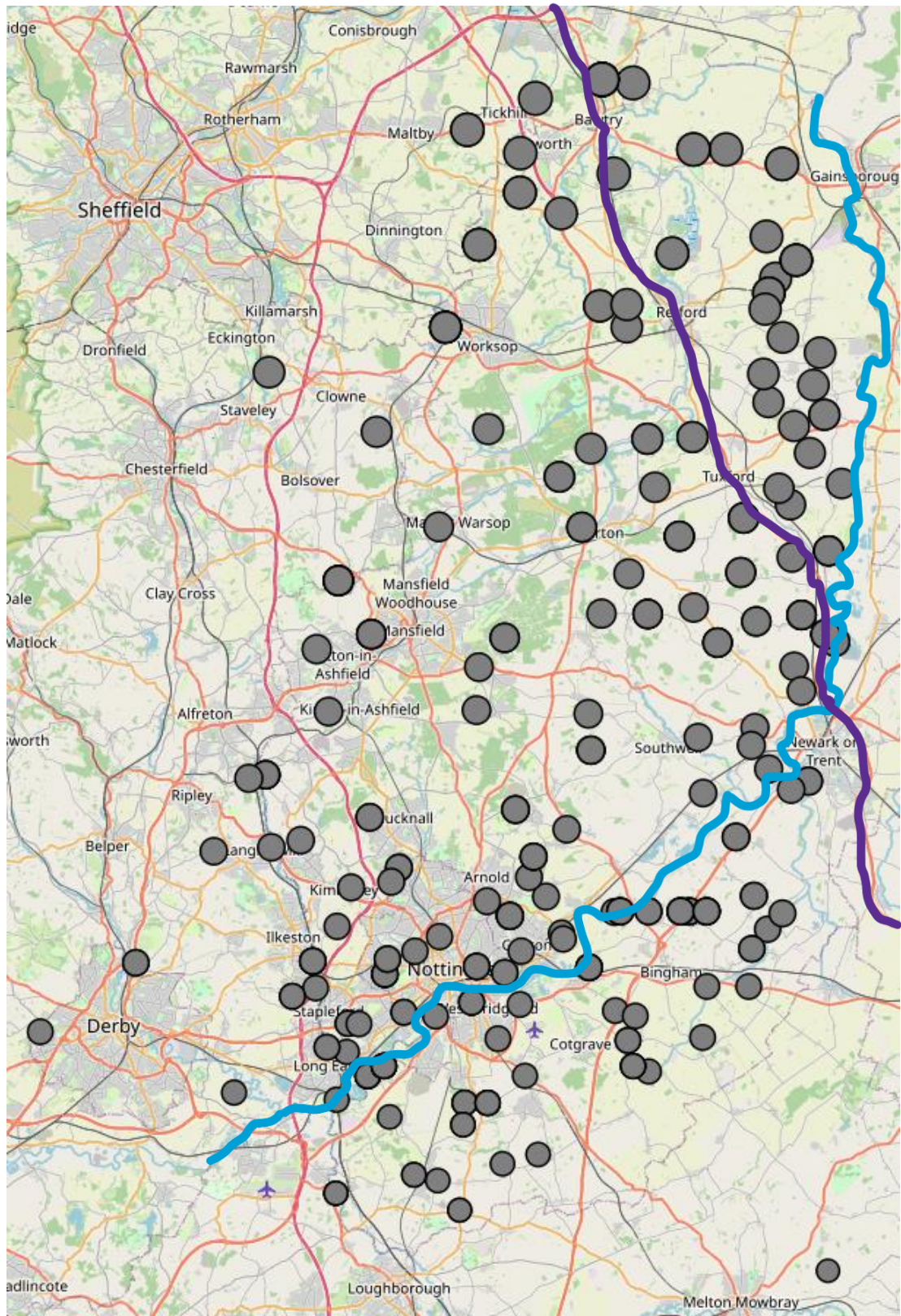
¹⁷⁰ 'Order of Anne Hewitt' *Newark-on-Trent*, (7th October 1657) – NA – QSMB – C/QSM 1/12 vol2.

the Southwestern corner with Leicestershire and Derbyshire, which also coincides with the River Trent (indicated by the blue line on Figure 15). It may be that this pattern portrays absconding fathers' attempts to avoid the courts by manipulating jurisdictional reach, especially if they moved across borders or district boundaries. For example, one John Bramley of Sutton Bonnington in Nottinghamshire was to answer for a child born of Elizabeth West of Hathern in Leicestershire. For this, he was committed to the Leicestershire Justices to answer for the bastard child – where the outcome would have been heard.¹⁷¹ The area incorporating Sutton Bonnington and up to the Leicestershire border is the South Nottinghamshire Farmlands; thus, in searching for agricultural work across the pastoral plains of both parishes, the putative father may have hoped to avoid prosecution. It is vital to note that Adair determined there was a 'reason to believe that connection between service and bastardy was particularly suited to agrarian conditions of pastoral farming' due to the number of husbandry servants required and their potential living conditions, although this may also apply to large arable farms of similar size.¹⁷² This may account for the prosecutions of bastardy in these agrarian areas, with a high turnover of servants for farming, a targeted prosecution against mobile agricultural labourers helped to ensure financial support for the child.

¹⁷¹ 'Recognisance of John Bramley' *Nottingham*, (11th January 1636) – NA – QSMB – C/QSM 1/75.

¹⁷² Adair, *Courtship*, p.88.

Figure 15: GeoMap of bastardy incidences in Nottinghamshire



Concluding Thoughts:

The Nottinghamshire Quarter Session records between 1630 and 1660 are extremely valuable to the analysis of bastardy and gender associations with this crime due to the number of consistent records that have survived. Within Nottinghamshire, there were three times more men than women who were brought before the court for bastardy cases. This indicates the priority in determining who would be paying maintenance for the child in Nottinghamshire and a criminalisation of the father rather than seeing the mother as solely responsible for bastardy. Traditionally, it was the father of the child, or potentially the paternal grandfather if the father absconded, generating a significantly higher proportion of men in the records, especially if there was a dispute over the child's father or if the mother had remarried and both men were brought before the JPs. The analysis of the punishments further supports this conclusion, as men received mostly financial punishments. In contrast, women usually went to the House of Correction, alongside occasional monetary fines, implying that morality and maintenance were the main concerns of the Quarter Sessions depending on the offender's sex.

Analysing several case studies had demonstrated that in the county, mitigating circumstances could be considered when the outcome and orders for the cases were given – these included the wealth of the person the order was determined for and the circumstances in which the child was conceived. It is clear from the records that those who were involved in bastardy cases were most often the poorest in society and that factors like mobility in specific trades influenced this further. Despite the fluctuating numbers of bastardy cases brought to court between 1630 and 1660, the overall trend was that the number of bastardy cases at the Sessions decreased with the missing data from the 1640s and overall lower numbers in the 1650s. Although the numbers at the end of the 1650s decade almost matched those of peaks in the 1630s, this could be due to the increasing impact of the combination of the Adultery Act and Marriage Act during the Commonwealth period. In Nottinghamshire, bastardy cases occurred in places that provided the means and opportunities, for instance, market towns or places along travel routes such as the Trent or the Great North Road.

Conclusion:

This chapter has determined, through a statistical and case study analysis of the Quarter Session records, that across the majority of these counties, men were the prominent figures in the Quarter Sessions for bastardy, and it was primarily those in the middling-poor to the lowest positions in society. In terms of punishment, this study corroborates the consensus that the main aim of the case outcomes was financial surety for the upkeep of the child, although there were cases where the punishment could be modified. There appear to be peaks of bastardy crimes in the early 1640s and the late 1650s for different reasons, and there were a greater number of instances of bastardy in urban areas than rural areas across Derbyshire, Lincolnshire and Nottinghamshire. Significantly, this chapter has addressed how the JPs and society were relatively flexible in terms of determining the 'perpetrators' according to who was considered responsible for the conceiving of the child, the circumstances in which that child was conceived, and how this could either impact the case outcome or how the offender may manipulate gendered concerns to their benefit. This element has incorporated the use of broadside ballads as they 'reflected and helped form the attitudes of their times [making them] such a valuable source of information for historians, particularly for those social groups who have otherwise left little trace in the archives.'¹⁷³

More men than women were brought before the court for bastardy cases between 1630 and 1660, and overall, for the East Midlands, suggesting that bastardy was a male-centric crime in terms of prosecution, despite minor differences with one county. This determination is due to the particular subset being brought before the courts, which, as explored within this chapter, is due to the priority of ensuring financial support for the child through prosecution at the Quarter Sessions – a secular focus of the judicial authority. The lower number of women presented links to women's prosecution being on a primarily moral basis, and prior to their closure, it may have predominantly sat within the jurisdiction of

¹⁷³ David Hopkin, Valentina Bold, David Morrison, 'Introduction: Broadside Ballads and the Oral Tradition'. (University of Glasgow) [http://www.gla.ac.uk/0t4/~dumfries/files/layer2/glasgow_broadside_ballads/introduction_broadside_ballads_.htm] (accessed 02/01/2017)

the ecclesiastical courts rather than the secular Quarter Sessions. The central theme of this research is how crime was intertwined with gender ideals; thus, it is vital to address the numbers of each sex that were presented before the Quarter Session courts for bastardy cases. Both Lincolnshire and Nottinghamshire had a significantly higher proportion of men than women who were presented before the court for fathering bastard children. In contrast, Derbyshire had a slightly higher number of women. One reason why Derbyshire differed here could be because of a limited number of bastardy cases recorded in their Quarter Session Rolls. It might be that a greater number of women's cases survived, especially as out of those twelve cases in the thirty years, the numbers remain quite minimal, seven women and five men.

Sharpe notes in his analysis of bastardy cases in the Essex quarter sessions that 'the very lowest levels of society were underrepresented [...] suggesting that the poor were unusually chaste or better able to abscond.'¹⁷⁴ Yet, the analysis carried out on the East Midlands suggests otherwise, as labourers were the most common occupation listed across Nottinghamshire and Lincolnshire (the counties with the most records), followed by low-skilled craftsmen. This is crucial as it supports Ingram's analysis of the church records that most men were the middling and middling to poor husbandmen and husbandmen craftsmen (such as millers, blacksmiths, carpenters, and weavers).¹⁷⁵ Significantly, the men prosecuted before the courts had a broader spectrum than the women.

The women-bearing bastards were all described as single women with a significant number of servants in some capacity. Therefore, the research supports findings in studies such as those by Gowing, Wrightson, and Walker, which show that these were the leading group producing bastards. Notably, Ingram found similarities within the church courts as the majority of those women were widows, and many were domestic servants; critically, their standings were low, and they were the poorest in society.¹⁷⁶ One of the most significant concerns for women was

¹⁷⁴ J. A. Sharpe, *Crime in seventeenth-century England: A County Study*, (Paris: Maison des Sciences de l'Homme, 2008), p.60.

¹⁷⁵ Ingram, *Church Courts*, p.269.

¹⁷⁶ Ingram, *Church Courts*, pp.264-265.

the relationship between themselves as a servant and their masters. This cultural belief that many cases of bastardy were linked to the master/servant relationship was reproduced within the ballads, for instance:

one good man [...] these words in curtesie he said,
unto Elizabeth his maid,
you labour hard and take great paine,
but other follies have all the gaine [...]
all this did Besse the maid no good,
for though poore soul her belly did ake [...]
with speeches mild I by my master am with child.¹⁷⁷

There were multiple cases in the three counties' quarter sessions where a female servant had been impregnated by her master. Although there was no indication in any of these cases that they were assaulted, and in some instances, the women's deposition refers to continuing copulation freely with their master, these cases were still a cause for concern because of the broader implications master/servant liaisons had on status, marriage and the household during the seventeenth century. Crucially though, these situations could offer a shift in the micropolitics of the house, not only for the maidservant who may have had the means to extract money from her master for herself and the child but also allegations of sexual impropriety by her husband could afford the wife a degree of power through her aid to save his reputation.¹⁷⁸

This chapter also shows that it was not always the parents who were involved in the bastardy cases of the East Midlands. Often, either the maternal or paternal grandparents were brought forward, or in some instances, the employer of the parents. Midwives were frequently called to give testimony as to who the father was and could even withhold care until such information was provided.¹⁷⁹ Wider family or community members or parishioners took on roles by exposing a mother carrying a bastard child, or identifying a father-to-be, in some instances. However, they could also be brought in to help contest such claims. Thus, analysing bastardy provides a valuable insight into local communities, their relationships, and

¹⁷⁷ Unknown, *The Constant wife of Sussex*, l.21-4: l.52-54: l.72.

¹⁷⁸ Capp, 'The Double Standard Revisited', p.73.

¹⁷⁹ Gowing, 'Secret Births and Infanticide in Seventeenth-Century England', p.103.

broader social concerns about sexuality and gender roles in Derbyshire, Lincolnshire, and Nottinghamshire between 1630 and 1660.

Similar social concerns about the crime of bastardy were present across all three counties. There was a prevalent fear amongst young men that they may be trapped by women with bastard children, as was evident in contemporaneous popular literature, such as the London-based 'Joy and Sorrow Mix't together' used as a warning to other young men:

Let young men take warning by me,
for Maidens are dangerous ware [...]
For cunningly I am beguild,
unto all my Neighbors tis known,
Now I must Father a Child,
although it be none of mine own.¹⁸⁰

This chapter has explored a case with similar fears in Lincolnshire, where Thomas Bushey was concerned he would be charged for a child he claimed was not his. There were also instances in Nottinghamshire, such as the Tavers case, where the mother's new husband readily accepted bastard children. It has been crucial to explore these different cases to understand the attitudes towards family, marriage and children in these thirty years. For women, one of the main concerns was being a maiden who had lost her chastity on the promise of marriage only to be abandoned when pregnant. These issues were prevalent in the Broadside Ballads, produced in London and spread throughout the county; for instance, 'A Lamentable Ballad of a Ladies Fall' has surviving copies from libraries in Oxford, Manchester and Glasgow. It depicts the female as a victim of a duplicitous proposal:

Long was she wood, ere she was won,
to lead a wedded life;
But folly wrought her overthrow,
before she was a wife,
Too soon alas she gave cons[e]nt
to yield unto his will,
[...]
With grievd heart perceivd her self
to be conceivd with child.¹⁸¹

¹⁸⁰ Climsall, 'Joy and Sorrow Mixt Together', ll.133-141.

¹⁸¹ Unknown, 'A Lamentable Ballad of the Ladies Fall', ll.7-10 & ll.19-20.

There were examples of this particular circumstance from the records of Lincolnshire, as explored previously in this chapter, but not Derbyshire or Nottinghamshire. This could be due to the types of documents that have survived, a lack of women's examinations/depositions in these cases, or the potential of the mediation of women's voices through male judicial clerks.

Developing from these wider social concerns regarding sex and relationships within local communities, the Sessions case studies across the three counties have also shown that there were mitigating circumstances for the cases in which bastards were conceived. For instance, in Nottinghamshire, there was a case where the child was conceived in unsavoury circumstances, and this affected the punishment that was given – it deviated from the punishments set out in the Bastardy Act of 1610. Thus, this demonstrates that across the counties, there was a precedent for the judicial authority to mitigate punishments in exceptional circumstances. Moreover, both sexes could perform specific idealised gender characteristics to represent themselves as victims to gain the mercy of the court. Women could also evoke favourable narratives regarding how the bastard child was conceived in the hopes of being looked up favourably by the court and society. For instance, Derbyshire had a case in which the mother was assaulted, resulting in a bastard child, but her deposition outlined that despite the situation, she cared for the child as a mother should, possibly in the hopes of avoiding the punishment for having an illegitimate child.

For men, the mitigating circumstance may reflect more general concerns regarding masculinity and who defined paternal responsibility in such turbulent times as the Civil Wars and the Interregnum. Purkiss has determined that:

just as the authority of the father was undermined by legal interventions designed to regulate the household in the interests of the community and the commonwealth, so the authority of the householder [...] could be undermined by the growth of centralised government and the extensions of monarchic power.¹⁸²

¹⁸² Diane Purkiss, *Literature, Gender and Politics during the English Civil War*, (Cambridge: Cambridge University Press, 2005), p.58.

This demonstrates how court-dictated orders regarding the raising of illegitimate children could undermine fatherhood in the local home, as the court was reflective of the monarchical or parliamentary authority holding power at the time. Especially if those orders demanded men to provide maintenance for children, which they claimed were not theirs, such as in the Thomas Bushey case of Lincolnshire.

Moreover, this chapter has demonstrated that there were instances where fathers and paternal grandfathers could portray themselves as victims. However, this largely centred around their ability to pay, and thus not necessarily a victim of the mother of the bastard child but the patriarchal judicial authority. Again, they evoked notions of gender performativity to achieve this, showing a willingness to defend or support one's family as a good father should in the hopes of seeking an amendment to the maintenance payments if they could not afford them outright – a vital example of this is the John Pearson case of Nottinghamshire. However, excluding these rare cases, the general punishments across the three counties followed an established trend that women received time in the House of Correction. In contrast, men primarily received financial orders for the provision of the child or expenses incurred for labour as the material upkeep of the child was of most importance.¹⁸³

Across the three counties, there was some differentiation in the overall prosecution rates of bastardy between 1630 and 1660. For Derbyshire, which had significantly low numbers, and Lincolnshire, the trend increased, whereas for Nottinghamshire, the general trend decreased over the thirty years, demonstrating the difficulty in concluding this quantitative aspect. It is possible that the greater focus on sexual morality, in line with the Marriage and Adultery Acts under the Commonwealth, may have generated a priority of prosecution against those who created bastard children, albeit this affected the numbers differently in each county. For instance, there was an increase in prosecution rates between the start and end of the 1650s for both Lincolnshire (which had its highest numbers of bastardy prosecutions in this period) and Nottinghamshire (where, although smaller

¹⁸³ Macfarlane, 'Illegitimacy and Illegitimates in English History', p.73.

numbers compared to that of the 1630s, the prosecution rate significantly rose throughout the decade). This somewhat challenges Wrightson's notion that 'it [was] unlikely that [bastardy] would be affected by political changes at the centre,' especially as the numbers in Derbyshire peaked at their highest in 1651, the year after the Adultery Act and spiked in Nottinghamshire during 1654, the year after the Marriage Act.¹⁸⁴ Pertinent to this specific period is the idea of the travelling soldier impregnating women as he moved throughout the county during the Civil Wars and Interregnum, which could be seen in the Ellen Stoppard assault case in Derbyshire. Furthermore, there were concerns raised as to the support of the child if the father had been pressed to be a soldier, which may be linked to the rise in bastardy cases at the Quarter Sessions in the early 1640s in Nottinghamshire and late 1640s in Lincolnshire.

Lastly, this study has presented a new method of analysis for bastardy in East Midlands by addressing where these crimes occurred within the topography of the county for the seventeenth century. This was largely intertwined with the opportunities that urban centres provided; they were a cultural meeting place where often youthful and exuberant behaviour was enacted away from authority figures such as parents or the church, in areas that were usually more prevalent such as alehouses and inns.¹⁸⁵ This cultivated the notion that urban centres encouraged immorality during the seventeenth century. This study has demonstrated that market towns provided occasions for such liaisons, as explored in the Lincolnshire section, which supports Adair's findings that in the lowlands, there was a higher bastardy rate in urban centres than in rural areas.¹⁸⁶

Moreover, one key feature that affected where bastardy crimes occurred is the mobility aspect. There were two aspects to this: one was the evasion of prosecution, and the other was the mobility of the young – those most likely to produce a bastard. For instance, Ingram noted considerable geographical mobility in adolescents and young adults due to annual hire for households, such as live-in

¹⁸⁴ Wrightson, 'The Nadir of English Illegitimacy in the Seventeenth Century', p.176.

¹⁸⁵ Levine and Wrightson, 'The Social Context of Illegitimacy in Early Modern England', p.169; Laslett, 'Introduction: Comparing Illegitimacy over Time and between Cultures', p.62.

¹⁸⁶ Adair, *Courtship*, p.192

farm hands. Each new engagement brought new movement, and therefore, this lack of supervision from parents, consistent masters, or one parish church meant greater sexual freedom and, thus, a higher chance of producing bastards.¹⁸⁷ There may have been a greater concern amongst the local administration regarding bastardy cases committed along the borders between counties or major travel routes. In some instances, reputed fathers and mothers had easy means to abscond and leave the bastard child chargeable to the parish, as evidenced by the two case studies examined from within Nottinghamshire.

The analysis of bastardy throughout Derbyshire, Lincolnshire, and Nottinghamshire between 1630 and 1660 has provided a crucial understanding of localised communities and how different aspects of those communities, such as demographics, gendered ideals, changes in prosecution and judicial focus, could impact criminal behaviour and the outcomes of the cases. Not only that, but this chapter has engaged with crucial gender theories, such as the application of patriarchal authority through the judiciary, as well as notions of gender performativity that the bastardy offenders or their families could portray in their depositions and petitions to different ends.

¹⁸⁷ Ingram, *Church Courts*, pp.18-19.

Chapter Three: Pilfering Poor and Troublesome Thieves¹

Introduction:

Theft is a multi-faceted crime as it includes various offences, each defined by its level of seriousness and punishment. During the seventeenth century, these definitions were not always rigorous, and some were often interchangeable. This included robbery, which was the taking of goods using violence and was classed as a felony; housebreaking, which was simply breaking into a house to steal goods during daylight (during the night, this became burglary – a more severe offence); cut-pursing, similar to pickpocketing; and larceny, the taking of goods belonging to another. In this period, theft was divided into two categories, either grand larceny or petty larceny, to determine punishment. The value of the items stolen largely defined them. Grand larceny was the felonious taking of goods worth more than 12 pennies (1 shilling), and it was a capital offence for which those found guilty were likely to be hanged. Petty larceny was the theft of items below the value of a shilling, and this could be punished through various measures, such as being stocked, stripped, and whipped or sent to the House of Correction. Within the records examined in this thesis, stealing was simply categorised as theft, felony, or petty larceny.

According to Lees, as ‘the spheres of life that males and females were supposed to occupy were clearly gendered, then they would definitely display distinct modes of criminal behaviour’ in line with their gendered spheres.²

Undoubtedly, there are gender implications in some theft cases. For instance, gendered assumptions surrounding theft incorporated beliefs that women stole household items of lesser value and that they were more leniently treated in courts

¹ This chapter has developed from a paper titled ‘Pilfering Poor and Troublesome Thieves: Gender and Stealing in the East Midlands during the 1630’s’ given at the Institute of Historical Research for the HistoryLab Postgraduate Seminar on 4th November 2021.

² Linda Lees, ‘“Thou Art a Verie Baggadge”: Gender and Crime in Seventeenth-Century Nottinghamshire and Staffordshire’, (Nottingham Trent University, 1999), p.270.

or that men had greater involvement in violent thefts and stole items connected to their occupation. This is critical as Whittle and Hailwood outlined gendered patterns of work varied within different parts of the economy.³ However, this study will also show gender neutrality, as theft was primarily determined by need and availability. It is also essential to bear in mind, as Walker suggests, that 'female theft should not be interpreted in terms of pettiness or lack of bravado any more than male theft should be seen as inevitably proud or courageous.'⁴ For instance, women stole items of low value because of the environment in which they operated, not lack of 'bravado'. Men often stole more expensive items, such as cows, which needed preplanning for transport (an area of work they dominated, but women did not).⁵ This might not indicate increased daring but rather reflected the application of their knowledge and occupations.

In their broad overview of crime and punishment in England, Briggs, Harrison, McInnes, and Vincent determined that crimes against property dominated court records; this included a range of theft crimes in the Quarter Session records.⁶ Works such as those by Walker and Sharpe and various dissertations have examined property crime in the seventeenth century throughout various English counties.⁷ Crucially, Hindle's work outlines that one element of informal poor relief was crimes of necessity, of which theft was a significant aspect and thus attributed to the considerable number of thefts during this unstable economic period.⁸ Lees' PhD thesis analysed theft in Nottinghamshire and Staffordshire across the whole seventeenth century, which, although providing a

³ Jane Whittle and Mark Hailwood, 'The Gender Division of Labour in Early Modern England,' *The Economic History Review*, vol.73: no. 1 (2020), pp.3–32: p.4.

⁴ Garthine Walker, *Crime, Gender, and Social Order in Early Modern England*, (Cambridge: Cambridge University Press, 2003), p.176.

⁵ Whittle and Hailwood, 'The Gender Division of Labour', p.16.

⁶ John Briggs, Christopher Harrison, Angus McInnes, and David Vincent, *Crime and Punishment in England: An Introductory History*, (Abingdon: Routledge, 2005), p.29.

⁷ See Garthine Walker, 'Women, Theft and the world of stolen goods' in Jenny Kermode and Garthine Walker (eds.) *Women, Crime, and the Courts in Early Modern England* (Chapel Hill: The University of North Carolina Press, 1994), pp.81-106; 'Property Offences' in J. A. Sharpe, *Crime in seventeenth-century England: A County Study*, (Paris: Maison des Sciences de l'Homme, 2008), pp.91-114; Patricia Ann Johnson. 'Property Crime' in *A Study of Aspects of Crime and Distress in Seventeenth Century Lancashire*, (University of Central Lancashire, 1994), pp.39-78.

⁸ Steve Hindle, *On the Parish?: The Micro-Politics of Poor Relief in Rural England c.1550-1750*, (Oxford: Oxford University Press, 2004).

contextual overview, did not allow focus on specific periods of rapid social change that directly impacted criminality in the locality. In comparison, this research takes a more focused look at theft during a distinct period between 1630 and 1660, but across Derbyshire, Lincolnshire, and Nottinghamshire, bringing a new comparative aspect to understanding theft in the East Midlands during Personal Rule, the Civil Wars and Interregnum.

To achieve this, this chapter will examine theft in Derbyshire, Lincolnshire, and Nottinghamshire Quarter Session Records. Each section will discuss who was committing thefts in terms of both sex and occupation on a county-by-county basis – exploring how gendered ideals and the different gender spheres impacted theft. This chapter will also analyse what items were stolen by seventeenth-century men and women and what may have influenced this. It will explore what punishments were given for these crimes, typically to be whipped, stocked and stripped, and why other punishments or judgements may have been given. It is also important to consider where stealing occurred and the possible infrastructures that generated hotspots. Lastly, each county section will explore patterns in the chronology of when theft crimes were reported to the Quarter Sessions. After each of the three county sections, a comparison will identify significant trends across all three of these counties and provide an analysis of this part of the East Midlands region.

This study aims to understand how instances of theft may have reflected cultural, economic, and geographical factors within society, especially in the period leading up to the Civil Wars and during the Interregnum, when there were increasing national tensions on top of local issues. Therefore, as James Sharpe has noted, an ‘analysis of the nature, extent and treatment of such offences would seem to be of prime importance to any study of crime in seventeenth-century England’ as examining such a turbulent period could uncover differences that may not have been evident within other eras.⁹

⁹ Sharpe, *A County Study*, p.91.

Methodology:

The availability of court records is a significant issue with the archival analysis of crime in general. As outlined within Chapter One, the records are particularly sporadic for Derbyshire; thus, it is difficult to consistently draw direct numerical comparisons year on year between each county. Nevertheless, examining court records statistically is still a valuable starting point, even if it only yields a greater commentary on patterns of prosecution and punishment rather than a complete data set of crime rates.¹⁰

Moreover, 'contemporaries and historians have shared a strong conviction that many thefts went undetected and that the vast majority never came to the attention of the authorities.'¹¹ This could be for a variety of reasons, such as theft going unnoticed, the case being settled outside of court, community involvement, or simply that the culprit was never found. Another issue with the court records is how the authorities chose to categorise theft, as it can be classified as a felony (a serious crime punishable by death), which can occasionally be used as the classification for other crimes. Yet, in most of the cases analysed throughout this study, a felony was an instance of theft. Another concern specific to theft is that the value of items could often be undervalued to avoid the case becoming grand larceny and, therefore, the potential for capital punishment. Unfortunately, it is difficult to determine in which of these cases this has occurred, as not every single record of theft outlines what was or the value of what was taken. If the rough value of some items is known and a value was recorded in the indictments, examinations, or recognisances, it is possible to determine that the values were manipulated – which may have been to ensure the theft remains the lesser crime of petty larceny to avoid punishment by death. Downplaying the seriousness of a theft might alter the value and the number of items taken, but it still gives valuable insight into what was stolen, where, and by whom.

¹⁰ J. A. Sharpe, *Crime in Early Modern England 1550-1750*, 2nd ed. (Harlow: Pearson Education Limited, 2014), p.21.

¹¹ Sharon Howard, 'Investigating responses to theft in early modern Wales: communities, thieves, and the Courts', *Continuity and Change*, vol.19: no.3 (2004), pp.409-430: p.411.

Despite these challenges, there is still valuable information from the quarter session records that can be gained for each county and sufficient material for quantitative analysis. For example, this study will statistically analyse the court records to compare how many men were involved in cases versus women, what sexes worked together, where the thefts were being committed, the occupation of those committing crimes, as well as, crucially, the figures of what was being pilfered and by whom. Alongside this quantitative analysis, there will be a qualitative aspect to the research to understand early seventeenth-century attitudes towards theft, as well as the gendered assumptions and stereotypes associated with this crime.

This will be accomplished by examining broadside ballads and specific case studies from the court records. According to Howard, the ‘qualitative turn in the history of early modern crime has tended to focus on violent offences (often with a strongly gendered emphasis)’ as popular literature tended not to concentrate on mundane crimes such as theft but murder or witchcraft instead.¹² For instance, the prolific F.Coules produced the ballad *The life and Death of Mr George Sands’* (1626), which alluded to theft but provided no further contextual information as to what was stolen or why. As indicated in the excerpt below:

Since first he came to any strength,
he practis’d nought but stealing,
which brought a shamefull death at length,
for his ungracious dealing.¹³

As the punishment for the crime was death, this was likely some form of grand larceny or the continued acts of thievery. Within this ballad, was the didactic message that the thief receives the punishment deserved for his actions – a common theme throughout popular culture. This chapter will explore whether these attitudes and beliefs towards theft and its punishment can be found within the records.

¹² Howard, ‘Responses to theft’, p.410.

¹³ Unknown, *The life and death of Mr George Sands who after many enormous crimes by him committed, with Jones and Gent his confederates, was executed at Tyburne on Wednesday 6th September 1626.* (1626) Magdalene College – Pepys Ballads, 1.128-1.129 [online source] <http://ebba.english.ucsb.edu/ballad/20055/xml> accessed 30th June 2020, l.17-20.

Foyster argues that it is vital to analyse popular literature because 'contemporary broadside ballads can reveal the fears and anxieties which could underlie these public presentations of the self.'¹⁴ This was evident in the 1619 ballad, which, again, does not depict the theft directly but provides an insight into how thieves were perceived, as the offender was described as:

O fie these pilfering knaves,
I scorne to be one of that crue.
They steal to make themselves braves,
Ime ragged, and torne, and true.¹⁵

Although this was written by another 'poor fellow', there is a distinct difference between being honest, trustworthy and poor and those who stooped low enough to commit a crime and thus, in the eyes of society, became "knaves". This shows how, even though this may have been a case of necessity to survive, there was still a stigma attached to the act – regardless of the motivation. Critically, Hindle found two opposing beliefs regarding the theft of necessity throughout the seventeenth century. The first was that the parish provided enough for its people, so there should be no need to resort to it, on the other hand, theft was seen as the preservation of life.¹⁶ This study will identify whether these attitudes towards theft are also apparent within the court documents for Derbyshire, Lincolnshire, and Nottinghamshire.

Historiography and Originality:

Various works have focused on theft at different points during the early modern period, such as Sharon Howard's community-based examination 'Investigating responses to theft in early modern Wales'; however, a considerable proportion of these works have focused solely on women and theft.¹⁷ These studies by Walker, Mackay, and Dubois-Nayt have stemmed from the rise of a feminist approach to reclaiming women's history and applied this to the field of crime and theft more

¹⁴ Elizabeth A. Foyster, *Manhood in Early Modern England: Honour, Sex and Marriage*, (Harlow: Longman, 2014), p.16.

¹⁵ Unknown, *Ragged, and torne, and true. Or the Poor mans resolution*. (1619) British Library – Roxburghe, C.20.f.352-353 [online source] <http://ebba.english.ucsb.edu/ballad/30240/xml> accessed 30th June 2020, l.33-36.

¹⁶ Hindle, *On the Parish?*, pp.88-90.

¹⁷ Howard, 'Investigating Responses to Theft in Early Modern Wales' pp.409-430.

specifically.¹⁸ These works have explored the lack of women's involvement in the criminal world of theft and why this may be, or that women stole items of low value.¹⁹ By examining the three counties of Derbyshire, Lincolnshire, and Nottinghamshire, it can be determined whether there is support for the previous findings that women essentially stole items from the domestic sphere. As Garthine Walker has outlined and Linda Lees has built upon in her thesis, access to the spheres is what determined the items women stole, and this chapter will offer more comparisons by examining this argument for both sexes.²⁰ To do so, this research will engage with the vital article by Whittle and Hailwood, which explored sex and work during the early modern period.

This study will also contest the notion found in the works above that women were less criminally bold. For instance, one ballad, of which there are two surviving renditions in the EBBA collection, depicts the adventures of Susan Higgs, who became a highway robber in the guise of a man and performed traditionally male characteristics to fulfil her crimes. A passage demonstrating this is:

Great store of London Marchant,
I boldly have bid stand,
And showed my selfe most bravely,
a woman of my hand,
You ruling roysters, everyone
in my defence say then,
Wee women still for gallant minds,
may well compare with men.²¹

This ballad acknowledged that Susan should have been 'by nature faire and beautifull, and of a gentle kinde' as women were expected to be during this period –

¹⁸ Walker, 'Women, Theft and the World of Stolen Goods', pp.81–105; Lynn MacKay, 'Why They Stole: Women in the Old Bailey 1779-1789', *Journal of Social History*, Spring (1999), pp.623–39; Armel Dubois-Nayt, 'Women Thieves in Early Modern England: What Can We Learn from Narrative Sources', *Etudes Episteme*, vol. 14 (2008), pp.193–206.

¹⁹ It is crucial to note here that these themes have also been identified within J. M. Beattie's 'The Criminality of Women in Eighteenth-Century England', *The Journal of Social History*, vol.8: no.4 (1975), pp.61-79. and Sharpe's *Crime in Early Modern England*. p.109.

²⁰ Walker, 'Women, Theft and the World of Stolen Goods'; Lees, *Women and Men in the World of Stolen Goods* in "'Thou Art A Verie Baggadge"'.
"

²¹ Unknown, *The sorrowful complaint of Susan Higgs, a lusty country wench, dwelling in Risborough in Buckinghamshire, who for twenty yeeres, most gallantly maintained herself by Robberies on the high-way side, and such like practices.* (1630) Magdalene College – Pepys Ballads 1.113 [online source] <http://ebba.english.uscb.edu/ballad/20002/xml> accessed 11th February 2018, l.57-64.

she should not have been described as gallant or bold and certainly would not have been credited with such endeavours.²² It may be argued that this highlights that women were still considered the lesser sex in the criminal underworld as she felt she had to act as a man to commit this crime. Yet in other aspects, that ballad highlights women's agency, her intelligence to deceive others, and her courage in undertaking such acts - opposing 'the assumptions made about female criminals that they were not as brave as male criminals.'²³ This analysis will examine how such gender associations and their subversion were apparent within theft case studies.

There have been fundamental works such as Crawford and Mendelson's, which give an overview of women's lives and position within early modern society alongside perceptions of what women should be doing, their behaviour and roles, primarily based around the domestic sphere and the family.²⁴ Their association with the private space could be vital in explaining where women's thefts occurred and what they were stealing. In terms of masculine associations with theft, Jones suggests that 'an important component of male honour was the ability to provide for one's dependant so the temptation to steal would be great for men who could not fulfil this duty by lawful means.'²⁵ This dedication to finding supplies for one's family could either be viewed as a positive ideal or negative, depending on the circumstances. For instance, in the ballad, *A Song made of Nothing* (of which there are several surviving copies), it is suggested that if:

He that hath nothing with troubles beset,
will steale or do something a living to get.²⁶

If the accused was in dire circumstances and resorted to stealing only through need, he may be considered more favourably, both in the eyes of his fellow parishioners and the court, especially if it was to support his dependents. This action would be

²² Unknown, *The sorrowful complaint of Susan Higges*, l.27-28.

²³ Walker, 'Women and theft', p.82.

²⁴ Patricia Crawford and Sara Mendelson, *Women in Early Modern England*, (Oxford: Oxford University Press, 1998), pp.15-73.

²⁵ Karen Jones, *Gender and Petty Crime in Late Medieval England: The Local Courts 1460-1560*, (Rochester: The Boydell Press, 2006), p.32.

²⁶ Unknown, *A Song made of Nothing. Ye he that doth read, or heare it shall find, something of nothing to pleasure his mind.* (1602-1658) British Library – Roxburghe, C.20.f.7.372-373 [online source] <http://ebba.english.ucsb.edu/ballad/30251/xml> accessed 2nd July 2020, l.21-22.

deemed as fulfilling his role as the patriarchal head of the family by providing for them through any means necessary, even if this made him a criminal.

On the other hand, those who stole but could provide for themselves or their family by other means were viewed negatively. They undermined the idea of community and their reputation within the parish and as a provider. This is evidenced by the extract below from London based ballad *Here's to Thee Kind Harry*:

He that is a pilfering theefe,
that steales to give his corps releefe,
That though he can
Himself maintaine
By some honest trade,
He will take no pain
[...]
For if all theeves were gone,
Then we should keepe our owne.²⁷

Consequently, in this ballad, although the male is providing for others, he chose to do so by theft and at the detriment of others' hard work when he could provide for them from his work. Hence, his act is viewed negatively by the community.

This study will explore how ideas of gender, for both men and women, influenced the representation of theft on a county-by-county basis in the court records of Derbyshire, Lincolnshire, and Nottinghamshire, comparing it with broader values espoused in the popular literature of the period. This approach has not been previously adopted for these counties during this period.

Derbyshire:

Introduction:

In the county of Derbyshire, 98 instances of theft were recorded for the years 1633-34, 1638-39, 1648-53 and 1656-58 within the Quarter Session Rolls, illustrating the sporadic nature of the records. For each of the theft occurrences, there was

²⁷ Unknown, *Heres to thee kind Harry OR The plaine dealing Drunkard*. (1627) Magdalene College – Pepys Ballads, 1.432-433 [online source] <http://ebba.english.ucsb.edu/ballad/20203/xml> accessed 30th June 2020, l.71-84.

information as to what was stolen on each occasion. Analysing who was committing thefts in terms of sex is a significant aspect of addressing gendered associations with the crime. Examining occupation can provide an idea of any potential trends, where and when crimes were committed, and the broader context of parish life within Derbyshire.

Who (Sex):

Within Derbyshire, a considerably larger proportion of men committed theft than women; proportionately, men were 77 percent of offenders and women 23 percent. This could be for several reasons, including who thieves were willing or likely to work with, as 'men and women had gender-orientated patterns of criminal associations'; fundamentally, the majority of those committing crimes together worked in same-sex groups or pairs.²⁸

For example, at Haddon in 1648, several men were brought before the Justices of the Peace for their misdemeanours, including theft, as indicated by the article from the Session Rolls below:

Articles of Severall misdemeanours and abuses done and committed by such persons whose names are informed to his Majesties Justices of the Peaces. (scratched out) That John Sommers, Richard Stockden, John Stone, George Alcocke, Edward Wright, with many others did about 12 of the clock in the night tyme assault, strike, beat, throw down and rescue from Henry Sommers and George Rushon servants to the Right Honourable John Earle of Rutland nyne baggs of Lead Oare which they the said John Sommers, Richard Stockden, John Stone, George Alcocke, Edward Wright with others as aforesaid were [?] unjustly to steale away and defraude the said Earle off, he the said Earle having an interest in the farm. And that they abovesaid Richard Stockden with George Alcock with the assistance of the rest in a riotous way having throwne over the said Rushon did set upon him, And the said Richard Stockden said that if he did cutt the said Richards throate he needed not to goe to the doore for it and very earnestly called severall tymes for a knife to the great terror of the said Rushon, soe that he the said George Rushon is afrayde of some bodylie harme to be committed against him by some or all the said persons, And both the said Earles servants discouraged to

²⁸ Walker, 'Women and theft', p.85.

looke after the said Earles occasions according to the duty of their places.²⁹

There are no details within the presentment regarding the relations between these men. However, the shared investment in stopping the Earl's interest in a local farm could potentially have brought them together for this theft. Furthermore, the organisation a riot of this scale would have taken – for them to all assemble and hit at midnight - suggests there may have been some prior connection between those involved to coordinate this. Although there was no information regarding their occupation, they likely had similar roles to share this concern over the Earl's interest in the farmland around Haddon. Crucially 'male affiliations are easier for the historian to detect as they often existed within visible occupational, institutional, and economic structures.'³⁰ However, it was not always apparent which of these networks was at play, especially as there were often crossovers between the connections people had. In the case of Haddon, there may have been commercial links such as working or trading together, but also a social connection. Those living in the same area may have frequented the same church or public spaces, which developed into this opportunity to stand against the Earl.

Significantly, though, in his examination of the Journal of the House of Lords and the Commons, Woods found that 'over three days in late May 1648, crowds of up to 200 miners entered Haddonfields in Netherhaddon manor to dig for ore [...] Earl of Rutland initiated new prosecution for riot at the Quarter Session, assizes and the House of Lords. Eleven miners, many prominent in earlier tithe disputes, were brought to London and imprisoned.'³¹ Therefore, it is possible that this Quarter Session record is linked to the riot and demonstrates the networks in action and the impact they could have. Moreover, Woods found that one of the Earl's stewards, William Savile, himself a JP, read out the House of Lord's proclamation on 11 May ordering the miners to depart, although it appears the miners remained.³² This case

²⁹ 'Article of Severall Misdemeanours and abuses' *High Peak*, (29th June 1648) – DRO – QSR - Q/SB/2/103

³⁰ Walker, 'Women and Theft', p.97.

³¹ Andy Wood, *The Politics of Social Conflict: The Peak County, 1520-1770*, (Cambridge: Cambridge University Press, 1999), p.280.

³² Wood, *Politics of Social Conflict*, p.280.

demonstrates the tension in the social order between the elite and the poorer sort, especially within the Peak District, as Wood explored in his monograph, but more generally, how the application of the law reinforced the power upper echelons of society held and used to maintain their priorities and ideals, particularly over challenges fought based on common law and perception of such by the 'common' people. Unfortunately, there was no record of the outcome of this article, although with the level of violence indicated, the threat to life, and the target of the Earl of Rutland, it may be that this was dealt with by a higher court such as the Assizes, which, considering Woods findings these events referenced at higher level courts, is a significant possibility.

These connections and associations between men may also indicate why more men than women were involved in theft cases. As men had a greater public presence, particularly in trading networks and allegiances with servants or those they provided work for, they likely had a greater breadth of influence on larger numbers of other males. This may be seen in the Haddon case as Richard Stockden and George Alcock were accused of leading the violence 'with the assistance of the rest', suggesting that these two may be the leaders of this riotous attack and main conspirators of the plan to steal from the Earl.³³ Therefore, they were in an influential position to recruit the men involved in the crime. This concern was picked up within one broadside ballad, which depicts:

To this foule sin of ravishment
he likewise did seduce
another youngman, whose consent
gave ayd to this abuse.
[...]
Some other men of good regard
he did to robbery draw.³⁴

This is not to say that women thieves did not have criminal networks. It may be that these were based in the domestic rather than the public sphere and, as such, were not consistently visible or recorded or that their groups were in smaller numbers than men. Moreover, it is not discounting that men and women thieves also

³³ 'Article of Severall Misdemeanours and abuses' - Q/SB/2/103

³⁴ Unknown, *The Life and Death of Mr George Sands*. L81-4&l.97-98.

worked together in couples or groups. Instead, this notion is that the more significant number of male thieves in Derbyshire could be related to their influence over other men as an employer, their role in the community, or shared economic interests.

Who (Occupation):

The occupation of those who were recorded within the Quarter Session Rolls for crimes of theft provides valuable insights into the Derbyshire localities despite a significant proportion having no occupation listed. The most common five occupations for men listed for theft crimes within Derbyshire Session Rolls are represented in Figure 16.

As outlined in the Context chapter, the categorisation of women within the court records was limited and dependent upon their marital status. However, there are instances within Derbyshire where they are listed by occupation. For example, Mary Bramall, listed for stealing blankets and handkerchiefs, was categorised as a maid, giving insight into her standing within the community.³⁵ What Mary stole was related to her position as a maid – she stole items that were easily accessible to her in this domestic setting, especially as one of their predominant work areas was cleaning and laundry, which offered ease of access to such items.³⁶ Where evidence exists, the female thieves of Derbyshire were usually described as maids or servants. This was indicative of seventeenth-century work opportunities available to women, usually within the domestic sphere, aiding other families. Single women were considered the most vulnerable, especially spinsters. Although, in some cases, they may have had other occupational roles, the term generally denoted a single woman over the usual marriage age. Single women were considered vulnerable as they had no husband to provide for them and, due to their age, may not have had parents or family who could financially support them either.

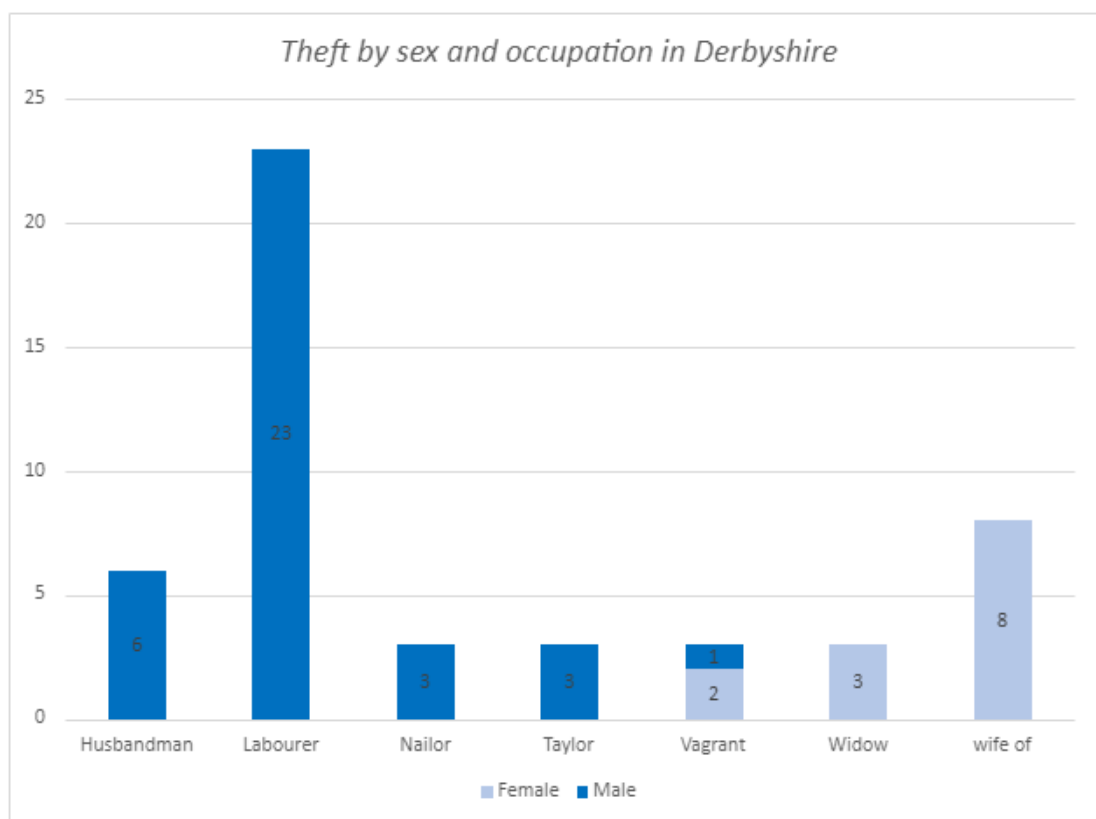
However, it is apparent from Figure 16 that for Derbyshire during this period, the highest category of women accused of theft was comprised of wives. This could be due to broader beliefs regarding wives being coerced into crimes by

³⁵ 'Examination of Mary Bramall' *High Peak*, (6th October 1638) – DRO – QSR – Q/SB/2/60.

³⁶ Whittle and Hailwood, 'The Gender Division', p.16.

their husbands or it could be in relation to the categorisation. For instance, generally, women were defined by their marital status; single women could be listed as spinsters (of which there were two), the most common being widows, spreading single women over a broader number of categories. In contrast, wives were simply reduced to “wife of”. Interestingly, only two instances of women were described by their occupation (one maid and one servant), with no indication of their marital status.

Figure 16: Bar chart of theft by sex and occupation in Derbyshire

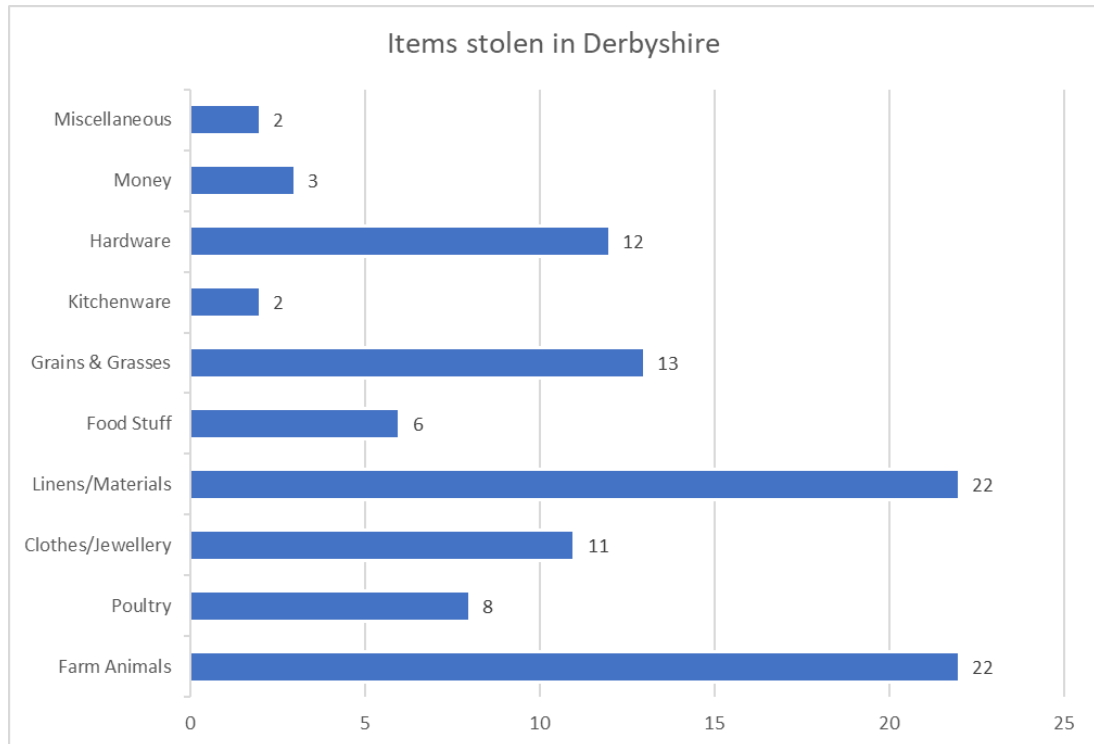


What (Stolen):

Although there were only 98 cases recorded within the Derbyshire Quarter Session Rolls between 1630 and 1660, each had recorded information on the items stolen. Analysing what was being stolen provides an insight into the demands and needs of the parish in this county, as well as potential gendered associations. For Derbyshire, the most common items stolen were linens and materials, along with farm animals. This suggests that the items stolen were significantly connected to accessibility in

terms of where the sexes' occupation was based and their knowledge of items associated with their gendered spheres.

Figure 17: Bar chart of items stolen in Derbyshire

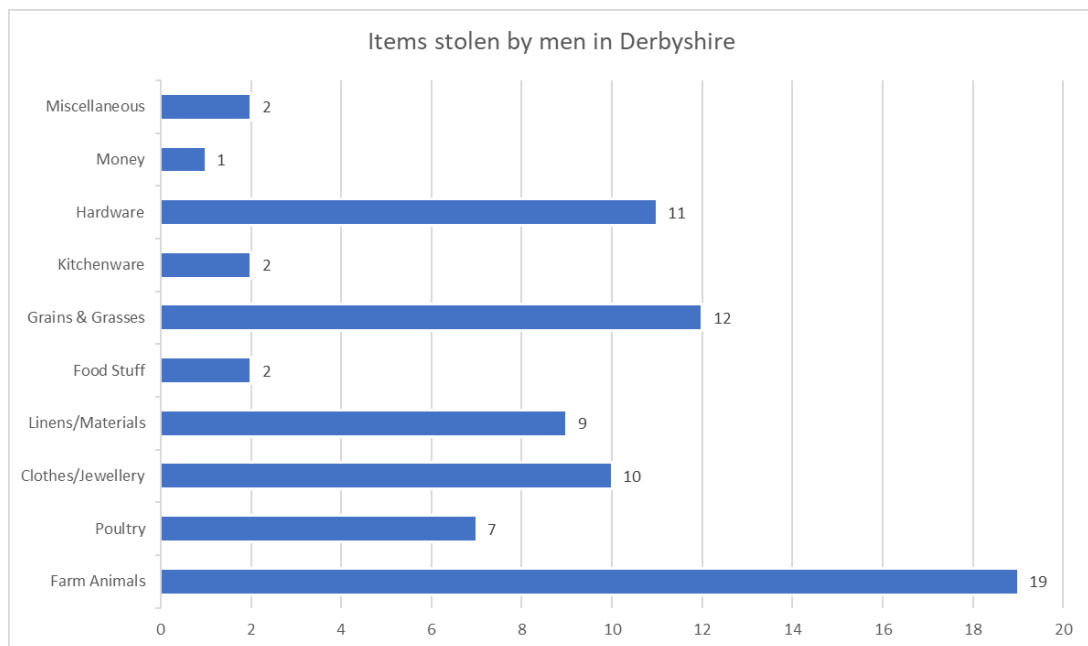


For men, the largest proportion of items stolen in the farm animals' category were sheep. This suggests that sheep were easily accessible and commonplace throughout Derbyshire – for instance, pastoral farming could be found throughout the county, such as in the Peaks around Ashbourne, Buxton and throughout the Morleston and Litchurch Hundred. Grains, which included peas, barley, oats, and hay, were the second most common items stolen by men, suggesting a connection to their occupation. As labourer was the most common occupation of those who stole, this may indicate they were most likely farm labourers so that they would have had increased access to a variety of grains at different stages of the harvesting and farming process.

For instance, one example of this was on St Luke's Day (18 October 1633), Robert Siddowne, a labourer of Glapwell, 'stole or feloniously took away corne of the barne latily belonging to Robert Woolhouse' after the harvesting and tying of

the sheaves in August and September.³⁷ These would be stored in barns, where Siddowne would likely have had access to them as a farm labourer. Another example is Richard Cundy, a husbandman of Mackworth, who stole sheaves of pease from Mackworth pease field.³⁸ September was the crucial harvest time, and it provided the opportunity to take the peas directly from the field as the sheaves were being tied. Or, as a husbandman, the sheer volume of sheaves he would have overseen in the process provided an opportunity to take what might not be missed. Especially as there was the opportunity to glean – the gathering of leftover or unprofitable crops – for agricultural employees, for which there was no clear law regulating the matter.³⁹ Therefore, farm labourers may have been committing a commonly accepted method of sustaining a living wage but were deemed to have been committing a criminal act by the owner/prosecutor.

Figure 18: Bar chart of items stolen by men in Derbyshire



³⁷ 'Examination of Robert Siddowne of Glapwell, labourer, accused of stealing corn belonging to Robert Woolhouse' *Scarsdale*, (1 November 1633) – DRO – QSR – Q/SB/2/29.

³⁸ 'Information of John Turner of Mackworth yeoman - and Thomas Bretbye alias Ambrose of Mackworth, labourer - Richard Cundy of Mackworth husbandman - about the theft of sheaves of pease from Mackworth pease field.' *Morleston and Litchurch*, (29 September 1634) – DRO – QSR – Q/SB/2/53.

³⁹ Hindle, *On the Parish?*, p.36.

For the women thieves of Derbyshire, the most common items stolen were fabrics, including linens, wool, and sheets – a total of thirteen items altogether. These fabrics were mainly used within the domestic sphere, and as such, because of women’s activities in this area, they had specialist knowledge to target these items. Moreover, these items could be modified easily as ‘the conversion of household linens and old clothes into other garments and linens were common practice for most women’, making them easily disguisable and portable, thus worthwhile targets of petty theft.⁴⁰ Access was critical here too – especially in cases where sheets have been hung out to dry: for example, Anne Foster and Helen Thomson were charged with ‘the felonious taking of linen cloths of Robert Hegge from off a hedge near unto his house in Sinfin.’⁴¹ These circumstances provided chances for opportunistic ‘vagrants’, as these women were categorised, to steal easily accessible items.

Within Derbyshire, there was a clear connection between occupation, accessibility and the type of theft for both men and women, which creates a gendered association with the items each sex stole.

What (Punishment):

In the Session Rolls that remain for the county, there was very little information regarding pleas for each case, the verdict, or if there were any punishments given. For the surviving records of theft in Derbyshire between 1630 and 1660, a few instances have information regarding the plea, only thirteen of the 98 cases – demonstrated in Table 6.

Table 5: Theft case pleas by sex in Derbyshire

Sex	Not Guilty	Guilty
Male	9, 45%	11, 55%
Female	5, 63%	3, 37%

There was quite a difference in the proportion of each sex that pleaded guilty and not guilty. It may be that more women pled not guilty because they stole items that were often hard to discern ownership of, hence more difficult to prove a

⁴⁰ Walker, 'Women and theft', p.89.

⁴¹ 'Indictment of Helen Thomson and Anne Foster' *Morleston and Litchurch*, (8th May 1633) – DRO – QSR – Q/SB/2/35

crime had occurred, and so they were reluctant to confess if there was a high chance the case was likely to be dismissed. Or that these women invoked the seventeenth-century beliefs that women were not as criminal as men. Thus, by pleading not guilty, they hoped to invoke those beliefs and gain a not-guilty verdict. It is also noticeable that there was very little difference in the percentage of men who pled guilty to theft (55%) and not guilty (45%). This may be because it was harder to deny culpability for the types of items men were stealing.

However, this is contestable for cases where animals had gone missing from the common ground, especially if the animals had been injured. For instance, Thomas Biggs claimed to have found two sheep in the Meadows near Eckington, one belonging to Francis Ludlam and one laying lame, which he believed to be the one Robert Mullins ordered him to strike, and he could 'have from him to fill his flocke if he found them' – suggesting this may not have been a theft but rather a case of mistaken identity regarding the sheep in question.⁴² Another aspect of this was that seventeenth-century men did not have the associated characteristics of virtuosity and innocence to invoke and perform in the hopes of leniency, the same way that women may have been able to manipulate these feminine stereotypes before the courts. Significantly, individual circumstances also affected the plea given, yet contextual information was not presented within the Derbyshire records. Therefore, this section can only posit circumstantial notions as to why these differences may have occurred in the plea rates.

Notably, in two cases where the women pled not guilty, they admitted to some element of the circumstances in which the theft occurred. For instance, Grace Brunt, a spinster of Codnor, was listed for the felonious taking of one handkerchief, eight shillings, and sixpence of money taken from a box of John Bonomor of Derby. Grace denied the felony but confessed that she had been at John Bonomor's house since she gave her mother a cake, which she had wrapped in a handkerchief, but she could not say whether it was her own or Bonomor's and she knew nothing of

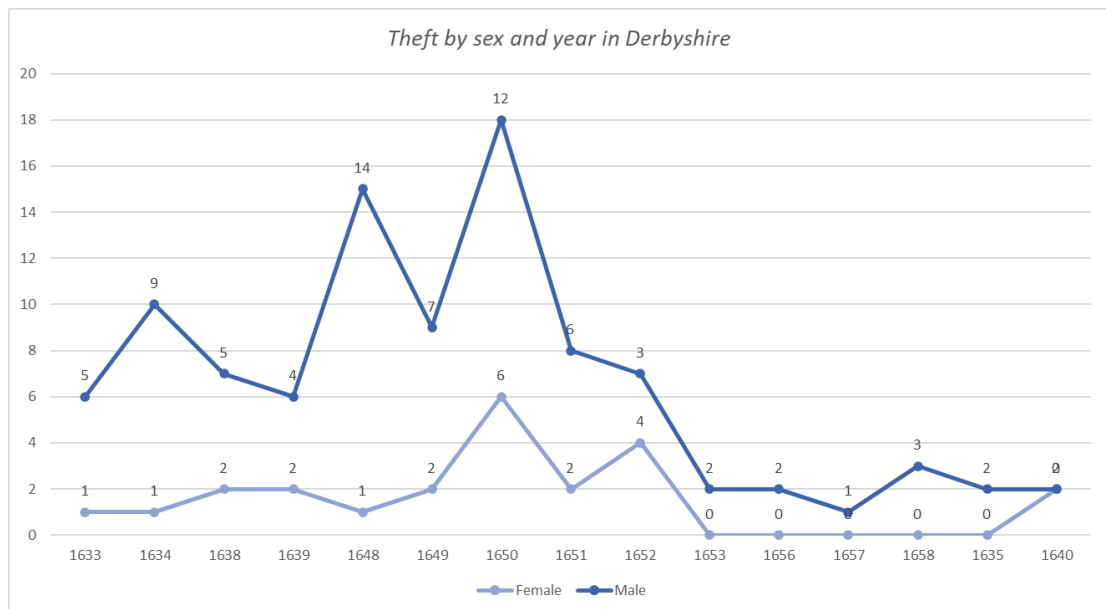
⁴² 'Examination of Thomas ?G Biggs of Eckington regarding theft of two sheep' *Derby*, (23 November 1634) – DRO – QSR – Q/SB/2/57

the money or box.⁴³ This may be a way of mitigating the charges against them with a plausible reason why they had such items in their possession. Unfortunately, without the judgment information, there is no evidence to account for how this type of plea affects the outcome, but it is essential to consider why these women chose a not-guilty plea.

When:

With the sporadic survival of the Derbyshire records, it is difficult to analyse the chronology of theft quantitatively. It is also important to note that the theft cases presented in the Quarter Sessions are not all cases of theft and will not reflect accurate crime figures.

Figure 19: Line chart of theft by sex and year in Derbyshire



For the years 1648 to 1650, there was a continuous rise in the number of recorded female thieves, and there was a peak for the highest number of male thieves in 1648 and 1650. Yet, overall, in the later 1650s, it is evident that there was a lower number of theft crimes being recorded in the Session Rolls across Derbyshire. The peak of theft crimes in these particular years may be indicative of a wider increase in stealing due to need. As Ann Hughes has identified, England

⁴³ 'Examination of Grace Brunt late of Codnor, spinster charged with stealing a handkerchief and 8s 6d, property of John Bowmer of Derby labourer' *Derby*, (2nd May 1650) – DRO – QSR – Q/SB/2/180. For the original manuscript and transcription please see Appendix 2.

suffered monumentally after the Civil Wars due to its impact on land, farming, and trade; thus, between the years 1647-1650, the conditions for the poor were the worst throughout the century.⁴⁴ Although not in these highlighted years, there are cases throughout Derbyshire where the defendants related their actions to need.

For example, in December 1633, William Rollinson was charged with stealing two geese and confessed that he 'carried them to his house at Denbigh aforesaid and boyled them for the reliefe of himself his wife and his children.'⁴⁵ Another case is that of Dorothy Roe, who in March 1638 went into the house of John Savage and 'being hungry looked into a cupboard for some meate and finding none tooke out twenty pound in moneys.'⁴⁶ These two cases are evidence that in Derbyshire, there were those committing theft due to their or their family's need, specifically hunger. An action that Hindle determined was a method of informal relief and that crimes of food theft were dealt with mercifully. Although the lack of data for Derbyshire leaves this hypothesis untested for the county, he notes a significant correlation between thefts of need and economics, which this section has evidenced.⁴⁷

Where:

As a result of the varied survival rates for different hundreds for the Derbyshire Quarter Sessions, the majority of the data has been provided from High Peak, Scarsdale, Wirksworth, Morleston and Litchurch. There was minimal data available from the other hundreds; in some instances, only one or two rolls remained for the thirty years examined. Thus, it is difficult to provide a complete geographical examination of theft across the whole county, but it is possible to present a partial analysis of the data transcribed.

It is apparent from Figure 20 that there appears to be a larger number of thefts in and around urban areas, such as Chesterfield, Derby, and Ashbourne. One possible reason for this was the convergence of people in these areas for work,

⁴⁴ Ann Hughes, *Gender and the English Revolution*, (Abingdon: Routledge, 2011), p.33.

⁴⁵ 'The examination of William Rollinson of Denby, nailer, accused of stealing two geese from Thomas Johnson of Loscoe.' *Morleston and Litchurch*, (2 December 1633) – DRO – QSR – Q/SB/2/30

⁴⁶ 'Examination of Dorothy Roe of Ilkeston, spinster, accused of theft of meat.' *Derby*, (22 March 1638) – DRO – QSR – Q/SB/2/58

⁴⁷ Hindle, *On the Parish?*, p.45.

trade, and commerce, especially around a market town, providing ample possibilities for opportunistic thieves. For instance, Elizabeth Ashbury was:

charged with suspicion of stealing foure cheeses of the goods of Richard Millward of Mappleton in the said Country of Derby. Taken with a mallott from a stale in Ashbourne faire upon Saturday the [?] Instant. This examine confesseth the foure cheeses now found in his house he bought of a man in Ashbourne faire and paid for them two shillings four pence for them in the house of one Elizabeth Ashbury of the same but knows not the mans name neither did she ever see him before and borrowed the Mallott of the same man and Elizabeth Ashbury was present at the bargaine.⁴⁸

In response, Elizabeth Ashbury claimed in her examination that:

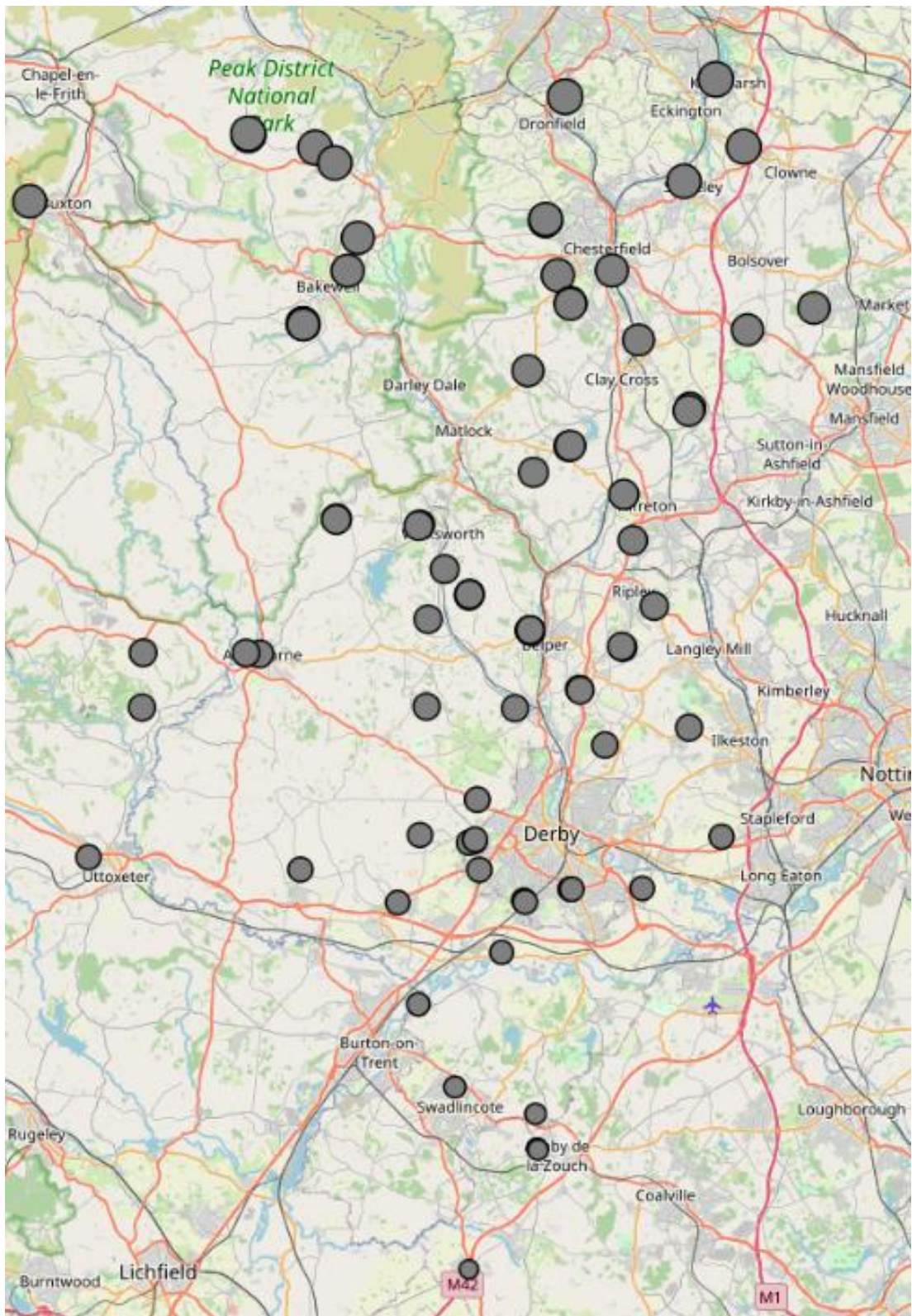
a stranger came to her house on Saturday last being at Ashbourne Faire and desired a night lodging and then gave her the cheeses now found in her custody but never seen the man before but saith the man know the examine Willson and saw him at his house.⁴⁹

This case study demonstrates the opportunities that these urban market areas offer. Moreover, the number of people passing through these towns for commerce or work provided a faceless stranger as the offender, with little possibility of identification or catching them if they had moved on to another parish.

⁴⁸ 'Examination of Elizabeth Ashbury' *Wirksworth*, (12th May 1651) – DRO – QSR – Q/SB/2/1/90.

⁴⁹ 'Elizabeth Ashbury' (12th May 1651) Q/SB/2/1/90.

Figure 20: GeoMap of theft in Derbyshire



Concluding Thoughts:

This section has examined how topography, demographics, economy, trade and broader social aspects such as need and gendered expectations have impacted theft at a county level. Although there was a small number of theft cases recorded within the Quarter Session Rolls for Derbyshire between 1630 and 1660, crucial findings have still been ascertained. A considerably higher number of men than women committed theft crimes – it was almost at the ratio of 3:1. Derbyshire's evidence supports the idea of thieves working in same-sex groupings, such as the large group of men in the Haddon case or the two female vagrants who stole the sheets from the hedge. The Session Rolls further indicate why they may have been working together and what connections they had, such as familial, social or working relationships, that helped to forge criminal partnerships.

Addressing who was stealing in terms of occupation and what they were stealing has also revealed an undeniable link between access and knowledge of the items being stolen, whether farmhands stole grains or women fabrics that were consistently used within the domestic sphere. Derbyshire Quarter Session Rolls provide crucial information on how those accused pleaded to the felonies raised against them, even though judgements are not recorded. Notably, there was a contrast in how each sex pleaded. A higher proportion of men confessed to their crimes, whereas women pleaded not guilty more often, likely linked to the types of items stolen.

The quantitative analysis of chronology provides a tenuous link between dearth and the need to steal, but this can be explored further in comparison with the other two counties. Again, the impact of low numbers of surviving records is significant when examining where theft crimes occurred in Derbyshire between 1630 and 1660. Despite this, there appears to be a slightly greater number of incidences in urban areas that have market towns. This may primarily be due to the opportunities that these provided and the vast engagement of local and foreign people at the markets.

Lincolnshire:

Introduction:

For Lincolnshire, 479 incidences of theft were recorded within the Quarter Session Rolls, all of which were within the district of Lindsey. Unfortunately, the Rolls of Kesteven, Stamford, and Grantham do not survive or are too vastly damaged to use. The records missing are for 1635, 1638-1640, 1643-1645, 1650 and 1653-1654. This section will look at the same aspects as those for the previous county, as well as attitudes towards those prosecuting theft.

Who (Sex):

Between 1630 and 1660 in Lincolnshire, the greatest proportion of offenders for theft crimes were men at 80 per cent of overall offenders and women at 20 per cent. There are only two instances where the sex of the offender was indeterminable from the data in the records. In terms of sex for the recidivists, there were twenty males and five females who, between them, committed a total of 61 offences, demonstrating that male offenders were also the most likely to re-offend.

As outlined in the Introduction chapter, one crucial aspect that affected the number of women brought before the court during the seventeenth century was gendered perceptions regarding women's position within the law - perceptions that may have stemmed from Common Law notions of Feme Covert - which saw women as extensions to their husband's citizenship and rights rather than as an individual. This was crucial as women who committed crimes with their husbands could be seen as being dependent and passive within the marriage, which could have impacted the judgements given.⁵⁰ For example, in some instances, a wife may have been viewed more favourably if the JPs felt that the husband had coerced her into the criminal act through his position as the dominant head of the family. There is an

⁵⁰ Walker, *Crime and Gender*, p.201.

examination of John Thompson of East Keale that suggests that Wife Palfreeman was not as criminally assured as her husband, for when John notices:

a sheep lye cased by the fire 'the women cried out wee is nott[?] we are undone I pray you said the woman to the examine say nothing, but at the same time, the said Palfreeman [answered] to this examine that it was his owne sheep and that he brought it from Wainfleet.⁵¹

This suggests that she may have known that the sheep were stolen but that she was not willing to maintain the ruse as her husband was and that he was the lead instigator. Crucially, *the Compendium for the Justices of the Peace [...] for their ready helpe* of 1637 declares that 'if a man and his wife commit a felony jointly, it seemeth the wife is no felon, but it shall be wholly judged the husband's fact', and so with this JPs reference book, it may have influenced their perception of these type of cases in Lincolnshire.⁵² The wife may be viewed as an unwilling accomplice rather than an instigator before the case was heard in its entirety due to these views. There was no further evidence for the outcome of this case to compare the husband's and wife's judgements to ascertain what impact this may have had, but the information does provide an insight into these dynamics.

Moreover, female criminals were often deemed as a significantly lesser threat than their male counterparts, which impacted their outcomes in court.⁵³ Consequently, even if women were accused of theft, they were not always brought to court. Contemporary beliefs that women were not the primary instigators or may not have been as directly involved with the act of stealing are sometimes reflected within the court proceedings. William Thickston was charged with 'the taking away of one ewe from the flock and took it home to hide the meat in a kitt at the foot of his bed. His wife pulled the wool and sold it. But he does not know whose the sheep was and to whom the wool was sold.'⁵⁴ Despite the acknowledgement that his wife was a receiver and distributor of stolen goods, it was only William that was brought

⁵¹ 'Examination of John Thompson,' *East Lindsey*, (4th November 1637) – LA – QSR – LQS/A/1/8/148

⁵² *The Complete Justice*, pp.236-4.

⁵³ Crawford and Mendelson, *Women*, p.44.

⁵⁴ 'Examination of William Thickston' *Lindsey*, (7th December 1630), LA - QSR - LQS/A/3/1/29; 'Statement of Micheal Cosson' *Lindsey*, (7th December 1630), LA - QSR - LQS/A/3/1/30.

to court in this case – hence one reason why, certainly for married couples, there may be fewer women in court if it was deemed that the wife had a ‘lesser’ role in the crime. Although his wife was mentioned in the examination, it was only William who received a recognisance and whom the witness, Michael Cosson, was asked to provide evidence against at the following sessions.⁵⁵ Unfortunately, there was no further information as to whether this Bill against William was found true or not.

Another reason fewer women were brought before the Quarter Sessions for theft in Lincolnshire is related to the assumption that women stole items of little value and immediate use. In the case against Jane Yates, a single woman of Harpswell, she was listed ‘for taking and carrying away one pair of woolen stockings worth 10d of the goods of one Alice Hart at Gainsborough on 4th June 1633.’ The case was found “Ignoramous” at the same session, likely because of insubstantial evidence due to the nature of the items stolen.⁵⁶ This could be for several reasons, for instance, that Jane had modified the stolen stockings, and thus, it was difficult to ascertain whether it was the original item stolen. Or it may have been, in some cases, challenging to determine the original or actual ownership of the material items stolen. Moreover, these low-value items women stole were often thought to be clothing as they were easily accessible and easy to dispose of, and clothing had ties to the sphere of women, appearances, and materialism.⁵⁷ This implied that, rather than the sex of the thief being the determining factor for punishment, it was the strength of the case and potentially the value of the goods taken. Moreover, rather than sex determining what the offender stole, it was more likely to be decided by what was available at the time of the crime. Hence, this study’s argument that what was stolen was not necessarily sex-dependent; it was opportunity-driven. Although it is significant to outline that it was accessibility to gendered spheres, which, in turn, defined what could be stolen.

⁵⁵ ‘Recognisance of William Thickson £5 to appear at next sessions’ *East Lindsey*, (1630) – LA – QSR – LQS/A/1/3/31; ‘Recognisance of Michael Coson’ *East Lindsey*, (1630) – LA – QSR – LQS/A/1/3/30.

⁵⁶ ‘Verdict of Jane Yates’ *Lindsey*, (4th June 1633) – LA – QSR – LQS/A/1/5/21.

⁵⁷ Walker, *Crime and Gender*, p.59.; Beverly Lemire, ‘The Theft of Clothes and Popular Consumerism in Early Modern England’ *Journal of Social History*, vol.24: no.2 (1990), pp.255-276, p.257.

Who (Occupation):

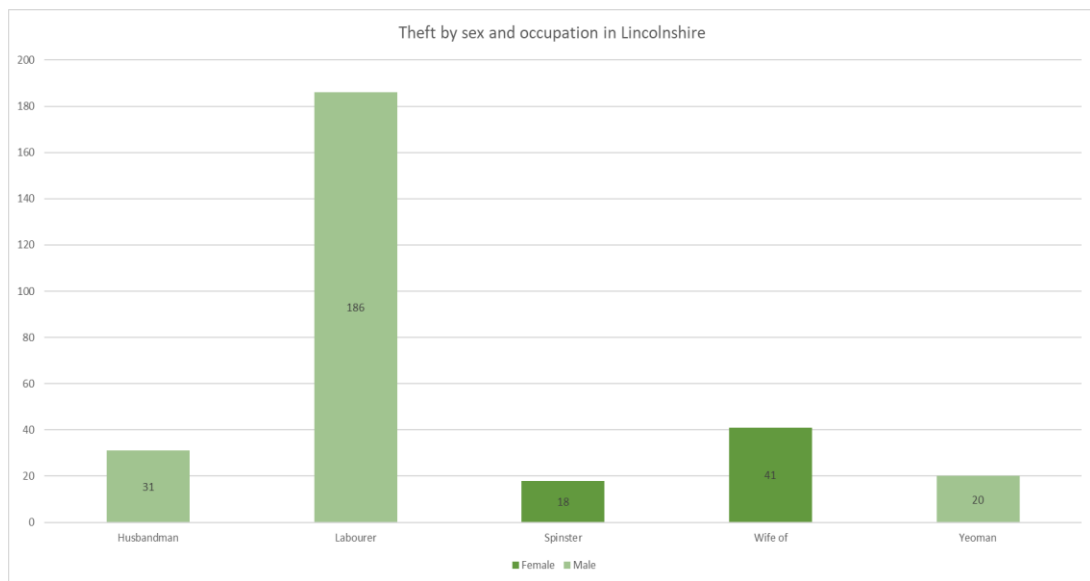
Exploring the occupation of those who stole in Lindsey provides an insight into the parish as well as potential social connections. Figure 21 depicts the five most common occupations of those within Lincolnshire convicted of theft in the specific period, excluding those whose occupations were unknown – of which there were 88 cases.

Occupation was usually included within the Lindsey Session Rolls, indicating the accused's social status. Only three instances of a gentleman were listed, highlighting that theft crimes may not have been associated with the lower gentry across Lincolnshire. One example of this is Thomas Leigh of Lea, who, on 27 April 1633, was charged 'for taking and carrying away two cows worth five pounds of the goods of one Henry Gibson at Haxey', which was found to be a true bill.⁵⁸ The value of the items was considerable, making this a case of grand larceny and requiring a higher court, so it would likely have been transferred to the Assizes. There are a few instances of yeomen who stole. These were men just below the status of landed gentry and owned their farmland. However, many men who stole were of poor working occupations. Significantly, the largest proportion of male thieves in the district were labourers. Their jobs were not always secure as 'there was some seasonal ebb and flow of agricultural labour'; therefore, this may have created times of need without a consistent wage, driving theft.⁵⁹ As these roles were temporary and may have required some travelling between parishes for work, this provided additional opportunities to steal. This predominance of labourers and rare occurrences of yeoman and those above supports the association of theft with those of lower social status.

⁵⁸ 'Indictment of Thomas Leigh' *Lindsey*, (27th April 1633) – LA – QSR – LQS/A/5/1/30.

⁵⁹ Clive Holmes, *Seventeenth-Century Lincolnshire*, (Lincoln: The History of Lincolnshire Committee, 1980), p.17.

Figure 21: Bar chart of theft by sex and occupation in Lincolnshire



One aspect to consider is how their parishioners viewed those who took theft cases to court. For instance, those who took cases to court unnecessarily were considered with scorn, as demonstrated in *A Song Made of Nothing* below:

He that delighteth to goe to the Law,
To sue for a trifle thats scarce worth a straw,
May sue for a Woodcocke, and catch a Jackdaw,
For all comes to nothing.⁶⁰

This attitude was particularly prevalent when the accused or their neighbours felt the accusation upset the community network or was simply a misunderstanding. This occurred in Lincolnshire when William Smith was accused of stealing a drake. A witness, John Lovell, said that ‘he saw Smith struck a drake of his which he had on their common fen, and Smith picked it up and feloniously took it away with him.’⁶¹ Smith stated that ‘he was coming home from Bolingbroke market when he saw a drake which could not fly away so he took it with him, then he met John Lovell and William Change who were standing on the road where he wanted to go, and he told them that he found the drake which could not fly and he wished its right owner had it.’⁶² The accused, Smith, was a husbandman, and the accuser, Lovell, was a yeoman – thus, they were of similar occupation. They used the same common fen for their animals, making them neighbours of sorts. Therefore, in these situations, theft

⁶⁰ Unknown, *A Song made of nothing*, l.57-60.

⁶¹ ‘Statement of John Lovell’ *Lindsey*, (11th November 1630) – LA – QSR - LQS/A/3/1/38.

⁶² ‘Examination of William Smith’ *Lindsey*, (11th November 1630) – LA – QSR – LQS/A/3/1/37.

(which may not have been a theft at all) risked upsetting the reputation and social credit men depended upon in their communities. Sharon Howard, in her analysis of theft in early modern Wales, has determined this was why 'settling disputes informally, including those involving property misdemeanours, was encouraged to avoid potentially disruptive effects, the ill-feeling and conflict of confrontational court cases.'⁶³ Thus, in cases where these instances did make it to court, the accuser could be presented as the negative ideal of manhood by challenging another's reputation amongst the community, especially if it was a questionable theft.

What (Stolen):

The analysis of what items were stolen focuses on the county of Lincolnshire, as their Quarter Session records have the most consistent information within the Session Rolls as to what was stolen.

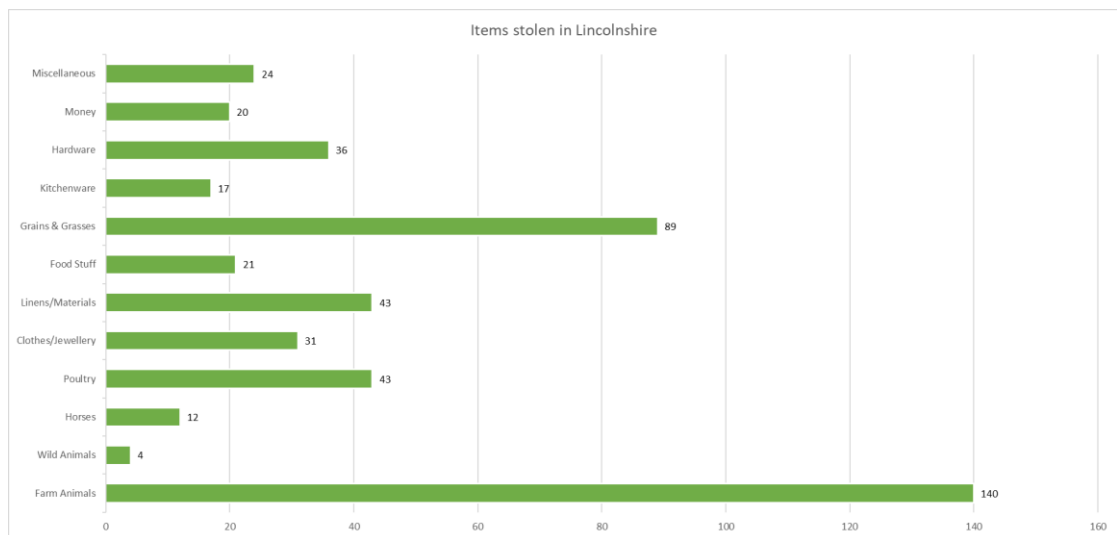
Grains and food sources, such as farm animals, kinds of wheat and specific food items, were the most common items stolen for both sexes combined – which was intrinsically connected to accessibility and need. As Lincolnshire was principally an agricultural county, with a significant portion across Lindsey being mixed farming, which largely became grazing throughout the seventeenth century, the environment in which thieves operated was centred mainly on agriculture, either grains or livestock. As aforementioned, the most common thieves were labourers, and thus, this is illustrative of the connection between environment, occupation and what was stolen: as for 'males in the early modern period, the location was usually outside of the home, perhaps within the sphere of work, in animal husbandry or within the industry.'⁶⁴ Moreover, women may also have had access to grains through the threshing process or, indeed, specific food items in their roles in the kitchens and trading such items on markets. Critically, Whittle and Hailwood found within their dataset that 'women made up around a third of those carrying out fieldwork tasks and half of those doing tasks related to animal husbandry', so although specific tasks in the agricultural world were gendered, there was flexibility

⁶³ Howard, 'Responses to Theft', p.411.

⁶⁴ Lees, "'Thou Art a Verie Baggadge'". p.277.

rather than a gendered labour divide in the seventeenth-century agricultural sphere, with women a significant proportion of the workforce.⁶⁵ Therefore, it was expected that there would have been a considerable number of food items such as grains, livestock, and poultry stolen by both sexes within this period.

Figure 22: Bar chart of items stolen in Lincolnshire



‘Farm animals’ was the largest livestock category, including (but not limited to) cows, sheep, and oxen. This was the largest category of items men took – it comprised 33% of the items men stole. Of all the livestock stolen, sheep were the most common (as either sheep, skins, or mutton were stolen in 138 cases across the county.) The examination of thefts in Lindsey supports the findings that the use of court records reflects work patterns, as Whittle and Hailwood found in their examination of Devonshire, Wiltshire and Somerset Quarter Sessions ‘67% of work tasks involving sheep were integral [reflecting] the prevalence of sheep stealing cases in the Quarter Sessions’.⁶⁶ In Lincolnshire, this was primarily due to the abundance of sheep, which were valuable stock to both mixed and pastoral farmers, especially in the years before the Wars when the land was given over to sheep-raising, as there was more profit in wool production than income from tenant crop production.⁶⁷ For instance, William Willerton was branded for having four-

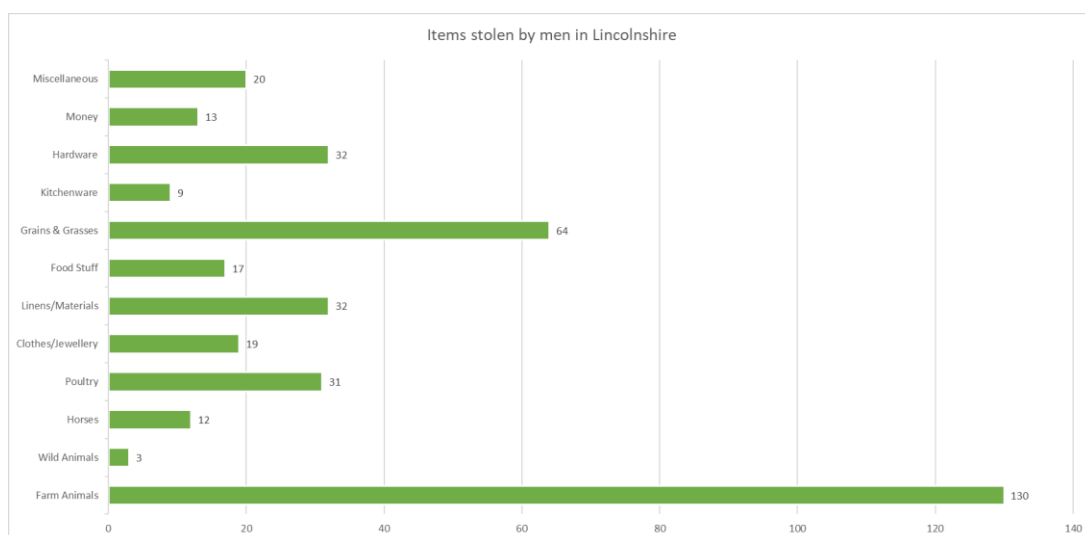
⁶⁵ Whittle and Hailwood, 'The Gender Division', p.17.

⁶⁶ Whittle and Hailwood, 'The Gender Division', pp.13-14.

⁶⁷ Joan Thirsk, *The Agrarian History of England and Wales 1640-1750*, vol.5 (Cambridge: Cambridge University Press, 1985), p.318

quarters of mutton found in a churn in the corner of his house. Upon investigation by Thomas Spenloe, Willerton declared that he had brought the mutton at Louth market, yet upon being asked further, he confessed that he stole the sheep around Louth Park Abbey.⁶⁸ Louth itself is in what was considered the Middle/Coastal Marshes, and 'in the coastal townships of the marshland, sheep continued throughout the seventeenth century to reign supreme.'⁶⁹ This case demonstrates versatility in distributing gains from stealing sheep as it can be used for wool, skins, and fabrics – effective ways of concealing the crime that had occurred - or simply resale.

Figure 23: Bar chart of items stolen by men in Lincolnshire



After grains and grasses, for women, clothes and jewellery were the next most common items stolen. As previously noted in this Lincolnshire section, this was primarily linked to their roles within the home and knowledge of how to modify such items and the market in which they can be resold. Similarly, linens such as sheets and materials like skins could readily be made into other items but were often easy to dispose of onto others. For example, a deposition by Elizabeth Wills, a spinster of Bilsby, declared that:

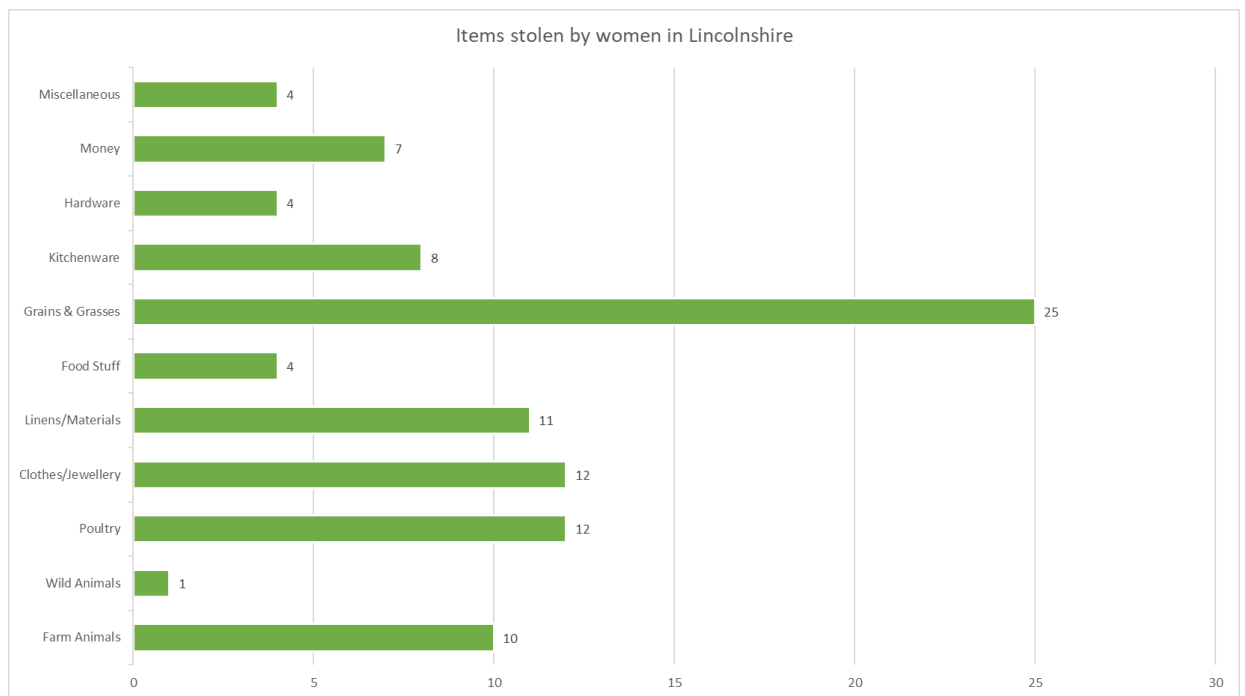
⁶⁸ 'Indictment of William Willerton' *Lindsey*, (10th October 1630) – LA - QSR - LQS/A/3/1/111; 'Recognisance for William Willerton' *Lindsey*, (19th October 1630) – LA – QSR - LQS/A/3/1/96; 'Information of Thomas Spenloe against William Willerton' *Lindsey*, (19th October 1630) – LA – QSR - LQS/A/3/1/117.

⁶⁹ Joan Thirsk, *English Peasant Farming: the agrarian history of Lincolnshire from Tudor to recent times*, (London: Routledge, 2006), pp.151-152.

a poor woman, Margaret Harrison, came to her mother Anne Wells" house, and asked for lodging there. The said mother in compassion took her into her house on Monday night, being the last of March. In the morning Margaret Harrison rose very early before the next of the house and took with her three sheets, one pair of hemp and a gown of this deponents sister of a violet colour kersey, and a green kersey waistcoat, a petticoat of linsey-wool and a hat of this deponents. This deponent with her sister pursued the said Margaret and found her with some of the parcels upon her at Horncastle about ten miles from Bilbsy.⁷⁰

Margaret ‘confessed all that was laid in the charge to be true and said that she sold the three sheets to one Robert Stafford of Salmonby, one alehouse keeper, and a hat for 3s 10 1/2d, and she is sorry for her fault.’⁷¹ The confession and indictment were dated 3rd April, the incident on the last day of March, demonstrating the knowledge, ease, and ability to move stolen material products on for female thieves.

Figure 24: Bar chart of items stolen by women in Lincolnshire



Overall, a small amount of kitchen and domestic wares (cutlery, pots and pans, were stolen, and there have oft been findings that ‘proportionately,

⁷⁰ ‘Deposition of Elizabeth Wells’ *Lindsey - Horncastle*, (3rd April 1634) – LA - QSR - LQS/A/1/6/158

⁷¹ ‘Examination of Margaret Harrison’ *Lindsey - Horncastle*, (3rd April 1634) – LA - QSR - LQS/A/1/6/158

household goods, pewter dishes and cooking utensils; and cloth, wool and yarn were particularly female targets.⁷² Three of these cases for women were committed on one day by one woman, Margaret Mackender, against three different men in separate incidents.⁷³ She stole one pewter dish and one brass pan worth six pence from Peter Richardson; from Edward Goose, she stole one pewter dish worth two pence; and from John Sherlock one pewter dish worth two pence also – all within the village of Mareham-le-Fen.⁷⁴ Unfortunately, there was no further information on the judgement of these cases against Margaret, but it was outlined that she was at large. This seems to confirm that patterns of theft were intrinsically linked to their occupational spheres, which were inherently gendered, and where their networks often operated. Yet the theft of kitchenware had the smallest ratio of men and women – nine male thefts and eight female thefts, although this was two per cent overall of the items men stole and eight per cent of what women stole. Furthermore, regarding foodstuff, women had four incidences across the 30 years, and men had seventeen in this district. Thus, this research builds upon Jones' notion in her examination of food and kitchenware thefts 'that women stole for their households is not fully confirmed' by determining that this also applies to Lindsey.⁷⁵

What (Punishment):

The accounts for the Lindsey sessions of Lincolnshire have a high degree of cases where the outcomes are recorded, and often, there was detail of the punishment or judgements given; moreover, of the three counties examined, the Lincolnshire records are the most consistent in outlining the value of the items stolen. The case studies presented allow for an examination of the application of the law and judgements outlined for crimes of theft. This included the mitigating factors taken

⁷² Walker, 'Women and theft', p.87.

⁷³ 'Recognisance of Edward Goose, Peter Richardson and John Sherlock against Margaret Mackender' *Horncastle*, (29th March 1634) – LA – QSR – LQS/A/1/6/141.

⁷⁴ 'Indictment of Margaret Mackender' *Horncastle*, (28th March 1634) – LA – QSR – LQS/A/1/6/184; 'Indictment of Margaret Mackender' *Horncastle*, (28th March 1634) – LA – QSR – LQS/A/1/185; 'Indictment of Margaret Mackender' *Horncastle*, (28th March 1634) – LA – QSR – LQS/A/1/6/191.

⁷⁵ Jones, 'Offences against Property', pp.42-43.

into consideration by the offenders, the prosecutors and those passing the judgements.

In Lincolnshire, the pleas given in theft cases suggest that there was a significantly higher proportion of women who pled not guilty with a significant distinction between the numbers – a ratio of 2:1. In contrast, for men, there was a minor difference between those who confessed and those who denied the crime. As a trend noted across two counties rather than Lindsey specifically, this will be compared and explored further in the chapter conclusion.

Table 6: Theft case pleas by sex in Lincolnshire

Sex	Not Guilty	Guilty
Male	31, 49%	32, 51%
Female	16, 64%	8, 32%

Other historians have highlighted suspicions in some cases that the worth of the stolen goods had been lowered to prevent cases from being classified as grand larceny.⁷⁶ There are several instances of this within the East Lindsey sessions, although this was applied in two different ways: to lower the value of the items stolen or to be found guilty of a different crime. The evidence for the application of these methods is scant in Lindsey. Only two women and three men received the slightly lesser crime of trespass, plus three men and two women received an outcome of theft but for a lower value.⁷⁷ Although a small cohort is challenging to draw definitive conclusions from, the minor difference in the numbers of each sex that received these charges of modified crimes suggests there was little impact of the offender's sex on this type of case outcome.

An example of this type of outcome is seen in the case of Elizabeth Brocklebank and Mary [last name unknown], who were charged with stealing a cow to the value of 10 shillings, the goods and chattels of one Christopher Manners, however 'the jury say they are guilty to the value of x d and is whipped att Caistor'

⁷⁶ Sharpe, *A County Study*, p.146.

⁷⁷ For trespass crime 'Verdict for Mary Slater and Sara Slater' *Lindsey*, (18th November 1630) – LA – QSR – LQS/A/3/1/20; 'Verdict for Simon Mawe' *Lindsey*, (1st January 1630) – LA – QSR – LQS/A/3/1/203; 'Verdict for Robert Palfreyman' *Louth*, (1st February 1633) – LA – QSR – LQS/A/5/123; 'Verdict for William Warner' *Horncastle*, (5th February 1634) – LA – QSR – LQS/A/1/6/181.

(X d being the value of 10 pence.)⁷⁸ This is notable as Huggett and Peachy's study found that a cow in 1645 was valued at £3 and 4 s; thus, there was a deliberate and significant reduction in the value.⁷⁹ Although a cow may be marked down for age, sex, and health condition, there was a considerable difference. J.A. Sharpe determined that this lowering of goods was to avoid the offender receiving a death sentence potentially; this may have been particularly pertinent for those who were first-time offenders.⁸⁰ The previous value of 10 shillings meant that these women should have been charged with grand larceny, a crime punishable by death, and yet the lowered value made it a case of petty larceny, which could be dealt with by being stripped, stocked and whipped – as indicated.

It is also reasonable to suggest that the value in some cases was lowered simply as a matter of the valuation of the goods. For example, Robert Willoughby was accused of taking and carrying away two sacks of wheat chaffe to the value of five shillings. Yet he put himself upon the jury who 'he is guilty the value of iij 8 he reads [and] is burned.'⁸¹ Despite the price being lowered from five shillings to three, the crime remained that of grand larceny. However, in this instance, it appears that the benefit of the clergy was offered, and the victim was burnt/branded instead of the possible death sentence. There are seventeen cases in the Lindsey Quarter Sessions records where 'reads and is burned' was the outcome for grand larceny cases rather than a death sentence. Notably, these cases were dealt with by the Quarter Sessions rather than the Assizes, and it may be that these were straightforward instances of theft of a small enough value to be dealt with by the Quarter Sessions. Compared to cases that were more complicated or of even greater value and required prosecution at the Assizes. As the crime remained in the category of grand larceny but could be ameliorated by the benefit of the clergy, this

⁷⁸ 'Indictment of Elizabeth Brocklebank [...] and Mary the wife of [damaged]' *Lindsey*, (20th December 1658) – LA – QSR - LQS/A/1/17/43.

⁷⁹ Robert Huggett, Jane Huggett, and Stuart Peachey, *Early Seventeenth Century Prices and Wages*, (Bristol: Historical Management Associates, 1992), p.26.

⁸⁰ Sharpe, *Crime in Seventeenth-Century England*, p.146.

⁸¹ 'Indictment of Robert Willoughby' *Lindsey*, (20th April 1659) – LA – QSR - LQS/A/1/18/26. For the original manuscript and transcription please see Appendix 2.

suggests the value was lowered for other reasons, possibly to reflect a desire for accuracy rather than a direct avoidance of a possible death sentence.

There is only one instance in the Lindsey session where it was explicitly outlined in the judgment that the case was found against one sex rather than the other. Husband and wife William and Mary Blo[?]e were charged with the felonious stealing of a scythe, to the value of 11 pence, from the goods and chattels of Thomas Richardson.⁸² The verdict states explicitly that ‘this bill we finde against the man but not the woman’. Unfortunately, there was no indication as to how the jurors came to this judgement, but it may be that due to the type of items stolen, this had more providence for William, or as previously outlined in this chapter, it has connotations to gender ideas regarding husbands leading their wives astray. This is supported by the findings in Table 8 that there was a greater proportion of women’s cases with a not guilty outcome once the jury had reviewed the trial.

Table 7: Theft outcomes by sex in Lincolnshire

Outcome	Male	Female
Dismissal Rate*	101, 40%	16, 29%
Downgraded	5, 2%	2, 4%
Billa Vera	108, 43%	24, 43%
Not Guilty**	12, 5%	7, 12%
Guilty	28, 11%	8, 14%

*Those who were listed as Ignoramus/Dismissed/Acquitted/we know not – essentially the decision was that there was not enough evidence to prosecute, As opposed to Billa Vera/We find/This is a true bill – terms for cases that were taken forward to a jury.

**Only those with a specific verdict are listed as not guilty on the bill.

However, Table 7 suggests, in support of Walker’s challenge to the finding that women were treated leniently by the courts, that there was a greater punishment rate for women; this may again be linked to seventeenth-century ideas regarding women and criminality.⁸³ For instance, women convicted of crimes were potentially punished on two accounts. Firstly, these women were punished as law-breakers for the thefts they committed. The second aspect is more subjective and difficult to evidence, but the higher number of women punished may be a

⁸² ‘Indictment of William and Mary Blo[?]e’ *Spittle*, (20th July 1657) – LA – QSR - LQS/A/1/16/41

⁸³ Walker, *Crime and Gender*, p.270.

reflection of women’s transgression of gendered characteristics and social morals. As women were expected to be submissive and passive, their active role in stealing from others in the community subverts those ideals and, thus, were punished for this. Hence, by ensuring the punishments were enacted upon these women, it was also intended as a deterrent to other possible female criminals – especially as the most common form of punishment, being stocked, stripped, and whipped, was a method of public shaming.

Table 8: Theft punishments by sex in Lincolnshire

Punishment Type	Male	Female
Punishment Rate ***	28, 11%	7, 13%
Benefit of the Clergy (either being branded or burnt)	16, 57%	1, 14%
Committed (either to the House of Correction or the Goal – as an intended outcome)	3, 11%	0, 0%
Corporal Punishment (including any variation of being stocked, stripped and whipped)	8, 29%	6, 86%
Monetary (those who received fines)	1, 4%	0, 0%

On the other hand, there was evidence in the records that gender expectations or stereotypes could be used to the offender’s advantage when considering the outcomes given and that the offenders were indeed aware of this. For instance, three people were stealing wheatmeal from the mill: Peter Clarke and Katherine Bow, along with mother and son Anne and Chris More. In her examination, Katherine indicated that Anne had told her that:

when she askd her to goe with her to breake ye mill told Chris her son if he should be taken in ye Act of ye Law would not taken hold of him being under age and for her yt none would meddle with her because her children would be a charged to yt parish if they did follow y Law against her and saith it accomlishe y intended felony.⁸⁴

Anne was acutely aware of the law, and it would seem the likely outcome of a case involving children. She acknowledges that those considered underage would not be punished or taken from her, and due to the children relying on her maintenance – as a widow - she would not face punishments such as the house of correction as this would leave the children chargeable to the parish and put more pressure on the community. However, Anne was whipped, the usual punishment for petty

⁸⁴ ‘Examination of Katherine Bow’ *Spittle*, (December 1658) – LA – QSR - LQS/A/1/17/222

larceny and not one that would necessarily impact the parish finances.⁸⁵ Anne subverts the gender expectations of the role of the mother in encouraging her child to commit crimes and using the said child as a means of escaping the law. Yet, that very role offers her an opportunity to avoid punishment. Moreover, the motivation may also support her role as a mother; for instance, if she struggled to maintain her children alone, she may have turned to stealing to provide for her children. Unfortunately, there was no indication of the motivations for this crime, but this case is crucial in demonstrating how gender and social expectations are impacted by and, in turn, impact the law.

When:

Throughout 1630 to 1660, there were several bad years of harvest. Consequently, J.C.M Walker identified, 'the percentage of thefts which involved foodstuff rose and fell with these prices.'⁸⁶ This was due to the concern over harvest yield, increased demand, availability at food markets, and the potential price increase of food subject to these issues. This concern about the relation between food, dearth and theft was apparent within popular literature as one ballad from Hyder Rollins's collection depicted:

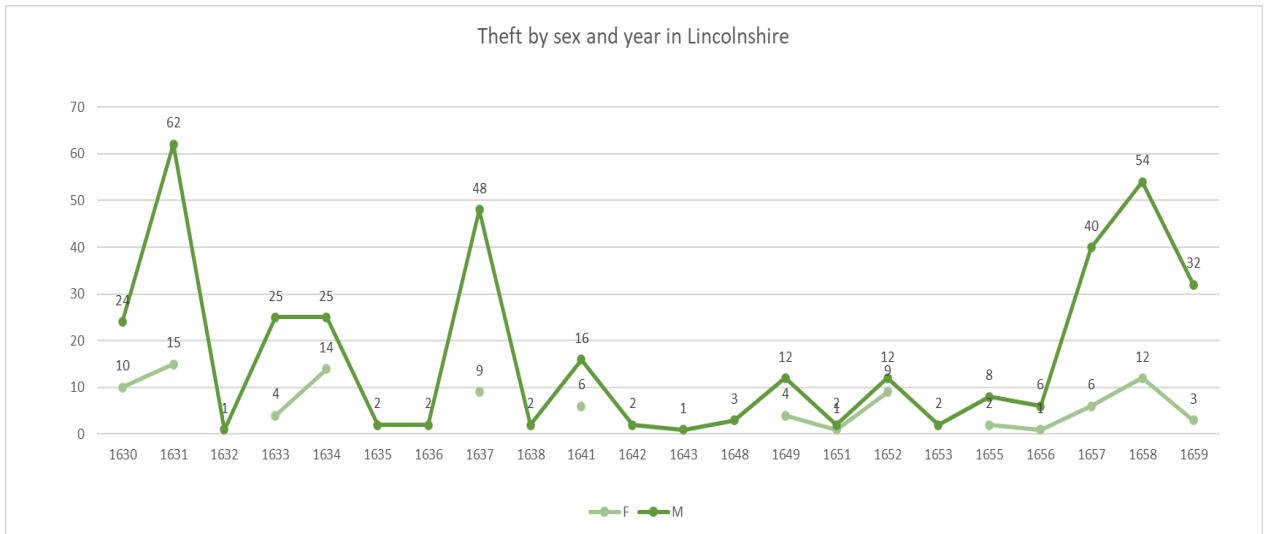
We over-whelmed are with grieffe,
and harbour many private thiefe [...]
true love and friendship doth now decay,
Poor people's almost starv'd they say,
Our trading's spoyl'd.⁸⁷

⁸⁵ 'Examination of Anne More' *Spittle*, (December 1658) – LA – QSR - LQS/A/1/17/196

⁸⁶ J.C.M. Walker, *Crime and Capital Punishment in Elizabethan Essex*, (University of Birmingham, B.A. Dissertation: 1971), p.59 cited in John Walter and Keith Wrightson, 'Dearth and the Social Order in Early Modern England', *Past and Present*, vol.71 (1976), pp.22-42: p.24.

⁸⁷ *The Royall Health to the Rising Sun*, (1619) in Hyder E. Rollins (ed.) *Cavalier and Puritan Ballads: Ballads and Broad-sides Illustrating the Period of the Great Rebellion 1640-1660*, (New York: New York University Press, 1923), p.249.

Figure 25: Line chart of theft by sex and year in Lincolnshire



The evidence from Lincolnshire supports this connection between theft, need and years of bad harvest. There is a trend in Figure 25 that when there were peaks in the number of thefts recorded at the Quarter Sessions, this was apparent for both sexes, suggesting broader motivating factors were influencing this. Moreover, these peaks often coincide with specific years of known poor harvests, for instance, 1630, 1637, and 1658. As W. G. Hoskins outlined, 1657 was a deficient harvest, and 1658 was ‘the first really bad harvest since the ominous year 1649,’ demonstrating connections between these two elements.⁸⁸

Harvest issues may also impact the types of items stolen. For instance, food produce that was already made, baked, cured or stored was also targeted by thieves for several reasons that included opportunity, ease, need or even food gifts that could be given by those on the margins of society to others in the community to create a network. This may have been particularly prevalent in poorer parishes or in years when dearth and difficulties created limited financial resources.⁸⁹ Food sources and products may then have become their element of currency. This can potentially be seen in the case of Thomas Barton, who was committed for breaking into John Marshall’s warehouse at Gainsborough and stealing nine pieces of cheese during 1630 – he might have stolen this considerable number of cheeses to either

⁸⁸ W. G. Hoskins, ‘Harvest Fluctuations and English Economic History, 1620-1759’, *The Agricultural History Review*, vol.16: no.1 (1968), pp.15–31: p.20.

⁸⁹ See Natalie Zemon Davis, *The Gift in Sixteenth-Century France* (Oxford: Oxford University Press, 2000).

gift them or for re-sale as it was improbable these were for his individual use.⁹⁰ Especially as the theft of these cheeses would require some forethought on how to steal such a mass and how to distribute them, as these would have been a large and heavy load. The potential aim of this theft was to acquire gifts to essentially create a support network for himself during a period when food prices and availability were being impacted by the poor harvests that year.

Where:

Examining where theft crimes were being committed can provide a basis for analysis. For instance, if there were clusters of theft, why this may be, or if there were certain features that led to increased numbers of stealing? For Lincolnshire, the data for this aspect solely came from the Lindsey sessions of Spittle, Horncastle, Castor, and Tattershall.

There appears to be a considerable string of theft crimes along the eastern side of the county between Cleethorpes and Skegness (see Figure 30); regarding the county's geology, this area is a part of the Coastal Marshes. This section of the county was mixed farming, although it became largely grazing land as 'the balance stuck by each farmer between his arable and his grassland had been altered; arable land was now smaller because he was devoting more land to pasture and meadow' to support his livestock.⁹¹ Consequently, it was expected that this area would have a large number of animals and grains stolen as this was the highest volume of items stolen and a higher number of thefts. Similarly, the Lincolnshire Clays, which lined the border with Nottinghamshire, had the same geological basis and use of the land, so there was a notable string of thefts within this area as well.

Notably, there was a connection between the Great North Road and theft crimes in Lincolnshire. For example, Jane Henderson 'came to William Jackson's shop [at Gainsborough] and stole six yards of French green kersey from him. As she was going out of the door he saw the cloth under her short cloak, then he took hold of her, and presently it fell from her.'⁹² Jane was asked 'what she was doing in

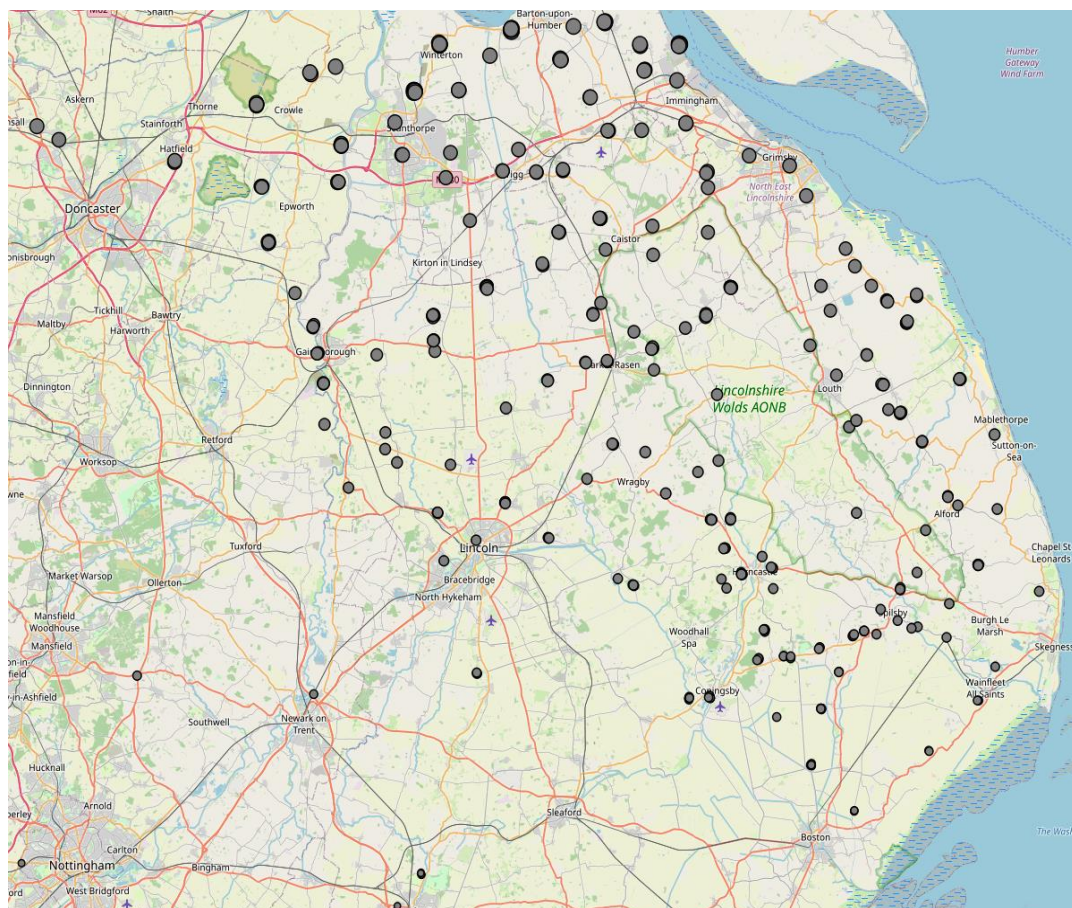
⁹⁰ 'Indictment of Thomas Burton' *Lindsey*, (12th January 1630) – LA – QSR - LQS/A/1/3/19.

⁹¹ Thirsk, *English Peasant Farming*, p.156.

⁹² 'Information of William Jackson' *Spittle*, (2nd April 1634) – LA – QSR – LQS/A/6/1/23

Gainsborough yesterday and said that she had been at London about some business and was returning home to Northallerton, Yorkshire.⁹³ With Gainsborough being a market town around ten miles from the Great North Road, which ventured directly from North Allerton to London, she may have been visiting the markets on her homeward journey. Thus, the Great North Road had the potential to bring traders, travellers and vagrants into other counties, which provided chances for opportunistic thieves to take portable wares from the market towns and villages along the road. It also allowed them to easily dispose of the items to other travellers on the road or at the next village. This would make it harder to ascertain whether a crime occurred with no produce or suspect.

Figure 26: GeoMap of theft in Lincolnshire



⁹³ 'Examination of Jane Henderson' *Spittle*, (2nd April 1634) – LA – QSR – LQS/A/6/1/23

Figure 27: Plate from Ogilby's Britannia (1675) showing the Great North Road section at Northallerton.

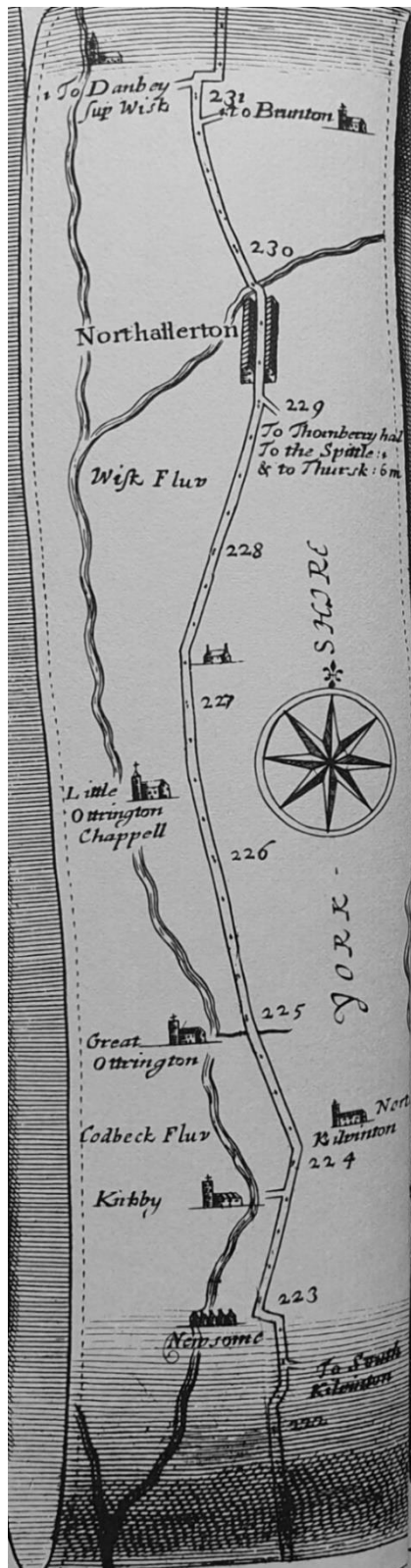


Figure 28: Heat map of rate of incidences in Lincolnshire

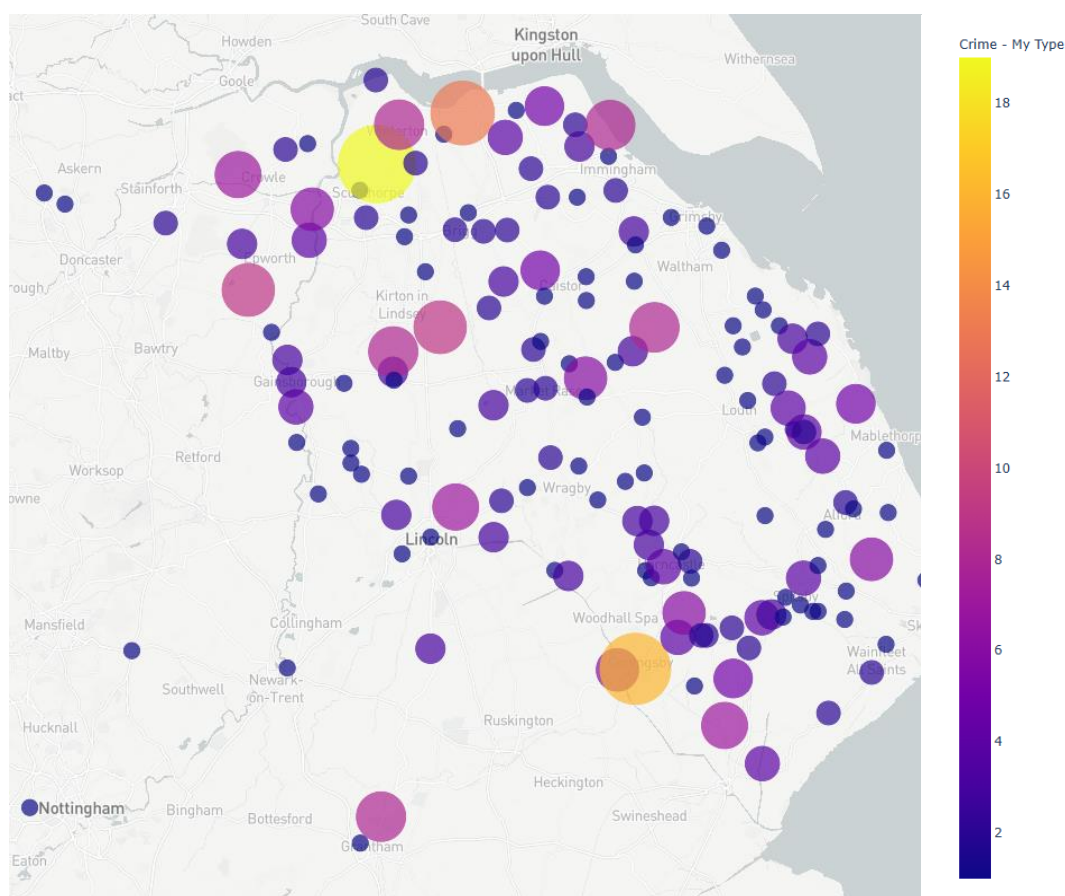


Figure 28 demonstrates a greater number of occurrences, mainly in the Northern region of Lindsey. As outlined in Chapter One, this land has similar uses to the Coastal sector, the area was predominantly clay and miscellaneous soil, which lent itself to mixed farming. Joan Thirsk, in her crucial study of *English Peasant Farming*, determined that of the crops grown across the region for arable agriculture, 'barley remained the largest single crop, pulses next, wheat third, rye fourth and oats fifth.'⁹⁴ This likely impacted the types of grains stolen. For instance, Mary and Sara Slater faced an indictment of theft 'for breaking into the close of William Grace on 10th Sept 1630 and for taking and carrying away sheaves of barley worth 10s this being the goods of the same William Grace.'⁹⁵ Grains and grasses

⁹⁴ Thirsk, *English Peasant Farming*, p.187.

⁹⁵ 'Indictment of Mary and Sara Slater' *Lindsey*, (18th November 1630) - LA – QSR – LQS/A3/1/20

comprised 18% of the total number of items stolen across Lincolnshire by both sexes (only behind livestock).

Concluding Thoughts:

Examining theft crimes in Lincolnshire between 1630 and 1660 is particularly fruitful due to the significant number of crimes and the large number of details each case holds.

Lincolnshire has the highest difference in the proportion of male and female offenders for theft crimes. Across the thirty years, the number of women's theft each year ranged from one to twenty instances, whereas for men, this was far greater at one to 65 instances. This difference could be due to the contemporaneous beliefs in why and what women were stealing, for example, items that were of low value and easy to disguise or distribute – as well as women's overall position in the law. In terms of the occupation of those who stole, it was expected that this would be those who were considered the most vulnerable within society at this time. For men, this was apparent, as the most common occupation was a labourer – their seasonal work and low wages could have created greater instances of need. Yet for women, the majority were wives rather than single women, which may be evidence that husbands coerced their wives into criminal acts.

The most common items stolen altogether were farm animals, then grains and grasses. Individually, this was the same pattern for men, whereas for women, grains and grasses were the most common, followed by clothes/jewellery and poultry equally. As suggested earlier in this chapter, this could be connected to their knowledge of such items, their access to them and the ability to transfer or move them on. There is evidence within the Lindsey cases that the value of the goods was, in some instances, being reduced to potentially avoid the case being treated as grand larceny and thus the chance of punishment by death. However, there were also cases where the value of the goods was significant (over one shilling), and therefore, the case ought to have been reviewed at the Assizes. Yet, there are no cases in Lincolnshire where the outcome was a direct referral to the Assizes. Instead, there was evidence of the benefit of the clergy being used for

cases of grand larceny dealt with by the Quarter Sessions. It may be that in Lincolnshire, there was a more fluid divide between the two courts, and thus, for cases that may not have required the death penalty, there was an allowance for these to be resolved in one court.

In terms of the number of theft crimes recorded in Lindsey, there was a correlation between years of bad harvests and spikes in recorded thefts for both sexes. This suggests that the most prominent motivating factor for theft for both men and women was need. There were some years in which there were no recorded accounts of women thieves between 1630 and 1660, which may also account for why there were fewer women overall. There does not appear to be a general trend in the figures across the county apart from considerable peaks at both the beginning and end of the thirty years. The thieves operated mainly in areas where there was likely to be a conglomeration of people, for instance, on major roadways or market towns. This was due to the ample opportunities these places offer in terms of both stealing and offloading goods. Furthermore, there were often thefts in specific rural areas, which coincided with where certain items were in abundance, for instance, sheep in the marsh areas of East Lindsey.

Examining theft crimes in Lincolnshire between 1630 and 1660 has demonstrated how topography, demographics, economy, and trade have impacted criminality at a regional level, as well as how gender has impacted aspects such as motivating factors and punishments.

[Nottinghamshire:](#)

Introduction:

Within the Nottinghamshire Quarter Sessions Minute Book, there were 547 recorded instances of theft crimes from 1630 to 1642 and from 1652 to 1659. The records show differences in the language used to indicate theft crimes. Although the term felony incorporated several types of crime and generally denoted a crime worse than a misdemeanour, it has often been used throughout these records

interchangeably with larceny for theft. This is because, in some instances, the information provided outlines it as a case of theft, or often the type of punishment (stocking stripping and whipping) indicates a theft: moreover, usually, other crimes such as assault, arson, rape, and murder are listed directly. Linda Lee has also noted within her thesis that these felonies were thefts.⁹⁶ Petty larceny was intended to be dealt with in the Quarter Sessions, but in some instances, no charge was listed. So, this information was taken from the language within the record, such as the 'stolen goods' or the 'taking and carrying away of goods' – these have been interpreted as theft cases. The Nottinghamshire Quarter Sessions Minute Books also provide information on the judgement of cases, allowing a more extensive exploration of the outcomes.

Who (Sex):

Overall, when comparing the number of male and female thieves within Nottinghamshire during this period, there was a considerably larger number of male thieves than female thieves: men comprised 71 per cent of the overall offenders, and women comprised 29 per cent.

There were several repeat offenders within Nottinghamshire for theft, 20 in total for the period. In line with the number of male and female thieves overall, there was a significantly higher number of male repeat offenders – nineteen to one female. There are two types of repeat offenders included in this analysis: those who were listed at the same sessions for two different theft offences and those who committed acts of thievery several years apart. For instance, there was the spinster Alice Skepper, who had the most repeat offences, a total of four committed in 1631, 1632, 1633 and 1638 – unfortunately, there was no information as to what was stolen – in the first two instances, her punishment was to be stocked, stripped and whipped, yet in 1633 she was sent to the House of Correction to be whipped and set to work. This change to the outcome of the crime may well be due to Alice being a recidivist and requiring further punishment to deter any future crimes. In the case of 1638, Alice was found to be not guilty. The continuing thefts may reflect

⁹⁶ See in particular Chapter Seven, 'Women and Men in the World of Stolen Goods' in Lees, "'Thou Art A Verie Baggadge'", pp.269-323.

a need to steal, especially as previously outlined within this chapter, spinsters were particularly vulnerable.

One aspect to address is how the proportion of men and women involved in theft changes over time – Nottingham is a vital county for this due to the survival rate of its records for consecutive years. Generally, the number of theft crimes within the Quarter Sessions Minute Books decreased between 1630 and 1660, but the proportion of women slightly increased between the decades. The average proportion of women thieves in the decade of the 1630s was 29%, and for the eight years available in the 1650s, the average was 33%, suggesting a slight increase. For the 1640s, there were only three years to ascertain an average, of 35%, so this may not truly reflect the period as there was very little data available. From the analysis of theft between 1630 and 1660, numerous factors could explain why the proportion of men committing theft crimes decreased compared to women's increasing.

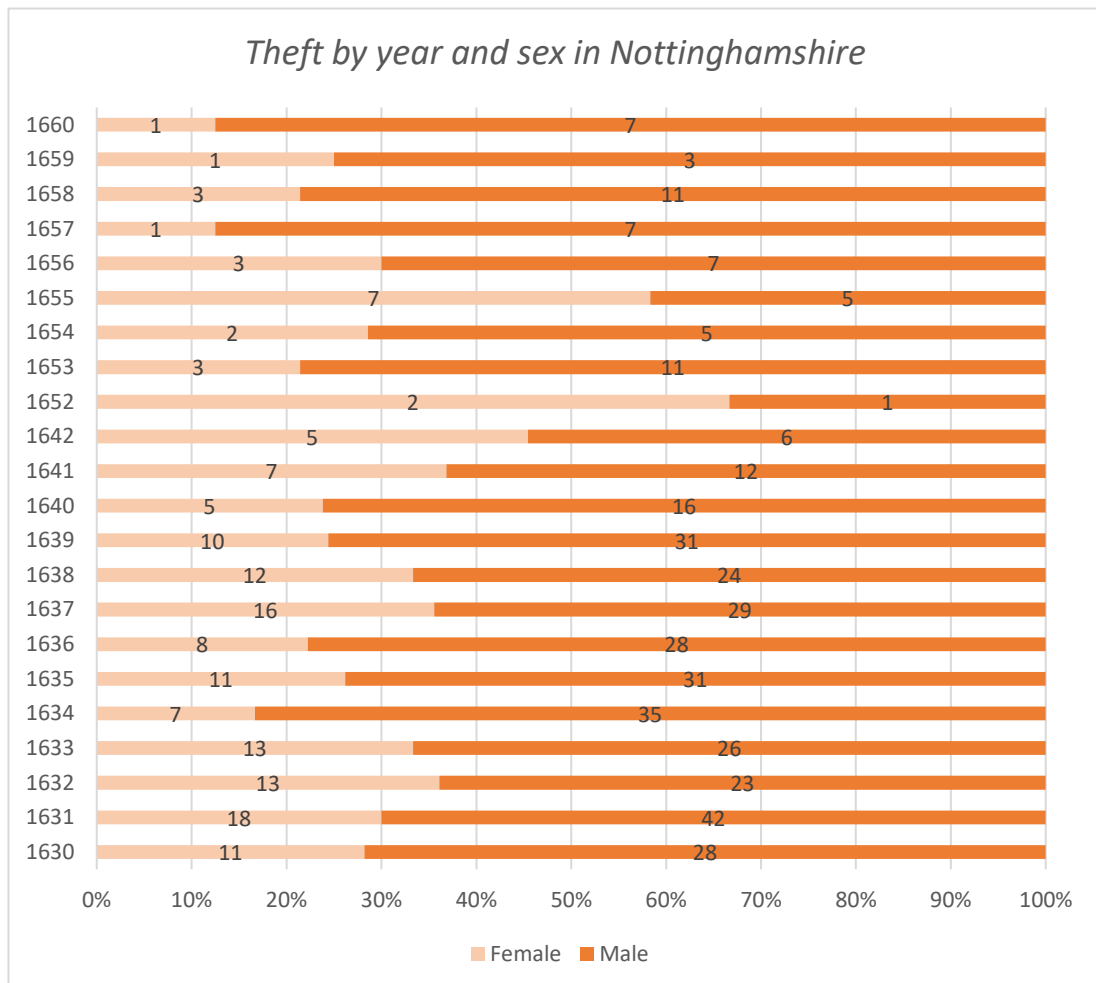
According to Hay and Beattie, warfare in the eighteenth century reduced property crimes due to the young males, often the labouring poor (those most likely to become thieves), becoming otherwise occupied.⁹⁷ Therefore, this reduction in thefts and male thieves may have been apparent in the years surrounding and during the Civil Wars in seventeenth-century Nottinghamshire. For instance, one Richard Clarke, a labourer of Stanton, was accused of theft in July 1640, yet the order stated that he was pressed to be a soldier.⁹⁸ This recruitment and servitude would have carried on throughout the Wars of the Three Kingdoms. This may address why the number of men committing theft in Nottinghamshire was particularly low between 1640 and 1642 compared to the previous decade, but it was similar to those after the war years. Regrettably, with the years 1643 to 1652 missing, it cannot specifically address the impact the midst of the war years had on the proportion of male and female thieves. Nonetheless, it does suggest that the

⁹⁷ Douglas Hay 'War, Dearth and Theft in the Eighteenth Century: The Record of the English Courts' *Past and Present*, vol.95 (May 1982), pp.117-160: pp.135-146; J. M. Beattie, *Crime and the Courts in England (1660-1800)*, (Oxford: Clarendon Press, 1986), pp.213-235.

⁹⁸ 'Order of Richard Clarke' *Nottingham*, (13th July 1640) – NA – QSMB – C/QSM 1/76.

build-up to the Civil Wars impacted theft crimes in the count, with a lower number of thefts recorded overall.

Figure 29: Stacked bar chart of theft by year and sex in Nottinghamshire



Who (Occupation):

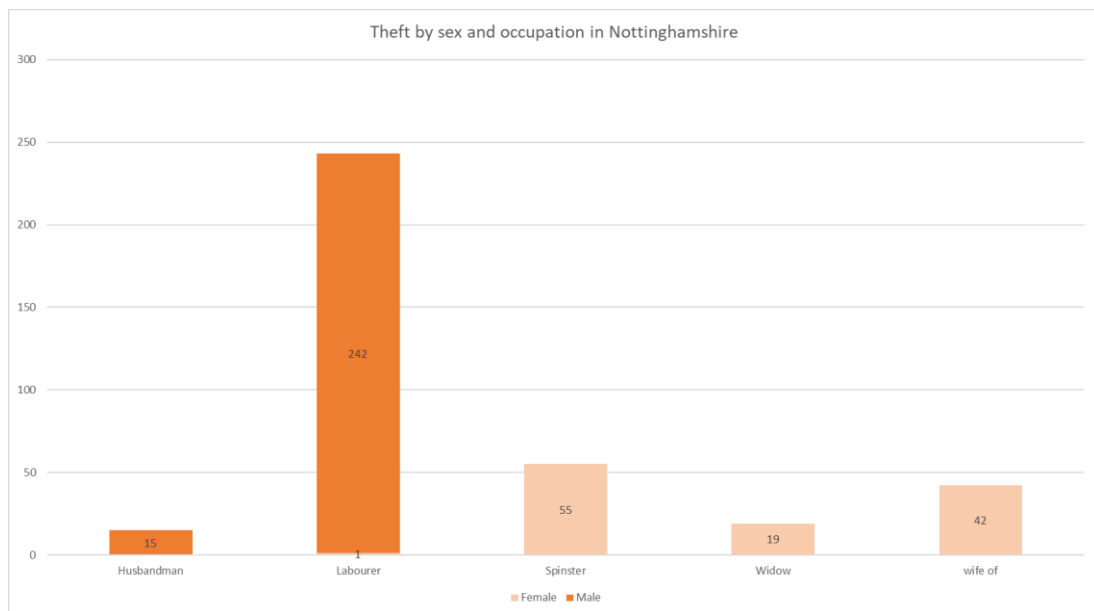
In terms of occupation, the Nottinghamshire data suggests this was the poorest in society. The largest proportion in the county was labourers – of which a building labourer could earn between 10d -12d a day. Whereas an agricultural labourer earned 3d a day plus food in the winter and 4d plus food in the summer, or before 1643 4s 10d a week (excluding food) and after 6s 4d a week: and depending on the time of harvest day labourers could earn between 4d to 6d a day plus food.⁹⁹ In context, a lb of mutton was 2d 1farthing, cheese 1d 1halfpence per lb, 6d for a pint of sweet water, and 2d for a bottled beer.¹⁰⁰ Although these wages and prices are

⁹⁹ Huggett, Huggett, and Peachey, *Early Seventeenth Century Prices and Wages*, p.7-8.

¹⁰⁰ Huggett, Huggett, and Peachey, *Early Seventeenth Century Prices and Wages*, pp.19-25.

not specific to Nottinghamshire (rather several southern counties due to available data), it still provides insight into the potential means by which the labourers had to live in Nottinghamshire. Hence, any potential rise in prices could significantly impact their budget and thus drive them to steal. Those who worked within or were associated with agriculture dominated the occupation of thieves in Nottinghamshire as there was also a significant number of husbandmen and yeoman. Figure 30 depicts the top five occupations for each sex – the rest are spread across a number of craft and skilled professions, such as blacksmiths and carpenters.

Figure 30: Bar chart of theft by sex and occupation in Nottinghamshire



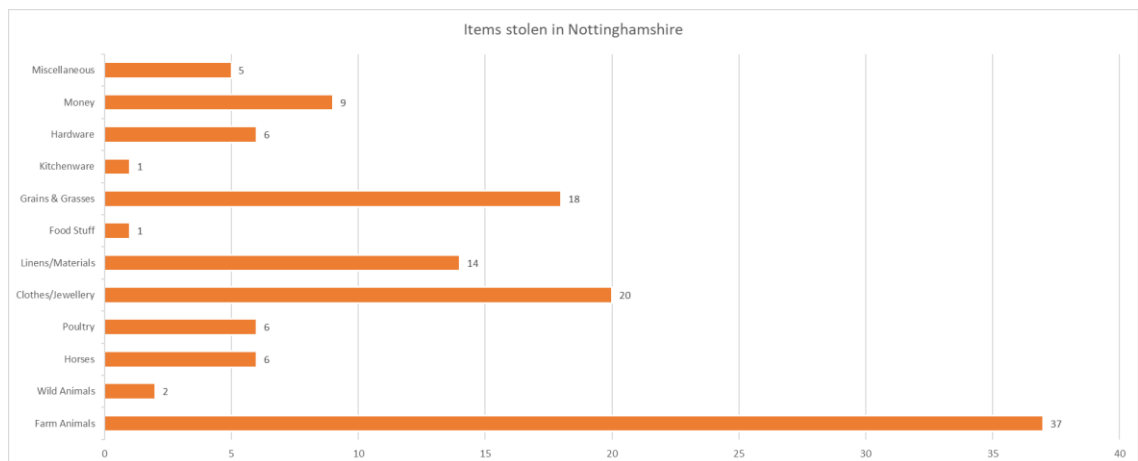
What (Stolen):

Unfortunately, within the Nottinghamshire Quarter Sessions Minute Books, not every case of theft has the details of what was stolen. However, it is still valuable to analyse if there are any trends or patterns within the information available.

As can be seen from Figure 31, which consists of what both sexes stole, farm animals comprised considerably the largest portion of items stolen. Clothes and jewellery were the next most common items. Followed by Grains and Grasses, Linens and Materials, then Money. Sheep were the most prominent farm animals stolen. This was connected to the accessibility element of farming – with a substantial proportion of the land in Nottinghamshire used for mixed farming,

particularly in both the south and east of the county, it creates the abundance, opportunity, and knowledge to steal such items. As previously outlined, the majority of those who committed them were of the labouring occupation, likely in an agricultural capacity; this provided them with the opportunity and networks to steal and distribute these readily available items. The next most stolen items were textiles, another domain in which both sexes engaged, albeit in different areas, and especially significant to this county. As indicated in Chapter One Nottingham Town and the surrounding area became a considerable area for textiles, including lace and tanning.¹⁰¹ For instance, women dominated lacemaking, stocking knitting, and creating accessories and undergarments. In contrast, men were predominant in tailoring, making shoes, and working with felt, leather, and outer clothes.¹⁰² Therefore, this supports the notion throughout this chapter that theft is linked to accessibility, mainly through a person's occupation, not determined by their sex.

Figure 31: Bar chart of items stolen in Nottinghamshire



Furthermore, as 'there was a deadly combination of trade depression and harvest failure in 1630', it was expected that food prices would increase due to demand, accessibility and lack of provision, which would impact crime.¹⁰³ Thus, items that could be used for food products, such as mutton and oats, were stolen more commonly due to the need and demand for them during a period of dearth

¹⁰¹ Alfred C. Wood, *Nottinghamshire in the Civil War*, (Oxford: The Clarendon Press, 1937) p.8.

¹⁰² Whittle and Hailwood, 'The Gender Division', p.19.

¹⁰³ John Walter, *Crowds and Popular Politics in Early Modern England*, (Manchester: Manchester University Press, 2006), p.69.

and wage pressure. Yet there was just one recorded instance of food produce being stolen in Nottinghamshire for this period: it was that of Mary Morton, a spinster of Bathley who stole dough in 1631, for which she was to be stocked, stripped and whipped.¹⁰⁴ This may be an issue of information being recorded within the record. For instance, it may be that those with no information written about what was stolen may well have been food produce, such as bread, cheese, or milk. It may also be that theft of these items was more challenging to ascertain, or these cases were settled outside of court due to their low value. Another possibility was that grains, livestock, or poultry offered greater longevity and reuse value to substantiate a family than singular food produce.

There was some difference in the items that each sex targeted when examining them individually. Men stole a greater variety of items than women; this could be due to their wider access to the outer domain and public sphere, which provided them with a wider range of materials to steal. Predictably, of the 84 records with information regarding what was stolen by men, sheep were the highest proportion by almost twenty per cent. Further reinforcing the finding that the environment and occupation determined what was being stolen, and consequently, as gender affected access to the spheres, it was intrinsically tied to items stolen, although not the driving factor. In comparison, the items that women stole were more concentrated in particular categories. There were 25 instances of theft for women where information on what was stolen was available – the largest proportion was linens and materials, followed by clothes and jewellery.

¹⁰⁴ 'Indictments of Mary Morton' *Newark on Trent*, (12th January 1631) – NA – QSMBT – C/QSM1/74/2

Figure 32: Bar chart of items stolen by men in Nottinghamshire

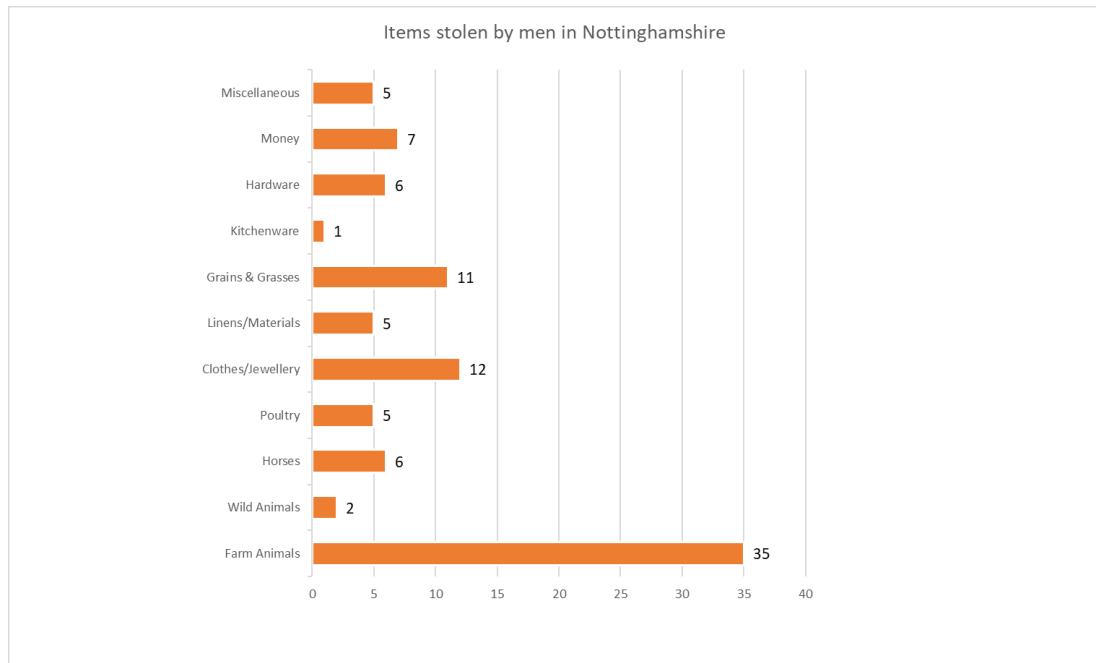
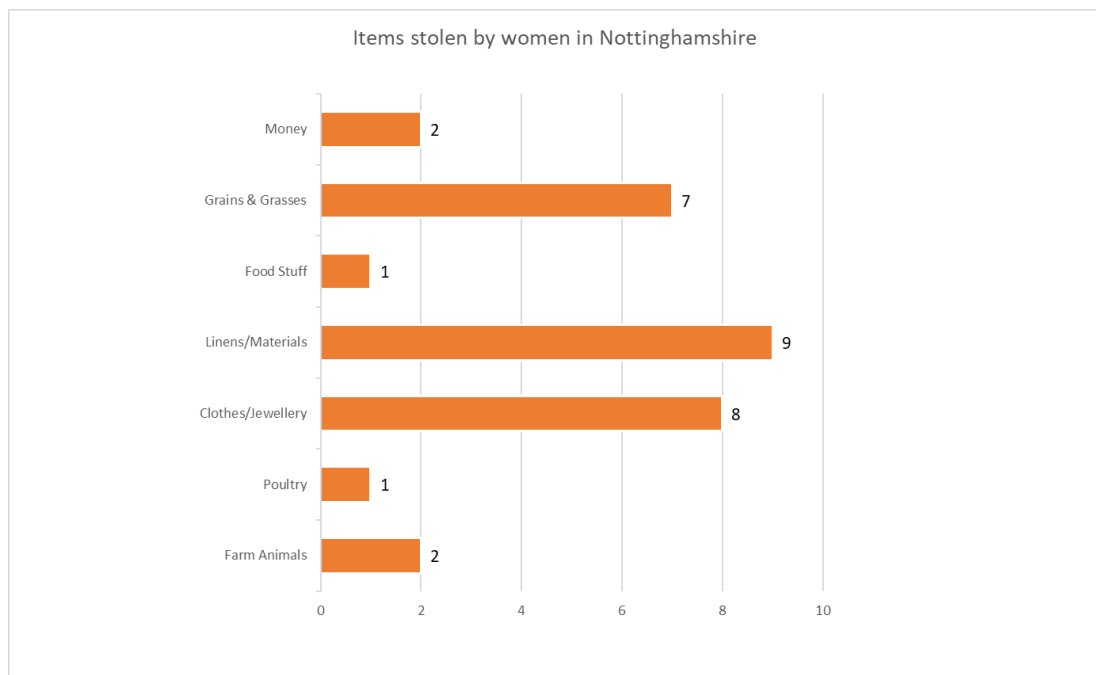


Figure 33: Bar chart of items stolen by women in Nottinghamshire



It is noteworthy that money was a very similar percentage of items stolen for both sexes – this is likely because money was accessible in both the private and public spheres, giving both sexes access to steal such items. There were three cases of women stealing money. In two, the outcome was a recognisance of £10 and to appear at the next session and in these cases, it was simply money stolen, 3/- by

Frances Tatnall in 1631 and 11 shillings in purse by Isabell Ireland in 1656.¹⁰⁵ The other case was committed by Elizabeth Alvey, who stole many clothing items and goods alongside 18d belonging to one Anne Gardus, suggesting this may have been committed within Anne's home.¹⁰⁶ For this, Alvey was ordered to appear at the Assizes, which was supportive of the total value of the goods determining which court the theft was dealt with. Similarly, men could also commit theft within the domestic sphere, such as Richard Lovet of Cortlingstock, who was indicted:

For entering the dwelling house of William Sarson at 12 o'clock of the night and burglariously stealing goods and money belonging to William, labourer of Costock and Ralph Ryder labourer of Costock both prosecuting.¹⁰⁷

For this reason, Richard was committed until the next Assizes. This was likely determined because burglary was considered a significant crime rather than a petty theft. But this case is an example of how both sexes could operate within the same environment and why, due to the variety of environments in which money could be found in both the public and private spheres, there was a similar proportion of each sex stealing this item. Moreover, in many cases where money was stolen, it was taken with other goods, such as in the abovementioned cases, along with two other of the eight cases, indicating that stealing money was largely opportunistic.¹⁰⁸

What (Punishment):

Several aspects of theft judgements can be addressed: for instance, exploring the impact of sex on the outcome of the case, examining what other potential factors could affect the case outcome, and determining the punishment given for the case. Very little data is available within the Nottinghamshire Quarter Sessions Minute Books regarding the pleas given for the accused crimes – of the 547 cases, only 37 have a recorded plea. Although it is apparent that there was a greater number of recorded instances where the defendant pled guilty or confessed to the crime – only two denied the crime. Unfortunately, there was even less information

¹⁰⁵ 'Indictment of Frances Tatnell' *Nottingham*, (3rd October 1631) – NA – QSMBT – C/QSM1/74/2;

'Recognisance of Isabell Ireland' *East Retford*, (18th April 1656) – NA - QSMB – C/QSM1/12/vol2.

¹⁰⁶ 'Indictment of Elizabeth Alvey' *Nottingham* (3rd October 1641) – NA – QSMBT – C/QSM1/77

¹⁰⁷ 'Indictment of Richard Lovet' *Nottingham* (1st October 1632) – NA – QSMBT – C/QSM1/74/3

¹⁰⁸ 'Indictment of John Plant' *Nottingham*, (9th January 1637) – NA – QSMBT – C/QSM1/75;

'Indictment of Ambrose Marshal' *Nottingham*, (9th January 1637) – NA – QSMBT – C/QSM1/75

recorded for those who pleaded not guilty, as can be seen in the case of Repentance Burke, who was:

this day indicted for unlawfully taking one ewe and one ewe lamb of the goods and chattals of George Kirke came and pleaded not guilty to the said Indictment depending against him in this Court. And doth putt himself and Thomas Bristowe who likewise, therefore, is remained by the Sheriff and whereupon the said Repentance Burke acknowledged himself unto his Highnes the Lord Protector Xld. The said Repentance effectually will present this his traverse.¹⁰⁹

The only outcome listed was his plea. Therefore, it is impossible to address whether confessing to the crime impacted the outcomes and punishments. Significantly, for all but one of the crimes committed, where the accused confessed or pleaded guilty, they received corporal punishment.

One key aspect is the general outcomes of the cases for both sexes. One element of the statistical analysis of gender involvement in theft was that, despite the significant difference in the numbers of men and women being indicted, the dismissal and punishment rates of cases have very little difference between men and women offenders (as can be seen in Table 9) – suggesting they were treated relatively equally in terms of their sex before the courts. Similarly, ‘Herrup, like Shoemaker, found that in cases of petty larceny, where gender did not define punishment, petty juries convicted men and women with about equal frequency’ as this study has shown this was also true for Nottinghamshire between 1630 and 1660.¹¹⁰ There are several examples of this throughout Nottinghamshire. Two examples are of unmarried partnerships: one of William Banes, labourer, and Mary Harwood, widow, both of Upton, who both stole three lambs for which they received the same punishment of being committed until the next assizes – this outcome was because the three lambs presumably equated to the value of more than one shilling, and so would be considered a grand felony and thus dealt with at the assizes.¹¹¹ Another case is that of George Stanfield, a labourer, and Anne

¹⁰⁹ ‘Indictment of Repentance Burke’ *East Retford*, (18th July 1656) – NA – QSMB – C/QSM1/13

¹¹⁰ Jones, ‘Offences against Property’, p.39.

¹¹¹ ‘Indictment of William Banes’, *East Retford*, (15th July 1631) – NA – QSMBT - C/QSM1/74/2; ‘Indictment of Mary Harwood’, *East Retford*, (15th July 1631) – NA – QSMBT - C/QSM1/74/2

Harpam, a spinster of Grove, who were both to be stocked, stripped and whipped for their theft.¹¹² This is a critical finding as it challenges notions that women were treated either more harshly or leniently in terms of theft case outcomes by the judicial system based solely on their gender.

Table 9: Theft outcomes by sex in Nottinghamshire

Outcome	Male	Female
Dismissal Rate*	20, 6%	9, 7%
Not Guilty**	25, 8%	14, 10%
Guilty	238, 74%	99, 74%
Assizes	39, 12%	11, 8%

*This was calculated by removing the unknown outcomes from the total number accused and then calculating the percentage of those whose outcome was either dismissed/discharged/ignoramus.

** This was calculated by removing the unknown outcomes from the total number of accused and then calculating the percentage of those whose outcome was not guilty.

However, it is crucial to note that there was a greater difference, although not excessively so, in the proportions of men and women who were found to be not guilty and those cases that were sent to the Assizes. Unfortunately, without the Assize records, there was no record of the outcome for these cases that were transferred as there was almost no survival of the Assizes for the Midlands circuit across the seventeenth century. However, it is still possible to analyse a gendered aspect of cases listed for the higher court. That notion that men were thought to steal items of higher value is supported by the higher proportion of their cases sent to the Assizes, which would have dealt with grand larceny cases. This is clear in the case of Robert Browne, a butcher of Mattersey, who received a recognisance of £40 and was to appear at the next assizes for the supposed stealing of a cow of the said William Wadsely.¹¹³ Thus, although some of the theft cases committed by women were at a value high enough to be sent to the Assizes, this suggests that it was generally men who committed crimes of higher value, or indeed crimes such as burglary in the previously listed case of Richard Lovet that required the judgement

¹¹² 'Indictment of George Stanfield' *East Retford*, (8th October 1630) – NA – QSMBT - C/QSM1/74/1; 'Indictment of Anne Harpam' *East Retford*, (8th October 1630) – NA – QSMBT - C/QSM1/74/1

¹¹³ 'Recognisance of Robert Browne' *East Retford*, (14th July 1654) – NA – QSMBO – C/QSM1/13.

from the Assizes. Moreover, there was a slight difference in the percentage of men and women whose outcome was 'Not Guilty'; this may be suggestive of the notion that the court was more reluctant to prosecute women because of gendered beliefs regarding their lack of criminal threat. However, as outlined in the section on what women stole, it may also be because women stole items for which it was difficult to determine if a theft had occurred or what items had been stolen. Hence, it was difficult to prosecute the case.

It is crucial to note that one of the cases that was referred to the Assizes was dealt with at the Quarter Sessions: Richard Meakin was to be prosecuted by Anthony Walker, yeoman of Smalley in Derbyshire, for feloniously stealing six of his geese.¹¹⁴ The value of the six geese would effectively be a grand larceny - in 1647, one gosling was 8d and 4s altogether; therefore, even if they were valued slightly lower in the 1630s, it would still be over the 1s threshold. Thus, Richard was in custody to be prosecuted at the next assizes as outlined on 18th January 1638. Nevertheless, during the same session, the judgement was that Meakin was to be stocked and whipped, indicating that this case was dealt with as petty larceny and received the punishment as such. As this case was initially outlined to be seen by the Assizes, this outcome of corporal punishment was possibly linked to Meakin's confession of the crime at the same sessions, and the potential that the confession would mitigate the punishment outlined for grand larceny. However, as previously noted, it may also be argued that there was a deliberate lowering of the value of goods so that cases did not have to be processed through the Assizes.

Analysing the types of punishments administered for theft crimes helps to determine how the judicial system treated both sexes. Table 10 shows the punishment type given by sex and that women received more corporal punishments, although there was only a six per cent difference. In contrast, the proportion of men and women committed was almost the same. Table 10 outlined a one per cent difference in the dismissal rate, and demonstrates a two per cent difference in the overall punishment rate. Consequently, it can be argued that there

¹¹⁴ 'Indictment of Richard Meakin' *Nottingham*, (18th January 1638) – NA – QSMBT – C/QSM1/76.

was a gender-neutral element to theft in terms of the overall outcomes and the overall punishment rates. Other factors, such as items stolen; their value; or being a repeat offender, impacted the dismissal or punishment rates more than the offender's sex did.

Table 10: Theft punishments by sex in Nottinghamshire

Punishment Type	Male	Female
Punishment Rate ***	244, 76%	99, 74%
Benefit of the Clergy (either being branded or burnt)	1, <1%	0, 0%
Committed (either to the House of Correction or the Goal – as an intended outcome)	46, 19%	18, 18%
Corporal Punishment (including any variation of being stocked, stripped and whipped)	190, 78%	83, 84%
Monetary (those who received fines)	10, 4%	0, 0%

***This was calculated by again removing the unknown outcomes from the total number accused and then calculating the percentage who received some form of punishment (monetary/committed/corporal). Note that these percentages do not equate to 100%, as some offenders have been double counted as they received two different types of punishment.

Corporal punishments were common for various offences and not just theft, although 'by this period the standard punishment for petty larceny was whipping.'¹¹⁵ The Justices of the Peace used these punishment methods to deter others from committing theft by enacting the punishment within the village or town centre and often upon a market day. This is evident in the case of Francis Clifton and Hugh Ancliffe, where their judgement was:

upon their arraignment convicted by their owne confessions, the sayd Francis for stealing one ewe sheepe and the said Hugh for stealing one Weathers sheepe being petit larceny, therefore, the Court doth award that the sayd Francis and Hugh shall be whipt att the next markett towne to the place where the felony was done on the market day and whipt untill their bodys bleed and this to be done by the Constable of Walkeringham and Sturton aforesaid.¹¹⁶

Fulfilling this order on the market day meant that most people within the parishes would witness this, thus ensuring the visual punishment would help deter others.

¹¹⁵ Sharpe, *A County Study*, p.91.

¹¹⁶ 'Indictment of Francis Clifton of Walkeringham, labourer and Hugh Ancliffe of Sturton labourer' *East Retford*, (8th October 1658) – NA – QSMB – C/QSM1/13.

Moreover, by meeting out the sentence in front of those likely to be peers of the thieves, an additional element of shame was brought upon them, the aim of which was to reinforce the deterrent of repeat offences and also to others within the community.

Another critical aspect to be addressed in terms of the sex differentiation in the punishment for theft crimes is how couples who committed theft were judged. The expectation was that due to the seventeenth-century notions of women being less criminally culpable and the husband's responsibility for the wife, there would be numerous instances of the wife receiving a different, or lesser, punishment than the husband, or potentially no punishment. For example, for the married couple John and Anne Andrew, John was stocked, stripped and whipped, whereas Anne's case was discharged.¹¹⁷ Although this case was recorded in court, there may be far more instances where the wife's role in the offence was dismissed before it reached court. On the other hand, it may be that the court did not wish to charge two people in the same household, especially if the family would then be dependent on the Parish. In the example of William Reynolds and his wife of Lowdham, this may be why the wife was whipped, whereas William was sent to the House of Correction for three months despite both being charged with the same crime of petty larceny.¹¹⁸ This outcome ensured that both parties were punished for the crime but that there was no risk to the Parish through both parties being committed; this also reflected the cultural expectations regarding sex and criminal judgment.

Yet despite these two case studies of the husband-and-wife duos charged between 1630 and 1660 in Nottinghamshire, many married couples received the same punishment. Of the thirteen known recorded married couples, in eleven cases, both sexes received the same judgement. This data was rather more suggestive that sex and beliefs regarding criminal culpability or broader parish

¹¹⁷ 'Indictment of John and Anne Andrew' *East Retford*, (15th January 1636) - NA – QSMBT – C/QSM 1/75

¹¹⁸ 'Indictment of William and Wife Reynolds' *Nottingham*, (11th July 1631) – NA – QSMBT – C/QSM 1/74/2

concerns did not impact the judgements given. Overall, two cases were dismissed; one was that the verdict was not guilty, and eight received a form of punishment. John and Anne Duffyn, from Sturton, were to be stocked and whipped for their felony, or that of Richard and Susan Tyne of Laneham, who were accessories to the felony of 'five sheaths of wheats and five peckes of malt' to which they confessed to being petty larceny and received the punishment of being stocked for two hours stripped and whipped.¹¹⁹ With most married couples receiving the same outcome for each sex, it challenges the notion that the wives, mainly, were seen as less criminally culpable for their actions. This further reinforces the deterrent element of early modern punishment: no matter the marital status or sex, there will be punishment for the crime.

It is pertinent also to consider non-married couples to explore whether marriage impacted the judgements given in theft cases. It is challenging to ascertain non-married couples within the records as it was not always easily identifiable whether there was a connection within the indictments, outcomes and recognisances. Sometimes, the only implication that there may have been a connection between offenders in the records is that they were listed together on the same bill/indictment from the same parish and received the same punishment. For example, Gertrude Tubman, a spinster of Stanton and Francis Wright, a labourer of Stanton, both confessed to petty larceny and were stripped and whipped for such.¹²⁰ Hence, it can be inferred that they committed the act together, but there was no confirmation. It was often only when directly stated within the records, such as in the case of John Carter and Susan Barton, the wife of William Barton who together was indicted for stealing two stone weights of hay, and Susan was also suspected of stealing one stone and a half of flour on top of what she stole with John. In this instance, both were found not guilty and

¹¹⁹ 'Indictment of John Duffyn, labourer, and Anne wife, of Sturton' *East Retford*, (13th January 1637) – NA – QSMBT -C/QSM1/75; 'Indictment of Edward Andrews of Layneham' *East Retford*, (5th October 1655) – NA – QSMB – C/QSM1/13.

¹²⁰ 'Indictment of Gertrude Tubman' *Nottingham*, (9th January 1654) – NA – QSMB – C/QSM 1/12 vol. 1 pg.249; 'Indictment of Francis Wright' *Nottingham*, (9th January 1654) – NA – QSMB – C/QSM 1/12 vol. 1 pg.249.

discharged.¹²¹ By examining both married and non-married couples who stole together, it was evident that sex and marriage do not appear to have an impact on the outcomes of the cases, as the vast majority received the same outcome or punishment.

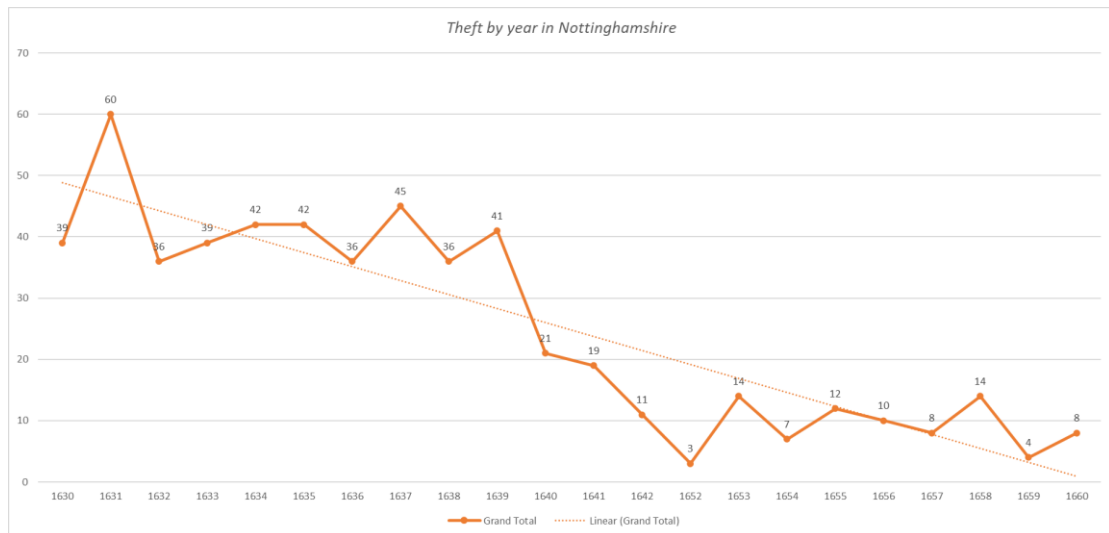
When:

It is crucial to note that although the figures are not a true reflection of theft crimes, due to the number of cases that were dealt with outside of the court, did not make it to court, or were not heard by the Quarter sessions; it can still provide a potential insight into prosecution aims and motivations for thefts.

The overall average of thefts per year between 1630 and 1660 was 25 a year. However, as is evident in Figure 34, there was a considerable difference in the number of thefts at the start of this period than towards the end. The average number of thefts between 1630 and 1639 was 42 a year; for the three years available for the 1640s it was 17 a year, and then between 1652 and 1659, it was ten a year, showing a considerable decrease in the number of thefts. This could be for many reasons. For instance, with the start of the Bishops War in the late 1630s, it could be that the local government had a greater focus on war administration than on the long process of prosecuting petty crimes. The disruption to the Quarter Sessions during the Civil Wars meant no recorded crimes for this peripatetic court. The lower numbers during the Interregnum period may be due to lower amounts of theft in a more stabilised period or a change in the focus of prosecution priorities.

Figure 34: Line chart of theft by year in Nottinghamshire

¹²¹ 'Indictment of John Carter' *Nottingham*, (19th April 1658) – NA – QSMB – C/QSM 1/13



Significantly, there were considerable peaks in 1631 and 1637 - in 1631, there were 60 cases of theft that were brought before the Quarter Sessions. The peaks suggest that increased pressure on the poorest in society was driving theft. The early years of the 1630s were adverse times as 'pressures were caused by a succession of average harvests over the decade. 1630 was certainly a bad year with dearth being recorded in many parts of the country: 1632 and 1637 were also described as deficient harvests.'¹²² Furthermore, on top of the harvest failures in the 1630s, there was a deadly trade depression.¹²³ These circumstances created a situation where, due to demand, accessibility and lack of provision, there were high food prices, particularly between 1646 and 1659, a nearly 50% price increase for those five years.¹²⁴ The more significant number of thefts in 1631 could, therefore, be a long-term impact of the bad harvests of 1630. In his examination of the application of the Poor Law, Hindle noted that the crisis years were significant as they exposed the limitations of the relief system and why informal relief was needed; hence, the increase in theft in these years may be symptomatic of this need.¹²⁵

It is apparent from Figure 35 that both male and female thieves follow the same trend as aforementioned. For two years in the 1650s, 1652 and 1655, more

¹²² Stuart Jennings, *These Uncertain Times: Newark and the Civilian Experience of the Civil Wars 1640-1660*, (Nottingham: Nottinghamshire County Council, 2009), p.17.

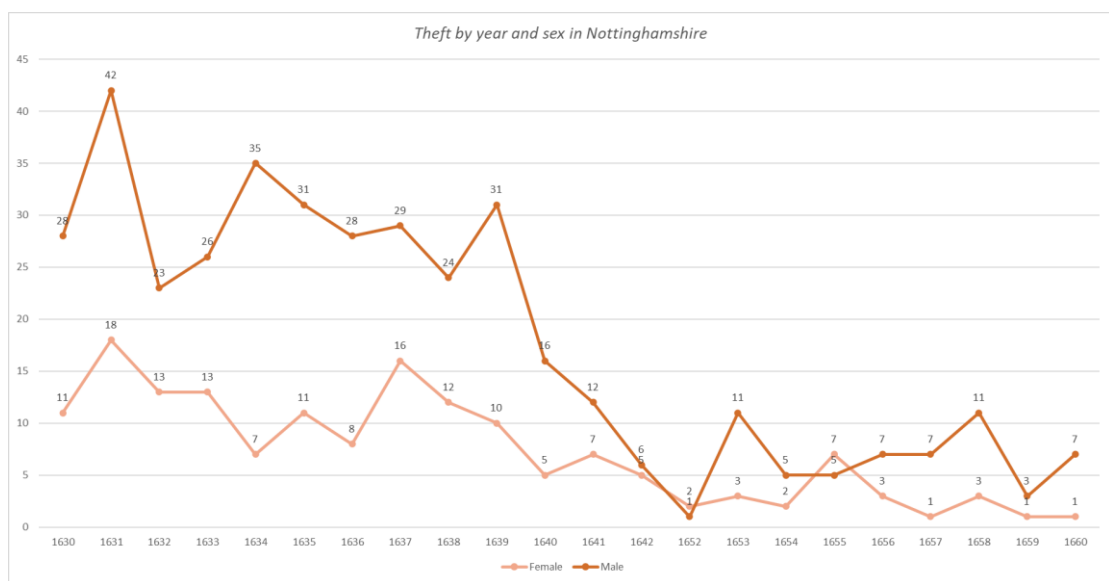
¹²³ Walter, *Crowds and Popular Politics*, p.69.

¹²⁴ Hoskins, 'Harvest Fluctuations', pp.20-21.

¹²⁵ Hindle, *On the Parish?*, p.299.

women than men committed theft crimes. It is possible that more women were stealing in the period after the Civil Wars because they had lost male members of the household who fulfilled traditional roles as providers. However, men remained the largest proportion of thieves during this period, perhaps because they may have been dispersed from the Civil Wars without suitable work or financial support.¹²⁶ This may also explain why the numbers of men and women who stole during the 1650s remained roughly even compared to the previous years.

Figure 35: Line chart of theft by year and sex in Nottinghamshire



John Walter and Keith Wrightson explore the notion that dearth and scarcity caused an increased number of thefts, and as such, the rates of theft crimes in the courts were emphasised by the overwhelming pressure of need.¹²⁷ It is evident from spikes in the years 1631 and 1637 that deficient, bad harvests and even dearth created circumstances where both sexes felt the pressure of the need to steal due in Nottinghamshire. Nonetheless, there were specific seventeenth-century gendered ideals that created implications of which sex may have been stolen due to need and why. For the man of the household, it was ‘an important component of male honour to provide for one’s dependants, so the temptation to steal would be great for men who could not fulfil this duty by lawful means.’¹²⁸ For instance, this

¹²⁶ Lees, "Thou Art A Verie Baggadge", p.274

¹²⁷ See Walter and Wrightson, 'Dearth and the Social Order in Early Modern England', pp.22-42.

¹²⁸ Jones, 'Offences against Property', p.32.

may have driven men to steal numerous items in one theft, such as Ambrose Marshall, who stole a coffer, a gown, books, and £9 in money: or to steal items of higher value and potentially higher risk, such as John Proctor who was indicted for stealing an ox belonging to John Hall for which he was stocked and whipped. They might even commit 'divers felonies' or several crimes, such as Hersey Nicholls and William Bingley.¹²⁹ Each of these thefts was committed in the difficult year of 1637; thus, in possibly attempting to provide for their family, the men aimed to widen their client base to receive the stolen items or hoped for a greater return on a riskier investment. Stealing in times of hardship was a factor not only in why there were additional crimes in specific years but may also explain why there were a larger number of men than women who committed theft overall.

Where:

It is important to analyse where those committing theft crimes resided, as they often acted within their parishes or neighbourhood communities. Addressing the geographical and topographical aspects concerning the crimes highlights some significant trends and connections.

There appears to be a line of thefts that follow a section of the Great North Road between Newark-on-Trent and the Markham villages, a vital artery for the East Midlands providing a connection between London, York and further afield to Edinburgh. This route allowed travellers, traders, and vagrants to move between towns and villages. It offered possibilities for the opportunistic thief, especially as they could easily travel onward to avoid detection, but it also provided ample opportunity to disperse the goods onto other travellers. For instance, thieves were active out of Tuxford, Sutton-on-Trent, and South and North Muskham, all on the Great North Road, as demonstrated in Figure 36. Weston was another village on the Great North Road where Richard Starky was indicted for stealing a red petty coat belonging to Katherine Mooe, which he was to answer at the next Assizes.¹³⁰ He

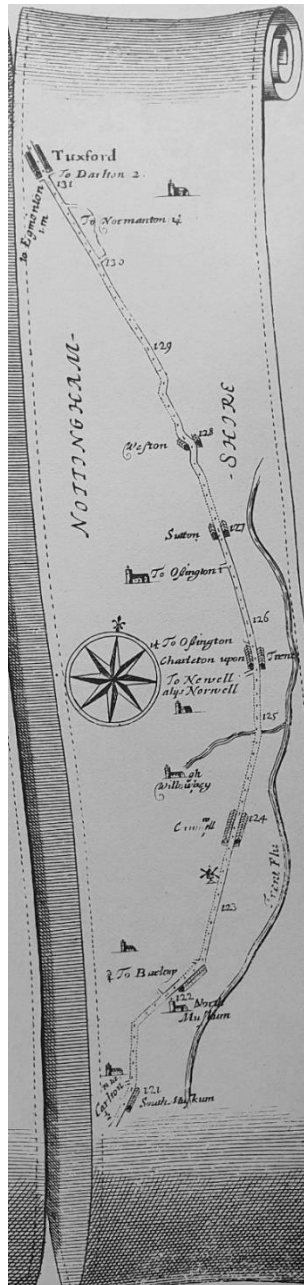
¹²⁹ 'Indictment of Ambrose Marshal' *Nottingham*, (9th January 1637) – NA – QSMBT – C/QSM1/75; 'Indictment of John Proctor' *Newark-on-Trent*, (11th January 1637) – NA – QSMBT – C/QSM1/75; 'Indictment of Hersey Nicholls and William Bingley' *Nottingham*, (9th January 1637) – NA – QSMBT – C/QSM1/75

¹³⁰ 'Indictment of Richard Starky' *Newark-on-Trent*, (19th April 1637) – NA – QSMBT – C/QSM 1/75

may have hoped to sell this to a passing traveller to make a theft case harder to prove.

Towns such as Nottingham, Mansfield and Worksop had more significant numbers of theft crimes. For instance, in Nottingham, between 1630 and 1660, in the Radford district alone, there were ten, and Lenton had seven; thus, having different suburbs under one township, larger numbers accrued. Plus, Mansfield and Worksop also had markets that may have encouraged greater instances of theft simply through the more significant number of travellers and a broader range of wares that could be stolen. Towns may also have presented better opportunities to dispose of stolen items through the larger numbers of people likely to travel to or use the towns.

Figure 36: Plate from Ogilby's Britannia depicting the Great North Road at Tuxford to South Muskham



In Figure 37, the size of the circle and the lightness of the colour indicate where more instances of theft have occurred. It shows more instances of thieves coming from rural areas, particularly between Gainsborough and Newark-on-Trent and between Newark-on-Trent and Nottingham. This distribution also relates to what items were stolen, especially concerning the topography and geology of the county. The Trent River runs between the south of Nottingham and Newark on Trent. The area surrounding it was rich and fertile, with a mix of arable and pastoral farming as A.C. Wood indicated that in 1640 Nottinghamshire ‘a traveller, [in the South-East of the county] journeyed through prodigious fields of barley or across

meadows stored with great herds of cattle.’¹³¹ Hence, this fundamentally influenced what items were available and accessible to thieves from the area and, thus, what they were targeting. For example, in the fertile region, Richard Jenkinson was indicted for ‘stealing rye and other grain belonging to Robert Jenkinson at Cromwell, north of Newark.’¹³² Furthermore, several hotspots, especially between Southwell and Nottingham, suggest it was the prevalent area for theft. For example, Lowdham had eight thieves and Oxtun seven, both near each other and in the plains of the Trent between Southwell and Nottingham. This was partly due to the topography but could also link to the demographics as there were considerably more people residing within this area than in others of the county due to the ample agrarian employment opportunities.

Compared to the abundance of thefts in the south of the county, the northern region is notable for the sparsity of instances. This absence may again be an issue of topography as ‘in the extreme North of the County lay the Car, 6,000 acres of swamp and marsh which had been drained with only partial success.’¹³³ A significant proportion of this land could not be used, leading to sparse habitation and fewer thefts within this area. In addition, East Retford was the furthest north point at which a quarter session was held, and thus, the lawful reach of the Justices of the Peace may not have been as strong north in the county so far. Along with its demographics, this may have created a situation where there was a lower number of thieves, and thus, thefts occurred here.

Figure 37 also depicts limited theft crimes in the middle of the county to the East of Mansfield, which runs along the central spine from Arnold to just below Worksop. This area is the heart of Sherwood Forest. It had its own Forestry Court that dealt with matters about the forest, and there was difficulty in upholding civil law in an area with divisions among legal authorities. Furthermore, besides one or two gentry members, such as Lord Byron, there were very few powerful families in the area. This meant that the reach of judicial authority alongside local

¹³¹ Wood, *Nottinghamshire*, p.3.

¹³² ‘Indictment of Richard Jenkinson’ *Newark-on-Trent*, (8th October 1634) – NA – QSMBT – C/QSM 1/74/3.

¹³³ Wood, *Nottinghamshire*, p.2.

administration and commissions may not have been as effective. It cannot be concluded that theft did not occur in this area. However, it was far more likely that as 'legal officials took a very limited role in investigating thefts, virtually all policing and detection of theft was a matter of private initiative.'¹³⁴ Thus, with the difficulties in processing and prosecuting theft in such a remote location, incidents may have been dealt with outside the Quarter Sessions and not recorded due to the area's unique nature.

¹³⁴ Howard, 'Investigating Responses to Theft in Early Modern Wales', p.411.

Figure 37: Heat map of rate of incidences in Nottinghamshire

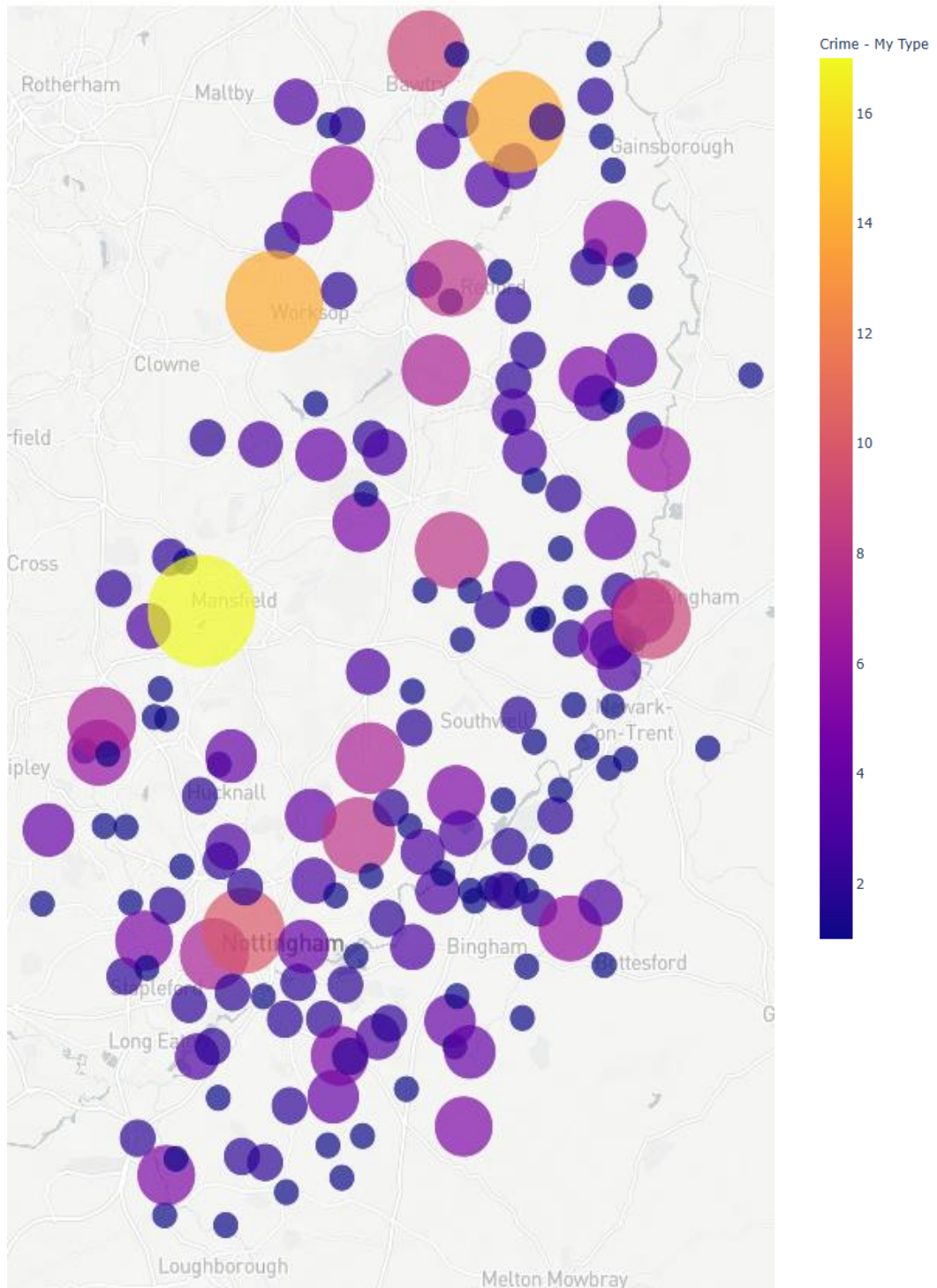
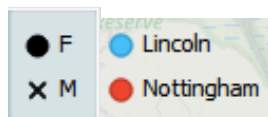
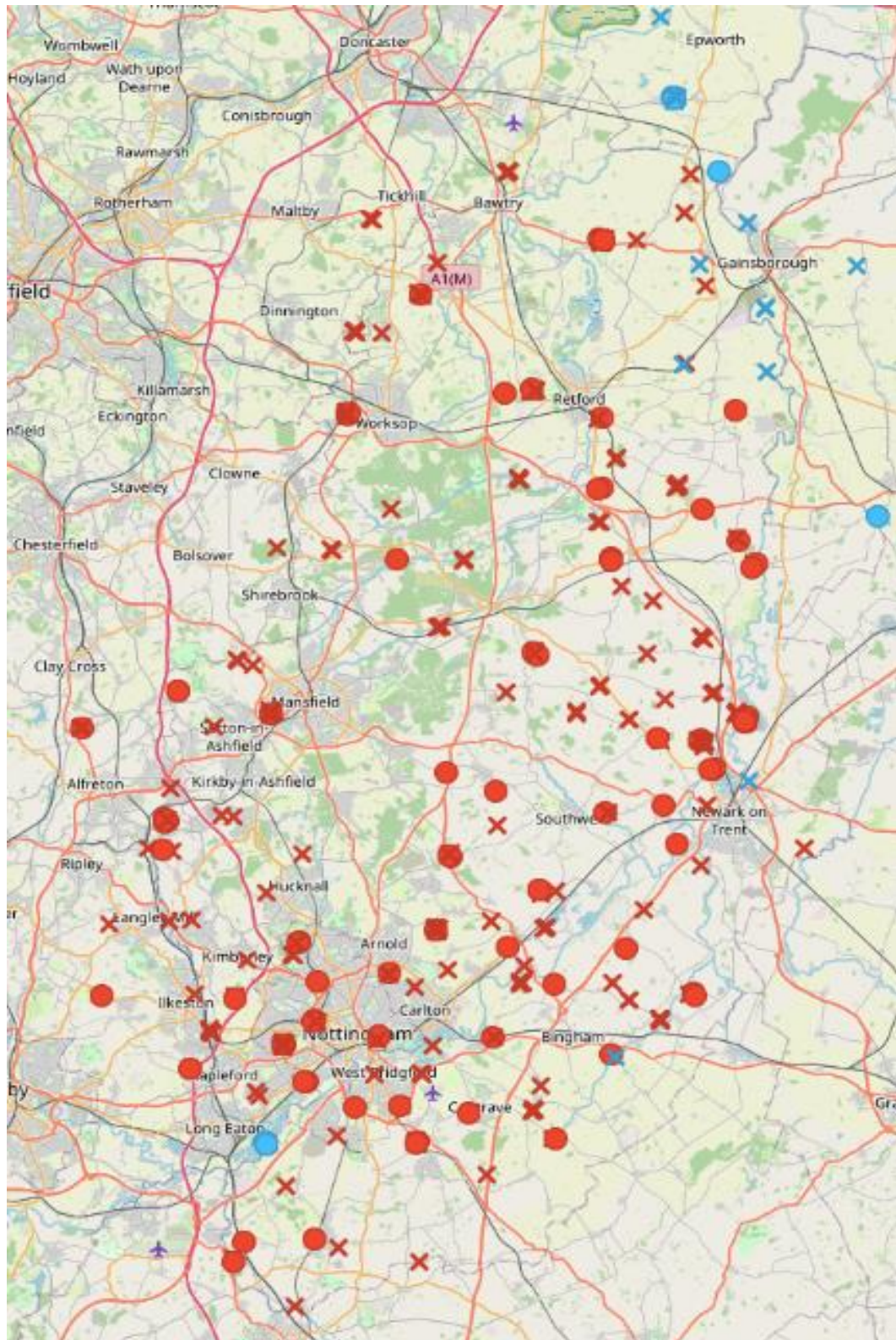


Figure 38: GeoMap of theft bases by sex in Nottingham



The gender placement of where thieves were based is a vital aspect to consider, as shown in Figure 38. 'Female thieves are alleged to have been relatively more often persecuted in urban than rural districts', and there was some evidence to suggest this within Nottinghamshire.¹³⁵ For instance, although there are cases of female thefts within rural areas there was a greater concentration of female thieves within the vicinity of towns such as Newark, East Retford and West Bridgford. This reflects women's networks and operations within more urban areas and what was available to them in these metropolitan environments, such as linens, clothes and jewellery.

Although there are instances of men stealing within urban areas, there are greater thefts in rural settings. There are cases in the north of the county above Worksop and Retford and along the north-west border with Derbyshire, which were inevitably tied to stolen items — thieves operated in those areas where they could access livestock and grains. As men stole these items in considerably more numbers than women, it was evident that male thieves were more common in rural areas. Although with the more significant numbers of male thieves, it may be that the data provides a more diverse range for where they operated, compared to the picture presented with the lower number of women's theft crimes in Nottinghamshire.

Concluding Thoughts:

Examining crimes of theft in Nottinghamshire between 1630 and 1660 has shown that there were considerably wider factors than gender that influenced what was stolen, when, where and what judgements were received.

There are vast differences in the numbers of men and women who committed theft crimes within Nottinghamshire, including repeat offenders. The considerably higher number of men could suggest links to seventeenth-century ideals of the male as the provider, even if they needed to resort to illegal measures. It is also possible that perceptions about diminished responsibility in female criminality led to their cases being prosecuted less often. However, for the punishment received, the analysis of male/female couples, whether married or not,

¹³⁵ Jones, 'Offences against Property', p.33.

highlighted that usually both sexes received the same sentence. Suggesting that once a case reached the Quarter Sessions, sex did not impact the judgement given. Often, the value of the items stolen determined the type of theft, which determined what punishment would be given irrespective of the offender's sex.

Regarding what items were stolen, it is undeniable that agricultural items such as farm animals or grains were a priority to both male and female thieves overall. However, when examining the two sexes individually, women were more likely to steal clothes and fabrics, which aligns with gendered expectations about sex and accessibility to either public or private spheres, influencing potential items to steal. There was a clear distinction between the southeast and northwest districts concerning where the thieves operated. The difference was primarily due to the dynamics of the county; the south was far more habitable than the northern regions and what the area's topography allowed. For instance, the south was more fertile and used for mixed farming, whereas Sherwood Forest and the Carr did not allow for such use – this defined what was being stolen; thus, there were greater numbers in the southeast.

There was a pattern during the 1630s that there was a larger number of thefts occurring in the years when there were bad harvests, suggesting that theft may have been motivated by increased need. Notably, the general number of thefts declined from 1630 to 1660 in Nottinghamshire – this could be due to the changing demographics after the Civil Wars and a change in prosecution priorities during the Interregnum period.

Conclusion:

This chapter on theft is crucial to the research of crime and gender in the localities during these thirty years because it has challenged notions regarding the differences in punishment rates of men and women who committed theft and findings regarding what the individual sexes stole. Moreover, it has posited why crimes occurred in some regions of these three counties by examining the specific

topographical features of the separate areas. This approach had not previously been used to analyse theft in these counties.

It was evident across all three counties that men were the majority of offenders for theft crimes. When examining them as one region under the East Midlands, the proportion was 75 per cent men to 25 per cent women. This is vital because there was a possibility that gendered notions regarding men's responsibilities to the family and female culpability in thefts have impacted the figures across the counties. For example, the idea that the husband 'ought to have a provident care for the good of his wife in all things needful for her: [his was the role] to nourish and cherish' and so, in times of scarcity, he may steal to ensure he can provide food for his wife and family.¹³⁶ This notion is further supported by examining when theft crimes were committed as each county peaks for the year following a dire harvest/dearth. For instance, Nottinghamshire and Lindsey both had peaks in 1637; Derbyshire experienced a height in prosecution between 1648 and 1651; Lincolnshire peaked in 1652; and Nottinghamshire's cases rose between 1650 and 1653. The data supports the connection between need and theft across the county as 'those who lived through the Civil Wars and the Commonwealth endured no fewer than ten harvest failures in the space of fifteen or sixteen years.'¹³⁷ Moreover, specific case studies are referenced in this chapter where the offender mentions they have stolen to provide for or due to hunger.

There are several possibilities for why fewer women were charged with theft at the Quarter Sessions across the three countries. Dubois-Nayt has argued that 'quantitative research based on criminal records has a lot to answer for in the concealment of women thieves behind men thieves'; however, this is rather broad, and this chapter has argued that there is a greater level of intricacies and factors to the numbers of men and women at court, they are not solely dependent upon the offender's sex.¹³⁸ For instance, there has been an argument that women stole items of little value, such as linens and materials, which were the most common items in

¹³⁶ William Gouge, *Of Domesticall Duties*, (London: 1622), loc.1410.

¹³⁷ Hoskins, 'Harvest Fluctuations', p.20.

¹³⁸ Dubois-Nayt, 'Women Thieves in Early Modern England' p.195.

Derbyshire and Nottinghamshire, although not so popular in Lindsey.¹³⁹ As explored throughout this chapter, it was possible that the prosecution costs alone were not worth pursuing these thefts. However, it may also be that thefts were more challenging to prove with these items as they were so easily disguised and distributed. Therefore, the items the women had access to or chose to steal generated lower numbers.

Furthermore, women are not being obscured by men in terms of the case outcomes. This study has argued that theft was a gender-neutral crime due to similar judgment outcomes for both sexes in theft cases. The three counties' punishment sections showed almost no difference in the proportion of punishment rates for men and women. There are differences in the rates of cases that went to the Assizes between the sexes, but this was based on the value of the goods rather than sex, although men often stole items of more considerable value and as such, a higher proportion of male cases that were sent to the court. Moreover, when examining the different types of punishments given, the committal rate was higher for men (although marginally in Nottinghamshire). There was a higher proportion of women who received corporal punishment in both Lincolnshire and Nottinghamshire, which could be due to the two-sided nature of their transgression – against the law but also idealised gendered behaviours. In addition, when addressing male/female partnerships, many of these couples received the same outcome rather than different judgements, suggesting it was not their sex that determined the outcome but rather the details of the case itself. However, it was notable that women had a higher not guilty plea in the two counties with sufficient plea data, which may suggest that women were aware of the perceived beliefs in women's innate innocence and lack of criminality and, therefore, employed an element of agency by fulfilling that role in the hopes of the case not being pursued.

When examining the three counties together, this research further challenges the notion that women were associated with household items. Although it may be true that 'women were disproportionately prosecuted for items such as

¹³⁹ Walker, *Crime and Gender*, p.159.

clothes and linens' as with their base in the private sphere, it would be expected they would steal considerably larger numbers of such materials than men.¹⁴⁰ However, in agreement with Jones's argument, as previously explored in the Lincolnshire section, it cannot be confidently stated that women were associated with all household items as when examining the numbers of kitchenware stolen – in Derbyshire, Lincolnshire, and Nottinghamshire, more men stole pots, pans, and dishes than women. Moreover, the examination of items stolen outlined that in Derbyshire and Nottinghamshire, linens and materials were of similar priority to men and women, and this reflects both sexes' involvement in the broader textiles industry, albeit with different materials.¹⁴¹ This finding further challenged the notion of sex being the determining factor in items stolen. Thus, occupation and environment, particularly for largely opportunistic thefts, were determining factors in what was stolen.

Crucially, grains and grasses were high priorities for both sexes across the three counties. It was the third most common item stolen in Derbyshire and Nottinghamshire (by minute numbers) and the second most common in Lindsey: plus, when combining all the data together across the counties, it was the second most common item stolen for men and joint first for women - this was likely due to the significance of grains and grasses in their everyday lives. For instance, the grasses could feed their animals, and the grains could be used as a food source alone or in various other dishes. Not only that, but both sexes were involved in the harvest process, for instance, in the harvest collection and, more likely, in the threshing process, giving both sexes equal access to such items and thus a reason why grains and grasses were stolen in significant numbers by men and women. In some instances, 'small farms found women workers useful as they were flexible and cheaper [than hiring their male counterparts]' and as items stolen were linked to occupation and accessibility, this can account for why grains and grasses were such a prominent item stolen by women.¹⁴² Furthermore, there were swathes of each of the three counties that, during the period, were used for mixed and arable farming:

¹⁴⁰ Walker, 'Women and theft', p.87.

¹⁴¹ Whittle and Hailwood, 'The Gender Division', p.20.

¹⁴² Whittle and Hailwood, 'The Gender Division', p.25.

for instance, the lowlands in Derbyshire, Trent Washlands in Nottinghamshire and the clay soils and Inner Fenland of Lincolnshire. Further supporting the idea that needs were a driving motivation and that opportunity and occupation were significant in determining what items the offender stole regardless of their sex.

Like the works of Garthine Walker and James Sharpe, this study has determined that the labouring poor were the most likely to commit theft crimes across the East Midlands region. Fears over how the poor were to sustain themselves in desperate times intertwine with the notion that there were increased instances of theft when there were economic pressures, such as bad harvests, as previously outlined. This has considerable links to Hindle's work, which found that crimes of necessity were a form of informal relief and that the most in need were the young, recently married with children, and the elderly.¹⁴³ Crucially, there is evidence throughout this chapter that alongside the working poor, there are instances of married men stealing to provide for their wives and children, or spinsters who may have been older and struggling to provide for themselves alone, cementing the connection between the poor and those committing theft crimes.

Addressing who was stealing has also provided the opportunity to assess elements of community relationships and how theft impacted this, of which Sharon Howard's work is at the forefront. This study has identified potential aspects of the use of theft to build networks within the East Midlands, such as one person's theft of numerous cheeses in Lincolnshire or how networks could lead to theft, such as the miners against the Earl of Rutland in Derbyshire. However, it was through the examination of popular literature that attitudes towards those who stole are apparent, as outlined:

I am a poore man, God knows
and all my neighbours can tell.
[...]
I scorne to live by the shift,
or by any sinister dealing.
He flatter no man for a gift,

¹⁴³ Hindle, *On the Parish?*, p.297.

nor will I get money by stealing.¹⁴⁴

The ballad suggests that stealing was seen as profoundly shameful and frowned upon even by others in dire economic circumstances. This attitude towards those who steal may occasionally be evident within the Quarter Sessions. For instance, in Nottinghamshire Quarter Session Records, John Rice was listed as ‘an incorrigible vagabond and receiver of stolen goods’, suggesting his behaviour was consistently criminal and frowned upon for such activities.

This chapter has outlined that factors other than sex and gender determined what was stolen, when it was stolen, and the motivations for theft. For instance, each county's topography significantly influenced what was stolen and where the theft cases occurred. However, gender did impact the items that were stolen simply because the spheres in which the sexes operated and were associated with impacted the environment men and women had access to and, therefore, what they could steal. Thus, analysing thefts provides valuable insight into local communities, their relationships, issues, and potential motivations for theft crimes within Derbyshire, Lincolnshire, and Nottinghamshire between 1630 and 1660. This has been achieved through quantitatively analysing the Quarter Session Rolls for Derbyshire and Lincolnshire and the Quarter Session minute Books for Nottinghamshire whilst drawing upon specific county case studies. Moreover, the analysis has incorporated broadside ballads as ‘the very stereotyped nature of much of popular literature makes it so useful’, as examining this typecast can be instructive in understanding contemporary attitudes towards crime, punishment, and potential motivations for theft.¹⁴⁵

¹⁴⁴ Unknown, *Ragged, and Torne, and True*. l.1-2 & l.12-16.

¹⁴⁵ Sharpe, *Crime in Early Modern England*, p.228.

Chapter Four: Religious Radicals or Targeted Tolerance

Introduction:

England housed a fractured religious authority during the seventeenth century. Numerous factors created religious contentions throughout the three kingdoms. It was a combination of the fear of Catholicism; the growth of nonconformity encouraged by the disappearance of censorship, which increased opportunity for independent thought; anxieties over the modifications to worship within the Anglican denomination; and concerns regarding the Church's involvement in civil and governmental factors.

There had been a longstanding and deep-rooted fear of Catholicism that was felt during the early part of the seventeenth century due to the ongoing war in Europe between the Holy Roman Empire and the Protestants that covered large swathes of the continent and included numerous countries (later known as the Thirty Years War). It was hoped that Charles I would continue the good work of Elizabeth I and James I to curb Catholicism. The Elizabethan and Jacobean reigns introduced the 1559 "Act of Uniformity", the 1581 statute "An Act to retain the Queens Majesty's subjects in due obedience", and "The Popish Recusant Act" of 1592, the 1606 Act "for the better discovery and repression of Popish recusants". These hopes were found throughout popular literature at the time; for example, the ballad *A Scourge for the Pope*, of 1624, by renowned balladeer Martin Parker indicates:

our parliament Royall,
Will give them denial,
Our king will requit them
[...]
With zeale Prince Charles endu
Our second hope:¹

¹ Martin Parker, *A scourge for the POPE, satirically scourging the itching sides of his obstinate brood, in England, to the Tune of Roome for etc*, (1624) Magdalene College – Pepys Ballads 1.60-61, [online

Within England itself, despite Catholics being numerically insignificant, having been as few as two and no higher than five per cent of the population in the 1630s, there was still an element of mistrust because of their involvement with Popish Plots.² This fear was exacerbated by concerns over Charles's French Catholic wife, Henrietta Maria, and Archbishop Laud's high church approach to toleration.³ These fears were manifest within the contemporaneous street literature, for example, in 'The Organs Echo' of which there are two surviving copies on EBBA, depicts:

[Laud's] Pope-like domineering,
And some of the tricks appearing,
Provokd Sir Edward Deering,
[...]
Some say [Laud] was in hope
To bring England againe to th Pope⁴

Furthermore, the burgeoning sects within the main denominations created additional instability; these were labelled as non-conformists and, later in the century, dissenters — several smaller groups such as the Baptists, Unitarians, and Quakers. The largest group during the early half of the seventeenth century was the Presbyterians, who shared a common foundation of Calvinism with the Puritans despite some differences in church authority. Within the Puritans, some believed they could reform the Church of England from within and favoured a Presbyterian form of organization, and the Separatists believed the Church to be irredeemable and required total separation. The Separatists were also called Independents and aimed to form local independent churches away from the overarching authority of the Church of England. The Independents became more prominent in the wake of the English Civil Wars and Interregnum between 1640 and 1660.

source] [EBBA 20264 - UCSB English Broadside Ballad Archive](#) accessed on 15th July 2020, l.82-85.; Hyder E. Rollins, 'Martin Parker, Ballad-Monger', *Modern Philology*, vol. 16: no.9 (1919), pp.449–474: p.449.

² Robin Clifton, 'The Popular Fear of Catholics during the English Revolution', *Past and Present*, vol.52: no.1 (1971), pp.23–55: p.29, 34, 43.

³ See Clifton, 'The Popular Fear of Catholics', pp.23-55.

⁴ Unknown, *The Organs Eccho – to the tune of the Cathedrall service*, (1641) British Library – Roxburghe C.20.f.9.573 [online source] [EBBA 31272 - UCSB English Broadside Ballad Archive](#) accessed 15th July 2020, l.11-13, 16-17.

Contrary to the hopes surrounding Charles I, he was found 'to be a negligent king who was oblivious to the threat of popery at home, abroad, and within the church of which he was supreme governor.'⁵ And whilst Laud began to review the established Church, this led to the 1630s being seen 'as a regime that was redefining the meanings of clerical conformity.'⁶ In comparison, the Interregnum period experienced a divided religious regime whilst maintaining a level of tolerance under Cromwell's guidance. Significantly 'his aim was to end the "penal statutes that force the conscience of honest conscientious men" to create an environment of liberty of conscience for all those whom he bluffly regarded as honest godly or conscientious.'⁷ This presents a critical dichotomy: at the height of 1654-1656, the regime was seen as being in a religious crisis, yet there was an element of tolerance under Cromwell's policy 'Liberty of Conscience.'⁸ Undoubtedly, under Charles I's Personal Rule and the Commonwealth, there was a fragmented religious authority despite the monarch and leader's intentions.

Methodology:

This chapter will explore how these notions associated with religious fervour between 1630 and 1660 were felt within the localities and how local judicial authorities persecuted those outside of what was considered the religious norm. Those who committed crimes such as recusancy and absence from church created further religious disorder despite adhering to their religious convictions. It is these crimes – due to their association with Roman Catholicism, a notorious enemy to England during the Jacobean and Caroline era, and a rebellion of absenteeism for those who did not align to their parish denomination – that will be used to analyse religious resistance amongst the counties of Derbyshire, Lincolnshire, and Nottinghamshire.

⁵ John Morrill, 'The Religious Context of the English Civil War', *Transactions of the Royal Historical Society*, vol. 34 (1984), pp.155–78: p.162.

⁶ Michael Questier, 'Arminianism, Catholicism, and Puritanism in England during the 1630s', *Historical Journal*, vol.4: no.1 (2006), pp.53–78: p.69.

⁷ *Writings and Speeches of Oliver Cromwell* in W. C. Abbott (ed.) (4. Vols., Cambridge, MA, 1937-1947. Rep. Oxford 1988) II, p.104

⁸ Colin Davis, 'Cromwell's Religion,' in David L Smith (ed.) *Cromwell and the Interregnum*, (Oxford: Blackwell Publishing, 2003), pp.139–66: p.144.

It is important to note that the two religious crimes this research has focused on, recusancy and absence from church, are interchangeable. Recusant was 'technically a term that refers to anyone who did not go to church either because of Papist or Separatist convictions, but in general use, it referred to "Popish Recusants"'.⁹ The loose terminology can make it extremely difficult to determine the religion of those indicted as this was not recorded within the records, though in some instances, it was possible to retrieve this information from other sources. Clancy has determined it was widely accepted in the sixteenth and seventeenth centuries that when referring to Recusants, one meant Catholics, and this is the premise throughout this thesis.¹⁰

This analysis will focus on addressing who was indicted for these two religious crimes across the counties. Interestingly, there is a challenge to twentieth-century historiography, including Stone and Haigh, who saw the Catholic community as significantly gentry. P. R. Newman has argued that 'any examination of the Quarter Session records will reveal that when it came to indictments, it was the yeomanry and lesser orders who suffered on a far greater scale.'¹¹ Edward Toby Terrar takes this further in his research fourteen years later, concluding it was essentially the labouring people alone.¹² This research will determine where the East Midlands counties sit within this debate and examine sex, occupation, and status.

Another aspect that will be analysed is where those listed within the records lived and can it be ascertained whether there were notable clusters of religious crimes or whether they were spread throughout the county. As Caroline Hibbard identified for early Stuart Catholicism, they 'were frequently at the edge of the county' – which may apply to the Caroline Catholics in the East Midlands between

⁹ Thomas H. Clancy, 'Papist-Protestant-Puritan: English Religious Taxonomy 1565-1665', *British Catholic History*, vol.13: no.4 (1976), pp. 227–53: p.229.

¹⁰ Clancy, 'Papist-Protestant-Puritan', p.229.

¹¹ P. R. Newman, 'Roman Catholics in Pre-Civil War England: The Problem of Definition', *British Catholic History*, vol.15: no.2 (1979), pp. 148–52: p.149.

¹² Edward Toby Terrar, 'Gentry Royalists or Independent Diggers?: The Nature of the English Catholic in the Civil War period Community of the 1640s', *Science and Society*, vol.57: no.3 (1993), pp.313-348: pp.314-5.

1630 and 1660.¹³ Mapping these crimes' occurrences provides a valuable answer to this argument. It also explores how topographical features may have impacted religious crimes and why they may have been in certain areas or absent in others.

Despite known difficulties with examining the 'true figures' of crime within the presentments, it is still an interesting avenue to explore wider concerns regarding religion. John Bossy has previously determined that 'there was a steady increase of cases in recusancy from 1570 to 1640 (assuming a zero figure for 1560-1570). By 1603, the number of actual (if not judicially convicted) recusants had reached 30,000-40,000 and it rose to 60,000 by 1641.'¹⁴ The Quarter Sessions will be valuable in assessing how true this trend was for the counties analysed and if there are any notable peaks and troughs. By examining case studies of families indicted for these crimes, it is possible to integrate gender analysis into this research. For instance, Frances E. Dolan has summarised that because of gendered presumptions, women's illiteracy and tendency to greed predisposed them to Catholicism.¹⁵ Most importantly, the why aspect will be examined for each of these factors to see if any significant findings are identified.

Historiography and Originality:

While continuing to be debated, it is clear that religion was a contributory factor in the Civil Wars in the opinion of Conrad Russell, who states that 'this one issue alone [religion] accounted for almost all of the difficulties between the Kingdoms of Britain between 1637-1642, and it caused enough trouble to leave very little room for any others.'¹⁶ Moreover, John Morrill claims the English Civil Wars 'was the last and greatest of Europe's War of Religion.'¹⁷ The critical aspect of this research is that religion, no matter the denomination, affected every individual's life during the period, and as such, this factor was all-encompassing in the local communities.

¹³ Caroline M Hibbard, 'Early Stuart Catholicism: Revisions and Re-Revisions', *The Journal of Modern History*, vol.52: no1 (1980), pp.2-34: p.2.

¹⁴ John Bossy, *The English Catholic Community*, (London: Oxford University Press, 1975), p.188

¹⁵ Frances E. Dolan, *Whores of Babylon: Catholicism, Gender and Seventeenth-Century Print Culture*, (Paris: University of Notre Dame Press, 2005), pp.27-8.

¹⁶ Conrad Russell, 'The British Problem and the English Civil War', *History*, vol.72: no.236 (1987), pp.395-415.

¹⁷ John Morrill, Brian Manning, and David Underdown, 'What Was the English Revolution?' in Peter Gaunt (ed.) *The English Civil War*, (Oxford: Blackwell Publishing, 2000), pp.14-32: p.19.

Religion was also a significant factor in the Interregnum. David Smith noted, 'perhaps the most positive and lasting legacy of the Interregnum in England lay not in building a godly nation but in liberating the Godly minority and allowing them to establish the deep roots that enabled dissent to survive after the Restoration.'¹⁸ With Cromwell's focus on the conscience of liberty and belief that conditions would improve for Catholics and those of minor denominations, he, 'in effect, denied responsibility - assuring [Thomas Burton] that "he regretted parliament's approval of a law so contrary to his promises while he had tried at the final session to prevent it"' essentially impugning the Presbyterian governing bodies for the tightening of penalties against Catholics.¹⁹ This creates a unique situation in which to analyse religious crimes in the decade under Cromwell as although he promoted a level of toleration for Catholics, creating the expectation that there may have been lower numbers of religious crimes, or certainly recusants listed, Acts brought in by the parliament may also have meant religious crimes became a prosecution priority and so a higher number of records at the Quarter sessions.

Some works have focused solely on the counties examined within this research and touched upon their religious nature. For instance, Jill Dias examined Nottinghamshire and Derbyshire, whereas Holmes focused on Lincolnshire. These studies provided a wider context for analysing religious crime in this thesis. Dias ascertains that in Derbyshire, under the Personal Rule of Charles I, religion was a significant element as there was an increase in the number of Puritans who had the support of the local government and increased Roman Catholic activity throughout the county.²⁰ Her findings suggest an increased number of those outside the established Church; thus, this study will explore whether this was reflected in the records of Absenteeism or Recusancy. Holmes established that in Lincolnshire, 'there were few people before the civil war who elected to separate absolutely

¹⁸ David L Smith, 'Introduction', in David L Smith (ed.) *Cromwell and the Interregnum*, (Oxford: Blackwell Publishing, 2003), pp. 1–14: p.11.

¹⁹ J T Rutt (ed.) *Diary of Thomas Burton*, (4 vols, London: H.Colburn, 1828), vol.2, pp.155; Albert J. Loomie, 'Oliver Cromwell's Policy toward the English Catholics: The Appraisal by Diplomats, 1654-1658', *The Catholic Historical Review*, vol.90: no.1 (2004), pp.29–44: p.38.

²⁰ Jill R. Dias, 'Politics and Administration in Nottinghamshire and Derbyshire 1590-1640', (University of Oxford, 1973), pp.448-459.

from the established church,' although he identifies specific people and parishes in the county where there were elements of informal separation.²¹ Moreover, he outlines that 'popular Catholicism was virtually to disappear in the course of the seventeenth century'; thus, this study will examine whether his notion is evident within the Quarter Sessions for each of the three counties.²²

Works that have provided a more concentrated focus on religion are two theses, one by Richard Clarke, which focuses on Derbyshire, and one by Stuart Jennings, which focuses on Nottinghamshire. Richard Clarke addressed whether dissenters survived through the established church's strengths or weaknesses. He determined that 'minorities survived through the weakness of the church and the inconsistency through which religious laws were applied, although the laws did confine the numbers and curb their enthusiasm.'²³ A crucial notion to this study regarding the application of the law, as a statistical analysis of the Session Rolls may determine if there were specific periods when these were more stringently or liberally applied. Stuart Jennings's thesis explores the 'development and socio-economic impact of Puritanism at the start of the century' and through the Civil Wars and Interregnum, using a wider variety of documentary material than the focus of the Quarter Sessions in this research. One vital aspect that Jennings explored was the connection between geography and incidences of religious crime, for instance, the use of travel networks or the impact of terrain on the application of judicial authority in Nottinghamshire.²⁴ This thesis will further his findings by applying this approach to all three counties examined.

This chapter will focus on each county individually to provide an insight into religious crimes between 1630 and 1660. Each section will have a statistical analysis of who committed crime in terms of sex and occupation, alongside when the cases

²¹ Clive Holmes, *Seventeenth-Century Lincolnshire*, (Lincoln: The History of Lincolnshire Committee, 1980), pp.41-43.

²² Holmes, *Lincolnshire*, p.39.

²³ Richard Clark, 'Anglicanism, Recusancy and Dissent in Derbyshire 1603-1730', (University of Oxford, 1973), p.342.

²⁴ Stuart Brian Jennings, 'Abstract' - "'The Gathering of the Elect": The Development, Nature and Social-Economic Structures of Protestant Religious Dissent in Seventeenth Century Nottinghamshire', (Nottingham Trent University, 1999), p.17.

were being listed at the Quarter Session. This approach will be complemented by a geographical analysis of where the offenders lived. Furthermore, there will be an element of quantitative analysis of particular case studies to explore what the religious crimes entailed. The study aims to explore why religious disobedience occurred in these counties. The conclusion identifies trends and significant findings for religious crimes across the East Midlands region.

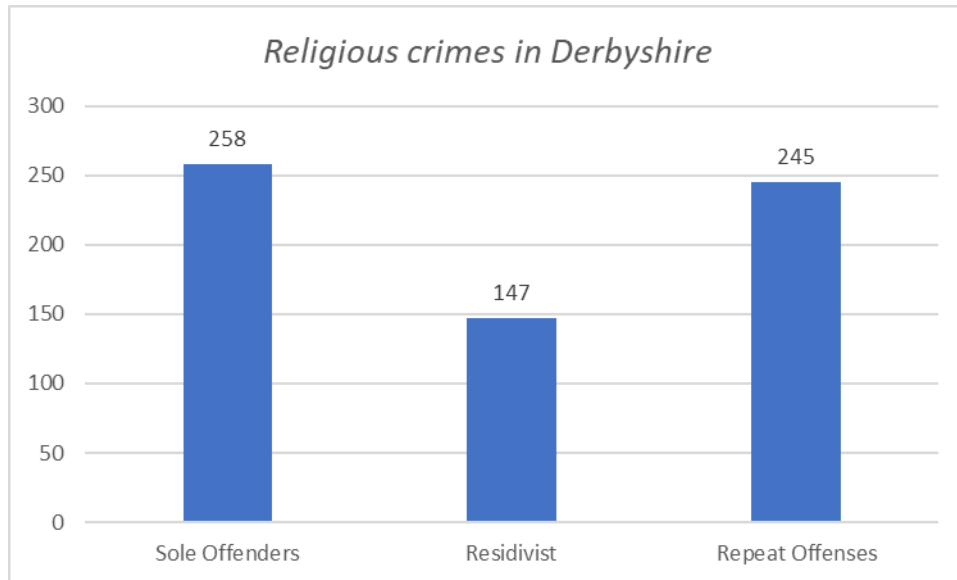
Derbyshire:

Introduction:

As a county well known for a long-standing tradition of dissent, Richard Clarke explored this further in his thesis. He found that, in Derbyshire, 'during the 1630s there was no evidence of any radical sectarianism, but by the Restoration, there was a large and widely distributed group of Quakers in Derbyshire together with smaller groups of Independents, Baptists, and Muggletonians.'²⁵ Although the Quarter Session Rolls are incomplete for the thirty years between 1630 and 1660, the sources (rolls from 1630, 1634, 1638 and 1649) can still provide insight into religious criminality within the county. Across the four years, there was a total of 650 religious crimes listed within the Quarter Session Rolls. Figure 39 provides a breakdown of how these offences were divided; for instance, there were only 405 individuals accountable for these listed crimes. For Derbyshire, most individuals in the records were those listed for a religious crime only once. Although there are almost as many repeat offences committed by those who were recidivists (repeat offenders), suggesting there was a continued presence of dissenters throughout Derbyshire.

²⁵ Clark, 'Anglicanism, Recusancy and Dissent in Derbyshire 1603-1730', pp.142-143. See Brian Stone, *Derbyshire in the Civil War*, (Northampton: Scarthin Books, 1992), p.108 for further information on this tradition.

Figure 39: Bar chart of religious crimes in Derbyshire

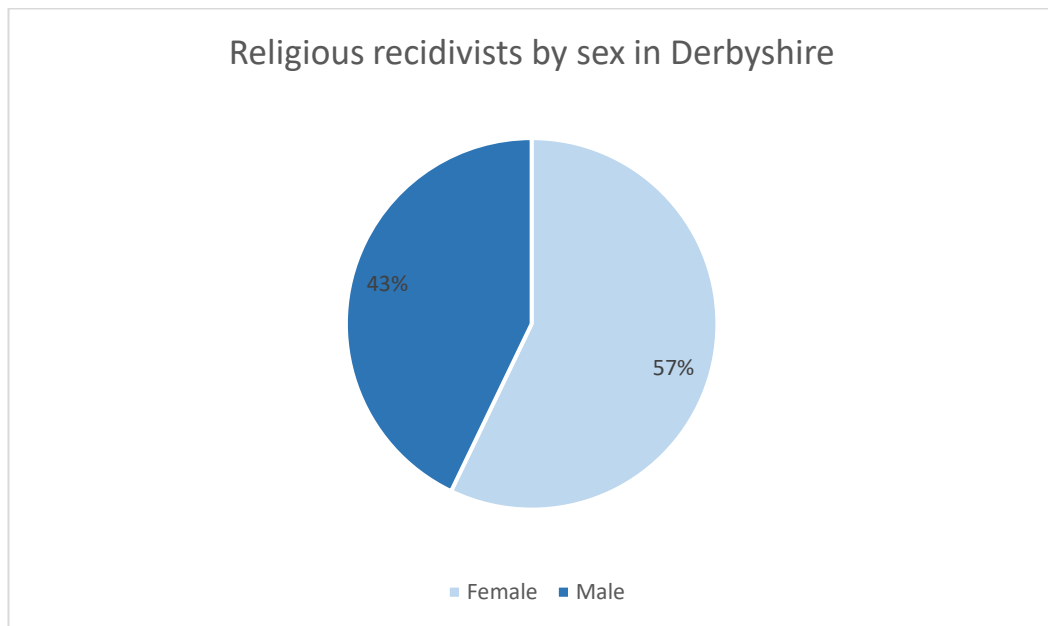


Who (Sex):

Analysing who was involved in religious crimes in terms of sex was a significant aspect as it has long been understood that in the seventeenth century, women, particularly wives and mothers, held a religious significance and the spiritual welfare of the household was associated with them.²⁶ That is not to say that men were not listed for religious crimes during this period, but rather that due to this popular association between women and religion, there may have been a greater priority to pursue those they believed to be nurturing the dissent. This notion is supported by the higher percentage of women (53 per cent) listed for religious crimes than the number of men (47 per cent) listed. The figures include both first-time and repeat offenders (although not including their repeat offences) in Derbyshire from the available records.

²⁶ Patricia Crawford and Sara Mendelson, *Women in Early Modern England*, (Oxford: Oxford University Press, 1998), pp.226-230.

Figure 40: Pie chart of religious recidivists by sex in Derbyshire



Moreover, when this is broken down into sole and repeat offenders, there was a considerable sex-based difference between the two categories of offenders. For recidivists, there was a difference between the number of men and women listed for religious crimes. There are at least two potential aspects as to why there are more women listed for these crimes, especially repeat offenders: women's religious responsibility and protecting the husband's reputation. Even if the husband decreed the family denomination or spiritual beliefs, it was often the females of the household who expressed this, even if it was a challenge to the established church. For example, 'the expression of spiritual convictions through family or 'relative duties' was perhaps the commonest form of female activism at this time, since household piety (at least in theory) could be reconciled to the old-fashioned passive feminine virtues approved by men.'²⁷ This theory may have encouraged them to openly follow their beliefs and practices as it did not challenge patriarchal or gendered expectations, rather than being covert, which may have led to a greater number of instances of women listed before the court. Mendelson and Crawford determined that 'much like needlework or housewifery, feminine piety

²⁷ Crawford and Mendelson, *Women*, p.229.

had evolved into a body of expertise which mothers taught daughters and mistresses their maidservants.²⁸ This familial network may account for why wives and mothers were targeted; they influenced others, such as servants and children, within their private domain. For instance, one Kathryn Hadley of Hathersage is listed in 1634, alongside her daughter, as noted on the session roll, Elizabeth Hadley of Hathersage, both listed for being absent from church.²⁹ Therefore, these women may have been a more significant target before the court to try and discourage their practices and potentially weaken their influence.

Another aspect has been suggested by Richard Clark that 'the property of a recusant wife could not be sequestered under the Acts of 1581 and 1586-1587, women, therefore, had less to lose' even if the husband had control of his wife's property.³⁰ Thus, it may be that although they shared religious beliefs, the wife may have been less circumspect in demonstrating this as she did not have to fear these penalties, explaining why there were more women than men listed for religious crimes. Although none of those listed in the Derbyshire Quarter Sessions are those above the status of a gentleman, this may still have been a practice amongst those such as yeoman. Twenty-five married women were listed for religious crimes during the thirty years without their husbands. One example of such a case is Bridgett Heaward, who was listed four times between 1638 and 1639 for being absent from the church for three sabbaths, yet her husband Robert was not listed in any instance.³¹ The number of women who were listed without their husbands and repeated their offences does imply that during this period in Derbyshire, women had a strong association with religious crimes. Due to this notion that they were protecting their husbands' interests or as beliefs were that 'the weaker sexe, to piety more prone' and if this was a religion outside of the established church,

²⁸ Crawford and Mendelson, *Women*, p.228

²⁹ 'Constable's Presentment' *High Peak*, (15th July 1634) – DRO – QSP – Q/SB/2/40.

³⁰ Clark, 'Anglicanism, Recusancy, and Dissent', p.67.

³¹ 'Constable's Presentment' *High Peak*, (8th January 1639) – DRO – QSP – Q/SB/2/83; 'Constable's Presentment' *High Peak*, (October 1639) – DRO – QSP – Q/SB/2/72 For the original manuscript and transcription please see Appendix 2; 'Constable's Presentment' *High Peak*, (16th July 1639) – DRO – QSP – Q/SB/2/77; 'Constable's Presentment' *High Peak*, (23rd April 1639) – DRO – QSP – Q/SB/2/80.

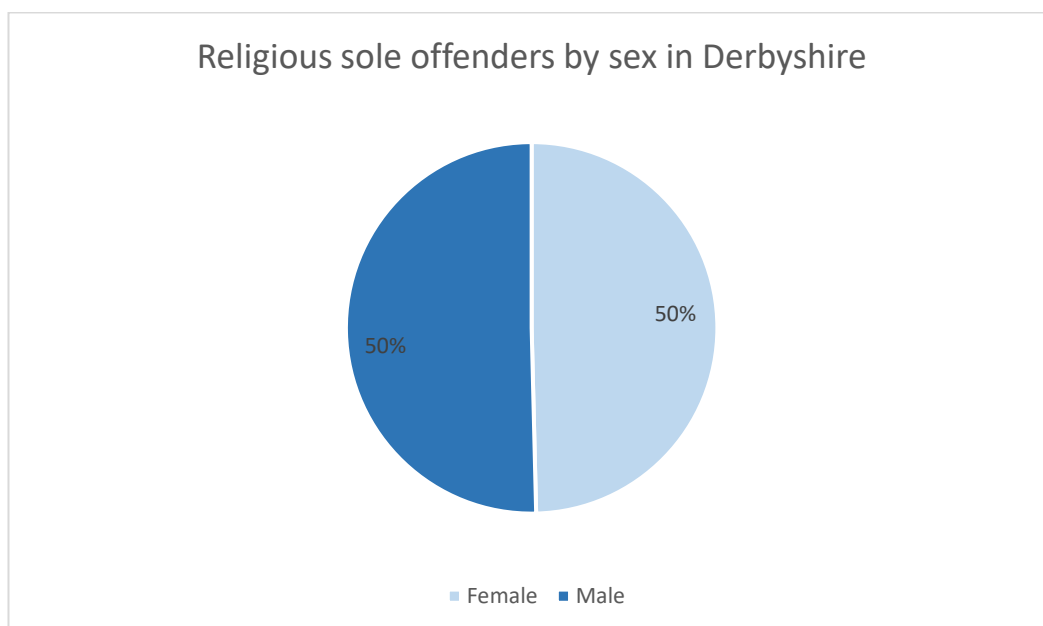
women may have been viewed as a more significant threat and thus more often targeted.³²

Regarding the type of individual committing religious infractions, more people in Derbyshire were listed in the available Quarter Session Rolls once as sole offenders than as recidivists. Unlike the recidivists, the balance between the sexes was proportionately equal, as shown in Figure 46. There may have been a higher number of sole offenders overall due to fears regarding persecution and fines, especially for men who were at a greater risk of financial sequestration; hence, they became more outwardly conformist to avoid being listed amongst the session rolls. On the other hand, although Clarke finds that women were also the majority of recusant convicts across the Estreats of the Recusant Rolls, he noted that there was a slight decline in their proportion between 1631 and 1640 (women represent 50.23% of those convicted for recusancy), Clarke associates this decline with the role of men and their confidence to be openly recusant in times when persecution had eased.³³ As such, the early years of Charles's Personal Rule and the higher tolerance level during the Interregnum may have created the opportunity for more men to outwardly dissent.

³² William Alexander, Earl of Stirling *Recreations with the Muses* (ptd. Thomas Harper: London, 1637) – *The Fifth Hour*, v.55, p.107 [online source p.380] https://archive.org/details/bim_early-english-books-1475-1640_recreations-with-the-mus_alexander-william-earl_1637/page/n379/mode/2up

³³ Clark, 'Anglicanism, Recusancy and Dissent', p.66.

Figure 41: Pie chart of religious sole offenders by sex in Derbyshire



Who (Occupation):

Another critical aspect examined is the occupation of those listed in the Quarter Session Rolls for religious crimes. The analysis excludes repeat offences, so each occupation or marital/social status was only addressed once for each person; it also excludes all those for whom their occupation was not recorded.

Unsurprisingly, with women being the sex with the greatest number of offenders, the greatest proportion of female offenders were married women. However, there was one instance of a woman being listed as a pensioner within these accounts (rather than the typical listing of a woman's marital status in the court records.) Even if she were a single woman, the number of single women listed for religious crimes would still be less than that of the wives, affirming the association between the married woman and their religious responsibility during the seventeenth century.

It is crucial to note that there are limitations of the information within the court records, as J.A. Sharpe highlights that 'clerks of assize and quarter sessions [...], as the century progressed, simply described all males below the rank of gentry

as “labourer”.³⁴ Yet there was some differentiation within the Derbyshire court records regarding the occupation of those below the gentry, indicating an intent on behalf of the clerks to describe the offenders accurately. More importantly, it is still possible to analyse the general social status of those within the Sessions through what was recorded. However, within the Derbyshire Quarter Sessions, there are no listings of recusants above the minor gentry (those listed as Gentleman), and this was mainly due to the measures taken by the nobility to avoid being identified as recusants or papists. For example, families maintained outward conformity; women upheld their recusant convictions rather than men; families whose different branches held different convictions; and the employment of agents to ensure land could not be sequestered. Yet as the ‘system depended on the valuation of jurymen who were usually neighbours of the recusant convict’, the sequestration process was not always effective, and these were often dealt with by the exchequer rather than localised courts.³⁵

For men in Derbyshire, labourers were the most common occupation of men committing religious crimes. This is significant as it supports the notion that ‘it was the yeomanry and lesser orders who suffered on a far greater scale than the gentry’, not necessarily in penalisation but certainly through exposure before the Sessions in Derbyshire.³⁶ Often, those within the labouring classes who were listed as recusants were not penalised as it was not financially viable to prosecute.³⁷ A fine of 12d a week could potentially put those of the labouring sort in need of parish financial support, which could be particularly worrisome for the local community as ‘the relief was not enough to support a labouring man alone let alone a wife and child’ and therefore it was possible the recusancy fines were not enforced for the labouring poor.³⁸ Clarke identified the labouring sort were predominantly Catholic, often due to the lack of access to the Anglican parochial

³⁴ J. A. Sharpe, *Crime in seventeenth-century England: A County Study*, (Paris: Maison des Sciences de l’Homme, 2008), p.7.

³⁵ Clark, ‘Anglicanism, Recusancy and Dissent’, p.91.

³⁶ Newman, ‘Roman Catholics in Pre-Civil War England’, p.149.

³⁷ Terrar, ‘Gentry Royalists or Independent Diggers?’, p.316.

³⁸ Steve Hindle, *On the Parish?: The Micro-Politics of Poor Relief in Rural England c.1550-1750*, (Oxford: Oxford University Press, 2004), p.276.

churches and accessibility issues within them – this was particularly evident in the geology of the Northern section of Derbyshire, which featured large parishes to one religious dwelling.³⁹ There is a school of thought that the significant numbers of recusants within the labouring sort were due to their connections to a recusant noble, primarily through farm tenants or household servants.⁴⁰ Demographically, the labouring sort outweighed the numbers within other social classes. Thus, with the reduced access to the newly established church and the influence of Catholic gentry families within remote areas of Derbyshire, such as the Eyres of Hassop or the Leakes of Sutton, this generated larger numbers of the labouring sort who were listed as recusants.

The subsequent most popular occupation listed for men was the yeoman, who in some instances was listed as a gentleman; as highlighted previously, this was dependent upon their worth at the time of listing – to have the means with which to live without working and the money to raise coats and arms.⁴¹ Thus, it may be that in some areas, the gentleman and the yeoman fulfilled the role of the leading recusant family in the place of the absent titled gentry. There is also the notion that ‘Catholics, especially recusant Catholics as opposed to church Catholics, tended to rent from the Catholic magnates. That was because the magnates were influential in local politics and prevented recusancy prosecutions and occasionally paid the fines for their tenantry.’⁴² This possibly made yeoman and minor gentry a priority to prosecute, especially as, unlike the labourers, they would have been able to afford the recusancy fines and, through renting to other Catholics, created potential religious non-conformist hotspots.

It is essential to acknowledge that these records are incomplete for all religious crimes and that the occupation was not recorded for a significant portion

³⁹ See ‘Parishes and Pews’ in Clark, ‘Anglicanism, Recusancy and Dissent’, pp.4-14.

⁴⁰ J.C.H. Aveling, *The Handle and the Axe: The Catholic Recusants in England from Reformation to Emancipation*, (London: Blond & Briggs, 1976), p.162.

⁴¹ William Harrison, *The Description of England*, Holinshed Chronicles 1587 ed.: The Folger Shakespeare Library, (ed.) Georges Edelen (1968), p.114.

<https://archive.org/details/descriptionofeng0000harr/page/n7/mode/2up>

⁴² Terrar, ‘Gentry Royalists or Independent Diggers?’, p.329.

of those listed. Yet, analysing the available data provides insight into Derbyshire's social structure and potential connections with religion.

What:

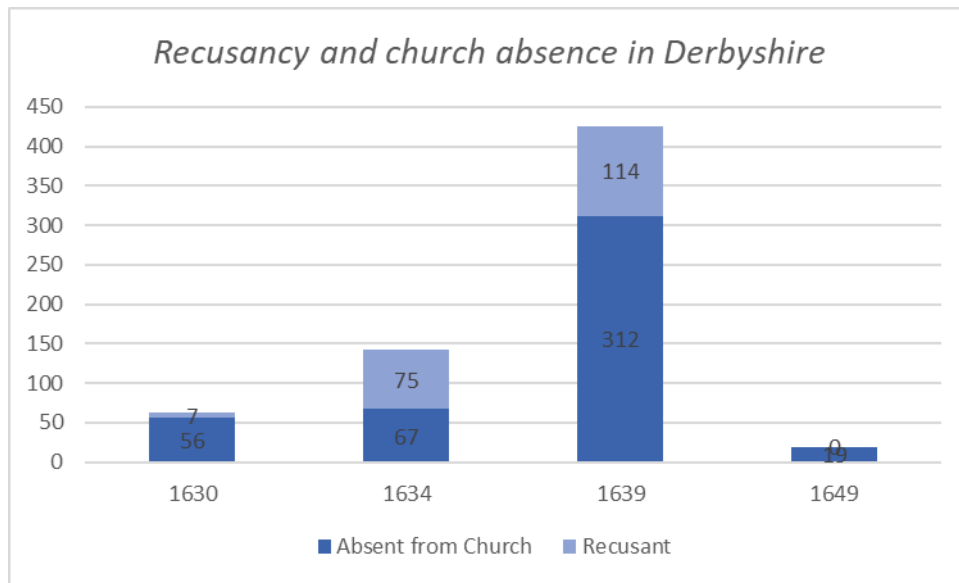
There was some difficulty throughout the Quarter Sessions with identifying the religion the offender was associated with, as the denomination was rarely recorded. The offender could also be listed for different religious crimes in different sessions.

Within Derbyshire, a significantly larger proportion of people listed within the Rolls for being absent from Church than for being a Recusant. In some instances, those accused were listed as recusants and absent. However, those previously listed as a Popish Recusant have been identified as recusants, even if they were also charged for absenteeism. For instance, Thomas Mellor, a tailor of Bowden Middlecale, was listed as a recusant in 1634, but then, in 1639, he was listed as being absent from the Church.⁴³ With this distinction, it was possible those who were only listed as being absent from church were not suspected of being Popish recusants but rather members of one of the sects arising against what was the Anglican Church, for instance, the Baptists, the Presbyterians or the Separatists. Nevertheless, without the distinction within the records and cross-referencing against further materials outside of the research remit, it was not easy to ascertain their religion with certainty. Another interpretation of the terms used is that the recusant 'had performed an action, that is, he had refused to go to church. The action of the [absentee] was less positive. He had just not turned up at the parish church.'⁴⁴ Suggesting that there was an active and a passive action to non-conformists, which determined how they were termed within the Visitation Comperta and the Recusant Rolls.

⁴³ 'Constables Presentment' *High Peak*, (20th September 1634) – DRO – QSP – Q/SB/2/33; 'Constables Presentment' *High Peak*, (1634) – DRO – QSP – Q/SB/2/49; 'Constables Presentment' *High Peak*, (8th January 1639) – DRO – QSP – Q/SB/2/83; 'Constables Presentment' *High Peak*, (16th July 1639) – DRO – QSP – Q/SB/2/77; 'Constables Presentment' *High Peak*, (23rd April 1639) – DRO – QSP – Q/SB/2/80.

⁴⁴ Clark, 'Anglicanism, Recusancy and Dissent', p.34.

Figure 42: Stacked Bar chart of recusancy and church absence in Derbyshire



It is crucial to note that within the Derbyshire Session Rolls between 1630 and 1660, there are no accounts of fines or any indication of judicial punishment for anyone listed for recusancy or absenteeism. The Session Rolls held only the Constable Presentments, which listed non-conformists and whether this was for being a Popish recusant or Absent from the Church. It is possible that due to the community involvement in identifying non-conformists, the constables and the Quarter Sessions were reluctant to prosecute those identified to the full extent of the Acts. As Clarke has found often, they were 'only listed for three missing sabbaths, [whereas] the 1581 act required the wilful absence for four consecutive Sundays' to face the total penalties of the law.⁴⁵ There are 484 instances within the Constable Presentments of those listed who were noted for being absent for three sabbaths, evidencing this notion. The reasoning for this may be similar to sequestration – it was likely that the JPs knew, especially the minor gentry, who were listed and thus, there may have been a reluctance to apply those penalties.

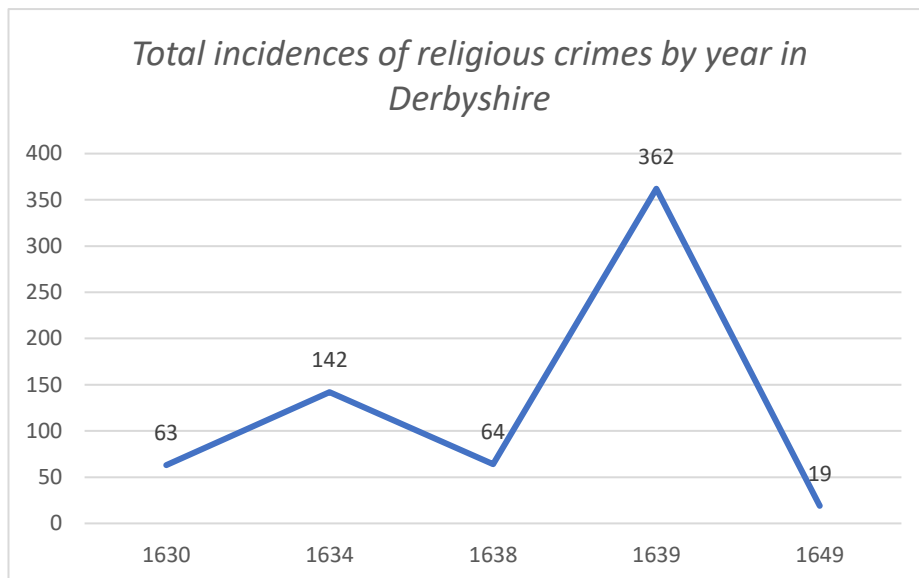
When:

Despite only four years' worth of Quarter Session Rolls that list religious crimes for Derbyshire, it is still interesting to consider when these crimes occurred. However, when considering the numbers chronologically, these figures are only taken from

⁴⁵ Clark, 'Anglicanism, Recusancy and Dissent', p.79.

the available records. For instance, for 1649, there was only one hundred that had a surviving record, hence the significantly lower number of religious crimes listed: and for 1639, the data was from four different sessions; 1634 from three, and 1630 from one – hence, it is difficult to draw an exact comparison.

Figure 43: Line chart of total incidences of religious crimes by year in Derbyshire



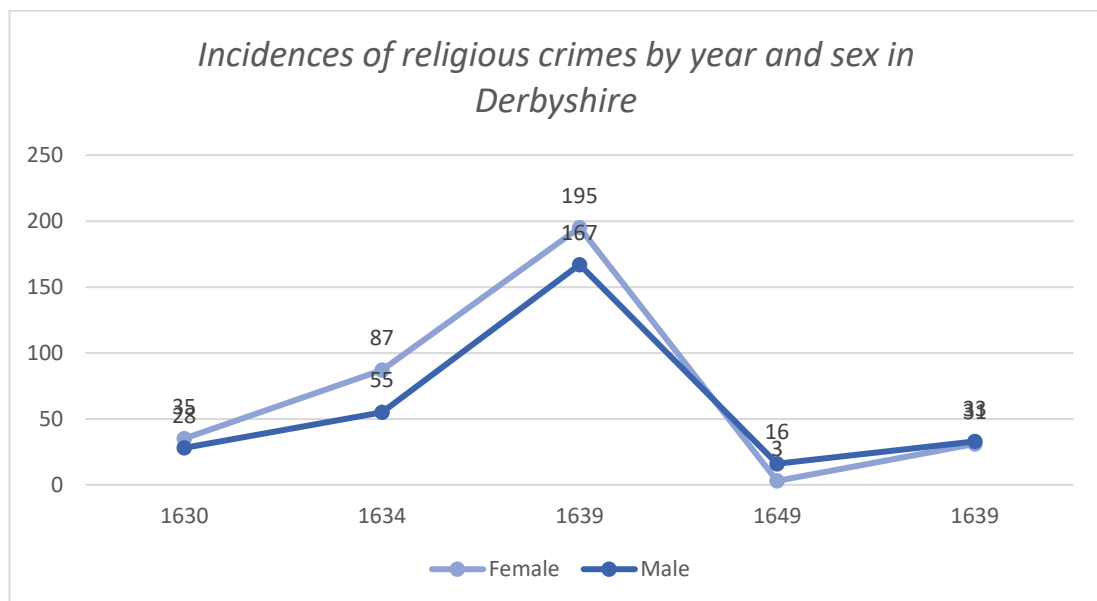
Despite only one extra session date with available records in 1639, there was a considerably larger number of people listed for religious crimes than in the years with three sessions. This spike could simply be concerning the survival rates and the number of hundreds that had sessions available; 1639 came from the High Peak, Appletree, and Morleston and Litchurch Hundreds, whereas 1634 only had the High Peak hundred available. One potential reason for this was the Bishops War, which catalysed national religious concerns. For instance, there were increasing concerns over those sympathetic to the Scottish Presbyterian cause, those who felt alienated from the Church under Charles I and Laud's changes, and increased fears over Catholic influence throughout the nation.⁴⁶ This could easily have been reflected within local concerns as these national issues filtered down from central government to local administrations and through tensions between gentry families who were a part of the wider court. As such, this potentially

⁴⁶ Austin Woolrych, *Britain in Revolution 1625-1660*, (Oxford: Oxford University Press, 2002), pp.115-145.

culminated in this increased number of listings for religious crimes as there was a heightened awareness as well as a need to identify those who were potential instigators of dissent. However, this would need further exploration compared to the other two counties to strengthen this analysis.

Examining when these crimes occurred by sex indicates that, although there was a considerable amount more women listed for religious crimes, the prosecution rates of the individual sexes follow the same patterns. There was no notable difference in the number of men and women charged at each session, suggesting there was not a year in which one sex was more targeted than the other. For instance, at the start of the Civil Wars, there may have been a greater focus on listing male recusants as an indicator of their possible allegiances – although a portion of the historiography questions the allegiance between Royalist support and Catholicism.⁴⁷ Yet there was little difference in the numbers of men and women in 1639.

Figure 44: Line chart of total incidences of religious crimes by year and sex in Derbyshire



⁴⁷ Terrar, 'Gentry Royalists or Independent Diggers', pp.332-337.

Where:

Religious crimes were spread throughout the county, apart from along the Western border with Staffordshire – excluding around Ashbourne. These crimes are noticeably higher in the Amber Valley, Erewash, and High Peak districts. The largest proportion of religious crimes were in the centre of the county, in a quadrant between Ashbourne, Heanor, Long Eaton and Uttoxeter (a part of the Morleston and Litchurch Hundred and the Appletree Hundred).

For Derbyshire, it is notable that there was a considerable pocket of Absenteeism in the High Peak area of the county, which included places such as Little Hucklow, Whatton, and Tideswell, where all those in the records were listed as Absent from Church. With no reference to being a Recusant in any available sessions, this may indicate these offenders were of the Protestant faith but not the Established Church. Although there is a debate as to how dedicated the lead miners were to Protestant dissent, as shown by Figures 45 and 46, there was a clear connection between these areas and the number of religious crimes listed. For instance, Jill Dias has outlined that '[the lead-miners] boldness was reinforced by the spread of religious radicalism propagated by 'godly preachers' who were especially active among the populous lead mining communities of High Peak and Wirksworth, where their sermons were drawing large crowds by the 1630s.'⁴⁸ Although Andy Wood is more cautious as 'one can assume that in these towns, at least, puritanism had some influence before 1642; but it can hardly be said that miners as a whole were very deeply affected by Puritanism.'⁴⁹ He outlines that their allegiance was not a case of loyalty to the causes but dependent on their mining rights and the restrictions placed upon them by the Court. For instance, in terms of those who allied with the King, he draws significantly on the miners' hatred of lead tithes, an example being a petition from 28 miners who promised to form a lifeguard for the King if he included this abolition in his offer.⁵⁰ However, Wood

⁴⁸ Jill R. Dias, 'Lead, Politics and Society in Derbyshire before The Civil War', *Midland History*, no.6 (1981), pp.39–57: p.45.

⁴⁹ Andy Wood, 'Beyond Post-Revisionism? The Civil War allegiances of the miners of the Derbyshire "Peak Country"', *Historical Journal*, vol.40: no.1 (1997), pp.23-40: p.31.

⁵⁰ Wood, 'Beyond Post-Revisionism?', p.33.

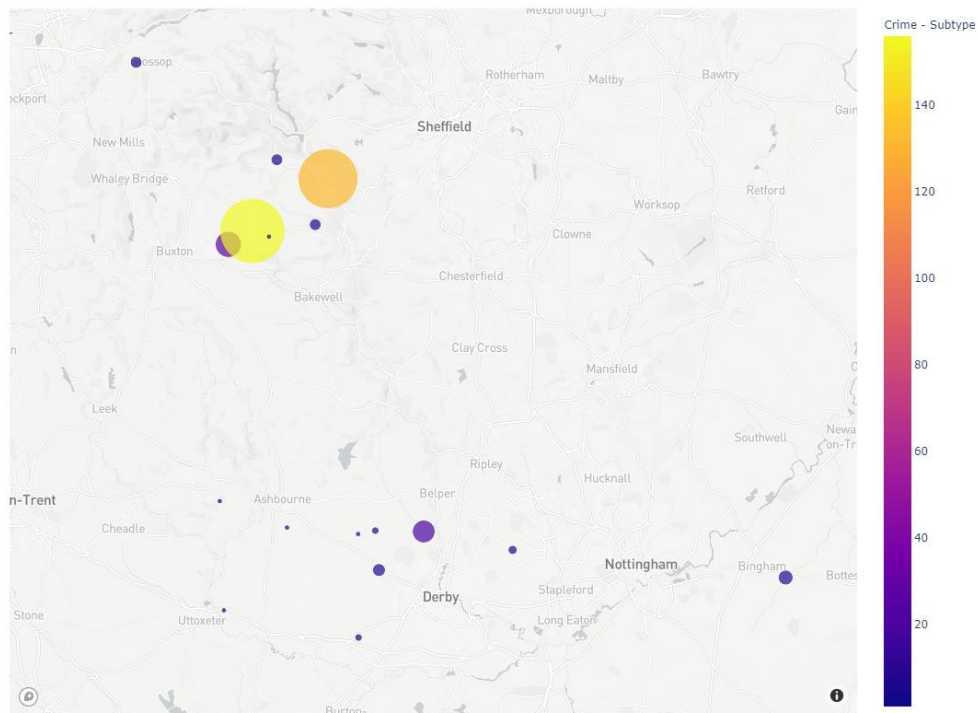
does acknowledge that for those who fought for Parliament, there was an element of their religious conviction along with their migrating work-based community.⁵¹

Figure 45 depicts only 'Absent from Church' instances, and the lighter the colour of the circle and the larger it is, the higher the number of crimes listed in that area. As has been identified, the High Peak, and certainly Tideswell, had the largest number of these crimes. There were 157 incidences in Tideswell, and families of recidivists generally committed these. For instance, the Palfreemans, which consisted of William, occupation unknown, Margaret, his wife and then Robert, Thomas and Anne (as they were consistently listed together within the records of the same place and surname, it has been assumed they were kin) were all charged four times each throughout 1639.⁵²

⁵¹ See Wood, 'Beyond Post-Revisionism?', pp.23–40 and Andy Wood, 'Social Conflict and Change in the Mining Communities of North-West Derbyshire, c. 1600–1700', *International Review of Social History*, vol.38: no.1 (1993), pp.31–58

⁵² 'Presentment of various parish in the High Peak', *High Peak*, (8th January 1639) – DRO – QSP – Q/SB/2/83; 'Presentment of William Bagshawe – Constable of Tideswell', *High Peak*, (16th July 1639) – DRO – QSP – Q/SB/2/77; 'Presentment of William Bagshawe – Constable of Tideswell', *High Peak*, (1st October 1639) – DRO – QSP – Q/SB/2/72; 'Presentment of Constable of Tideswell', *High Peak*, (23rd April 1639) – DRO – QSP – Q/SB/2/80.

Figure 45: Heat map of church absences in Derbyshire



Not only did the High Peak have a high amount of those likely to be Protestant dissenters, but it also had a large Popish/Catholic contingency: Bowden Chappell, Bowden Middlecale (now New Mills), and Wormhill were significant areas. Lynn Beats determined that ‘there were certain areas where there was a high density of Catholics; Longford was one. But the most important was Hathersage where, between 1592 and 1604, sixty-five people were identified as recusant [...] at Norbury where 45 recusants were found’: although there was no direct evidence of popish recusants in these areas from the Quarter Session Rolls available.⁵³ Furthermore, when considering Catholicism in the mining community, Wood proclaims that ‘the absence of any undercurrent of recusancy within the mining villages is made all the more surprising by the close proximity of a substantial recusant community to the northern edge of the lead field at Hathersage.’⁵⁴ Catholicism, especially within the eastern High Peak area, could have had significant ties to the gentry families there. For instance, within the records was one John Stalie, Gentleman of Castleton, whereas more widely known were the

⁵³ Lynn Beats, ‘Politics and Government in Derbyshire 1640-1660’, (University of Sheffield, 1978), p.19.

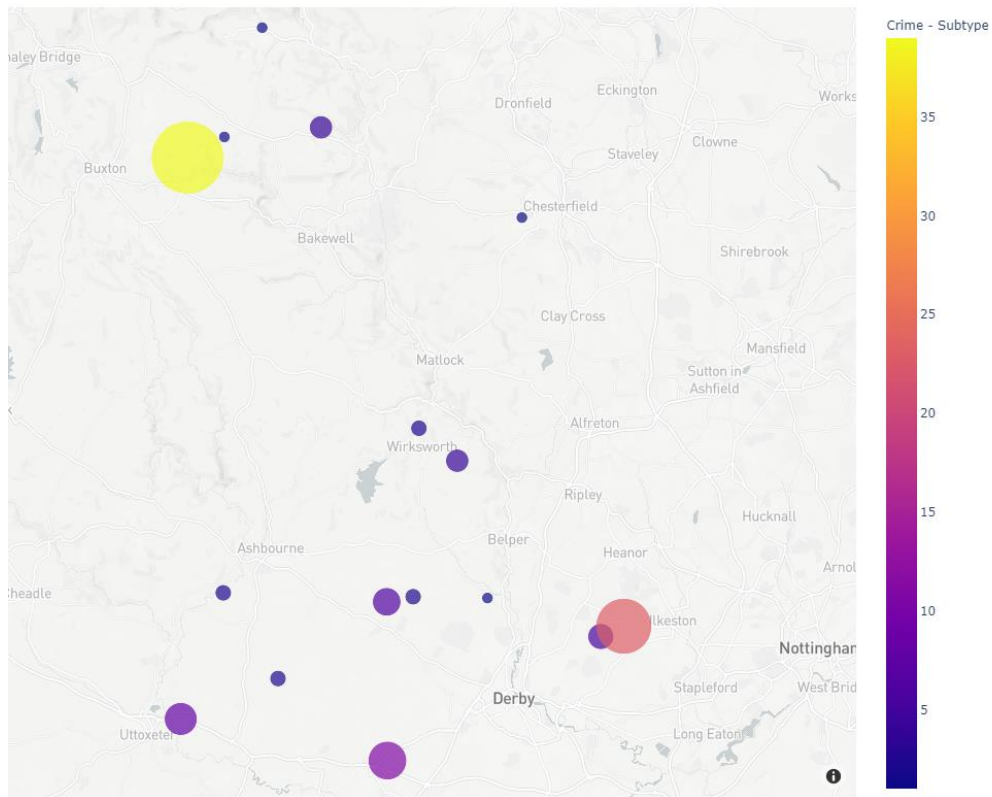
⁵⁴ Andy Wood, *The Politics of Social Conflict: The Peak County, 1520-1770*, (Cambridge: Cambridge University Press, 1999), p.192..

Eyres of Hassop or even the nobility – the Earls of Devonshire of Chatsworth House.⁵⁵ Those within the villages in the vicinities of such families would often be under the fealty of larger gentry families to support and continue their Catholic practices whilst potentially offering them a degree of protection from the law. Within the Morleston and Litchurch Hundred, the only area listed for Popish Recusants was West Hallam, which was extremely close to a group of Popish Recusants listed at Etwall in the Appletree Hundred.

As evidenced, throughout Derbyshire, there are often clusters of religious crimes close together – this is indicative of the idea that Catholicism survived due to the support of clusters within one area. Figure 46 shows only those listed as recusant in the Derbyshire Session Rolls. Similar to the Absent from Church crimes, the High Peak area has the most significant number of Catholics listed in one town. However, it is essential to note that although the number of Catholics in each area was lower than that of the suspected Protestant dissenters, the recusants are spread more consistently over a larger number of parishes. This may be evident in their more established long-term base within the county compared to the newer Protestant sects.

⁵⁵ 'Presentment by the Constable of Hope, of John Stalie and wife of Castleton for being recusants,' *High Peak*, (1st October 1639) – DRO – QSP – Q/SB/2/67; 'Presentment of the Constable of Eyam', *High Peak*, (1639) – DRO – QSP – Q/SB/2/76.

Figure 46: Heat map of recusancy in Derbyshire

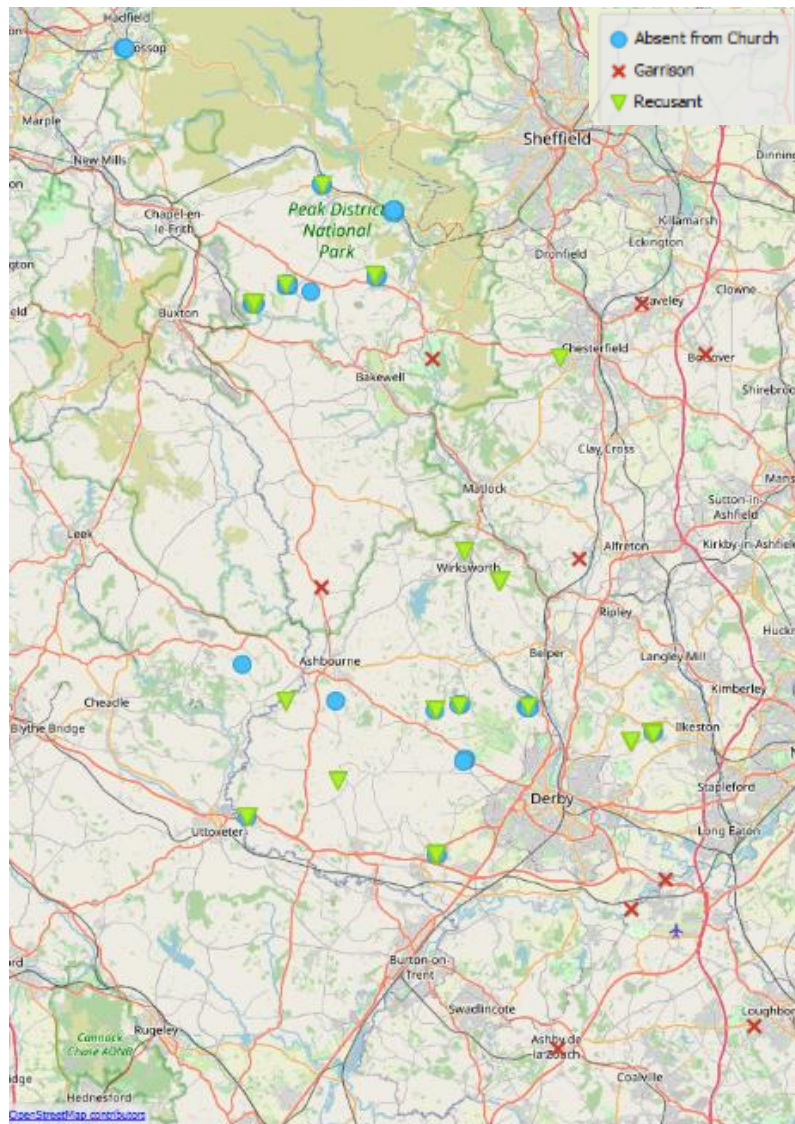


Within the Appletree Hundred was a far wider spread of Popish Recusants, including Stanley, Dovebridge, and Mercaston, which had larger numbers listed. For example, there were nine instances of religious crimes at Dovebridge between three recidivists.⁵⁶ A number of these villages were in the vicinity of what would later become Royalist strongholds. For example, for Mercaston, there was the minor Royalist garrison of Tissington; for Doveridge, there was the major Royalist garrison at Tutbury. There was a clear correlation between the positioning of garrisons and where there are pockets of recusancy, determined by their surroundings. For instance, garrisons were often in the vicinity of markets and trade routes (both road and river) for a variety of reasons, such as communication, accessibility to produce, and manoeuvrability, but these also helped to determine where religious dissent would often occur. Through these trade routes and

⁵⁶ 'Constables Presentments – Grace Mablou, Elizabeth Rawhim, Mary Cooke, John Faulding' *Appletree*, (16th July 1639) – DRO – QSP – Q/SB/2/75; 'Constables Presentments – Elizabeth Rawhim, Aline Madby, Mary Cooke, John Faulding and Margaret Bomett' *Appletree*, (23rd April 1639) – DRO – QSP – Q/SB/2/81.

markets, ideas and conversations, such as those regarding religion, were often shared and discussed, particularly in areas with high concentrations of travellers gathering. As can be seen from Figure 47, there were possible garrisons at Ashbourne and Uttoxeter, which sit directly on the Dove River, and there are instances of religious crimes in the vicinity of these areas.

Figure 47: GeoMap of religious crimes and garrisons in Derbyshire



It is also important to consider the county's topography when considering religious allegiance. Austin Woolrych has determined that:

the older festival culture tended to survive best in regions given mainly to open-field arable farming and characterised by close-knit manorial communities. Whereas Puritanism and its discipline

had a stronger hold in pastoral and woodland county as it was a less cohesive and shifting population.⁵⁷

This finding can be applied to the divide within Derbyshire; in the lead-mining districts, there was a shifting population due to the nature of the work, and as previously discussed, they had connections to Puritanism. Furthermore, 'the poor soils of the North and West Moorlands were given over mainly to the grazing of sheep and to the growing of small amounts of rye, peas and oats, while the fertile floodplains of the Trent and Derwent produced most of the county's cattle, wheat and barley.'⁵⁸ Suggesting that particularly in the Hundreds of Morleston and Litchurch, Appletree and potentially Repton and Greasley, due to the fertile land surrounding the rivers, these were areas most likely for the open field arable farming and thus connections to the Catholic or traditional religious beliefs. This notion is supported by the hotspot maps, which show the critical areas of protestant dissent and recusants.

Concluding Thoughts:

This section has given an idea of who was listed for religious crimes in Derbyshire, which supports the findings of Terrar and Newman that this was not the gentry but rather the yeomanry and below. Moreover, there was a larger proportion of women than men listed for religious crimes, which was indicative of the seventeenth-century beliefs that women held the responsibility for religion within their household. Thus, they were identified in court for this. One aspect that has been raised was the lack of prosecution for fines within the county and why this may be – which ties into broader historiographical debates about the application of law during the seventeenth century being a community-based decision and the potential use of mediation. Although this section has briefly addressed the chronological aspect, it has raised the issue of using court records as sources, particularly regarding survival rates and comparative studies on quantitative data. Lastly, this section has analysed where these crimes were committed. Interestingly,

⁵⁷ Woolrych, *Britain in Revolution*, p.43

⁵⁸ Stone, *Derbyshire*, p.4.

there was a divide created by the nature of the county and the perceived allegiances that developed during Charles' Personal Rule and the start of the Civil War.

Lincolnshire:

Introduction:

A minimal amount of data on religious crimes was available for the Quarter Sessions in Lincolnshire. Only the Lindsey Quarter Sessions are available for the years this research focuses on, and a low number of religious crimes were listed. For Lincolnshire, this was due to survival, but recusancy was also recorded within their Diocese records, such as within the Visitation Book, although only the book for 1638 survived for the period this research focuses upon. Despite this, it is still valuable to examine who committed religious crimes and when and where within the district of Lindsey from the Session Rolls.

In total, there were 178 instances of religious crimes in the East Lindsey district of Lincoln between 1630 and 1660. For Lincolnshire, there were four recidivists, and 166 persons were listed only once for religious crimes. This may be due to the recusants being listed elsewhere and only once within the Quarter Sessions or the fact that the listing of religious crimes was not a prosecution priority in the secular courts of Lincolnshire.

Who (Sex):

Understanding the sex aspect of who was involved in religious crimes in the Lindsey district is vital to providing insight into who was committing these crimes, even with the lower numbers registered at the Quarter Sessions. Proportionally, women were 56 per cent of offenders, whereas men were 44 per cent; there were only three instances where a wife was listed without her husband within the Lindsey Sessions and minimal numbers of single women.⁵⁹ This may account for the similarity in the proportion of offenders in this county.

⁵⁹ 'Presentment: Recusant – Katherin Rands, wife of Williams Rands, gentleman' *Lindsey*, (1657) – LA – QSR – LQS/A/1/16/58; 'Presentment: Recusant – Mary Neshenne, wife of Richard Neshenne,

Separating the sole offenders from the recidivists, there was a greater number of women who were listed only once in the Quarter Sessions for an instance of religious crime than men. As explored previously in the above sections, these proportions were due to the connotations regarding women and their religious role at the time. Furthermore, Frances E. Dolan has determined that for Catholics, outward conformity of men could protect their control over the household, especially their estates and public roles for the gentry.⁶⁰ Thus, the women maintained their Catholicism. Even though a husband maintained control over his wife's property, it still could not be sequestered under the acts, providing a certain degree of protection for their wealth. It may also be that for male offenders, those in local administration may have had a greater priority in prosecuting men for other crimes that may have had a more significant impact on the local community. This could have been on crimes such as the engrossing of grain, which created supply and demand issues, plus fluctuating prices, directly impacting all in the locality and could bring instantaneous fines, rather than waiting for the four consistent weeks of absenteeism required to fine for being absent from church. In Lincolnshire, for the recidivists, there was an equal number of men and women listed before the Sessions. Each of the four recidivists was listed for a repeat offence only once.⁶¹ This small sample makes it difficult to conclude the patterns and reasoning behind this.

husbandman' *Lindsey*, (1657) – LA – QSR – LQS/A/1/16/58; 'Presentment: Recusant – Jane Tinker, wife of Willia Tinker labr to be popishly affected' *Spittle*, (9th October 1657) – LA – QSR – LQS/A/1/16/58

⁶⁰ Dolan, *Whores of Babylon*, p.66.

⁶¹ 'Presentment:– Margaret Wistoe, George Wistoe' *Lindsey*, (13th January 1631) – LA – QSR – LQS/A/1/4/196 and 'Presentment:– Margaret Wistoe, George Wistoe' *Spittle*, (5th April 1648) – LA – QSP – LQS/A/1/11/106; 'Presentment:– William Morley' *Spittle*, (20th April 1637) – LA – QSR – LQS/A/1/8/46 and 'Presentment:– Wife Dawman' *Spittle*, (5th April 1648) – LA – QSR – LQS/A/1/11/18; 'Presentment:– Widow Walker' *Lindsey*, (7th October 1657) – LA – QSR – LQS/A/1/16/112 and 'Presentment:– Widow Walker' *Lindsey*, (1658) – LA – QSR – LQS/A/1/17/243

Figure 48: Pie chart of religious sole offenders by sex in Lincolnshire

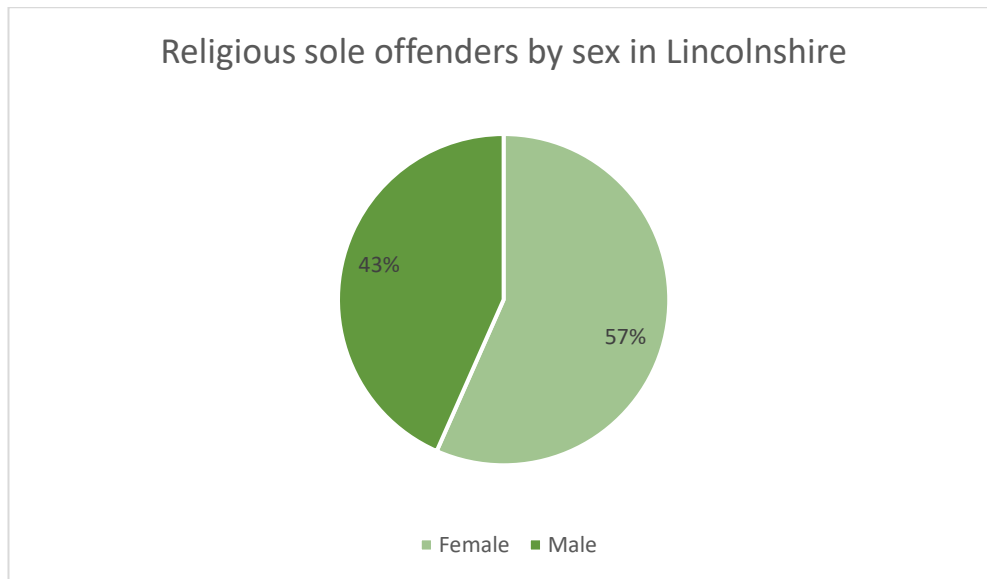
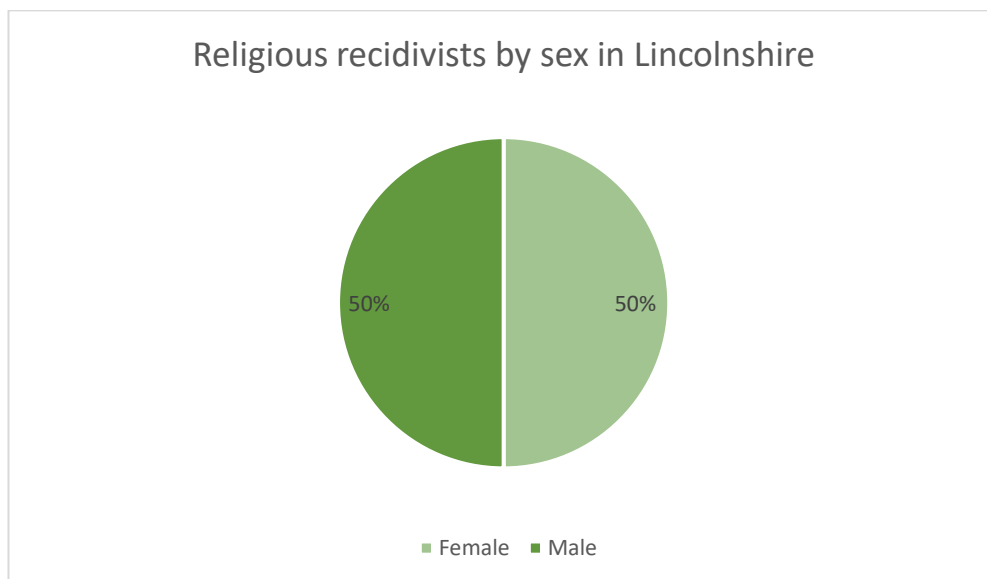


Figure 49: Pie chart of religious recidivists by sex in Lincolnshire



Who (Occupation):

Lastly, in terms of who, it is vital to consider the occupation and status of those listed for religious crimes in Lindsey in these thirty years to determine how Lincolnshire engages with the broader historiographical debate regarding who was committing religious crimes.

For women, the wives were the most common of those listed before the courts, far above the combination of all the 'single women' before the sessions. It is

crucial to note that single women may have been considered the most likely to commit crimes due to the lack of patriarchal authority in either a husband or father figure. Thus, they were more likely to be led into criminal activities without that guidance. Therefore, it is even more significant that it was wives who were the predominant group listed for religious crimes due to this notion of aiding their husbands to avoid the seizure of lands and estates for recusants alongside absentee fines.

In terms of the occupation of the men listed for religious crimes in Lindsey, 'the great bulk of the Catholic population were labouring people, or diggers, as labouring agricultural people sometimes called themselves.'⁶² As outlined throughout this research, labourers – particularly farm labourers - were subject to the travails of seasonal work, the need for high mobility, and low wages, often putting them within the poorest group of society. Thus, the preponderance of labourers may be linked to seventeenth-century notions regarding the poor and the belief that they were fundamentally more likely to be susceptible to ungodliness. This was especially pertinent for those who were believed to be Catholic as 'popery was associated with the vices of avarice, ambition, and hypocrisy, all elements that would become keystones of representations of corrupt individuals.'⁶³ Another aspect of this, as Holmes raised, was the fear of reprisals from those who accused the gentry of being Catholic.⁶⁴ There may have been a reluctance by those within the same community to accuse those of the gentry in case there may have been repercussions, especially if there was a chance work or social connections could be impacted within the parish.

The next most common group was those listed as gentlemen, excluding the nobility and titled gentry. This cohort was on the opposite end of the social spectrum from the labourers above. This may be indicative of Clive Holmes' assertion that in Lincolnshire, 'Catholicism increasingly became a seigneurial

⁶² Terrar, 'Gentry Royalists or Independent Diggers?', p.316.

⁶³ Mark Knights, 'Religion, Anti-Popery and Corruption' in Michael Braddick and Phil Withington (eds.) *Popular Culture and Political Agency in Early Modern England and Ireland*, (Woodbridge: Boydell and Brewer, 2017), pp. 181–201: p.192.

⁶⁴ Holmes, *Lincolnshire*, p.41.

movement: the Catholic population coagulated into a local group, each centred upon a gentleman's house.⁶⁵ Thus, they may have been a priority to identify before the courts because of their potential leadership in maintaining Catholicism.

What

Within Lincolnshire, due to the minimal number of recidivists for comparison, it is difficult to determine whether being Absent from the Church or being a Popish recusant was used to differentiate between Catholics and Protestant dissenters. Especially as two of those who were recidivists, married couple George and Margaret Wistoe of Saxilby, were listed as recusants and absent from church.⁶⁶ Thus, it is likely that being absent from church was used as a blanket term within the Lindsey Quarter Sessions to denote anyone absent from the parish church, no matter their religion.

Eleven cases were listed with the outcome of *Billa Vera*, and religious crimes listed against the offender were found to be substantiated – this would then go on to be a formal indictment. Yet no further outcomes exist for these or any other cases listed in Lincolnshire, which is pertinent as some of those listed had details of how long the offender had not been at church. For example, eleven people were listed on the 13th of January 1631 for being 'absent for three months and had not received the Holy Sacrament', including what appears to be five members of the Wistoe family and three of the Baulderstone.⁶⁷ Being absent for three consecutive months would mean that the offender listed was liable for absentee fines, yet there was no record within the Quarter Session records. Another six people were also listed as absent for four months and did not receive fines.⁶⁸ This may be because "the penal system, which did affect them [the catholic laity], was also aimed selectively – at the upper classes. Many of them might have been systematically

⁶⁵ Holmes, *Lincolnshire*, p.39.

⁶⁶ 'Presentment: Absentees from Church' *Lindsey*, (13th January 1630) – LA – QSR – LQS/A/1/3/196; 'List of Popish Recusants' *Spittle*, (5th April 1648) – LA – QSR – LQS/A/1/11/106.

⁶⁷ 'Presentment: Absentees from Church – Hugh Balderstone, Anne Baulderstone, Marie Baulderstone, Thomas Wistoe, Margaret Wistoe, George Wistoe, Marie Wistoe, Anne Wistoe, Elizabeth Short, William Manders, and Anthony Clod' *Lindsey*, (13th January 1631) – LA – QSR – LQS/A/1/3/196

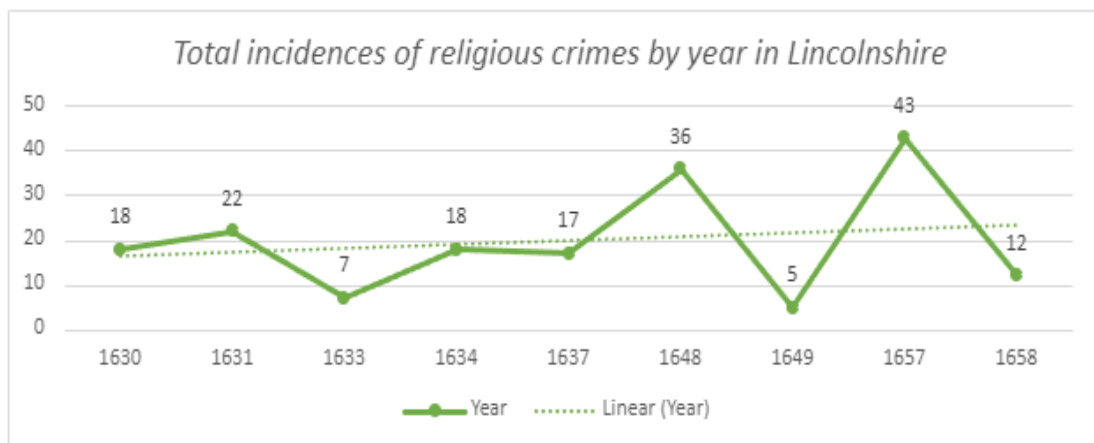
⁶⁸ 'Presentment: Absentees from Church – Henry Billins, Dorothea Billins, Jane Stable, Alice Forster, Thomas Ridge, Robert Mawson' *Lindsey*, (6th October 1631) – LA – QSR – LQS/A/1/4/22

impoverished by recusancy fines.⁶⁹ The lack of penalties may also suggest a reluctance to prosecute those in their localities for religious crimes, especially if those listed within the upper classes may have been known to the jurors and the bench due to them being of similar social stature – this is particularly notable as gentlemen were the second largest occupation listed in Lincolnshire.

When

The number of those listed before the Quarter Session records for religious crimes in Lindsey between 1630 and 1660 was sporadic. For instance, although there were surviving records for the district in 1651, 1652, and 1654-1659, there were only recordings of religious crimes in 1657 and 1658.

Figure 50: Line chart of total incidences of religious crimes by year in Lincolnshire



One reason there may be a spike in Lincolnshire in the number of religious crimes listed in 1657 was due to the reaffirmation of the Oath of Abjuration on 26th June 1657. The Oath declared a: ‘Neglect of putting Laws in execution against popish Recusants.; Justices of Assize and Goal-delivery and Justices in Quarter Sessions to give in charge that inquiry and presentment be made of Papists.; Persons presented to appear and take the Oath of Abjuration.’⁷⁰ The Oath of Abjuration was a renouncement of the Pope’s supremacy and the authority of the

⁶⁹ Hibbard, 'Early Stuart Catholicism', p.20.

⁷⁰ 'June 1657: An Act for convicting, discovering and repressing of Popish Recusants', in C H Firth, and R S Rait (eds.) *Acts and Ordinances of the Interregnum, 1642-1660*, (London: His Majesty's Stationery Office, 191). *British History Online*. Web. 20 September 2023. <http://www.british-history.ac.uk/no-series/acts-ordinances-interregnum/pp1170-1180>. See the original manuscript from Nottinghamshire Quarter Sessions and the transcript in Appendix 3.

Catholic Church. As aforementioned, Quarter Session records are available for the early and middle years of the 1650s, but only religious crimes listed in 1657 and 1658, suggesting that the reaffirmation of the Oath in 1657 had a direct impact on prosecution/judicial priorities in the Lincolnshire sessions. Furthermore, the wording within the Act acknowledged that there was a reluctance to apply the laws regarding absenteeism in prior years, which is supported by the lack of religious crimes in the available Lindsey records before 1657.

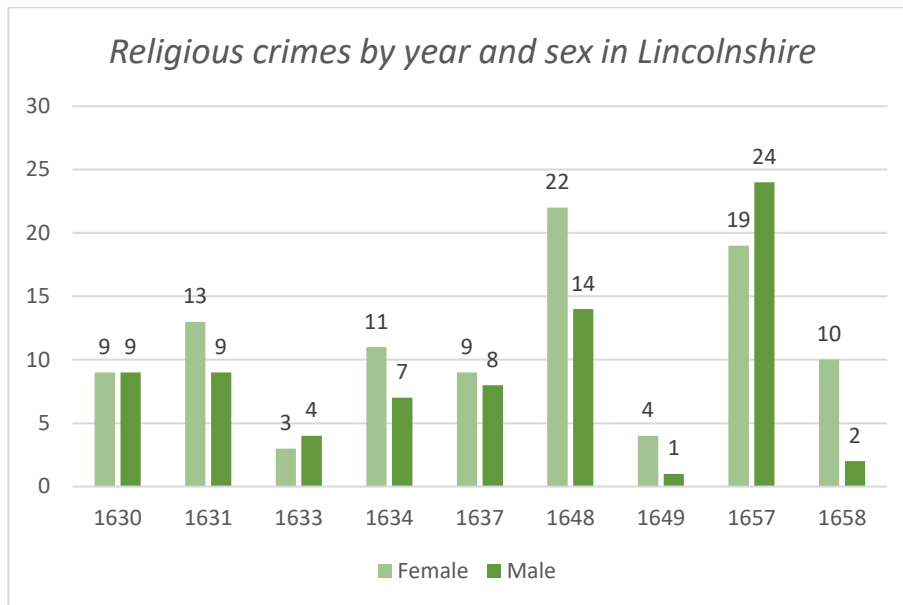
Notably, for all forty-three of the cases listed at the Quarter Sessions in 1657 in Lincolnshire, the offenders were all listed as Recusants; there are no instances of being absent from church. This asserts the connection between Catholicism and recusancy. For example, at Louth on 6th October 1657, Christopher Parker of Fortherby; John Boney, Richard Barlowe, Mr Pire, all of Little Grimsby; and Thomas Parker of Brackenbrough are listed as ‘reputed and suspected to be Popish Recusants.’⁷¹ Similarly, on 7th October, there are thirteen people of Bigby, Kettleby and Habor ‘whose names are here underwritten to be papists.’⁷² Yet in 1658, there are again instances of being Absent from Church being listed within the Quarter Sessions; for example, there were five people of Winteringham who ‘that off and agaysnt ye first article by breach of ye Sabbath absenting themselves continually from ye publique worship and not exercising themselves in dutys.’⁷³ The language used to identify specific crimes in these Sessions was used solely in line with the Act and demonstrative of how national prosecution priorities impacted crime figures at a local level.

⁷¹ ‘List of Recusants’ *Louth*, (6th October 1657) – LA – QSR – LQS/A/1/16/150.

⁷² ‘List of Recusants – Thomas Oliver, Elizabeth Hurst, Anne Taylor, George Jefferson and Joan Jefferson’ *Lindsey*, (7th October 1657) – LA – QSR – LQS/A/1/16/112.

⁷³ ‘Absenteeism’ *Lindsey*, (1658) – LA – QSR – LQS/A/1/17/217.

Figure 51: Bar chart of total incidences of religious crimes by year and sex in Lincolnshire



With women being the more significant proportion of offenders for religious crimes, it was unsurprising that for most years, they were the dominant sex, however, in the year 1657, there was a greater number of men listed. This was likely, again, in connection with the enforcement of the Oath of Abjuration, as failure to submit to the Oath when ordered before the Sessions could lead to the judicial authorities being able to

Seize, and take into his and their hands, to the use of the Commonwealth, Two parts, in three parts to be divided, of all the Debts, Goods and Chattels of every person any wayes so convict of Popish Recusancy as aforesaid; and also to seize and take into his or their hands two parts, in three parts to be divided, of all Lands, Tenements, Hereditaments, Leases, Farms, and Copy-hold Lands, whereof any such Popish Recusant convict, or any in trust for him or her, shall be Seized or Possessed at the time of such Conviction.⁷⁴

Thus, with available assets to be seized, males may have been a primary target of the prosecution as they were more viable options for seizures than women, especially wives whose assets were tied up with those of their husbands. Although it is significant to note that there are no outcomes of judgements or seizures in the Quarter Sessions records, it may be that those cases were transferred to and dealt

⁷⁴ 'June 1657: An Act for convicting, discovering and repressing of Popish Recusants', pp.1170-1180.

with by the Assizes or that those listed then conformed to the Oath, which was not documented.

Where

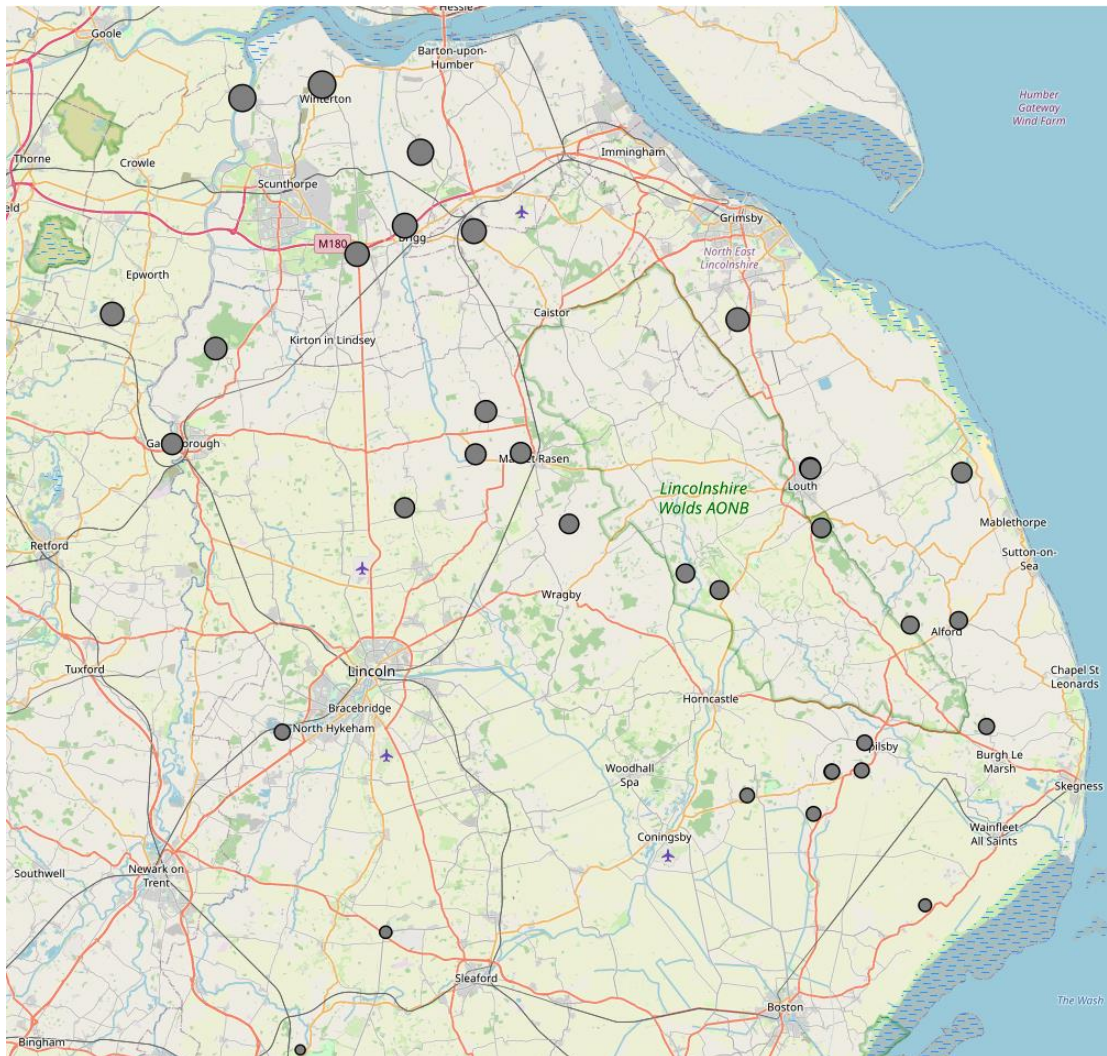
Addressing where those who committed recusancy and absence from Church crimes lived in the Lindsey district between 1630 and 1660 provides an insight into this crime and the county. As demonstrated by Figure 52, the instances of recusancy and absence from church are spread across the district. The slightly larger data points mark a higher number of cases.

There appears to be a cluster of religious crimes across the top lip of the county, incorporating Brigg to the western border. Another area in the middle of the district around Market Rasen incorporated miscellaneous/clay soils, which, as identified previously in Chapter One, is the landscape used for arable farming. Moreover, the eastern edge of the county, from Grimsby to Wainfleet, including Louth, is the coastal marshes known for its pastoral farming. This suggests a connection between the farming communities, their traditional structure, and religious crimes. It has been determined that a majority of the Catholics were engaged in agriculture, and a number of those listed were indicated as popish recusants.⁷⁵ For example, at Saxilby, along the miscellaneous and clay soils section of Lincolnshire that runs along the Nottinghamshire border, were 23 persons listed in the Constable's Presentment for being a Popish Recusant.⁷⁶ Therefore, the data for Lincolnshire demonstrates this correlation.

⁷⁵ Terrar, 'Gentry Royalists or Independent Diggers?', p.317.

⁷⁶ 'List of Popish Recusants – Robert Sherborne, Anne Sherborne, Anne Dormie, George Alberyy, Anne Alberyy, Widdow Barnsdall, Widow Stappleton, Elizabeth Stappleton, William Fisher, Mary Fisher, Alice Wistoe, Widdow Manners, Margaret Wistoe, William Clarke, Thomas Hopkinson, Wife Hopkinson, Geore Wistoe, Wife Wistoe, Wife Bothe, John Bothe, Mary Bothe, George Charlesworth, Margaret Charlesworth' *Spittle*, (5th April 1648) – LA – QSR – LQS/A/1/11/106

Figure 52: GeoMap of religious crimes in Lincolnshire



There appear to be fewer religious crimes along the landscape borders of the Wolds, the Coastal Marshes, and the Coastal Marshes and The Fens. The fewer incidences within this area may have been due to the demographics and flooding issues up to and around the draining of the area in the seventeenth century, which created a lack of opportunities in working the land or habitual, which purported a lower population. However, as Holmes noted, the area grew in population during the whole seventeenth century when the drainage presented land and opportunities for men, which in turn may have created a greater likelihood of religious crimes in the area.⁷⁷ Furthermore, it could have been due to the difficulty in traversing and communication throughout the area, which meant a greater

⁷⁷ Holmes, *Lincolnshire*, pp.19-21.

challenge in enforcing the reach of the law – especially as the closest consistent Quarter Session to this area was at Horncastle in the Central Lincolnshire Vale – and so a lower number of crimes recorded.

Another element was the connection between the religious denominations and specific areas. For instance, in 1606, the Gainsborough Separatists formed under preacher John Smyth, who was thought to have been able to worship clandestinely at Gainsborough Old Hall under some level of protection and support of William Hickman.⁷⁸ In the first five years of the 1630s, three people were charged for being absent from the Church in Gainsborough, suggesting a continued dissent against the established church.⁷⁹ However, without the details in the crime records outlining the specific denomination of those who committed these crimes, it is impossible to conclude this. However, the history of association between the town and Protestant dissent, alongside being labelled as Absentees rather than recusant, does present a possible connection.

Concluding Thoughts

This section for Lincolnshire has provided insight into those who were listed for recusancy and absence from the church during 1630 and 1660, specifically in the Lindsey district. It was apparent that women were the biggest proportion of those who committed religious crimes, as has been explored throughout this chapter, this had strong connotations regarding their role and responsibilities within the household, as well as preventing seizures of goods. Furthermore, regarding status for who was listed, wives were, unsurprisingly, in line with beliefs over their role, the highest proportion of women listed. For men, this was labourers followed closely by gentlemen, which again supported the findings of Terrar and Newman that this was not the nobility but rather the gentry and the labouring cohort who experienced the application of the law through the local courts. One aspect that has been raised is the difficulty in determining whether there was a clear differentiation

⁷⁸ 'Gainsborough and the Mayflower Story' <https://www.mayflower400uk.org/visit/gainsborough/> (accessed 1st October 2023); West Lindsey Council District 'Leading Separatists in the Pilgrim's Roots Region' <https://www.discovergainsborough.com/news/leading-separatists-in-the-pilgrim-roots-region-4/> (accessed 1st October 2023)

⁷⁹ 'Presentment – Thomas Ridge' *Spittle*, (6th October 1631) – LA – QSR - LQS/A/1/4/22; 'Presentment - John Lound and Mary Marshall' *Spittle*, (17th April 1634) – LA – QSR - LQS/A/1/6/49.

in the use of the different crimes – being absent from church or being convicted as a recusant – in Lincolnshire. It was apparent that the terms were interchangeable rather than used to denote those who were Catholic and those who were Protestant dissenters. Lastly, this section has analysed where these crimes were being committed. It was evident that there were certain areas where there seemed to be a preponderance of religious crimes. This appears to be connected to the landscape character of the region and the proximity and accessibility of the judicial authorities.

Nottinghamshire:

Introduction:

Nottinghamshire is an interesting county in which to study religion as several of its bordering East Midlands counties, for instance, Derbyshire, Leicestershire, and Lincolnshire, were under the Diocese of Canterbury, whereas Nottinghamshire lay under the Diocese of York. In terms of this thesis, this may have impacted the prosecution of religious crimes. For instance, Nottinghamshire may have been more stringent or targeted towards certain religious crimes above others. Yet, as this thesis focuses on the secular courts rather than the ecclesiastical courts, the impact of the different dioceses may not be apparent. Furthermore, the county had a history of Protestant dissent, such as the Scrooby Separatists. Crucially, Stuart Jennings's dissertation "'The Gathering of the Elect': The Development, nature, and social-economic Structures of Protestant Religious Dissent in seventeenth century Nottinghamshire" explores the history of dissent in this county as well as its organisation and survival.⁸⁰ However, alongside this, there was a long-standing Catholic association through gentry families such as Sir Edward Goulding or even those in relation 'to the activities of the Jesuit Chaplaincy at Holbeck Hall.'⁸¹

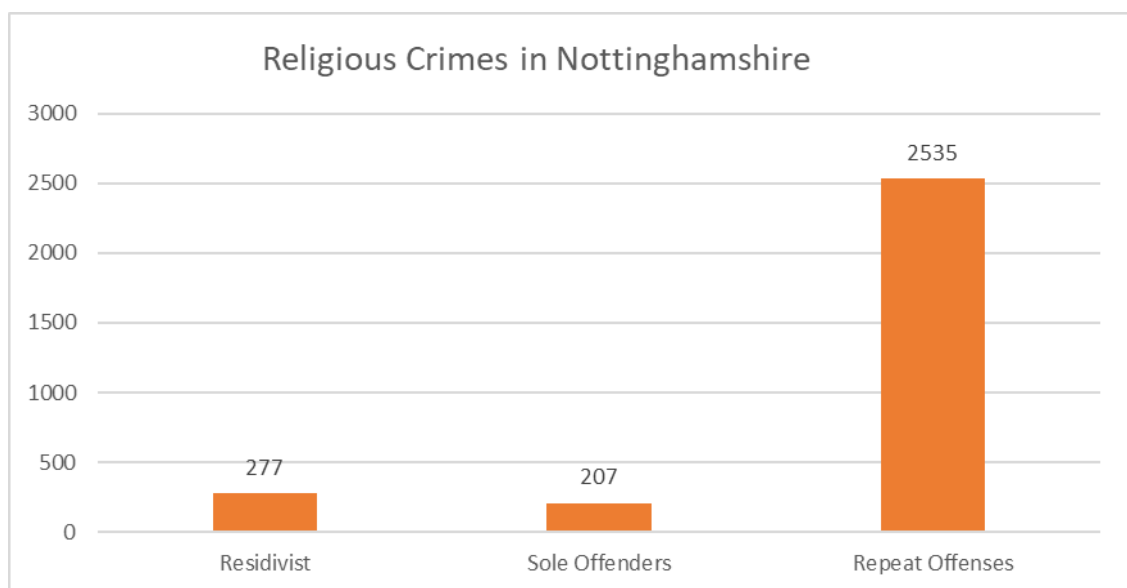
Between 1630 and 1642, each Quarter of the three sessions held by Nottinghamshire consistently listed those who were either absent from church or recusants. However, this consistency of religious crimes within the Quarter Session

⁸⁰ Jennings, "'The Gathering of the Elect'" - 'abstract'.

⁸¹ Alfred C. Wood, *Nottinghamshire in the Civil War*, (Oxford: The Clarendon Press, 1937), p.187.

records diminished throughout the 1650s. This makes this a rich county that can explore all aspects of religious criminality due to the available data. As highlighted by Figure 53, in the thirty years of 1630 to 1660, there were 3019 incidences of a religious crime committed by only 484 individuals, of whom 277 were recidivists, and 207 were charged once for a religious crime. There were many repeat religious offences, suggesting a dedication amongst the local administration to identify those who posed a challenge to the religious authority and those with a continued presence of dissent throughout the county.

Figure 53: Bar chart of religious crimes in Nottinghamshire



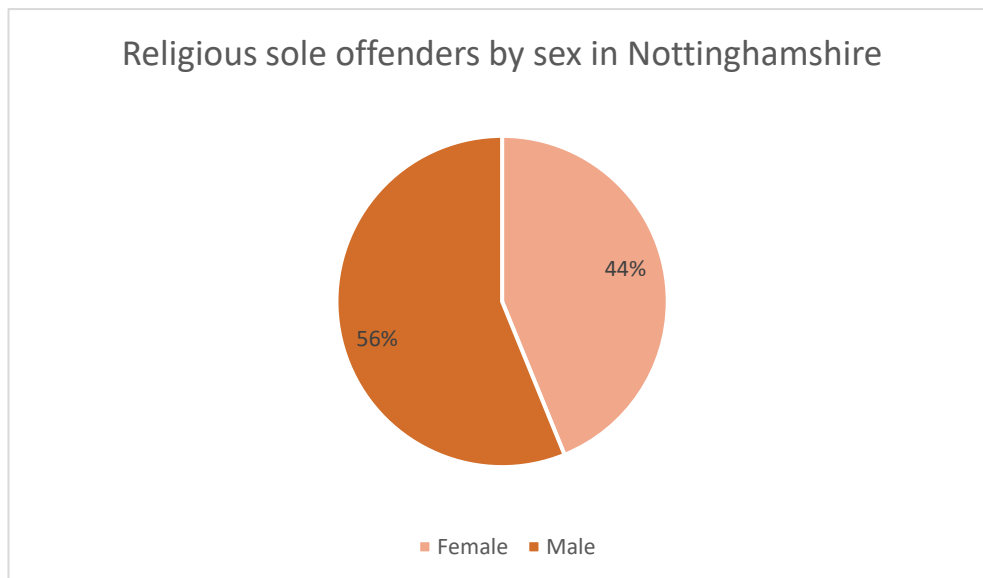
Who (Sex):

When examining all 473 individuals who committed these crimes, there was a slight difference in the proportion of each sex listed within the Nottinghamshire Quarter Sessions: 51 per cent were women, and 49 per cent were men. Although women were the larger category, this was minimal, possibly because there was a greater balance in the numbers. Or it could be linked to patriarchal notions in the judicial authority that although women were associated with religious guidance in the private domain (as previously explored in this chapter), the JPs of Nottinghamshire did not see them as a more significant threat than men to religious non-conformity.

However, when separating this into sole offenders and recidivists, there was a considerable difference between the proportion of sex for each type of offender. As indicated by Figure 54, a slightly larger number of men were sole offenders.

More men may have been listed for religious crimes only once as ‘the laws on recusancy permitted considerable delay and evasion’, especially the evasion of fines, which were only applicable after several absences.⁸² Therefore, these men may have purposefully avoided being listed more than once.

Figure 54: Pie chart of religious sole offenders by sex in Nottinghamshire



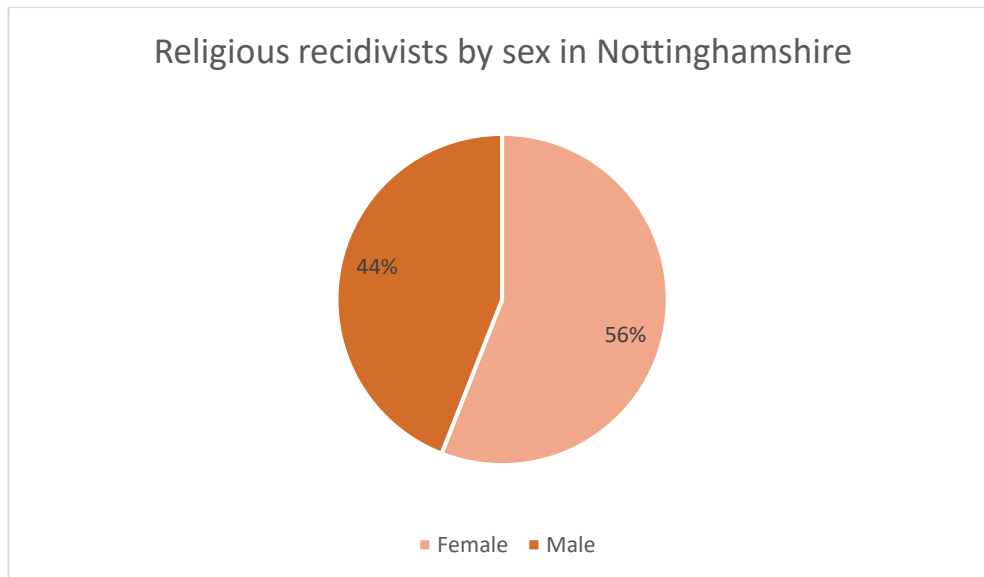
There was a significantly higher number of women who were recidivists, which could be because even after the deaths of their husbands, these women continued as widows, guiding the rest of their family’s spiritual welfare. For instance, Mary Pedley, the wife of Robert Pedley, Gentleman of Colston Basset (who himself was only written up a total of eight times in the Quarter Sessions Minute Books for religious crimes during the same period), was continuously listed sixteen times in total, between 1630 and January 1640 as the wife of, however in April 1640 she was listed as a widow.⁸³ Thus, while there has been the suggestion previously that

⁸² Hibbard, 'Early Stuart Catholicism', p.4.

⁸³ **Robert Pedley** listed seven times between 1636 and 1639: 'List of Recusants' *Nottingham*, (11th July 1636; 25th April 1636; 9th January 1637; 2nd October 1637) – NA – QSMBT – C/QSM 1/75; 'List of Recusants' *Nottingham*, (9th July 1638; 1st October 1638; 7th January 1639; 9th July 1639) – NA – QSMBT – C/QSM 1/76. **Mary Pedley** listed 23 times between 1631 and 1642: 'List of Recusants' *Nottingham*, (4th October 1630) – NA – QSMBT – C/QSM 1/74/1; 'List of Recusants' *Nottingham*, (10th January 1631; 3rd October 1631) – NA – QSMBT – C/QSM 1/74/2; 'List of Recusants' *Nottingham*, (14th July 1634) – NA – QSMBT – C/QSM 1/74/3; 'List of Recusants' *Nottingham*, (25th April 1636; 11th July 1636; 9th January 1637; 10th July 1637; 2nd October 1637) – NA – QSMBT – C/QSM 1/75; List of Recusants' *Nottingham*, (18th January 1638; 9th July 1638; 7th January 1639; 11th January 1640; 13th April 1640; 13th July 1640; 5th October 1640) – NA – QSMBT – C/QSM 1/76; List of

women were listed to protect their husbands' interests, it is evident that this was also their commitment to their religious convictions to be continually listed without their spouse.

Figure 55: Pie chart of religious recidivists by sex in Nottinghamshire



Another interesting aspect to consider when examining who was charged with religious crimes is the family, as it was often, although not always, a shared religious allegiance. This was particularly resonant for recusant family networks that spread throughout Nottinghamshire. One crucial example of this is the Molyneux family – these familial connections were determined by examining Gisborne Molineux's *Memoir of the Molineux family* (circa. 1882), which has been made available online.⁸⁴ There were branches of the family line at Farndon, which came under the jurisdiction of Newark, as well as at West Markham, in the locality of East Retford, and Teversall, which was in the Nottingham circuit. The West Markham branch of the Molyneux family, led by Rutland (listed as a gentleman) and his wife Frances, were consistently charged with recusancy during the 1630s, and in 1640, two of their sons Rutland Junior and Edmund were also listed in the Quarter

Recusants' *Nottingham*, (12th July 1641; 3rd October 1641; 10th January 1642) – NA – QSMBT – C/QSM 1/77; List of Recusants' *Nottingham*, (18th April 1642; 3rd October 1642) – NA – QSMBT – C/QSM 1/14.

⁸⁴ James Molineux, "Gisborne Molineux, *Memoir of the Molineux Family* (1882)," 2018, <http://molineux.com/History/Gisborne/Memoir2.aspx>.

Sessions for Recusancy.⁸⁵ Rutland Seniors' sister-in-law headed the Farndon branch of the family, Ruth Molyneux, who was listed a total of 38 times, son Paul 21 times, and daughters Mary and Elizabeth eight and fourteen times, respectively.⁸⁶ Ruth's

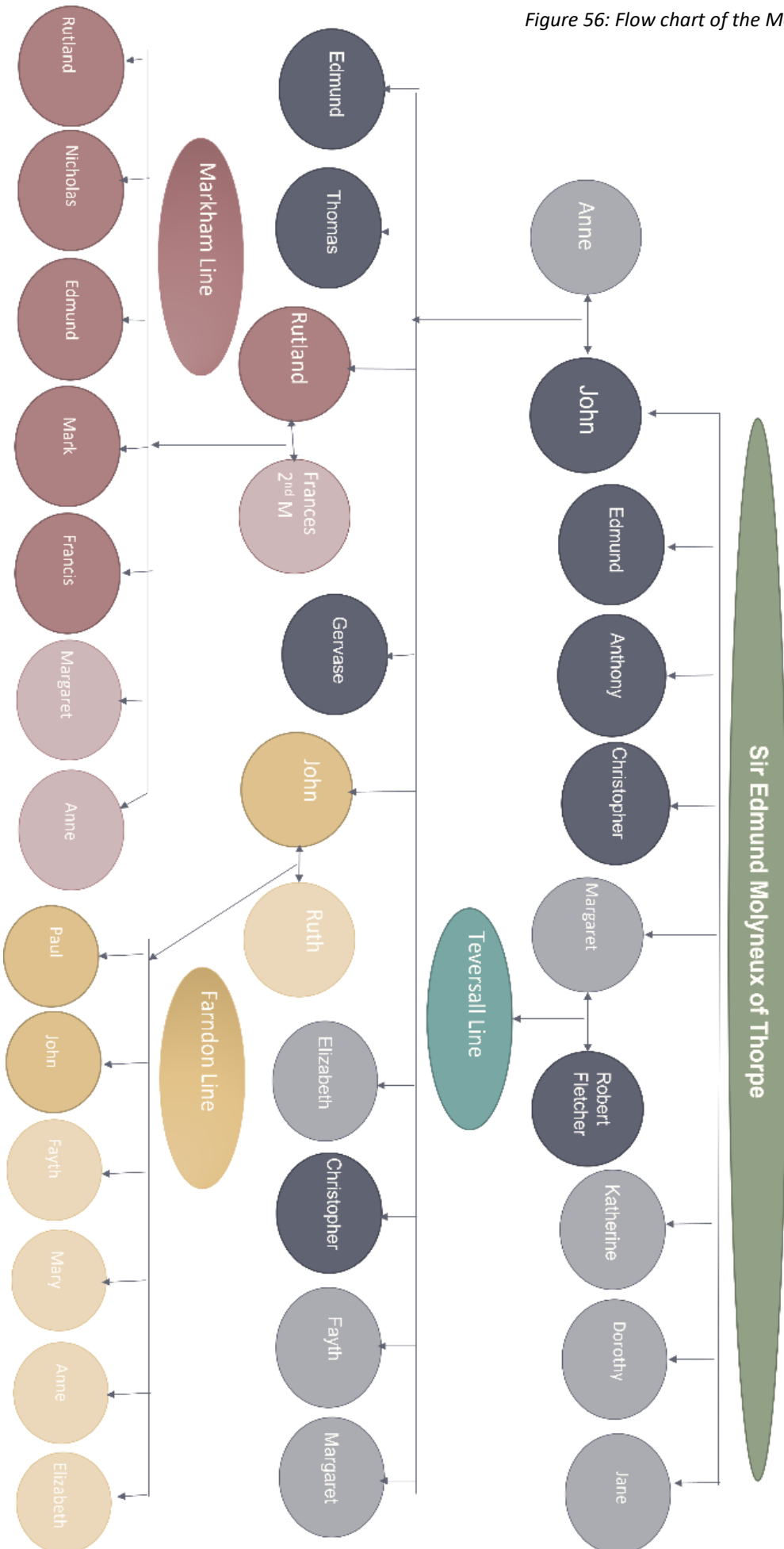
⁸⁵ **Rutland Molyneux** listed 40 times between 1630 and 1642: 'List of Recusants' *East Retford*, (11th January 1630) – NA – QSMBT – C/QSM 1/74/1; 'List of Recusants' *East Retford*, (22nd April 1631, 15th July 1631; 7th October 1631; 13th January 1632; 13th April 1632; 13th July 1632; 5th October 1632) – NA – QSMBT – C/QSM 1/74/2; 'List of Recusants' *East Retford*, (July 1632; 5th October 1632; 11th January 1633; 3rd May 1633; 12th July 1633; October 1633; 17th January 1634; 18th July 1634; 10th October 1634) – NA – QSMBT – C/QSM 1/74/3; 'List of Recusants' *East Retford*, (15th January 1636; 29th April 1636; 15th July 1636; 17th October 1636; 13th January 1637; 14th July 1637; 6th October 1637) – NA – QSMBT – C/QSM 1/75; 'List of Recusants' *East Retford*, (12th January 1638; 6th April 1638; 10th July 1638; 5th October 1638; 11th January 1639; 26th April 1639; 12th July 1639; 4th October 1639; 17th January 1640; 17th April 1640; 17th July 1640; 9th October 1640) – NA – QSMBT – C/QSM 1/76; 'List of Recusants' *East Retford*, (7th May 1641; 16th July 1641) – NA – QSMBT – C/QSM 1/77; 'List of Recusants' *East Retford*, (22nd April 1642; 15th July 1642) – NA – QSMBT – C/QSM 1/14; 'List of Recusants' *Newark-on-Trent*, (20th April 1642) – NA – QSMBT – C/QSM 1/14. **Francis Molyneux** listed 20 times between 1634 and 1642: 'List of Recusants' *East Retford*, (17th January 1634; 18th July 1634; 10th October 1634) – NA – QSMBT – C/QSM 1/74/3; 'List of Recusants' *East Retford*, (15th July 1636; 17th October 1636; 14th July 1637; 6th October 1637) – NA – QSMBT – C/QSM 1/75; 'List of Recusants' *East Retford*, (12th January 1638; 6th April 1638; 5th October 1638; 26th April 1639; 4th October 1639; 17th January 1640; 17th April 1640; 17th July 1640; 9th October 1640) – NA – QSMBT – C/QSM 1/76; 'List of Recusants' *East Retford*, (7th May 1641; 16th July 1641) – NA – QSMBT – C/QSM 1/77; 'List of Recusants' *East Retford*, (22nd April 1642; 15th July 1642) – NA – QSMBT – C/QSM 1/14. **Rutland Molyneux Junior** listed six times between 1640 and 1642: 'List of Recusants' *East Retford*, (17th April 1640; 17th July 1640; 9th October 1640) – NA – QSMBT – C/QSM 1/76; 'List of Recusants' *East Retford*, (7th May 1641; 16th July 1641) – NA – QSMBT – C/QSM 1/77; 'List of Recusants' *East Retford*, (22nd April 1642; 15th July 1642) – NA – QSMBT – C/QSM 1/14. **Edmund Molyneux** listed three times between 1640 and 1641: 'List of Recusants' *East Retford*, (9th October 1640) – NA – QSMBT – C/QSM 1/76; 'List of Recusants' *East Retford*, (7th May 1641; 16th July 1641) – NA – QSMBT – C/QSM 1/77.

⁸⁶ **Ruth Molyneux** listed 38 times between 1630 and 1642: 'List of Recusants' *Newark-on-Trent*, (21st July 1630; 6th October 1630) – NA – QSMBT – C/QSM 1/74/1; 'List of Recusants' *Newark-on-Trent*, (12th January 1631; 13th July 1631; 5th October 1631) – NA – QSMBT – C/QSM 1/74/2; 'List of Recusants' *Newark-on-Trent*, (11th January 1632; 11th July 1632; 3rd October 1632; 9th January 1633; 10th July 1633; 2nd October 1633; 15th January 1634; 16th July 1634; 8th October 1634); 'List of Recusants' *Newark-on-Trent*, (15th July 1635; 7th October 1635; 27th April 1636; 13th July 1636; 5th October 1636; 11th January 1637; 4th October 1637) – NA – QSMBT – C/QSM 1/75; 'List of Recusants' *Newark-on-Trent*, (4th April 1638; 11th July 1638; 3rd October 1638; 9th January 1639; 24th April 1639; 12th July 1639; 2nd October 1639; 15th January 1640; 15th April 1640; 7th October 1640) – NA – QSMBT – C/QSM 1/76; 'List of Recusants' *Newark-on-Trent*, (13th January 1641; 5th May 1641; 6th October 1641; 12th January 1642) – NA – QSMBT – C/QSM 1/77; 'List of Recusants' *Newark-on-Trent*, (13th July 1642; 15th October 1642) – NA – QSMBT – C/QSM 1/14; 'List of Recusants' *East Retford* (8th May 1641) – NA – QSMBT – C/QSM 1/77. **Paul Molyneux** listed 21 times between 1632 and 1642: ; 'List of Recusants' *Newark-on-Trent*, (11th April 1632; 11th July 1632; 3rd October 1632; 9th January 1633; 10th July 1633; 2nd October 1633; 15th January 1634; 8th October 1634) – NA – QSMBT – C/QSM 1/74/3; 'List of Recusants' *Newark-on-Trent*, (15th July 1635; 27th April 1636; 13th July 1636; 5th October 1636; 11th January 1637) – NA – QSMBT – C/QSM 1/75; 'List of Recusants' *Newark-on-Trent*, (2nd October 1639; 15th April 1640; 7th October 1640) – NA – QSMBT – C/QSM 1/76; 'List of Recusants' *Newark-on-Trent*, (5th May 1641; 6th October 1641; 12th January 1642) – NA – QSMBT – C/QSM 1/77; 'List of Recusants' *Newark-on-Trent*, (13th July 1642; 15th October 1642) – NA – QSMBT – C/QSM 1/14. **Mary Molyneux** listed eight times between 1630 and 1632: 'List of Recusants' *Newark-on-Trent*, (7th April 1630; 21st July 1630; 6th October 1630) – NA – QSMBT – C/QSM 1/74/1;

role was crucial to the continued recusancy of the Farndon family line, as – seventeenth-century beliefs were that the female/wife/mother nurtured the family’s spiritual welfare – the number of times she was indicted suggests that she then held religious authority and autonomy after the death of her husband in 1628. Thus, although she undermined religious conformity in the county, she fulfilled her expected role in preserving the family’s religious stance and complied with gender norms. The Teversall line was headed by Margaret Molyneux and her husband Robert Fletcher – Margaret was John and Rutland’s aunt by blood – of this line was Roger Molyneux, who fought for the Royalist army during the Civil War. Figure 56 is a visual representation of the familial connections that helped sustain their family non-conformity and the spread across the county of Nottinghamshire.

‘List of Recusants’ *Newark-on-Trent*, (12th January 1631; 13th July 1631; 5th October 1631) – NA – QSMBT – C/QSM 1/74/2; ‘List of Recusants’ *Newark-on-Trent*, (11th April 1632; 11th July 1632) – NA – QSMBT – C/QSM 1/74/3. **Elizabeth Molyneux** listed fourteen times between 1631 and 1637: ‘List of Recusants’ *Newark-on-Trent*, (5th October 1631) – NA – QSMBT – C/QSM 1/74/2; ‘List of Recusants’ *Newark-on-Trent*, (11th January 1632; 11th July 1632; 3rd October 1632; 9th January 1633; 10th July 1633; 2nd October 1633; 15th January 1634; 16th July 1634; 8th October 1634) – NA – QSMBT – C/QSM 1/74/3; ‘List of Recusants’ *Newark-on-Trent*, (15th July 1635; 7th October 1635; 27th April 1636; 13th July 1636; 5th October 1636; 11th January 1637; 4th October 1637) – NA – QSMBT – C/QSM 1/75.

Figure 56: Flow chart of the Molyneux family tree



Who (Occupation):

The final aspect to consider when addressing who committed religious crimes was the link to occupation or marital and social status for some. As outlined earlier in this chapter, there is a historiographical debate regarding the association of Catholicism with one's status. As expected, with women creating the most incidences, 'Wife' was the highest proportion, with Spinster and Widow being a high contingent. For women, apart from those unknown, there were only four options: single woman, wife, widow, and spinster, so they have larger numbers in each category.

The occupation with the largest proportion of male offenders was 'Gentleman' and following that 'Yeoman'. It is important to note that in some instances, those listed as yeoman were also listed as gentlemen as they were essentially next to each other on the social ladder. So often, yeomen could become gentlemen dependent upon their revenue at the time. Although largely once established as a gentleman, these men in Nottinghamshire maintained that status throughout the court records. Gentlemen had the largest proportion of men committing a religious crime in Nottinghamshire. Significantly, this aligns with neither Terrar's beliefs that the Catholics were primarily the labouring class nor the older historiography such as that of Laurence Stone, who determined that 'Catholicism was a quietest sect of aristocratic and upper-gentry families.'⁸⁷ Nottinghamshire recusancy was primarily compromised by a cohort between these two status groups. This was likely to be more suggestive of who the administration, JPs, and court were looking to prosecute. For instance, there was a considerable group of recusants at Woodcoates (just outside of Newark – near Fledborough); there was George and his wife Agnes, Goddard and his wife Anna, and William Booth all listed as gentleman; William Cawthorne, gentleman, and his wife Mary; Thomas Charlesworth, a gentleman and his wife; Thomas Smyth a yeoman; William Dent, a gentleman and his wife Margaret – each of these were fairly consistently

⁸⁷ Terrar, 'Gentry Royalists or Independent Diggers?', pp.314-5.; Lawrence Stone, *The Crisis of the Aristocracy*, abridged ed. (Oxford: Oxford University Press, 1967) p.337.

listed between 1630 and 1642.⁸⁸ There were others, including some children of the above, but these were not as consistently listed. There was the understanding that

⁸⁸ **George Booth** listed eleven times between 1630 and 1638: 'List of Recusants' *Newark-on-Trent*, (21st July 1630; 6th October 1630) – NA – QSMBT – C/QSM 1/74/1; 'List of Recusants' *Newark-on-Trent*, (12th January 1631; 5th October 1631) – NA – QSMBT – C/QSM 1/74/2; 'List of Recusants' *Newark-on-Trent*, (8th October 1634) – NA – QSMBT – C/QSM 1/74/3; 'List of Recusants' *Newark-on-Trent*, (7th October 1635; 13th January 1636; 4th October 1637) – NA – QSMBT – C/QSM 1/75; 'List of Recusants' *Newark-on-Trent*, (9th January 1638; 4th April 1638; 11th July 1638) – NA – QSMBT – C/QSM 1/76. **Agnes Booth** listed nine times between 1631 and 1640: 'List of Recusants' *Newark-on-Trent*, (12th January 1631; 11th July 1631) – NA – QSMBT – C/QSM 1/74/2; 'List of Recusants' *Newark-on-Trent*, (8th October 1634) – NA – QSMBT – C/QSM 1/74/3; 'List of Recusants' *Newark-on-Trent*, (7th October 1635; 13th January 1636; 4th October 1637) – NA – QSMBT – C/QSM 1/75; 'List of Recusants' *Newark-on-Trent*, (9th January 1638; 4th April 1638; 11th July 1638) – NA – QSMBT – C/QSM 1/76; 'List of Recusants' *Newark-on-Trent*, (15th April 1640) – NA – QSMBT – C/QSM 1/77. **Goddard Booth** listed nine times between 1630 and 1642: 'List of Recusants' *Newark-on-Trent*, (6th October 1630) – NA – QSMBT – C/QSM 1/74/1; 'List of Recusants' *Newark-on-Trent*, (12th January 1631) – NA – QSMBT – C/QSM 1/74/2; 'List of Recusants' *Newark-on-Trent*, (4th October 1637) – NA – QSMBT – C/QSM 1/75; 'List of Recusants' *Newark-on-Trent*, (9th January 1638; 4th April 1638; 11th July 1638; 9th January 1639) – NA – QSMBT – C/QSM 1/76; 'List of Recusants' *Newark-on-Trent*, (13th July 1642, 15th October 1642) – NA – QSMBT – C/QSM 1/14. **Anna Booth** listed nine times between 1634 and 1640: 'List of Recusants' *Newark-on-Trent*, (8th October 1634) – NA – QSMBT – C/QSM 1/74/3; 'List of Recusants' *Newark-on-Trent*, (7th October 1635; 4th October 1637) – NA – QSMBT – C/QSM 1/75; 'List of Recusants' *Newark-on-Trent*, (9th January 1638; 4th April 1638; 11th July 1638; 9th January 1639; 24th April 1639) – NA – QSMBT – C/QSM 1/76; 'List of Recusants' *Newark-on-Trent*, (15th April 1640) – NA – QSMBT – C/QSM 1/77. **William Booth** listed eight times between 1633 and 1639: 'List of Recusants' *Newark-on-Trent*, (10th July 1633; 8th October 1634) – NA – QSMBT – C/QSM 1/74/3; 'List of Recusants' *Newark-on-Trent*, (7th October 1635; 4th October 1637) – NA – QSMBT – C/QSM 1/75; 'List of Recusants' *Newark-on-Trent*, (4th April 1638; 11th July 1638; 9th January 1639; 24th April 1639) – NA – QSMBT – C/QSM 1/76. **William Cawthorne** listed eighteen times between 1630 and 1639: 'List of Recusants' *Newark-on-Trent*, (21st July 1630; 6th October 1630) – NA – QSMBT – C/QSM 1/74/1; 'List of Recusants' *Newark-on-Trent*, (12th January 1631; 5th October 1631; 11th January 1632; 11th April 1632; 11th July 1632) – NA – QSMBT – C/QSM 1/74/2; 'List of Recusants' *Newark-on-Trent*, (9th January 1633; 2nd October 1633; 16th July 1634; 8th October 1634) – NA – QSMBT – C/QSM 1/74/3; 'List of Recusants' *Newark-on-Trent*, (7th October 1635; 12th July 1637; 4th October 1637) – NA – QSMBT – C/QSM 1/75; 'List of Recusants' *Newark-on-Trent*, (9th January 1638; 4th April 1638; 11th July 1638; 3rd October 1638; 24th April 1639) – NA – QSMBT – C/QSM 1/76. **Mary Cawthorne** listed eight times between 1632 and 1640: 'List of Recusants' *Newark-on-Trent*, (11th January 1632) – NA – QSMBT – C/QSM 1/74/2; 'List of Recusants' *Newark-on-Trent*, (8th October 1634) – NA – QSMBT – C/QSM 1/74/3; 'List of Recusants' *Newark-on-Trent*, (4th October 1637) – NA – QSMBT – C/QSM 1/75; 'List of Recusants' *Newark-on-Trent*, (9th January 1638; 4th April 1638; 24th April 1639) – NA – QSMBT – C/QSM 1/76; 'List of Recusants' *Newark-on-Trent*, (15th April 1640; 7th October 1640) – NA – QSMBT – C/QSM 1/77. **Thomas Charlesworth** listed 21 times between 1630 and 1640: 'List of Recusants' *Newark-on-Trent*, (21st July 1630; 6th October 1630) – NA – QSMBT – C/QSM 1/74/1; 'List of Recusants' *Newark-on-Trent*, (12th January 1631; 11th July 1631; 5th October 1631; 11th January 1632; 11th April 1632; 11th July 1632) – NA – QSMBT – C/QSM 1/74/2; 'List of Recusants' *Newark-on-Trent*, (8th October 1634) – NA – QSMBT – C/QSM 1/74/3; 'List of Recusants' *Newark-on-Trent*, (7th October 1635; 12th July 1637; 4th October 1637) – NA – QSMBT – C/QSM 1/75; 'List of Recusants' *Newark-on-Trent*, (9th January 1638; 4th April 1638; 11th July 1638; 3rd October 1638; 24th April 1639) – NA – QSMBT – C/QSM 1/76; 'List of Recusants' *Newark-on-Trent*, (13th January 1640; 15th April 1640; 7th October 1640) – NA – QSMBT – C/QSM 1/77. **Troth Charlesworth** listed thirteen times between 1631-1640: 'List of Recusants' *Newark-on-Trent*, (11th July 1631; 11th January 1632) – NA – QSMBT – C/QSM 1/74/2; 'List of Recusants' *Newark-on-Trent*, (8th October 1634) – NA – QSMBT – C/QSM 1/74/3; 'List of Recusants' *Newark-on-Trent*, (7th October 1635; 12th

‘the [Catholic] cause probably owed its survival to a few larger pockets of popery preserved for the most part through the influence of some neighbouring family which had remained catholic’, and significantly, they often have a minor gentry family as the instigator/leader of these groups.⁸⁹ Hence why, possibly, the Gentlemen were targeted for fears over their, and their wife’s, potential influence over others within their localities or that they congregated together, such as the Woodcoates example suggests.

What:

One aspect that can be addressed through the Nottinghamshire Quarter Session records is the outcome of religious crimes, as Nottinghamshire is the only county with details regarding case judgements.

Regarding the case outcomes, for a total of 3019 incidences, there were only 236 cases where a verdict or outcome was listed. There was a slightly higher number of instances of recorded outcomes for men. It may simply be a clerical discrepancy between different clerks for the sessions. However, one aspect of this may be the financial penalties for those cases. For instance, there was a greater number of men who received the fine for being a recusant or absent from church,

July 1637; 4th October 1637) – NA – QSMBT – C/QSM 1/75; ‘List of Recusants’ *Newark-on-Trent*, (3rd October 1638; 24th April 1639) – NA – QSMBT – C/QSM 1/76; ‘List of Recusants’ *Newark-on-Trent*, (15th April 1640; 7th October 1640) – NA – QSMBT – C/QSM 1/77. **Thomas Smyth** listed ten times between 1630 and 1633: ‘List of Recusants’ *Newark-on-Trent*, (21st July 1630; 6th October 1630) – NA – QSMBT – C/QSM 1/74/1; ‘List of Recusants’ *Newark-on-Trent*, (12th January 1631; 5th October 1631; 11th April 1632; 11th July 1632) – NA – QSMBT – C/QSM 1/74/2; ‘List of Recusants’ *Newark-on-Trent*, (9th January 1633; 1st May 1633; 2nd October 1633) – NA – QSMBT – C/QSM 1/74/3. **William Dent** listed 21 times between 1630 and 1642: ‘List of Recusants’ *Newark-on-Trent*, (21st July 1630; 6th October 1630) – NA – QSMBT – C/QSM 1/74/1; ‘List of Recusants’ *Newark-on-Trent*, (12th January 1631; 11th July 1631; 5th October 1631; 11th January 1632; 11th July 1632) – NA – QSMBT – C/QSM 1/74/2; ‘List of Recusants’ *Newark-on-Trent*, (9th January 1633, 8th October 1634) – NA – QSMBT – C/QSM 1/74/3; ‘List of Recusants’ *Newark-on-Trent*, (7th October 1635; 12th July 1637; 4th October 1637) – NA – QSMBT – C/QSM 1/75; ‘List of Recusants’ *Newark-on-Trent*, (11th July 1638; 3rd October 1638; 24th April 1639) – NA – QSMBT – C/QSM 1/76; ‘List of Recusants’ *Newark-on-Trent*, (13th January 1640; 15th April 1640; 7th October 1640; 8th May 1641; 6th October 1641) – NA – QSMBT – C/QSM 1/77; ‘List of Recusants’ *Newark-on-Trent*, (20th April 1642) – NA – QSMBT – C/QSM 1/14. **Margaret Dent** listed thirteen times between 1632 and 1642: ‘List of Recusants’ *Newark-on-Trent*, (11th January 1632) – NA – QSMBT – C/QSM 1/74/2; ‘List of Recusants’ *Newark-on-Trent*, (7th October 1635; 12th July 1637; 4th October 1637) – NA – QSMBT – C/QSM 1/75; ‘List of Recusants’ *Newark-on-Trent*, (9th January 1638; 3rd October 1638; 9th January 1639; 24th April 1639) – NA – QSMBT – C/QSM 1/76; ‘List of Recusants’ *Newark-on-Trent*, (15th April 1640; 7th October 1640; 8th May 1641; 6th October 1641) – NA – QSMBT – C/QSM 1/77; ‘List of Recusants’ *Newark-on-Trent*, (20th April 1642) – NA – QSMBT – C/QSM 1/14.

⁸⁹ Wood, *Nottinghamshire*, p.187.

and as such, there may have been a greater concern to record this outcome to ensure that the fines were received. That fewer women received penalties or were listed as convicted was indicative of the notion that female criminals may have been treated more leniently overall by the law or that this was reflective of the dichotomy of women breaking the law yet also adhering to the gender ideals of the time. These women were potentially supporting their husbands by nurturing the religious piety of the family as women accepted the 'responsibility of such religious goals [...] to shape their own lives and that of their households and children around the tenets of godliness [...] for the spiritual good of their families, so this household form of piety was distinctly female' and as such courts may have been reluctant to prosecute these women for performing these gendered ideals.⁹⁰

There does not appear to be a difference in the fines given, depending on whether one was listed as a recusant or for absenteeism. Absence from church fines was set at 12d per week, which was the same for recusants under the 1559 Act of Uniformity, yet for recusants, this increased to a possible twenty pounds a month under the subsequent Act of 1581. Anne Mathur, a wife, was charged as a recusant and was fined 12d in line with the Act of Uniformity.⁹¹ In comparison, women who were listed for being absent from church, such as Elizabeth Loyd, were charged varying amounts; on the two occasions she was listed in the Quarter Session Minute books, she was fined 12/- in one instance and 2/- for the poor on the next.⁹² The considerable amount Elizabeth was fined and the varying amounts may suggest she was a recusant and was being charged under the 1581 Act, where a person could be fined up to £20 a month. However, she was simply labelled as absent from church. Notably, this similar discrepancy between fines for the two crimes was also applicable to the men within the records. For instance, Paul Molyneux was listed as absent from church for three weeks and fined 10 shillings.⁹³ The three weeks is critical as it could be up to £20 for a month for recusants;

⁹⁰ Crawford and Mendelson, *Women*, p.230.

⁹¹ 'Fine: 12d' *East Retford*, (17th January 1640) – NA – QSMBT – C/QSM1/76.

⁹² 'Fine: 12/-' *Newark-on-Trent*, (13th July 1636) – NA – QSMBT – C/QSM1/75; 'Fine: 2/- for the poor' *Newark-on-Trent*, (12th July 1637) – NA – QSMBT – C/QSM1/75.

⁹³ 'Fine: 10/-' *Newark-on-Trent*, (15th April 1640) – NA – QSMBT – C/QSM1/76.

therefore, this, along with the significant fine amount and that Paul was of the notable Molyneux recusant family, indicates he was likely a recusant but labelled as absent from church. This demonstrates the interchangeability with which these terms were used by the court clerks, which makes it difficult to assess the differences in punishments for the two crimes.

Table 11: Religious case outcomes by sex in Nottinghamshire

Punishment	Male	Female
Fine	19, 15%	7, 6%
Convicted	107, 85%	102, 94%

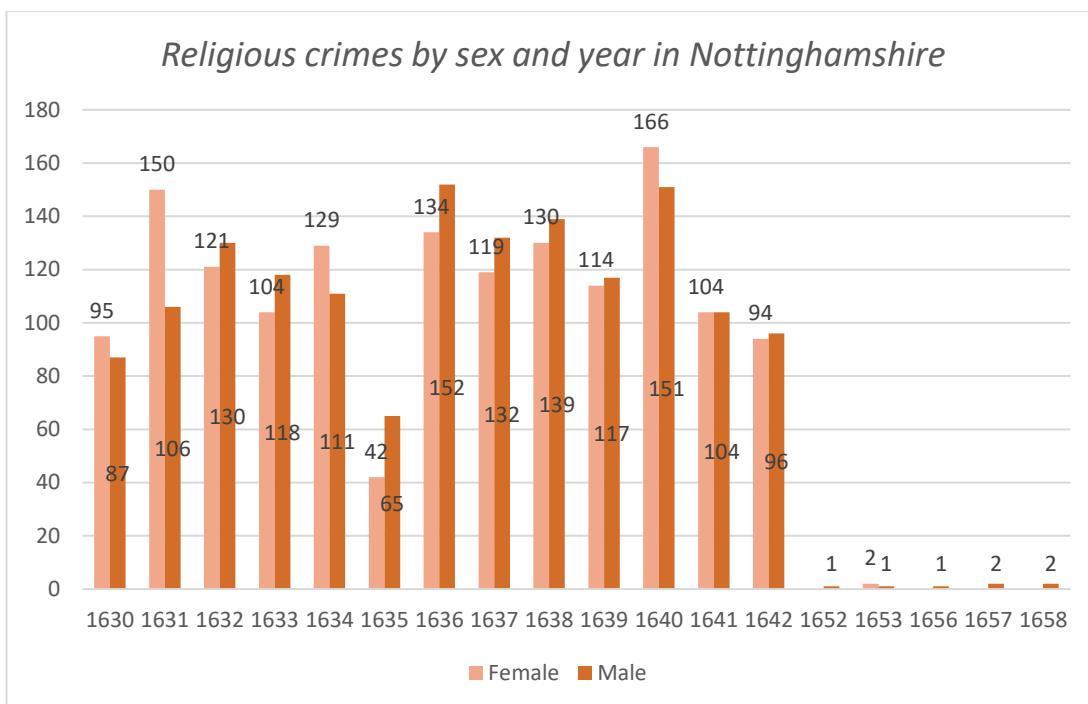
Interestingly, religious crimes do have an addendum to their fines: it was noted in four cases that the fine was received with Protestation.⁹⁴ Potentially in attempting to deny the crime but also earn a degree of leniency. However, there was only one instance, that of Rachel Elvis, where the fine with protest was given at 6d – half of the predetermined fine for the crime she was charged with. It could be that there was a greater leniency due to her sex, although with one case, this is not a definitive conclusion but something that could be explored in a future study.

When:

Nottinghamshire Quarter Session Minute Books are highly consistent throughout the 1630s, as all three sessions (Nottingham, Newark-on-Trent, and East Retford) had records for each quarter, every year – making this an extremely valuable county to look at the chronological factor of religious crime. Figure 57 depicts the entire number of religious crimes recorded for each year by sex, regardless of whether they were repeat offences or not. As can be seen, excluding 1635, the numbers are consistent throughout the period at around and above 100 listings, and the numbers for the men and women follow a similar trendline.

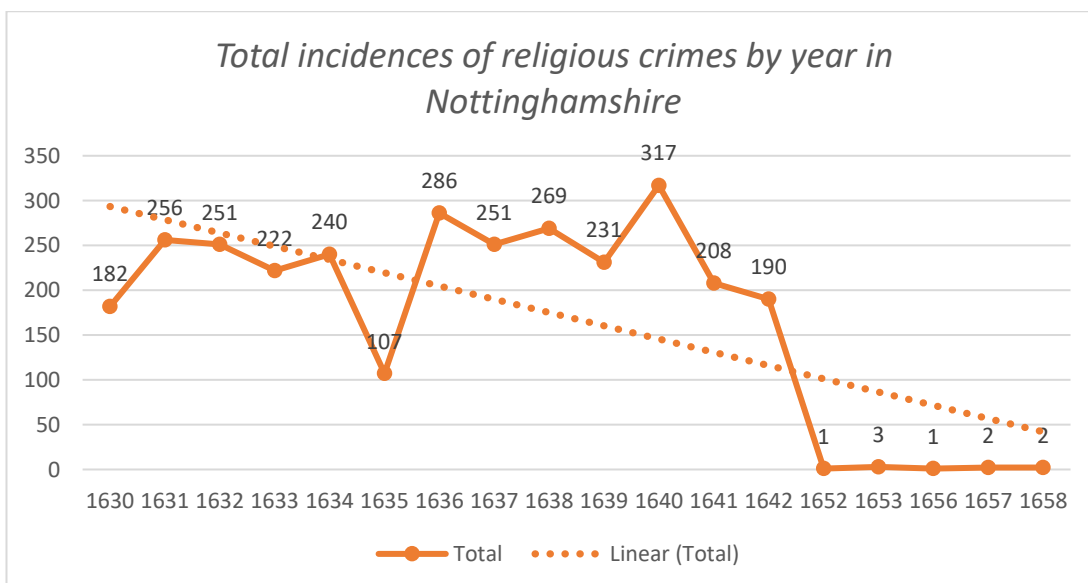
⁹⁴ Fine: with protestation 12d – William Cawthorne, William Booth, Thomas Charlesworth' *Newark on Trent*, (25th April 1663) – NA – QSMBT – C/QSM1/75.

Figure 57: Bar chart of religious crimes by sex and year in Nottinghamshire



Despite the lower number of incidences within 1635, there was a general trend that the number of religious crimes being recorded increased yearly between 1630 and 1640. As previously shown, John Bossy has argued that there was a steadily growing number of recusants throughout the first half of the seventeenth century, and Figure 58 suggests this may also be true of Nottinghamshire until 1640 as the increased number of religious crimes may be indicative of the increased numbers of recusants presented at court during this decade.

Figure 58: Line chart of total incidences of religious crimes by year in Nottinghamshire



On the other hand, it may represent an increased drive to prosecute religious crimes. Nationally, there were heightened concerns over the influence of Henrietta Maria and perceived leniency during Charles's rule as 'it was not only the number of Court Catholics but their open evasion of the laws that fed the fears of a popish plot.'⁹⁵ Therefore, the local administration, which adhered to the religious authority, had a more significant concern in identifying those who were recusants amidst rising fears of Popish plots due to the influence of national concerns. This fear could have filtered down into local concerns as Robert Clifton determined that 'recusant gentry were watched so carefully by their neighbours because the mental world of the latter led them to think of conspiracies on an essentially local scale.'⁹⁶ This fear would be even more significant in the starting years of the war if those who were known local Catholics, particularly the gentry already under suspicion, were seen to be gathering military supplies in response to the war administration.⁹⁷ Thus, the reaction in the local courts to this could be twofold. One was that Catholics, considering the changes, were more forthright in practising their religion and, due to this, were being identified at court more often, although not necessarily always prosecuted.

However, between 1640 and 1642, during the 1650s, there was a significant drop in the number of those listed as recusant or absent from church. The minimal number of listings for these crimes in the 1650s was linked to the perceived toleration due to the Cromwellian policy of Liberty of Conscience, especially as 'a serious source of friction between him [Cromwell] and his parliaments was that he desired a much broader religious liberty than they did.'⁹⁸ Thus, there was likely a greater focus on listing and prosecuting other crimes rather than religious ones during the Interregnum period with this perceived level of tolerance, at least until the 1657 Act of Reaffirmation. However, the Nottinghamshire data does not appear

⁹⁵ Woolrych, *Britain in Revolution*, p.126.

⁹⁶ Clifton, 'Popular Fear', p.48.

⁹⁷ Although not confirmed Catholic allegiances, Alfred C. Wood does identify actions taken by the gentry at the start of the Civil Wars to raise/move/defend magazines. See the 'Eve of the War' and 'The Raising of the Standard' in *Nottinghamshire in the Civil Wars*.

⁹⁸ Austin Woolrych, 'The Cromwellian Protectorate', in David L Smith (ed.) *Cromwell and the Interregnum*, (Oxford: Blackwell Publishing, 2003), pp.61–90: p.69.

to present a spike in the numbers in correlation with this Act. It is possible that those who were listed may have been openly practising or presented a greater threat, such as still having royalist connections.

Where:

Addressing the geographical aspect of religious crimes in Nottinghamshire is significant as there are general patterns and trends throughout the county regarding where those accused of religious crimes lived.

Figure 59 shows where those accused of absence from church and recusancy crimes lived between 1630 and 1660, which depicts an evident lack of crime within the heart of the county running between Arnold and Worksop to the East of Mansfield. As illustrated by the map's topography, this area is the heart of Sherwood Forest, which, according to the authorities in the seventeenth century, was perceived as a lawless area. 'Few gentry families lived there to supervise the behaviour of the common people, and civil and ecclesiastical jurisdiction could prove difficult to maintain.'⁹⁹ This had various implications for the prosecution of religious crimes within that area. One is that due to the lack of secular jurisdictional authority within the area, there may have been little recording of the crimes occurring, and there may have been no constables or sheriffs to identify those of non-conformity and follow that process through to the courts. Hence, there is a lower number of reported religious dissidents within the forest. On the other hand, it may be that with the lower population density, there were few religious nonconformists for any denomination in this specific area of Nottinghamshire.

There was a large contingent of religious crimes around the town of Nottingham. One reason for this may be the association between the elite and Roman Catholicism – as highlighted earlier within this chapter, for Nottingham, the largest contingency of those committing religious crimes were those considered Gentleman. Notably, a significant number of the gentry would have had townhouses centred around Nottingham, generating a large number of cases within the city. For instance, there was John Hammerton, Gentleman of Nottingham

⁹⁹ Jennings, "The Gathering of the Elect", p.17.

Parke, Lenton; the Blyth family of Aspley Hall; Roger Nix, Gentleman of Snenton; and Robert Terret, Esquire of Nottingham Parke – all of whom were charged with recusancy and lived within Nottingham.¹⁰⁰ Thus, this cohort of gentry who continued to be accused of religious crimes yearly created a large number of crimes within Nottingham.

This association between the landed gentry and recusancy could also be why religious crimes were more prevalent within the south and eastern boundaries of the county – these were the areas considered rich grounds and made up of manorial communities with gentry families. Interestingly, A.C. Wood determined that ‘the [Catholic] cause probably owed its survival to a few larger pockets of popery preserved for the most part through the influence of some neighbouring family which had remained Catholic.’¹⁰¹ This notion was entirely evident within the Quarter Sessions records as there are clusters of recusancy throughout Nottinghamshire, and significantly, they often have a gentry family as the instigator. For example, there was a significant cluster of recusants in Colston Bassett within the south of Nottinghamshire, where there were several members of the landed gentry community who were charged with recusancy. Sir Edward Goulding, esquire,

¹⁰⁰ **John Hammerton** listed three times in 1632: ‘List of Recusants’ *Nottingham*, (9th April 1632; 9th July 1632) – NA – QSMBT – C/QSM 1/74/3 & ‘List of Recusants’ *Nottingham*, (1st October 1632) – NA – QSMBT – C/QSM 1/74/2. **Thomas Blyth** listed 22 times between 1630 and 1642: ‘List of Recusants’ *Nottingham*, (5th April 1630) – NA – QSMBT – C/QSM 1/74/1; ‘List of Recusants’ *Nottingham*, (13th January 1634) – NA – QSMBT – C/QSM 1/74/3; ‘List of Recusants’ *Nottingham*, (13th July 1635; 25th April 1636; 11th July 1636; 9th January 1637; 7th April 1637; 10th July 1637) – NA – QSMBT – C/QSM 1/75; List of Recusants’ *Nottingham*, (2nd April 1638; 22nd April 1639; 18th July 1639;) – NA – QSMBT – C/QSM 1/76; ‘List of Recusants’ *Nottingham*, (11th January 1640; 13th July 1640; 5th October 1640; 13th May 1641; 12th July 1641; 3rd October 1641) – NA – QSMBT – C/QSM 1/77; ‘List of Recusants’ *Nottingham*, (18th April 1642; 3rd October 1642) – NA – QSMBT – C/QSM 1/14. **Magdalen Blyth** listed 17 times between 1630 and 1642: ‘List of Recusants’ *Nottingham*, (5th April 1630) – NA – QSMBT – C/QSM 1/74/1; ‘List of Recusants’ *Nottingham*, (13th January 1634) – NA – QSMBT – C/QSM 1/74/3; ‘List of Recusants’ *Nottingham*, (13th July 1635; 25th April 1636; 11th July 1636; 9th January 1637; 7th April 1637; 10th July 1637) – NA – QSMBT – C/QSM 1/75; List of Recusants’ *Nottingham*, (2nd April 1638; 22nd April 1639; 18th July 1639;) – NA – QSMBT – C/QSM 1/76; ‘List of Recusants’ *Nottingham*, (11th January 1640; 13th July 1640; 5th October 1640; 13th May 1641; 12th July 1641; 3rd October 1641) – NA – QSMBT – C/QSM 1/77; ‘List of Recusants’ *Nottingham*, (18th April 1642; 3rd October 1642) – NA – QSMBT – C/QSM 1/14. **Roger Nix** listed nine times between 1637 and 1639: ‘List of Recusants’ *Nottingham*, (9th January 1637; 7th April 1637; 10th July 1637; 2nd October 1637) – NA – QSMBT – C/QSM 1/75; List of Recusants’ *Nottingham*, (18th January 1638; 2nd April 1638; 9th July 1638; 1st October 1638; 7th January 1639) – NA – QSMBT – C/QSM 1/76.

¹⁰¹ Wood, *Nottinghamshire*, p.187.

and his wife Hellen; Edward Rufly, gentleman, and his wife Margaret; and Robert and Mary Pedley, all Colston Bassett.¹⁰² Four miles away in the slightly larger village of Cotgrave was Gregory Henson, yeoman, along with Alice and Esther Henson, both spinsters, with the shared surname and within the one village, these are likely related, possibly siblings.¹⁰³ This supports Woods's findings that gentry families

¹⁰² **Sir Edward Goulding** listed 21 times between 1630 and 1642: 'List of Recusants' *Nottingham*, (5th April 1630) – NA – QSMBT – C/QSM 1/74/1; 'List of Recusants' *Nottingham*, (9th April 1632) – NA – QSMBT – C/QSM 1/74/2; 'List of Recusants' *Nottingham*, (13th January 1634) – NA – QSMBT – C/QSM 1/74/3; 'List of Recusants' *Nottingham*, (11th July 1636; 9th January 1637; 7th April 1637; 10th July 1637; 2nd October 1637) – NA – QSMBT – C/QSM 1/75; List of Recusants' *Nottingham*, (2nd April 1638; 9th July 1638; 1st October 1638; 7th January 1639; 22nd April 1639; 18th July 1639; 11th January 1640; 13th April 1640; 5th October 1640) – NA – QSMBT – C/QSM 1/76; List of Recusants' *Nottingham*, (10th January 1642) – NA – QSMBT – C/QSM 1/77; List of Recusants' *Nottingham*, (18th April 1642) – NA – QSMBT – C/QSM 1/14. **Hellen Goulding** listed 21 times between 1632 and 1642: 'List of Recusants' *Nottingham*, (9th April 1632) – NA – QSMBT – C/QSM 1/74/2; 'List of Recusants' *Nottingham*, (13th January 1634) – NA – QSMBT – C/QSM 1/74/3; 'List of Recusants' *Nottingham*, (11th July 1636; 9th January 1637; 7th April 1637; 10th July 1637; 2nd October 1637) – NA – QSMBT – C/QSM 1/75; List of Recusants' *Nottingham*, (2nd April 1638; 9th July 1638; 1st October 1638; 7th January 1639; 22nd April 1639; 18th July 1639; 11th January 1640; 13th April 1640; 5th October 1640) – NA – QSMBT – C/QSM 1/76; List of Recusants' *Nottingham*, (10th January 1642) – NA – QSMBT – C/QSM 1/77; List of Recusants' *Nottingham*, (18th April 1642) – NA – QSMBT – C/QSM 1/14. **Edward Rufly** listed eleven times between 1636 and 1642: 'List of Recusants' *Nottingham*, (25th April 1636; 9th January 1637; 7th April 1637; 10th July 1637; 2nd October 1637) – NA – QSMBT – C/QSM 1/75; List of Recusants' *Nottingham*, (2nd April 1638; 11th January 1640; 13th July 1640; 5th October 1640) – NA – QSMBT – C/QSM 1/76; List of Recusants' *Nottingham*, (10th January 1642) – NA – QSMBT – C/QSM 1/77; List of Recusants' *Nottingham*, (18th April 1642) – NA – QSMBT – C/QSM 1/14. **Margaret Rufly** listed fifteen times between 1636 and 1642 - ; 'List of Recusants' *Nottingham*, (11th July 1636; 9th January 1637; 7th April 1637; 10th July 1637; 2nd October 1637) – NA – QSMBT – C/QSM 1/75; List of Recusants' *Nottingham*, (18th January 1638; 2nd April 1638; 11th January 1640; 13th July 1640; 13th April 1640; 5th October 1640) – NA – QSMBT – C/QSM 1/76; List of Recusants' *Nottingham*, (13th May 1641; 12th July 1641; 3rd October 1641; 10th January 1642) – NA – QSMBT – C/QSM 1/77; List of Recusants' *Nottingham*, (18th April 1642) – NA – QSMBT – C/QSM 1/14. **Robert Pedley** listed seven times between 1636 and 1639: 'List of Recusants' *Nottingham*, (11th July 1636; 25th April 1636; 9th January 1637; 2nd October 1637) – NA – QSMBT – C/QSM 1/75; 'List of Recusants' *Nottingham*, (9th July 1638; 1st October 1638; 7th January 1639; 9th July 1639) – NA – QSMBT – C/QSM 1/76. **Mary Pedley** listed 23 times between 1631 and 1642: 'List of Recusants' *Nottingham*, (4th October 1630) – NA – QSMBT – C/QSM 1/74/1; 'List of Recusants' *Nottingham*, (10th January 1631; 3rd October 1631) – NA – QSMBT – C/QSM 1/74/2; 'List of Recusants' *Nottingham*, (14th July 1634) – NA – QSMBT – C/QSM 1/74/3; 'List of Recusants' *Nottingham*, (25th April 1636; 11th July 1636; 9th January 1637; 10th July 1637; 2nd October 1637) – NA – QSMBT – C/QSM 1/75; List of Recusants' *Nottingham*, (18th January 1638; 9th July 1638; 7th January 1639; 11th January 1640; 13th April 1640; 13th July 1640; 5th October 1640) – NA – QSMBT – C/QSM 1/76; List of Recusants' *Nottingham*, (12th July 1641; 3rd October 1641; 10th January 1642) – NA – QSMBT – C/QSM 1/77; List of Recusants' *Nottingham*, (18th April 1642; 3rd October 1642) – NA – QSMBT – C/QSM 1/14;

¹⁰³ **Alice Henson** listed 19 times between 1630 and 1636: 'List of Recusants' *Nottingham*, (5th April 1630; 4th October 1630) – NA – QSMBT – C/QSM 1/74/1; 'List of Recusants' *Nottingham*, (10th January 1631; 18th April 1631; 11th July 1631; 3rd October 1631; 9th January 1632; 9th April 1632; 9th July 1632; 1st October 1632) – NA – QSMBT – C/QSM 1/74/2; 'List of Recusants' *Nottingham*, (7th January 1633; 8th July 1633; 30th September 1633; 13th January 1634; 14th July 1634; 6th October 1634) – NA – QSMBT – C/QSM 1/74/3; 'List of Recusants' *Nottingham*, (13th July 1635; 5th October

often perpetuated recusant hotspots within surrounding villages throughout Nottinghamshire. These hotspots of neighbouring villages can be seen in Figure 60 – the most significant being that around Ollerton, which centred around Popish recusant George Markham – a relation to Thomas Markham, who owned Broxtowe Hall in the parish of Bilborough, which was garrisoned for the Royalists during the Civil War, and Clipston, just to the north of the Sherwood Forest.¹⁰⁴

1635; 11th January 1636) – NA – QSMBT – C/QSM 1/75. **Esther Henson** listed 29 times between 1630 and 1640: ‘List of Recusants’ *Nottingham*, (5th April 1630; 4th October 1630) – NA – QSMBT – C/QSM 1/74/1; ‘List of Recusants’ *Nottingham*, (10th January 1631; 18th April 1631; 11th July 1631; 3rd October 1631; 9th January 1632; 9th April 1632) – NA – QSMBT – C/QSM 1/74/2; ‘List of Recusants’ *Nottingham*, (7th January 1633; 8th July 1633; 30th September 1633; 13th January 1634; 14th July 1634; 6th October 1634) – NA – QSMBT – C/QSM 1/74/3; ‘List of Recusants’ *Nottingham*, (13th July 1635; 5th October 1635; 11th January 1636; 11th July 1636; 9th January 1637; 7th April 1637; 10th July 1637; 2nd October 1637) – NA – QSMBT – C/QSM 1/75; List of Recusants’ *Nottingham*, (18th January 1638; 2nd April 1638; 9th July 1638; 1st October 1638; 7th January 1639; 22nd April 1639; 18th July 1639; 11th January 1640; 13th April 1640;) – NA – QSMBT – C/QSM 1/76. **Gregory Henson** listed 31 times between 1630 and 1642: ‘List of Recusants’ *Nottingham*, (5th April 1630; 4th October 1630) – NA – QSMBT – C/QSM 1/74/1; ‘List of Recusants’ *Nottingham*, (10th January 1631; 18th April 1631; 11th July 1631; 3rd October 1631; 9th January 1632; 9th April 1632; 9th July 1632; 1st October 1632) – NA – QSMBT – C/QSM 1/74/2; ‘List of Recusants’ *Nottingham*, (7th January 1633; 8th July 1633; 30th September 1633; 13th January 1634; 14th July 1634; 6th October 1634) – NA – QSMBT – C/QSM 1/74/3; ‘List of Recusants’ *Nottingham*, (13th July 1635; 5th October 1635; 11th January 1636; 11th July 1636) – NA – QSMBT – C/QSM 1/75; List of Recusants’ *Nottingham*, (9th July 1638; 1st October 1638; 7th January 1639; 22nd April 1639; 18th July 1639; 11th January 1640; 13th April 1640; 5th October 1640) – NA – QSMBT – C/QSM 1/76; ‘List of Recusants’ *Nottingham*, (13th May 1641; 12th July 1641; 3rd October 1641; 10th January 1642) – NA – QSMBT – C/QSM 1/77; ‘List of Recusants’ *Nottingham*, (18th April 1642) – NA – QSMBT – C/QSM 1/77.

¹⁰⁴ Manuscripts and Special Collections, ‘Catholicism in the Archdeaconry of Nottingham

Presentment Bills 1587-1699’ University of Nottingham,

<https://www.nottingham.ac.uk/manuscriptsandspecialcollections/collectionsindepth/archdeaconry/presentmentbills/catholic-dissent.aspx#edwinstowe> (accessed 08/10/2023)

Figure 59: GeoMap of religious crimes in Nottinghamshire

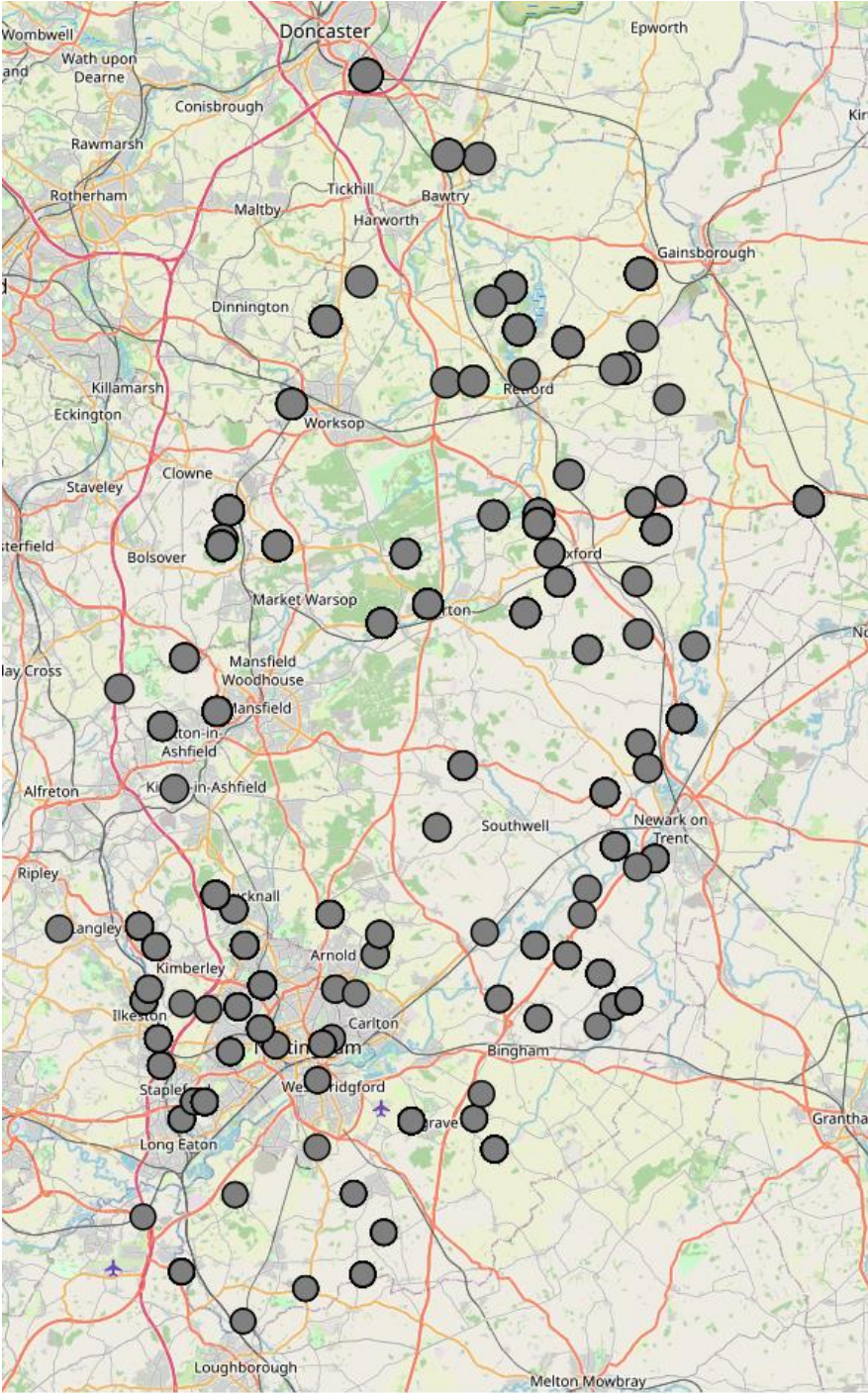


Figure 60: Heat map of religious crimes in Nottinghamshire

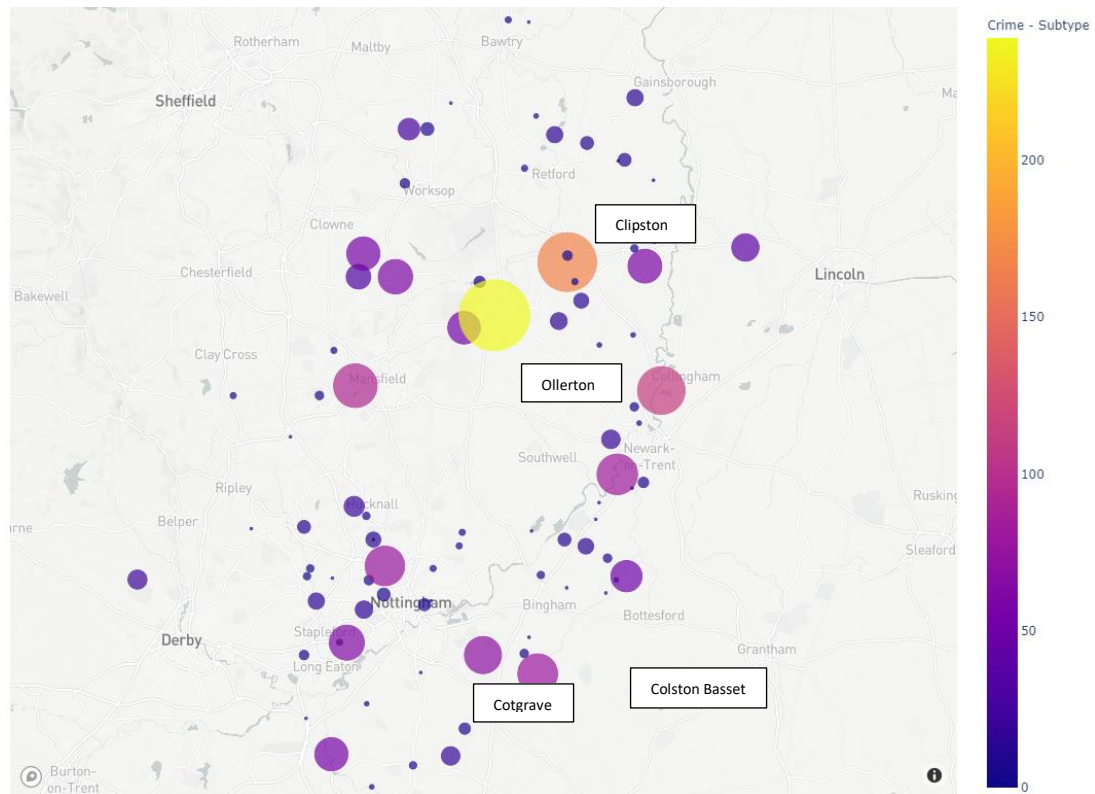


Figure 60 shows increased cases of religious crimes within the major cities and towns besides Nottingham; these include Mansfield and Newark. This was due to the extensive exchange of people within these market towns for trade and work — an increased number of people from various places allowed for the widespread interaction of ideas regarding religious discontent. In rural areas, people may not have transacted as much with multiple people to discuss or be exposed to such beliefs. This notion of religious non-conformity being spread through interactions was particularly evident when examining the trade routes within the county, such as the River Trent, River Idle and the Great North Road. It was via these routes that a plethora of beliefs were communicated to other travellers or distributed within villages along the river and road – these also provided measures for Catholic idols and literature to be dispersed.¹⁰⁵ This culmination of factors created increased instances of religious disorder along these two topographical features. The map shows how prevalent occurrences of religious crimes were along the River Trent,

¹⁰⁵ Keith Holland, 'The Distribution of Catholic Communities in Nottinghamshire During the Reign of King James VI and I', *Transactions of the Thorton Society of Nottinghamshire*, no.124 (2020), pp.113–26: p.118.

the dark grey line running from Long Eaton via Nottingham and Newark up to Gainsborough.

Concluding Thoughts:

This section has given an idea of who was listed for religious crimes in Nottinghamshire, which supports the historiography that has traditionally found an association between the landed gentry and recusancy. It was apparent within Nottinghamshire that hotspots were created by neighbouring villages, especially larger ones around areas with a gentry family. Moreover, a familial network often spreads religious convictions over the county. With Nottinghamshire, due to the more consistent records available, it allows for an insight into how rising concerns regarding the Catholics and the Civil Wars became a potential catalyst for larger numbers of listings at the court in the years leading up to the First English Civil War. Lastly, this section has addressed where recusancy and absence from church happened within Nottinghamshire during Charles I's reign, the Civil Wars, and the Interregnum. This research has built upon Keith Holland's findings that the enclaves of Catholic recusant communities in Jacobean Nottinghamshire did not exist. Instead, the numbers in these communities were fluid and relatively dispersed throughout the county.¹⁰⁶ There are no definitive enclaves throughout the county between 1630 and 1660 either. Although there were clear recusancy hotspots, these were dispersed throughout the county, depending on the various topographic and demographic factors.

Conclusion:

It has been vital to examine recusancy and absence from the church across the East Midlands between 1630 and 1660 because broader national concerns and local factors significantly influenced it. It also engages with some key wider historiographical debates regarding religious crimes.

To summarise the findings, the female sex was the most predominant in religious cases across all three counties. This association between women and

¹⁰⁶ Holland, 'The Distribution of Catholic Communities in Nottinghamshire' p.113.

religions was primarily based on their private experience and ability to share their convictions through feminine activities such as gossip, shared practices like needlework, or their general connections – those who were friends, neighbours, and relations.¹⁰⁷ As outlined throughout the religious chapter, this was due to the seventeenth-century belief that women (particularly the wife and mother) held religious responsibility for the household. Moreover, as Frances Dolan suggests, whilst the husband conformed to the national church, the wife maintained their true religious conviction to protect the husband from sequestration, which could explain why more women were prosecuted than men.¹⁰⁸

However, there were differences across the counties when divided into those who were recidivists and those who were sole offenders. For instance, although for Derbyshire and Nottinghamshire, women were the greater portion of recidivists, there was an equal number within Lincolnshire, possibly due to the fewer recorded instances of these two religious crimes in Lindsey. For those listed in the Quarter Sessions only once, the proportions of each sex differed across the three counties, making it difficult to draw an overall conclusion for the East Midlands region. This would benefit from future work examining a larger number of counties across the region in this period to determine if there were any trends.

It is also crucial to consider the status of those listed for these religious crimes. There has been a divide amongst previous historiography regarding who were recusants; for instance, historians such as Stone have determined it was the elite titled and landed gentry, whereas others such as Terrar have determined the majority were the labouring classes.¹⁰⁹ Across this period, those listed most often within the Quarter Sessions breached both sides of the debate as it was the lower gentry, the labouring class and then the yeoman. In terms of the labouring classes, this has been connected to the potential influence of those to whom they were employed, for instance, the gentleman and yeoman who own the land they work. However, one reason why those of the gentry may have been targeted was the fear

¹⁰⁷ Crawford and Mendelson, *Women*, pp.227-228

¹⁰⁸ Dolan, *Whores of Babylon*, p.66.

¹⁰⁹ See Terrar, 'Gentry Royalists or Independent Diggers' for an overview of this historiography.

regarding their influence, especially if they were Catholic magnates, as ‘popery embodied idolatry (the corruption of religion) and usurpation (the corruption of power and authority).’¹¹⁰ On the other hand, ‘in comparison to the clerical Puritan movement, gentry attachment to Puritanism was weak.’¹¹¹ Unfortunately, from the Quarter Session records throughout these three counties, it has been challenging to determine who has been associated with which religion from the Quarter Session records alone. Examining this aspect of religious crimes provides insight into localised communities and how these regions align with the historiography of who committed these crimes.

In terms of the case outcomes for those listed for religious crimes, there were minimal recordings in the Quarter Session records. If an outcome was detailed, it was often noted as convicted; this was for either recusancy or absenteeism. There were fines associated with being absent from church if one had not attended for four sequential weeks. Yet there are numerous cases of offenders who were listed as being absent for three consecutive weeks. This could indicate the local administration’s reluctance to prosecute those who may be their neighbours, and the JPs may not have wanted to penalise those who may have been of equal social standing to themselves, such as esquires, gentlemen, and yeomen. This goes some way to challenge the notion that the Catholic minor gentry with the typical income ‘almost certainly suffered more severely than the greater gentry and the peerage’ since sequestration usually forced them to sell some of their assets as there appears to be little evidence of fines in the Quarter Sessions.¹¹² These may have been listed within a different court, or with the fluidity of the term gentlemen there is a difference between the studies’ definitions.

Moreover, there were instances where those listed for offences were notably absent for four weeks or more, but there was very little evidence of the offenders having received the fines. Only within the Nottinghamshire Quarter Session Minute Books were any fines recorded for these religious crimes. However,

¹¹⁰ Knights, ‘Religion, Anti-Popery and Corruption’, p.189.

¹¹¹ Beats, ‘Politics and Government’, p.21.

¹¹² Chris Clay, ‘Landlords and Estate Management in England’ in Joan Thirsk (ed.) *Agrarian History of England and Wales*, (Cambridge: Cambridge University Press, 1985) vol.5: no.2, pp.146-151.

there was a minimal number – notably, those who received fines were mainly male. This characteristic of the Nottinghamshire records could also be potentially linked to Nottinghamshire being of the York diocese rather than Canterbury; the York diocese may have had a greater priority in pursuing these fines, although without another York county to compare to, it is not easy to draw these conclusions. It may be that, as for Derbyshire and Lincolnshire, only the Session Rolls survived, the outcomes and potential fines for those listed were documented on rolls that did not survive, or they were reported elsewhere, such as in the Visitation or Recusant rolls. Addressing whether there were outcomes or punishments for those listed for these religious crimes in other administrative documentation for these years could be explored outside the remit of this thesis, focusing on Quarter Session records in the future.

Notably, during Charles I's Personal Rule, overall, there appeared to be a higher number of religious crimes listed across the counties. Moreover, in the years leading up to the Bishops' War, when there were rising concerns regarding potential religious divides in the wake of this war, there was an increase in listings of religious crimes at the Quarter Sessions. It appears that there was a lower number of these two religious crimes listed in the 1650s than in the period of the 1630s, and this was likely indicative of a more liberal approach to religious difference – despite the fears of tolerance in the 1630s. For instance, Loomie has outlined a section of the historiography, including Christopher Hill, Claire Cross, and Antonia Fraser, that 'believes Cromwell treated Catholics as benignly as he treated the various schools of Protestantism.'¹¹³ Yet there was a notable spike in 1657 that coincided with the Oath of Abjuration reaffirmation – targeted at Popish recusants. However, it does appear that a greater number of incidences were listed in Lincolnshire during this Commonwealth period than in Nottinghamshire. This difference may have been influenced by the overarching association between Royalists and Catholicism in parts of Nottinghamshire. Thus, the Act under the Commonwealth was potentially more liberally applied than it was in Lincolnshire,

¹¹³ Loomie, 'Cromwell's Policy', pp.343-344.

which was largely under Parliamentary control during the Wars, and as such, it may have applied the Parliament Acts more stringently.

There was a clear trend throughout the counties that religious crimes occurred in hotspots throughout the region. One element to this was that in terms of Catholicism, there were often hotspots where one family may host a priest for the surrounding areas, and this was indicative of the finding that 'the significant territorial unit for English Catholics was that of the protective seigneurial household or cluster of households.'¹¹⁴ However, the example of Gainsborough Hall and William Hickman suggests that Protestant denominations in Lincolnshire also have instances of this. Significantly, the areas where these hotspots were located coincided with key topographical factors. This study has shown hotspots 'were frequently at the edge of the county, where the priests and their protectors could be ready for a quick flight "over the border".'¹¹⁵ Hotspots were also found close to the rivers and market towns where religious communications and artefacts can easily be distributed and spread.¹¹⁶ There is an element of the historiography that determined certain areas and trades had associations with different religions. For instance, the traditional manorial communities of open arable farming connected with older festivaesque religions; in contrast, Puritanism was linked to those of a shifting population, such as the woodland and pastoral community, which may be related to the mining or fenland communities across the region.¹¹⁷ For instance, Puritanism in the shifting mining communities of Derbyshire is compared to Catholic arable communities within the Trentlands.

Exploring religious crimes during this period has been essential as an element of the historiography determined that 'the Civil War was not a clash of social groups: it was the result of incompetent Kingship which allowed religious militants to settle their disputes about the nature of the church, and therefore of different concepts of the moral order, to fight it out.'¹¹⁸ Thus, it is crucial to

¹¹⁴ Hibbard, 'Early Stuart Catholicism', p.3.

¹¹⁵ Bossy, *Catholic Community*, pp.91-105.

¹¹⁶ Jennings, "'The Gathering of the Elect'", p.26.

¹¹⁷ Woolrych, *Britain in Revolution*, p.43

¹¹⁸ Morrill, Manning, and Underdown, 'What Was the English Revolution?', p.19.

understand how religious dissidence during this period was represented within the local Quarter Sessions, especially as there appear to be fluctuations in the number of religious crimes listed before and after the Civil Wars years.

Conclusion

Introduction

This research has been vital in examining gender and criminality in the East Midlands by addressing “who”, “what”, “when”, “where”, and “why”. Although this study has concentrated on the years incorporating Charles I’s Personal Rule, the Civil Wars years, and the Interregnum, different elements of each period appear to have impacted crime locally. This examination was achieved through a statistical and specific case study analysis of the available quarter session records for Derbyshire, Lincolnshire, and Nottinghamshire. In addition to popular literature, such as broadside ballads, conduct literature and proverbs to examine notions of crime, especially towards those who were offenders – alongside seventeenth-century beliefs regarding gender ideals. Understanding why these crimes occurred has demonstrated that this was a complicated mixture of factors dependent upon the type of crime being committed. Relevant local issues such as topography and trade were also considered alongside national factors, including new Acts and prosecution priorities.

Regional Crime

Understanding the overall picture of crime in the region; the similarities and differences between offences presents a broad thirty-year snapshot of crime in the localities.

Who (Sex)

The “who” aspect has been vital to this research in terms of sex to demonstrate the engagement of criminals with seventeenth-century gender ideals to identify trends across the analysis for all the crimes examined.

Notably, for both theft and bastardy, a larger number of men were listed before the courts. As indicated in Chapter Two and Chapter Three, the domination of men, for theft was a combination of opportunities presented through broader

accessibility and networks, whereas, for bastardy, this was mainly due to a driven prosecution against men, particularly poor men, to ensure financial support their bastard child. However, for religious crimes, women were the most common sex listed, which, as indicated within Chapter Four, was due to the beliefs that 'the archetypal good woman was a godly woman, obeying her husband, caring for her children and servants and spending her spare time in private devotion.'¹ This feminine role of nurturing the religious household may have encouraged women to be thought of as a more significant threat that ironically may have made her more vulnerable to prosecution for recusancy. Thus, despite adhering to idealised gender characteristics, the wife may have been a greater target for the application of religious laws. In terms of the representation of offenders for theft and bastardy, various case studies have demonstrated how gender ideals could be manipulated to work in favour of the accused. For instance, in theft cases, women's knowledge regarding seventeenth-century assumptions of female criminality and roles within a marriage/home, and for bastardy, the notion of victimhood, especially in terms of how the bastard child was conceived. Unlike bastardy and theft, there was very little detail in the records of recusancy and non-attendance other than simply listing the accused's name. The only other information available was about familial relations and how long the person had been absent. This made it extremely difficult to use religious case studies to assess if those who were listed evoked gender ideals in the accused's favour.

Moreover, in both theft and bastardy cases, the perpetrators could both challenge and adhere to gender ideals regardless of sex. As explored in the individual chapters, male thieves could have been seen to provide for their families in times of need, such as dearth, thus fulfilling their patriarchal role as the provider for their family. In terms of the bastardy cases, men challenged gender ideals in their lack of control over their sexual urges. This was particularly pertinent if the male perpetrator already had a family or had a bastard with their maid, as it subverted familial, status, and gendered expectations. This notion is crucial as it supports Ingram's and Capp's findings that the divide between male and female

¹ Patricia Crawford, *Women and Religion in England 1500-1700*, (Abingdon: Routledge, 1996), p.39.

sexual immorality has been exaggerated; it is evident that sexual honour was a key component for both sexes and could also be weaponised by either sex.² For religious crimes, it was apparent that women often adhered to the expected role of maintaining the family's religion in the number of women recidivists and those charged without their husbands. These examples are crucial as they engage with the notion of gender as a performance; this study applies Butler's original iterative theory of performance to explore how the conscious performance of hegemonic gender ideals meant the 'offender' challenged judicial authority.³ This aspect also links to the theory of Underdown and Amussen as the symbolic inversion of women's actions to turn the world upside down depended upon the structured, familiar, and existing norms. Therefore, these criminal women, although they enacted these norms rather than turning them upside down, used the existing gender ideals to challenge judicial and patriarchal authority.⁴

Thus, it has been valuable to understand how gender impacts different crimes as it has engaged with the wider historiographical debate regarding the "double standard" between men and women – notably challenging the connection between women and bastardy, with men being the prominent sex prosecuted at court. As shown in chapters Two, Three, and Four, criminals can negotiate seventeenth-century gender ideals by engaging with notions regarding agency through the performance of gender.

Who (Occupation)

Examining the "who" aspect regarding occupation and status (both social and marital) provided insight into connections across the localities and possible networks of criminality. Thus, it is crucial to see if there are any similarities in who the main offenders were across the crimes examined.

² Bernard Capp, 'The Double Standard Revisited: Plebeian Women and Male Sexual Reputation in Early Modern England', *Past & Present*, vol.162 (1999), pp.70-101: p.98.; Martin Ingram, *Church Courts, Sex and Marriage in England 1570-1640*, (Cambridge: Cambridge University Press, 1988), p.160.

³ Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity*, 2nd ed (Abingdon: Routledge, 2002), p.34.

⁴ Susan D. Amussen and David Underdown, *Gender, Culture and Politics in England, 1560-1640: Turning the World Upside Down*, (London: Bloomsbury Academic, 2017), p.16.

Significantly, both theft and bastardy cases were most often committed by those who were of the poorest orders in society. For men, this was usually labourers, likely agricultural, and low-skilled craftsmen. For bastardy, this was determined by prosecution priorities - local concerns about who would be paying the maintenance for the child. This argument is vital as although Adair argued that the prevalence of high bastardy rates in the early seventeenth century was due to failed marriages and broken courtships, primarily based on the use of spousals, it is clear from the Quarter Session records of these counties that those brought before the court were mainly those not in long term relationships or expected to marry.⁵ This differentiation is likely due to the secular concern regarding who would fund the illegitimate children or as a potential pressure into marriage for the parents. Yet for theft, this was regarding motivations for the crime. As Hindle identified, during the seventeenth century, the theft of food was viewed as an act of 'preservation of life' and, hence, a necessity for the poorest amongst the society.⁶ On the other hand, for religious crimes, when combined, it was the minor gentry who were the most common cohort listed for the East Midlands. This could have been due to their perceived influence within their localities in creating congregations of dissidents through sponsoring religious leaders, creating spaces to worship, or over their tenants.⁷

As noted throughout this research, it has been challenging to determine an occupation for women, as they are often listed solely by their marital status or standing unless their husband was also listed. For theft and religious crimes, it was wives most commonly recorded. For theft, this was likely connected to the notion of wives following their husbands into criminal actions, either willingly or coerced under the husband's authority. For religious crimes, this was in the interests of possibly protecting their husband's financial affairs.⁸ Whereas for bastardy, this was

⁵ Richard Adair, *Courtship, Illegitimacy, and Marriage in Early Modern England* (Manchester: Manchester University Press, 1996), p.9, p.227.

⁶ Steve Hindle, *On the Parish?: The Micro-Politics of Poor Relief in Rural England c.1550-1750*, (Oxford: Oxford University Press, 2004), pp.88-90.

⁷ J. C. Aveling, *The Handle and the Axe: The Catholic Recusants in England from Reformation to Emancipation*, (London: Blond & Briggs, 1976), p.162.

⁸ Carol Z Weiner, 'Sex Roles and Crime in Late Elizabethan Herefordshire', *Journal of Social History*, vol.8 (1975), pp.38-60: p.38.

almost exclusively single women. This was indicative of seventeenth-century realities regarding the precarious position of single women in society, but it could also have been opportunities offered to mobile youths in a new emerging culture centred around the public inn between 1630 and 1660.⁹ This supports Underdown's findings in his examination of scolds that 'women who were poor, social outcasts, widows or otherwise lacking in the protection of a family, or newcomers to their communities, were the most common offenders', suggesting there may have been particular subsets of women dominating the court records because they enacted the most overt evasions to patriarchal authority within their local society.¹⁰

Examining occupation and status has demonstrated the contrasts between what may have motivated the different sexes and the preponderance of certain cohorts for different crimes during the mid-seventeenth century.

What

The definitions of these offences have been explained throughout this research, as well as the punishments for these crimes through various acts. It has also explored some of the characteristics of the three crime types examined. For example, in Chapter Three, the types of items stolen by the sexes adds further evidence to the field that accessibility and opportunity determined items stolen rather than sex alone; in Chapter Four, the interchangeability of using the terms recusant and absent from church, and when specific terms were used as a reflection of wider prosecution priorities.

Both recusancy and absence from church have been difficult to analyse for the "what" aspect in terms of differentiation between religions and the punishments given. As outlined throughout the religious chapter, there was a duality in the use of recusancy, particularly the absence of church for all those not present at the Established Church. Furthermore, regarding punishments, there was

⁹ David Levine and Keith Wrightson, 'The Social Context of Illegitimacy in Early Modern England' in Peter Laslett, Karla Oosterveen, Richard M. Smith (eds.) *Bastardy and its Comparative History: Studies in Illegitimacy and Marital Nonconformism in Britain, France, Germany, Sweden, North America, Jamaica, and Japan*, (London: Edward Arnold Publishers Limited, 1980), pp.158-175: p.169.

¹⁰ David Underdown, 'The Taming of the Scold: The Enforcement of Patriarchal Authority in Early Modern England' in Anthony Fletcher and John Stevenson (eds.) *Order and Disorder in Early Modern England*, (Cambridge: Cambridge University Press, 1985), pp.116-136: p.120.

a distinct absence from two counties in terms of outcome data and a considerably minimal amount from Nottinghamshire. However, the lack of punishments listed may be an insight into the prosecution of these crimes in the localities. For instance, those of a poorer standing, such as labourers, would not be able to afford the penalties for these crimes, and thus, it may not have been worthwhile pursuing them for the fines, hence, potentially skewing the presence of the poor in the records. It is notable that for absence from church, the threshold for penalties was to be absent for four consecutive sabbaths, and there were a considerable number of people listed as absent for three weeks consecutively without fines, which may be indicative of the constables and the justices reducing the chance for punishment. As Hibbard suggests, 'the recusancy laws permitted considerable delay and evasion [as] pressure from the central government for enforcement of the penal laws was intermittent, and local initiative was often lacking.'¹¹ Therefore, on top of the hesitancy to prosecute the poor, it may be that JPs across the East Midlands, who were often of minor gentry status, may have been reluctant to prosecute those of a similar standing – gentleman being the most common of those listed for recusancy/absenteeism across the region.

One notable element for both theft and bastardy crimes was that they appeared to be crimes of opportunity. For instance, in theft crimes, whether this was the taking of drying linens from hedges or the stealing of grain during the threshing/harvesting process when working. For bastardy, although there are some instances of affairs or bridal pregnancies, there seemed to be several opportunistic copulations where the reputed father of the bastard child was seen as an opportunity to potentially further one's standing financially and in the community or, more generally an unplanned encounter. Another element of similarity between these two crimes was the importance of mobility to the offender. Typically, for theft crimes, this was the ability to disperse items through known networks or opportunities to resell. Another aspect of this was the ability of criminals to move on geographically to avoid arrest, which could simply have been moving from one

¹¹ Caroline Hibbard, 'Early Stuart Catholicism: Revisions and Re-Revisions', *The Journal of Modern History*, vol.52: no.1 (1990), pp.2-34: p.4.

parish to another. Crucially, work opportunities may have provided them with this or more large-scale movement through national travel routes across the region. For bastardy, it appeared that the ability to move across borders, whether parish boundaries or even the county lines, was advantageous to reputed fathers in attempting to avoid their responsibilities.

Regarding the punishments outlined for each of these crimes, there was a general adherence to those specified. For instance, being stocked, stripped, and whipped for theft: for bastardy, women received a year in the house of correction, and men received maintenance fines. In terms of Walker's determination that women were not treated more leniently than men, as has been shown throughout this study, this is true for some crimes but not others. Her declaration is too strict a generalisation and does not allow for nuances in the circumstances in which the crime occurred, primarily when apparent factors other than sex determine the outcome of the case.¹² What is crucial is that it was evident that JPs and other authorities could apply mitigations to the punishments when they felt it was necessary. For instance, in terms of bastardy cases, this was more individual, dependent upon the circumstances in which the child was conceived – the case studies within Chapter Two demonstrated the different punishments received. This is often why it was crucial for those charged with bastardy, particularly women, to prove they were victims or were attempting to adhere to gender ideals. On the other hand, this was a somewhat more generalised mitigation for theft cases. Chapter Three, in support of previous findings, determined there was evidence of a general lowering of the value of goods to ensure the crime remained a petty theft rather than grand larceny for which the punishment could be death.¹³

It is vital to explore this element for the crimes examined as it demonstrates local judicial authorities' application of the law and is particularly pertinent for investigating the impact of mitigating circumstances on the case outcomes. Cynthia Herrup argued that in terms of defence against a conviction or condemnation, only

¹² Garthine Walker, *Crime, Gender, and Social Order in Early Modern England*, (Cambridge: Cambridge University Press, 2003) p.270.

¹³ J. A. Sharpe, *Crime in Early Modern England 1550-1750*, 2nd ed. (Harlow: Pearson Education Limited, 2014), p.146.

insanity was accepted as an extenuating circumstance.¹⁴ Although not to the extent of avoiding convictions, this research is significant because it has evidenced that circumstances were considered and altered the punishments given.

When

Analysing patterns across the various crimes in terms of when they occurred allows a far more expansive picture of criminality during this period and the potential factors that may have impacted the crime figures.

The thirty years examined within this research can be split into three periods: Charles I's Personal Rule, the Civil Wars (including the Bishops Wars), and the Interregnum. It is crucial that there was little evidence that Charles I's Personal Rule directly impacted the numbers of either bastardy or thefts compared to the decade of the 1650s. More importantly, years of bad harvests were the years of the highest incidences of theft. However, evidence suggests that for the two religious crimes examined, the increased religious fragmentation under Charles's Personal Rule and fears regarding this bleed into local concerns of those outside the established Church. In turn, this generated more of these crimes in the Quarter Sessions.

In terms of the Civil War, the greatest impact across the Quarter Sessions was their cessation between 1642 and 1646 across the East Midlands. Although there may have been some form of judicial authority in the counties through the individual Royalist and Parliamentary administrations. However, there are no records to confirm this. The 1640s saw a generally lower number of crimes – likely reflective of a move away from prosecuting petty crimes to rallying war efforts and recovery in the aftermath. There was some evidence that the Civil Wars had a minute impact on bastardy, this was the inclusion of listing soldiers as fathers and the possibility of pressing those soldiers who were reputed fathers.

The period of the Interregnum saw the greatest influence from the central government on the prosecution priorities in the localities during these thirty years.

¹⁴ Cynthia B. Herrup, 'Law and Morality in Seventeenth-Century England', *Past & Present*, vol. 106 (1985), pp.102-123: p.108.

This was particularly evident in the Adultery and Marriage Act, which created a greater focus on illicit sex, as outlined in Chapter Two. Similarly, the Act for the Reaffirmation of the Oath of Abjuration significantly impacted the listing of religious crimes, specifically recusancy, as it generated a spike in the numbers recorded at the Sessions. This influence was particularly noticeable as the 1650s saw, overall, a considerably lower number of religious crimes – largely due to the perception of tolerance through the policy of Liberty of Conscience. This appears in contrast to Woolrych’s determination that ‘the whole system of the common law, from the central courts at Westminster through the assizes to the quarter sessions of the justices of the peace continued to function almost without interference except at a local level during the brief regime of the major-generals.’¹⁵ On the other hand, theft, again, does not appear to have been connected to any acts but rather the years in which there were bad harvests - similar to the pattern under Charles’ Personal Rule. This is vital as it suggests that not only Acts but also the wider societal infrastructure impacted crime figures. For example, Hindle argued that ‘crisis years were significant as they exposed the limitations of the relief systems and why there was a dependency upon informal relief.’¹⁶ Therefore, these limitations in parish relief may have generated more crimes – especially crimes of necessity.

Overall, there were fewer crimes recorded in the 1650s. This was not solely for the crimes examined within this research, but generally, fewer petty crimes were listed within the records for the three counties. Moreover, there appeared to be less focus on petty and nuisance crimes such as theft, bastardy, or rioting. However, although no quantitative data was recorded, it appeared there was a greater focus on more administrative aspects, such as pension petitions or paying for highway repairs. For example, there is a slight increase in crimes such as brewing without a license, haring, and harbouring vagrants across the counties’ records. Which, if examined in future work, may support Anthony Fletcher’s findings of the Commonwealth that there was a move to encourage and promote

¹⁵ Austin Woolrych, ‘The Cromwellian Protectorate’ in David L. Smith (ed.) *Cromwell and the Interregnum*, (Oxford: Blackwell Publishing, 2003), pp.61-90: p.67.

¹⁶ Hindle, *On the Parish?*, p.299.

godliness and virtue by seeing the execution of laws against “drunkenness, blaspheming and taking the name of God in vain, by swearing, cursing, plays and interludes and profaning the Lord’s day and such like wickedness and abominations” and to regulate alehouses.¹⁷ This may indicate a move towards morality and parish management rather than focusing on criminality.

It has been vital to compare when these crimes happened as it demonstrates there were not always generalised patterns across incident rates and that different factors will impact individual crimes.

Where

It is crucial to explore the “where” aspect across all three crime types as it demonstrates where there were hotspots for numerous crimes and why this may be significant regarding seventeenth-century criminality.

Theft, bastardy, and religious crimes occurred along the borders between counties. This supports the belief that for those who committed a crime in one county, moving across the border may have been an effective evasion tactic as it reduced their chances of being caught or made it less worthwhile to pursue a prosecution.¹⁸ For instance, in terms of religious crimes, there are a large number along the Derbyshire/Staffordshire border, for bastardy, there are some instances among the Nottinghamshire/Leicestershire border, and again numerous thefts along the Lincolnshire/Nottinghamshire boundary.

Moreover, this use of the boundaries as an evasion method may have also applied to crimes along major water and roadways. This was particularly notable for theft and bastardy cases where once the crime was committed, the offender (usually the father in bastardy cases) could use the travel networks to move to another area to avoid detection and pursuit of the crime. Furthermore, theft and religious crimes used travel networks for similar purposes. In the instance of religious crimes, these networks were used to circulate religious ideas, and for

¹⁷ J.P. Kenyon, *The Stuart Constitution*, (Cambridge: Cambridge University Press, 1996), pp.349-350.

¹⁸ Keith Holland, ‘The Distribution of Catholic Communities in Nottinghamshire During the Reign of King James VI and I’, *Transactions of the Thorton Society of Nottinghamshire*, vol.124 (2020), pp.113-126: pp.118-120.

theft, they were used to disseminate stolen goods – indicating how significant such topographical features were to where crimes occurred.¹⁹ Some notable case studies demonstrate this aspect in Chapters Two, Three, and Four. What is also crucial is that due to the garrisons using the same infrastructure, such as road, communication, and water networks, they are often in the same areas as crime hotspots. However, a correlation between the garrisons and crime figures cannot be confirmed without the data from the Civil Wars years.

Generally, it is notable that there are areas of crime scarcity, and these are the same for the three crimes examined – suggesting there are factors that affect criminality in general. For instance, within Nottinghamshire, there was an absence of offences within the Sherwood Forest, a sparsity of crime within the Derbyshire northern Peaks and a paucity of incidences within the Fen area of the Lindsey District in Lincolnshire. This lack of crime was connected mainly to the county's demographics during this period – these were not popularly habituated terrains – but also the limit in the reach of the law. These were often areas that were not easily policed due to terrain and distance; they were also some distance from the nearest Quarter Sessions.

These findings are crucial to the future study of crime at a local level. It may be that the findings present a challenge to work that will be done on these individual crimes within other localities during this same period, or at least a reference point of comparison for other localities. These findings also feed into the wider historiography regarding who committed crimes – there has been a longstanding association of the poor with criminality, which these findings support. There are also unique areas outside the field of the history of crime where these findings may be of interest; for instance, anyone researching geography's impact on the lived experience, especially during the early to mid-seventeenth century. This could be for those focused on the three counties examined or another county where this research may provide a basis for interpretation or comparison.

¹⁹ Stuart Jennings, '“The Gathering of the Elect”: The development, nature, and social-economic structures of Protestant religious dissent in seventeenth-century Nottinghamshire', (Nottingham Trent University, 1999), p.26.

Significance of this Study

This study demonstrates the intricacies of criminality within local areas and the various factors that impact these crimes. It adds to the knowledge of the experience of those within the localities during the Personal Rule of Charles I, the Civil Wars, and the Interregnum – this is crucial as criminals were those considered on the outside of society and not often featured in works examining the experience of the Civil Wars. As outlined in the ‘Introduction’, there are works that focus on crime over the broader early modern period, or the seventeenth century. Yet, there has been minimal focus on crime in these thirty years, so this research is significant as it provides a unique aspect of the impact of the Civil Wars and the Interregnum on crime.

One attribute of this study is the sole focus on the Quarter Session records. Chapter One outlined issues of survival rates and how this has been alleviated. This was for the feasibility of the study and to ensure a focus on the crime analysis, although it may have impacted the exploration of wider societal connections. For instance, the affirmation of connections between landholders and tenants when examining theft networks or religious influence when examining hotspots in certain areas of the region. There was some detailing of familial networks in the records or from family memoirs, such as the Molyneux case in Nottinghamshire, but these are not extensive accounts. Engagement with more exhaustive archival records such as marriage, baptism, tax records, or sheriff’s accounts was outside the viable remit of this research. Future studies focusing on one county, or even one hundred within a county, would be suited to examining offenders’ societal and familial bonds through more archival institutional sources. Despite this, this thesis offers substantial insight into and engagement with the historiography regarding crime, gender and the period from the East Midlands Quarter Sessions.

Crime

It is evident that, in line with Cynthia Herrup’s findings, the common people influenced and applied the law. She determined that ‘the effectiveness of the law, therefore, cannot be measured by its adherence to legal formulae; its power is best

understood through the options exercised by legal officials and other individuals and through the different choices made at different stages of the legal process.²⁰ This is significant as this research has demonstrated that this was most applicable to the punishment or outcome stage of the cases examined for these three counties. Although, as noted previously, this has been explored for theft in prior works, there has been little work that directly engaged with the mediation of judgements for bastardy and religious crimes in Quarter Session records. Thus, this research is significant in using case studies to evidence choices made by the justices in case outcomes. In terms of bastardy, Walter King explores the punishments given at Quarter Sessions and Church Courts to outline that the penalties were not strictly enforced; however, he examines the absences of cases in the records to determine that 'about eighty per cent of unwed parents were never punished.'²¹ Whereas Chapter Two has shown that there was also a modification of the punishments given in bastardy cases at the discretion of the JPs. Although there have been previous discussions regarding whom absentee fines most affected and how recusants could avoid sequestration, this study's significance is in demonstrating how the absence of recusancy/absentee fines, when they should be applicable, establishes the choices made by the JPs not to pursue those fiscal punishments.

These findings will be critical to those studying the application of the law, especially for petty crimes, and for those researching evidence of how much discretion the JPs had in the different stages of prosecution for a case. While this study has noted this was especially true of the punishment stage, other works may integrate with this by examining different stages of the judicial process or whether other counties' quarter session records demonstrate similar findings for this period. Another aspect is how the practice of prosecution regarding petty crimes in the localities may have changed over time. Academics examining any of the offences addressed within this study, or any of the counties analysed, later in the seventeenth century or into the eighteenth century would find this work

²⁰ Cynthia B. Herrup, *The Common Peace: Participation and the Criminal Law in Seventeenth-Century England*, (Cambridge: Cambridge University Press, 1987), p.195.

²¹ Walter J. King, 'Punishment for Bastardy in Early Seventeenth-Century England', *Albion*, vol.10: no.2 (1978), pp.130-151: p.135.

enlightening as to how the law was previously processed and the factors that created potential motivations for such crimes. It could then be examined whether those change or remain over time.

Time

This research adds to the historiography regarding the collapse of the Commonwealth regime. Brian Manning's work explores the collapse of the Commonwealth during its last two years (1658-1660), focusing mainly on religious conflicts, military risings, and social unrest created by economic concerns. It is the last element that Manning attributes to the ultimate falling of the commonwealth as 'at the end, only the revival and advancement of trade and industry would have provided a stable and secure base for the republic.'²² He draws on the concerns of apprentices, notably those within London, the enclosure riots, and fiscal measures impeding the poor to evidence the growing discontent with the Commonwealth.²³ Yet, examining the quarter session records for the three counties between the 1630s and the 1660s outlines that fewer crimes were recorded overall in the 1650s, suggesting there may have been fewer instances of unrest within the localities.

It also indicates there may be a disparity between feelings of revolution within the East Midlands region and those within the capital or, indeed, areas closest to it, as the reason disorder crimes were not included, as outlined in the 'Introduction', was because of the considerable drop in numbers during the 1650s. However, the trends between numbers of the 1630s and 1650s for the crimes examined follow similar patterns – excluding the general decrease in the records. Notably, as Chapter Three established, there were increases in theft when there were years of bad harvests, which was linked to the needs of the poor; and as this was a pattern before the Wars and throughout the Interregnum, it suggests this was no more of a concern in the Commonwealth especially as overall the figures were less in the 1650s. Although Manning links fiscal concerns felt in the localities to the fall of the Protectorate, the findings within this study suggest that there was

²² Brian Manning, *Revolution and Counter-Revolution in England, Ireland, and Scotland 1658-1660*, (London: Bookmarks, 2003), p.207.

²³ Manning, *Revolution and Counter-Revolution*, pp.19-22.

very little of this causation for the fall of the Commonwealth demonstrated within the Quarter Session records of these counties.

The findings of this research have demonstrated that, apart from the period of the First English Civil War 1642-1646, when no active Quarter Sessions were held, there was little connection between crime and war within the court. There were a minimal number of records where the offenders were referenced as soldiers – none in Lincolnshire, only one in Derbyshire, and few in Nottinghamshire. One of the expectations was that there may have been a greater increase in crimes such as theft, which was based on the accounts of plundering across the region – for instance, the Vale of Belvoir was a notorious area for this.²⁴ Moreover, due to popular literature regarding fears of soldiers travelling the nation and impregnating women, as outlined in the *Mumpt You Now* example, there was thought there would be a greater number of bastardy cases in the late 1640s of women identifying the father of their child as a soldier. However, there was again minimal evidence of this – only one account from Derbyshire. It may be that these cases were most evident in the years that the Quarter Sessions were suspended. This research has shown that the Acts under the Commonwealth had the most significant impact on the number of bastardy and religious crimes recorded in the counties. The increase in bastardy crimes listed occurred after the Marriage Act, and the increase in Recusancy cases after the Reaffirmation of the Oath of Abjuration. This was despite the generally lower number of crimes within the Quarter Sessions during the 1650s. Thus, this indicates that the Acts of the central government influenced the prosecution priorities of the JPs.

Studying the impact of Personal Rule, the Civil Wars, and the Interregnum on crime provides a unique aspect of examining the experience of these events in the locality. This adds a new dimension to the historiography that would be valuable for continuing to explore whether this finding that the Interregnum had the most significant impact on the crimes over these thirty years is evident for other regions.

²⁴ Alfred C. Wood, *Nottinghamshire in the Civil War*, (Oxford: The Clarendon Press, 1937), p.95.

Gender

One important implication of this study is the connection between gender and crime. J.A. Sharpe noted in his 1998 work that there are subjects 'which need further research: gentry crime, female crime, the broader question of how crime might be regarded as a gendered phenomenon; and organised crime in provincial town', and as such early recognition of these gaps may not have been fully addressed whereas this study by examining both sexes rather than singularly explores the broader question of crime as gendered.²⁵ Regarding the gender associations of such crimes, traditionally, bastardy had a strong association with women due to concerns regarding virtue and patrilineage, along with recusancy crimes. In contrast, theft had no strong connotations with either gender. Yet this study had demonstrated that for bastardy within the courts, there was a far greater association with men due to the targeted prosecution based on the parishes' financial concerns regarding the maintenance of the child. Moreover, men were the significant proportion of those who stole, whereas, in line with seventeenth-century beliefs, women were the greatest offenders of religious crimes. This is significant as the findings of this research have, to some degree, challenged previous associations found within popular literature or generally held societal beliefs.

Another contribution this study makes to the understanding of gender interaction with crime was how contemporaneous gendered stereotypes had been employed by the offender, largely in the hopes of mitigating their case outcomes. In terms of bastardy, as has been outlined in Chapter Two, this could be employed by women who were promised marriage and then spurned. They may have presented themselves as a victim, adhering to what they thought would be their wifely duties before this role had been denied, and thus, in seeking recompense from the father, they are looking after their child. In terms of theft, it may be that a father was looking to provide money or food for his family if they were struggling, and this could invoke the idea of the father who was seen as the provider adhering to those ideals in trying to support his family in whatever way possible. These findings are

²⁵ Sharpe, *Crime in Early Modern England*, p.170.

significant as they engage with gender theory notions such as Butler's that 'the substantive aspect of gender is performatively produced and compelled by the regulatory practices of gender coherence', albeit these criminals demonstrate their performativity and adherence to gender coherence through a conscious decision which undermines judicial authority.²⁶

A crucial aspect of the gender analysis of crime was how observing seventeenth-century gender expectations may force someone to be seen as a criminal. For instance, as outlined in Chapter Four, women were expected to be the religious guide for the household; thus, if they were not of the Church of England, they would still adhere to gendered ideals if they encouraged their faith within their sphere.²⁷ However, with the law, they would have committed a criminal act. Thus, this research, by combining a gender approach to the history of crime, has highlighted the considerable connection between the two. Similarly, the example above of the father stealing to provide for his family engages with Wedgwood's notions that there should be a reformulation of Connell's concepts regarding masculinity. For instance, Wedgwood outlines there should be 'a stronger emphasis on the dynamics of hegemonic masculinity, recognising internal contradictions and the possibilities of movement toward gender democracy.'²⁸ This study offers a unique insight in demonstrating that criminals outside of the normative society could still adhere to hegemonic masculinities – presenting a different dynamic to the term of Connells. For example, the thief was adhering to what are normative seventeenth-century ideals for men in providing for their family yet was heteronormative in being identified as a criminal for those actions. This was especially pertinent as a thief was seen as a negative version of masculinity in terms of being a man without honour, and so would be considered outside the gender ideals for men during the seventeenth century.

²⁶ Butler, *Gender Trouble*, p.34.

²⁷ Patricia Crawford and Sara Mendelson, *Women in Early Modern England*, (Oxford: Oxford University Press, 1998), pp.226-230.

²⁸ Nikki Wedgwood, 'Connell's Theory of Masculinity - Its Origins and Influences on the Study of Gender', *Journal of Gender Studies*, vol.18: no.4 (2009), pp.329–39.

This engagement with gender, especially the notion that it was an active performativity, has been explored in criminal works such as those that examine infanticide. In contrast, this work has demonstrated, in certain circumstances, that this also applies to bastardy and the other petty crimes analysed.²⁹ This aspect of the research may interest gender historians, who are concerned with how those outside society's norms were engaging with normalised gendered ideals of the seventeenth century. Future works across various periods and countries can explore this aspect further.

Conclusion

The hopes for future research are to continue to explore the research questions of who was committing these crimes in terms of gender and occupation, when, and where these were committed for a wider range of crimes that the time or word count of this research has not limited. The primary aim would be to include an analysis of rioting as these crimes of violence often had an association with men to balance the ones examined in this research that have often had an association with women (bastardy and religious crimes). This is significant as it would allow for further exploration from a gender analysis as to whether there was also a performative element to gender for these crimes and how the offender may have used this performance. As well as addressing whether there was a particular subset of the community that was being targeted by prosecution drives, such as this research has shown for bastardy and religious crimes. Furthermore, the exploration of rioting within the East Midlands region would allow a more significant assertion of whether there was a feeling of local discontent with the Commonwealth regime and whether this impacted its fall and could further challenge Manning's findings. The research would ideally look at a broader range of crimes, such as engrossing grain, brewing without a license, and harbouring vagrants, to address how prosecution priorities further changed over these thirty years. Future research

²⁹ See Anne-Marie Kilday, *A History of Infanticide in Britain c.1660 to the present*, (Basingstoke: Palgrave MacMillan, 2013); Peter Hoffer and N. E. Hull, *Murdering Mothers: Infanticide in England and New England, 1508-1803*, (New York: New York University Press, 1981).

would continue examining the engagement of the locality with the judicial process including the potential impact this has upon the cases later into the seventeenth century. This would determine whether the findings within this research continue or are unique to the period which has been addressed.

Fundamentally, this study has explored theft, bastardy, recusancy, and absenteeism from church cases in the Quarter Session records of Derbyshire, Lincolnshire, and Nottinghamshire between 1630 and 1660. It has demonstrated who committed these crimes in terms of sex and occupation, what outcomes offenders received for these crimes, when they occurred, and where. Significantly, it has also addressed the why for each aspect by examining contemporary local and national issues, the counties' topographic and demographic structure, and potential gendered motivations. This research has drawn together three fields of study: gender, crime, and the Civil Wars and Interregnum period. In doing so, it has engaged in significant debates such as the application of the judicial process and the impact of the central government on crime, the performativity of gender ideals, and how crime in the localities may reflect issues regarding the fall of the Commonwealth. This study has determined the findings, such as the mediation upon the case outcomes, the conscious decision of offenders to enact gendered norms despite their actions potentially challenging gender expectations, and the analysis of how Acts during the Interregnum period seem to have the most significant impact on prosecution priorities. Moreover, these findings can be developed in future work focusing on a different period or county.

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1619 British Library – Roxburghe, C.20.f.352-353.
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Unknown. 'The Constant wife of Sussex, Unto you here I will declare, A
story wonderfull and rare for a wife to prevent her husband's shame.' ed. Fr
Colles, 1632 Magdalene College – Pepys Ballads 1.414-415
<http://ebba.english.ucsb.edu/ballad/20195/xml>

Unknown. 'The life and death of Mr George Sands who after many
enormous crimes by him committed, with Jones and Gent his confederates, was
executed at Tyburne on Wednesday 6th September 1626.' 1626 Magdalene
College – Pepys Ballads, 1.128-1.129
<http://ebba.english.ucsb.edu/ballad/20055/xml>

Unknown. 'The Organs Eccho – to the tune of the Cathedrall service.'
1641 British Library – Roxburghe C.20.f.9.573, EBBA 31272 - UCSB English
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Unknown. 'The sorrowful complaint of Susan Higges, a lusty country
wench, dwelling in Risborrow in Buckinghamshire, who for twenty yeeres, most
gallantly maintained herself by Robberies on the high-way side, and such like
practices.' 1630 Magdalene College – Pepys Ballads 1.113
<http://ebba.english.uscb.edu/ballad/20002/xml>

Unknown. 'The Wofull lamentation of Edward Smith, a poore penitent
prisoner in Jayle of Bedford which he wrote a short time before his death.'
1619-1629 <http://ebba.english.ucsb.edu/ballad/30248/xml>

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Wright, 1634. <http://ebba.english.ucsb.edu/ballad/30107/xml>.

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loves and fortunes related.' ptd. F Coules, 1629, Magdalene College – Pepys
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John Ogilby, *Britannia*, (1675) 'London to Barwick' - Plates 5-9 Plate 6 Section 6
<https://www.fulltable.com/vts/m/map/ogilby/b/SH955.jpg> and
<https://greatnorthroad.co.uk/ogilbys-britannia>

John Ogilby, *Britannia*, (1675) 'London to Barwick' - Plates 5-9 Plate 8 Section 3
<https://www.fulltable.com/vts/m/map/ogilby/b/SH957.jpg> and
<https://greatnorthroad.co.uk/ogilbys-britannia>

Software

Incidence of Crime Maps have been created using Orange Data Mining Software
using the Geomaps Function. <https://orangedatamining.com/>

Hotspots of Crime Maps have been created using Scatter Mapbox on Python.
<https://www.python.org/about/>

Appendices

Appendix One - Links to Maps.

[Derb Bastardy.png](#)

[Derb Theft.png](#)

[Derb Religion.png](#)

[Lincoln Bastardy.png](#)

[Lincoln Theft.png](#)

[Lincoln Religion.png](#)

[Nott Bastardy.png](#)

[Nott Theft.png](#)

[Nott theft heat map: px2.html](#)

[Nott Religion.png](#)

[Garrisons.png](#)

Appendix Two - Transcriptions

A selection of transcriptions of case studies referenced in the thesis to demonstrate the transcriptions that I have completed from the records. These range across the three counties, the three decades, and the three crimes analysed, where possible to demonstrate the variety in the court documentation, style and level of transcription required.

These are examples of case studies I have transcribed rather than the Quarter Session Rolls that had already been transcribed for Nottinghamshire (1630-1639) and Lincolnshire (1630-1634).

Derbyshire

'Petition against Elizabeth Greene by the Parishioners of Bowden Chappell', *High Peak* (n.d suspected 1630) – Derbyshire Record Office – Quarter Session Papers – Q/SB/2/21a.

To the right Worp. the Justices of the Peace^s at y^e next generall sessions to be held for y^e County of Derby.

The humble certificate of the Inhabitants of Bowden Chappell thereas wee whose names and written are very sensible of the bad carriage and behaviour of one Elizabeth Greene of our Psh as will further appear to this Court shee having had two several bastards and hath fathered the same upon divers and sundry persons and as we are credibly informed that taken Compositions of some aft^{er}wrds fatherd them upon others but finding her self^e yet unsatisfied for y^e some fix w^{ch} she reports for there (scratched) both maintenance of her necessitous friend hath fathered y^e child upon one Anthony Bradshaw a man who hath a wife of his owne and lives in good amity wth her and in very good esteem and credit amongst us and noway imagined to [?] yo such affections. All w^{ch} we humbly testifie and command.

Yo^r very humble serv^{ts}

[List of Petitioners Names]

To the right Hon^{ble}. the Justices of Peace at
 the next General Sessions to be held for the
 County of Derby.

The humble Certificates of the Inhabitants of Darvill
 Petition was when named and written and very unjustly of the
 carriage & behaviour of one Elizabeth Worsell of our parish
 further appears to the Court that having had two several
 said hath fastid the same upon sundry and sundry persons
 as we are veridically informed hath taken Compositions of some
 all waies taken upon others but finding her self
 yet unsatisfied for y^e comfort wth the reports for her fastid
 maintenance of her next persons found hath fastid by
 said upon one Richard Bradshawe a man who hath a wife
 of his own and lives in good amity wth her and in very good
 respect amongst us and every way Imagin'd to incline to such
 affections. All which is humbly certified & remains
 your very humble servant

DERBYSHIRE
 QUARTER SESSIONS

John: Allen	Edward: Olleran	Nich: Bowden
Thom: Jones Marshall	James	John: Houston
Francis Bonnet	Nich: Smith	John: Bushell
Thom: Bonnet	Francis Cox	Thomas: Thornhill
Henry: Lybbe	Richard: Cox	Thomas: McLeod
Robert: Cross	Japh: Cross	Thomas: Lowe
Anthony: Olleran	Ruth: Bee	John: Jaggards
Thos: Jones	John: Alex	Thomas: Foxlow
Richard: Brown	Raph: W. H. H.	Nich: Barber
Thomas: Braumall	Henry: Jones	Thomas: Barber
John: Colshaw	Thomas: Jones	John: Simpson
Anthony: Kealatt	Thomas: Jones	Robert: Gibb
Thomas: Lewis	Edward: Light	Thomas: Greenfield
John: Kealatt	Richard: Turner	
	Robert: Cross	

Derbyshire Record Office has granted permission to reproduce this photograph of Quarter Session Record Q/SB/2/21a.

'The case of Grace Brunt, spinster of Codnor, for theft', Derby (2nd May 1650) –
 Derbyshire Record Office – Quarter Session Papers - Q/SB/2/180

The Examination of Grace Brunt late of Codnor in the
 said Countie of Derby Spinster. Taken before Gervase
 Bennett Esq^r one of the Justices of Peace for the said
 County of Derby) May the second 1650

Placed with the following testimony of one Handkercher in it Eight
 shillings six pence taken forth of a box of Jo. Bonmer of Derby
 laborer. The Handkercher being found in her Mother's house & also a
 key that open the said box.

Denyeth the following but confesseth that being at John Mansfield's in
 Derby without the said Bonmer if either she did give her Mother a
 key not: she was not in a Handkercher but who took it was the said
 Bonmer or her own. She knoweth not whether doth she know but he
 now sheweth her will open the said Bonmer's box.

The Information of John Bonmer of Derby in the said County
 laborer taken the same day concerning the same matter
 upon his oath.

Saith he hath had money about twenty shillings in his box & has had some
 of it being sent in the house upon times in his Chamber (having
 not occasion there) & hath had the key from her in severall places
 & yet she hath found it & also sheweth her to keep forth & yet she
 would not, & about fourteen days since her said Mother
 six pence in money not: her Mother in a Handkercher & wrote in his
 box & the money & Handkercher was stole forth & the box left again
 & upon search in her Mother's house at Codnor he found his hand-
 kercher not: it is the same sent in his Mother's house & he
 has likewise found the key now sheweth not: will open the box &
 one & forty shillings in money not: her Mother ought to be his but
 her Mother Alice Brunt endeavoured to take it from his hands &
 John Mansfield & Jo. Brunt the said Mansfield offered his hands
 for shillings if he would let the matter pass & saith she one &
 forty shillings & Handkercher is in the doubtless hands

The Examⁿ of Alice Brunt of Codnor taken the same
 day concerning the said felony.

Denyeth she had the Handkercher of her said Daughter but
 when she was sent at John Mansfield's in Derby

Gor Bennett

Permission to reproduce this photograph of Quarter Session Record Q/SB/2/1/80
 has been granted by Derbyshire Record Office.

The examination of Grace Brunt late of Codnor in the said Countie of Derby
 spinster. Taken before Gervase Bennett Esq^r one of the Justices of Peace for the
 said County of Derby. May the second 1650

Charged with the felonious taking of one handkerchief and in it eight shillings, six pence ^{of money} taken forth of a box of Jo:[hn] Bonomor of Derby, laborer. The handkerchief being found in her mothers house and also a key that opens the said box.

Denyth the fellonie but confessest she being at John Mansfields in Derby where the said Bonomor is [?] she did give her mother a cake wh^{ch} she wrapt in a handkerchief but whether it was the said Bonomors or her owne she knows not neither doth she know thath the key nor showed her will open the said Bonomor box.

The information of John Bonomor of Derby in the said county laborer taken the same day concerning the same matter upon his oath.

Saith he hath had money divers times wantings in his box and he hath sent the ex^{te} being serv^t in the house divers times in his chamber (having no occasion there) and hath hid the key from her in severall places and yet she hath found it and also warned her to keep forth and yet she would not and about fourteene days since he had eight shill six pence in money wh^{ch} he wrapt in a handkercheif and lockt in his box and the money and handkerchief was stole forth and the box lockt again and upon search in her mothers house att Codnor he found his handkerchief wh^{ch} is the very same in which his money was wrapt and there he likewise found the key ?now showed wh^{ch} will open his box and one and forth shillings in money wh^{ch} he cannot owne to be his but y^e ex^{te} mother Allice Brunt endeavoured to hide it from this infor^t and John Stafford and Jo: Brunt the ex^{te} kinsfolk offered this infor^t twen=ty shillings if he would let the matter pass and saith the one and forth shillings and handkerchief is in the constables hands.

The exam od Alice Brunt of Codnor taken the same day concerning the said felony. Confesseth she had the handkerchief of her said daughters Grace when she was serv^t at John Mannsfields in Derby.

Ger. Bennett.

'Presentment of William Bagshawe – Constable of Tideswell, many for non-attendance at Church – Richard Ensor for being drunk', *High Peak* (1st October 1639) – Derbyshire Record Office – Quarter Session Papers – Q/SB/2/72

Permission to reproduce this photograph of Quarter Session Record Q/SB/2/1/72 has been granted by Derbyshire Record Office.

10 1339
 Don Derby
 The p'sentment of William Bagshawe Constable
 of Tidswale p'sented at Derby the first of Octobr
 Anno Domo 1639

1 First he p'senteth for absence from the church for 3
 Sabath ddays last past George Lowe of Tidswale
 Willm Bagshawe of the same Alize Plats Francis
 Almoro Willm Palfreeman and Margarett his wife
 Robert Palfreeman Thomas Palfreeman Elizabeth
 the wife of Richard Hardie Thomas Wood Emot
 widow Brigit the wife of Reet Harward John
 Bagshawe of Milnhouse and Joan his wife Roger Emp[?]
 John Heathcote Tobert Howson and Mary his wife
 Barbara Howson widow Rave Howson Thomas
 Howson Margarett the wife of Thomas Holme
 Robert Allen of Woffton and Elizabeth his wife
 Thomas Allen Elizabeth Allen Thomas Gleaton
 and Margarett his wife Thomas Gleaton son
 Mary Gleaton Willm Furniss Margerit Furniss
 Francis Waight Robert Bagshawe Robert Allen
 of Woffton milnhouse John Howson Thomas
 Bortymount and Mary his wife

2 For he p'senteth Richard Lush for being drunk
 the last Sabath and dyvers other tymes

3 So he p'senteth that Thomas Bommitt
 was taken with in litten as a vagrant and
 being sent away with a pass to do so In
 the church was furnished with by the head
 borowes of the church contrary to the
 statute and being sent to the gaol
 he was also sett at liberty by the same
 borowes

4 For he p'senteth John Lowe of litten for
 selling out his rent Richard Holme for
 Thomas Eggo of Tidswale for the same
 p'sentment for the same and p'senteth
 the same

William Bagshawe Constable
 of Tidswale

The p'sentment of William Bagshawe Constable of Tidswale p'sented at Derby the first of Octobr Anno Domo 1639.

First he p'senteth for absence from the church for 3 Sabath ddays last past. George Lowe of Tidswale Willm Bagshawe of the same Alize Plats Francis Almoro Willm Palfreeman and Margarett his wife Robert Palfreeman Thomas Palfreeman Elizabeth the wife of Richard Hardie Thomas Wood Emot widow Brigit the wife of Edward Harman Joohn Bagshawe of Milnhouse and Joan his wife Roger Emp[?] John Heathcote Tobert Howson and Mary his wife Barbara Howson widow Rave Howson Ththomas Howson Joan Howson Margarett the wife of Thoamas Holme

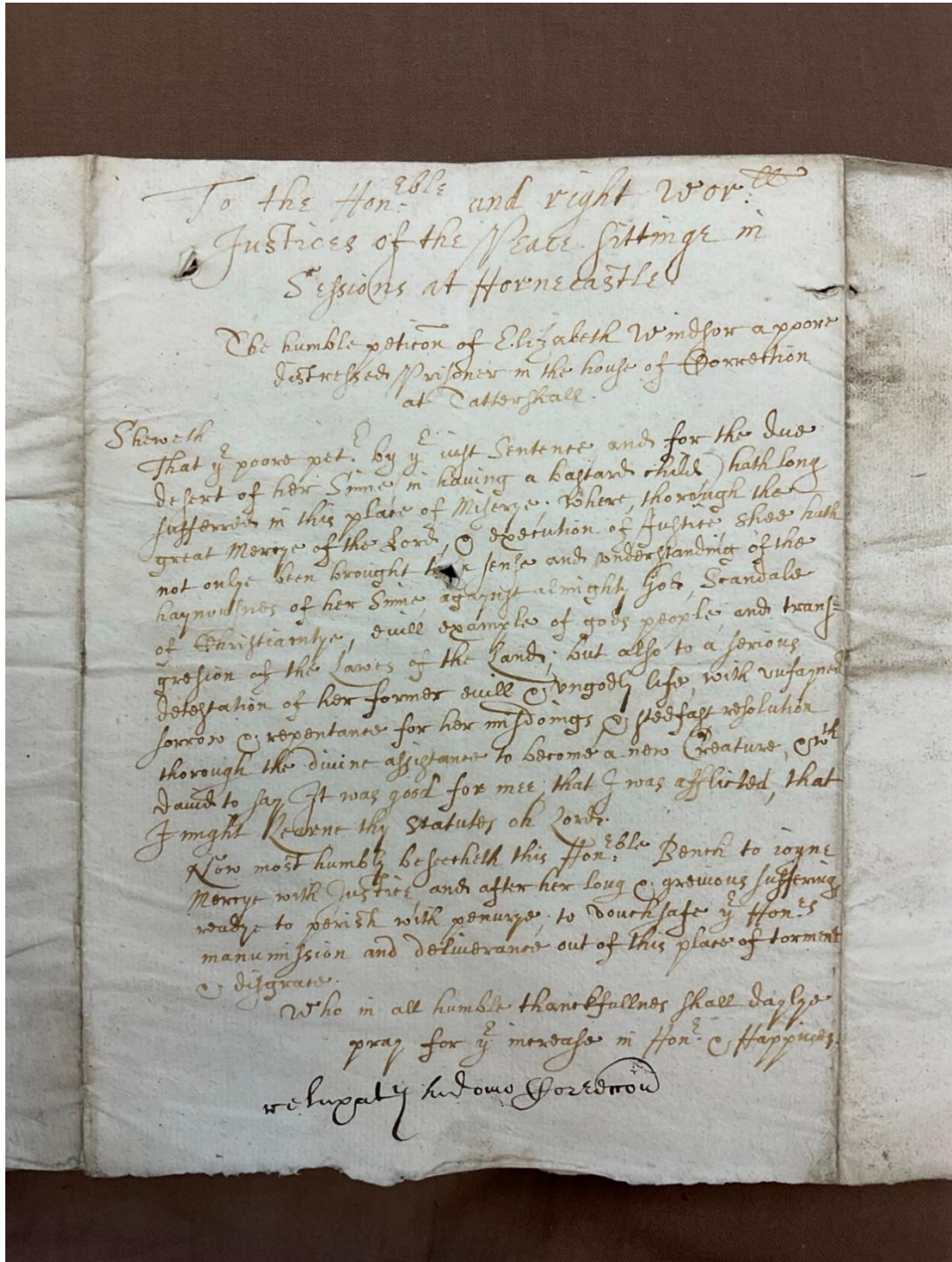
Robert Allen of Whatton yeo and Elizabeth his wife Thomas Allen Elizabeth Allen
Thomas Cleaton and Margarett his wife Thomas Cleaton and Amry leaton William
Francis Mathew Francis Francis Paige Robt Bagshawe Robt Allen of [?] Milnw house
John Howson Thomas Borthing[?] and Mary his wife.

2. For hee p^rsenteth Richard Esnor for being drunk the last Sabath and divers other
tymes.

3. So then [?] hee p^rsenteth that Thomas Bennett was taken within Litton as a
vagarant and being sent away with a passe to do in [damaged] found to be on the
headburrows of [damaged] contrary to the statute and being sent [damaged]
Thomas was also sett at liberty by the same [damaged] burrows.

4. Hee p^rsenteth John Howe of Litton for felling the writ out [?against] Richard
Holme for the same Thomas Eyre of Tideswale for the same Janet Phimsent for the
same and further he [?] p^rsent,

William Bagshawe Constable of Tideswale.



Permission to reproduce this photograph of Quarter Session Record LQS/A/1/11/32 has been granted by Lincolnshire Archives.

To the Hon^{ble} and right wor^{ll} Justices of the Peace sitting in sessions at Horncastle.

The humble petition of Elizabeth Windsor a poore distressed prisoner in the house of correction at Tattershall.

Showeth that ye poore pet^r by y^e iust sentence and for the due desert of her sinne (in having a bastard child) hath long suffered in this place of miserye where thorough the great Mercy of the Lord [and] execution of Justice shee hath not only been brought to [damagd] sense and understanding of the haynousnes of her sinne agaynst almighty God, scandale of Christianity, evill examples of gods people and transgression of the Lawes of the Land; but also to a serious detestation of her former evill [and] ungodly life, with unfayned sorrow [and] repentance for her misdoings [and] steedfast resolution through the divine assistance to become a new creature [and] w^{ch} deed to say it was good for mee that I was afflicted that I might receive the statutes of Lord.

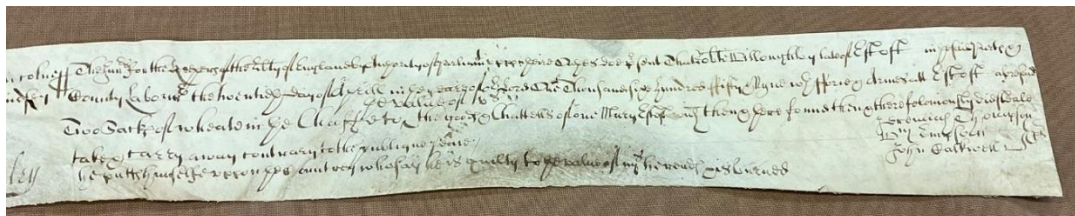
Now most humbly beseecheth this Hon^{rb}le Bench to ioyne mercy with Justice and after her long [and] greivous suffering ready to perish with penury[?] to vouchsafe ye Honer manumission and deliverance out of this place of torment [and] disgrace.

Who in all humble thankfullness shall daylye pray for y^e [?]^e case in Hon^r [and] happiness

[?] [?] Corection

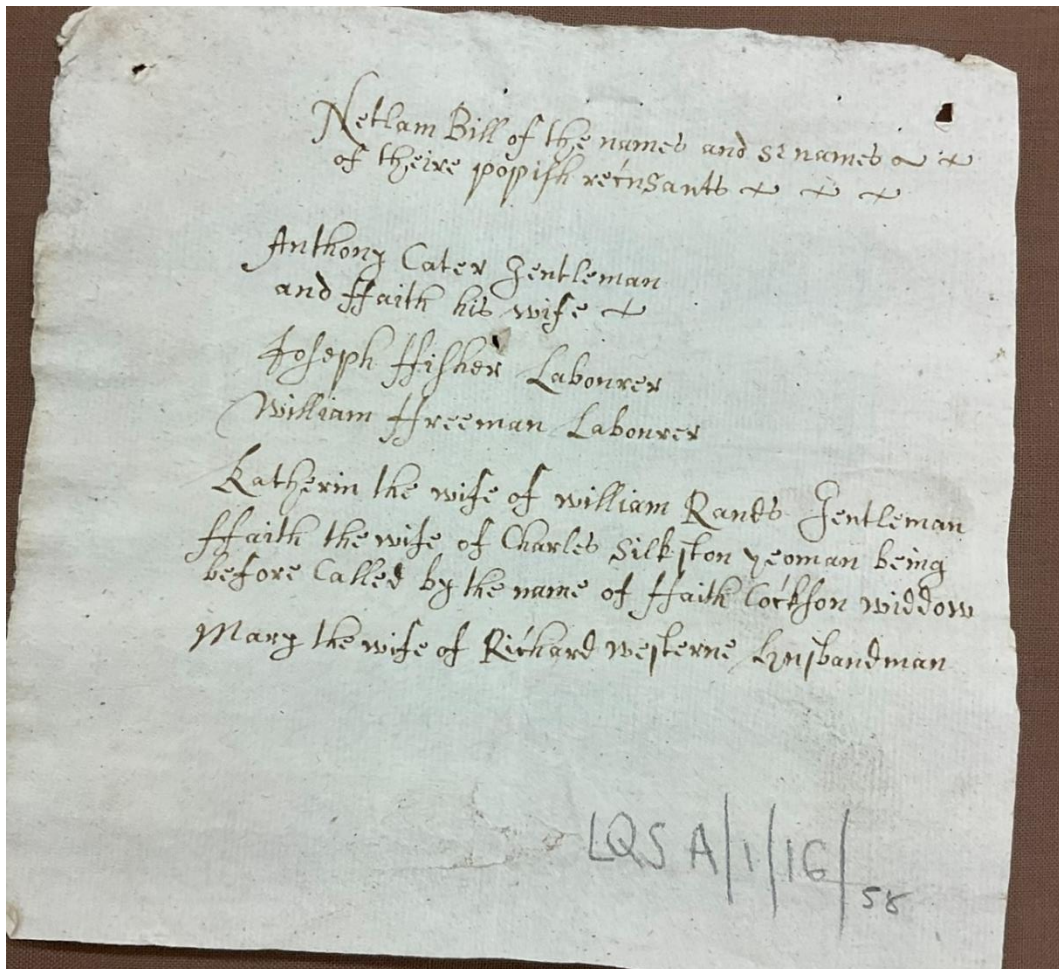
'Indictment of Robert Willoughby' *Lindsey* (20th April 1659) – Lincolnshire Archives – Quarter Session Records – LQS/A/1/18/26

Permission to reproduce this photograph of Quarter Session Record LQS/A/1/18/26 has been granted by Lincolnshire Archives.



The jurr^s for thr Keepers of the Libty of England by authority of Parliam^t upon their Oathes doe p^rsent that Robt Willoughby late of Estoft in ye said parts [and] county labour the twentieth day of Aprill in 1659 wth fforce [and] armes att Estoft aforesaid two sacks of wheate in the chaffe to ye value of v 8 the goods [and] chattalls of one Mary Estoft wid then [and] there found then [and] there feloniously did steale take [and] carry away contrary to the publique peace.

He putts himselfe uppon the contrary who say he is guilty the the value of iij 8 he reads [and] is burned.



Permission to reproduce this photograph of Quarter Session Record LQS/A/1/16/58 has been granted by Lincolnshire Archives.

Netham Bill of the names and surnames of these popish recusants

Anthony Carter Gentleman

And Ffaith his wife

Joseph Ffisher Labourer

William Ffreeman Labourer

Katherin the wife of William Rands Gentleman

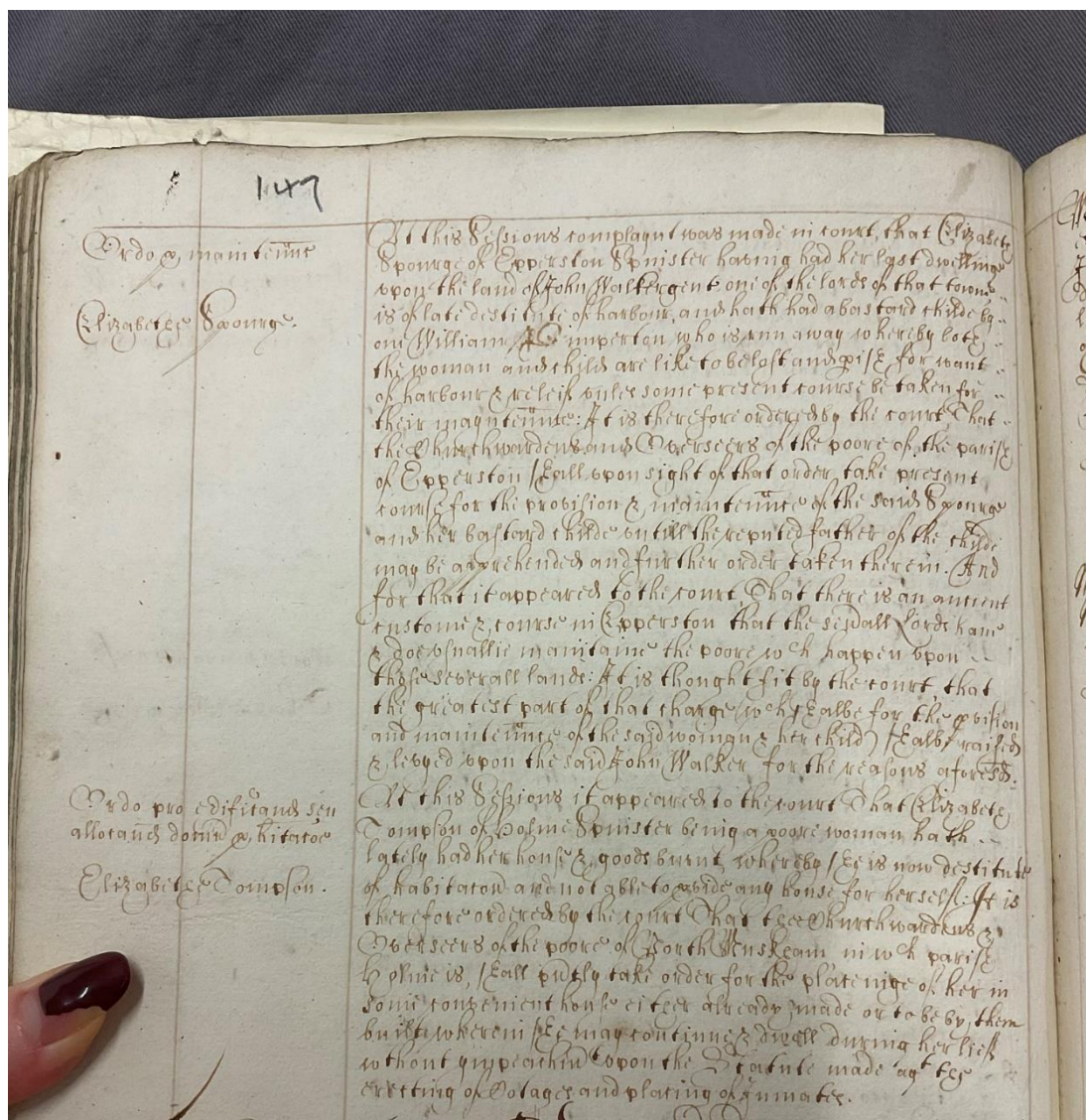
Ffaith the wife of Charles Silkton yeoman being before called by the name of Ffaith Corkson widow.

Mary the wife of Richard Neshenne husbandman.

Nottinghamshire

'Order of maintenance for Elizabeth Sponge' Newark-on-Trent (13th July 1642) –
Inspire Nottinghamshire Archives – Quarter Session Minute Books – C/QSM 1/12

Permission to reproduce this photograph of Quarter Session Record C/QSM 1/12 has
been granted by Inspire Nottinghamshire Archives.

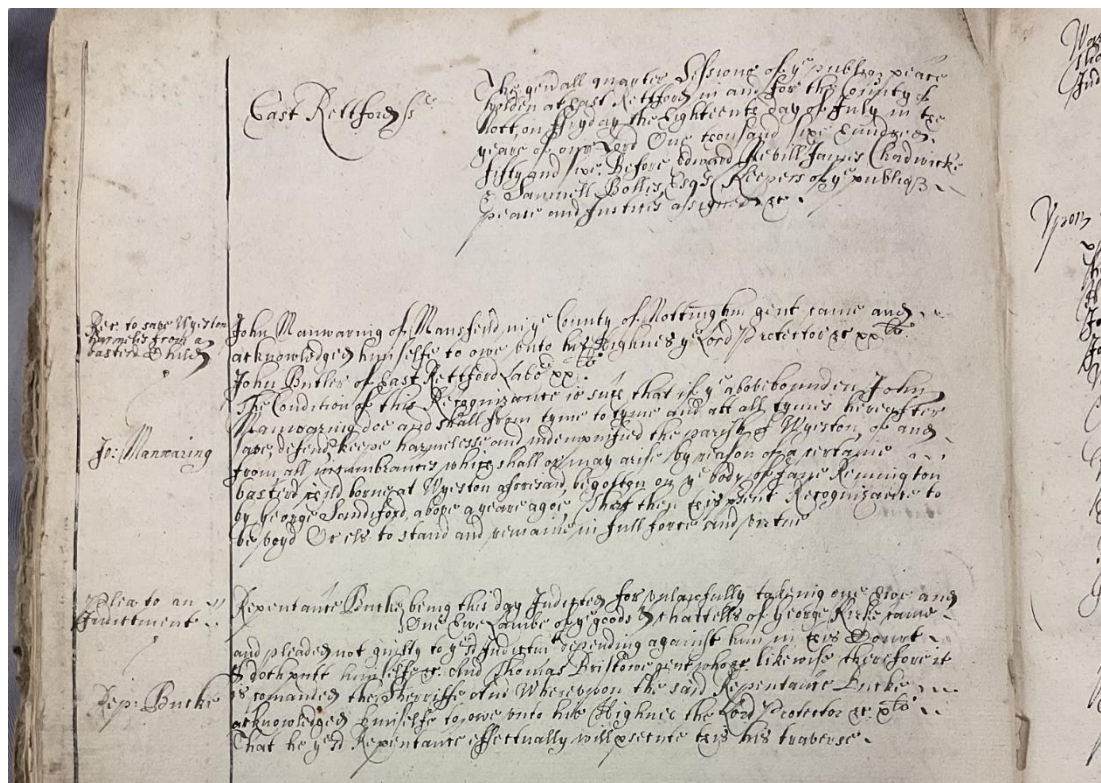


At this sessions complaint was made in court that Elizabeth Sponge of Epperston being having had her last dwelling upon the land of John Walkerington one of the lords of that towne is of late destitute of harbour and hath had a bastard childe by one William Simperton who is runaway, whereby both this woman and child are like to be lost and pish for want of harbour. Which is only some present course be taken for their maintenance. It is therefore ordered by this court that the churchwardens and overseers of the poor of the parish of Epperston shall upon sight of that order take present course for the provision and maintenance of the said Sponge and her bastard child until the reputed father of the child may be apprehended and further order taken therein. And for that it appeared to the court that there is an ancient

custom and course in Epperston that the sevall Lords have & do usualli maintain the poor which happens upon these several lands. It is thought fit by the court that the greatest part of that charge which shall for the provision and maintenance of the said woman and her child shall be raised and levied upon the said John Walker for the reasons aforesaid.

'Indictment of Repentance Burke' East Retford (18th July 1656) – Inspire Nottinghamshire Archives – Quarter Session Minute Books – C/QSM 1/13

Permission to reproduce this photograph of Quarter Session Record C/QSM 1/13 has been granted by Inspire Nottinghamshire Archives.



Repentance Burke being this day indicted for unlawfully taking one ewe and one ewe lamb of y^e goods and chattills of George Kirke came and pleaded not guilty to y^e said Indictment depending against him in this Court. And doth putt himself hr. And Thomas Bristowe, gent, whose likewise therefor it is remained the Sheriff. And whereupon the said Repentance Burke acknowledged himself to owe unto his Highnes the Lord Portector Xld. That he y^e sd Repentance effectually will present this his traverse.

Appendix Three – Oath of Abjuration Transcription

Copied out between the East Retford Session 1st October 1655 and the Nottingham Sessions 17th January 1655/6 – C/QSM 1/13

Permission to reproduce these five photographs of Quarter Session Record C/QSM 1/13 has been granted by Inspire Nottinghamshire Archives.

After our hartie Commendationes Wherof his Highnes hath taken notice
 that his proclamation lately published touching the Lawes in reputation
 against Heretike and Schisme and the speedy Conviction of Popish Conventicles
 is not likely to produce that good effect as was intended for that the
 Ecclesiasticall Courts are directed to be made may probably want such formality
 as in this behalfe is requisite for so therefore his Highnes pleasure that the
 Certificate of the severall Justices of Peace throughout England and Wales
 shalbe made in the Pursue of the forme now hereunto set out and therein
 approved by his Highnes with the advice of his Council And therein
 is contained that his Highnes Justice of the Peace shalbe within your
 County be specially advertised of this his Highnes pleasure by sending
 unto them the printed copie of the said forme of Certificate according to
 which forme the Certificate containing the aforesaid already sent by
 some Justice of Peace are to be made anew And that this Certificate
 may be the better and more easily performed it is further required that
 this his Highnes pleasure be openly declared at your next generall Sessions
 of the Peace to be holden for your County And that the Clerk of the
 Peace there doe enter in the Sessions Rollis the said forme of Certificate
 with this our Letter to remaine of Record And heerein his Highnes
 doth and will expect ready obedience and a due accompt as the
 importance of the matter requires And so we bid you heartily farewell
 from Whitehall the third of Septemb. 1635

For the Sheriff of the County
 of Nottingham

Signed in the Name of
 by Order of the Council
 Henry Lawrence President

A forme of Certificate to be orde by Justices of Peace and others
 through England and Wales in the case of Popish Conventicles refusing
 to take the Oath of Allegiance and not appearing to appear the Justice
 to take the said Oath

Wee G. B. and J. ff. Justices of the Peace for the County of
 Nottingham are instructed in pursuance of his Highnes the Kings
 order for his proclamation published the twentieth fourth day of April
 one thousand six hundred fiftie and five intituled A Proclamation
 declaring his Highnes pleasure and Command for executing in Execution
 the Lawes Statutes and Ordinances made against Heretike and Schisme
 and

or schedule

and for the speedy Conviction of Popish recusants according to an Ordinance
of Parliament in the said Proclamation intended do referre to the Right
honorable the Lord Chief Baron and the rest of the Barons of his said Highnes
Court of Exchequer that the severall and respective persons whose names places
of abode and titles or additions are particularly mentioned in a certain schedule
herunto annexed attested under o hande and Seale being suspected to be
possibly affected were therefore required to attend or at
said County of ^{in the} and upon their appearance before or the ^{day}
in the year of our Lord One thousand six hundred fifty & five
the said Justice did then and there tender unto them and every of them
the Oath of Abjuration in the said Ordinance & proclamation intended in
their owne presence (that is to say

I do abhor and denounce the popes supremacy & authority over the
Catholicke Church in generall, and over my selfe in particular, and I doe
believe that there is not any transubstantiation in the Sacrament of the
Supper, or in the Sacrament of Matrimony, and I doe also believe that there is not any
obligatory, and that the sacraments of Baptisme, Matrimony, or any other ought not
to be worshipped, neither that any worship is due unto any of them, and I
doe also believe that Salvation cannot be merited by works, and affirming
in affirmation of the said Oath, I do abhor and denounce without any
simulation, Mental Reservation or secret Exclusion whatsoever taking the
Oath by me spoken according to the true and usual meaning of them
So help you God

or schedule

Which said Oath of abjuration so tendered they & every of them did refuse to take
And the said Justice for their refusal to the said Lord Chief Baron
and the rest of the Barons above mentioned that the severall persons whose
names places of abode and titles or additions are likewise specified in another
schedule herunto annexed being also suspected to be possibly affected; and they
every of them being likewise required as by Oath made thereof before to appear
to attend before the aforesaid Justice at
the ^{day of} in the County of
in the year of our Lord One thousand six
hundred fifty and five; then and there to take the said Oath of Abjuration
in the said Ordinance and proclamation intended but they and every of them
did refuse and neglect to attend or accordingly. In witness whereof we the
Justice have herunto set o hande and Seale this ^{day of}
in the year of our Lord One thousand six hundred fifty & five

the
app
no
for
the
the
of

The title of the schedule to be

The names of the severall persons sum'd to be possibly affected who were before appeared before the Justice of the Peace in the County of ... in the ...

That is to say

A.B. of ... in the said County of ...
Mary Widge the wife of ...
of ...
Anne Tymme of ...
Anne Symson of ...

Memorandum, the ... and ... truly and fairly written and signed by the Justice to be made in ... and to be sent ...

By the ...

A Proclamation, declaring his ... for putting in execution the ...

Whereas it hath been found by experience that notwithstanding the ... and ... many of them have ...

The title of the other Schedule

The names of the severall persons ... to be possibly affected who being legally required to appear before the Justice of the Peace ...

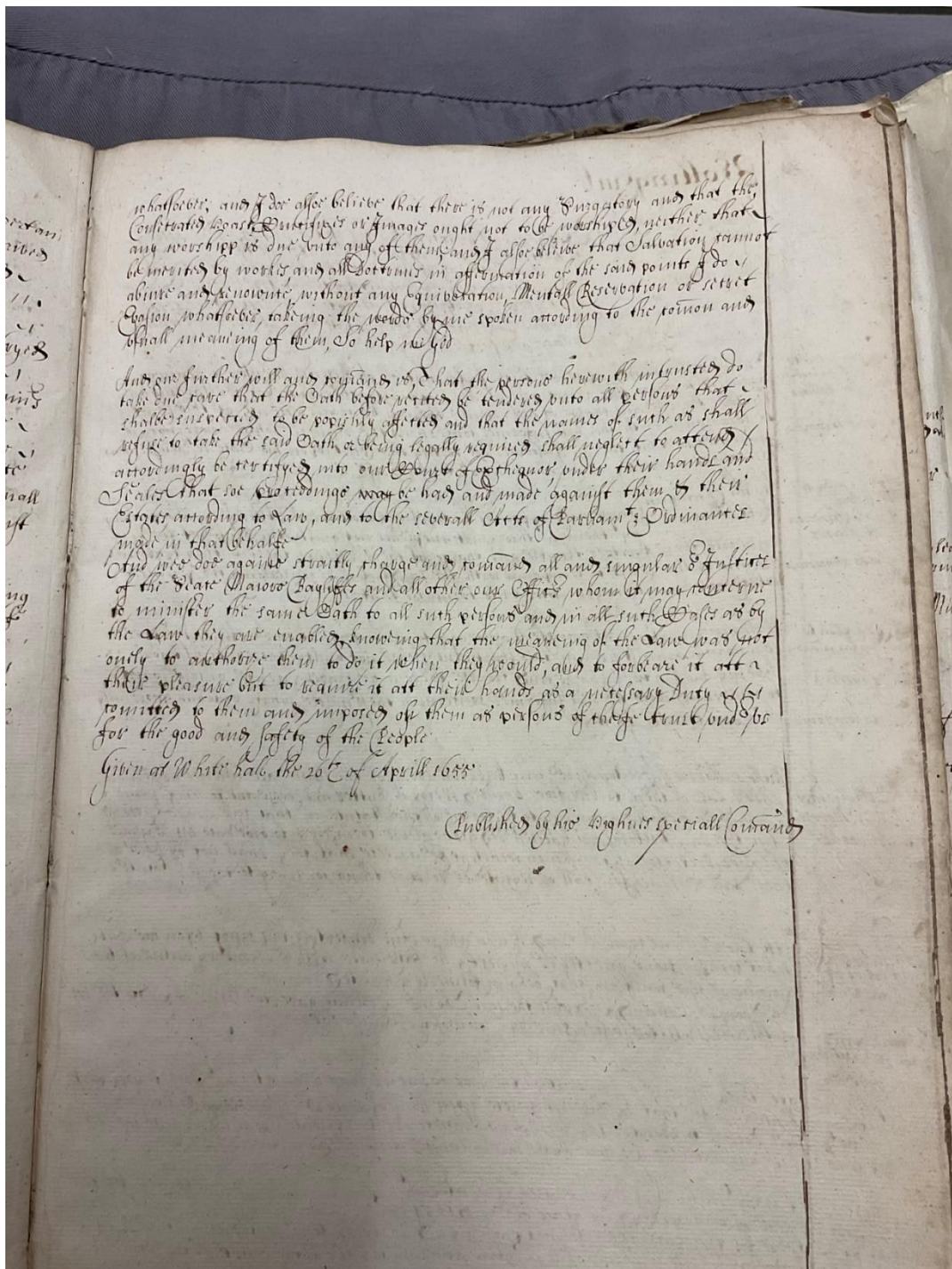
That is to say

C.D. of ... in the said County of ...
of ...
M.D. of the same ...

made by all Officers and Ministers and by all other to whom it may appertain
for all sorts of Popish Priests, and other having taken Oath by authority deriving
or deriving to be derived from the Oath of Allegiance and that whatsoever and
wherever they shall be found they be apprehended and committed to the
Common Goal of that County where they shall be found there to remain
without Bail or Mainprize, until by due Course of Law they shall be tried
and convicted against and we do hereby give notice to all whom it may
concern, at their utmost peril that the Barons, Knights and Maintenance
of Priests, Popish Priests, and all such other as have received or shall receive
Oaths, as aforesaid shall be left to the due and ordinary Course of Law
And we do expect and require, that all Judges, Justices of the Peace
and all other Officers and Ministers whatsoever do put in full and effectual
execution the several Statutes, Statutes, and Ordinances now in force against
all and singular the vicious aforesaid or intended

And forasmuch as of late years there hath been a great neglect in putting
the same in execution for suppressing of Popish Priests, by means whereof
the penalties imposed on such persons cannot be levied nor required, which
hath been a great encouragement to many to be seduced and misled, to
embrace and entertaine the dangerous Superstitious & Idolatrous Doctrine of
Popery, We by the advice of our Council haveing to have in consideration the
quite importance and consequence to the State with such a neglect or
contumacy may produce have thought fit to declare and command that the
Oath of Allegiance, the Oath of Supremacy, and executed by an Ordinance
of the Lords and Commons assembled in Parliament to be administered unto
any person being of the age of our Majesty's years shall be by such persons as
are therein and thereby imposed and authorized to do the same and by them
contrarying the same be hereafter put in full and effectual execution And
because none may stand ignorant of what they are to do, or how they ought to
demand thereof, we have thought fit to repeat the words of the said Oath,
and the Statute in the said Ordinance relating thereto, which are as followeth
That all such persons as being of the age of twenty one years or above, shall refuse
to take the Oath hereafter expressed, which any two Justices of the Peace, or a Justice
Bailiff, or other his Officer of any City or Towne corporate, shall have power to
administer to any such person or persons, shall forfeit all Tenants within three
the former Ordinance, and Tenure and liquidation of their Third parts of all
their goods and estates real and personal, and sale of such proportion of their
goods for raising and satisfaction shall be made, and their Heirs and Executors
devoid of in such manner and execution and by such persons as by the
Ordinance of Execution is appointed for Justice, The Oath as followeth

I do believe and acknowledge the Pope's supremacy and authority over the Catholic
Church in general and over my self in particular, and I do believe that
there is not any transubstantiation in the Sacrament of the Lords Supper, or
in the Sacrament of Bread and Wine after Consecration thereof by any person
whatsoever



After our hartie Commendations Whereas his highness hath taken notice that his proclamation lately published for putting the laws in exention against Priests and Jesuits and the speedy correction of Popish Recusants is not likely to produce that good effect as was intended for that the Certificates thereby directed to be made may probably want such formality as in this behalfe is requiste It is therefore his Highness pleasure that the Certificates of the severall Justices of Peace throughout England and Wales shall be made in the ? after the form now herewith sent you which is approved by his highness with the advice of his council And therefore it is

commanded that his highness Justices of the Peace resident within your county be speedily advertised of this here highness please by sending unto them the printed copies of the said form of certificate according to which forme the Certificates continuing the premises already sent up by former Justices of Peace are to be made anew And that this service may ne the better and more easily performed It is further required that this his highness please be aply delivered at the next generall sessions of the Peace t be hen for the County and that the Clerke of the Peace there doe until in the session Rolles the said forme of Certificate with this our Letter to Remaine of Record And herein his highness doth and will expect ready obedience and a due attempt as the importance of the service required and so will bid you heartily farewell from Whitehall the 3rd September 1655.

For the Sheriff of the County of Nottingham.

Signed in the Name by order of the Council Henry Lawrance President.

A form of Certificate to be used by Justices of Peace and others through England and Wales in the case of Popish Recusants refusing to take the Oath of Abjuration and neglecting to appear the Justices to take the said Oath.

We C:B and G.FF Justices of the Peace for the County of [blank] whose names are subscribed in presence of his highness the Lord Protector his proclamation published the Twentieth Sixth day of April one thousand six hundred fifty and five entitled A Proclamation detailing his Highness pleasure and Command for putting in Exention his Laws, Statutes and Ordinance made against Jesuits and Priests and for the speedy conversion of Popish Recusants according to an Ordinance of Parliament in the said Proclamation mentioned do rectifye to the Right Honourable Lord Protector the Lord Chief Baron and the rest of the Barons of his said highness Court of Exchequer that the severall and respective persons whose names placed of abode and tills or additions are particularly mention in a certain Schedule here unto annexed attested under a hande and seales being suspected to be popishly affected were therefore required to attend us at [blank] in the said county of [blank] and upon their appearance before as the [blank] day of [blank] in the year of our Lord one thousand six hundred and fifty five. Wee the said Justices of the Peace did then and there find unto them and erdg of them the Oath of Abjuration in the said Ordinance and Proclamation mentioned in these words following (that is to say)

A.B do abjure and renounce the popes supremacy and authority over the Catholiques here(/) in generall and abjur my selfe in particular, and I do believe that there is not any transubstantiation in the Sacrament of the Lords supper or in the elements of Bred and Wyne after conservation thereof not any a purgatory and that the conservated ? crucifixes or Image ought not to be worshipped neither that any worship is due unto any of them, And I do also believe that Salvation cannot be warranted by works and all doctrine in affirmation of the said pointes. I do abjure and renounce without any E?, Mentall Reservation or secret Evasion whatsoever

taking the words by me spoken according to the Coinor? and usual meaning of them so help you God.

Which said Oath of Abjuration so tendred they [?] of them did refuse to take. And wee the aforesaid Justices further rectify to the said Lord Chief Baron and the rest of the Barons above mentioned that the several persons whose owne places of abode and tythes or additions are likewise specified in another Schedule hereunto annexed being also suspected to be popishly affected and they every of them being legally required (as by Oath made thereof before us appeareth) to attend so the soforesaid Justices at [blank] in the said County of [blank] the [blank] day of [blank] in the yeare of our Lord one thousand six hundred fifty and five, then and there to take the said Oath of Abjuration in the said Ordinance and Proclamation mentioned but they and every of them did refuse and neglect to attend us accordingly In witness whereof wee the aforesaid Justices have hereunto sett a hande and seales this [blank] day of [blank] in the year of our Lord One thousand six hundred fifty five.

The Title of the Schedule to be

The names of the several persons suspected to be Popishly affected who upon summons appeared before us Justices of the Peace named in the Certificate whereto this Schedule (or this Schedules if there be more than one) is annexed and refused to take the Oath of Abjuration in the said Certificate expressed tendered unto them. That is to say.

A.B. [blank] in the said county of [blank] esquire

Mary House that wife of Robert House of [blank] gent

Alice Symson of [blank] spinster.

The Tyle of the other Schedule

The names of the several persons supposed to be popishly affected who being legally required to appear before the Justices of the Peace mentioned in the Certificate whereto this Schedule (or Schedules) is annexed to take the Oath of Abjuration in the Certificated expressed did neglect to attend so accordingly. That is to say.

C.D of [blank] in the County of [blank] Gent.

M.O of the same, yeoman.

Memorandum the Certificate and Schedule truly and fairly written and signed by the Justices to me made in Law then and to be sent sealed up to the Baron of the Exchequer delivered upon Oath that they are as they were retrieved from the hand of the Justices that sign the same.

By the Lord Protector

A Proclamation, declaring his Highnes pleasure & command for putting in exention the Lawes, Statutes & Ordinances made against Jesuits and Priests and for the speedy conversion of Popish Recusants.

Whereas it hath been found by exper? That notwithstanding the strict and severe Lawes made and standing in force against Jesuits Popish Priests many of them have pres? to resort ? and remiane within the Commonwealth and the Dominions there unto belonging and do with grate and acity exercise all Office of there profession both saying ? and recoupling the people to the Church of Rome and by consequence seducing them from the true persuasion which all the People ought to have of their duty and obedience to this government and holding to self obliged in Duty and conscience to use all good means to preserve the people from being corrupted in Religion Peity and Obedience to keep them from being infected with superstitions and idolatrie opinions in matters of Religions which cannot be so ? performed as by keeping them from the Ministers and Justicements of that infection which are the Priests of all sorts Ordained in foreigne parts by authority prohibited by the Lawes of this Land continuing whom therefore We have though it fit to publish this open declaration of our purpose and intentions that carefull and diligent search be made by all Officers and Ministers and by all others to whom it may apper and for all Jesuits Popish Priests and others having taken Orders by authority derived or by ? to be derived from the Church of Roman Catholic and that wheresoever and whensoever that shall be found they be apprehended and committed to the Comon Gaol of that county where they shall be found there to remain without bayl or mainpurse until by due course of Law they shall be tried and provided against And we do hereby give notice to all whom it may concern , at their utmost perill that the harbourers receivers and maintainers of Jesuits Popish Priests and all such others as have received or shall receive Orders as aforesaid shall be left to the due and ordinary Courte of Law And wee do expect and command that all Judges Justices of the Peace and all other Offices and Ministers whatsoever do put in full and effectuall exention the several Lawes Statutes and Ordinances now in force against all and singular persons a forementioned or witnessed.

And forasmuch as of late tyme there hath beene a great neglect in putting the Lawes in execution for converting of Popish Recusants by meanes whereof the penaltyes imposed on such persons cannot be levyed nor required which hath beene a great encouragement to many to be [?] and misled to imbrace and entertiane the dangerous superstitions and idolatrous doctrines of Poerpy. Wee by the advice of our Councill having taken into consideration the greate importance and consequence to the State with such a [?] or commitment may produce have thought fit to declare and command that the Oath commonly called the Oath of

Abjuration and appointed by an Ordinance of the Land an Comon Assemblie on Parliament to be administered unto any persons being of the age of one and twenty years shall be by such personas as are therein and thereby impowered and authorised to do the same and the Ordinance concerning the same be hereafter putt in full and effectuall execution And because more may pretend ignorance of what they are to do or how they ought to demeane themselves, wee have thought fit to excise the words of the said Oath and the [?] in the said Ordinance relating thereunto which are as to followeth: That all such persone as (being of the age of twenty one years or above) shall refuse to take the Oath hereafter expressed, which any two Justices of the Peace of the Mayor, Bayliffe or other Office of any citty or Towne corporate shall have power to administer to any such person or persons shall forfeit as Papists within this and the former Ordinance, and seizure and sequestration of two third parts of all their goods and estates regall and personal and sale of such proportion of the goods for seized and sequesterd shall be made and their rents and estates deposed of in such manner and proportion and by such persons as by the Ordinance of Sequestration Is appointed for Parishes, the Oath as followeth

A.B. Do abjure and renounceth the Popish supremacy and authority over the Catholique Church in generall and over my self in particular and I do believe that there is not any transubstantiation in the Scrament of the Lords supper or in the Elements of Bread and Wyne after Conservation thereof by any person whatsoever, and I do also believe that there is not any Purgaatory and that the Conservated ? crucifixes, or images ought not to be worhsipped whether that any worship is due unto any of them and I also believe that Salvation cannot be ? by works and all doctrines on affirmation fo the said points I do abjure and renounce without any Equivocation, mentall reservation or secret evasion whatsoever taking the words by me spoken according to the coinon and ofical meaning of them so help me god.

And one further will and [?] is that the persons herewith intrusted do rake due care that the Oath before [?] by tendered unto all persons that shall be suspected to be popishly affected and that the names of such as shall refuse to take the said Oath or being legally required shall neglect to attend accordingly be rectified unto our Court of Exchequor under their hands and seales. That so proceedings be had and made against them by their Esates according to Law and to the several Acts of Parliament node in that behalf.

And we do again strictly charge and command all and singular Justices of the Peace, Master Bayliffes and all other our Officers whom it may concerne to minister the same Oath to all such persons and in all such Cases as by the Law they are enabled knowing that the meaning of the Law was not only to authorise them to do it when they would and to forbear it at their pleasure but to require it att their hands as a necessary duty committed to them and imposed of them as persons of heire trust and as for the good and safety of the People.

Given at Whitehall the 26th of April 1655.

Published by his Highnes special Comand.