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GENDER, CRIME AND THE LOCAL COURTS

IN KENT, 1460-1560

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ABSTRACT

This thesis examines gender differentiation in prosecutions for minor offences in local secular and ecclesiastical courts in Kent from 1460 to 1560. Chapter one explains the need for research on gender and crime in local courts, and for studies bridging the historiographical gap between medieval and early modern England. Chapter two examines crimes against property, arguing that reasons other than gender may explain the apparent lenience towards female thieves. Women were disproportionately prosecuted for small thefts and peripheral offences like hedgebreaking and receiving: this could indicate, not that they lacked initiative, but that they were more likely to be prosecuted for offences which were overlooked when committed by men. The reverse appears to be true for physical violence, the subject of chapter three. Here the evidence suggests that men were charged for very minor assaults, whereas minor violence by women was only prosecuted in special circumstances. Almost equal numbers of men and women were prosecuted for verbal offences, the subject of chapter four, but the women were accused mainly of scolding or quarrelling with their social equals, and the men of insulting or slandering their social superiors. Chapter five deals with prosecutions for sexual misconduct. The church courts were relatively lenient towards females accused of fornication or adultery; both ecclesiastical and secular jurisdictions, however, prosecuted 'bawds', who were mainly female, and prostitutes, but rarely the men who used their services. Chapter six is concerned with alleged sorcerers (mainly women), and with sabbath-breakers, illegal games-players and vagabonds (largely men). The concluding chapter discusses the similarity of the policies of the ecclesiastical and secular courts, and the tendency for charges against women to be vague and generalised while those against men were specific. It then focuses on the different crimes for which men and women were typically presented, particularly sexual and verbal offences for women and physical assault for men. These and other gendered offences reflect contemporary assumptions and fears about femininity and masculinity: women were expected to be quarrelsome, malicious gossips and sexual delinquents, while physical violence was expected and feared in men. It is suggested that the way local courts exercised their considerable discretion over what, and whom, to prosecute reflected and reinforced these preconceptions, and operated both to control women and to minimise men's fears about them.

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CONVENTIONS AND ABBREVIATIONS

Spelling has been modernised in quotations from original sources in English, and quotations from sources in Latin have been translated. Dates follow Old Style, but the year has been taken to begin on 1 January.

The following abbreviations have been used in the endnotes. Place of publication is London unless otherwise stated.

Beattie, <i>Crime & Courts</i>	J. M. Beattie, <i>Crime and the Courts in England, 1660-1800</i> (Oxford, 1986).
Boys, <i>Collections</i>	W. Boys, <i>Collections for an History of Sandwich in Kent</i> (Canterbury, 1792).
BJC	<i>British Journal of Criminology</i>
CCA	Canterbury Cathedral Archives
CKS	Centre for Kentish Studies, Maidstone
Clark, <i>Society</i>	P. Clark, <i>English Provincial Society from the Reformation to the Revolution: Religion, Politics and Society in Kent, 1500-1640</i> (Hassocks, 1977).
Cockburn, <i>Crime</i>	J. S. Cockburn, (ed.), <i>Crime in England, 1550-1800</i> (1977).
C & C	<i>Continuity and Change</i>
CJH	<i>Criminal Justice History</i>
Ec. HR	<i>Economic History Review</i>
EKA	East Kent Archives, Whitfield
Fletcher & Stevenson	A. Fletcher and J. Stevenson (eds.), <i>Order and Disorder in Early Modern England</i> , (Cambridge, 1985).
G & H	<i>Gender and History</i>
Goldberg, <i>WWL</i>	P. J. P. Goldberg, <i>Women, Work and Life-cycle in a Medieval Economy: Women and Work in Yorkshire, c.1300-1520</i> (Oxford, 1992).
Hanawalt, <i>Crime & Conflict</i>	B. Hanawalt, <i>Crime and Conflict in English Communities, 1300-1348</i> (1979).
Helmholz, 'Crime'	R. Helmholz, 'Crime, Compurgation and the Courts of the Medieval Church', <i>LHR</i> , 1 (1983), 1-26.
Herrup, <i>Common Peace</i>	C. Herrup, <i>The Common Peace: Participation and the Criminal Law in Seventeenth-century England</i> (Cambridge, 1987).
HJ	<i>Historical Journal</i>
HR	<i>Historical Research</i>
HSR	<i>Historical Social Research</i>

- Houlbrooke, *Church Courts & People*
R. Houlbrooke, *Church Courts and the People during the English Reformation, 1520-1570* (Oxford, 1979).
- Ingram, *Church Courts*
M. Ingram, *Church Courts, Sex and Marriage in England, 1570-1640* (Cambridge, 1987).
- JBS
Journal of British Studies
- JHI
Journal of the History of Ideas
- JIH
Journal of Interdisciplinary History
- JLH
Journal of Legal History
- J. Med. Hist.*
Journal of Medieval History
- JSA
Journal of the Society of Archivists
- JSH
Journal of Social History
- JWH
Journal of Women's History
- Karras, *Common Women*
R. M. Karras, *Common Women: Prostitution and Sexuality in Medieval England* (Oxford, 1996).
- Kermode & Walker
J. Kermode and G. Walker, (eds.), *Women, Crime and the Courts in Early Modern England* (1994).
- LHR
Law and History Review
- LPL
Lambeth Palace Library
- McIntosh, *Misbehavior*
M. K. McIntosh, *Controlling Misbehavior in England, 1370-1600* (Cambridge, 1998).
- MLR
Michigan Law Review
- Mills, thesis
P. A. Mills, 'Spiritual Correction in the Medieval Church Courts of Canterbury', Ph.D. thesis, University of Rochester (1980).
- NH
Northern History
- P & P*
Past and Present
- Sharpe, *Crime in 17th Century*
J. A. Sharpe, *Crime in Seventeenth Century England: a County Study* (Cambridge, 1983).
- Shoemaker, *Prosecution & Punishment*
R. B. Shoemaker, *Prosecution and Punishment: Petty Crime and the Law in London and Rural Middlesex, c. 1660 to 1725*, (Cambridge, 1991).
- SH
Southern History
- TRHS
Transactions of the Royal Historical Society
- Walker, thesis
Garthine Walker, 'Crime, Gender and Social Order in Early Modern Cheshire', Ph.D. thesis, University of Liverpool (1994).
- Woodcock, *Med. Courts*
Medieval Ecclesiastical Courts in the Diocese of Canterbury (Oxford, 1952).
- Wunderli, *London Courts*
R. M. Wunderli, *London Church Courts and Society on the Eve of the Reformation* (Cambridge, Mass., 1981).

1. INTRODUCTION

The origins of this thesis can be traced to a clerical error. In 1517 in the small borough of Fordwich, the jury at the mayor's court presented William Clark, an exceptionally quarrelsome man who had been in trouble several times before, as a scold and a barrator. But the clerk whose job was to keep a record of the proceedings in Latin, made a mistake: instead of *garrulator*, one of the Latin words for a male scold, he wrote *garrulatrix*, the feminine form, and a word with which he would have been more familiar. For this man, the English word 'scold' was connected with femininity. The discovery of this slip of the pen prompted an interest in prosecutions for misdemeanour and the light they might shed on gender relations. Were there other gendered offences, and did local courts like this one treat men and women differently when they were accused of gender-neutral offences? Were there any discernible changes in the pattern of prosecutions of men and women for minor crime over a period of a century or so, and did prosecutions in the church courts resemble or differ from those in secular jurisdictions? What factors apart from gender influenced who was prosecuted and for what? How did these local courts function to control disorderly behaviour in men and women, and were they instruments of patriarchal control over women? This introductory chapter will first outline the conclusions of other studies on gender and crime and then discuss the sources used for this study.

Historiographical background: gender, crime and social control

The position of women in the later middle ages has been the subject of much debate. Some have claimed that the labour shortage following the Black Death saw wider employment opportunities, and therefore greater independence, for women: this 'golden age' for women is said to have receded as a result of economic recession in the later fifteenth century, and during the sixteenth century as demographic growth put an end to the scarcity of male labour.¹ Others have questioned the notion that the late middle ages was a 'golden age' for women, or at least for more than a privileged few, yet conceded that by the sixteenth century opportunities for female employment were becoming more limited.² Others again have challenged the whole idea of an

improvement in women's status in the post-plague period and argued for the continuity of female subordination throughout most of history. It has been suggested that, in order to legitimate women as historical subjects and to fit in with 'the paradigmatic assumption of a great transition' from medieval to early modern, historians of women have had to show that women's lives have changed, and that change in women's experience has been inadequately distinguished from transformation in their status. According to this line of argument, patriarchy functioned to oppress women in different ways at different times, but the oppression did not change over centuries.³ The 'golden age' debate is based mainly on work opportunities for women and the degree of independence and prosperity they may have offered. But if after the Black Death economic opportunities did improve for women, they were unable to defend their position later when it was undermined by recession or demographic growth, because there had been no parallel improvement in their political status.⁴ The continuing exclusion of women from virtually all spheres of public life was justified by negative female stereotypes. In the late middle ages and the early modern period, the prevalent negative ideas about women were that they were irresponsible, sexually insatiable, quarrelsome and given to idle and malicious gossip. It will be argued in this thesis that prosecutions for minor offences were one way in which these negative images were propagated and sustained, thus performing the dual function of justifying women's exclusion from power and controlling their behaviour. Although far more men than women were prosecuted, paradoxically prosecutions of men reveal notions of masculinity which are on the whole more positive: men were, or should be, responsible, self-controlled, active and hard-working.

Ideas about appropriate behaviour for men and women were crucial to the gendered concept of reputation. While there is no disagreement over the importance of reputation or 'credit' for medieval and early modern men and women, the assumptions that women's good name was dependent entirely on chastity, and that sexual propriety was irrelevant to men's reputations have recently been questioned.⁵

But while it may well be true that, at least in some social circles, sexual probity was considered important for men and good housekeeping for women, these were not the dominant virtues by which men and women were judged. The gendered virtues of competence and honesty in business for men and chastity for women were not watertight: some cases can be found where men's sexual reputation and women's competence as housewives evidently mattered, just as some men were accused of scolding and witchcraft. But this does not much alter the general picture.

Aspects of gender and crime or misbehaviour in the later middle ages and the early modern period have been the subject of many studies, though most of these have been limited to the examination of particular offences or legal procedures.⁶ Much of the more general work on the history of crime has concentrated on felony, where the proportion of women accused was so small that discussion of female offenders tends to consist mainly of explanations for their absence. The almost universal conclusion has been that women were a very small proportion of those accused in court, that women's crimes were less serious than men's and caused less concern, and that the courts tended to treat women more leniently.⁷ In the only full-length study of crime in England which focuses primarily on gender, Garthine Walker has argued that treating male crime as the norm has led to female criminality, and therefore female agency, being marginalised. She claims that quantification of formal court records is of limited value for examining the criminality of women and how they were treated, because it leads to women 'being counted alongside men, and then discounted because there were so few of them'.⁸ While there is much to be said for Walker's argument that more sophisticated analysis of gendered meanings and representations is necessary, it is hard to see how this can be applied with much success to records in which women so rarely appear.

Women feature more prominently in the records of some lesser courts, and are much more in evidence in church court records. The offences dealt with in local jurisdictions have been described as 'banal and mundane', and indeed reading them it is easy to forget that serious crimes, not to mention major political and religious

disruption, also took place in this period.⁹ But the local lay and ecclesiastical courts' records reveal much about the tensions which could arise in small, face-to-face communities where everyone was known, everyone was interdependent, gossip was rife and reputation all-important. The offences they dealt with were less dramatic than those prosecuted at the assizes or gaol delivery, but petty crime was far more typical and common than felony,¹⁰ and these local courts impacted on the lives of far more people than did the assizes or county quarter sessions. Louis Knafla has calculated that in Kent in the years around 1600, 7 per cent of suspects were tried at the assizes, 20 per cent at the county quarter sessions, and 73 per cent at those local courts with surviving records. If the church courts and other local secular courts were included, the percentage who came before the major tribunals would be even smaller.¹¹ The church courts probably disciplined more people than any secular criminal jurisdiction. The Canterbury archdeacon's court in the early sixteenth century met fortnightly in Canterbury, held sessions in the deanery of Sandwich, and went on circuit to five rural deaneries in the west of the diocese fourteen times a year. Meanwhile the consistory court, which dealt with much the same types of *ex officio* cases, met eighteen or nineteen times a year in Canterbury and also had sessions in the south of the diocese.¹² In contrast, views of frankpledge met only twice yearly and many of the transient poor may have escaped their attentions by moving on. Jeremy Goldberg has claimed that 'the record of the court...is by no means a mirror of society', and that it 'paints a rather negative picture of women', implying that this is misleading.¹³ But the local secular court was the place where all communal decisions were made, and where most women were entirely excluded, except as defendants. Going to court in the fifteenth century has been described as a sign of full membership of society, and (except for the church courts) this membership was denied to women.¹⁴ If this results in a 'rather negative' view of women's position, it is surely justified. Taking the opposite view to Goldberg, Cynthia Neville has stressed the value of the study of prosecutions for petty crime as a crucial component of social history and gender history.¹⁵

Manorial, borough and church courts have provided the material for a number of studies, but most of these have treated either gender or the prosecution of misbehaviour only as a subsidiary issue.¹⁶ Of the only two comprehensive studies of prosecutions for misdemeanour, one deals with the period 1660-1725 and is limited to secular jurisdictions, and the other is a general survey based on small samples from local courts all over England.¹⁷ There is therefore a need for a study of prosecutions for minor offences, in both local secular and ecclesiastical courts, in which gender is the primary focus. There is also a need for more work linking 'medieval' studies, most of which have been based on thirteenth or fourteenth century records, with 'early modern' ones which mainly cover the late sixteenth and seventeenth centuries. Assumptions have been made about the period c. 1560-1640, in particular the claim of a 'crisis in gender relations' at that time, whose validity can only be tested by examination of the preceding century or so.¹⁸

Much work on local court records has dealt with what has been variously described as 'social control' or 'reformation of manners'. This may be roughly defined as the manifestation of anxiety about morals and social behaviour characterised by court presentments for sexual misconduct, unruly behaviour such as drunkenness and rowdy alehouses, gaming, vagabondage and scolding, some of which activities would not now be subject to legal sanction. It is often assumed that the concern emanated from the 'better sort' and related to the behaviour of, variously, the poor, the young and women, but this implication of social polarisation has been questioned by some, principally on the grounds that people of relatively high social status, and men who were themselves jurors, were regularly presented for 'disorderly' offences.¹⁹ Historians of the later sixteenth, seventeenth and eighteenth centuries have identified campaigns for the reform of morals or manners during the Elizabethan and early Stuart period, the 1650s and the 1780s as well as the time when Societies for the Reformation of Manners flourished, from the 1690s to the 1730s. These campaigns have been attributed either to religious ideology, usually that of puritanism, or to the pressures created by demographic growth, unemployment and inflation.²⁰ A

gendered dimension to the theme of social control was provided by David Underdown, who claimed that in the years between 1560 and 1640 there was a 'crisis in gender relations', characterised by increasing numbers of prosecutions of 'disorderly' women, especially scolds, who were perceived as threatening the patriarchal order.²¹

Others have expressed scepticism as to how far efforts at social control were a new phenomenon in the early modern period. Margaret Spufford demonstrated that in the late thirteenth and early fourteenth centuries, concern with sexual immorality among the poor was as evident as it was to be in the years around 1600. She thus challenged the previously assumed link between puritanism and social control, but she concluded that demographic and economic conditions were comparable in the late thirteenth and late sixteenth centuries, and that this might account for the similarity.²² But Christopher Dyer has observed that the concern shown about the morality of the poor in almshouse foundations after 1349 (when demographic and economic conditions were very different) shows the emergence of 'puritan' values in this period too.²³ Marjorie McIntosh claimed that anxiety about gaming, nightwalking, disorderly behaviour and sexual misconduct among the poor was as severe in the years between 1460 and 1500 as at any time in the medieval or Tudor eras. She too attempted to link such concerns with economic and demographic pressures, advancing the somewhat circular argument that '[s]udden attention to such issues within a given area is in itself a good *prima facie* indicator of rapid economic and demographic change'.²⁴ Martin Ingram drew attention to the fact that many aspects of 'reformation of manners' go back well into the fifteenth century if not earlier, and observed that 'campaigns' against misbehaviour were a recurring feature which periodically developed in the framework of routine regulation. He also challenged Underdown's claim that the prosecution of scolds reached unprecedented heights in the years around 1600, or at least that it could be proved to have done so.²⁵ Barbara Hanawalt commented on the surprising degree of continuity in manorial court practice from late thirteenth century to the period after the demise of manors, and

suggested that self-regulation in communities was not tied to a particular economic structure.²⁶ L. R. Poos in his regional study of part of north and central Essex observed that presentments in leet courts for offences like nightwalking and illegal games were scattered throughout the late medieval period, well before any evidence could be found of demographic resurgence in that area, and expressed scepticism about whether they could be used to measure economic or social distress.²⁷

McIntosh more recently took the debate forward with a large-scale study of prosecutions for 'misbehaviour' throughout England from 1370 to 1600.²⁸ By dividing the offences commonly taken to demonstrate concern for social control into clusters, she gave greater clarity to the discussion. Using samples from local courts in every English county, she documented concern with gaming, 'disharmony', chiefly scolding, 'disorder', which she took to include sexual misconduct, unruly alehouses and imprecise allegations like 'ill rule', and 'poverty-related offences', comprising hedgebreaking, harbouring vagabonds, refusing to work and taking sub-tenants. She admits her sampling technique has probably resulted in an underestimate of the amount of social regulation that went on in smaller communities.²⁹ However, she established that there was a gradual rise in the number of 'misbehaviour' offences reported to local courts from 1370 to 1600, but with apparently considerable local variation. Most lesser courts in North-West and South-West England only began to address misconduct aggressively in the sixteenth century, and then continued to do so actively right up to 1600; in the South-East, East Anglia and the Midlands, concern was shown from the 1460s but began to peter out from the 1540s.³⁰ Not all the offences followed the same chronology. 'Disharmony' presentments were reported fairly consistently from c.1420 to c.1540, followed by a drop-off; 'disorder' only became a serious issue from about 1460, peaked in the first four decades of the sixteenth century, and then similarly declined. Offences in the 'poverty' cluster, perhaps not surprisingly, continued to mount from c.1460 right through to 1600, while reports of illegal gaming grew quite steadily through the fifteenth and sixteenth centuries.³¹ Although gender was not McIntosh's primary focus, she noted that

women were a higher proportion of those presented for misbehaviour between 1460 and 1539 than before or after, which casts doubt on the alleged 'crisis in gender relations' around 1600.³² McIntosh necessarily used only a small proportion of the surviving lesser court records and took relatively small samples from those she used.³³ Moreover, the kinds of offences she was investigating could have been tried in a variety of different tribunals, or summarily dealt with by a single justice, and the methods by which they were controlled may well have altered over the long period she studied. Nevertheless, her chronological findings for the South-East fit fairly closely with those found in this study of the local courts in Kent: there was more sign of concern with verbal abuse and sexual offences in the late fifteenth and early sixteenth centuries, and as this began to wane, evidence of anxiety over vagabondage and beggars rose. Since women were prominent among those accused of verbal abuse and sexual misbehaviour, and rarely appeared accused of idleness, vagabondage or unlicensed begging, this accounts for their declining visibility in court records towards mid-sixteenth century.

Prosecutions for assault and offences against property (except for hedgebreaking) have usually been ignored in the debate over social control, both these categories of offence being presumably considered to be 'real' crime as opposed to 'misbehaviour'. They have been included in the present study partly because this is primarily a study of gendered difference in prosecutions rather than of social control. But arguably, they are more relevant to the discussion of social control than has been assumed. Like the 'disharmony' and 'disorder' offences, these were petty crimes which local juries could choose to prosecute or not. It was clear from the Kent records that victims of theft sometimes failed to prosecute the suspect, and many assaults seem to have been so minor that it is surprising that they were prosecuted. Moreover, it is regularly asserted that while men resorted to physical violence to settle disputes, women were more likely to use verbal abuse.³⁴ The male assailant, then, is in some ways equivalent to the female scold, and, as such, should not be overlooked.

The dangers of attempting to draw any conclusions from court records have been amply documented. Local constables have been shown to have been lax and negligent in framing presentments and indictments. Details of defendants' occupation or status, names, place of residence, dates of offences and valuations of stolen goods have all been found to be unreliable in assize and quarter sessions indictments, though probably more accurate in the case of recognisances and local court presentments.³⁵ This of course strengthens the case for using the latter. Particularly dire warnings have been issued about the perils of an over-credulous approach to late medieval records: many accusations might be mere malice, no crime having actually been committed; indictments have been described as possibly a better guide to the mental state of the authorities than to the magnitude of crime, and we are warned that even the limited aim of studying the offences brought to court is problematic.³⁶ But where the study of gender relations is the chief aim, these caveats are less relevant than they would be if accurate crime rates were being sought. Even the assize records, it has been suggested, can be used for the study of male and female criminality.³⁷ And the aim here is not so much to determine what offences men and women actually committed, as how people thought about men's and women's misconduct. While it is important to bear in mind that accusations should not be confused with crimes committed, even malicious or fictitious accusations should show what were considered typical 'male' and 'female' offences. A more serious problem is the impossibility of knowing what proportion of offences was reported in the form of presentments to the local secular or ecclesiastical courts. Unlike felony, misdemeanour might be not reported at all, dealt with by official or unofficial mediation, by recognisance, summarily punished by a justice, or made the subject of a civil suit or (in some circumstances) an instance case. Prosecution statistics, it has been observed, reveal more about attitudes towards the merits of resorting to law than about changes in the actual incidence of crime.³⁸ Because of this, it has been emphasised that a wide range of sources should be used when investigating activity adjudicable in more than one court.³⁹ This injunction has been followed as far as possible. Records of instance cases and civil suits, though, survive in such daunting

quantity that to make much use of them would have been quite impracticable. However, some of each were used: civil pleas for Fordwich, and instance cases in those church court act books which recorded them as well as office cases. The links between inter-party litigation and criminal prosecutions or *ex officio* citations were sometimes illuminating. Hardly any studies of crime have made use of financial records.⁴⁰ Yet these often record fines imposed for minor offences and sometimes the expenses of whipping or carting miscreants. Where good accounts survive, they can supplement the legal records, sometimes by showing the outcomes of cases where the judicial record reported only the accusation, and also by providing data on prosecutions for years for which judicial records are missing.

Sources

Full details of sources are provided in the appendices and bibliography. However, something needs to be said here about the courts whose records have been used. Kent had an unusually large number of liberties with the right to try all or most crimes independently of the county quarter sessions.⁴¹ These included the Kent members of the Cinque Ports; the city of Canterbury, which became a 'county of itself' in 1461; and the port of Queenborough on the Isle of Sheppey, which enjoyed similar privileges to the Cinque Ports without the corresponding obligations.⁴² In all these places, the mayor or bailiff and jurats or aldermen were *ex officio* justices. The surviving records of these local courts form the nucleus of the present study. For the period under consideration, the survival rate of the records of the view of frankpledge for Fordwich is exceptionally good. It has been possible to trace the biographies of some Fordwich inhabitants over many years; use of the civil court records and the surviving Fordwich wills for this period has enabled a quite detailed study to be made. Despite the large powers which the mayor and jurats of Fordwich had in theory, the activities of this court were mainly those of a manorial leet, though it very occasionally dealt with cases of suspected felony. The 'liberty' of Fordwich evidently extended beyond the boundaries of the town itself and over some surrounding villages and countryside, but even so, the number of cases presented at

each view was never large. Queenborough was probably as small as Fordwich, and more isolated; reports of its view of frankpledge survive from 1496 to 1511 and from 1542 onwards. In Queenborough too, people suspected of felony occasionally appeared in court. New Romney, which was probably bigger than Fordwich or Queenborough, has only a few surviving view of frankpledge records, for the 1490s and 1550s; however, a series of chamberlains' accounts covers the whole period, and includes numerous notes on petty offences heard before the bailiff and jurats.

The Cinque Port of Sandwich was a more sizeable town, with a population estimated at about 1,500 by the late fifteenth century.⁴³ The Sandwich Year Books record the proceedings at the Common Assembly or 'Hornblow' and the meetings of the mayor and jurats in their judicial capacity. Offences are not recorded here as lists of presentments with the names of the presenting jurors as they are in view of frankpledge records, and nuisances and probably many other minor offences are not included. If a leet court was held in each ward in Sandwich, as it was in Canterbury, no evidence of this has survived. The main purpose of the Year Book entries seems to be to record punishments, and the offence is not always identified. However, the whole period is covered and some offences are described in great detail. Sandwich was apparently still using punishments involving public shaming or mutilation to a greater extent than seems to have been the case elsewhere, although the apparent difference may be explained by the fact that this is a different type of record. As with Fordwich, the boundaries of the liberty of Sandwich extended well beyond those of the town itself, covering Stonar, Sarre, Walmer, Deal and at least part of Thanet.⁴⁴

Canterbury provides the sole example of a relatively large urban jurisdiction, its population in the early sixteenth century having been estimated at various figures from 3000 to over 6000.⁴⁵ Its surviving criminal court records are very incomplete, in considerable disarray and have frequently been misdated.⁴⁶ They include assorted jurylists, writs, records of gaol delivery, recognisances, lists of presentments and indictments, in fact there are probably examples of every sort of record generated by the city's criminal justice system. The bulk of the material dates from between 1503

and 1512, but there are lists of presentments or indictments for some years in each decade after this, as well as a few for the late fifteenth century. They are all catalogued as city quarter sessions, but leet courts were held in the individual wards, and there seems to have been a city-wide view of frankpledge presided over by the mayor.⁴⁷ Part of this material probably emanates from these lesser courts. Some lists of presentments are inexpertly written, without dates, either of the court or the alleged offence, or the proper names of the accused. How the individual ward 'lawdays' were integrated into the system of city sessions is obscure, but it is likely that the more serious offences were passed up from the ward either to the city view of frankpledge or to the city quarter sessions, as some presentments were re-written in Latin. Offenders whom the ward leet had unsuccessfully attempted to deal with were also reported to the quarter sessions.⁴⁸ Outcomes of cases are not reported with great regularity in any of the court records, but Canterbury is in this respect more deficient than the smaller boroughs. The Canterbury records thus present some problems: although much of the undated material can be dated from the Latin versions, by cross-checking with the chamberlains' accounts or from internal evidence, it is impossible to tell if the lists of presentments are complete for any year or session, which rules out any systematic attempt to examine the frequency of presentments for various types of offences, or to assess change over time. The chamberlains' accounts, which cover almost the whole period, partly compensate for the deficiencies in the judicial records. But these too are fuller for the early sixteenth century than for the rest of the period. The Canterbury Burghmote books were also used: these theoretically cover the whole period, though entries for the early years are sparse. The proceedings of the Burghmote seem to have been more like the those of the 'Hornblow' in Sandwich, though fewer offences were reported in it. Among miscellaneous administrative business conducted by the mayor and aldermen there are reports of assaults, cases of 'railing' at officials and measures taken against unsatisfactory officials, as well as some relevant ordinances.

The wide variation of practice and jurisdiction among manorial courts is well-documented, and the absence of manorial criminal jurisdiction in Kent has been commented on.⁴⁹ However, on the principle that almost any offence might in this period have been prosecuted almost anywhere, views of frankpledge from 22 Christ Church and archiepiscopal manorial courts were examined. Only four of these failed to yield any criminal prosecutions other than for public nuisances. Assault was the commonest offence apart from nuisances, but there were also prosecutions for almost every kind of offence that appears in the borough and city courts, sexual misconduct being the most notable exception. The only urban manor, Maidstone, had a much wider range of reported crime than the rural areas, though it is impossible to tell whether this indicates that more densely-populated areas had more minor crime, or that the proximity of a court was an incentive to report it more often.

A substantial quantity of church court records survives for this period, from both the dioceses of Canterbury and Rochester. The content of the sample used for the present study was largely dictated by what had already been used by others,⁵⁰ but also it made sense to use the Canterbury diocesan records, since all the towns with surviving court records were in this diocese. As the office act books of the archdeaconry court of Canterbury have received less attention than those of the consistory court, these were the obvious choice. There was very little distinction in the kinds of office business dealt with in the two courts.⁵¹ All the archdeaconry office books were used except for three covering the outlying areas between 1505 and 1531: for those years there was ample material in the records of the Canterbury sessions. The archdeaconry office books, though, only survive from 1487 onwards, so to get an idea of ecclesiastical jurisdiction earlier in the period, the act book for the Hythe, Romney and Dover sessions of the consistory court for 1462-68 was used. The main problem with the church court records was that they became very confused from 1537 onwards, with office and instance business mixed together, scattered throughout various volumes. Either from this time, less office business was being

transacted, or, quite possibly, some was recorded in books which are not extant, or both.

Quantification

It will be obvious from the foregoing that quantification of data from these diverse sources will pose a problem, particularly when trying to assess the relative frequency with which particular sorts of misdemeanours were presented at particular times. Lists of presentments from the views of frankpledge cannot be compared with data from the chamberlains' accounts or the Sandwich Year Books, which do not necessarily record all the offenders presented at any one court session. Moreover, it is difficult to devise a coherent system for quantifying accusations as heterogeneous as those in any of the sources used. It is quite common for several people to be accused of the same offence in one presentment, or for one individual to be presented for multiple offences, and the offences themselves, or rather, the entries describing them, are not always easy to make sense of. For the ecclesiastical courts the difficulty is not so great: although the details of some of the more unusual cases are hard to penetrate, routine business was recorded by trained clerks in a standardised form. But the dispersal of office business from the various deaneries through a whole series of confused books from the late 1530s onwards, without regard to geographical location, similarly makes it impossible to tell how complete a record has survived, and thus to measure the relative importance attached to particular 'sins' at different times. Even without these problems, however, attempting to measure change over time would have been a hazardous undertaking. Over the course of the hundred years covered by this study, records were kept with varying degrees of assiduity and probably according to varying rules. Even with more standardised data than were available for the present study, quantification of medieval and early modern criminal records is problematic, especially for this period when there are neither accurate figures for population nor unbroken series of records, and for offences which could be tried in several different courts or settled out of court.⁵² In spite of all these difficulties, attempts at quantification are still worth making. While not wishing to

give a spurious impression of pinpoint accuracy, it is only by counting that we can get some idea of what was considered important enough to be prosecuted regularly, and how offenders were dealt with. It is all too easy to dismiss efforts at quantification as 'sterile' and give a misleading impression by quoting atypical cases as though they were the norm.⁵³ Inevitably, all the figures given in the thesis can only be regarded as approximations, given the difficulty of interpreting some charges. The figures presented by no means indicate either the number of actual offences committed or totals of offences prosecuted within a particular jurisdiction. Throughout I have tried to exercise extreme caution and to make clear exactly how the figures in each table were arrived at.

Tables 1.1 to 1.4 show offences presented in four secular jurisdictions for which lists of presentments survive. They do not include entries in the financial records nor cases heard in the Canterbury Burghmote or the 'Hornblow' in Sandwich, because these did not show the full spectrum of offences prosecuted by local courts. Nor do they include the manorial courts, where the variety of offences was more limited. Despite the confusion of counting offences in some cases and individuals in others, this seemed the only way to proceed when trying to produce aggregates of all types of offence. 'Nuisance' offences like failure to scour ditches, infractions of trade regulations, and negligent officials have each been counted as a single presentment, irrespective of the number of individuals accused in each case, which was frequently not given. Other group presentments like not practising archery have been treated the same way. None of these is a main concern of this study, but they had to be counted in order to show the proportions of various types of offences with which the courts concerned themselves. It must therefore be remembered that the numbers of individuals involved in these were in fact greater than the following tables indicate. In all other cases, individual defendants *and* alleged offences have been counted. Thus if two people were accused of a single theft, two have been counted, while if the same person was accused of two separate offences, this has also been counted as two. In fact the number of such cases was small.

Table 1.1: recorded crime in Fordwich, 1461-1560

Decade	Inter- personal	Property	Moral/ relig.	Nuisance	Trade	Other	Totals
1461-70	10	8	10	20	1	27	76
1471-80	32	15	3	8	0	0	58
1481-90	23	24	3	40	0	5	95
1491-1500	73	46	8	67	3	6	203
1501-10	46	14	15	63	5	16	159
1511-20	47	19	8	31	8	6	119
1521-30	12	31	3	68	3	6	123
1531-40	11	3	6	21	0	3	44
1541-50	2	1	1	58	1	7	70
1551-60	2	2	19	74	6	22	125
Totals:	258 (24.1%)	163 (15.2%)	76 (7.1%)	450 (42.0%)	27 (2.5%)	98 (9.1%)	1072 (100%)

Table 1.2: recorded crime in surviving Canterbury court records (excluding Burghmote), 1468-1560

Decade	Inter personal	Property	Moral/ relig.	Nuisance	Trade	Other	Totals
1461-70	0	0	1	1	0	1	3
1471-80	0	2	0	0	0	0	2
1481-90	5	0	15	5	2	1	28
1491-1500*							
1501-10	125	46	134	109	140	124	678
1511-20	84	26	91	56	46	28	331
1521-30	5	7	10	17	9	1	49
1531-40	55	12	69	37	13	16	202
1541-50	3	0	48	6	21	22	100
1551-60	8	10	49	8	27	11	113
Totals:	285 (18.9%)	103 (6.8%)	417 (27.7%)	239 (15.9%)	258 (17.1%)	204 (13.6%)	1506 (100%)

* Only one indictment survives for this decade, of a large but indeterminate number of men for riot in 1500.

Table 1.3: recorded crime in Queenborough and New Romney court records 1496-1511 and 1541-60

Years	Inter personal	Property	Moral/ relig.	Nuisance	Trade	Other	Totals
1496-1511	29	19	7	34	20	13	122
1541-60	16	15	11	66	23	34	165
Totals:	45 (15.7%)	34 (11.8%)	18 (6.3%)	100 (34.8%)	43 (15.0%)	47 (16.4%)	287 (100%)

Table 1.4: aggregate offences in all 4 jurisdictions

Inter personal	Property	Moral/relig.	Nuisance	Trade	Other	Total
588 (20.5%)	300 (10.5%)	511 (17.8%)	789 (27.5%)	328 (11.4%)	349 (12.2%)	2865 (99.9%)

For these tables, accusations have been grouped into six categories. Interpersonal crimes consist mainly of assaults, but also include verbal violence and the small

number of cases of ambush, rescue, gaol-breaking, 'making outcries', unjust imprisonment and prosecution, unjustly raising the hue and cry, disobedience to officers, seditious words, rape and murder. Property offences comprise mainly theft, but also receiving, breaking and entering, hedgebreaking, arson, moving boundary marks, illegal tree-felling, and counterfeiting. Moral and religious offences cover prostitution and bawdry, adultery and fornication, night-walking, 'living suspiciously' or keeping a 'suspicious house', keeping 'ill rule', playing 'unlawful games' or allowing them to be played, harbouring suspects or vagabonds, vagabondage and 'living idly', sabbath-breaking, absence from church, and the few allegations of heresy that occur in the Canterbury city records. 'Nuisances' has been limited to neglect of environmental obligations. Selling at excessive prices, selling faulty goods and selling ale in unsealed measures have been counted as trade offences. The 'other' column includes negligent officials, illegal fishing or dredging, failure to practise archery, failure to ensure the swearing-in of a son or servant, and a few cases of failure to prosecute a thief. Those fined for non-attendance at court, and for routinely 'breaking the assize' of bread or ale have not been counted. Because there is more surviving material for some decades than others, and because of the complexities of quantifying what there is, these tables can give only a rough idea of the distribution of accusations made in the four jurisdictions over the century under review.

Economic Conditions

Efforts to link patterns of crime with the economic structure of the region under consideration are usually made in studies like this. No such attempt has been made here, and indeed it is not proposed to describe the economic structure of the county of Kent over this period. This has been adequately covered by others, and, as with the questions of economic downturn and epidemics, local circumstances varied too much for any generalisation to be meaningful.⁵⁴ Furthermore, most of the period covered here comes between the great slump of the mid-fifteenth century and the inflation of the sixteenth century, and one of its most recent historians has observed that evidence

for the state of the economy at this time is sparse and conflicting.⁵⁵ But since the bulk of the material is from urban jurisdictions, it may be useful to say something about the state of the East Kent towns. It has been claimed that urban unemployment was becoming a problem in East Kent by the 1470s.⁵⁶ Rents received by Christ Church priory for properties in Canterbury declined throughout the fifteenth century and probably reached their lowest levels between 1475 and 1525.⁵⁷ Canterbury between the mid-fifteenth and early sixteenth centuries also ceased to be a centre for cloth-making and suffered a severe decline in its pilgrim trade.⁵⁸ Although most of its religious houses had few inmates by the time of the Dissolution, their closure must at least have created some unemployment among those who had worked for them. Sandwich too temporarily ceased to be a cloth-making centre, and had problems with the silting up of its harbour, as had New Romney.⁵⁹ Clark cites verbal attacks on the mayor and jurats as evidence of 'popular unrest' in Sandwich in the early sixteenth century.⁶⁰ However, it is impossible to tell whether these reflected general dissatisfaction or merely individual disaffection for causes unrelated to the state of the urban economy: insults to the local elite were a common feature of town life in the late fifteenth century.⁶¹ More generally, most of the evidence is open to different interpretations, and considerable uncertainty prevails about the prosperity, or lack of it, of English towns in this period.⁶² The evidence for Canterbury, in particular, has been described as ambiguous.⁶³ There seems little doubt that older urban centres declined in both population and prosperity after the Black Death, and that this contraction was compensated for by growth in newer centres and rural industries. But if, as John Hatcher maintains, the fifteenth century 'depression' did not involve falling per capita output, a falling standard of living or rising unemployment, then David Palliser is right in questioning the tendency to equate population with economic activity and prosperity.⁶⁴ Rosemary Horrox has pointed out that late medieval towns failed to tax private wealth on a regular basis, so civic financial distress could coexist with lavish spending by individuals.⁶⁵ Clark has commented on the polarisation of wealth in early sixteenth century Kentish towns and emphasised a deterioration in town finances which probably led to reluctance to take town office



and thus contributed to the growth of town oligarchies, which was also encouraged by the Crown.⁶⁶ Between 1500 and 1518, men were regularly disciplined in Sandwich for refusal to serve in civic office, but in Canterbury absenteeism among aldermen and councillors seems to have been more of a problem. Judging from the court records, social polarisation seems to have been further advanced in Canterbury than in the smaller towns. Members of the civic elite in Canterbury were rarely accused of offences other than commercial ones or failures to fulfil their duties as officials, while in the other towns, the local elite feature quite prominently among those presented for a wide variety of offences. Men described as 'gentleman' in the Canterbury records, and who appear to have been resident in the city, must have been among the rising class of 'urban gentry' which developed during the fifteenth century.⁶⁷

How far, if at all, any of these problems impacted on gender issues is debatable. There were some temporal variations in the prosecution of offences which were largely gendered, notably for scolding, sorcery and vagabondage. But there is no evidence that perceptions of what constituted acceptable male and female behaviour changed within this period. Nor should any such change be expected: it was not until much later that violence ceased to be an acceptable male characteristic, and that the rationale for the exclusion of women from power altered from stereotyping them as whores and scolds to characterising them as 'creatures of sentiment and love'.⁶⁸

¹ C. Barron, 'The "Golden Age" of Women in Medieval London', in R. Archer (ed.), *Medieval Women in Southern England*, *Reading Medieval Studies* XV, 47-8; Goldberg, *WWL*, 7; A. Kettle, 'Ruined Maids: Prostitutes and Servant Girls in Later Medieval England', in R. Edwards and V. Ziegler (eds.), *Matrons and Marginal Women in Medieval Society* (Woodbridge, 1995), 20.

² J. Rosenthal, 'Fifteenth-century Widows and Widowhood: Bereavement, Reintegration and Life Choices', in S. Walker (ed.) *Wife and Widow in Medieval England* (Ann Arbor, 1993), 52; B. Hanawalt, 'Introduction', in B. Hanawalt (ed.), *Women and Work in Preindustrial Europe* (Bloomington, 1986), xiv-xv.

³ J. Bennett, *Women in the Medieval English Countryside: Gender and Household in Brigstock Before the Plague* (Oxford, 1987), 197-8; 'Confronting Continuity', *JWH*, IX (1997), 73-94; ' "History that Stands Still": Women's Work in the European Past', *Feminist Studies*, XIV (1988), 269-283; 'Medieval Women, Modern Women: Across the Great Divide', in D. Aers (ed.), *Culture and History: Essays on*

English Communities, Identities and Writing (1992), 147-175; A Vickery, 'Golden Age to Separate Spheres? A Review of the Categories and Chronology of English Women's History', *HJ*, XXXVI (1993), 383, 401.

⁴ S. Rigby, 'Gendering the Black Death: Women in Later Medieval England', *G & H*, XII (2000), 745-754.

⁵ B. Capp, 'The Double Standard Revisited: Plebeian Women and Male Sexual Reputation in Early Modern England', *P & P*, CLXII (1999), 70-100; G. Walker, 'Expanding the Boundaries of Female Honour in Early Modern England', *TRHS*, 6th ser., VI (1996), 235-245; S. McSheffrey, 'Men and Masculinity in Late Medieval London Civic Culture: Governance, Patriarchy and Reputation', unpublished paper, now published in J. Murray (ed.), *Conflicted Identities and Multiple Masculinities: Men in the Medieval West* (1999). I am most grateful to Dr. McSheffrey for allowing me to see an unpublished version of this paper.

⁶ For example, J. A. Brundage, 'Prostitution in the Medieval Canon Law', *Signs*, I (1976), 825-50; 'Sex and Canon Law' in J. A. Brundage and V. L. Bullough (eds.), *A Handbook of Medieval Sexuality* (1996), 33-50; J. M. Carter, *Rape in Medieval England: an Historical and Sociological Study* (1985); M. Chaytor, 'Husband(ry): Narratives of Rape in the Seventeenth Century', *G & H*, VII (1995), 378-407; A. Finch, 'Women and Violence in the Later Middle Ages: the Evidence of the Officiality of Cerisy', *C & C*, VII (1992), 23-45; L. Gowing, *Domestic Dangers: Women, Words and Sex in Early Modern London* (Oxford, 1996); 'Secret Births and Infanticide in Seventeenth Century England', *P & P*, CLVI (1997), 87-115; R. Helmholz, 'Harboring Sexual Offenders: Ecclesiastical Courts and Controlling Misbehavior', *JBS*, XXXVII (1998), 258-268; 'Infanticide in the Province of Canterbury during the Fifteenth Century', *History of Childhood Quarterly*, II (1974-5), 379-390; J. Kermode and G. Walker (eds.), *Women, Crime and the Courts in Early Modern England* (1994); R. M. Karras, *Common Women: Prostitution and Society in Medieval England* (Oxford, 1996); C. Lansing, 'Gender and Civic Authority: Sexual Control in a Medieval Italian Town', *JSH* XXXI (1997), 33-59; S. McSheffrey, 'Jurors, Respectable Masculinity and Christian Morality: a Comment on Marjorie McIntosh's *Controlling Misbehavior*', *JBS*, XXXVII (1998), 269-278; J. C. Oldham, 'On Pleading the Belly: a History of the Jury of Matrons', *CJH*, VI (1985), 1-64; J. A. Sharpe, 'Defamation and Sexual Slander in Early Modern England: the Church Courts at York', *Borthwick Papers*, LVIII (1980); K. Thomas, 'The Double Standard', *JHI*, XX (1959), 195-216; M. van Heijden, 'Women as Victims of Sexual and Domestic Violence in Seventeenth Century Holland: Criminal Cases of Rape, Incest and Maltreatment in Rotterdam and Delft', *JSH*, XXXIII (2000), 623-644; G. Walker, 'Re-reading Rape and Sexual Violence in Early Modern England', *G & H*, X (1998), 1-25. The literature on witchcraft in the early modern period is too extensive to catalogue.

⁷ For example, Beattie, *Crime and Courts*, 85, 96, 180, 237-242, 403, 436-9; J. Briggs, C. Harrison, A. McInnes and D. Vincent (eds.), *Crime and Punishment in England: an Introductory History* (1996), 37; T. Curtis, 'Explaining Crime in Early Modern England', *CJH*, I (1980), 124-8; V. C. Edwards, 'Criminal Equity in Restoration London and Middlesex', *JLH*, V (1984), 83-84; Hanawalt, *Crime & Conflict*, 54, 117-125; Herrup, *Common Peace*, 118; J. A. Sharpe, *Crime in Early Modern England, 1550-1750* (1984), 108-110; C. Wiener, 'Sex Roles and Crime in Late Elizabethan Hertfordshire', *JSH*, VIII (1975), 38-60.

⁸ Walker, thesis, 6, 9-10.

⁹ A. Finch, 'The Nature of Violence in the Middle Ages: an Alternative Perspective', *HR*, LXX (1997), 252.

¹⁰ Sharpe, *Crime in Early Modern England*, 5; J. L. McMullan, 'Crime, Law and Order in Early Modern England', *BJC*, XXVII (1987), 253.

¹¹ L. Knafla, '“Sin of All Sorts Swarmeth”: Criminal Litigation in an English County in the Early Seventeenth Century', in E. W. Ives and A. H. Manchester (eds.), *Law, Litigants and the Legal Profession* (1983), 57-58.

¹² Woodcock, *Med. Courts*, 32-35.

¹³ Goldberg, *WWL*, 85.

¹⁴ E. Powell, 'Law and Justice' in R. Horrox (ed.), *Fifteenth Century Attitudes: Perceptions of Society in Late Medieval England* (Cambridge, 1994), 29.

¹⁵ C. Neville, Review of R. B. Shoemaker, *Prosecution and Punishment*, *LHR*, XI (1993), 189-190.

¹⁶ For work on lesser secular and ecclesiastical courts, see, for example, Bennett, *Women in the Medieval English Countryside*; D. A. Crowley, 'Frankpledge and Leet Jurisdiction in Later Medieval Essex', University of Sheffield Ph.D. thesis, 1971; C. Harrison, 'Manor Courts and the Governance of Tudor England', in C. Brooks and M. Lobban (eds.), *Communities and Courts in Britain* (Hambleton, 1997), 43-59; Helmholz, 'Crime'; M. P. Hogan, 'Medieval Villainy: a Study in the Meaning and Control of Crime in an English Village', *Studies in Medieval and Renaissance History*, n. s., II (1979), 121-215; Houlbrooke, *Church Courts & People*; Ingram, *Church Courts*; H. M. Jewell, 'Women at the Courts of the Manor of Wakefield, 1348-1350', *NH*, XXVI (1990), 59-81; W. J. King, 'Untapped Resources for Social Historians: Court Leet Records', *JSH*, XV (1981-2), 699-705; McIntosh, *Misbehavior*; Mills, thesis; S. Olson, *A Chronicle of All that Happens: Voices from the Village Court in Medieval England*, (Toronto, 1996); L. R. Poos, 'Sex, Lies and the Church Courts of Pre-Reformation England', *JIH*, XXV (1995), 585-607; J. A. Sharpe, 'Crime and Delinquency in an Essex Parish, 1600-1640' in Cockburn, *Crime*, 90-109; *Idem*, ' "Such Disagreement Betwyx Neighbours": Litigation and Human Relations in Early Modern England', in J. Bossy (ed.), *Disputes and Settlements: Law and Human Relations in the West* (Cambridge, 1983), 167-187; 'Enforcing the Law in the Seventeenth Century English Village', in V. A. C. Gattrell, B. Lenman and G. Parker (eds.), *Crime and the Law: the Social History of Crime in Western Europe since 1500* (1980), 97-119; Wunderli, *London Courts*.

¹⁷ Shoemaker, *Prosecution & Punishment*; McIntosh, *Misbehavior*.

¹⁸ See below, n. 21.

¹⁹ For example, P. Collinson, 'Cranbrook and the Fletchers: Popular and Unpopular Religion in the Kentish Weald', in P. Brooks (ed.), *Reformation Principle and Practice* (1980), 182-183; Herrup, *Common Peace*, 118; DeL. Guth, 'Enforcing Late Medieval Law: Patterns in Litigation during Henry VII's Reign', in J. H. Baker (ed.), *Legal Records and the Historian* (1978), 93-4; M. Ingram, 'Reformation of Manners in Early Modern England', in A. Fox and S. Hindle (eds.), *The Experience of Authority in Early Modern England* (1996), 75.

²⁰ Ingram, 'Reformation of Manners', 50-51; P. King, 'Punishing Assault: the Transformation of Attitudes in the English Courts', *JIH*, XXVII (1996), 68-9; P. Lawson, 'Property Crime and Hard Times in England, 1559-1625', *LHR*, IV (1986), 126; Shoemaker, *Prosecution & Punishment*, chapter 9; K. Wrightson and D. Levine, *Poverty and Piety in an English Village: Terling, 1525-1700* (1979), 135-7, 175-8.

²¹ D. Underdown, 'The Taming of the Scold: the Enforcement of Patriarchal Authority in Early Modern England', in Fletcher & Stevenson, 116-136.

²² M. Spufford, 'Puritanism and Social Control?', in Fletcher & Stevenson, 41-57.

²³ C. Dyer, *Standards of Living in the Later Middle Ages: Social Change in England, c. 1200-1520* (Cambridge, 1989), 244-5.

²⁴ M. K. McIntosh, 'Local Change and Community Control in England, 1465-1500', *Huntington Library Quarterly*, XLIX (1986), 230.

²⁵ Ingram, 'Reformation of Manners'; ' "Scolding Women Cucked or Washed": a Crisis in Gender Relations in Early Modern England?', in Kermode & Walker, 48-80.

²⁶ B. Hanawalt, ' "Good Governance" in the Medieval and Early Modern Context', *JBS*, XXXVII (1998), 249.

²⁷ L. R. Poos, *A Rural Society after the Black Death: Essex, 1350-1525* (Cambridge, 1991), 274-5.

²⁸ McIntosh, *Misbehavior*.

²⁹ *Ibid.*, 52-3; This is indeed the case: Adisham is listed as having none of the relevant offences reported in the sample between 1500 and 1559, but within this period there were prosecutions there for scolding, hedgebreaking and illegal games. *Misbehavior*, 163, 230; CCA, U15/34/8/5v, 6v, U15/34/9/51 r and v).

³⁰ McIntosh, *Misbehavior*, 10, 7.

³¹ *Ibid.*, 10-11.

³² *Ibid.*, 13-14.

³³ *Ibid.*, chapter 2 for her methodology.

³⁴ For example, Ingram, 'Scolding Women', 52.

³⁵ Beattie, *Crime & Courts*, 21; J. S. Cockburn, 'Early Modern Assize Records as Historical Evidence', *JSA*, V (1975), 215-231; 'Trial by the Book? Fact and Theory in the Criminal Process', in Baker, *Legal Records*, 62-3; 'Introduction', *Calendar of Assize Records, Home Circuit Indictments, Elizabeth I and James I* (1985), 80; E. W. Ives, 'Law, History and Society: an Eternal Triangle', in Ives and Manchester, *Law, Litigants and Legal Profession*, 7; E. Melling, *Kentish Sources: Crime and Punishment* (Maidstone, 1969), 11; Knafla however, found the Kent assize indictments less unreliable than Cockburn suggests, L. Knafla, *Kent at Law, 1602. The County Jurisdiction: Assizes and Sessions of the Peace* (1994), xxvi.

³⁶ J. B. Post, 'Crime in Late Medieval England: some Historiographical Limitations', *C & C*, II (1987), 213; 'Some Limitations of Late Medieval Peace Rolls', *JSA*, IV (1973), 637-9; C. Carpenter, 'Law, Justice and Landowners in Late Medieval England', *LHR*, I (1983), 208-9.

³⁷ Cockburn, 'Introduction', 84.

³⁸ Shoemaker, *Prosecution & Punishment*, 7.

³⁹ Post, 'Crime in Late Medieval England', 202; King, 'Untapped Resources', 699.

⁴⁰ Except for T. R. Murphy, 'The Maintenance of Order in Early Tudor Kent, 1509-1558', Northwestern University Ph.D. thesis, 1975.

⁴¹ Clark, *Society*, 4; P. Hyde and M. Zell, 'Governing the County', in M. Zell (ed.), *Early Modern Kent, 1540-1640* (Woodbridge, 2000), 10.

⁴² F. Hull, 'Memoranda from the Queenborough Statute Book', in *Idem* (ed.), *A Kentish Miscellany* (1979), 80.

⁴³ Chalklin, *Seventeenth Century Kent*, quoted in Murphy, thesis, 70.

⁴⁴ Boys, *Collections*, 535-6.

⁴⁵ J. Bower, 'Kent Towns, 1540-1640', in Zell, *Early Modern Kent*, 160, gives 3000 in 1540; A. Dyer, 'Urban Decline, 1377-1525', in T. R. Slater (ed.), *Towns in Decline, AD 100-1600* (Aldershot, 2000), 275, gives 4,700 for 1524; R. H. Britnell, *The Closing of the Middle Ages? England, 1471-1529* (Oxford, 1997), 211, lists it as one of ten towns with a population of over 6000 for the 1520s; P. and J. Clark, 'The Social Economy of the Canterbury Suburbs: the Evidence of the Census of 1563', in A. Detsicas and N. Yates (eds.), *Studies in Modern Kentish History* (Maidstone, 1983), 66, suggest 3,000 for the same period.

⁴⁶ For example, CCA, CC/J/Q/327/1, 327/2 and 327/4, catalogued as 1527, are actually 1504.

⁴⁷ F. J. C. Hearnshaw, *Leet Jurisdiction in England* (Southampton, 1908), 260; D. Gardiner, *Canterbury* (1923), 54; CCA, CC/FA/2/315v.

⁴⁸ For example, CCA, CC/J/Q/324/4, J/Q/356/2.

⁴⁹ Harrison, 'Manor Courts', 46; Briggs *et al.*, *Crime and Punishment*, 42.

⁵⁰ Mills, thesis; Finch, 'Nature of Violence'; 'Sexual Morality and Canon Law: the Evidence of the Rochester Consistory Court', *J. Med. Hist.*, XX (1994), 261-275; Helmholz, 'Crime'; 'Infanticide'.

⁵¹ Woodcock, *Med. Courts*, 26-7.

⁵² For problems of quantifying data see P. C. Hoffer, 'Counting Crime in Pre-Modern England and America', *Historical Methods*, XIV (1981), 187-193; Post, 'Crime in Late Medieval England'; E. Powell, 'Social Research and the Use of Medieval Criminal Records', *Michigan Law Review*, LXXIX (1981), 967-978; Sharpe, *Crime in Early Modern England*, 41-3; *Crime in 17th Century*, 6, 213; 'Quantification and the History of Crime', *HSR*, XV (1990), 17-32.

⁵³ Murphy, thesis, chapter 10, seems to be an example of this.

⁵⁴ For descriptions of Kent in the period, see E. J. Andrewes, 'Land, Family and Community in Wingham and its Environs: an Economic and Social History of Rural Society in East Kent from c. 1450 to 1640', University of Kent Ph.D. thesis, 1991; A. F. Butcher, 'The Origins of Romney Freemen, 1433-1523', *Ec. HR*, 2nd ser., XXVII (1974), 16-27; Clark, *Society*; F. R. H. DuBoulay, *The Lordship of Canterbury: an Essay on Medieval Society* (1966); M. Mate, 'Kent and Sussex', in E. Miller (ed.), *The Agrarian History of England and Wales*, vol. III, 1348-1500 (Cambridge, 1991), 119-136, 268-285, 680-703; Murphy, thesis, chapter 2; J. Thirsk, 'South-east England: Kent and Sussex', in Thirsk (ed.), *The Agrarian History of England and Wales*, vol. IV, 1500-1640 (Cambridge, 1967), 55-64; Zell, *Early Modern Kent*.

⁵⁵ Britnell, *Closing of Middle Ages*, 228.

⁵⁶ Butcher, 'Origins', 24.

⁵⁷ A. F. Butcher, 'Rent and the Urban Economy: Oxford and Canterbury in the Later Middle Ages', *SH*, I (1979), 38-40, 43.

⁵⁸ M. Zell, *Industry in the Countryside: Wealden Society in the Sixteenth Century* (Cambridge, 1994), 153-4; Clark, *Society*, 26; P. Clark and P. Slack, 'Introduction', in Clark and Slack (eds.), *Crisis and Order in English Towns, 1500-1700: Essays in Urban History* (1972), 11.

⁵⁹ Clark, *Society*, 8.

⁶⁰ *Ibid.*, 13.

⁶¹ For example, EKA, NR/Fac/4/60 (1469), Sa/AC/1/294 (1484); CCA, CC/FA/2/219 (1486/7); D. Gardiner, *Historic Haven: the Story of Sandwich* (Derby, 1954), 155.

⁶² See, for example, J. C. K. Cornwall, *Wealth and Society in Early Sixteenth Century England* (1988), 231, 243-4; R. B. Dobson, 'Urban Decline in Late Medieval England', in R. Holt and G. Rosser (eds.), *The English Medieval Town: a reader in English Urban History, 1200-1540* (1990), 265-286; A. Dyer, *Decline and Growth in English Towns, 1400-1640* (1991); D. Palliser, 'Urban Decay Revisited', in J. A. F. Thomson (ed.), *Towns and Townspeople in the Fifteenth Century* (Gloucester, 1988), 1-21; C. Phythian-Adams, *Desolation of a City: Coventry and the Urban Crisis of the Late Middle Ages* (Cambridge, 1979); Slater, *Towns in Decline*.

⁶³ Bower, 'Kent Towns', 144-5; Dyer, *Decline and Growth*, 73; Palliser, 'Urban Decay', 2.

⁶⁴ J. Hatcher, *Plague, Population and the English Economy, 1348-1530* (1977), 47; Palliser, 'Urban Decay', 2.

⁶⁵ R. Horrox, 'Introduction' to Horrox, *Fifteenth Century Attitudes*, 1-2.

⁶⁶ Clark, *Society*, 8, 12-13, 20.

⁶⁷ R. Horrox, 'The Urban Gentry in the Fifteenth Century', in Thomson, *Towns and Townspeople*, 22-44; Palliser, 'Urban Society', in Horrox, *Fifteenth Century Attitudes*, 140.

⁶⁸ S. M. Okin, quoted in A. Fletcher, *Gender, Sex and Subordination in England, 1500-1800* (1995), 395.

2. OFFENCES AGAINST PROPERTY

Prosecutions for property offences have been judged a reliable indicator of differential treatment of men and women by early modern English courts. It has been claimed, on the basis of assize and quarter sessions records, that thefts are less likely than minor offences to fluctuate according to 'control waves', the numbers on trial are quite large and the charges roughly similar.¹ Are these claims also valid for borough and manorial courts? One reservation is that the petty thefts more likely to appear in local court records might be subject to 'control wave' fluctuation. Another is that presentments or indictments for property offences do not loom so large in local court records as they do at the assizes. The consensus among most historians of crime is that offences against property were the most frequently prosecuted of all offences in late medieval and early modern England.² But, as Knafla has demonstrated for Kent, local courts dealt with far more defendants than assizes and county quarter sessions combined, and in local courts, property offences accounted for only a small percentage of all business.³ This certainly applies to the courts of Canterbury, Fordwich, Queenborough and New Romney. As Table 1.4 shows, in the surviving records from 1461 to 1560, property offences amount to only just over 10% of all charges, heavily outnumbered by assaults, nuisances and moral offences. So these records do not yield very large numbers of theft cases. On the other hand, the proportion of women accused of theft is greater in local courts than at the assizes or quarter sessions, which should facilitate the analysis of gender differentiation. As for the similarity of charges against men and women, local courts should provide a far better basis for comparison than the higher courts. As Garthine Walker has pointed out, the more serious property offences, like horse theft and highway robbery, were rarely attributed to women, so comparing the treatment of male and female theft suspects accused of all property crimes is misleading.⁴ Since local courts seldom dealt with theft other than simple larceny, perhaps the least gendered of all offences, the alleged crimes of men and women should be really comparable. Another advantage of local court records is that presentments were presumably more likely to

reflect real events in places where both victim and accused would probably be known to the jurors.

Previous research has found women theft suspects outnumbered by men, but less so than for most other crimes. Female thieves are alleged to have been relatively more often prosecuted in urban than rural districts.⁵ Women, though participating in theft, are reported to have done so most commonly in a subsidiary role with a male associate, and when operating on their own to have stolen less valuable items, mainly clothing, food and household goods, and shown less daring and initiative than men.⁶ The prosecution of women, it has been claimed, was undertaken with reluctance, and there is almost complete agreement that judges and juries considered women thieves less of a threat than men and treated them more leniently.⁷ This chapter will start by examining the law as it related to property crime from the later fifteenth to mid-sixteenth centuries, and show that the difference in the legal positions of men and women makes comparison of the treatment by the courts of male and female theft suspects a less straightforward exercise than has been assumed. The evidence and conclusions of other studies will then be summarised. The alleged thefts and prosecutions reported in the Kent local courts will be examined, and where there appears to be differential treatment of men and women, consideration will be given to whether this was most likely attributable to gender or to other variables. It will be concluded that, in comparable cases, women may have been marginally less likely than men to be indicted for felony, but that for minor thefts and related offences like receiving and hedgebreaking it seems that women were more likely to be prosecuted than men.

Property crime and the law

Although this thesis is concerned with minor crime, it will be necessary to discuss felonious property offences, because in Kent at this period many thefts that should technically have been treated as felonies were not, and because gender may have influenced courts' decisions on what to classify as felony. The criminal law relating to property offences in the period under consideration was fairly confused. From the

early fourteenth century, theft of goods worth under one shilling was petty larceny, a misdemeanour or trespass which was punishable at the court's discretion, while theft of goods valued at over that sum was grand larceny, a felony, and therefore theoretically a capital crime. From the fourteenth century onwards, juries are known to have undervalued stolen goods in order to mitigate the punishment of those who risked being convicted of felony.⁸ However, in late medieval practice the distinction between felony and misdemeanour seems to have been less clear-cut than the one shilling dividing line. Marowe, writing at the beginning of the sixteenth century, declared

[A]lthough a man has taken my goods feloniously, I can if I please treat that felony as a mere trespass, and so can the king if he pleases.⁹

Apparently, either the victim or the court could choose whether theft of goods valued at over a shilling would be prosecuted as trespass or felony. This was evidently the practice in the Kent courts where there is no sign of the deliberate undervaluing of stolen goods. Rather, theft of goods valued at well over a shilling was frequently not indicted as felony. The two methods of mitigating the severity of the law seem to have coexisted over four centuries, for examples of both the 'pious perjury' of undervaluing and the prosecution of technical grand larcenies as misdemeanours have been found from the early fourteenth century to the late eighteenth.¹⁰ It is possible that juries were not always clear about these distinctions: three manorial court presentments of the late fifteenth century describe thefts of goods worth less than a shilling as 'felonious', although the thieves were only punished by modest fines.¹¹

The distinction between larceny and the more serious offences of burglary and robbery was still unclear at the end of the middle ages. The idea that burglary was nocturnal housebreaking seems to have been a sixteenth century innovation. Marowe described it as breach by night with intent to murder, while Staundford in 1557 said it was nocturnal with felonious intent to murder or rob. An act of 1547 making it a non-clergyable felony to break in by day or night if the occupants were put in fear came to be interpreted as if it dealt with burglary in the new sense the term was

acquiring.¹² No unequivocal reference to burglary has been found in the Kent local court records, though a minority of charges include breaking and entering, and the accusation that Margaret Goodbarne 'burgersly' stole a pullet at Fordwich in 1558 may have been a pioneering and erroneous attempt by the court to apply an unfamiliar concept.¹³ Robbery, that is theft with physical violence or the threat of it, was meant to be a capital offence regardless of the value of the goods stolen, but as with burglary, it was not until the later sixteenth century that it was clearly differentiated from other forms of theft. Indictments including the verbs *depredare* or *spoliare* are treated by historians of late medieval crime as designating robbery; *depredare* was used in a Fordwich presentment in 1495, when violence had indeed been used, yet the offence was not treated as felony.¹⁴

Benefit of clergy, which by mid-fourteenth century could be claimed by all literate men, was in the late fifteenth century available for almost all felonies.¹⁵ Under the early Tudors the criminal law became harsher. In 1489 it was made impossible for a layman to enjoy benefit of clergy more than once; convicted lay felons granted clergy were to be branded on the thumb to ensure they could not claim it a second time.¹⁶ In 1497 benefit of clergy was removed for petty treason, and in 1512 from all felonies committed by laymen in churches or holy places, highway robbery and 'robbery' in a house if the inmates had been 'put in fear'. This was extended to accessories before the fact and stealing from churches in 1532. Theft or embezzlement of goods worth over 40s by servants from their masters was added to the list of non-clergyable felonies in 1536 and horse theft in 1546.¹⁷ Convictions for any kind of felony so rarely appear in the Kent local courts that it is perhaps not surprising that only one instance has been found of a man being given the reading test and granted benefit of clergy: this was a convicted rapist in 1537. Five men, and one thief whose gender is unknown, were apparently hanged in Canterbury for property offences: one of these was described as having robbed, and another had stolen a horse.¹⁸ The executions are spread fairly evenly over the period for which records are available.

No women (except nuns) could claim benefit of clergy till 1623, but a woman convicted of felony and judged to be pregnant by a jury of matrons would be remanded until after the birth. Some such women were subsequently pardoned and some writers treat 'benefit of the belly' almost as though it afforded women the same escape from the rigours of the law as 'clergy' did for men.¹⁹ Very little research has been done on 'benefit of the belly', and it is frequently impossible to trace the ultimate fate of women it was granted to. However, the assize records show that not all women who claimed to be pregnant were found to be so by the matrons, and at least some women granted a stay of execution were eventually hanged. James Oldham concluded that his late seventeenth and eighteenth century evidence did not support the contention that a successful plea of pregnancy was, in John Beattie's phrase, 'tantamount to a pardon'.²⁰ No women convicted of felony have been found in the Kent court records. This could reflect a lack of serious crime by women, or more lenient treatment of them. As far as is known, only judges could summon a jury of matrons, while benefit of clergy was available to men at county quarter and borough sessions.²¹ As simple grand larceny seems rarely to have been considered deserving of the death sentence, how would magistrates ensure that women convicted of this crime did not hang in disproportionate numbers? Referring to the assizes all women at risk of conviction for capital but clergyable larceny, so that they could be reprieved for pregnancy, real or fictitious, would be the only solution. If this was done, some female defendants at assizes would have been suspected of less heinous crimes, or with less conclusive prosecution evidence, than was the case for men, while women *not* tried at the assizes, but dealt with in quarter sessions or borough courts, would tend to be only those against whom the case was very weak. These institutional considerations, rather than any tendency to treat women more leniently than men, might account in part for the higher acquittal rate of women at both the assizes and quarter sessions. Women defendants at the assizes were a small minority, so the total number of women at risk of capital punishment was probably always small. Nevertheless, if female grand larceny suspects were relatively more likely than men to be sent to the assizes, the circumstances of men and women tried in

borough courts and quarter sessions will not be exactly comparable. This is highly speculative: we have no way of knowing why some suspected thieves were referred to the assizes, nor, in most instances, why juries decided on acquittal or conviction. But the point seems worth making that historians (with the partial exceptions of Cynthia Herrup and Garthine Walker) have measured the conviction rates of men and women, and concluded that the latter came off more lightly, without considering that until the late seventeenth century, when benefit of clergy was granted to women on the same basis as men, there was no way courts could treat men and women *equally* in cases of felony, and that this is a real obstacle to comparing the conviction rates.

Most thefts alleged in the local courts were not felonies, but there are also obstacles in the way of comparing the treatment of men and women accused of petty larceny. Criminal prosecution was only one of several options open to the victim of theft. It seems to have been quite common for a victim to have simply gone to the suspect and demanded the return of his property, or payment for it. Macfarlane cites instances of this in the late seventeenth century, and the Canterbury sessions records reveal that it also happened in the early sixteenth century.²² Alternatively, the victim could nominate friends or lawyers to take up the issue, get the matter dealt with summarily by a justice of the peace, sue in the Court of Common Pleas, bring an appeal of felony if the crime was serious, or sue for detinue or trespass in a local court.²³ Much has been written about the reasons for victims' reluctance to resort to the courts, involving as it did, trouble, expense and an uncertain outcome. However, for those who did decide to take legal action, prosecution by presentment or indictment involved payment by the prosecutor and would not secure the return of the goods or compensation, while by resorting to civil litigation, a plaintiff might secure either or both. Some have argued that most thefts were probably dealt with by civil process, and on this assumption, historians of crime have been urged to utilize the records of civil litigation.²⁴ Records of civil suits however present some difficulties. They often give no details of the nature of the case, and even when they do, many cases have to be pursued through a succession of courts and are hard to keep track of. So,

even when such records are informative enough to repay investigation, it would probably be impracticable to use them other than for the study of a single small community. The few civil suits at Fordwich which give details of alleged trespasses show that victims of thefts did indeed choose civil litigation to pursue suspected thieves: 27 trespass pleas heard in the Fordwich court allege theft of some kind. (These have not been included in the tables but are discussed below.) But it is unclear what proportion of the trespass and detinue suits where details were *not* given may also relate to theft. So it is impossible to tell whether thefts (or other offences) were more often prosecuted by civil or criminal process.

It may be significant though that of the 27 civil pleas in Fordwich alleging theft, 26 are against men, whereas in the Fordwich criminal proceedings, women were accused of over 27% of thefts. Married women, of course, could not be sued, so when a woman stole, unless she was single or widowed, a victim wishing to prosecute would have to do so under criminal law. The relatively large proportion of women accused of property offences by presentment or indictment may reflect not that women stole (or were prosecuted for stealing) almost as much as men, but that thefts committed by men are *under-represented* in local court records because many were dealt with by civil process. Some of the Fordwich civil suits involved the alleged theft of valuable possessions such as cows and a mare, which would probably have been treated as felony if dealt with by criminal process.²⁵ Even allowing for the possibility that some of this litigation was vexatious, it looks as though prosecution by civil process was another way of avoiding the risk of sending a male suspect to the gallows. With married women suspects this was not an option.

Another difficulty is uncertainty over how far married women in this period were considered responsible for their criminal actions. Fourteenth century legal practice did not assume, as it did in the sixteenth century, that married women were incapable of full and voluntary participation in crime.²⁶ At the end of the sixteenth century the law was apparently uncertain whether married women could be treated as responsible

autonomous persons and some commentators doubted they could be held accountable for their crimes.²⁷ Walker found many cases in late sixteenth and seventeenth century Cheshire where a man alone was prosecuted despite the alleged involvement of a woman, but Robert Shoemaker's research on minor crime in London and Middlesex from 1660 to 1725 indicated that the principle that women were not responsible for crimes committed with their husbands was not followed.²⁸ Beattie found some women tried with their husbands were acquitted because they were thought to have acted under orders, but thought it unlikely married women were seriously underrepresented in court records for this reason.²⁹ Many of the women accused as principals in thefts in the Kent local courts were described as wives or housewives, and charged without their husbands. The Kent courts at the end of the middle ages therefore regarded at least some wives as fully responsible, but we cannot tell for sure whether they did so for all married women. In short, the legal position of women, and especially married women, was so different from that of men that comparing them is highly problematic.

Men, women and property crime

Almost all studies of late medieval and early modern crime report similar findings. At gaol delivery in Norfolk, Yorkshire and Northamptonshire from 1300-1348, women accounted for only about 10% of those accused of burglary, robbery and felonious larceny, though they were over 30% of those accused of receiving. Women suspects were reportedly treated more leniently, with 84% of female felony suspects being acquitted, compared to 70% of men. At the Kent assizes from 1559 to 1570, over 360 men were charged with various forms of theft, compared to only 24 women. Seventeen of the women and 131 men were acquitted; five women were remanded as pregnant, and fifty of the men were granted clergy. In Walker's sample from late sixteenth and seventeenth century Cheshire sessions, 24% of suspects in property charges were female. In seventeenth century Essex, James Sharpe found nearly 15% of property crime suspects were female; acquittal rates were 33% for women and

20% for men charged with burglary and housebreaking, but for theft, for which he had a much larger sample, there was only a 5% difference in the acquittal rates of men and women. For the mid-eighteenth century, Beattie found 72% of suspects for property crimes were male in Surrey assizes and quarter sessions, most of the female suspects being in Southwark and the neighbouring urban parishes. Indictments of women were more likely to be rejected by assize grand juries, and women charged with capital crimes were more likely than men to be acquitted, and much more likely to be found guilty on a reduced charge. The findings in Beattie's larger study of Surrey from 1660 to 1800 are similar, but here he makes clear that he is including among the 'partial verdicts' pregnant women whom he assumes were pardoned. For minor crime in general, Shoemaker found in the years around 1700, indicted women were as likely to be found guilty as men, but given smaller fines. This may reflect the female defendants' comparative poverty rather than judicial lenience, since he assumes the size of fines for minor offences to have been related to the defendant's ability to pay.³⁰

Right through from the fourteenth to the eighteenth century, then, women charged with property crime at quarter sessions and assizes constituted only between 7% and 25% of the total. As the discussion of civil pleas suggests, the percentage of women prosecuted by one means or another in local courts was probably similar. The treatment of women suspects seems to have been equally unchanging, with almost all studies reporting higher acquittal rates, more partial verdicts or less severe penalties. Walker is alone in arguing that women convicted for property offences were *not* more leniently treated than men. Excluding non-clergyable thefts, for which hardly any women were charged, and examining the fate of men and women charged with grand larceny alone, she found no special consideration seemed to have been shown to women after 1623 (when they became eligible for benefit of clergy), either in conviction or sentencing. The very small difference Sharpe found in the acquittal rates of men and women charged with theft lends some substance to Walker's claim. Herrup, like Shoemaker, found that in cases like petty larceny, where gender did not define punishment, petty juries convicted men and women with about equal

frequency.³¹ Rather than aggregating all alleged thefts by men and women, therefore, it is necessary to look at comparable offences and their outcomes.

The Kent evidence: suspects, victims and prosecutions

Altogether 461 alleged offences against property by people whose gender was specified were found, of which 160 were allegedly committed by females. This includes hedgebreakers, among whom women outnumber men. It also includes receiving, apparently a more 'female' offence, and vague charges of 'petty pickery' mostly from the Sandwich Year Books. When peripheral offences like hedgebreaking, cutting down trees, being an accessory to theft, and receiving are excluded, there are 64 women reported as the principals or co-principals in a total of 67 thefts, and 213 men reported as principals or co-principals in a total of 197 thefts, making women responsible for just over 25% of alleged thefts. (Both totals include the seven cases of alleged cooperation between men and women). These figures, however, conceal a marked difference between the records of the borough and manorial courts on the one hand, and the Canterbury accounts and Sandwich Year Books, which probably contain only the more serious or repeated offences, on the other. Women constituted remarkably similar proportions of about a third of all alleged thieves in the borough and manorial courts, under 17% in the Sandwich records, and less than 10% of those whose gender is given, in the financial records of Canterbury. Thus it seems that the more trivial the crime, the more likely women are to be accused of it. Of the women whose status or occupation is given, 26 were described as wives, four as 'housewife', three as widows and seven as servants. One is referred to as 'singlewoman', three as 'wenches' and six, including one who was married, as 'spinster'.³² For the remainder there is no indication, though one was probably married. The families of all but three of the thirteen women accused of stealing in Fordwich can be traced: in only one case was the husband also accused of a separate theft, and nine husbands were, or had been, jurors, though none seems to have been particularly wealthy. Only five husbands can be traced of the 25 Canterbury women accused of theft; two of them were also accused of stealing, and

another of ill rule and drunkenness, while only one was respectable enough to have served as a juror. Women accused of theft in Fordwich appear to have been less socially marginal than those in Canterbury, but this may be merely a reflection of the bigger population and limited record survival of Canterbury, which make individuals harder to trace. The low profile of widows will be remarked on elsewhere; as with other delinquent women, it looks as though the majority of female theft suspects were wives, who could not be sued in civil suits.

For over half of the men reported as thieves, no status or occupation is given. According to the indictments, the other men accused as principals in theft cases comprised one gentleman, two yeomen, two clerks, nineteen labourers, eighteen servants, three grooms, a minstrel and two apprentices, and 27 assorted trades or crafts, of which only tailors and weavers appeared more than twice. Occupational descriptions of course give no indication of a man's wealth or standing. Some men were described as brewer or tailor in one place and labourer or servant in another, so the sawyers, smiths, butchers and so on may have been mere servants or labourers working for men in those trades. Two of the Canterbury defendants, Thomas Benet and Richard Cok, served on their ward juries and are both recorded as committing other offences with their servants (in the plural), so they must have been men of some standing. They both also feature among those presented for assault or brawling, and for trade offences. Ten of the men accused of thefts in Fordwich and two in Queenborough served on their respective borough court juries; these were both such small places that finding twelve or more men of substance to act as jurors was probably impracticable. One Sandwich man went on to become mayor and member of Parliament. But the majority of the defendants appear only in connection with their alleged property offence, even in Fordwich where the record survival is good. Unsurprisingly then, most of the theft suspects seem to have been people of limited means and marginal status; this confirms Sharpe's finding for seventeenth century Essex, that theft was committed mostly by the poor, while violence was common to all social groups.³³ It might be expected that property crime would increase towards

the end of the period, with the effects of population expansion and inflation beginning to be felt, but there is no sign of this. The uneven survival of the records means that measurement of change over time can only be done by counting accusations of property crime as a proportion of all offences reported in the courts, but in fact this proportion declines over the period. In the manor court sample, nearly all the reported thefts were in the fifteenth century or the first few years of the sixteenth, despite better record survival for the later years, which strongly suggests that many manorial views of frankpledge ceased to have jurisdiction over theft during the period under review.

Office-holders and regular jurors are far more prominent among the alleged victims of theft than among the suspects. Of 175 cases where victims are identifiable, only 14 were reported as thefts from women. Since wives legally owned no property, this is to be expected. In 1540, when William Maners assaulted Joan Burwell in Canterbury and took a purse from her containing 6s. 2d., it was reported as belonging to John Burwell, in the custody of the said Joan. The vernacular ward presentments, however, suggest that people without legal expertise regarded women as owning goods: Margaret Bonewyk was presented in 1508 'for picking of Shirelonde's Wife's purse'.³⁴ Some victims cannot be identified because of the indirect way the alleged theft is reported, but there are also cases of theft of communal property, and of theft from strangers. William Elys was accused of taking a cartload of logs from an unknown man and William Laurence of removing an anchor from the ship of an unknown stranger. This shows that prosecutions were not always the responsibility of the victim.³⁵ In two Sandwich cases the mayor and jurats took upon themselves to punish thieves whose victims were unwilling to prosecute them. Thomas Kelly admitted taking two barrels of ale from Thomas Bigg's house in 1484, but Bigg refused to prosecute. Kelly was sentenced to

go round the town with a drum sounding before him, and when he reaches the Cornmarket his ear shall be fixed with a nail to a cart wheel and to be banished for seven years.³⁶

In 1556, the 'certain person' whom John May had stolen from 'hath not followed the party upon the offence', but it was decided that since May deserved punishment he should be 'put to a cart's arse and whipped at the same through the market', before being banished.³⁷

There is no sign of any action being taken against the Sandwich men who refused to prosecute, but in Canterbury the obligations of victims seem to have been taken more seriously. There are thirteen Canterbury cases where men were presented for letting suspects go; in two of these the accused were constables, and in two more the relationship between the suspect and the accused is unclear, but in the remaining nine, the victims of thefts were presented for failure to prosecute. In five of these cases, the suspect was the victim's servant, which may account for the reluctance to put them at risk of hanging, but there may also be an element of calculation that the victim was better off recovering his goods and letting the thief go, than going to the trouble of prosecution and forfeiting the goods. Two of these complacent victims were actually charged with felony, or accessory to felony, but the outcome for suspect and victim can be traced in only one case. In 1508 Robert Taylor was accused of feloniously taking cloth worth 13s 4d from his master John Burgrove, and Burgrove of feloniously taking back the cloth and letting his servant go. Taylor pleaded not guilty and was acquitted by a trial jury; Burgrove's indictment as accessory to the felony was therefore nullified.³⁸

The most intriguing instance of failure to prosecute is Thomas Bery, who appears three times as the victim of a theft and twice for letting the thief go. In 1506 his servant Marion Smyth was reported to have feloniously stolen clothing valued at £2 from him; Bery recovered his possessions and 'let her escape unpunished', for which he was fined five shillings. Four years later, Robert Panton allegedly stole an unturned charger worth a shilling from Bery, who with William Burges was charged with extortionately taking 2s 4d from Panton and letting him go at large. Burges and Bery were at this time involved in a *ménage à trois* with Bery's wife Isabel, a

situation which apparently prevailed for at least two years and resulted in repeated presentments of all three. In 1511 Bery was presented 'for that he suffereth William Burges to draw suspiciously unto the wife of the same Thomas', and in 1512 he was fined 5s for allowing this 'ill rule' in his house. Finally, when in 1515 Elizabeth Walker reportedly stole 8lb of tin worth 20d from him, Bery must have learnt his lesson and allowed her to be punished, though not for felony: she was fined 4s 1d.³⁹ Marion Smyth, Bery's servant, was the only case found of a woman allowed by her victim to escape, while at least eight men, one of whom reportedly committed at least four offences, were shown similar mercy. This could mean either that the court was more willing to turn a blind eye to the 'letting go' of female suspects, or that victims were more merciful to men. But the fact that Thomas Bery, who stands out as the most remarkably tolerant and unvengeful citizen in the entire surviving record, was the only victim recorded as failing to prosecute a woman, does not suggest that victims of thefts were on the whole more reluctant to prosecute women than men.

Goods stolen

The targets of male and female thieves have been reported in other studies as characteristically gendered, with women's thefts often directed towards household concerns.⁴⁰ The main targets of theft in general are reported to have been clothes or food, sheep and other animals, and household linen.⁴¹ In the Kent courts, as Table 2.1 shows, money was the most commonly reported stolen item, and apparently almost as attractive to women as men. However, if poultry, grain, flour, fish, fruit and animals were aggregated, food would top the Kent list. Not surprisingly, 25 of the 32 reported thefts of money were in Canterbury, and five in Sandwich. Since previous studies have been based on county quarter sessions and assizes, and since most of the preindustrial population was rural, thefts reported in county tribunals would have mainly taken place in the countryside, though even in Southwark Beattie found clothing more commonly reported stolen than money. Obviously money would be the best thing to steal, and a busy city would offer the best opportunities for both stealing and spending it. Jewellery and other valuables would also be easily

concealed and profitable but probably difficult to dispose of; it seems likely they would be most attractive to professional thieves. Although these were comparatively rarely reported stolen, it is noteworthy that they were apparently targets for a larger proportion of female than male thieves. Proportionately more women than men reportedly stole clothing and household linen, but not pots and pans, and women were not particularly prominent in alleged thefts of food, so the idea that women stole for their households is not fully confirmed. In a city or town, however, food and other household needs could be bought with stolen money, so this hardly demonstrates women's (or men's) lack of concern for their families. Stolen goods were gendered up to a point: only men reportedly stole fish, tools, boats or fishing gear, while clothes, bed-linen and valuables seem to have been more attractive to women. Apart from the obvious point that women were not concerned with boats or fishing, this principally suggests that women stole more from houses while men took things from outside, which accords with the greater proportion of women accused of breaking and entering in connection with theft (see Table 2.3). Apart from this, the main determinant of what was alleged to have been stolen seems to have been what was available in the locality, with a marked difference between the illicit takings in Canterbury and those in the small ports and the manors.

Table 2.1: goods reported stolen by men and women

	Men	Women	Totals
Money	25 (12.1%)	7 (9.3%)	32 (11.4%)
Clothing	18 (8.7%)	12 (16%)	30 (10.7%)
Miscellaneous/unspecified	41 (19.9%)	19 (25.3%)	60 (21.4%)
Poultry	11 (5.3%)	8 (10.7%)	19 (6.8%)
Cloth	14 (6.8%)	5 (6.7%)	19 (6.8%)
Sheets, bedding	8 (3.9%)	8 (10.7%)	16 (5.7%)
Valuables (jewellery, silver, etc.)	10 (4.9%)	7 (9.3%)	17 (6%)
Grain, flour	12 (5.8%)	3 (4%)	15 (5.3%)
Tools, fishing equipment	14 (6.8%)	1 (1.3%)	15 (5.3%)
Household goods (pots, pans)	16 (7.8%)	0	16 (5.7%)
Animals	13 (6.3%)	1 (1.3%)	14 (5%)
Firewood, timber	7 (3.4%)	4 (5.3%)	11 (3.9%)
Fish, fruit	8 (3.9%)	0	8 (2.8%)
Iron, lead	4 (1.9%)	0	4 (1.4%)
Anchors, rope, sail, boat	5 (2.4%)	0	5 (1.8%)
Totals	206 (99.9%)	75 (99.9%)	281 (100%)

Note: some men and women were charged with stealing more than one type of goods.

Value of stolen goods

All previous studies, (except Walker, whose figures are somewhat equivocal),⁴² report the average value of goods said to have been taken by women as well below what men were alleged to have stolen. This information may be unreliable in courts where undervaluing was used to avoid charges of felony, but since undervaluing was a formality dispensed with by the Kent courts, the values given here were presumably roughly accurate. Limiting the data used to cases where exact values are given, Table 2.2 of necessity excludes most thefts recorded in the Sandwich Year Books and the Canterbury accounts: had these given values for most stolen goods, the predominance of petty theft would almost certainly have been less marked.

Table 2.2: Value of goods alleged stolen

	Under 1s	1s-2s	2s1d-4s	4s1d-10s	10s1d-£1	Over £1	Totals
Men (% of men)	23 (25.6%)	18 (20.0%)	11 (12.2%)	11 (12.2%)	12 (13.3%)	15 (16.7%)	90 (100%)
Women (% of women)	13 (41.9%)	8 (25.8%)	4 (12.9%)	1 (3.2%)	3 (9.7%)	2 (6.5%)	31 (100%)
Both together (% of both)	0	0	0	0	1 (33.3%)	2 (66.7%)	3 (100%)
Totals (% of total)	36 (29%)	26 (21%)	15 (12.1%)	12 (9.7%)	16 (12.9%)	19 (15.3%)	124 (100%)

In addition to the larger proportion of women reportedly stealing goods of low value, leaving aside the Sandwich records, which are of a different nature, there are eight cases where a woman is described as a 'privy picker' or a 'common thief' or a comparable phrase which seems to denote habitual petty pilfering. Usually these charges do not detail the theft of any particular goods, though some indicate a target: for example Richard Roche's wife in Fordwich was presented as a common thief of firewood in 1513. Only two men and one married couple were similarly designated. The couple, Thomas Bartlett and his wife, were referred to as 'picking and suspect persons'. There is no record of their being presented for 'picking': we know of them only because they were ordered to leave Northgate ward in Canterbury, 'and will not

depart at no Warning'.⁴³ So a habit of 'picking' could result in a presentment for a woman far more often than for a man. Either men comparatively rarely committed petty theft, or did so undetected, or thefts by women were described in different language to similar offences committed by men, or women were presented for very small thefts which were more frequently overlooked in men. Neither the first nor the second possibility seems very plausible, given the preponderance of men in charges of theft. 'Privy' stealing might mean the same as 'privately stealing', which later designated theft from a shop or from the person.⁴⁴ It might just mean theft without breaking and entering, or without using any kind of force, like the offence of Isabel Jackson in New Romney, who at various times abstracted a total of 3s 7d's worth of candles from her employer.⁴⁵ But it is rarely applied to men who stole in apparently similar circumstances, which might possibly suggest a stereotype of women as more devious and underhand than men.⁴⁶ If this is not a gendered use of language, we are left with the fourth possibility, that women petty thieves were more likely to be prosecuted than men. Where undervaluing was the practice, the significance of the consistently lower values given for goods stolen by women is ambiguous, but here where 'real' values were apparently given, it must surely indicate a greater tendency to prosecute women for small thefts. The preponderance of women charged with hedgebreaking points in the same direction, and this would be consistent with a higher standard of behaviour being expected of women.⁴⁷ Concentration on serious crime may have obscured the fact that at the level of petty theft there is little sign of the supposed lenience towards women.

In the Sandwich Year Books, 14 men and four women were recorded as being punished for 'privy picking' or 'petty pickery'. If the Sandwich evidence consisted of presentments or indictments, as does that from all the other boroughs and manors, this would somewhat undermine the argument outlined above. But the Year Books record punishments rather than detailing offences, and in the main describe what was stolen only in cases of fairly serious theft, or where more than one culprit was involved. 'Petty pickery' might be used here as a synonym for petty larceny, but this

does not seem consistent with the quite severe penalties imposed on the Sandwich 'petty pickers'.⁴⁸ Another possibility is that these terms were used in Sandwich to denote people repeatedly found guilty of minor theft.

Violence and premeditation

It has been claimed that women were rarely involved in violent property crime, and this accords with the common finding that women were less liable to commit violent offences in general.⁴⁹ But, surprisingly, considering the high levels of casual violence suggested by the assault presentments, the use of violence in the furtherance of property crime seems to have been unusual in men too.⁵⁰ The evidence from Kent confirms this. A few thefts by men and women involved breaking closes, for example to steal clothes probably left out to dry, but only in thirteen offences by men was breaking and entering alleged; in one of these cases four men were accused of an assault on one of their victims, yet they were only fined a shilling each.⁵¹ Two other men and two women were each alleged to have committed assault in the course of a theft. Women were evidently disproportionately active in what would later be known as burglary: they were reported as breaking and entering in the course of sixteen alleged thefts (one of these being with a man). Women's relative prominence in burglary has been noted in other studies.⁵² Table 2.3 is derived from presentments and indictments which ought to include whether violence or housebreaking was involved; however, some of the cases included survive only in amateurishly written Canterbury ward presentments, so are not necessarily accurate. Neither the inclusion of breaking and entering nor assault of the victim had any apparent effect on the perceived seriousness of the alleged offence, nor on the severity of the punishment. Most theft of any seriousness, even when done without breaking and entering, was reported to have been committed *vi et armis* (by force and arms), with staves and knives. The regularity with which this formula appears, and the improbability of single individuals being armed with both weapons in the plural, suggest that the phrase was used to denote an offence of some seriousness, rather than the use of real force.⁵³ No indication is given of the degree of violence used, so it is impossible to

tell whether when women stole *vi et armis* they used less violence, or less initiative and daring than men. The fact that a larger proportion of women than men were reported to have broken into closes or houses does not suggest this to have been the case. That *vi et armis* was not mentioned in so many thefts attributed to women may be simply because a greater proportion of the women's alleged offences were very minor. Possibly, though, male clerks and presenting jurors preferred to categorise other men as macho and tough, while women were more liable to be stereotyped as secretive and underhand.

Breaking and entering clearly implies forethought, and some reported crimes which did not involve forced entry were premeditated, as the only surviving examination of a self-confessed thief shows. Jane Chamber was examined in 1557. Having visited Sylvester Dowle's house at Ash '& there tarried till the sun going down', at night she

returned back & came to his house again & found a board open at the side of his kitchen & went in & took away ii smocks & a tolvirt of meal.⁵⁴

Jane's nocturnal return and search for an illicit entry must indicate some forward planning, even though her takings were quite modest.

Much reported theft, though, was probably opportunistic and did not require the use of force. For example, servants, eleven male and three female, stole from their masters goods to which they would have had easy access. Thefts involving large quantities of goods or money most likely involved planning, and only about twenty such cases can be identified. Although the incompleteness of the records makes it an unreliable indicator, only five women and nine men appear charged with theft more than once. Like the fact that most alleged thieves were reported to have operated on their own, this suggests professional criminals and organised crime were rare. Some thieves, though, may have been operating for some time before the law caught up with them. In August 1551, George Abraham's wife was apprehended in Sandwich with a basket of stolen mutton. On being questioned, she revealed that her husband

ever since the feast of Easter last past or somewhat before... hath been accustomed once in the week in the time of darkness to go into the field of one John Sayer... yeoman and out of the said field hath been accustomed weekly to steal... one sheep and once he took out two sheep in one week and brought it home in the night time...⁵⁵

A Canterbury deposition, probably from 1511, describes a network of men and women handling stolen goods; this may indicate quite large-scale organised criminal activity, but it is unclear which, if any, of the people concerned knew the goods were unlawfully come by. The only other evidence of organised crime is the indictment of Arnold Fremer, locksmith, also in 1511, for removing the identifying marks from pewter vessels said to have been stolen by certain unknown servants, and taking them overseas; he confessed and was fined 6s 8d. (This theft has not been included in the tables as the number of offenders is unknown.)⁵⁶

Not much significance can be attached to the apparent lack of violence in female property crime, since real violence seems to be largely absent from men's crimes as well. The claim that women's thefts showed less initiative than men's seems hardly consistent with the larger number of women accused of breaking and entering. This might also be taken to indicate that women's thefts were more likely than men's to be planned.

Table 2.3: violence alleged in cases of theft

	No violence alleged	<i>Vi et armis</i>	Broke and entered	Assaulted victim	Totals
Men	27	52	13	3	95
Women	23	12	16	2	53
Totals	50	64	29	5	148

Outcomes

Discussion of the sentences imposed for theft is complicated by the marked difference between Sandwich and all the other places whose records were used. Counting the 'petty pickers', 83 thefts were traced in Sandwich, but only two of the perpetrators were recorded as being fined.⁵⁷ Everywhere else, fines were the commonest recorded punishment, even in reported thefts of goods worth a shilling and more. The great majority of the thieves who appear in the Sandwich Year Books were punished by various combinations of shaming, corporal punishment and banishment. Fines for other offences were regularly entered in the Year Books, so

this is unlikely to be an illusory difference due to a different type of record being used. Since one of the two fines is for the only recorded theft in Sandwich where the value of the stolen goods is given as under a shilling, a possible explanation is that most minor thefts were dealt with at a lower level than the 'Hornblow', and thefts of goods worth a shilling or more were still being punished by 'medieval' penalties in Sandwich long after this practice had ceased elsewhere. If this is the case, the 'privy pickers' must have been convicted of thefts of goods worth over a shilling. It is known that the Cinque Ports had their own distinctive customs and punishments, yet Fordwich, which was a 'limb' of Sandwich, and New Romney, which was also a member of the federation, had evidently abandoned the use of these punishments for theft.

The Sandwich cases do suggest more lenient treatment of female thieves, although since the Year Books do not record the kinds of details given in presentments and indictments, it is impossible to tell whether the women's crimes were comparable to the men's. Outcomes are traceable for only 13 women and 69 men; the small proportion of women is probably because only the more serious thefts reached the 'Hornblow'. When women and men had acted together in thefts, their punishments were the same. Richard Ward, his wife, two other men and a woman stole geese 'of divers persons in the night season and put them upon the spit' in Ward's house: they were ordered to 'go about the town' with the stolen geese 'on the spit before them', and to pay 2s 6d compensation to the owners.⁵⁸ Parading or standing in the pillory with the stolen goods was ordered in ten other cases, of which one involved a woman; all these were to be followed by banishment. However, the most unpleasant Sandwich punishment, the nailing of an ear to a cartwheel or pillory, was apparently reserved for men only. Fourteen men were sentenced to this, while a fifteenth was to have both ears nailed.⁵⁹ Corporal punishment was not entirely restricted to male offenders though: in 1528 three 'wenches' who had 'rifled certain gardens' were sentenced to be beaten from the waist upwards round the town at market time, before being banished for life.⁶⁰ But of the 15 thieves who were banished without shaming

or corporal punishment, five were female, and the only woman thief to be cucked before banishment was also accused of harlotry, so there seems to have been some reluctance to mutilate, whip, beat or even shame women. Barbaric though the nailing of ears seems to modern readers, it should be remembered that for grand larceny, which is probably what these offenders had committed, the penalty prescribed by common law was death. It would be instructive to know how lesser offenders were punished in Sandwich, and what proportion of accused thieves escaped punishment: unfortunately, in the absence of presentments or indictments, there is no way of telling.

The outcomes of thefts in Sandwich, therefore, are not easily comparable with those elsewhere, and like those for which evidence survives only in the Canterbury accounts, do not include acquittals. Both these have been omitted from Table 2.4, which shows the outcomes of thefts of goods valued at a shilling or more. The 'let go' suspects were the cases where the victim was indicted for not prosecuting a thief. The precise significance of delivery 'by proclamation' at the period under review is not clear, though it did obviously mean the suspect was freed. J. B. Post, writing about the late fourteenth century, and Beattie for the eighteenth, say this was what happened to suspects if no accuser came forward, and this seems to have been the case in the Kent boroughs. But according to Sharpe, in the seventeenth century, prisoners delivered by proclamation were those whose bills had been returned *ignoramus* or who had been acquitted at trial.⁶¹

As Table 2.4 shows, the range of possible outcomes in theft cases was so large that it is no simple matter to determine whether women were treated more leniently or not. It is true that a larger proportion of women than men were fined, while a larger proportion of men's thefts were treated as felonies. Of 19 women alleged to have committed 20 thefts valued over a shilling, only six were described as felonious, and two of these were charged with male partners. Of 68 men accused of 64 comparable crimes, thirty, suspected of 34 offences, were classed as felons. The three men found

guilty of felonious theft were all apparently hanged. However, larger proportions of men than women were also acquitted, and not prosecuted at all. To see whether women were really given preferential treatment, it is necessary to look more closely at the alleged offences which gave rise to these outcomes. Of the men who were condemned, one had been tried and acquitted two years earlier, so was presumably no longer considered to deserve the benefit of the doubt.⁶² Another was the only example in these records of prosecution by appeal of felony, a method noted to produce a far higher conviction rate than cases brought by indictment.⁶³ Neither of these circumstances applies to any of the women. The third condemned man, Maurice Johnson, was charged with stealing a gold sovereign, another gold coin '*anglice voc.* an old Royal of gold' and 53 shillings and fourpence, a cash sum considerably exceeding the amount allegedly taken by any woman, apart from one said to have stolen in association with a man, and who evaded arrest.⁶⁴

Johnson's illicit takings, however, were not the largest recorded. Investigating the circumstances surrounding alleged thefts of larger sums reveals a few of the variables which could influence outcomes. In 1509 James Maudyth, 'grocer, late of London', was charged with stealing £8.18s. He was delivered by proclamation early in 1510. At the time of his arrest, Maudyth was able to give as sureties two citizens of substance, one of whom had already held office as sheriff of Canterbury and another who was later to be sheriff and then mayor.⁶⁵ Maudyth apparently had influential connections which Johnson, described as a blacksmith, lacked. John Emerson, also of London, but a mere groom, also seems to have got off lightly. He was accused of stealing valuables worth £5 and admitted his guilt: his bill is endorsed 'we make of this bill trespass'. This may be a case of plea bargaining. The same may be true of Oliver Gresswell, another groom, from Chichester, who admitted the theft of £1.11s.4d, around the same time as Maudyth. He too was delivered by proclamation, but fined £1.6s.8d.⁶⁶ In Fordwich in 1479, John Perle, 'labourer', was accused of feloniously stealing valuables worth £2: he too was delivered by proclamation but fined £1, though if he had confessed there is no record of it.⁶⁷ Influential contacts or

readiness to confess were clearly among the variables which could mitigate the retribution due to felony.

Another variable was where the suspect came from: outsiders are frequently said to have been treated more harshly by the courts, and, given the importance of character references in securing a pardon, acquittal or reduced charge, this is what could be expected.⁶⁸ However, there is no compelling evidence of this, as the cases of Maudyth, Emerson and Gresswell show. Only fourteen men accused of theft in the presentments and indictments were described as being from a place other than the scene of the crime; the domiciles given in these records may be as unreliable as those in the assize records, but local courts might be assumed to have more immediate knowledge of the defendants who came before them.⁶⁹ Four men were said to come from London, one from Windsor, one from Chichester and the rest from other places in Kent. Only two of these outsiders could be represented as receiving harsher than average treatment, and both their cases were unusual: John Whitehorne, from Sittingbourne, was the man condemned to death on appeal of felony in 1508; Christopher Banks, of London, was charged the same year with two offences. He was presented 'for heresy in that he did eat flesh after Easter & not shriven ne his rites not Taken', and also 'for stealing of a dish of my lord of Canterbury', valued at 6d. Although a few other accusations of heresy appear in the Canterbury records, none is for as routine an omission as this. Still more remarkable is that the theft of a dish worth only 6d was indicted as felony.⁷⁰ Different rules apparently governed theft from the archbishop; possibly the 'heresy' charge was added to justify indicting him for felony. At gaol delivery, Banks was remanded in custody for the theft of the dish; his fate is unknown.⁷¹ No women charged with theft were said to come from outside the district, which suggests women were much less likely to travel far than men. There is no way of telling what other variables influenced the courts' decisions on the punishment of locals and outsiders, but on the available evidence, the latter do not seem to have been discriminated against. However, the absence of women suspects from outside the locality may suggest another reason for the apparently lenient

treatment of women reported from other studies. Women, clearly, were less likely to travel outside their home district; if courts were in general more disposed to be hostile to strangers, local residence, rather than gender, might account for women's apparently lower conviction rate.

More lenient punishment of women might be argued from the fact that fines imposed on them were on average lower than those for men. Of all defendants who were fined as principals in thefts, the average fine for men was over 3 shillings, while for women it was just under a shilling. But as we have seen, women's thefts, as measured by the value of goods reported stolen, were less serious than men's. Most fines seem to have borne some relation to the stated value of goods stolen, although the relationship is far from exact. There are two other points about fines. A substantial proportion of the women were married, and therefore did not legally own anything, so technically, their husbands would have to pay. In four cases, the husband actually appears to have been fined for the wife's offence.⁷² Male affeerors may well have been reluctant to impose heavy fines on husbands for offences committed by their wives without their participation; indeed, to do so might be to set a precedent they could come to regret if their own wives were ever charged. Secondly, discrepancies in the sizes of fines have been attributed to affeerors making allowance for the defendant's ability to pay. Since married women owned nothing (at least in theory) and single women and widows were likely on average to be less well off than men, even the low level of women's fines is not convincing evidence that they received lenient treatment.

If gender alone was a factor in securing acquittal or a conviction of trespass rather than felony, there is not much evidence to prove it. Hardly anyone, male or female, was classed as a felon if the goods reported stolen were valued at less than four shillings, unless they were suspected of more than one theft. Of the 38 men in Table 2.4 who were not treated as felons but who had stolen goods worth a shilling or more, twelve (just under 32%) were suspected of thefts valued at over four shillings. For the women in the same situation, the figure is five out of fourteen (nearly 36%). This may indeed indicate slightly greater reluctance to charge women with felony, but

many more such cases would be needed to prove it. The difficulty of proving any differentiation between the treatment of men and women is that commented on by Walker, that aggregate figures make it look as though women came off more lightly, while if the figures are broken down to compare like with like, the numbers become too small to be convincing.⁷³

The most striking finding from the outcomes of the thefts, though, is the huge discrepancy between the theoretical harshness of the law and the rarity of harsh sentences in practice. The same has been reported in many studies, especially for the late middle ages. Ex-chief justice Fortescue, writing in the late fifteenth century, was evidently aware that trial by jury did not secure as many convictions as methods used in continental Europe.⁷⁴ More recently, considerable scholarly ingenuity has been expended in trying to explain why so few grand larcenies were prosecuted as such and so few trials, especially for grand larceny, resulted in conviction. The seventeenth century writer Dalton claimed that a justice must commit anyone accused of felony, even if he thought the evidence was flimsy.⁷⁵ Beattie suggests that this may account for the very high rate of acquittals.⁷⁶ But bills where the evidence was weak should have been rejected by grand juries, so this is not a convincing explanation. (There are no surviving *ignoramus* bills in the records used for the present study.) Other explanations include the suggestion that the law only required the occasional execution of a hardened criminal by way of example, reluctance on the part of juries to condemn people to death, belief that the accused had been punished enough by imprisonment and trial, bribery or intimidation of jurors, and a variety of suggested reasons for not taking indictments at face value.⁷⁷ James Cockburn's well-known warning about the unreliability of assize indictments may be relevant. He notes in the assize records a large number of indictments where the occupation of the accused was connected with the goods stolen, such as butchers arraigned for stealing sheep or cattle, and surmises that these were actually receivers rather than thieves.⁷⁸ Among the accused men in the Kent courts for whom occupations are given, there are just three which give rise to the same suspicion, a butcher, a tallowchandler and a shearman charged respectively with the theft of oxen, candles, and cloth.⁷⁹

Table 2.4: Outcomes of thefts of goods valued at one shilling or more

Outcome	Men	Women	Totals
Tried, guilty, hanged	3 (3.8%)	0	3 (2.9%)
Tried, not guilty	9 (11.4%)	2 (8.7%)	11 (10.8%)
Fined	17 (21.5%)	8 (34.8%)	25 (24.5%)
Let go	9* (11.4%)	1 (4.3%)	10 (9.8%)
Charge reduced	1 (1.3%)	0	1 (1.0%)
Escaped from prison	5** (6.3%)	0	5 (4.9%)
Delivered by proclamation***	3 (3.8%)	2 (8.7%)	5 (4.9%)
Remanded in custody	1 (1.3%)	0	1 (1.0%)
Pardoned	1 (1.3%)	0	1 (1.0%)
Outcome unknown	29 (36.7%)	8 (34.8%)	37 (36.3%)
Tried for felony, verdict unknown	1 (1.3%)	1 (4.3%)	2 (2%)
At large	0	1 (4.3%)	1 (1.0%)
Totals	79	23	102

* Seven men reported to have committed nine offences

** Four men reported to have committed five offences

*** Includes two men and one woman subsequently fined or indicted for trespass.

Whatever the reasons for the low conviction rates in felony trials, one thing seems clear. The victim of a crime wishing to prosecute a suspect, if he had him or her indicted for felony in a local court, had no great chance of getting a conviction. If the suspect could be captured in the first place, he or she might be allowed to escape by a negligent or corrupt constable or gaoler, or have the charge reduced to trespass by the court, and if brought to trial was more likely than not to be acquitted by a jury which was either soft-hearted, corrupt or incompetent. It is hardly surprising that many victims preferred either a civil action or a presentment for trespass. The most plausible suggestion for the large number of technically felonious thefts being prosecuted as petty larceny or trespass was made many years ago by Bertha Putnam, who pointed out the relative ease with which convictions for trespass were secured and the advantages to the relevant authorities of being able to collect cash fines.⁸⁰

Associations

Table 2.5: Cases of criminal association, including accomplices and receivers

	Acting alone	With same sex associates	With other sex associates	With associates of both sexes	Totals
Men	160 (80.4%)	28 (14.0%)	7 (3.5%)	4 (2.0%)	199
Women	53 (73.6%)	8 (11.0%)	7 (9.6%)	4 (5.5%)	72
Totals	213 (78.6%)	36 (13.3%)	14 (5.2%)	8 (3%)	271

Women have been regularly reported as tending to steal with an associate, usually male.⁸¹ Women in late medieval Kent, however, seem to have been only marginally less likely than men to steal alone. Men are alleged to have acted as sole principals in 169 thefts, but in nine of these, others were charged as accessories or receivers. In seven of these nine cases the accessories were men, in one a man and a woman, and in one case two women. When not acting alone, men were most often charged with stealing in the company of other men: there are four cases of three or more men being charged together, and twelve of two men allegedly cooperating. Only five married couples were charged jointly, and one man was accused of stealing with an apparently unrelated woman. Including the married couples, ten women were charged with men, but most women were described as acting alone, with only three cases of women being charged in groups of two or three. The few charges of receiving women thieves or goods stolen by women, though, are all against other women: eight women were accused of receiving on behalf of female thieves. This suggests in a small way the existence of female networks of illegal activity.⁸² The fact that the great majority of alleged thieves, both male and female, had no accomplices is not surprising. Little sign has been found in other studies of criminal gangs, and such as there were would probably have been indicted at the assizes rather than in local courts.⁸³ Two groups of 'felons', each described as having committed a single robbery, are referred to in the Canterbury accounts, in 1501/2 and 1553/4; that more were not found suggests that they were not common.⁸⁴ These felons have not been included in the tables because their gender is not specified, though it seems unlikely any were female. On the evidence summarised in Table 2.5, women were equally likely to associate with other women or with men (though the latter were likely to be their husbands), while men were more likely to associate with other men.

Receivers and accessories

In the period under consideration there was a dichotomy between the medieval definition of receiving, which was still the legal one, and the modern meaning of the term, which courts were already attempting to apply. Receipt of stolen goods was not

a common law felony until 1691.⁸⁵ For centuries before this the common law theory of accessories was that a person who received a felon, knowing him to have committed a felony, became an accessory after the fact and liable to punishment for felony. Receiving stolen goods (without the felon) was only a misdemeanour, if it was an offence at all. However, in the fourteenth and fifteenth century proceedings before the justices of the peace, several indictments show that juries were trying to treat receiving stolen goods as a felony.⁸⁶ Several studies have found women disproportionately active in receiving and disposing of stolen goods.⁸⁷ This is reflected in the Kent records, where fourteen women and eleven men were charged as accessories or receivers. Of the men charged as accessories to theft, four were charged with receiving the thief and five with receiving stolen goods; another was accused of receiving both the goods and the thief, and one, John Martin of Sandwich, of encouraging his servant to steal a lamb, 'saying that if it were cleanly done it were well done, without the seeing or knowing of any man'. Although accessories were seldom severely punished, Martin was banished with his wife and children for seven years and a day, which perhaps indicates the degree of responsibility employers had to take for their servants.⁸⁸ Of the female accessories, one was presented for receiving and helping a female thief, twelve for receiving stolen goods, and one for allowing stolen ducks and geese to be eaten in her house.

The only apparent groups of receivers were both all-female. At New Romney, Margaret Wilson was fined 8d for receiving 43lb of candles stolen by Isabel Jackson; Jackson herself was fined the same amount, and Rose a Forde was fined 4d for receiving 9lb of the same candles. Four Fordwich women, two of whom were on other occasions presented for theft, had fines ranging from 2d to 4d for receiving goods stolen from her master by Joan Sparowe, but Sparowe's own fine is not recorded.⁸⁹ It is noteworthy that eight of the 14 women were associated with female principals (the thief in one other case is not identified), and only one man was alleged to have received a women thief. So there were at least a few female networks sporadically involved in small-scale crime; the fact that they form so large a

proportion of the few receivers who were prosecuted might suggest that the courts were more anxious to punish them than their male counterparts.

Property offences in the church courts

As Richard Helmholz has shown, medieval ecclesiastical courts exercised jurisdiction over some secular crimes, including thefts which should have been felonies in common law, but such cases served a different function from the trial of crimes in the secular courts. Helmholz suggests that the aim of hearing a case involving secular crime in a church court was either to get a formal declaration of innocence for a person publicly defamed of a crime, possibly with a view to warding off a prosecution in the royal courts, or to settle a quarrel through its exposition and mediation in court.⁹⁰ Twelve cases of theft and one involving receiving were found in the church court records used for this study: seven of these were in the 1460s, and the latest was in 1503. According to Ralph Houlbrooke, defamation cases in the church courts were by the 1520s no longer concerned with imputations of secular crimes, so this may be why secular crimes themselves seem to have disappeared from the church courts by that time.⁹¹ Most of these Kent cases are clearly consistent with Helmholz's suggestions. In one case, where a rector accused his chaplain of breaking into his rectory and stealing goods, the archdeacon's official arbitrated.⁹² In all the others, compurgation was arranged, and seven of the defendants appear to have brought their compurgators with them and got the whole matter settled on the day of their first appearance in court: this is quite unusual and may mean that they had themselves taken the initiative to get a hearing and clear their names. In two other cases the hearing of compurgation was delegated to local clergy. These church court cases have not been included in the discussion of property offences, but are relevant insofar as they suggest that women were relatively infrequently defamed as thieves. They include one woman accused of stealing a sheet, and another charged as a sorceress, a false woman and a receiver of robbers and stolen goods. In the other eleven cases, men were accused of thefts, some of them fairly substantial, including 19s 10d in money, and three sheep.⁹³ Thus the church court evidence coincides with

that of the secular courts, with more serious thefts tending to be attributed to men, and receiving to women.

Hedgebreakers

Between 1472 and 1524, forty-seven women, sixteen men, and three sons or daughters whose gender cannot be established, were presented at Fordwich for hedgebreaking. Several of these people were presented more than once, making the total hedgebreaking presentments 86, of which 66 were of women. This makes it much the commonest reason for women being presented at the Fordwich court. In the manorial courts, hedgebreaking appeared only occasionally and was less of a 'female' offence, accounting for the presentments of thirteen men and five women. The alleged offenders almost invariably appear in groups, and the presentments do not cite specific offences, the commonest formulation being 'a common hedgebreaker'. This, then, was a 'victimless' offence, which (perhaps together with its petty nature) would account for its non-appearance among the civil pleas; we can be confident that the predominance of women here reflects a real female majority rather than a distortion due to institutional asymmetry. Hedgebreaking has been noted in studies of manorial courts in various parts of England, between the early fourteenth and seventeenth centuries, and some have observed that it was an offence for which women outnumbered men.⁹⁴ Although the breaking of hedges and fences was at some times and places an act of communal protest against enclosure, the wording of some of the presentments makes clear that this was theft of firewood.⁹⁵ The appearance of this offence in Fordwich closely parallels McIntosh's findings in Havering: she considers that hedges around roads and common lands were normally viewed as public property, and that for centuries custom had probably tolerated the poor taking small amounts of wood from them. She notes that hedgebreaking was often done by older women who may have been unable to get wood from more distant places, and that it only appeared as a problem in Havering for a generation, virtually disappearing after 1500.⁹⁶ She singles it out as exemplifying the kind of

offence that was on the increase in south-eastern England in the late fifteenth century, linking this to population pressure and an influx of poor immigrants, and adds that local leet courts dealt with it by increasingly severe penalties and ordinances and bye-laws. In her study of local courts across England, she found hedgebreaking was of minor importance till mid fifteenth century, and that large numbers of women were presented for doing it from the 1460s to 1490s, but that after 1500, women were a declining proportion of hedgebreakers. She suggests that this indicates an unusual amount of poverty among women in the late fifteenth century.⁹⁷ This suggestion would only be plausible if most of the women accused were single or widowed. In Kent, although widows were relatively prominent among those charged with hedgebreaking, accounting for at least eleven of the total presentments, most women accused, (48 out of 71 presentments) were wives, which suggests poverty of families rather than specifically women. Hedgebreaking is also an offence which apparently preoccupied the courts for only a limited time. It was the subject of an ordinance made in Fordwich in February 1492, that anyone found with a bundle of firewood from the woods or hedges who could not show that they had acquired it legitimately would have to spend a day and a night in gaol, in fetters or the stocks. This presumably resulted from the presentment of a record nine hedgebreakers, who were fined a record for this offence of 12d. each, in the previous year. It must have worked for some time, because the next presentments do not occur till 1497.⁹⁸ More severe penalties were threatened for repeat offences from 1497 to 1507, and then, with the exception of one batch of 12d fines in 1522, the concern of the court with hedgebreakers seems to have dwindled, the last group being charged in 1524. The peak of the Fordwich court's preoccupation with hedgebreaking coincides fairly closely with the presentments for assault and scolding, and hedgebreakers, like scolds, reappear in the early seventeenth century.⁹⁹ It might therefore be interpreted as part of a 'control wave' in Fordwich directed against the disorderly poor. Only one Fordwich hedgebreaker was from a notably prosperous family, but most (all but eight of the women) were from established local families, and nearly all the women were wives or widows of regular jurymen. Almost exactly half the women were presented

in the Fordwich court on more than one occasion, eight of them as scolds and at least five as thieves or receivers or both. This was more a matter of resident petty trouble-makers than newly-arrived ones. As for the chronology of hedgebreaking, while in Fordwich it features from the 1470s to the 1520s, in the manorial courts none was found earlier than the 1500s. The remaining cases were in the 1540s and 1550s, and these, in the manors of Eastry, Adisham and Godmersham, nearly all involved men, which coincides with McIntosh's findings. Rather than indicating particular poverty among women in the fifteenth century, though, it is more likely that this shows a greater propensity to present husbands for their wives' offences as the sixteenth century progressed. The only woman in the manorial courts for whom a fine was recorded was a widow, while fines, or threats of fines if the offence was repeated, were entered for all the men. In Fordwich, fines were recorded for female hedgebreakers until 1524, when five men were presented and fined as hedgebreakers 'through' their wives.¹⁰⁰

Other thefts of firewood have been found in Fordwich; of the 27 civil pleas alleging theft, three are for taking firewood, while three women and two men from the same place were charged with stealing it. Two other Fordwich men were accused of stealing timber and logs, and four of the thefts presented in the manor courts were of firewood or timber. At Boughton in March 1488, Cristina Giles broke and entered the close of Stephen Harris, took fourpence worth of firewood and assaulted Marion Harris, which suggests that the need for fuel could become fairly desperate, perhaps particularly towards the end of winter.¹⁰¹ Acquiring adequate fuel, then, must have been a fairly regular problem. Widows might be presumed to have more difficulty than married women in obtaining firewood, which would account for their relative prominence, but the preponderance of wives, sometimes with their children, suggests that collecting fuel was mainly the wife's responsibility.¹⁰² This casts doubt on Wiener's suggestion that women had less need to commit crimes, and on the commonly-accepted notion that women's work was largely centred on the home and its immediate vicinity.¹⁰³ If, as seems probable, the wood taken from hedges was considered public property, then hedgebreaking can be regarded as a 'social crime',

like gleaning or poaching, that is, something considered an offence by the elite but not by the poor, who considered themselves to be exercising customary rights.¹⁰⁴ The presentments for hedgebreaking could then be represented as an illustration of the use of the courts as instruments of class oppression, and indeed of gender oppression. The fact that many hedgebreakers were regular grand jurors, or, more often, their wives, would make this a difficult argument to sustain, were it not that regular jurors were quite often themselves presented for misdemeanours, and many of the Fordwich jurors were probably quite poor. Also, the jurors may have been under pressure from the elite to prosecute certain offences at certain times. The cultural differentiation between 'middling' villagers and their poorer neighbours alleged to have begun around mid-sixteenth century seems to have manifested itself at least sporadically well before that time.¹⁰⁵ Whether women predominate in hedgebreaking presentments because they did more of it, or because they were more likely to be prosecuted for it if they did, the fact that they were prosecuted at all, for something so trivial, indicates that at the level of really petty crime, women were not treated more leniently than men.

Conclusion

So persuasive is the evidence from other studies that women property offenders were more leniently treated than men that work for this chapter was embarked upon in the expectation that the Kent evidence would confirm this. However, the evidence shows that suspected felonious thieves, male and female, were hardly ever treated with the severity the law demanded. Reported thefts of goods worth well over a shilling were regularly punished with fines appropriate only to petty larceny; this seems to have applied slightly more to women than men, and is the only evidence of preferential treatment of women. The few men and women who are known to have been charged with felony were nearly all acquitted or delivered by proclamation. Of the few men known to have been sentenced to death, most were condemned in circumstances which do not apply to any of the women. Bearing in mind the evidence of the civil pleas, it is clear that women were prosecuted for theft far less often than men; this

could mean either that women committed less theft, or were less often prosecuted for it. The large proportion of presentments of women for very petty theft, hedgebreaking and receiving suggests that the former was the case; indeed, it raises the suspicion that women were more likely than men to be prosecuted for minor offences. Also, the fact that men were apparently more often let go by their victims does not suggest undue reluctance to prosecute female suspects. It is true that no evidence has been found of women being hanged for theft, and that women's fines were usually smaller than men's, but in the absence of undervaluing of stolen goods, it can be claimed with confidence that women's thefts were on the whole less serious than men's. Where, in other studies, aggregates of large numbers of cases suggest more lenient treatment of women, this, or the fact that fewer women were strangers who could not provide character references, is the probable explanation. Because property crime forms so small a part of the offences prosecuted in the local courts, the size of the sample used here is not sufficient to justify any firm conclusions, but it certainly does not confirm the received wisdom that women accused of theft were in general more likely to escape punishment than men.

¹ J. A. Sharpe, *Crime in Early Modern England, 1550-1750* (1984), 44; Beattie, *Crime & Courts*, 437.

² J. Bellamy, *Law and Public Order in England in the Later Middle Ages* (1973), 33; Hanawalt, *Crime & Conflict*, 60; 'The Female Felon in Fourteenth-century England', *Viator*, V (1974), 267-8; E. Powell, 'Jury Trial at Gaol Delivery in the Late Middle Ages: the Midland Circuit, 1400-1429', in J. S. Cockburn and T. A. Green, (eds.), *Twelve Good Men and True: the Criminal Trial Jury in England, 1200-1800* (Princeton, 1988), 100; J. S. Cockburn, *A History of English Assizes, 1558-1714*, (Cambridge, 1972), 97; 'The Nature and Incidence of Crime in England, 1559-1625: a Preliminary Survey', in Cockburn, *Crime*, 60; Herrup, *Common Peace*, 27, 31-2; Sharpe, *Crime in 17th Century*, 91; S. K. Roberts, 'Juries and the Middling Sort: Recruitment and Performance at Devon Quarter Sessions, 1649-1670', in Cockburn and Green, *Twelve Good Men*, 191; Beattie, *Crime & Courts*, 402.

³ L. A. Knafla, '“Sin of all Sorts Swarmeth”: Criminal Litigation in an English County in the Early Seventeenth Century', in E. W. Ives & A. H. Manchester, (eds.), *Law, Litigants and the Legal Profession* (1983), 57-8.

⁴ See below, n. 31.

⁵ Beattie, *Crime & Courts*, 240; 'The Criminality of Women in Eighteenth-century England', *JSH*, VII (1974-5), 107-8; Shoemaker, *Prosecution & Punishment*, 215.

⁶ Hanawalt, *Crime & Conflict*, 192; C. Z. Wiener, 'Sex Roles and Crime in Late Elizabethan Hertfordshire', *JSH*, VIII (1975), 42; Sharpe, *Crime in Early Modern England*, 108-10.

⁷ Beattie, *Crime & Courts*, 438; Hanawalt, *Crime & Conflict*, 54; J. S. Cockburn, *Calendar of Assize Records: Kent Indictments, Elizabeth I* (1979), 114; 'Trial by the Book? Fact and Theory in the

Criminal Process, 1558-1625', in J. H. Baker, (ed.), *Legal Records and the Historian* (1978), 75; T. Curtis, 'Explaining Crime in Early Modern England', *CJH*, I (1980), 124-8; P. G. Lawson, 'Lawless Juries? The Composition and Behaviour of Hertfordshire Juries, 1573-1624', in Cockburn & Green, *Twelve Good Men*, 150.

⁸ Sharpe, *Crime in 17th Century*, 91-92.

⁹ Quoted in T. F. T. Plucknett, 'A Commentary on the Indictments', in B. Putnam, (ed.), *Proceedings before the Justices of the Peace, Edward III to Richard III* (1938), clix-clx.

¹⁰ Cockburn, 'Trial by the Book?', 72-3; V. C. Edwards, 'Criminal Equity in Restoration London and Middlesex', *JLH*, V, (1984), 80ff; P. J. R. King, ' "Illiterate Plebeians, Easily Misled": Jury Composition, Experience and Behaviour in Essex, 1735-1815', in Cockburn & Green, *Twelve Good Men*, 255; Lawson, 'Lawless Juries', 119ff; P. Maddern, *Violence and Social Order: East Anglia, 1422-1442* (Oxford, 1992), 130. A. Musson, *Public Order and Law Enforcement: the Local Administration of Criminal Justice, 1294-1350* (Woodbridge, 1996), 218; Putnam, *Proceedings*, cxv; Plucknett, 'Commentary', clix; M. K. McIntosh, *Autonomy and Community: the Royal Manor of Havering, 1200-1500* (Cambridge, 1987), 211; Beattie, *Crime & Courts*, 183; Shoemaker, *Prosecution & Punishment*, 130-1. D. J. Guth, 'Enforcing Late-Medieval Law: Patterns in Litigation during Henry VII's Reign', in Baker, *Legal Records*, 94, notes that much that was felonious was prosecuted as trespass in all courts.

¹¹ CCA, U15/13/46; LPL, ED644/4.

¹² Plucknett, 'Commentary', cxlv-cxlvii.

¹³ CCA, U4/20/1/48v.

¹⁴ Hanawalt, *Crime & Conflict*, 84; Plucknett, 'Commentary', cxlii, cxliv; CCA, U4/3/67v.

¹⁵ J. G. Bellamy, *Criminal Law and Society in Late Medieval and Tudor England* (Gloucester, 1984), 115-116; Beattie, *Crime & Courts*, 141-3.

¹⁶ 4 Henry VII, c.13; J. Guy, *Tudor England* (Oxford, 1988), 64.

¹⁷ Plucknett, 'Commentary', cxl; Beattie, *Crime & Courts*, 142-3; J. A. Sharpe, *Judicial Punishment in England* (1990), 27-8.

¹⁸ CCA, CC/J/Q/307/14/18 (1508); J/Q/309/19 (1509-10?); J/Q/356/6 (1557); FA/11/450v (1527-8), FA/12/66 (1529-30), FA/12/373v (1537-8). Two of these have not been counted in the tables as there is no evidence of their being tried at the city sessions.

¹⁹ For example, Sharpe, *Judicial Punishment*, 41-2.

²⁰ J. C. Oldham, 'On Pleading the Belly: a History of the Jury of Matrons', *CJH*, VI (1985), 19.

²¹ Herrup, *Common Peace*, 47-8.

²² A. Macfarlane, *The Justice and the Mare's Ale: Law and Disorder in Seventeenth-century England* (Oxford, 1981), ch. 8, *passim*; for Canterbury see below, pp. 35-36.

²³ Post, 'Crime in Later Medieval England', 218.

²⁴ J. Briggs, C. Harrison, A. McInnes and D. Vincent, *Crime and Punishment in England: an Introductory History* (1996), 40; Post, as note 23.

²⁵ CCA, U4/3/45v (1480), 3/105 (1502).

²⁶ Hanawalt, *Crime & Conflict*, 125.

²⁷ Wiener, 'Sex Roles', 39.

²⁸ Walker, thesis, 14; Shoemaker, *Prosecution & Punishment*, 215.

²⁹ Beattie, *Crime & Courts*, 414; 'Criminality of Women', 95-6.

³⁰ Hanawalt, 'Female Felon', 256, 268; Cockburn, *Calendar of Assize Records*, 1-97; Walker, thesis, 171; Sharpe, *Crime in 17th Century*, 95, 108; Beattie, 'Crime and the Courts in Surrey, 1736-1753', in Cockburn, *Crime*, 158, 163, 182; *Crime & Courts*, 237; Shoemaker, *Prosecution & Punishment*, 214, 158-9.

³¹ Walker, thesis, 185-6; Herrup, *Common Peace*, 150.

³² CCA, CC/J/Q/339/3/2.

³³ Sharpe, *Crime in 17th Century*, 11.

³⁴ CCA, CC/J/Q/339/3/3, J/Q/307/14/20.

³⁵ CCA, U4/3/210 (1522); CKS, Qb/JMs/1/6v (1496); Cockburn, *Assize Calendar*, 92.

³⁶ EKA, Sa/AC/1/292v.

- ³⁷ EKA, Sa/AC/4/85v.
- ³⁸ CCA, CC/J/Q/307/13v, 307/14/18.
- ³⁹ CCA, CC/J/Q/306/3, 5, 7; J/Q/309/16; J/Q/311/19, J/Q/310/3v, J/Q/314/9.
- ⁴⁰ Hanawalt, *Crime & Conflict*, 120-121; G. Walker, 'Women, Theft, and the World of Stolen Goods', in Kermodé & Walker, 88.
- ⁴¹ Beattie, *Crime & Courts*, 186; Hanawalt, *Crime & Conflict*, 70ff.; Sharpe, *Crime in 17th Century*, 93; Cockburn, 'Nature and Incidence', 64; E. Melling, *Kentish Sources: Crime and Punishment* (Maidstone, 1969), 31.
- ⁴² Walker, 'Women, Theft', 86-7.
- ⁴³ CCA, U4/3/175v; CC/J/Q/356/2 (1557).
- ⁴⁴ P. King, 'Gender, Crime and Justice in Late Eighteenth- and Early Nineteenth-Century England', in M. Arnot and C. Osborne (eds.), *Gender and Crime in Modern Europe* (1999), 49.
- ⁴⁵ EKA, NR/JQp/1/2.
- ⁴⁶ A. Fletcher, *Gender, Sex and Subordination in England, 1500-1800*, (1995), 73.
- ⁴⁷ See below, p. 54-57; A. Laurence, *Women in England, 1500-1760: a Social History*, (1994), 256.
- ⁴⁸ See below, p. 43.
- ⁴⁹ Beattie, 'Criminality of Women', 89-90; *Crime & Courts*, 238; J. M. Bennett, *Women in the Medieval English Countryside: Gender and Household in Brigstock Before the Plague* (Oxford, 1987), 38; Shoemaker, *Prosecution & Punishment*, 213.
- ⁵⁰ Sharpe, *Crime in 17th Century*, 104; Macfarlane, *Justice and Mare's Ale*, chapters 1 and 11, *passim*.
- ⁵¹ CCA, U4/3/67v (1495).
- ⁵² Hanawalt, *Crime & Conflict*, 118; Beattie, 'Criminality of Women', 92.
- ⁵³ Maddern, *Violence and Social Order*, 29, comes to the same conclusion.
- ⁵⁴ CCA, CC/J/Q/356/4.
- ⁵⁵ EKA, Sa/AC/3/246v.
- ⁵⁶ CCA, J/Q/310/13, J/Q/311/3v, J/Q/352/20.
- ⁵⁷ EKA, Sa/FA/23, AC/2/264v-265.
- ⁵⁸ EKA, Sa/AC/4/159v-160 (1560).
- ⁵⁹ S. Lerer, '“Represented Now in Yower Syght”: The Culture of Spectatorship in late Fifteenth-century England', in B. Hanawalt and D. Wallace, (eds.), *Bodies and Disciplines: Intersections of Literature and History in Fifteenth-Century England* (1996), 29-62, details late medieval customs prescribing such punishments, but this is no proof that the boroughs concerned actually practised them.
- ⁶⁰ EKA, Sa/AC/3/8v.
- ⁶¹ J. B. Post, 'Jury Lists and Juries in the Late Fourteenth Century', in Cockburn and Green, *Twelve Good Men*, 76; Beattie, *Crime & Courts*, 400; Sharpe, *Crime in 17th Century*, 23.
- ⁶² CCA, CC/J/Q/307/14/24 (1507), J/Q/309/19 (1509?), Thomas Wheteley.
- ⁶³ CCA, CC/J/Q/307/14/2 (1507), John Whytehome; Powell, 'Jury Trial', 104.
- ⁶⁴ CCA, CC/J/Q/356/10 (1557); J/Q/275 (1475).
- ⁶⁵ CCA, CC/J/Q/309/4v, 309/8, 309/9.
- ⁶⁶ CCA, CC/J/Q/308/7 r and v; J/Q/309/4v, 8, 9, 20.
- ⁶⁷ CCA, U4/3/44, r and v.
- ⁶⁸ L. Knafla, *Kent at Law 1602. The County Jurisdiction: Assizes and Sessions of the Peace* (1994), xxii; Sharpe, *Crime in Early Modern England*, 82; Beattie, *Crime & Courts*, 350, 439-443.
- ⁶⁹ Cockburn, 'Early Modern Assize Records as Historical Evidence', *JSA*, V (1975), 224.
- ⁷⁰ CCA, CC/J/Q/307/14/20, 25.
- ⁷¹ CCA, CC/J/Q/14/18.
- ⁷² LPL, ED654/5; CCA, CC/J/Q/337/2.
- ⁷³ Walker, thesis, 193.
- ⁷⁴ Bellamy, *Law and Public Order*, 156.
- ⁷⁵ Quoted in Beattie, *Crime & Courts*, 272.
- ⁷⁶ Beattie, *Crime & Courts*, 417.
- ⁷⁷ Edwards, 'Criminal Equity'; B. W. McLane, 'Juror Attitudes Toward Local Disorder: the Evidence of the 1328 Lincolnshire Trailbaston Proceedings', in Cockburn and Green, *Twelve Good Men*, 58;

Musson, *Public Order*, 208; Post, 'Jury Lists', 72; Powell, 'Jury Trial', 111-13; *Kingship, Law and Society: Criminal Justice in the Reign of Henry V* (Oxford, 1989), 82.

⁷⁸ Cockburn, 'Early Modern Assize Records', 222.

⁷⁹ CCA, U4/3/41v (1477); CC/J/Q/307/14/11 (1507); J/Q/337/1/3 (1538).

⁸⁰ Putnam, *Proceedings*, cxvii.

⁸¹ Hanawalt, *Crime & Conflict*, 192; Sharpe, *Crime in Early Modern England*, 109; Wiener, 'Sex Roles', 42.

⁸² Walker, 'Women, Theft', 93.

⁸³ Hanawalt, *Crime & Conflict*, 221; Briggs *et al.*, 23; Sharpe, *Crime in Early Modern England*, 106-8; R. Woods, jr, 'The Politics of Crime in Yorkist and Early-Tudor England', Paper delivered at the Pacific Coast Branch spring meeting of the Conference of British Studies, Long Beach, April 1998.

⁸⁴ CCA, CC/FA/2/361, FA/15/30.

⁸⁵ 3 and 4 William and Mary, c. 9.

⁸⁶ Plucknett, 'Commentary', cxli.

⁸⁷ N. Castan, 'Criminals', in N. Z. Davis and A. Farge, (eds.), *A History of Women in the West, III: Renaissance and Enlightenment Paradoxes*, (1993), 486; R. Gillespie, 'Women and Crime in Seventeenth-century Ireland', in M. MacCurtain and M. O'Dowd, (eds.), *Women in Early Modern Ireland*, (Edinburgh, 1991), 49; J. Laughton, 'Women in Court: Some Evidence from Fifteenth-Century Chester', in N. Rogers, (ed.), *England in the Fifteenth Century: Proceedings of the 1992 Harlaxton Symposium*, (Stamford, 1994), 98; Walker, 'Women, Theft', 92.

⁸⁸ EKA, Sa/AC/4/66 r and v.

⁸⁹ EKA, NR/JQp/1/2 (1499); CCA, U4/3/27v (1467).

⁹⁰ Helmholz, 'Crime', 2, 20.

⁹¹ Houlbrooke, *Church Courts & People*, 39.

⁹² CKS, PRC.3.1/176 (1503).

⁹³ CKS, PRC.3.1/21v (1490), CCA, X.8.3/94v (1466), X.8.3/139 (1467), X.8.3/8v (1463).

⁹⁴ Bennett, *Women in Medieval Countryside*, 105; S. M. Sweetinburgh, 'Women, Household and Community: Appledore and Hythe, c. 1400-1470', University of Kent MA dissertation, (1993), 88; H. M. Jewell, 'Women at the Courts of the Manor of Wakefield, 1348-1350', *NH*, XXVI (1990), 63; M. K. McIntosh, 'Social change and Tudor Manorial Leets', in J. A. Guy and H. G. Beale, eds., *Law and Social Change in British History* (1984), 80; *Autonomy and Community*, 256-7; Sharpe, *Crime in 17th Century*, 170-171; 'Enforcing the Law in the Seventeenth-century English Village', in V. A. C. Gatrell, B. Lenman and G. Parker, eds., *Crime and the Law: the Social History of Crime in Western Europe Since 1500* (1980), 105-6.

⁹⁵ For example, CCA, U4/3/60v (1485); LPL, ED647/2v (1502).

⁹⁶ McIntosh, *Autonomy and Community*, 256-7.

⁹⁷ McIntosh, *Misbehavior*, 86.

⁹⁸ CCA, U4/6A/2, unfoliated; 3/79.

⁹⁹ CCA, U4/6A/2, unfoliated (1610).

¹⁰⁰ CCA, U4/3/216/2.

¹⁰¹ LPL, ED644/6.

¹⁰² O. Hufton, 'Women, Work and Family', in Davis and Farge, *History of Women*, 30.

¹⁰³ Wiener, 'Sex Roles', 40-41; Bennett, *Women in Medieval Countryside*, 117; M. Chaytor and J. Lewis, 'Introduction' to A. Clark, *The Working Life of Women in the Seventeenth Century* (1982), xxxiv.

¹⁰⁴ Sharpe, *Crime in Early Modern England*, 121-4; K. Wrightson, 'Two Concepts of Order: Justices, Constables and Jurymen in Seventeenth-century England', in J. Brewer and J. Styles, eds., *An Ungovernable People*, (New Brunswick, 1980), 21-46; Sharpe, *Crime in 17th Century*, 169-71.

¹⁰⁵ K Wrightson and D. Levine, *Poverty and Piety in an English Village: Terling 1525-1700* (New York, 1979), 18; Sharpe, *Crime in Early Modern England*, 75, 150.

3. PHYSICAL VIOLENCE

On the subject of physical violence in late medieval and early modern England, a consensus could be said to have emerged on four points: judging by the numbers of prosecutions for assault and affray, non-fatal physical violence was widespread; it was overwhelmingly masculine; it was perpetrated, often for apparently trivial motives, by men of all classes; and intra-familial violence rarely appeared in court.¹ This chapter will first examine the extent and degree of severity of non-fatal assaults presented in the local courts and then discuss the reasons for the masculinity of prosecuted violence. Motives for male violence will be examined, and assaults by and on women will then be considered, including rape and attempted rape. The social status of assailants and victims will be analysed. This will be followed by a discussion of violence within the family, including wife-beating, infanticide, abortion and criminal neglect of children. It will be concluded that minor physical violence by women, unlike their verbal violence, was rarely prosecuted, whereas male violence was seen as so dangerous that even a threatening gesture by a man might result in an assault charge. Men carried weapons and so could easily inflict lethal wounds: women were more likely to do serious damage to people's reputations by verbal 'assaults' than to inflict severe physical injury. For different reasons, violence against women, or at least to wives and maidservants, was probably also under-reported.

Extent and severity of violence

In Kent between 1460 and 1560, fines for assault were so common as to constitute a regular source of civic income: treasurers' accounts sometimes contain a separate section devoted to them.² In all the secular courts whose records were examined, assaults or affrays (the terms seem to have been used interchangeably) far outnumber other criminal presentments, coming second only to such regular 'nuisance' offences as dungheaps, blocked watercourses and overgrown paths. Assaults could also be dealt with by civil action or by recognisance, so the extent of physical violence in Kent must have been still greater than appears from the records of criminal

prosecutions. A large proportion of assault presentments or indictments seems to have been common for the English lower courts, from the later middle ages right through to at least the eighteenth century, though considerable variations have been found in the incidence of prosecutions for assault, both between different jurisdictions, and within the same jurisdictions over time.³ The initial impression created by reading most minor court records is that this was a violent society, where men regularly came to blows. However, Edward Powell has pointed out that the traditional view of the late middle ages as unusually violent is in part due to the availability of more and better records, and Philippa Maddern has observed that what constitutes violence is a subjective judgement, and that at the level of gaol delivery, non-violent crime greatly outnumbers accusations of violence against the person.⁴ Assault, and in practice even assault and battery, could mean anything from a threatening gesture to grievous bodily harm.⁵ The very small proportion of prosecuted assaults resulting in death suggests that most 'assaults' were extremely minor, many perhaps not even involving physical contact, for victims of serious physical attack would have been much more likely to die than would be the case now. For most of the jurisdictions used for the present study, the ratio of fatal to non-fatal assaults cannot be ascertained, for killing would most likely be dealt with in a higher court. But the Sandwich Year Books detail fatalities as well as non-fatal assaults. From 1460 to 1560, 236 accusations of non-lethal assault or affray survive in the Year Books, while just 17 men and one woman reportedly died as a result of what seem to have been assaults, a fatality rate of only about 7%. Very minor assaults were almost certainly not recorded in the Year Books, and others were probably the subject of prosecutions under civil process, so the fatality rate was most likely less than the surviving Sandwich records suggest. The fact that the drawing of blood or other injury was included in presentments for assault as an aggravating circumstance also suggests that many 'assaults' were either extremely slight, or even consisted of threats rather than actual violence. The same word *insultum* was often used for verbal as well as physical attacks. An 'assault with drawn dagger' or 'drawn sword' which did not cause blood to be shed seems to have meant that the potentially lethal

weapon was not actually used but merely unsheathed. Many assaults, then, were so slight that they might not be prosecuted nowadays. But nowadays most men do not go about with lethal weapons, or even with tools capable of inflicting fatal injury. The typical background to early modern homicide was, as James Sharpe has pointed out, a fight between two or more men which went too far, and such homicides differed from assaults only in that a fatality occurred.⁶ Even if fatalities resulted from only a tiny proportion of assaults, a very large proportion of unnatural deaths were the result of assaults, and fear that one might have inflicted a fatal wound could cause an assailant considerable anxiety. William Peryn of Maidstone went away 'for a long time', fearing the consequences of his attack on George Bekerton with a hedgebill would prove fatal, and seems to have returned in 1505 only when he learned that Bekerton had survived.⁷

Masculinity of violence

Although in Scotland things may have been different, all the English evidence indicates that violence, or at least, prosecuted violence, was perpetrated very largely by men.⁸ From manor courts to assizes, and from fourteenth-century Yorkshire through to eighteenth-century Surrey, the proportion of women charged with assault varies only from about eight to twenty per cent.⁹ In late medieval Kent the proportion of women assailants seems to have been even smaller than elsewhere. Out of 1146 people accused of assault, only 31 were female (2.7%). An almost equally small proportion of female aggressors was found in the Kentish manor of Appledore in the fifteenth century.¹⁰ Furthermore, assaults, like property offences, could be prosecuted by civil process, unless the defendant was a married woman; indeed, Martin Ingram claims that the majority of assault prosecutions in the seventeenth century were brought by civil action.¹¹ The preponderance of men was thus probably still greater than appears from the criminal prosecutions, although the relationship between prosecutions and actual assaults committed by men and women cannot be known.

That most physical violence was by men is not surprising. For one thing, there is little doubt that men spent more time than women in alehouses, though drunkenness

was hardly ever mentioned as an explanation or excuse for violence. An exception to this was Thomas Valowes, surgeon and barber of Sandwich, who in 1535 'did grievously with a dagger strike and wound Richard Spencer... in his accustomed drunkenness'; he was pardoned 'for his poverty and low submission', on condition that 'from henceforth he shall use himself of a sober fashion', carry no weapon in the town, avoid bad company and remain at home after curfew, 'except it be in the mystery of his occupation'.¹² The rarity of references to drunkenness suggests that it was seldom seen as a problem, but possibly the tendency of relatively small quantities of alcohol to make men more quarrelsome was not yet appreciated. Men drinking together was one situation where violence could arise. In 1518 four men drinking in William Easton's house in Sandwich had their conversation reported later to the mayor and jurats, presumably because it had led to an affray. Maurice Davy, labourer, had expressed extravagant regard for Kentishmen, to which John Richardson, a tailor, had given the provocative reply

Thou art a fool, there is never a Kentishman will do thee good if ye be here this seven years.¹³

The inane argument which ensued, reported at great length, has all the hallmarks of a public bar quarrel between men who were spoiling for a fight. Assaults committed with pots, jugs and candlesticks suggest indoor violence, very likely located in an alehouse, but these amount to only about 3% of the implements allegedly used in assaults.

Only men seem ever to have been presented for playing cards, dicing, bowls, tennis or other games, so these may have been more exclusively male leisure activities than drinking in alehouses, though they often happened in the same locations. Quarrels, very likely fuelled by drink, while playing games also gave rise to assaults. John Gilbert drew his dagger on Henry Phelip while both were playing bowls in 1506, and William Ive was fined 3s 6d for an affray in his bowling alley in 1517.¹⁴ If the playing of 'unlawful' games frequently gave rise to such incidents, this would contribute to explaining both the predominance of men in assault cases and the eagerness of the authorities to suppress such apparently harmless pastimes. Even

legally-sanctioned sporting activity, though, could result in fighting: Richard Harleston was fined 3s 6d for an affray and drawing his weapon at the butts in 1517.¹⁵

The predilection of many men for competitive games might be interpreted as a form of controlled aggression, and to be in part determined by the male hormone testosterone, which is said to predispose to aggressiveness.¹⁶ Although this clearly does not constitute a full explanation of either modern or pre-modern male violence, it may mean that men are on the whole more likely than women to respond to certain stimuli with aggression, particularly if the use of aggression is socially acceptable in their peer group. It is often claimed that medieval and early modern men considered violence an acceptable means of settling disputes, and that this view only ceased to be widespread in the late eighteenth or early nineteenth century.¹⁷ Violence, it has been suggested, was probably considered a normal part of life and fighting an integral part of male culture; willingness to fight in response to provocation was an important constituent of male honour.¹⁸ There is some sign that violence in response to provocation was considered excusable, and that it did not take much to constitute either provocation or an affray. On 11 September 1521, Richard Copley and Marmaduke Stringer were examined by the mayor and jurats of Sandwich about an affray between them. Since 'at that time the truth could not be found', both were bound over and ordered to appear again later. On 20 September, John Berins testified that Copley had said to Stringer 'do thy business', whereupon 'with a sword ready drawn in his hand the said Marmaduke would have stricken', had Berins not prevented him. Copley was fined 10s for affray, and Stringer apparently not fined at all.¹⁹ So extremely minor verbal provocation was enough to exonerate a man from blame for drawing his sword. Similarly, Hugh Charler, a servant of Edward Parker's, was fined 21d, which seems to have been the standard fine in Sandwich for a minor assault, for 'giving occasion to John Evering, weaver, to strike him', while Evering was apparently not fined. Unprovoked assault was taken seriously: John Gillowe of Walmer was fined the huge sum of 30s for striking William Cooper with a dagger 'without any occasion given'.²⁰

But if such violence was considered acceptable, why were so many men prosecuted for minor assaults? The answer may be that, from the viewpoint of the authorities, physical violence was two-edged. In the absence of a police force or standing army, society, both nationally and locally, needed men to defend it by fighting when necessary, but this created a dilemma for the authorities: men's violence could be disruptive and harmful to society, yet legitimate violence could not be discouraged. In 1553 the Canterbury Burghmote decreed that

[I]n consideration that now of late time certain officers were contrary to the order of law stricken in the King's high street and no rescue or help given to them by any ...inhabitants in the apprehension and taking of the offenders for that the said inhabitants are not furnished with weapons in their houses, [every householder] shall immediately after the making hereof provide and have in his house such sufficient weapons, staves or clubs always ready for to rescue and aid the officer or officers which so shall go about to arrest or apprehend any such malefactors and offenders and ... when occasion shall be ministered the said householders and their servants and apprentices shall be always ready with the said weapons to aid and defend the said officers.²¹

In the few assaults in Canterbury in the 1550s of which record has survived, no weapons other than swords were mentioned, so it is possible that at that time the citizens were not all routinely in possession of staves, knives or daggers. But clearly, 'weapons, staves or clubs' could be put to other uses than the rescue of beleaguered law officers, perhaps especially by 'servants and apprentices', so official orders for men to have weapons were as likely to increase the level of unauthorised violence as to contribute to keeping it under control. The reason so many apparently very minor assaults by men were prosecuted is probably that men could not be banned from carrying weapons nor discouraged from practising their use, but the threat of disruptive male violence was so great that the mere act of shaking a fist at another man had to be treated as a punishable offence. That there was what might now be termed a zero tolerance policy towards assaults by men is also indicated by the fact that assault presentments never include any reference to the defendant having been warned before, as is common with many other minor offences: a single act of drawing a weapon, or boxing someone's ear, resulted in a prosecution. It has been pointed out that serious outbreaks of violence were rare in England compared to the rest of

Europe.²² This and the fact that comparatively few assaults proved fatal might suggest that being tough on assaults committed by men was by and large an effective strategy.

Philippa Maddern maintains that carrying weapons did not necessarily increase the level of violence, since many assaults were carried out with farm tools.²³ But this is rather like the arguments currently used by the pro-gun lobby in the United States. While violence undeniably comes from people, not weapons, the use of weapons makes it far more deadly. Late medieval Kentishmen did use farm and craft tools in assaults, and they could be lethal, but their use was far exceeded by that of daggers, knives and swords, and the fact that men routinely carried these weapons added greatly to the risk of a fatality resulting from a quarrel. The 441 implements mentioned as having been used in assaults include a few formulaic 'staves and knives' or 'staves and daggers' which are probably not to be taken at face value.²⁴ But daggers were said to have been used, or at least drawn, in 92 cases, knives in 79 and staves or sticks in 71. The use of fists alone slightly outnumbered that of swords, at 51 to 47, while in another nine cases the assailant was simply said to have had a 'drawn weapon'. About 40 assorted tools and agricultural implements were alleged to have been used. Much the commonest of these were the 20 various kinds of bills, while only two men used pitchforks and one a dungfork.

Motives for male violence

What, if anything, men assaulted other men for is in most cases not recoverable. As we have seen, brawls could develop out of arguments in alehouses. But the alehouse does not appear to have been the main location for assaults. Fights sometimes developed at the market or in shops, either wholly or in part over money. In Sandwich in 1532, witnesses gave evidence about a 'fray' between Richard Cristmas, shoemaker, and John Gefferey, at Cristmas's stall, in the course of which Richard 'hurling an iron belonging to his occupation called a stopping stick brake the said Gefferey his head'. Cristmas had told Gefferey he owed him 'for a pair of shoes soleing for thy wife', to which Gefferey had retorted that the shoemaker 'owest me

for a brown loaf'; the assault took place after 'many opprobrious words' had been exchanged.²⁵ A somewhat similar argument took place in January 1531, when Richard Crosley of Smeeth went to the shop of Thomas Smith to fetch a brass ladle of his, which he had left there to have an iron handle attached to it. Smith told him that he had already returned the ladle, and that Crosley had not paid him for his work.

[A]nd Richard demanded when that was, and Smith said at that time when thou hadst a drab in thy company here and Richard made answer and said no drab for she was my wedded wife and thou art not honest to say that I had my good and I had it not... and so multiplied further in words till every of them called the other knave.

Eventually, Crosley challenged Smith to come outside the shop, and while the onlookers were trying to prevent a fight,

a dog of the said Richard Crosley came toward the said Smith and Smith threw a stone at the said dog and rebuked the dog and thereupon the said Richard Crosley threw at the said Smith two stones....

In the fracas which ensued, Smith appears to have been seriously injured, not by Crosley, but by a tinker, Richard Amore, one of two bystanders who had intervened 'for to depart them'. If the participants had not between them been in possession of staffs variously described as five or six feet long, 'a short bill' and 'a trencherknife' as well as the stones, less damage would have been done.²⁶

In the dispute between the shoemaker and the baker, money allegedly owed seems to have been the only issue, but Thomas Smith seems to have been inviting violence by his apparently gratuitous slur on the sexual honour of Richard Crosley (or his wife), and Crosley was finally goaded to attack him by the assault on his dog. These are among the very few physical assault cases for which the background can be traced, so it is impossible to tell how typical they are. But both fully support the conclusion already reached by others, that men's tempers were short and self-control little developed, with assaults being often for trivial motives and resort to violence frequently triggered by an immediate slight or insult.²⁷ Indeed if everyday business was routinely conducted with the concern for customer relations shown by Richard Christmas and Thomas Smith, it is hardly surprising that prosecutions for assaults by men occupy so much space in the court records.

Various historians have emphasised that the operation of the law could in itself be productive of disorder or provoke further conflict.²⁸ Although at the level of minor crime this seems true only to a limited extent, the largest class of assaults where a motive can be discerned are attacks on law officers in the execution of their duty. Thirty-nine people, including four women, were accused of assaulting officials, six of whom were apparitors, presumably serving citations to the church courts. Probably most of the lay officers were also issuing summonses or attempting to make arrests, though this is only made explicit in two cases. John Cotell assaulted and drew blood from the serjeant at mace Christopher Breche while the latter was arresting him in 1503, and in Sandwich in 1493, Peter Houghson, '*alias* Peter the Robber' drew his sword on the officer who was arresting him, and would have killed him had not Robert Wilson intervened: in the fight Peter himself was killed.²⁹ The intervention of third parties seems sometimes to have exacerbated fights rather than ending them. Assaults on officers could also be involved in rescuing those who had already been arrested: Nicholas Hilles of St Lawrence Thanet, 'gentleman', with others, assaulted the mayor of Sandwich and others and rescued Hilles' neighbour John Mantell who had been arrested.³⁰ Robert Absolon, barber, assaulted Thomas Dyryk the borsholder of Northgate in Canterbury and rescued Alice Grene, who was to have been examined 'of such ill rule and misbehaviours as was supposed to be committed and done by the said Alice' from his custody in 1533, while in Fordwich in 1460, William Bridge and others assaulted the bailiff John Auncell and abducted his prisoner Thomas Cheyne. Bridge was then presented as a bawd between Cheyne and his (Bridge's) wife, though the connection between these incidents, if any, is obscure.³¹ Assaults on the watchmen may have meant that the assailants were planning a crime. In New Romney in 1487 John Holle's servant John Parker was put in the stocks for making affray to the watch and rebuking them, the only recorded instance of anyone, male or female, being given a shaming punishment for an assault. In Maidstone, John, Richard and William Lylly and Thomas Smith attacked the watchmen at midnight, and in Sandwich in 1495, when John Borham and John Combe started an affray with the watchmen, Borham received a wound which proved fatal.³² Assaults on officials

understandably attracted heavier fines than average: John Egremont of Maidstone was apparently unique among male aggressors in being amerced only 4d for his assault on the borsholder in 1480, though the same small fine was imposed on a female brewer in Eastry who assaulted the aletaster.³³ In one case, a demand for the payment of local taxes led to an assault: John Clark, junior, of Sandwich drew his dagger and 'strake Oliver Friend one of the treasurers for demanding of the town's duty' in 1560, and was fined 10s. Civil litigation could also give rise to physical violence: Thomas Fyeff of Deal attacked John Baker, who had commenced a court action against him, with his dagger in 1550.³⁴

In only five cases, two of which involve women, was an assault said to have been committed in the course of a theft. This may be because theft with violence would constitute robbery and should have been tried at the assizes. But the non-violent nature of most late medieval and early modern crime is well established, and it seems that the great majority of the assaults in the local courts were spontaneous outbursts of temper or responses to immediate provocation rather than premeditated actions in the furtherance of another crime.³⁵ There may have been many other men who could offer no better explanation than Thomas Harwood, tailor of Sandwich, who, when examined in 1523 'on the cutting of a Scot's ear, called James Finnison...confessed he did cut the said ear of his own unhappy mind'.³⁶

Female violence

If masculine culture, the availability of weapons, the effects of drink and possibly hormones all encouraged men to commit assault, were there any factors which positively discouraged women from doing so? Girls were doubtless not socialised to consider physical violence acceptable in the way that men probably were, but women are not constitutionally immune from impulses to violence, and it is unlikely that women, particularly of the 'lower sort', obeyed the precepts of the (slightly later) advice literature, sermons and homilies, to be meek and submissive, to any greater extent than they observed the injunctions to be chaste or to avoid gossip and

defamation.³⁷ Susan Amussen maintains that women's brawls, though frequent, are unrecorded because women were usually unarmed, though she can offer no evidence for the existence of these unrecorded events.³⁸ Andrew Finch claims that (in Normandy) women were not inherently less violent, but that their position in society insulated them from most violence. Carol Wiener emphasises women's dependent position and suggests that family members may have turned their grievances over to (male) heads of families to settle, and John Beattie explains the lack of evidence for violence by eighteenth-century women by the restricted scope of their lives as well as their training for their social role.³⁹ It is true that women spent less time drinking in alehouses, seem not to have engaged in competitive games, and seldom to have travelled far from home. But women of the middling and lower sorts were not cloistered: they participated in running businesses, went to market, and had to use shared facilities like wells, all activities which could lead to disputes. As for Wiener's suggestion that male heads of families used violence on behalf of other family members, we have seen that much male violence seems to have been characterised by spontaneity and was in response to immediate provocation, rather than the outcome of long-standing family feuds. Garthine Walker has suggested that the vocabulary, and therefore the concept, of righteous violence was masculine, and that it was difficult for male plaintiffs to accuse female assailants in the absence of a convention of female violence.⁴⁰ But this argument can be easily reversed: perhaps the language of female violence is missing because so few women were accused of violence. Granted the probability that much more violence was perpetrated by men than women, it still needs to be established whether the very low incidence of assault charges against women means women actually used physical violence so rarely compared with men, or whether women's violence was under-reported compared to men's. To do this we need to examine whether those female assaults which *did* result in prosecution have any special characteristics.

Female assailants

Only 31 women were found accused of physical assault. Twenty of these appear to have been women acting on their own, though in eleven cases women assaulted with other people. In most of these cases, the co-defendants were male relatives, usually the woman's husband. No woman appears accused of more than one assault. In addition to this meagre total, one woman was accused of inciting a man to assault another woman: in 1507 Agnes Deryk of Canterbury was said to have 'exhorted and procured' Thomas Broke to commit assault and battery on Isabel the wife of John Farre. Like several other women prosecuted for physical violence, Agnes was in other trouble, being also accused of being a scold.⁴¹ Two affrays involving several people included women as both assailants and victims. One of these was an episode in a feud between two elite families in Fordwich, involving three women and two of their husbands, and the other took place at service time and the participants, three women and one's husband, were cited in the archdeacon's court.⁴² Otherwise, (discounting Agnes Deryk) in only nine cases were both assailant and victim female. The only instance of apparently mutual assault between two women is also from the church court, where physical violence was only prosecuted if it involved clergy or took place on consecrated ground or during worship. Agnes Chese and Margaret Pymme fought 'with their fists' in Chilham church '*quasi ad sanguinis effusionem*' in 1501.⁴³ The extreme rarity of mutual assaults between women, or groups which included women, and the fact that special circumstances attended all those which are recorded, might suggest that such episodes were often not prosecuted. If women could fight in church it seems unlikely they never did so elsewhere, so it is possible that assaults by women on other women were regarded as less threatening than attacks by men, and prosecuted only if the circumstances made them particularly reprehensible. Certainly the few recorded instances of woman-on-woman physical violence do not appear to have been as trivial as seems to have been the case with some man-to-man violence which resulted in presentments for assault. In Queenborough, Eleanor Wade attacked Petronilla Amcot with a 'mardyn pike', drew blood and was fined 3s 4d in 1496, and

John Rugley's wife in Sandwich in 1543 assaulted 'one Marion' with a stone and broke her head.⁴⁴ In Canterbury in 1538 one Carter's wife

did take a pair of shears price 3d and a basin price 2s 8d and violently did cast it at the head of ... Johane Wood then being in her own house within the parish of Saint Mary Bredman's... And furthermore with violence did take away from the said Wood's wife contrary to the king's peace certain work which at that time she wrought upon.

Carter's wife was also indicted as a 'common barrator or scold and a bearer of tales'.⁴⁵ Two other assaults by women on women were combined with theft.⁴⁶ Alice Kempe of Thanet had assaulted her own mother and was in addition considered a common defamer of her neighbours in 1500.⁴⁷ William East's wife was fined 40d for beating the wife of William Barow in 1519, which sounds like a serious assault, and Jackamine Wattys, who beat 'a poor woman' in 1508, was twice presented for scolding.⁴⁸ So it seems no woman was presented simply for a minor assault on another woman, unless it fell within the jurisdiction of the church courts: in the secular courts either the assault was serious, or the woman had also committed other offences.

In chapter two, it was observed that men seem to have been less often presented than women for very trivial thefts. In the case of assaults, at least by women on other women, it seems that the opposite may be true: men were presented for very minor assaults, while woman-on-woman physical violence merited the courts' attention only in exceptional cases. This, combined with the fact that more women were presented for scolding than for assault, suggests that verbal violence from women was more feared, or more frowned upon, than physical violence.

Just ten cases were found where a woman on her own was accused of assaulting a man. Three of these appear to have been mutual attacks, where it is unclear who started the fight. In contrast with the women's assaults on other women, only one female assault on a man appears to have been serious. No dangerous weapon is mentioned in any of these assaults, although Alice Halkynden of Walmer was accused of 'hitting' (*percussio*) a priest.⁴⁹ This of course brought her to the attention

of the church court, and assaults on people in authority were similarly unlikely to be ignored by the secular courts. 'Black John's wife' assaulted the borsholder of Ridigate in Canterbury in 1506: this was doubtless connected with her presentment as a bawd at the same session.⁵⁰ Constance Strynger, brewer, of Eastry, assaulted the aletaster when he came to taste her ale and point out that she was not complying with regulations.⁵¹ In Canterbury in 1521/2, Christopher Goodbarne paid 4s 1d

for a fine against his wife for disobeying of Mr. Mayor in the market in the price of egg selling, and for casting of eggs at Thomas Gere, serjeant, in the presence of Mr. Mayor.⁵²

Official interference with trade, then, could rouse a woman to physical assault. However, the only apparently serious physical attack by a woman on her own against a man was perpetrated by Katherine, wife of Stephen Whetston, in 1554. She assaulted 'one Raynold', a brother of the hospital of Thomas Ellis in Sandwich, 'by the which hurt the said Raynold is like to die'. Stephen Whetston, smith, was bound over for his wife to appear when summoned and for her to keep the peace, but six weeks later Raynold must have been on the road to recovery, for Whetston was only fined 21d for Katherine's offence, an example of a husband being held fully responsible for his wife's offence.⁵³ As a brother of the hospital, Raynold must have been old and probably infirm: an able-bodied man would be likely to get the better of a female assailant, which goes some way to explain the paucity of women's attacks on men.

Occasionally, wives participated with their husbands in affrays which were probably episodes in ongoing disputes with neighbours. Of the eleven women who were involved in group aggression, two wives had simply joined their husband in an assault on another man. The others were involved in larger affrays, one of which had fatal consequences. In Sandwich in 1491, according to the coroner's jury, Galiard Cassantz and his wife made assault and affray on a servant of Thomas Elwyn. Galiard wounded the servant with his sword, whereupon Thomas inflicted a mortal wound on Galiard with a dagger.⁵⁴ Galiard's wife had evidently played a minor role in this tragedy: presumably she was unarmed and unable to intervene to save her

husband. This perhaps illustrates why violence by women seldom found its way to court. Any assault, or even threat of violence, by a man could theoretically escalate into fatal violence. As women did not go about with daggers and swords, their violence was highly unlikely to have lethal consequences. The only mainly female brawl involving more than two women which came to court was one that took place at service time; like the fight between Margaret Pymme and Agnes Chese, record of this has survived only because it happened at an inappropriate time or place. Wiener notes that in all 35 cases in the late Elizabethan Hertfordshire assizes and quarter sessions where women were charged with assault, at least one male accessory was involved.⁵⁵ She implies that it took a man to get a woman involved in an assault, but it is just as likely that these cases came to court because a man was involved in each of them, and that had they been committed by women alone, they might not have been indicted.

No fewer than 14 of the 31 women assailants were either themselves in trouble for other offences, or had male partners who were. In 1510 or 1511, a presentment was made of John Elys,

late of London, yeoman, having a wife in the aforesaid city, [who] lives... in adultery here at Canterbury with Margery Preston, to the grave annoyance of most of the citizens in the aforesaid city.⁵⁶

Subsequently the jury of Westgate ward presented

John Elys for a fray making with the constable and the borsholder and all the company that came with the constable, and the wife hurt Richard the constable's servant.⁵⁷

This was formalised into indictments against Elys and Margery, the problem of whose ambiguous marital status was resolved by referring to her as the widow of Ralph Preston, for assaults on January 20th 1511, on John Austen the constable, Thomas Becheham the borsholder and Richard Poswyk and John Rycher.⁵⁸ Robert Plomer and his wife were presented at Maidstone manorial court in April 1500 for assault on John Wylson; at the same court the grand jury presented Robert, who

continually frequents taverns and stays up at night keeping ill rule all night in his house harbouring badly and viciously-disposed men and women.⁵⁹

If civil litigation records were available or had been used for all the jurisdictions, more of these female aggressors might be shown to have been members of notoriously quarrelsome or disorderly families, though not necessarily from the lower orders. The backgrounds to the two group affrays in Fordwich which included women can to some extent be traced through the records of civil pleas. In 1480, Thomas Southland, a former mayor of Fordwich, his wife Alice and married daughter Agnes Tropham were involved in an affray with Robert Cook, another former mayor, and his wife. A few months earlier, Cook and his wife had sued both the Southlands and Agnes Tropham and her husband for trespass. The quarrel between the two families seems to have been about a path which Cook had blocked, which Southland claimed he had the right to use.⁶⁰ The assault by Margaret, wife of Thomas Goderich, 'and others unknown' on John Cosyn in his own house, for which Margaret was amerced 12d, can also be shown to be part of a larger dispute. John Cosyn sued Goderich and his wife for trespass in December 1479, claiming that Goderich had broken and entered and depastured his close on 26th July, and that Margaret and others had come and assaulted him a few days later. Margaret was presented at the view of frankpledge for the assault, but her husband's alleged offence appears only in the records of civil pleas, where litigation dragged on till July 1481.⁶¹

Women victims of violence: non-sexual assaults

If most women presented for assault were probably classic cases of disorderly females, is the same true of female victims of violence? Discounting affrays between several people, the mutual assaults between a man and a woman, and cases that were clearly rape, attempted rape or wife-beating, forty alleged assaults by men on women can be traced. There is no evidence that any of these was a sexual attack, though this cannot be ruled out. Most of the female victims, unlike the female assailants, do not appear on any other occasion, so it can only be inferred that they were not, on the whole, particularly disorderly women. In Fordwich, where most information is available, of six female victims of assaults, five were connected to major office-holding families. Admittedly, two of these victims were the

exceptionally disorderly Agnes Tropham and her daughter.⁶² But the others included the wife of a long-established brewer and jurat, and a female member of a family which supplied three mayors.⁶³ In 1509 Edward Hillys was presented for breaking and entering the houses of both Richard Strikingbold and William Watson and assaulting both of their wives, as well as for a mutual assault with Sidrak Priler, in addition to being a barrator, disturber of the peace and of bad conversation and behaviour. For this last offence, Hillys was banished. For the assault on Joan Strikingbold he was fined a pound, but his attack on Sybil Watson elicited a fine of only a shilling. Richard Strikingbold, Joan's husband, was described as a labourer, but a Robert Strikingbold was bailiff at the time.⁶⁴ While possibly Sybil Watson was less seriously injured than Joan Strikingbold, this evidence could be interpreted as suggesting either that men hardly ever attacked women *not* connected to leading families, or that when they did, the assault was less likely to be punished by a heavy fine, if indeed it was prosecuted at all. Arguably, Hillys might not have been presented for the attack on Sybil Watson at all, had he not been guilty of the other offences, and his prosecution for assaulting Sybil may have been part of an orchestrated attempt by the bailiff and his family to get him out of Fordwich. The only successful prosecution for rape in Fordwich also had a member of an elite family as victim. Thomasine Beverley was only a servant of Christopher Beverley, gentleman and most substantial resident of Fordwich, but was presumably also a relative of his. In 1483 Thomas Morys broke and entered Beverley's house and raped her. And the only mutual assault between one man and one woman in Fordwich, between John Dorant and Anne Cook, involved the wife of a former mayor.⁶⁵

None of the female victims of male assaults in the other jurisdictions, though, can be identified as well-connected, and the three about whom anything is known seem rather to have ranked among the disorderly. The widow of Francis Sigors, who complained in Sandwich in 1521 that John Pynnok had assaulted her, had been punished as a scold a few months earlier: Pynnok first denied the assault charge, and then when she said he had hit her with a shovel, admitted hitting her, 'but with his fist'.⁶⁶ In Canterbury on St George's day 1503, Richard Whope

gave a stroke to William Carre's wife, and after came Carre and brake up Whope's door willing to have stricken him.⁶⁷

Whope appears not to have been prosecuted for this assault, evidence of which has only survived because of Carre's attempt at retaliation. Whope was presented for making outcries in the night, and Carre for suspicious rule and keeping a harlot: both seem to have been members of the unruly lower orders.⁶⁸ This again might be taken to suggest that attacks on women of the poorer classes, and particularly of the disorderly poor, were not considered worthy of judicial attention unless they were quite severe. After Christopher Hamond's wife had been presented for 'ill living by reason whereof assaults and affrays and other unquietness are made and suffered' and banished, a man called Newell was presented for beating and ill-treating her. This assault might have been presented because of its severity, or because it was a symptom of the 'unquietness' created by the Hamond household.⁶⁹

In the case of the female victims whose background is unknown, it is impossible to judge whether they represent the tip of an iceberg of violence to women, or its totality. A few seem to have been particularly unpleasant or severe. In 1534, Robert Johnson, his servant William Assheton, George Wakefield and Thomas a Lee assaulted and 'ill-treated' Johane Fitt or Fill; this is the only case of an attack by several men on a woman, and, curiously, one of only two assaults where the assailants were recorded as being pardoned.⁷⁰ The most serious assault on a woman was that in 1503 by Richard Brice on William Ive's wife, which caused her to miscarry of twins: he was fined 13s 4d for this.⁷¹ The carpenter who attacked 'Williams' widow' with a sword in 1554/5 drew blood and probably inflicted serious injury as he was remanded in custody. Thomas Sympson's assault in 1505 on Katherine Asby resulted in his being fined 6s 8d, again suggesting she was seriously hurt.⁷² But the other assaults made by men on women do not appear to have been particularly serious. Only three men were reported to have drawn blood from a woman, and only in eight cases was any weapon other than a fist apparently used. Fines for assaults on women cannot be shown to be either higher or lower than those

for attacks on men. With the notable exception of violence within the family, which is dealt with later in this chapter, there is no evidence, except in Fordwich, that non-sexual violence to women was under-represented in court.

Sexual attacks on women

It is quite possible that some of the assaults on women discussed above were sexual attacks. Other studies indicate that rape or attempted rape may be concealed in charges of assaults on women. Nazife Bashar found in the late sixteenth and seventeenth centuries some assault charges where chance evidence revealed that the attack was sexual, and Finch has pointed out that in medieval common law, 'assault' could include rape. Briggs, Harrison, McInnes and Vincent cite a manor court imposing fines for a variety of offences, including one that involved reviving an obsolete law, in order to enable this minor court to deal sufficiently severely with an attempted rape.⁷³ The subject of rape also presents an opposite difficulty: much that was not rape could at this period be prosecuted as such. J. B. Post has shown how the Statutes of Westminster of 1275 and 1285, and the 1382 Statute of Rapes effectively turned the law of rape into a law offering recourse to husbands and families of eloping or abducted women, at the expense of victims of 'real' rape. Edward Powell has inferred from the large proportion of clergy on rape charges in the early fifteenth century that in many cases the true offence was clerical fornication or adultery, and that rape indictments may have been used similarly against laymen. Philippa Maddern has suggested the possibility that a rape charge might be used to punish the customers of prostitutes, possibly at the same time protecting the honour of their husbands, and J. M. Carter claimed that appeals of rape could be a way for women to avenge wrongs done to their families, or to ensnare husbands.⁷⁴ However, it is unlikely that any of the charges of rape in the Kent courts conceal any of these other offences: they are extremely few, none of the defendants were clergy, and most alleged victims were children or young girls. Indeed, apart from the fact that the legal confusion between abduction or elopement and rape is well-documented, the very small numbers of rape charges reported in almost all studies might lead to the

conclusion that if some charges of rape were really about something else, then real rape can hardly ever have been prosecuted.

There is little doubt that the 'dark figure' for rape was even greater than for other offences.⁷⁵ In addition to the difficulties and embarrassment that would be involved for a woman in bringing a charge of rape, and the very low conviction rate for this offence, a rape victim would be advertising the fact that she was no longer virgin, thus diminishing her own marriage chances. The weight of proof would be on the victim: she had no chance of getting a conviction if she was pregnant, still virgin, or could not prove that she had resisted. In the light of Garthine Walker's contention that there was no acceptable language of violence for women, proving resistance may have been problematic.⁷⁶ A woman who brought an unsuccessful charge of rape was likely to find herself accused of defamation by her alleged attacker, of having consented to have sex with him, or, in the case of appellors, arrested for false appeal.⁷⁷ Although the nature of the records used for the present study does not permit it to be demonstrated, evidence from other times and places suggests that the character of the alleged victim often became the main issue in rape trials.⁷⁸

Reports of very few charges of rape and exceptionally low conviction rates, even by medieval and early modern standards, are universal. At the Kent assizes between 1559 and 1570, only seven cases were heard, none of which apparently resulted in conviction.⁷⁹ For the fourteenth, fifteenth and early sixteenth centuries, it might be assumed that the confused state of the law on rape discouraged prosecutions. However, statutes of 1555 and 1597 indirectly established abduction and rape as separate offences, and in 1576 rape became a non-clergyable felony, but there is no sign that greater clarity in the law led either to larger numbers of charges or to a higher conviction rate.⁸⁰ Some historians, writing from a feminist perspective, have found in this low incidence of both prosecutions and convictions unsurprising evidence of male indifference to sexual attacks on women in a misogynistic age, while male historians tend to ascribe it to the difficulty of proof.⁸¹ But if, as Miranda Chaytor has claimed, rape was seen as theft (from the husband or father) it might be

expected to have been taken seriously, even if concern for the victim's feelings was not the main motive for prosecution.⁸² Possibly, though, husbands' outrage at their property being 'stolen' might be offset by reluctance to be seen as in effect having been cuckolded by a rapist. As for proof, it was perfectly possible for a female neighbour of good credit to examine an alleged victim soon after an attack and give evidence in court about the probability of rape, as happened in one case in the church court.⁸³ Possibly the low incidence of rape cases should be seen in the context of the very small numbers of all sexual offences other than consenting heterosexual sex to be found in court records, and the prominence of man-to-man violence; when there was no real taboo on male violence to other males, perhaps fewer men felt an urge to sexually attack women. Nevertheless, the very low incidence of rape charges where the alleged victim was an adult suggests that such cases were heavily under-reported.

Allegations of rape and attempted rape appear in small numbers in the ecclesiastical and secular tribunals, spread over the whole period. In the church courts, their appearance may be surprising. Patti Mills found only three rape cases in her sample from the Canterbury consistory for the late fourteenth and fifteenth centuries, and concluded that the church courts had effectively lost jurisdiction over it, while Richard Wunderli found two in the records of the London Commissary court for 1470-1516, and assumed that this, being a felony, should not have been tried there.⁸⁴ The hearing of attempted rape cases in the church courts is less remarkable: as Richard Helmholz has noted, the common law was ambiguous about uncompleted crimes, so attempted rape, like attempted murder, found its way into the church courts.⁸⁵ In fact, though, some attempted rapes were presented in the secular courts, and the church court sample used for the present study contains only two allegations of attempted rape and seven of actual rape. Interestingly, one of these involved a single woman, Isabel Coppyn of Whitstable, who was cited in 1541 for being pregnant by William Rushe. The belief that rape could not result in pregnancy cannot have been universally held, for Coppyn claimed that Rushe had raped her. She was ordered to prove this, and failing to supply proof, she received one day's penance.⁸⁶ Rabarga Hanfeld of Chartham, charged with adultery in 1519, admitted having sex

with James Webbe, but claimed she had been forced (*coacta*). She too was ordered to prove the charge, but the outcome of this case is not given.⁸⁷ All but one of the other cases in the church courts seem to have been rapes or attempted rapes of young girls.

Various studies have reported a large proportion of sexual assaults against little girls, and some have claimed that for these, conviction was relatively easy to obtain.⁸⁸ But none of the four rape cases involving child victims in the Kent assizes for 1559-1570 resulted in conviction, and in the church courts, convictions for sexual attacks on young girls are equally hard to find. William Mulley of Canterbury succeeded in compurgation when charged with raping John Childmell's daughter Margaret in 1492. Although no other successful compurgations are recorded, arrangements were to be made for Thomas Yeard to purge himself of the charge of attempted rape of William Harris's daughter in 1492, and in 1491 for Thomas Hall's compurgation for the rape of one *puella* of John Grene of Patrixbourne, and the attempted rape of another. In the best-documented case from the church courts, John Lambrest *alias* Hamon of Canterbury was cited in 1532 for adultery with the twelve-year-old daughter of a man surnamed Brushing, (which might not technically be rape as she was over 10) and with Thomasine Stone, aged seven (which would count as rape even if the child had not resisted). Thomasine's father, Martin Stone, who was later to be a sub-bailiff, brought two men who claimed to have witnessed the rape, and Joan Nele, who testified that she had seen the child after she had been 'polluted' by Hamon, and that she had been bleeding and 'violently ruptured'. Nevertheless, Hamon denied the charge and arrangements were to be made for him to purge himself, although if he did so, it was not recorded.⁸⁹

In the secular court records, there are three allegations of attempted rape, five of rape, and one which might be either. Five of the alleged victims seem to have been young girls, being described variously as *puella*, a servant, a maiden, a daughter and under the age of thirteen. Two were clearly adults, being described as a wife and a housewife. The latter may also have been a prostitute: in December 1514 Agnes

Tego was presented at Canterbury for keeping a suspicious house and permitting John Arnold and Mary to 'live viciously in their bodies' in her house, Arnold (who could not be found) for assaulting and carnally knowing Mary and beating her 'so that her life was despaired of', in August that year, and Mary for 'living viciously'.⁹⁰

Ruth Karras has suggested that in cases where a man was accused of raping a woman who was simultaneously charged with prostitution, the woman had probably accused the man of rape and he had claimed that she was willing, so the courts were uncertain whom to prosecute.⁹¹ Such an explanation must lie behind this cluster of presentments, but if Mary had been as badly beaten up as was alleged, it might have been thought that her resistance was manifest, in which case this could be adduced as evidence of the male jury's unsympathetic attitude to adult and sexually experienced rape victims.⁹²

Sexual attacks which fell short of rape, though technically only misdemeanours, might be as traumatic for the victim as rape itself. The Frenchman alleged to have attacked Nicholas Graunt's daughter in 1511, 'intending rape', was said to have thrown her to the ground and cut her *secreta carnalia* with a knife.⁹³ In 1519 a Canterbury jury presented that Garard Everson

with force took and kept one Johane Hudson in his house locked in a parlour by the space of 7 hours and more against her will and the same Johane would have ravished and one Richard Marley, tanner, had not come and the said Johane rescued, etc.⁹⁴

Garard Everson was 'punished', which in Canterbury probably meant the stocks or the cage. Even when violence was not used but only threatened, attempted rape seems to have been taken seriously in Canterbury. In 1552

John Vandepere, surgeon, Frenchman, came into the house of John Cotman in the parish of our Lady of Northgate.....and there he found the wife of the said John Cotman and the wife of one John Story and he asked Story's wife what she made there and she said that they were appointed to lie together that night because their husbands were from home, and he bade Story's wife avoid the house or he would see the blood of her heart upon his dagger's point. Whereupon she ran out of the house and made an outcry and the alderman of the ward came into the said house.... In the mean while the same John would have ravished the wife of the said John Cotman, drew his dagger at her and evil entreated her contrary to the King's peace.

In the accounts for the same year John Vandepere was fined 13s 4d, 'for an offence whereof he was presented at sessions', which must refer to this.⁹⁵ In three other secular court cases the outcome can be traced. John Hall, 'captured for suspicion of rape' in Fordwich in 1543, was 'freed because nothing was found against him'; possibly his unnamed victim had dropped the prosecution.⁹⁶ Another man was fined 6s 8d, and Henry Drables was tried for feloniously raping Denise Byrde, aged under 13, in 1537 and found guilty but granted benefit of clergy.⁹⁷ All the actual rapes in Canterbury, except for the ambiguous case of Mary, seem to have been treated as felonies, though one in Fordwich was not. The outcome can be traced in an unusually large proportion of the few cases in the secular courts, and relatively severe punishments were given. John Vandepere's fine was much more than was usually levied for an assault, even when a dagger had been drawn. A wealth of detail is given in an unusually large proportion of sexual attack cases, which could suggest that they were regarded as serious. But the three attempted rape cases seem to have been particularly unpleasant, involving as they did wounding, imprisonment and threatened murder, and the fact that two of the defendants were Frenchmen may also indicate that this was not an offence which was taken seriously unless the circumstances were unusually violent, or the offender was a foreigner, or both.

The difficulty of drawing any conclusions from the evidence on sexual violence makes one realise why rape cases remain contentious to the present day. It is not entirely implausible that a woman facing a charge of adultery or fornication might in some circumstances counter with a spurious allegation of rape, although clearly, if this ever happened, it was a strategy very rarely resorted to. The only two adult women who claimed in the church court to have been raped were told to prove the charge, which suggests the court was unsympathetic to them, perhaps because they were sexually experienced. That there is no evidence of any accused rapist being convicted in the church courts is not in itself proof that accusations of rape were not taken seriously: if a man claimed he could produce compurgators, the judge was obliged to let him do so, whatever he may have thought privately. However, even in cases where children were alleged to have been sexually abused, there is no evidence

that accused rapists were required to produce large numbers of compurgators, which could have been demanded if the judge was eager to secure a conviction. The predominance of children or young girls among the alleged victims suggests that although the secular courts seem usually to have treated rape as a felony, and to have taken some attempted rapes seriously, much sexual violence, at least to adult women, probably went unprosecuted.

Social status of offenders and victims

Table 3.1: gender/social status of assailants accused of non-fatal assaults

	Canterbury	Fordwich	New Romney	Queenborough	Sandwich	Totals
Total	359	204	73	20	236	892
Gentleman	4	4	0	0	3	11
Local elite	2	10	11	2	16	41
Juror	39	87	3	14	unknown	143
Servant	31	4	7	0	6	48
Woman	8	5	0	1	4	18

Table 3.2: gender/social status of victims of non-fatal assaults

	Canterbury	Fordwich	New Romney	Queenborough	Sandwich	Totals
Total	359	204	73	20	236	892
Gentleman/ esquire	0	2	0	0	3	5
Local elite	1	25	13	0	11	50
Juror	34	96	3	14	unknown	147
Servant	31	4	3	2	19	59
Woman	22	11	0	4	4	41

Several historians have commented on the fact that prosecutions for assault were commonly against members of established families, including the local elite, yeomen and even gentry. Patricia Hogan has suggested that only the well-to-do could afford the losses resulting from open conflict, but it may be that the prominence of better-off assailants among those prosecuted says more about which cases reached court than it does about the actual amount of violence perpetrated. Sharpe suggests that poor victims were less likely to bring cases to court because of the expense, but the anonymity of some victims indicates that, as with theft, the initiative of the victim was not the only way presentments for assault originated.⁹⁸ The wife of John Wattys was presented in 1508 'for beating of a poor woman'.⁹⁹ The poor were more likely than the better-off to have moved away before the view of frankpledge was held. But while it is impossible to tell whether the poor were under-represented in the cases

which came to court, the Kent evidence suggests that violence was indulged in by as wide a range of social groups in the late fifteenth and early sixteenth centuries as was found by Sharpe in seventeenth-century Essex. Tables 3.1 and 3.2 show the social status of assailants and victims in the boroughs where these can be ascertained. It should be noted that distinguishing between victim and aggressor is slightly misleading as 23% of the total accusations were for mutual assaults. It is noteworthy that in Canterbury, where social stratification was probably the most developed, the local elite (defined as those who held office as mayor, alderman or jurat) and gentry constituted a smaller proportion of both assailants and victims than elsewhere. The fullest information about the social status of accused and victims is available for Fordwich: had comparable data been available for the other places, the numbers of comparatively well-off men involved in violence might have been shown to have been greater. Thomas Turbervile in 1504 assaulted and drew blood from William Marten, with a gold ring, an unusual but suitably gentlemanly weapon, and was fined 40d at Fordwich.¹⁰⁰ This did not prevent his being appointed a Justice of the Peace the same year and remaining one for some years thereafter.¹⁰¹ A Maidstone grand jury presented Edward Culpeper, esquire, for a mutual assault with William Purley 'at the time of gaol delivery' in 1500, and in New Romney, Clement Baker was presented and fined for assaults in 1507 and 1509, drawing blood on both occasions, but became the borough's Member of Parliament in 1511.¹⁰² In Queenborough, probably the least socially stratified borough, most of the assaults presented were by men who served as jurors. Thomas Grene assaulted Ralph Selby's servant Isabel in 1498 and became mayor the following year, while Thomas Harris was accused of drawing blood from a man as well as accepting stolen money from him, in 1555, the year after his mayoralty.¹⁰³ The number of men of high social standing who were involved in assaults is quite small, and one 'gentleman', Valentine Pettit, accounts for no less than three accusations, two in Fordwich and one in Canterbury.¹⁰⁴ Nevertheless, the appearance of men like Thomas Turbervile and Clement Baker among the ranks of those presented for assault, and the fact that their subsequent careers were not adversely affected by this, shows that violence was not limited to the



lower orders, and that little if any stigma attached to using it, at least as far as men were concerned. The tables suggest that gentlemen were much more likely to be assailants than victims, while the reverse was true for women. Servants too seem to have been more likely to be victims, though only marginally so. It should also be noted, however, that men of high status were almost as likely to assault others of their own class as to attack their social inferiors. Sixteen of the elite assailants assaulted other elite men, and three gentlemen assaulted members of the local elite. Some of these incidents were part of (sometimes political) disputes among the ruling cliques in the boroughs, as when John Somer of Sandwich struck his fellow-jurat John Westclyve, 'esquire' with his fist.¹⁰⁵

Philippa Maddern has postulated a 'moral hierarchy of violence', whereby it was less criminal to offend against inferiors than superiors: those lower in the authority scale, women and servants, suffered on account of this, since they were less likely to find justified objects for their violence and more likely to have it perpetrated on them.¹⁰⁶ Over-reliance on this explanation would obscure the fact that much violence was between people of equal status, but the concept of a hierarchy of violence could be used either to explain the appearance of the well-off among the aggressors, and the fact that women and servants feature more prominently as victims than as assailants, or to explain the relative lack of gentry assailants and servant and women victims (on the grounds that such violence was justified and so not a matter for presentment). In all, when the assaults from the manor courts are included, there were 54 male assailants, and 64 male and two female victims described as servants. Nine servants were accused of assaults on other servants, whereas only two men were accused of assaulting their own servant.¹⁰⁷ There is probably a huge 'dark figure' of unrecorded assaults by employers on their own servants. The corporal punishment of servants by masters and perhaps to a lesser extent, of wives by husbands, was considered justified. In 1555, Cicely Audefield and Thomas Inkpen, both described as aged six, were bound apprentice to Thomas a Lee, shoemaker of Sandwich: each was to be provided with food and clothing and 'a due manner of chastening'.¹⁰⁸ It is highly likely, then, that assaults by masters on servants, husbands on wives, and possibly

also by men on other women, were not prosecuted except in very severe cases. Barbara Hanawalt has recently argued that the medieval use of 'physical correction' of servants, wives and children did not imply 'violence'.¹⁰⁹ But the line between 'due chastening' and violence must at best have been a thin one, and the distinction may well have been lost on those on the receiving end of 'correction'. That mistresses as well as masters beat their servants is demonstrated, not by any prosecution, but by the report of the examination of the body of Christian, 'lately servant of William Basyn', by a chaplain and a surgeon in Sandwich in 1504. The surgeon deposed that the girl

had two or three grievous sores of pestilence and thereof died, and not upon no manner beating of her mistress as the clamour runneth.¹¹⁰

If neighbourhood rumour could plausibly report that a servant had been beaten to death by her mistress, non-lethal assaults on servants by employers were probably fairly common, but not considered suitable for prosecution. Battered wives, like servants, might hesitate to report assaults for fear of making matters worse. However, there were some cases of violence within the family, which will be examined next.

Violence and the family

Family members and their servants appear more often fighting alongside one another than against each other. Only 58 cases were found which involved physical violence between more than two individuals, and of these, 24 had identifiable family members, masters and servants or servants of the same master jointly attacking others. Seven of these involved wives muscling in on fights alongside their husbands, five were masters and servants, and three were two or more servants of the same master, the remaining nine being presumably either fathers and sons or brothers. Sharpe has commented on the absence of formal indictments arising from domestic violence in seventeenth-century Essex, as a noteworthy difference from the twentieth century, when a large proportion of prosecuted violence took place within the family. He nevertheless found over a fifth of all homicides involved family members, including servants and apprentices.¹¹¹ It seems likely, therefore, that much non-fatal

intrafamilial violence must have gone unreported. This was almost certainly also the case in late medieval Kent, where few assaults on wives, children or servants appear in the court records. On the other hand, homicide within the family (which is unlikely not to have been reported) seems to have been more unusual in Kent. Of the 18 Sandwich victims of fatal assaults, only one was killed by a family member: Joan Walshe died in 1469, 'feloniously killed' by her husband with a knife.¹¹² In the Canterbury records, reference can be found to the murders of six men, one woman and a child. The woman, Agnes White, was allegedly killed by her husband in 1503. The chamberlains' accounts record the expenses involved in burning 'Mistress Arden' in 1551, but only the literary fame of this case enables one to tell that her crime was the murder of her husband, and Alice Arden was presumably tried at the assizes.¹¹³ If husbands sometimes killed their wives, it must follow that they more frequently beat them. In the seventeenth-century Dutch Republic, where wife-beating was severely frowned upon, 45 men in Delft and Rotterdam were convicted of maltreatment of their wife or mistress. Manon van Heijden found that, although in Holland abused wives could start legal proceedings against abusive husbands, very few did so, and plaintiffs in such cases were often neighbours, complaining about the noise and disturbance.¹¹⁴ This is paralleled by a case in Sandwich in 1511, when a Scotsman, for his

proud evil and drunken disposition and for diseasing [i.e. disturbing] his neighbours
by reason of unlawful correction divers times in the night unto his wife done

was after many warnings banished for seven years.¹¹⁵ It might be inferred from this that 'correction' of one's wife was only 'unlawful' if it disturbed the neighbours. The otherwise complete absence of evidence of non-fatal wife-beating from the secular court records, like the almost total lack of accusations of assaults by masters on their servants, suggests that much violence within the family was not reported to the courts.

The church courts, which in general show some concern for the welfare of women and children, might be expected to be more productive of accusations against abusive husbands. But even here, ill-treatment of wives figures very rarely, and it is not

always clear whether physical violence was involved, or whether it was reported unless the result was fatal. John Sprott of Willesborough in 1509 was said to have

beaten his wife to such an extent that she suffered an abortion and that the woman and the infant perished... the rumour first arose when the man carried the sheets in which the woman gave birth to be washed.

Sprott was ordered to purge himself with the oaths of three honest men and four women: the relatively large number of compurgators required suggests that the rumour was taken very seriously. Presumably he hoped by clearing himself in the archdeacon's court to avoid a secular prosecution for murder, but the outcome of his case is not recorded.¹¹⁶ Sprott's wife and infant may have died naturally- sheets would be bloodstained after a miscarriage or birth anyway- but for the rumour to arise, he must already have had a reputation for beating his wife. Ill-treatment of wives was alleged in only four other church court cases, and if physical violence was involved, this is not always made explicit. Hugh Downyng of Canterbury was cited in 1526 for adultery with Joan Sympson and harbouring her in his house; he was also said to have in his house two children whom he had fathered adulterously by two women, and to have 'ill-treated' his wife. This could be taken to mean that it was Downyng's having his mistress and illegitimate children in his house which constituted his abuse of his wife, but it may have involved physical violence to her as well. Similarly, Elizabeth Rolff, also of Canterbury, complained in 1531 that her husband Laurence ill-treated her, (*maletraxit*) but this might simply refer to his adultery with Alice Bukland, of which he was accused at the same time.¹¹⁷ These two cases might indicate that non-fatal wife-beating was only prosecuted in the church courts when combined with another offence. Physical violence is made explicit in the citation of Thomas Whitals of Chilham in 1529, who gave his wife 'cruel blows' and threatened to kill her, so that she dared not be seen accusing him. Unlike Downyng and Rolff, Whitals was not charged with any other offence.¹¹⁸ That these three citations for 'ill-treatment' of wives all occur within five years may indicate that wife-beating featured on the agenda of the church courts at that time and only then; in any event, it does not appear to have figured very largely. The only other case was prosecuted because it was sacrilege: in 1520 John Lambert beat his

wife and shed her blood in Sturry cemetery.¹¹⁹ Hanawalt claims that the small proportion of cases of violence involving family members in fourteenth century manorial courts reflects a real lack of intrafamilial violence.¹²⁰ But while violence within the family probably did account for a smaller proportion of cases than it does now, the evidence suggests that, like fights between women, marital violence only came to court when attended by particular circumstances, such as keeping the neighbours awake or desecrating hallowed ground.

Intrafamilial violence other than wife-beating is equally seldom to be found. In the church courts, one man was purged of parricide in 1463.¹²¹ John Goldhacche, junior, of Chilham, was cited for throwing milk and ale in his father's face and laying violent hands on him in 1503, and Alice Kempe of Thanet for laying violent hands on her mother in 1500.¹²² Both Goldhacche and Kempe had multiple appearances before the archdeacon's official for a variety of other offences: does this mean that only the very deviant so far forgot themselves as to strike their parents, or that the cases of assault against parents would not have been reported unless the perpetrators had reputations for bad behaviour? In Maidstone in 1464, Thomas Turner was fined 3d for assaulting his son Matthew, and in 1507, John Burford and his son were fined for fighting each other. As John senior was fined only 4d while his son's amercement was 7d, either John junior was considered more to blame, or assault of one's father, even in self-defence, was considered a more serious offence.¹²³ The only other indication of unfilial behaviour is the presentment of William Bryttles in Canterbury in 1557, who, in addition to living like a vagabond

will take no correction of his father in law nor of his own mother, but seeketh to do his [step]father some mischief and will not stick to call his mother whore.¹²⁴

But the mischief Bryttles sought to inflict on his stepfather presumably fell short of physical violence. Violence by parents to children, born or unborn, does appear in the church court records in the form of citations for infanticide, 'overlaying', abortion and fatal neglect, though these are very few compared to charges of sexual incontinence.

Infanticide seems to have been almost entirely left to the church courts and not counted as homicide in the fifteenth century, and to have become a common law offence at some time in the sixteenth.¹²⁵ Barbara Kellum suggested that in the later middle ages, infants, especially unbaptised ones, were regarded as in some way evil, that many of the children who died from drowning may have been murdered, and that infanticide and child murder may have been so common that they were regularly condoned.¹²⁶ However, drowning ranks very high among the causes of accidental adult deaths, at least in Kent, and the Catholic church certainly condemned infanticide and showed concern to prevent neglect of children. Peter Biller has shown that late medieval English pastoral manuals show far more concern with preventing abortion and infanticide, whether intentional or accidental, than their Southern European counterparts, and that English synodical and conciliar legislation, as well as the manuals, emphasised proper childcare and even ordered priests to preach on the dangers of putting the baby in the parents' bed, leaving toddlers alone near water or fire and other sound advice to parents.¹²⁷ The absence of substantial numbers of prosecutions for infanticide until the statute of 1624 more likely had the same explanation as that draconian law: infanticide, like rape, which was also rarely prosecuted, is hard to prove unless the victim shows unmistakable signs of violence. At a time when stillbirths and what would now be called cot deaths were probably much commoner than they are now, and when the parents' own bed may often have been the only place the poor could put their infant and keep it warm, natural death and 'overlying' (the accidental suffocation of an infant in the parental bed) would in most cases have been impossible to distinguish from deliberate infanticide by suffocation.

Infanticide, killing or attempting to kill older children, procuring or attempting to procure abortions, and fatal neglect of children account for 29 citations in the church court sample. Differentiating between these categories is difficult. Fourteen cases are clearly overlying (*oppressio prolis*), and if there was any suspicion that this was deliberate, the records do not betray it. In five of these cases, both parents were accused, and all of these were married couples. Another couple, John Nicholl and his

wife of Folkestone, were charged with overlaying their daughter's unbaptised child. John at first blamed his wife, but later confessed that he knew his daughter was pregnant, and had taken no care for the child's *salvatio*; this could mean he neglected either its worldly or its eternal welfare.¹²⁸ Alice Adrian of Canterbury was cited for overlaying a child she had to nurse.¹²⁹ One man, Thomas Hempstede of Lydden, was accused of overlaying a child, with no reference to its mother, and the remaining six 'overlayers' may have been single mothers. The five citations for 'destroying a child' (*destructio prolis*) may refer to abortion rather than infanticide, as in the case of Agnes Gybbys of Folkestone, who allegedly 'destroyed the child with which she was pregnant'.¹³⁰ It may be significant that, unlike the 'overlayers', all but one of these accused of 'destruction' seem to have been single: they consist of one man, one unmarried couple, a widow, a presumably single woman and a woman whose marital status was ambiguous. Katherine Allen of Brook was cited for 'destroying' her child, and at the same court was declared to have married within the prohibited degrees and ordered to show her dispensation.¹³¹ Accidental or otherwise, then, infanticide seems not to have been as overwhelmingly female an offence as it was later to become: Richard Helmholz found in the Rochester church court from 1447 to 1455, 13 citations for infanticide, of which five were of couples, five of women and three of men, and in the Canterbury consistory court for 1469 to 1474, ten prosecutions, of which eight were women.¹³² It is possible, then, that in the mid-fifteenth century, fathers were almost as likely as mothers to be accused of deliberately or accidentally killing their infants, and that mothers came gradually to be thought to bear the sole responsibility. In three cases, parents were cited for neglect leading to deaths of children. Robert Newland and his wife were penanced because their child was burnt to death through their negligence, and John Bery and his wife for allowing their son to fall from a cart with fatal consequences. Helmholz claims that the evidence does not suggest female children were killed more often than boys, but he takes *puer* to mean a boy, whereas it can mean a child of either sex: the Bery child is referred to as *puer masculinus*.¹³³ In only one instance of fatal neglect was the mother alone blamed: Margery Selby of Canterbury stayed out of her house all day, leaving an

eleven-week-old baby to die of neglect. In the citation her husband's name was included with Margery's but then deleted.¹³⁴ In the most bizarre case, Alice Breede of Whitstable seems to have hanged her child with the intention of escaping some fate connected with magic: the child survived this and Alice was ordered to bring it to Canterbury and walk through the city from the Westgate, leading the child and holding its hand, and carrying the halter in which she had suspended it.¹³⁵

There are six cases where the offence was clearly causing or giving advice on abortion. With the exception of William and Isabel Burges of Elham, said to have killed their child in the womb, these were all women charged with advising pregnant women on abortion. Only one of these female abortionists apparently succeeded: Ellen Tressar of Bridge was accused of destroying the child she had conceived, and Elizabeth Cryppen of participating in the offence, though Elizabeth succeeded in compurgation with only two oath-helpers.¹³⁶ In Whitstable in 1527, two single women allegedly advised Joan Colpham what herbs to eat to bring about an abortion, and Thomasine Dunnyng of Canterbury was likewise accused of administering herbs *ad destructionem prolis* in 1513.¹³⁷ Abortionists, then, seem to have been the only perpetrators of violence who were exclusively female, and to have relied on herbal knowledge. 'Sorcery' is mentioned only in the case of Thomasine Dunnyng, though it is unclear whether this was a separate offence or connected with her administering abortifacient herbs. Earlier in the middle ages, the prevention or termination of pregnancy seems to have been associated with *maleficium*.¹³⁸

As with other offences in the church courts, penalties for all these offences against children, born or unborn, can rarely be traced, and those that can were no more severe than the penances meted out to adulterers and fornicators. In the majority of cases where an outcome is recorded, the defendant either succeeded in compurgation or was dismissed. Only in seven of the 29 cases was the imposition of penance recorded: these were the parents of all three children who died as a result of parental neglect, and the mother who apparently attempted to kill her child, as well as one couple who had overlaid their infant, the pair who overlay their unbaptised

grandchild, and the unmarried pair accused of 'destroying' their (probably unborn) child. It may be significant that three of these seven penances were ordered to be performed on Ash Wednesday, even though two of the citations took place in the autumn, several months away from the beginning of Lent, and the church courts' usual practice was to order penance to be done on the Sunday immediately following the sentence. Two other features of these citations stand out. One is chronological: all the infanticide and child neglect cases cluster between the years 1487 to 1517, while the prosecution of alleged abortionists lasts from 1509 to 1535. While there is more surviving material in the office books for the period 1487-1520, the difference is not sufficient to account for this chronological variation. It is possible that cases of this kind were somewhat peripheral to the church courts' main concerns, and prosecutions for them depended on the policies of individual officials, or that from the later 1530s, cases of this kind were 'squeezed out' by the deluge of new business arising from the Reformation.

The other striking feature of these citations is that no less than five of the 29 cases are from the parish of Elham, covering the years from 1497 to 1519, and that these Elham cases have a high acquittal rate. Three of the defendants succeeded in compurgation, a fourth was dismissed by the official, and only in one case was no outcome recorded. Two of the accused women were also cited for scolding. This may demonstrate the existence of one or more particularly malicious gossips in that parish at that time, and suggests the extent to which local circumstances, rather than a strong indication of guilt, may have determined who was cited to the archdeacon's court for these offences.

Conclusion

Minor assault, like most of the offences dealt with in local courts, could be prosecuted or not depending largely on the discretion of the presenting jury or the local elite, though it looks likely that if blood was shed or a weapon drawn, prosecution was more or less automatic. The proportion of females prosecuted for assault in Kent was exceptionally small compared to the eight to twenty per cent

found in other areas of England. By contrast, the proportion of women bound over in Kent, most of whom were probably accused of physical violence, was 19% (51 out of 267) which is much more in keeping with the findings of other studies. The proportion of women prosecuted for rescue, another offence which must usually have involved violence or the threat of it, is almost the same (three out of fifteen). And in the church courts, where what determined whether an assault was prosecuted was usually the location of the offence and not the gender of the assailant, seven out of 44 defendants on charges of violence were women (16%). The few women who *were* prosecuted for assault in the secular courts seem all to have committed relatively serious attacks, or to have assaulted officials or been accused of other crimes at the same time. This suggests, though it cannot be proved, that minor violence was more often overlooked, or dealt with by recognisance, when women were the aggressors than when men were. If this was the case, assault would form a striking contrast with theft, where women seem to have been more likely than men to be prosecuted for minor offences. It is noteworthy that prosecutions of women for scolding, defamation and other forms of verbal aggression far outnumber those for assault. Doubtless verbal aggression was more prevalent than physical aggression among women, but the extremely small number of woman-on-woman assaults might also be explained by an overlooking of women's minor assaults on other women, on the grounds that, unlike men's assaults, they were unlikely to result in serious injury. Women's spiteful words were more likely to result in prosecution, either because they could cause serious damage to other people's reputations, or because, in a more general way, male jurors feared female assertiveness more than physical violence by women.

Female assailants, then, were probably less likely to be prosecuted than men. Female victims of violence, though, were on the whole less likely than men to get justice. Sexual attacks on children or young girls do at least seem to have been taken seriously, though even these seldom resulted in convictions. Sexual attacks on married women, as far as we can tell, seem rarely to have led to prosecutions, while non-sexual attacks on women other than the 'chastisement' of wives and servant-

girls, do not appear to have been treated any differently from assaults on men. Wives and servants, being at the bottom of the 'hierarchy of violence', must have been at the receiving end of much violence which was considered justifiable.

Punishments for all forms of physical violence do not shed much direct light on gender relations. One man received a shaming punishment for assault, and (probably) one more for attempted rape. In six cases in Sandwich between 1519 and 1533, the convicted assailant was given a choice of three penalties for 'bloodwipes' prescribed in the town's Customal: a £5 fine (more than was ever enforced), a year and a day in prison, or to be struck through the hand with the weapon used in the assault.¹³⁹ As three of the men to whom this choice was given were specifically described as outsiders, it may have been reserved for foreigners who drew blood. Two men chose mutilation and two others to be fined. Perhaps by the 1530s, the mayor and jurats were beginning to feel that this medieval survival was outdated, or that mutilating an artisan in the hand was likely to make him a burden to the town, for in 1533 when Peter Barbier, a Flemish cooper, was invited to choose his punishment, Peter

prostrated himself before the said mayor and jurats and desired them to have pity and compassion on him: he was a poor man and if he should sustain to be smitten through the hand he should never be able to get his living. Which said mayor and jurats have adjudged the said Peter to be banished...¹⁴⁰

Two other men were banished from Sandwich for assaults, but the vast majority of those convicted in the secular courts were fined. Although fines were imposed for many other offences, the almost complete absence of banishment and shaming punishments might indicate the lack of stigma attached to minor assaults, compared to theft, sexual misbehaviour and scolding. The severity of an attack, the degree of provocation offered, and the economic or social status of aggressor and victim all seem to have contributed to determining the amount of amercements, which ranged from 2d to £3. Assaults on officials, particularly law officers attacked in the course of their duty, tended to result in relatively high amercements. The highest fine imposed for an assault was £3 on Alexander Hobard of Sandwich, who in 1518, along with Thomas Hobard, assaulted John Somer, jurat, presumably in revenge for

Somer's attack on John Hobard, another jurat.¹⁴¹ At the other end of the social scale, the problem of defendants who could not afford to pay was resolved by having the fine paid by others. Twelve masters were recorded as paying fines incurred by their servants for assaults, in 18 cases the sureties paid, and two men paid the fines of male relatives. Of the nine women who were fined, payment by the husband was recorded in three instances. Punishment for assault was therefore not gendered. However, it is noteworthy that assault, an offence for which the defendants were overwhelmingly male, was almost invariably punished by a fine, while the more characteristically female offences of scolding and sexual misbehaviour, with which the next two chapters are concerned, might entail the subjection of the offender to a shaming punishment.

¹ For controversy about violence, however, see L. Stone, 'Interpersonal Violence in English Society, 1300-1980', *P & P*, CI (1983), 22-33; 'Violence in England: a Rejoinder', *P & P*, CVIII (1985), 216-224; J. A. Sharpe, 'The History of Violence in England: Some Observations', *P & P*, CVIII (1985), 206-215.

² For example, CCA, CC/FA/7/59 (1486-7); EKA, NR/FAC/5/30v (1493).

³ M. Bailey, 'Rural Society', in R. Horrox (ed.), *Fifteenth Century Attitudes: Perceptions of Society in Late Medieval England* (Cambridge, 1994), 160; J. Briggs, C. Harrison, A. McInnes and D. Vincent, *Crime and Punishment in England: an Introductory History* (1996), 41; C. Dyer, *Lords and Peasants in a Changing Society: the Estates of the Bishopric of Worcester, 680-1540* (Cambridge, 1980), 370-372; M. P. Hogan, 'Medieval Villainy: a Study in the Meaning and Control of Crime in an English Village', *Studies in Medieval and Renaissance History*, n. s., II (1979), 138-140; M. K. McIntosh, *Autonomy and Community: the Royal Manor of Havering, 1200-1500* (Cambridge, 1987), 3, 209-210; S. Olson, *A Chronicle of All that Happens: Voices from the Village Court in Medieval England* (Toronto, 1996), 172, 176; 'Jurors of the Village Court: Local Leadership Before and After the Plague in Ellington, Huntingdonshire', *JBS* XXX (1991), 254; B. Putnam, *Proceedings before the Justices of the Peace: Edward III to Richard III* (1938), cxvii; K. Wrightson and D. Levine, *Poverty and Piety in an English Village: Terling, 1525-1700* (1979), 122-123.

⁴ E. Powell, 'Law and Justice', in Horrox, *Fifteenth Century Attitudes*, 34; P. Maddern, *Violence and Social Order: East Anglia, 1422-1442* (Oxford, 1992), 7, 49, 226.

⁵ A. J. Finch, 'The Nature of Violence in the Middle Ages: an Alternative Perspective', *HR*, LXX (1997), 252; P. J. R. King, 'Punishing Assault: the Transformation of Attitudes in the English Courts', *JIH*, XXVII (1996), 45-6; Sharpe, *Crime in 17th Century*, 117-118; Shoemaker, *Prosecution & Punishment*, 53; Walker, thesis, 58.

⁶ J. A. Sharpe, 'Domestic Homicide in Early Modern England', *HJ*, XXIV (1981), 34.

⁷ LPL, ED648/9.

⁸ A-M. Kilday, 'Violent Women in South-west Scotland, 1750-1815', paper delivered at the Women's History Network conference, University of Strathclyde, September, 1998; E. Ewan, 'Fensum Flytings

of Defame”: Scandal in the Streets of Scottish Towns’, paper delivered at the International Medieval Congress, Kalmazoo, May, 1999. I am grateful to Dr. Ewan for allowing me to read this unpublished paper.

⁹ B. Hanawalt, ‘The Female Felon in Fourteenth-century England’, *Viator*, V (1974), 258; Sharpe, *Crime in 17th Century*, 117-118; Walker, thesis, 56-7; J. M. Beattie, ‘The Criminality of Women in Eighteenth-century England’, *JSH*, VIII (1974-5), 85.

¹⁰ S. M. Sweetinburgh, ‘Women, Household and Community: Appledore and Hythe, c. 1400-1470’, MA dissertation, University of Kent, 1993, 83.

¹¹ M. Ingram, ‘Communities and Courts: Law and Disorder in Early Seventeenth-century Wiltshire’, in Cockburn, *Crime*, 120.

¹² EKA, Sa/AC/3/63.

¹³ EKA, Sa/AC/2/256 r and v.

¹⁴ LPL, ED650/15; EKA, Sa/AC/2/250.

¹⁵ EKA, Sa/AC/2/249v.

¹⁶ M. Ridley, *The Red Queen: Sex and the Evolution of Human Nature*, (1993), 246-7.

¹⁷ Bailey, ‘Rural Society’, 160; Beattie, *Crime & Courts*, 74; King, ‘Punishing Assault’, 43; B. Lenman and G. Parker, ‘The State, the Community and the Criminal Law in Early Modern Europe’, in V. Gatrell, B. Lenman and G. Parker (eds.), *Crime and the Law: the Social History of Crime in Western Europe Since 1500*, (1980), 40; N. Elias, *The Civilising Process: the History of Manners*, (reprint, Oxford, 1978) 186, 201-2; J. A. Sharpe, *Crime in Early Modern England*, 175.

¹⁸ E. Powell, ‘Social Research and the Use of Medieval Criminal Records’, *Michigan Law Review*, LXXIX (1981), 977; L. Roper, *Oedipus and the Devil: Witchcraft, Sexuality and Religion in Early Modern Europe* (1994), 113; E. Foyster, *Manhood in Early Modern England: Honour, Sex and Marriage* (1999), 177-178.

¹⁹ EKA, Sa/AC/2/287 r & v.

²⁰ EKA, Sa/AC/3/160 (1543), Sa/AC/3/218 r & v (1549).

²¹ CCA, CC/AC/2/76v-77.

²² Powell, ‘Law and Justice’, 40.

²³ Maddern, *Violence*, 19-20.

²⁴ *Ibid.*, 29.

²⁵ EKA, Sa/AC/3/33 r & v.

²⁶ CCA, CC/J/Q/330/2, 3.

²⁷ J. G. Bellamy, *Law and Public Order in England in the Later Middle Ages*, (1973), 37; T. Curtis, ‘Quarter Sessions Appearances and Their Background’, in Cockburn, *Crime*, 135-7; Elias, *Civilising Process*, 200; G. R. Elton, *Policy and Police: the Enforcement of the Reformation in the Age of Thomas Cromwell* (Cambridge, 1972) 4-5; Finch, ‘Nature of Violence’, 267; ‘Women and Violence in the Later Middle Ages: the Evidence of the Officiality of Cerisy’, *C & C*, VII (1992) 25; E. Searle, *Lordship and Community: Battle Abbey and its Banlieu, 1066-1538* (Toronto, 1974), 415.

²⁸ Hanawalt, *Crime & Conflict*, 267; Ingram, ‘Communities and Courts’, 110; Shoemaker, *Prosecution and Punishment*, 319.

²⁹ CCA, CC/J/Q/302/15; EKA, Sa/AC/2/23.

³⁰ EKA, Sa/AC/2/265v.

³¹ CCA, CC/J/Q/331/1; U4/3/11.

³² EKA, NR/FAc/4/248v; LPL, ED649/1 (1505); EKA, Sa/AC/2/43, AC/2/45v.

³³ LPL, ED640/1; CCA, U15/34/7/1 (1539).

³⁴ EKA, Sa/AC/4/162, Sa/AC/3/239.

³⁵ Maddern, *Violence*, 48, 226; Sharpe, *Crime in 17th Century*, 104.

³⁶ EKA, Sa/AC/2/316.

³⁷ S. D. Amussen, ‘Gender, Family and the Social Order’, in Fletcher & Stevenson, 203-4.

³⁸ S. D. Amussen, ‘“Being Stirred to Much Unquietness”: Violence and Domestic Violence in Early Modern England’, *JWH*, VI (1994), 75.

³⁹ Finch, ‘Women and Violence’, 29; C. Z. Wiener, ‘Sex-roles and Crime in Late Elizabethan Hertfordshire’, *JSH*, VIII (1974-5), 44-45; Beattie, ‘Criminality of Women’, 89.

- ⁴⁰ Walker, thesis, 53, 87.
- ⁴¹ CCA, CC/J/Q/331/1; CC/FA/9/84v.
- ⁴² CCA, U4/3/47 (1480); CKS, PRC.3.4/87v (1517).
- ⁴³ CKS, PRC.3.1/154v.
- ⁴⁴ CKS, Qb/JMs/1/6; EKA, Sa/AC/3/158.
- ⁴⁵ CCA, CC/J/Q/337/3.
- ⁴⁶ CCA, CC/J/Q/307/8 (1508); LPL, ED644/6 (1488).
- ⁴⁷ CKS, PRC.3.1/138v.
- ⁴⁸ CCA, CC/J/Q/352/3; 307/14/20; 307/13, 309/9.
- ⁴⁹ CKS, PRC.3.4/75v (1516).
- ⁵⁰ CCA, CC/J/Q/306/8.
- ⁵¹ CCA, U15/34/7/1 (1539).
- ⁵² CCA, CC/FA/11/129v.
- ⁵³ EKA, Sa/AC/4/50 r and v, 54v.
- ⁵⁴ EKA, Sa/AC/2/14v.
- ⁵⁵ Wiener, 'Sex Roles', 45.
- ⁵⁶ CCA, CC/J/Q/309/16.
- ⁵⁷ CCA, CC/J/Q/310/8.
- ⁵⁸ CCA, CC/J/Q/311/20.
- ⁵⁹ LPL, ED646/2v, 3.
- ⁶⁰ CCA, U4/3/45 r and v; 47 r and v.
- ⁶¹ CCA, U4/3/46 r and v, 47, 50.
- ⁶² CCA, U4/6A/1/1v (1486). See below, p. 137-8.
- ⁶³ CCA, U4/3/47 (Cecily Renwell, 1480); U4/3/184, (Isabel Helde, 1515).
- ⁶⁴ CCA, U4/3/148, 149.
- ⁶⁵ CCA, U4/3/55v; U4/3/90v (1499).
- ⁶⁶ EKA, Sa/AC/2/284, 287v-288, 289v.
- ⁶⁷ CCA, CC/J/Q/307/14/13.
- ⁶⁸ CCA, CC/J/Q/307/14/9, 302/6.
- ⁶⁹ CCA, CC/J/Q/352/7 (1515?).
- ⁷⁰ CCA, CC/J/Q/333/13/4 (c. 1515).
- ⁷¹ CCA, CC/J/Q/307/14/12-13.
- ⁷² CCA, CC/J/Q/354/1v, 305/11.
- ⁷³ N. Bashar, 'Rape in England between 1550 and 1700', in London Feminist History Group, *The Sexual Dynamics of History* (1983), 39-40; Finch, 'Nature of Violence', 252; Briggs *et al.*, *Crime and Punishment*, 41.
- ⁷⁴ J. B. Post, 'Ravishment of Women and the Statutes of Westminster', in J. H. Baker (ed.), *Legal Records and the Historian* (1978), 160; E. Powell, 'Jury Trial at Gaol Delivery in the Late Middle Ages: the Midland Circuit', in J. S. Cockburn and T. Green (eds.), *Twelve Good Men and True: the Criminal Jury Trial in England, 1200-1800* (Princeton, 1988), 102-3; Maddern, *Violence*, 101; J. M. Carter, *Rape in Medieval England*, (1985), 25.
- ⁷⁵ J. S. Cockburn, 'The Nature and Incidence of Crime in England, 1559-1625: a Preliminary Survey', in Cockburn, *Crime*, 58; C. Gauvard, "*De Grâce Especial*": *Crime, Etat et Société en France à la Fin du Moyen Age*, vol. I (Paris, 1991), 332; Sharpe, *Crime in 17th Century*, 63.
- ⁷⁶ Carter, *Rape*, 94-6, 106-7, 109-10; G. Walker, 'Rereading Rape and Sexual Violence in Early Modern England', *G & H*, X (1998), 1-25.
- ⁷⁷ Walker, 'Rereading Rape', 19; B. Capp, 'The Double Standard Revisited: Plebeian Women and Male Sexual Reputation in Early Modern England', *P & P*, CLXII (1999), 92; L. Gowing, *Domestic Dangers: Women, Words and Sex in Early Modern London*, (Oxford, 1996), 75; Mills, thesis, 40; Carter, *Rape*, 109-110.
- ⁷⁸ Hanawalt, *Crime & Conflict*, 110; Gauvard, *Crime*, 333; Beattie, *Crime & Courts*, 126; L. Roper, *The Holy Household: Women and Morals in Reformation Augsburg*, (Oxford, 1989), 85.

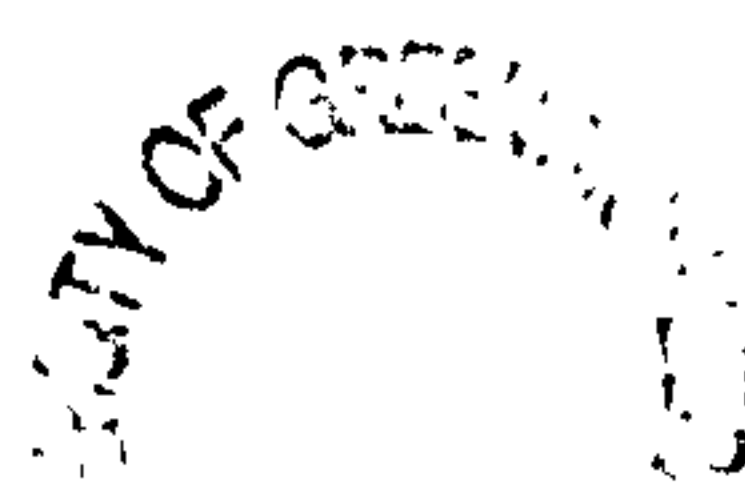
- ⁷⁹ Hanawalt, *Crime & Conflict*, 61, 104-5; McIntosh, *Autonomy and Community*, 220; *A Community Transformed: the Manor and Liberty of Havering, 1500-1620* (Cambridge, 1991), 77; Searle, *Lordship and Community*, 393; Carter, *Rape*, 108, 125; Powell, 'Jury Trial', 101; J. S. Cockburn, *Calendar of Assize Records: Kent Indictments, Elizabeth I* (1979), 1-97.
- ⁸⁰ Bashar, 'Rape', 41; Beattie, *Crime & Courts*, 125-127; Cockburn, 'Nature and Incidence', 58; Herrup, *Common Peace*, 27; Walker, 'Rereading Rape', 1; Sharpe, *Crime in 17th Century*, 63.
- ⁸¹ Bashar, *Rape*, 40; Maddern, *Violence*, 103; Beattie, *Crime & Courts*, 125; Sharpe, *Crime in 17th Century*, 63.
- ⁸² M. Chaytor, 'Husband(ry): Narratives of Rape in the Seventeenth Century', *G & H*, VII (1995), 384.
- ⁸³ See below, p. 83.
- ⁸⁴ Mills, thesis, 38-9; Wunderli, *London Courts*, 91.
- ⁸⁵ Helmholz, 'Crime', 11.
- ⁸⁶ CKS, PRC.3.9/26v.
- ⁸⁷ CKS, PRC.3.4/130v, 137.
- ⁸⁸ Bashar, 'Rape', 37-38; Capp, 'Double Standard', 92; Sharpe, *Crime in 17th Century*, 65; M. van Heijden, 'Women as Victims of Sexual and Domestic Violence in Seventeenth-century Holland: Criminal Cases of Rape, Incest and Maltreatment in Rotterdam and Delft', *JSH*, XXXIII (2000), 625.
- ⁸⁹ CKS, PRC.3.1/29v, 28v, 25v; PRC.3.8/30; CCA, CC/J/Q/340/2.
- ⁹⁰ CCA, CC/J/Q/314/7.
- ⁹¹ Karras, *Common Women*, 101.
- ⁹² cf. van Heijden, 'Women as Victims', 625, 629.
- ⁹³ CCA, CC/J/Q/310/18.
- ⁹⁴ CCA, CC/J/Q/319.
- ⁹⁵ CCA, CC/J/Q/351/3 r & v; CC/FA/14/230.
- ⁹⁶ CCA, U4/3/252.
- ⁹⁷ CCA, U4/3/55v (1482); CC/J/Q/336/1.
- ⁹⁸ Hogan, 'Medieval Villainy', 142; McIntosh, *Autonomy and Community*, 209; Olson, *Chronicle*, 175-6; 'Jurors of the Village Court: Local Leadership Before and After the Plague in Ellington, Huntingdonshire', *JBS*, XXX (1991), 251; Sharpe, *Crime in 17th Century*, 72.
- ⁹⁹ CCA, CC/J/Q/307/14/20.
- ¹⁰⁰ CCA, U4/3/127.
- ¹⁰¹ *Calendar of Patent Rolls, Henry VII, 1494-1509*, 645; J. S. Brewer et al. (eds.), *Letters and Papers, Foreign and Domestic, of the Reign of Henry VIII* (1862-1932), I, 4927; II, i, 6, 677; II, ii, 3748.
- ¹⁰² LPL, ED646/3; EKA, NR/FAc/5/144, 151v, 162.
- ¹⁰³ CKS, Qb/JMs/1/21v, 1/12; Qb/JMs/2/25, 26.
- ¹⁰⁴ CCA, U4/3/91(1499); U4/3/127 (1504); CC/FA/9/85 (1507-8).
- ¹⁰⁵ EKA, Sa/AC/2/242v (1516); D. Gardiner, *Historic Haven: the Story of Sandwich*, (Derby, 1954), 149-50.
- ¹⁰⁶ Maddern, *Violence*, 98-9, 125-6, 232.
- ¹⁰⁷ CCA, CC/FA/11/406v (1526-7); FA/12/36v (1528-9).
- ¹⁰⁸ EKA, Sa/AC/4/81v, 82.
- ¹⁰⁹ B. Hanawalt, 'Violence in the Domestic Milieu of Late Medieval England', in R. W. Kaeuper (ed.), *Violence in Medieval Society* (Woodbridge, 2000), 199.
- ¹¹⁰ EKA, Sa/AC/2/120 r and v.
- ¹¹¹ Sharpe, *Crime in 17th Century*, 119-121, 126.
- ¹¹² EKA, Sa/AC/1/184v.
- ¹¹³ CCA, CC/J/Q/302/17; CC/FA/14/197v.
- ¹¹⁴ van Heijden, 'Women as Victims', 633-635.
- ¹¹⁵ EKA, Sa/AC/2/188v.
- ¹¹⁶ CKS, PRC.3.2/90.
- ¹¹⁷ CKS, PRC.3.6/43, 6/138.
- ¹¹⁸ CKS, PRC.3.6/114v.
- ¹¹⁹ CKS, PRC.3.4/149.

- ¹²⁰ Hanawalt, 'Violence in the Domestic Milieu', 197-8, 200.
- ¹²¹ CCA, X.8.3/16.
- ¹²² CKS, PRC.3.1/174v, 1/138v.
- ¹²³ LPL, ED638/1, ED651/3.
- ¹²⁴ CCA, CC/J/Q/356/2.
- ¹²⁵ P. Hair, 'Homicide, Infanticide and Child Assault in Late Tudor Middlesex', *Local Population Studies*, IX (1972), 44; R. H. Helmholz, 'Infanticide in the Province of Canterbury During the Fifteenth Century', *History of Childhood Quarterly*, II (1974-5), 379; B. A. Kellum, 'Infanticide in England in the Later Middle Ages', *History of Childhood Quarterly*, I (1973), 367-8; W. L. Langer, 'Infanticide: a Historical Survey', *History of Childhood Quarterly*, I, 356; Walker, thesis, 151; Wunderli, *London Courts*, 128.
- ¹²⁶ Kellum, 'Infanticide', 379, 371.
- ¹²⁷ Helmholz, 'Infanticide', 379, 382; P. P. A. Biller, 'Marriage Patterns and Women's Lives: a Sketch of Pastoral Geography', in P. J. P. Goldberg (ed.), *Woman is a Worthy Wight: Women in English Society, c. 1200-1500*, (Stroud, 1992), 78-82.
- ¹²⁸ CKS, PRC.3.1/3 (1487).
- ¹²⁹ CKS, PRC.3.2/54v (1507).
- ¹³⁰ CKS, PRC.3.1/108v (1497).
- ¹³¹ CKS, PRC.3.1.67v (1495)
- ¹³² Helmholz, 'Infanticide', 385.
- ¹³³ CKS, PRC.3.1/170v (1503); 3.1/120 (1498); Helmholz, 'Infanticide', 385.
- ¹³⁴ CKS, PRC.3.1/4v (1488).
- ¹³⁵ CKS, PRC.3.1/30 (1492).
- ¹³⁶ CKS, PRC.3.4/129v (1519); PRC.3.6/70v (1527).
- ¹³⁷ CKS, PRC.3.6/69, PRC.3.4/17.
- ¹³⁸ J. M. Riddle, 'Contraception and Early Abortion in the Middle Ages', in V. L. Bullough and J. A. Brundage (eds.), *Handbook of Medieval Sexuality*, (New York, 1996), 268.
- ¹³⁹ EKA, Sa/AC/2/270; AC/3/46.
- ¹⁴⁰ EKA, Sa/AC/3/46.
- ¹⁴¹ EKA, Sa/AC/2/261v-262.

4. VERBAL VIOLENCE¹

The punishment of women for 'scolding' is a topic of perennial popular interest, and has been extensively discussed, both recently and not so recently.² Male 'scolds', and other manifestations of verbal violence by men, though their existence has been acknowledged, have received much less attention.³ This chapter is concerned with those cases in both the ecclesiastical and secular courts, where verbal abuse appears to be the sole or main charge against the defendant, whether male or female. The few cases involving suspected heresy or sedition have been omitted, both because they have already been discussed by others and because as major crimes they are outside the scope of the present study.⁴ Firstly the legal status of the gendered offence of 'scolding', and what it may have meant in practice will be discussed. Questions of the chronology and extent of prosecutions for verbal offences will next be considered, and then the cases from the Kent records will be examined in more detail. It will be argued that, while verbal abuse was particularly associated with women, probably just as many men were prosecuted for the use of 'opprobrious words', and that the almost exclusively female offence of being a scold covers a wider range of offences than has generally been assumed. It will be suggested that some of the women prosecuted as scolds had actually committed the same offence as most male defendants on verbal abuse charges, namely showing disrespect to figures of authority, often in the context of being presented in court for another offence. But men seem seldom to have been prosecuted for verbal abuse of anyone other than officeholders or social superiors, while the targets of many women described as scolds were their social equals. Being a scold, or in church court terminology a defamer, was thus a gendered offence for which women were prosecuted disproportionately to men.

Varying accounts have been given of the legal status of the offence of 'scolding', or being 'a common scold'. Marjorie McIntosh maintains that scolding was not a clear violation of common or ecclesiastical law, though she concedes that it was condemned by long-standing tradition.⁵ J.H. Baker, however, categorises scolding as



a nuisance in common law, one of a class of misdemeanours for which no private action could be brought because it was common to the whole locality, like leaving rubbish in the street.⁶ Martin Ingram makes a clear distinction between the use of the words 'scold' or 'to scold', which had 'undertones of violence and uncontrolled rage', but could be used in various social contexts, and the phrase 'common scold', which he says had a technical meaning in common law, designating 'a person liable to prosecution and punishment as a nuisance for continually disturbing the neighbours by contentious behaviour'.⁷ According to McIntosh, scolding might occur with a specific other person, but was more often presented as 'common', meaning occurring frequently and with unnamed people: this seems consistent with Baker's definition.⁸ But Maryanne Kowaleski found 88% of 150 female scolds in late fourteenth-century Exeter were described as 'common scolds', yet nearly half of the total were accused of scolding with a particular person or group.⁹

Ingram points out that women tended to use verbal rather than physical aggression, which implies that a presentment for verbal violence by a woman would be comparable to one for minor assault by a man. He adds that by the fourteenth century the term 'scold' was characteristically used of women, though it could refer to either sex until about 1700.¹⁰ A few male 'scolds' were indeed found in the Kent records. However, in the late fifteenth-century versions of the Fordwich and Sandwich Customals, the shaming punishment of carrying a 'mortar' through the town, preceded by a minstrel, was laid down for any woman who scolded or quarrelled in public; in Hereford the use of the cucking-stool was prescribed in 1486. In all three cases the punishment was explicitly for women, no mention was made of any similar offence being committed by a man, and there is nothing to suggest that the scolding had to be continuous or regular to merit prosecution. Rather, the texts read as though they referred to any public quarrelling by women.¹¹ So local custom was identifying scolds as exclusively female in the late middle ages, and seems to have disregarded any requirement that only habitual contentious behaviour would result in punishment.

According to Ingram, whose examples are all taken from the late sixteenth century onwards, scolding liable to prosecution involved behaviour that was seriously hurtful and disruptive beyond the normal range. He suggests the most extreme cases may have been mentally ill, and claims that women were not 'prosecuted for behaviour that men could indulge in without penalty'.¹² Eleanor Searle, however, noted that in the late fifteenth and early sixteenth centuries, women were presented for behaviour condoned in men, not one man having been accused in the court at Battle for 'causing quarrels'. She commented that 'it was not contentiousness, but *women's* contentiousness that was "corrected"'.¹³ This seems to be more consistent with the evidence of the customals. Elizabeth Foyster also considers scolding to be a male construct. She infers from seventeenth century popular literature that gossip had wholly negative connotations, and was associated only with (mainly married) women; that men believed and feared that women gossiped about them and their shortcomings, and attempted to nullify the power of female talk by labelling it as worthless and by prosecuting persistent gossips as scolds.¹⁴ McIntosh, who does not address the question of why scolds were mainly female, maintains that the charge could apply to two sorts of offenders, those who disturbed their neighbours by being generally quarrelsome and argumentative, and those guilty of backbiting or malicious gossip; she associates the first kind with physical fights, and the second with eavesdropping.¹⁵ Since most local court presentments of scolds give no details of the alleged offence, it is impossible to show conclusively whether or not these descriptions cover all the kinds of behaviour that might be characterised as scolding, or being a 'common scold'.

While it is clear that most scolds were women, there is no consensus about what kind of women they were. David Underdown maintains that women accused as scolds were usually poor, widows, newcomers, social outcasts or those 'lacking the protection of a family', and were likely to vent their frustrations on local notables as the nearest symbols of authority. Susan Amussen also emphasises that scolds were particularly likely to argue with their social superiors.¹⁶ Ingram, discussing the same

period as Underdown, says most convicted scolds were wives, that they came mostly from the 'broad, lower-middling ranks to which most of the population belonged' and that only a minority were in trouble for verbal abuse of officers or social superiors.¹⁷ McIntosh notes that many scolds were married, but Kowaleski, who was able to trace many Exeter scolds through record linkage, found about half were married, a minimum of 18% were single, and a minimum of 7% widowed. She also found that as a group they were 'considerably poorer and less commercially and politically powerful than the population at large', while their targeted victims 'ranked well above the people who railed against them', and included many who either served as a juror or officeholder in the same court or year in which the scold was presented. In short, the Exeter scolds conform fairly well to Underdown's profile, even though they were two centuries earlier.¹⁸ Even allowing for possible regional differences, the evidence is contradictory, though it should be noted that Kowaleski is the only one who has systematically analysed a large number of scolds from one area.

There are thus a number of questions about scolds, and verbal violence in general, on which no agreement has been reached. What exactly did it mean to be a 'common' scold: was the term applicable only to those guilty of habitual scolding, or could it be used for a single verbal attack? The possibilities should perhaps be borne in mind that local courts in the period under review did not always adhere to the strict letter of the law, and that the law itself was on some points unclear and subject to local variation. Secondly, do McIntosh's definitions, backbiting and disturbing the neighbours by quarrelling, constitute the only sorts of behaviour that would lead to presentment for scolding? If they do, then scolding was a heavily gendered offence, for, at least in late medieval Kent, few men can be shown to have been prosecuted for either of these activities. This leads into the third question, whether or not women were prosecuted for behaviour condoned in men, or put more dramatically, was 'scolding' a patriarchal construct, devised by men to suppress women's speech and thereby keep them in subjection? Fourthly, how serious did verbal aggression have to be to warrant prosecution, as a scold or otherwise? As we saw in the previous

chapter, many men were fined for assaults which seem to have caused no physical injury, so what constituted an assault was something of a grey area. This would apply still more to mere verbal aggression. It might be expected that damaging someone else's reputation, or frequent and regular quarrelling, might warrant prosecution, but where to draw the line between what was and what was not presentable must, in borderline cases, have been a highly subjective judgement. Searle considered that some prosecutions for verbal abuse reflected malice on the part of the prosecutors.¹⁹ Fifthly, what kind of women were most likely to be presented for scolding - married, single or widowed, poor or middling, and were the majority of their targets their social superiors or their equals? A final question, which has received hardly any attention from historians, is how different, or how similar, were prosecutions of men for verbal violence to those of women. But before seeing what light the evidence from Kent throws on these questions, the issues of the chronology and extent of the prosecution of scolds must be considered.

Chronology of scolding prosecutions

The chronology of prosecutions for scolding has received some attention in recent years, partly because prosecuting 'scolds' has been seen as an aspect of social control or 'reformation of manners', which some have claimed reached unprecedented proportions in the late sixteenth and early seventeenth centuries. Investigation of scolds in particular was stimulated by Underdown's claim that a 'crisis in gender relations', beginning about 1560, was characterised by increasing numbers of prosecutions of scolds and other 'disorderly' women, and by more severe punishments for such women, notably the cucking-stool. His argument is based partly on literary sources (though he concedes that literary evidence is not conclusive and that the misogynistic tradition in literature is a long one) and partly on a rather impressionistic survey of court records from around 1560 to 1640.²⁰ The historiographical dichotomy between medievalists and early modernists has perhaps resulted in greater credence being given to Underdown's hypothesis than its fragile evidential basis merits. Anthony Fletcher, for example, though considering the court

evidence cited by Underdown insufficient to be entirely convincing, has agreed that literary evidence shows 'considerable anxiety about the gender order at this time', while Linda Boose has claimed that in the late sixteenth century, punishments given to women were more often targetted at suppressing women's speech than at controlling their sexual transgressions.²¹

While there is no doubt that Underdown is correct in saying that judicial concern with scolds, like the preoccupation with witchcraft, dwindled rapidly after the Restoration, in linking the *rise* of scolding prosecutions with the chronology of the 'witch-craze', he is on less firm ground. Literary evidence is highly problematic: there are far more surviving texts after about 1580 than before, and misogyny and anxiety about gender relations can be found in medieval literature, and indeed in the literature of any period. Moreover, the interpretation of the literature of the past is not a straightforward matter.²² The evidence of relatively small numbers of court records is almost equally unreliable. Minor transgressions at this period could be dealt with by a variety of different and overlapping jurisdictions, the records of many of which have not survived. They could also be dealt with informally, either by the local community or by a local justice acting on his own, and such matters were never recorded in the first place. Without accurate population figures for each community under scrutiny, it is difficult to tell whether any apparent increase in any kind of prosecution merely reflects the existence of a larger number of potential offenders. It is only by comparing the *proportions* of particular offences to the total prosecutions in any jurisdiction that even tentative conclusions can be reached, and even then, the possibility remains that the prosecution of scolds may have been abandoned in some jurisdictions only to be dealt with elsewhere.

L. R. Poos has pointed out that evidence from a variety of late medieval ecclesiastical jurisdictions does not support Underdown's chronology, while Ingram in his critique of Underdown has stressed that it cannot be shown that indictments for scolding became much more numerous during Elizabeth's reign. Such prosecutions took place from the late fourteenth century onwards, and hardly amounted to an epidemic in the

late sixteenth and early seventeenth centuries. Ingram emphasises that evidence so far examined for the latter period indicates that such cases were sporadic in terms of both locality and chronology, and that, in any case, the nature and survival of court records, shifts in jurisdictional patterns and changes in population before and after about 1560 would make it difficult to demonstrate an upsurge in such charges even if there was one.²³ Marjorie McIntosh has examined prosecutions for scolding as part of her ambitious survey of minor court records across the whole of England.

Although she found some regional variation, overall she found concern with scolding in the lesser local courts growing from the late fourteenth century to the mid-fifteenth, dropping slightly towards the end of the fifteenth century, then rising again to peak in the 1520s and 1530s after which it declined, reaching about the same low level by the end of the sixteenth century as it had been in 1370. While considering the possibility that attention to scolding or defamation in the church courts may have risen during the sixteenth century, and that new use of the action 'trespass on the case' as a means of prosecuting private suits alleging defamation in the common law courts may have offset some of the decline in the lesser secular courts, she concludes that it is unlikely that these developments fully compensated for that decline, and that scolding and other 'social disharmony' offences were receiving less attention in the later sixteenth century. Of the few courts which she found still reporting these offences (of which scolding was the commonest), a large proportion were in North and North-western England, with very few in East Anglia and the South-east.²⁴ This of course is in direct contradiction to Underdown's claims. She attempts to explain the apparent decline in prosecutions for scolding as part of a decline in concern with social harmony during Elizabeth's reign, reflected in declining use of arbitration, in the records of voluntary and civic communities and in moral and social texts, having presumably not used the literary sources from which Underdown drew almost exactly opposite conclusions.²⁵ Ingram and Sharpe, moreover, maintain that arbitration was viewed as desirable in the late sixteenth and seventeenth centuries.²⁶

McIntosh found in urban courts, concern with scolding was visible from the later fourteenth century but declined after the late fifteenth century, earlier than in the

'lesser' courts.²⁷ Evidence from Exeter and Kent is consistent with this. Kowaleski found about 200 scolds presented in Exeter between 1368 and 1390, an average of just over 9 per year.²⁸ Late fourteenth-century Exeter (whose population Kowaleski gives as about 3100), was probably slightly smaller than Canterbury in the early sixteenth century, where each of the three years for which all or most of the presentments have survived (1503, 1508, 1519) produced only six presentments for scolding.²⁹ In Maidstone manorial court, which McIntosh classifies as 'urban', 37 views of frankpledge survive for the years from 1464 to 1522: the only scold appears in 1464. So declining urban concern with scolds by late fifteenth century seems to be confirmed, though it may have reappeared after 1560. By contrast, the smaller communities of Fordwich and Queenborough both showed concern with scolds particularly in the years around 1500. In Fordwich this declined markedly after the first decade of the sixteenth century, while in Queenborough, the last recorded scolds (at least up to the 1560s) were in 1504, but the absence of records from 1511 to 1542 makes it impossible to tell whether there was any concern during those years. These do not quite tally with McIntosh's findings for the 'lesser' courts, as they peak and decline rather earlier, but it could be argued that both Fordwich and Queenborough, as exceptionally small boroughs, fit midway between McIntosh's rural and urban communities, and their chronology of prosecutions for scolding occupies a similar midway position.

It can at least be said that the Kent findings, like those of McIntosh, Poos and Ingram, do not support the claims made by Underdown. However, another 40 views of frankpledge for assorted rural Kent manors before 1530 did not yield a single scold, while four scolds emerged from nearly 200 rural manorial views between 1530 and 1560. Although the Kent evidence is roughly consistent with McIntosh's chronology, doubts have been expressed about her methodology, and one is inclined to agree with L. R. Poos, who found social control cases in Essex manorial courts over the period 1350-1525 too intermittent for meaningful quantitative analysis, and any definite chronology hard to discern.³⁰ Even during so-called 'peaks', prosecutions for scolding and other forms of verbal violence constitute a small proportion of cases,

and their actual numbers are not large enough to justify sweeping generalisations about chronological trends. It is possible that too much attention has been given to cases where the word 'scold' or its Latin equivalents was used, at the expense of analysis of verbal violence in general, so in the next section of this chapter, the extent of scolding prosecutions will be examined in the wider context of all prosecutions for verbal abuse.

Extent of verbal violence

Prosecutions for verbal violence in general, as opposed to prosecution of scolds in particular, appear not to have been quantified in any study. Scolds appear only as a very small proportion of presentments and indictments where these have been quantified, from the late middle ages through to the seventeenth century.³¹ Garthine Walker has claimed that what are usually represented as the stereotypical 'female' crimes of the early modern period- witchcraft, infanticide and scolding - are not typical of female behaviour or of the prosecution of women, and that more women committed 'male' than 'female' crimes. It is true that Walker found more women indicted for assault than for scolding in the Cheshire Quarter Sessions and Great Sessions in the late sixteenth and seventeenth centuries, but this is more likely because most scolds were prosecuted in manorial and borough courts rather than at the Sessions than because the overall total of women charged with assault was greater.³² Certainly the Kent evidence for this earlier period suggests that women were far more often prosecuted for verbal than physical violence, even though the former was less exclusively a 'female' offence than has been thought. The records used for the present study reveal 354 charges of verbal abuse of various kinds. This includes three male and two female eavesdroppers, for reasons explained later.³³ Seven accusations were against married couples charged jointly, 173 accusations were made against 152 women and 174 against 154 men. Compared with the numbers of both sexes accused of sexual misbehaviour, and with the numbers of men accused of assault, this is not many. Only slightly more women were charged for verbal offences than for property offences, though far more men were accused of

theft than of verbal abuse. Verbal offences could of course also be dealt with by actions for defamation in the church courts, or by binding over in the secular courts, but as there were also alternative methods of dealing with the other offences there is no particular reason to suppose that this affects the overall picture. Thus verbal violence appears to be the second most common class of charge against women, a long way behind sexual misbehaviour but exceeding property offences only by a narrow margin. For men, on the other hand, charges of verbal violence were far less frequent than those of assault and theft, as well as sexual offences in the church courts.

Scolds and barrators

The word 'scold' or one of its Latin equivalents, occurs in 128 citations or presentments, three of which involve married couples. Five women and one man were twice described as scolds, while three women were presented three times, one four and one six times. However, most of the multiple presentments were in Fordwich, and the absence of evidence for 'repeat' scolds in the other jurisdictions is probably due to deficiencies in record survival. The phrase 'a common scold' seems to have had no particular status in canon law. However, one married couple, one man and 26 women (one cited twice) were cited as 'common scolds' (nearly always *communis rixatrix*) in the church courts, and similar citations occur in other church court records.³⁴ This is probably an example of the cross-fertilisation between ecclesiastical and secular court practice to which Richard Helmholz has drawn attention.³⁵ In the secular courts too, 'scolds' were overwhelmingly female; apart from the men accused with their wives, only three men, one of whom was presented twice, were described as scolds. McIntosh noted an increased proportion of courts presenting male scolds after 1520, and these in Fordwich follow almost the same chronology, appearing in 1517, 1518 and 1533.³⁶ But lest this should lead to the overhasty conclusion that the male scold was on the increase in the second decade of the sixteenth century, Kowaleski found 4% of the Exeter scolds were men in the late fourteenth century, which is almost the same proportion.³⁷

The fact that William Clark of Fordwich, the only man recorded as being presented more than once as a scold, was on both occasions also described as a barrator, and that in one of his presentments the clerk made the telling mistake of using the feminine form, *garrulatrix*, supports the impression that the male scold was something of an aberration. The combined charge of scold and barrator was also used for one other man and one woman, Carter's wife of Canterbury, noted in the previous chapter for a violent assault.³⁸ Ingram defines barratry as stirring up strife between neighbours and vexatious manipulation of the law, adding that indictments for it were in theory only available when the culprit had vexed many people, but that some barratry charges were for behaviour similar to that of female scolds.³⁹ Walker, however, found the wording of indictments for barratry in Cheshire almost identical with those for scolding, with several sets of husbands and wives prosecuted for barratry and scolding respectively for their involvement in the same incident, and barratry and scolding sometimes used interchangeably. She did not find any barratry charges which involved malicious litigation.⁴⁰ The word barrator appears in only ten Kent presentments, all of men with the above exception. Most of those it was used for seem to have been people who had exasperated the presenting jury to an unusual degree. In Fordwich, William Clark and Christopher Elsted were both frequently presented for assaults, both physical and verbal, while Edward Hilles was fined for three assaults, including two on women, at the same court where he was sentenced to be banished as a barrator, disturber of the peace and of bad conversation and behaviour.⁴¹ William Plane of Canterbury had a similar history of involvement in fights, leaving fines unpaid, 'walking late and fassing of his neighbours', and saying 'opprobrious words' to the city fathers, which included calling them churls and declaring 'I am as good as the best of you'. In 1507 Plane was declared to be 'not of good fame but a malefactor, scold, barrator, and disturber of the lord King's peace and a common oppressor of many of the King's liege people'.⁴² Richard Almon, although less prominent in the court records than Clark, Elsted or Plane, had, a few months before being fined 'for a vagabond and a common barrator and breaker of the King's peace', been charged with

keeping ill rule and railing upon the inquest calling them knaves for that they blamed him for playing at tables for money.⁴³

That a barrator was guilty of verbal abuse is confirmed by the case of James Hochyn, who

is a common barrator and useth unfitting words to his neighbours against the peace of our sovereign lord the king.⁴⁴

Only two presentments of barrators give no details of behaviour found to be annoying beyond the common run. The implication would seem to be that, for a man (or in the case of Carter's wife, a woman) to be described as a barrator, he usually had to have committed a series of offences regarded as particularly hurtful to his community. This accords with Sharpe's finding, that people accused of barratry tend to have a long history of contact with the law.⁴⁵ In the previous chapter, it was suggested that only severe physical assaults by women resulted in prosecution, while very minor male physical violence was usually prosecuted. Where verbal aggression is concerned, it looks as though women were more likely than men to be presented for minor offences, as they may also have been for hedgebreaking and other minor property offences.

One reason why male verbal violence has received less attention than that of women is that it was often prosecuted in different tribunals.⁴⁶ Another is that while prosecutions of men for verbal abuse are apparently as numerous as those of women, they constitute only a small minority of the offences for which men were prosecuted, while scolds and female defamers make up a larger proportion of the total numbers of women prosecuted for minor offences. Thirdly, scholarly as well as popular imagination has been intrigued by the image of the ducking of 'scolds', which has been seen as an instance of patriarchal oppression of women. The prosecution of almost exclusively female scolds has been seen as analogous with the prosecution of mainly female witches, as another manifestation of the alleged 'crisis in gender relations' under Elizabeth and the early Stuarts. The lack of attention to male verbal aggression needs to be rectified. As canon law did not accord recognition to the gendered categories of scold and barrator, it might be expected that the church court

cases would show less gendered difference than the secular court, so the former will be examined first.

Male and female verbal violence: the church courts

Table 4.1 shows the church court citations for verbal violence. Such cases constitute the second most numerous class of non-sexual offences in the office act books, just as Patti Mills found them to be in the years around 1400.⁴⁷ There were 116 cases in the sample, of which four involved married couples: of the rest, 69 citations were of women and 43 of men. Women thus constituted about 60% of those accused, a clear majority, but not an overwhelming one. More women than men were accused of a variety of verbal offences in the one citation, like Margaret Byforth of Seasalter, cited in 1517 as a common scold, defamer and blasphemer.⁴⁸ These have been listed in the table under each category. Those classified as having ‘rebuked’ a cleric or court officer are those who appear to have insulted their adversary to his face, while those who ‘defamed’ groups or individuals seem to have spread gossip about their targets behind their backs, a distinction which reflects McIntosh’s two categories of scold. But for those merely charged as defamers, scolds or sowers of discord, it is impossible to tell whether the offence could be classified as quarrelling or backbiting.

Table 4.1: Charges of verbal abuse in the church courts. A few defendants cited for more than one offence, e.g. scold, defamer of neighbours and blasphemer, have been entered under each offence.

Offence	Men	Women	Couples	Totals
Defamer, common defamer of neighbours	4	31	1	36
Defamed specified individual or group	5	5	0	10
Rebuked clergy, judge or apparitor	10	0	1	11
Blasphemer	10	16	1	27
Sowed discord between clergy and parishioners	2	0	0	2
Boasted of having sex	7	2	0	9
Scold, scandalmonger, common sower of discord	1	31	1	33
Other	5	0	0	5
Totals	44	85	4	133

Table 4.1 clearly shows the difference between the charges against men and women. Only the blasphemy charges constitute a similar proportion of male and female defendants. While most of the charges against women were couched in general terms, usually ‘a common defamer of her neighbours’, or ‘a common scold’, a large

proportion of the charges against men seem to have been for a specific act of disrespect to a figure of ecclesiastical authority, either their local incumbent, an apparitor or the archdeacon's official himself, or for a specific defamatory statement against a named individual or a group of people. Some of the men who have been classified here as boasting could equally well have been categorised as defaming individual women with whom they claimed to have had sex, but the statements attributed to some are too general, like that of John Laurence of Elmsted, an unmarried father reported to have rashly declared that he did not care if he had impregnated twenty girls.⁴⁹ It has been claimed that making public revelations about one's sexual experience was an exclusively male 'sin of the tongue', but Joan Cooke of Canterbury 'publicly said she was carnally known on Joan Mockole's bed'; the owner of the bed was then cited for calling Cooke 'the friars' whore'. Agnes, wife of Thomas Colyns of Chilham, was also accused of publicly gossiping about her adultery with John Hales and 'many others'.⁵⁰ Another allegedly gender-specific sin, chattering during the church service, was attributed to women, but the only citation for this offence was actually of three men in Thanet in 1504.⁵¹

The absence of female defendants among those cited for 'rebuking' their priest or an official of the court might be taken to indicate a greater respect for the church on the part of women. However, three of the ten men cited for such verbal attacks were themselves clergy. Two more were holy water clerks, and another was the 'pretended hermit' of Bridge; the occupations of these three presumably involved working relationships with the local incumbent which had led to friction. One of the sowers of discord between the parishioners and the incumbent was also a holy water clerk.⁵² So open defiance towards the personnel of the church does not appear to have been much more common among laymen than laywomen. On the other hand, the clergy figure quite prominently among the few identifiable targets of defamation, perhaps not surprisingly, since defamation of a cleric would be most likely to result in an offence as opposed to an instance case. Among the ten defendants charged with defaming an individual or group, two men and two women were said to have defamed clerics. William Baldok of Newington was perhaps lucky to avoid a heresy

charge, being 'a common defamer of the order of priests', publicly calling priests 'whoremongers and other words'.⁵³ Indirect slander of clergy seems to have been part of the vocabulary of female insult. Of the three women charged with defaming other women, two were accused of implying that their victims had sexual relationships with clerics; this was the obvious inference behind the words attributed to Katherine Cheyne of Romney,

The gay beads and girdles that Johane Markby hath came never of her husband's gift but by the gift of priests.⁵⁴

In contrast to the specificity of the charges against many men, though, the generalised accusations of 'common defamer' or 'scold' against most of the women cast little light on what precisely was the offence they were accused of. Only the citation of Alice Shene of Chartham, accused as a common defamer, reveals that she 'brings contumelies upon her neighbours daily'. Alice confessed that she had spoken 'certain words of abuse' against Joan Hewett, Joan Derne and Constance Michell, and for her penance was ordered to ask their pardon publicly on bended knees.⁵⁵ This form of penance was found in only one other office case of defamation, that of Joan Harrow.⁵⁶ Alice Shene's case was also unusual in that she was cited by the curate of Chartham; most citations at this period seem to have originated with the apparitors. Agnes Rowe of Newchurch, described as a common defamer of her neighbours, and who succeeded in compurgation, was reported to have said that there was no-one in Nicholas Elys's [house?] except thieves and whores.⁵⁷ This may have been merely an example of her 'common' defaming of her neighbours, or was it the only offence for which she was being cited? Another ambiguous citation was that of John Bolding of Lydd, who was described as

a common defamer of his neighbours, especially of the shipmen there, saying all the shipmen of the same town of Lydd were thieves and robbers.⁵⁸

Joan Mokole, who called Joan Cooke 'the friars whore', was cited as a common scold, similarly leaving it unclear whether a single slanderous statement could result in citation as a 'common' scold or defamer. In short, it is far from clear whether the adjective 'common' had any precise meaning, at least in the church courts. The charge against Agnes Hewett of Chartham was entered twice in the act book: in

October 1487 she was cited as a common defamer of her neighbours, but failed to appear in court. When she did come, a few weeks later, she was described as 'a common defamer of her neighbours and scold (*obiurgatrix*) of the same', which suggests that no clear distinction was made between a defamer and a scold.⁵⁹ Similar ambiguities, and similar gendered differences appear in the secular court records, which will be discussed next.

Male and female verbal violence: the secular courts

Charges for various forms of verbal abuse in the secular courts amount to three against married couples, 104 against women and 131 against men, with a few men and women being accused of more than one verbal offence, as shown in Table 4.2. Although the secular court cases reveal marked similarities to those in the church courts, in the secular courts men outnumbered women as defendants in verbal abuse cases. However, this is mainly because of the varied nature of the sources used. Fordwich, Queenborough and the manors were the only places for which cases prosecuted in the view of frankpledge alone were counted; in 33 out of 55 charges in Fordwich and five out of eight in the manors, the defendants were women, almost exactly the same proportion as in the church courts, while the Queenborough defendants were five women and one married couple. The Sandwich Year Books and the Canterbury chamberlains' accounts contained a heavy preponderance of male offenders, and the Canterbury Burghmote books and the accounts for New Romney contained no female verbal offenders at all. Most of the charges in these latter records were of 'rebuking' or 'railing' at the mayor, jurats or aldermen, which suggests that this was an offence often heard in a superior court to that which heard charges against contentious women.⁶⁰ The local elite were the targets of most men who rebuked officials, while most of the few women accused of a comparable offence had 'railed' at lesser officials like the constable, borsholder or presenting jury.

As in the church courts, general accusations, chiefly of being 'a common scold' are far more often directed at women, while specific charges of 'rebuking' officials are

much commoner for men. The ambiguities noted in some church court cases apply also to some accusations in the secular courts, both the uncertainty over whether some, mainly female, defendants were being charged for a single offence or for habitual nagging or quarrelling, and over whether words like scold had any precise significance. For example, Eleanor of Burgate in Canterbury was presented in 1503 'for scolding and calling the Constable and the Borsholder thieves and knaves'.⁶¹ It is impossible to tell from this whether she had verbally attacked others, or if her sole offence was to have insulted the officers. Similarly, Alice Stokes of Fordwich was described as

a common scold and rebuked Katherine Assheton and Margaret Assheton and had divers opprobrious words against the peace.⁶²

If scolding had to be habitual to warrant a prosecution, it might be expected that women in danger of being prosecuted would have been warned about their behaviour first, and that some presentments might indicate this, as is the case with some other offences. One obscurely-worded Queenborough entry seems to indicate a warning of a married couple that they will be punished as scolds if they do not behave towards a third party in future.⁶³ But, although in 'repeat' prosecutions of scolds it was often noted that the woman had been presented before, the only mention of a prior warning having already been given is in the case of Katherine Mathyn of Sandwich, banished in 1484

as much for her scolding as for other delicts, about which she was warned many times and made no amendment.⁶⁴

Katherine had evidently been 'warned' about more than one kind of misbehaviour, so there is no clear evidence whether to be prosecuted, 'scolding' had to be habitual or could result from a single outburst.

Cases classified as slander in Table 4.2 are those where the offence appears to have been backbiting or attacking someone's reputation behind their back, while those classed as rebuke or verbal assault seem to have involved face-to-face insults. Like the distinction made in Table 4.1 between defaming and rebuking, this approximates to the distinction made by McIntosh between backbiting and quarrelling. However,

there is no indication in the presentments of the great majority of female 'scolds' which, if either, of these categories the offence belonged to. Christian Borne was 'a common scold with her neighbours as well by night as by day', and Robert Sturdy's wife 'scolded many times to the annoyance of her neighbours'; these suggest general and regular quarrelsomeness.⁶⁵ The clearest picture of a stereotypical quarrelsome scold is perhaps provided by the conviction of Johane, the wife of John Neame, for brawling and scolding openly in the streets of the town with honest and quiet women.⁶⁶

The 'backbiting' type of scold is illustrated by Carter's wife, who, in addition to being a 'common barrator or scold' was

a bearer of tales of her own invention between neighbour and neighbour, to set them at variance and strife...⁶⁷

The only other woman whose offence was obviously tale-bearing was Alice Offam, who

is a common scold and carries rumours between neighbours in order to sow discord among neighbours to the common nuisance.⁶⁸

The lack of specificity of most accusations of scolding is reminiscent of the uninformative nature of the accusations of 'privy pickery', 'bawdry', 'ill rule', 'bad conversation' and other charges mainly levelled against women. Also, women were disproportionately accused of *being* some kind of delinquent, a common thief, harlot, bawd or scold, while charges against men were far more often for a specific criminal *act*.

Table 4.2: Prosecutions for verbal abuse in the secular courts. Individuals charged with more than one offence, e.g. barrator and scold, have been entered under each offence.

Offence	Men	Women	Couples	Totals
Scold, barrator, quarreller	13	94	2	109
Eavesdropper	3	2	0	5
Rebuked officer, disclosed counsel, bad language in court	69	9	0	78
Verbal assault to people other than officials	9	1	0	10
Curser	0	2	0	2
Slander of officers	31	1	1	33
Slander of non-officers	4	2	0	6
Other	5	0	0	5
Totals	134	111	3	248

Targets of verbal abuse: social equals

In addition to the few female scolds or defamers who were identifiably in trouble for malicious gossip, or for habitual quarrelling in public, some can be identified more or less positively for quarrelling with specific neighbours of presumably similar status to themselves. This is fairly explicit in a case in Sandwich in 1538, when John Arthur, smith, and Richard Nott, butcher, were jointly given an injunction

to cause their wives [to] desistfrom open scolding in the streets. On pain that if any of their said wives ungoodly misbehaveth them self to other, in whom the fault or folly shall be found to pay twenty shillings.⁶⁹

There can be little doubt that Nott's and Arthur's wives had been quarrelling with each other. Quarrelling women, though, were seldom explicitly presented for mutually insulting one another, as men frequently were for mutual assault. But, given the comparative rarity of accusations of women for verbal violence, when two women from the same parish were presented at the same court session for scolding or defaming, it seems plausible to suggest that their cases might be linked, and even that they habitually quarrelled with each other 'to the annoyance of their neighbours'. Joan Vittell and Cecily Manger were cited jointly in the archdeacon's court in 1550 as 'sowers of discord', and the same three women acted as oath-helpers for both of them.⁷⁰ There are seven more occasions in the church courts when two or more women from the same parish were cited either together or one immediately after the other; one of these also involves the husband of one of the women.⁷¹ In the manor courts, two pairs of women were presented as 'common scolds', while only one was presented on her own, and in Queenborough, out of the seven people accused of being scolds, there were two pairs of women presented together, and the other three may also be linked.⁷² In Canterbury and Fordwich, several presentments of scolds seem more likely to be connected with other matters than squabbles between women, but there are five Canterbury 'pairs' of scolds (or ten scolds) whose offence may have been quarrelling with each other. In Fordwich, Agnes Golding and Margaret Millon were presented together or consecutively as common scolds three times in 1506 and 1507, though on separate occasions in 1508.⁷³ Of course, two women being presented together or consecutively for scolding is not conclusive evidence that their

offence was exchanging insults with each other. It is equally possible that, every so often, a local jury decided to crack down on female contentiousness and made accusations against two women who had separately caused annoyance to the neighbours by being generally quarrelsome. If to be a 'common' scold necessarily involved verbal aggression to a number of people, as seems to be implied in Baker's definition, the latter is more likely to be the case, but the impression left by the Kent records is that 'common scold' was used fairly indiscriminately to denote a wide variety of verbal offences by women. Lists of presentments were sometimes drawn up by men whose literacy was fairly marginal : it is unlikely, for example, that the owner of the unpractised hand who wrote 'Jone Carpe[n]ter for comyng schole w[hi]ch dewlyth in Wenchepe' was well-versed in the legal niceties which might determine whether a 'schole' was 'comyng' or not.⁷⁴

Some other cases of verbal violence can be traced, with varying degrees of certainty, to quarrels between families. In Sandwich in 1552, arbitration was arranged in a dispute between Richard Yong, labourer, and John Lowe, yeoman, and the two men and their wives were ordered to accept it. At the same session it was reported that

the aforesaid Margaret Yong and Marion Lowe have misused themselves in giving of unset words one with the other

and each was fined 21d.⁷⁵ The word 'scold' was not used here, but legal jargon was rarely used in the Sandwich year books. In Queenborough, Robert Hutton appeared before the court for assault and battery on the *puella* (maid?) of John Brett, and the same *puella* was then presented as a scold.⁷⁶ The same year a cryptic entry records

agreement made between Robert Hutton and John Smyth before the mayor Thomas [G]rene and his brethren upon his good a-bearing and his wife on pain of xx li. wax to the chapel and be punished by the cucking stool and all other scolds.⁷⁷

It is not inconceivable that the *puella* was the daughter of, or otherwise connected with, John Smyth; anyway, Hutton who had assaulted a scold appears to have been in danger of being punished as one himself. Record linkage may shed a little more light on scolding. Katherine Maryon was presented 'for a common scold' in Canterbury in 1508, as were John Cotell and his wife. The city accounts show that the same year Katherine, wife of Robert Maryon, sued for Agnes, wife of John Cotell,

to be bound over to keep the peace, and John Cotell asked for an Edith Maryon to be bound over. This looks like a feud between two families.⁷⁸

Targets of verbal abuse: officeholders

In the church courts, one of the commonest reasons for men to be charged with verbal abuse was because they had insulted a cleric or a court official. In the secular courts, as Table 4.2 shows, by far the commonest reason for men to be prosecuted for verbal violence was because they had insulted or slandered an official, behaved inappropriately in court, or, in the cases of six men, abused their positions as jurors by disclosing the jury's deliberations to others. The very small proportion of targets of male slander or verbal assault who were not apparently officials suggests that men were rarely prosecuted for verbal abuse of anyone not connected with the administration of the law. What is more, a clear hierarchy of targets for verbal abuse emerges: the more senior the officeholder, the more prosecutions there were for insulting or slandering him.

As Table 4.3 shows, just over half the prosecutions of men for slandering or 'rebuking' officials were for verbal abuse of the mayor, or the mayor and jurats collectively. Furthermore, these are minimum figures; several men were accused simply of using 'unfitting' language in court, and this was most likely directed against the presiding officials. Verbal abuse of mere jurors, singly or collectively, accounts for half the female verbal abuse of officials, but only 11% of verbal attacks by men. Minor officials like the borsholder or constable were relatively unlikely to be targets of male insults. Many of these cases effectively amount to something like contempt of court, an offence which features occasionally in the church court records but which was not found described as such in the secular courts. It is not surprising that this was taken seriously, particularly considering the limited resources available to the local elites for enforcing law and order. The prominence of male defendants in such cases is to be expected: men far more often than women appeared in court as defendants, and many more than those who served as jurors or other officials owed

suit of court. Some verbal attacks on jurats or aldermen, and some on mayors, probably arose out of internal disputes within the local elites: in at least eleven cases, mostly from Sandwich, a jurat or common councillor had insulted another jurat or the mayor, and in New Romney it was ordered that no jurat was 'to rebuke nor fray with no other jurat', on pain of a £10 fine.⁷⁹ In contrast with this, though, the Canterbury Burghmote in 1544 prescribed fining or 'punishment by the body' for 'any man or woman of the common inhabitants' who insulted the mayor or any alderman or common councillor.⁸⁰ This suggests the local elite were more sensitive about their own reputations than those of lesser officials. Verbal attacks on constables responsible for apprehending malefactors, and on jurors who presented them, were probably more numerous than the numbers of prosecutions indicate: these minor officeholders were in the front line of law enforcement and might be expected, like the apparitors, to bear the brunt of defendants' resentment. Also, not all the verbal assaults on mayors can be equated with contempt of court. In Sandwich in 1495, Thomas Bover or Boner, was dismissed from his position as a jurat, and from the common council, because he

in the street upon Saturday last past in open audience as well of men of the town as of other of the country had unto the said mayor unfitting language contrary to his oath, to the great rebuke of the said mayor and dishonour of the town if it should be suffered and not punished.⁸¹

Table 4.3: Prosecutions for verbal abuse of officials in secular courts

Target of abuse	Male offenders	Female offenders	Couple offenders	Totals
Mayor or mayor and jurats	44	3	0	47
Jurats/aldermen, common councillors, treasurers	30	0	1	31
Constable, borsholder, aletaster	3	2	0	5
Jury or juror	10	5	0	15
Totals	87	10	1	98

Drinking sessions were sometimes where slanderous words were spoken, and on the few occasions when drunkenness was mentioned, it seems to have been considered an extenuating circumstance. The quarrelsome shoemaker Richard Cristmas, charged with slandering a jurat, was pardoned because he 'spake the said words in his drunkenness'.⁸² William Prior had used unfitting language against the mayor 'as well afore my lord of Canterbury as at taverns and other places', but was set free when he

humbly submitted and promised to behave in future.⁸³ In 1509 two witnesses reported that they had been with Thomas Hogeikin in Thomas Gardener's house on the previous Saturday, and Hogeikin

had many railing and ungoodly words, especially he said there was not this thirty years true mayor of this town but only John Archer and John Nasby.... he would have the said mayor by the ears with many other ungoodly words.

When examined, Hogeikin 'knowledged him self to have spoken amiss in pride of drink', and was threatened with banishment only if he offended again.⁸⁴

Some slander of mayors and jurats was more specific and injurious, accusing the local elite of corruption or worse, like that of Robert Cok, a brother of St. John's Hospital in Sandwich: witnesses swore that they

heard the said Cok say the said mayor was a traitor and a maintainer of thieves, and that truer men [than] he was hanged and many evil words.⁸⁵

Robert Kenny was reported to have said

that the mayor and his brethren were but hedgehogs, hedgecreepers, bench whistlers and catchpolls.⁸⁶

John Pascall accused the jurat Roger Manwood of being 'a false harlot, a poller and a extortioner', and Walter Sheterden called the mayor 'a money judge'.⁸⁷ But admitting one had spoken injurious words 'in hastiness and fume' (anger), coupled with fulsome public apology seems to have got several defendants off the hook. A number of slanderers, most of whose targets were members of the local elite, were examined as to what evidence they had for their words, like Richard Rigeway, who addressed to the mayor

unfitting words, viz., that he would tell the said mayor a tale in his ear that would not content his mind,

afterwards publicly declared that he knew

nothing of the said mayor but good and worship, and the words he had spoken was in fume and hastiness,

and was set at liberty for his 'humility and submission'.⁸⁸ John Rugley had 'rehearsed before him the unset words spoken by him in the council chamber to the mayor contrary to the parts of an honest man'. He 'revoked and utterly denied and relinquished the said words....being sorry for the same', but was fined 40s. all the same.⁸⁹

A 40s fine was by no means exceptional for slander to a mayor in Sandwich, where fines of five, and even, on one occasion, ten marks were recorded for such offences. However, such fines seem to have been imposed mainly on wealthy townsmen, and several were fully or in part remitted later, presumably when tempers had cooled. If the defendant's ability to pay was one of the factors which influenced decision-making over the size of fines, another was possibly the status of the person slandered. No-one in Sandwich appears to have been fined more than 6s 8d for a verbal attack on a jurat, while in Canterbury, fines ranged from 13s 4d to £4 for 'opprobrious words' to the mayor, and from 6s 8d to £3 to similar attacks on aldermen. The few recorded fines for verbal attacks on constables and borsholders in Canterbury ranged from 16d to 6s 8d, and a Birchington alehousekeeper was fined 3s 4d for compounding his offence of breaking the ale-selling regulations by telling the aletaster 'that his office was a knave's office'.⁹⁰ For serious verbal assaults on the local elite, those who presumably could not afford a fine could still be severely punished: Robert Cok, for his admittedly highly offensive slander of the mayor, was sentenced

to go round the town with a paper on his head at 9 of the clock, and to be set in the pillory time one of the clock at afternoon openly in the Corn market and then to be openly banished for one year and a day.⁹¹

So shaming punishments for verbal abuse were not confined to female offenders, at least in Sandwich. Garthine Walker also found that people who quarrelled or were disrespectful to those in authority were punished more severely than those who quarrelled with ordinary neighbours.⁹² If most prosecuted verbal abuse by men was directed against those in authority, and most prosecuted verbal abuse by women was not, there was clearly a major gendered difference: were men hardly ever prosecuted for insulting their equals, while women usually were? Taken at face value, this appears to be what the evidence from both ecclesiastical and secular courts indicates, but a closer look at some cases suggests that the label 'scold' or even 'common scold' when applied to a woman might sometimes mask an offence very comparable to those typically committed by men.

The tendency to deal severely with people who slandered or insulted those in authority, and the propensity of both men and women to insult those who accused or arrested them have been commented on in several studies.⁹³ Ingram claims that male 'railers' were more often than women in trouble for abuse of authority figures.⁹⁴ This appears to be in line with the evidence from the Kent courts; indeed it would be surprising if this were not the case, since men came into contact with authority figures more often than women did. However, Kowaleski found that in 38% of the Exeter cases where the target of a 'scold' was named, the targets or their husbands were either jurors on the actual panel accusing the scold, or a current officeholder in a position to influence the jurors' presentments.⁹⁵ The 'scolding' might of course have been about an issue unrelated to the court's proceedings, but if it was, this suggests that jurors may have made private grudges the subject of their presentments. Of the ten women in Kent who 'rebuked' or 'railed at' officeholders, five were presented as scolds. Examination of the presentments of the other scolds suggests that some women whose target was not specified may have been guilty of outbursts of anger towards the jurors who had accused them (or their husbands) of a separate offence. This may also account for some male verbal abuse: altogether 19 outbursts of male verbal violence to officials where the motive is not specified may have arisen out of accusations of the defendant for another offence. But this hypothesis fits the cases of more women than men, and the women were referred to as scolds while the men were not. Of 46 presentments of women at the Canterbury sessions or view of frankpledge which include the word scold (nearly always 'common scold'), 18 were themselves presented for another offence at the same time. Seven of these charges were explicitly sexual, and four more may have been, for example 'lives suspiciously'; the rest were for a variety of minor offences. Of those who were not presented themselves for another offence, four more had a husband or male partner presented at the same court, like Matthew Loker, presented 'for keeping of bawdry and Johane his woman for a common scold'.⁹⁶ So nearly half the Canterbury scolds or their husbands were in trouble for something else at the time of the scolding

presentment. The roles could be reversed, as is shown by the case of John Gossen of Canterbury, presented for 'rebuking' the jury at the same time as his wife was presented as a harlot.⁹⁷ In Fordwich, on eleven occasions out of the thirty on which women were presented as scolds, the woman or her husband was presented at the same court for another offence. While this does not prove that the presentment for 'scolding' was actually for a verbal attack on the presenting jury, it seems plausible to suggest that this might have been the case. Kowaleski, however, though conceding that the Exeter evidence might be used to support this argument, on balance considers that scolds were habitual naggers and troublemakers, and that the frequency of their presentments for other offences suggests this. Clearly, the evidence can be read in either way.⁹⁸

In Fordwich, where a near-continuous run of court records has been preserved, it is possible to examine the contexts in which some charges of being 'a common scold' were made. In October 1495, Rose Peny was presented along with the rector, John Bailey, for having rebuked the jury at the last view of frankpledge, thereby showing contempt for the law and setting a bad example. The rector was fined 20d for this offence, and Rose Peny 12d. Later in the course of the same view, Rose was presented as a common scold and fined a further 4d, with the threat of the mortar if she did not reform.⁹⁹ It cannot be proved that her disagreement with the jury was the sole cause of Rose being charged as a scold, but the records for the 1490s are very full, and she made no other appearance. Rose Peny had been involved in a brush with authority, in association with a man, and it may have been this that resulted in her - but not him - being presented as a scold.

Again in Fordwich, in September 1499 Anne Cook and Alice Byker were presented jointly, both as common scolds and for keeping a night vigil and living suspiciously. Each was fined 20d and warned not to reoffend, on pain of a 20s fine or banishment. Anne Cook was then fined 12d for assault and affray on John Dorant, while he was amerced 6d for assaulting her, indicating presumably that his was the lesser offence. Alice Byker was fined 3s 4d for rebuking the jury at the last view and the one before,

i.e. in November 1498 and January 1499. Three other women were presented as 'common scolds to the common annoyance of their neighbours'. One of these was Margaret, the wife of John Dorant, Anne Cook's victim and assailant.¹⁰⁰ The other two, Katherine Large and Margaret Millon, are among the small minority with multiple presentments for scolding, but in this case it may be relevant that Katherine's husband, John Large, had been on the jury in November 1498, as had John Dorant, while Margaret Millon's husband, Peter, had been a juryman in January 1499.¹⁰¹ These were the two juries which Alice Byker had 'rebuked'.

It is possible that all these cases were connected. During the previous winter Alice Byker had verbally attacked the jury, at or after the view of frankpledge. She and Anne Cook were probably friends; both were almost certainly young and from more affluent backgrounds than most of the scolds whose status can be ascertained. The will of Thomas Byker, Alice's husband, dated 1502, shows him to have been quite well off, and probate was contested in 1503 on the grounds that he had been under 21 when he made it.¹⁰² Anne Cook's husband was an old man but she was not his first wife. Anne Cook may have sided with Alice in her dispute with the juries, and this perhaps led to her fight with the juryman John Dorant. Robert Cook, Anne's husband, was plaintiff in a trespass plea against Dorant in July 1499 for the alleged assault on his wife.¹⁰³ Margaret Dorant, justifiably angry that her husband was being unfairly accused, may have verbally attacked Cook (a former mayor) or his wife. Katherine Large and Margaret Millon, both quarrelsome (or assertive) women, whose husbands were also involved, may have weighed in. The jury in September 1499, which presented all five women as scolds, did not include Dorant, Large or Millon, but it did contain several other men who had been part of the two earlier juries attacked by Alice Byker. To get their revenge on the latter, and on her supporter Anne Cook, the jurors seem to have decided to focus on the unseemly nocturnal goings-on of the two young women, whether these were real or imagined. To put all five quarrelsome women in their place, they were all presented as scolds. Whether or not this is exactly what happened, what is beyond dispute is that at least part of the disturbance originated with a woman's rebuking the jury, and in addition to two

women having their sexual reputations impugned, five women were charged as scolds and no men were, even though several men were involved.

Disputes arising from proceedings at the view of frankpledge may also lie behind the presentments of Katherine Large and Rose Serlys as common scolds in Fordwich in October 1501. The accusation against Katherine is recorded immediately below her husband's presentment for disclosing the deliberations of the jury, of which he had been a member, at the preceding view.¹⁰⁴ John Large had indeed been a juror at the view of frankpledge in June 1501, which was noteworthy for the three heavy fines imposed on Richard Serlys, husband of Rose. He was amerced 10s for each of two offences of assault and affray, and also presented for the possession of a dangerous dog: On top of this was the demand that his 'leprous' wife should leave the town.¹⁰⁵ John Large's offence probably consisted in warning his neighbour in advance of the unpleasantness in store for him, and the two wives most likely became involved in the resulting furore.

That female verbal abuse of a high officeholder could be described as, and treated as, 'scolding' is clear in the case of the wife of John Chevyn, butcher, of Sandwich: in 1519 she was sentenced to 'go about the town and the mortar to be borne before her' for 'lewd and simple words' against the mayor. Her husband 'redeemed her judgement' by paying a fine of 21d, a way of escaping public humiliation which was provided for in the custumal. In 1521 it was reported, with a reference to her previous offence, that she had 'scolded and chided' again, and it was ordered that 'the mortarstone shall be brought to her door'.¹⁰⁶ In this case at least, the largely female offence of scolding or quarrelling in public, and its prescribed punishment, seem to have been conflated with the more usually masculine offence of verbal abuse to one of the local elite.

In the less complete records of the other jurisdictions there are some entries which could be read to imply that the 'scolding' woman's offence had been to verbally

attack jurors or officeholders for presenting or arresting them. Katherine Hubryte of Canterbury was presented

for scolding and rebuking the constable the borsholder and their company with rubell [?] words, that is to say, thieves and knaves

and also

for keeping other men's servants playing a dice and cards a holidays afore high mass.¹⁰⁷

Possibly the officials had visited Katherine in connection with her allowing gaming on her premises at unsuitable hours, she had responded with verbal abuse and thus laid herself open to a charge of 'scolding'. In some cases where couples were accused jointly of one or more offences, the extra offence of being a scold was added for the woman alone. A Canterbury jury presented

Thomas Stacy and Agnes his wife for keeping of a blind lodging and harbouring of suspicious people both men and women and for keeping bawdry.

Also we present the same Agnes Stacy for a common scold with her neighbours and liveth suspiciously of her body beside her husband.¹⁰⁸

Similarly

John Penne and Jane his wife be vagabonds and idle persons and labour not and have not wherewithal to live and live suspiciously and also lodge idle persons and vagabonds etc..... The aforesaid Jane Penne is a common scold with her neighbours to the common nuisance.¹⁰⁹

Agnes Stacy and Jane Penne may have really scolded 'with their neighbours' while their husbands did not. Or they may have protested too assertively to those who accused them and their husbands. A third possibility, perhaps consistent with the large accumulations of rather vague accusations levelled against both couples, is that the Pennes and the Stacys had become so generally unpopular that the jury wished to accuse them of every offence they could conceivably have committed; a scold, and in Agnes Stacy's case also a sexual offender, were additional available stereotypes that could be applied to a wife but not to her husband. The same might apply to Christopher Colermaker, who figures in the most unspecific of all presentments:

Item Christopher Colermaker is a foul man.

Item the wife of the said Christopher Colermaker is a common scold.¹¹⁰

As Ingram has pointed out in another context, the operation of the law could itself be a form of disorder.¹¹¹ It seems likely that some of the Fordwich and Canterbury

scolding presentments were manifestations of the same phenomenon, but if they were, the epithets 'common scold', and even 'common scold with her neighbours' whatever their technical meanings may have been, were used in practice to denote women who had verbally abused specific figures of authority. Also, if this was the case, men presented for 'railing' at the jurors or constables were not usually labelled scolds while women were. In other words, male 'railers' were usually just charged for a single specific act, while women doing the same thing were characterised as people who habitually behaved in an unacceptable way. This is another example of a tendency already noted.¹¹² The occasional labelling of men as barrators is probably comparable, but this only happened to exceptionally troublesome men. Being a 'common eavesdropper' may have been a charge similarly made against men who had not shown due respect for the operation of the law. Only two men (one of them charged twice with this offence) and two women were presented as common eavesdroppers, and no further information was given in the presentment of either of the women. But in 1519 Christopher Elsted was fined 20d

because after the last view of frankpledge he rebuked Edmund Blakbery and others of the Lord King's sworn [jurors] with opprobrious words for presenting him for his ill rule.

Elsted was immediately after this presented as a common eavesdropper and fined another 12d. Four years later the accusation of eavesdropping was coupled with barratry and disturbing the peace and Elsted was threatened with banishment unless he could find securities for his good behaviour.¹¹³ The other male eavesdropper, Michael Wells, cannot be shown to have been as troublesome as Christopher Elsted, but according to the jury, he

is a common eavesdropper in order to hear the secrets of diverse persons, so as to sow discord between neighbours.¹¹⁴

This sounds very reminiscent of scolding in the 'backbiting' sense, and suggests that it was not so much the hearing of 'secrets' that was the offence, but rather the use subsequently made of them to stir up ill-feeling.¹¹⁵ The accusation of being a 'scold' for someone who had shown disrespect for authority or to their social superiors, may even have occasionally been applied to men. In 1533, William Jackson, a long-

established resident and freeman of Fordwich, who unlike most other male scolds, barrators and eavesdroppers, did not have a record as a troublemaker, was fined 3s 4d for assaulting three men, of whom one was a Canterbury alderman and another the vicar of the adjacent parish, and 12d for being a common scold with diverse neighbours.¹¹⁶ Perhaps he had used verbal as well as physical violence to his 'betters'.

In the church courts, the accusation of being a common blasphemer may sometimes have been used much as scold, barrator and eavesdropper seem to have been used in the secular courts. Four of the men charged as blasphemers, and two of the women, were cited for another offence either at the same session of the court or an immediately preceding one. The small number of citations for blasphemy is unlikely to reflect the total number of people who probably committed this offence, and it is possible that either on receipt of the summons or in court for another offence, defendants sometimes gave vent to their anger by blaspheming. In December 1548 Elizabeth Typpying confessed she had had a child by John Aborough, and he was ordered to be cited. Aborough appeared in January 1549 and denied the charge. He was ordered to make a further appearance to purge with 'nine hands', indicating considerable severity on the part of the judge, and 'to receive penance for manifest blasphemy'.¹¹⁷ It looks as though his denial of paternity had been accompanied by blasphemous language in court. If verbal violence was often directed against social superiors or authority figures, it is time to enquire what kinds of people they were who committed it.

Marital and social status

Conflicting claims about the social and familial status of scolds have already been noted.¹¹⁸ Most of the Kent records are not complete enough to determine the marital status of the many women who are described merely by a forename and surname, but of 180 presentments or citations of women for verbal aggression of some kind, 99 (55%) were definitely wives and three more almost certainly so. Only two women are identifiable as single and two more as widows. Neither in the ecclesiastical nor

secular courts in Kent at this time was it the invariable practice to refer to married women as wives, so, in view of the very small proportions of identifiable widows and singlewomen, it is probable that the great majority of the Kentish scolds and other women charged with verbal aggression were married. In Fordwich the record is continuous enough to establish that, of 17 women who were presented, sixteen as scolds and one as an eavesdropper, between 1460 and 1560, fourteen (82%) were married, although one of these was probably a deserted wife. The remaining three may well also have been married, since there was a man of the same surname in Fordwich at the time.

The social and economic standing of these Fordwich women is harder to establish, but three of them were connected to local elite families, while the husbands or presumed husbands of two more were freemen of the borough. There were only two whose husband never served as a juror, and these two are the only ones who cannot be shown to have been resident in Fordwich for at least three years. Seven were members of long-established local families. The two male 'scolds' in Fordwich had both been resident for some years and served as jurors, and one of them was a freeman. Being a juror in Fordwich was no great indicator of high social status, as some regular jurors were described as labourers, but such sketchy profiles as can be pieced together for these people do not suggest that many of them fitted Underdown's stereotype of the scold as characteristically poor, widows or social outcasts, nor do they meet McIntosh's claim that juries in this period were more likely to report misbehaviour by the 'shiftless poor' or outsiders.¹¹⁹ Joan, wife of Robert Ley, who was presented as a common scold with her neighbours in 1463 and again in 1465, may have been poor: Robert Ley, although he had served as a juror, was defendant in a debt case in 1466, and in 1467 some goods of his were valued for arrears of rent.¹²⁰ Godleve and Richard Leverey made a fleeting appearance in the Fordwich records in 1514, he merely as defendant in a debt plea and she first as a scold and then as a hedgebreaker. On the latter occasion she was banished.¹²¹ But if these were members of an underclass of shiftless and more or less transient poor, they were heavily outnumbered by members of established families. Kowaleski found that the

Exeter scolds were of below average social and economic status, and that the 'repeat' scolds were the poorest among the group.¹²² In Fordwich, of the four women who had three or more scolding presentments, one was the daughter of a former mayor and two others the wives of very regular jurors. The surviving records for the other jurisdictions are too incomplete for family backgrounds to be conclusively established, but there is nothing to suggest that any of the scolds apart from those in Fordwich were well-connected. In Canterbury, only three women presented for verbal abuse can be shown to have been the wives of men who served as jurors or minor officials, and elsewhere not even as much as this can be ascertained. This might suggest that the Fordwich presentments of scolds were somewhat exceptional, or that local variation was simply too great for any useful generalisation to be made, except that women accused of scolding or railing could range from the poor to the wives or daughters of yeomen, but no higher up the social scale.

A single 'gentleman' appears among the male defendants, but, bearing in mind that the status of many men cannot be established, it seems likely that they were on the whole of higher status than the women. There were twelve clergy, four holy water clerks, and only two described as servants. Seventeen men, accounting for 23 presentments, had served as jurors, and eleven, accounting for 17 presentments, were jurors or lesser officeholders. This is not surprising, considering that some presentments arose out of quarrels among the local elite, but it is noteworthy that no Canterbury aldermen appear among the defendants, which again suggests a greater social divide in the city than elsewhere.

Personalities

If not much can be established about the social background of scolds and other female railers, can anything be discovered about their personalities, apart from the obvious, a tendency to be argumentative or given to malicious gossip? Those whose presentment seems to have been connected with court proceedings, or who 'railed' at the jury, must have been not easily overawed by local officialdom. Simultaneous presentment for another offence may indicate a tendency to delinquency rather than

that the 'scolding' was an outburst against what the defendant considered an unjust accusation, but in any case, these amount to less than half the total, and there were many women accused of other offences who never appear to have been charged with verbal violence. Ingram suggests that anyone prosecuted as a scold was a more or less continual troublemaker, someone who seriously upset their neighbours and, at the extreme end of the spectrum, would probably now be classified as mentally ill.¹²³ Presumably, though, he came to this conclusion from the small minority of cases where the accusation of being a scold was illuminated by some further detail, and these are most likely the ones whom the presenting juries considered to be the worst cases. Again, it is only the Fordwich records that are continuous enough to enable us to make any kind of informed guess about a few of the women who were described as scolds. There is one Fordwich woman who may have been mentally ill: Alice Stokes, who seems to have been a deserted wife, committed suicide in 1493, within a year of being presented as a scold.¹²⁴ Another, Agnes Tropham, appears unusually frequently for a woman in the court records, and the availability of both her parents' wills may shed some more light on her personality. Agnes Tropham may have inherited a propensity to quarrel: her prosperous family of origin appears over three generations to have been exceptionally litigious. Most unusually for a woman, she was implicated in two assault cases, one also involving her parents and the other her daughter. In addition to three presentments as a scold and one for hedgebreaking, she was co-defendant with her husband in three or more trespass suits. In the course of the hearings of these he unchivalrously failed to appear in court on two occasions, leaving Agnes to cope on her own. In 1484 she was arrested on 'divers charges', record of which has not survived, and rescued from custody by her mother, aided and abetted by John Large, whose lack of respect for the law has already been observed.¹²⁵ Although evidence from wills cannot be regarded as conclusive, the testamentary arrangements made by her parents are not suggestive of a happy family relationship. Her father left extensive lands to his other daughter and her husband, with the proviso that if they died without heirs the lands were to be sold. Later, her widowed mother left Agnes and her husband the tenement they were living in, but

although there were copious bequests of personal effects to other relatives and friends, Agnes was to receive nothing else.¹²⁶ She seems one of the very few candidates for Ingram's description of scolds as 'dismal negotiators of social relationships'.¹²⁷ The woman who best fits the stereotype of the habitual scold is Margaret Millon, presented six times for scolding between 1499 and 1508, after which both she and her husband, a regular juror up till 1508, disappear from the record. She annoyed her neighbours so much that in 1507 the jury asked that she be forbidden to run her retail business unless she could find sureties for her good behaviour.¹²⁸ As there is no sign that she succeeded in doing this, possibly the couple were obliged to leave Fordwich. If all scolds were guilty of such extremely troublesome behaviour as Ingram claims, it might be expected that where a near-continuous record has survived, as it has in Fordwich, more women would have left such full evidence of their activities.

A handful of men who were charged for verbal abuse seem also to have found particular difficulties in getting along with their peers. John Pynnok of Sandwich not only showed extreme reluctance to serve as a jurat when elected to that office, but made such bizarre statements when he was called to account as to raise possible doubts about his state of mind. In 1513 he was obliged to take on the duties of a jurat, as the alternative was the loss of his freeman's privileges, but in 1522 he was imprisoned for non-attendance, and in 1528 he refused to take the oath, saying

that he never came among the mayor and his brethren in the court hall but he did stand in jeopardy of his life.

Later he promised to obey the mayor, but when examined

he said he could say nothing thereto, but if he that day had had a thousand pounds he would have given it to be out of the hall when he was in it, for he did it [submitted] through fear and not otherwise...

Pynnok was fined ten marks for this and his past 'disobedience and misbehaviour'.¹²⁹ But most men convicted of verbal abuse had simply slandered or insulted a figure of authority on, as far as we can tell, a single occasion, and do not appear to have been outstandingly contentious or difficult, any more than most of the women do.

Gendered punishment

By the early seventeenth century, ducking of scolds was apparently routine in some places, and, as Ingram shows, from mid-sixteenth century onwards various influential texts combined with popular literary sources to reinforce the connection between scolding and ducking.¹³⁰ According to Underdown, the association between the cucking-stool and gender-related offences began to appear in the fifteenth century, and became clearer in the sixteenth.¹³¹ The subject is complicated by confusion about the various kinds of equipment for physical punishment which are referred to in late medieval and early modern sources. A 'cucking stool' is generally thought to have been for ducking women in water, but in fact the term seems to have had several meanings. McIntosh refers to a 'chair-like' piece of equipment variously described as a tumbrel, thew or cucking-stool, in which women, and apparently not men, were locked, and which might be in a fixed location or might be placed in front of the offender's house or on a cart.¹³² However, she translates *collistrigium* as tumbrel, although its root suggests 'stretch-neck' or pillory, the meaning J. W. Spargo gives it. Spargo also quotes a mid-fifteenth century source which equates 'thew' with pillory.¹³³ So there is considerable confusion between the pillory, a punishment which seems to have been used principally for men, and a cucking-stool, which was largely or exclusively for women, and which did not necessarily involve ducking, although it seems later to have come to do so. Spargo found 'cucking', whatever it entailed, seemed nearly always to be an alternative to a fine, and that most references to cucking-stools consisted of orders to courts that one should be provided.¹³⁴

To compound the confusion, as we have seen, the customals of Sandwich and Fordwich prescribed for women who quarrelled in public not ducking or cucking (whatever it entailed) but to carry a mortar through the town, to the accompaniment of a minstrel or piper. Ingram found references to mortars in other parts of Southern England in the early seventeenth century.¹³⁵ In all the Kentish secular courts, much the commonest recorded penalty for scolds and others guilty of verbal aggression was a modest cash fine, which accords with McIntosh's findings for the same

period.¹³⁶ In Fordwich within the period under review the mortar seems to have been utilised only as a threat if the scold did not 'amend'. Sometimes it was threatened as an alternative to a fine of either 40d or 10s for lack of 'amendment', and sometimes in addition to such a fine. But neither threat was ever implemented; fines for scolding alone never amounted to more than 12d, even when the mortar and a larger fine had been threatened for a repeat offence. However, in 1563, after no scold had apparently been presented in Fordwich for thirty years, two women and a man were ordered to 'wear the mortar through the town and to have a whistler or other minstrel going before the said party'.¹³⁷ The difference between this and the earlier punishments of scolds was that the punishment of those in 1563 was referred to the mayor and jurats, who must have taken a harsher line than the affeerors of earlier generations. So, although the mortar as prescribed in the custumal was unequivocally a gendered punishment, on the only occasion when it was actually used, one of the offenders was a man, and this at a time when punishments are supposed to have been becoming progressively polarised by gender.

In Sandwich the mortar seems to have been exclusively for women, but it was never actually carried through the town as prescribed. In 1479, Christine Knightsby, 'a scold, a curser, a maker of debates and strifes among neighbours', was warned that any future offence would entail having 'the mortar to be hanged over her door'.¹³⁸ As we have seen, John Chevyn's wife was to have gone round the town with the mortar had her husband not paid her fine, but for her repeat offence in 1521, she was to have it brought to door.¹³⁹ Only a few days earlier, another woman had been sentenced to have 'the mortar hanging at her husband's door'.¹⁴⁰ Sandwich also had a cucking-stool, but it does not seem to have been used to punish scolds. In 1470, a servant, Agnes Sampson, was sentenced to sit 'on the cuckingstool at Mootyshoole' and be ducked in the water three times before being banished for 12 years, for harlotry and theft.¹⁴¹ This is the only recorded instance where anyone was actually sentenced to be ducked in the water. In 1535, two women who had received sentences of banishment were both threatened with the cucking-stool if they returned; one of these

was a sexual offender, and the other's offence was 'ill conversation', which probably means the same.¹⁴² The use of the mortar and the threat of ducking each occurring twice in the same year must mean either that they were used or threatened on other occasions but not recorded in the Year Books, or that in 1521 and 1535 there happened to be mayors with a particular predilection for these forms of punishment.

In Fordwich and Sandwich, then, the mortar seems to have been the only alternative or additional punishment to fining for scolds, and in Sandwich the cucking-stool was apparently only for sexual offenders, or in the case of Agnes Sampson, multiple offenders whose crimes included sexual ones. In New Romney too, there is evidence for the existence of a cucking-stool in the late fifteenth century: 4d was paid for setting one up in 1490/1. Shortly thereafter, three women were banished for a year and a day for unspecified, probably sexual, offences, and

if they or any of them break this award shall be brought to the shelvingstool and there to remain till their buttocks be three times ducked in the water and after to be banished the town for ever.¹⁴³

Spargo noted 'schelving-stool' as an apparent synonym for a cucking stool.¹⁴⁴ Apart from the cryptic entry in the Queenborough court book referred to above, the connection between scolding and the cucking-stool appears only in the manorial courts, and at a later date than any of the aforementioned cases.¹⁴⁵ At Calcote in 1550, two wives were presented as common scolds and ordered to behave in future; if they did not do so, the constable was to have them 'punished by the cucking-stool'. If this proved ineffective, he was to have them bound over by the nearest Justice of the Peace. At Adisham a year later, two wives were similarly threatened with the cucking-stool if they did not amend.¹⁴⁶ This suggests that by the mid-sixteenth century the association between ducking and scolding was becoming firmer, as might be expected.

In Canterbury, expenses for making a cucking-stool, varying from 4s 1d to over 10s, were entered in the accounts four times between 1520 and 1558. This bears out the contention of Spargo and Ingram, that these were relatively expensive and troublesome items, needing frequent repair or replacement.¹⁴⁷ The earliest reference

locates the stool at the Abbot's Mill, which suggests that this was intended for ducking offenders in the water. However, there is no indication in any of the surviving court records of anyone being ducked, and in 1518-19, carpenters and sawyers had been paid for the construction of 'the new Cage standing beside the pillory', intended for 'scolds and other malefactors'.¹⁴⁸ Ingram also refers to a town 'cage' as occasionally being used for scolds.¹⁴⁹ The Canterbury cage was repaired four times between 1527 and 1544.¹⁵⁰ As offenders could also be punished by carting, whipping and being put in the pillory or the stocks, it is hard to see why the city went to the expense of maintaining so many separate implements of punishment. Only one person, a woman sexual offender, is recorded as having been 'punished in the Cage', in 1519, but the same year the marginal note *puniebatur* or *punita est*, presumably referring to the cage or some other method of shaming punishment, was entered for another seven women, and one man. Three of the women were scolds and two were sexual offenders. The man had imprisoned a girl and 'would have raped her'.¹⁵¹ Probably in the same year, a couple were sentenced to sit in the stocks as vagabonds and suspicious livers; the wife was also a scold.¹⁵² As it is hardly conceivable that the cucking-stool, cage and the rest were maintained for decades without being used, it must be concluded that 1519 was the only year out of those with surviving records when the clerk was sufficiently conscientious to make a regular note of shaming punishments. Only fourteen women in Canterbury were recorded as having been fined for verbal aggression, and there are 28, all scolds, for whom no punishment was recorded. Some may have been pardoned or let off with a warning. It is clear, however, from the entry for Calcote manor that supervising punishment in the cucking-stool was part of the constable's unpaid duties, and perhaps because it therefore had no financial implications, court clerks rarely bothered to record it. If we can extrapolate from what is known to have happened in Canterbury in 1519, it seems likely that many other women, and a few men, received shaming punishments that were not recorded. Ingram commented that in the early seventeenth century, ducking of scolds seems to have been commonest in places where there was a marked social difference between the dispensers of justice and

their victims, and that elsewhere, the cucking-stool was probably mostly used as a threat.¹⁵³ This seems to apply equally well to Kent a century earlier, with Canterbury having the greatest social distinction between the local elite and the rest. It also applies to the case in Fordwich in 1563, when the mayor and jurats, and not affeerors chosen from among the jury, decided the punishment.

It seems, then, that both the mortar and the cucking-stool were almost if not quite exclusively reserved for women, and that the mortar was specifically for scolds, while the cucking-stool might, at different places or times, be for either scolds or sexual delinquents. It is noteworthy also that, with the exception of Canterbury, courts were readier to threaten either as punishments for recidivists than to use them, and that when the mortar was used in Sandwich, it was merely hung at the scold's door, rather than her having to carry it round the town to the accompaniment of rough music. Having 'the mortar to be hanged at her door' is about the mildest form of shaming punishment that could be devised. While ducking may have become more common and been reserved for scolds in the later sixteenth century, and while it was no doubt a humiliating and unpleasant experience, it needs to be seen in the context of other 'shaming' punishments, most of which were worse, which were used more frequently and mostly on men. The only woman known to have actually been sentenced to ducking, Agnes Sampson, was a harlot who had also stolen seven silver spoons and other goods: in Sandwich a man convicted of comparable offences, if not tried and sentenced to death at the assizes, would almost certainly have had his ear nailed to a cartwheel or pillory and subsequently cut off. So if separate, gendered punishments were devised for women, they were relatively painless and would not result in mutilation, unlike some of those undergone by men. Perhaps, bearing in mind that women's offences were generally less heinous than men's, or from a distaste for mutilating women, they had been specifically designed to be so. There is some difficulty, then, in representing the use of gendered punishments as an example of the oppression of women, except insofar as women scolds were held up to ridicule, while men who committed the comparable offence of minor assault were usually just fined.

The gendered dimension of physical and verbal aggression perhaps needs further discussion.

Physical and verbal violence

In the previous chapter it was suggested that minor physical violence by women was more often overlooked than minor assaults by men. It seems, therefore, that there is a kind of equivalence between verbal abuse by women, which was prosecuted even when the targets were not important people, and minor assaults by men, which were prosecuted even when no physical injury resulted. Since most men carried weapons and women did not, male violence was understandably viewed with greater concern than female violence, and doubtless angry verbal exchanges between women were less often followed by blows. But most fights between men must have started with an exchange of angry words, and if, as Sharpe plausibly claims, the spoken word was taken very seriously in a largely illiterate society, it is perhaps surprising that men seem seldom to have been prosecuted for insulting each other prior to coming to blows, or for merely insulting men other than their social superiors.¹⁵⁴ It is hard to escape the conclusion that 'opprobrious words' were a worse offence when spoken by women than when men uttered them. Only three cases were found where a woman had insulted a mayor: all were punished severely, one by a 20s fine, another by banishment, and the third by the rarely used mortar.¹⁵⁵ While some men were equally severely penalised for verbal attacks on mayors, several were pardoned after a suitably grovelling apology. Furthermore the evidence of the customals indicates that public 'scolding' by women was an offence under local custom, while the same activity when engaged in by men was not. The predominance of female 'defamers' in the church courts points in the same direction.

Conclusion

Overall, men and women were probably prosecuted in roughly equal numbers for verbal abuse. But such offences constituted a small minority of prosecutions of men, and a substantial part of the total prosecutions of women. So in one sense

verbal abuse was not a predominantly female activity, but in another sense it was. Moreover, prosecuted male and female verbal abuse were largely different in kind: slander by men seems rarely to have been prosecuted unless it was directed at officeholders or members of the local elite. Several of the verbal offences for which men were prosecuted could not have been committed by women because they arose out of male activities from which women were excluded, such as disclosing the deliberations of the jury. Thus it seems unacceptable to dismiss the gendered nature of the prosecution of women for scolding, as Ingram does.

Most women accused of scolding or comparable offences seem to have been married, and, of those whose background can be traced, from established local families, though it is likely that the Canterbury ones were of lower status than those in Fordwich or Sandwich. While the behaviour for which some were penalised was doubtless exceptionally and habitually troublesome, and others were in trouble for other offences, many appear to have been presented only once, and were otherwise law-abiding. By no means all scolds, at least in this period, seem to fit Ingram's stereotype. A 'common scold' was sometimes a woman who caused disturbance by frequent quarrelsome behaviour and sometimes one who 'told tales' about her neighbours behind their backs. But on some occasions it seems also to have been used for women who 'rebuked' or 'chided' a presenting jury or official engaged in the process of prosecuting her or her husband for a separate offence. On these occasions 'common scold' looks like an extra charge that could conveniently be brought against a woman for presuming to argue with (male) officeholders; this was reprehensible in anyone, but more so in a woman than a man. Men who objected to presentments in court may occasionally also have been additionally charged either as scolds, barrators or possibly eavesdroppers, but these charges seem only to have been applied to outstandingly troublesome men. The nature of proceedings at the view of frankpledge, where the defendant had no opportunity to contest the charge, seems almost calculated to breed further dissension. It is not surprising if people accused in these circumstances often gave vent to outbursts of anger in court.

Garthine Walker has made the point that ordinary people were often in a no win situation: it was hard to speak out against powerful figures in the community when the very act of complaint was central to the elite's construct of disorder.¹⁵⁶ This was true for men of the middle and lower orders, but it was even more so for women. A man who spoke out against authority would be punished for doing so, but a woman might well be punished for the offence and then punished again for being a scold. And the quarrelling or backbiting female scolds were prosecuted for verbal violence to their social equals, which rarely happened to men. Women, especially married women, had few resources other than words with which to assert themselves: they were excluded from the legal process and from all positions of authority, had no control over property, did not bear weapons. Exactly what sort of behaviour might lead to a prosecution for 'scolding' is in a way irrelevant because the idea of the scolding woman provided a negative female stereotype which, as Ingram says, could be used to intimidate women into a submissive role and operated to the detriment of all women.¹⁵⁷ Even if in practice quarrels between men and quarrels between women were both prosecuted, the former as assaults and the latter as scolding, women came off worse. A man charged with assault was not labelled with a pejorative stereotype, indeed fighting by men was in many contexts considered laudable. The concept of the female scold, by contrast, could be used to discourage women from using the only instruments they had for their own defence - their tongues.

¹ Parts of this chapter appeared in Karen Jones and Michael Zell, 'Bad Conversation? Gender and Social Control in a Kentish Borough, c. 1450-c. 1570', *C & C*, XIII (1998), 11-31.

² For example, F. A. Carrington, 'On Certain Ancient Wiltshire Customs: 1. The Cucking Stool at Wootton Bassett', *Wiltshire Archaeological Magazine*, I (1854), 68-79; J. W. Spargo, *Juridical Folklore in England Illustrated by the Cucking-stool* (Durham NC, 1944); D. E. Underdown, 'The Taming of the Scold: the Enforcement of Patriarchal Authority in Early Modern England', in Fletcher & Stevenson, 116-136; M. Ingram, '"Scolding Women Cucked or Washed": a Crisis in Gender Relations in Early Modern England?', in Kermode & Walker, 48-80; L. E. Boose, 'Scolding Brides and Bridling Scolds: Taming the Woman's Unruly Member', *Shakespeare Quarterly*, XLII (1991), 179-213.

- ³ McIntosh, *Misbehavior*, 59; 'Finding Language for Misconduct: Jurors in Fifteenth-century Local Courts', in B. Hanawalt and D. Wallace (eds.), *Bodies and Disciplines: Intersections of History and Literature in Fifteenth Century England* (1996), 91; M. Kowaleski, 'A Prosopography of Scolds in a Medieval English Town', paper delivered at the International Congress in Medieval Studies, Kalamazoo, 1999, 3. I am grateful to Professor Kowaleski for allowing me to see this unpublished paper.
- ⁴ For example, Clark, *Society*, 30-34; T. R. Murphy, 'The Maintenance of Order in Early Tudor Kent, 1509-1558', PhD thesis, Northwestern University (1975), 4-12; M. L. Zell, 'Church and Gentry in Reformation Kent', PhD thesis, University of California Los Angeles (1974), 48-50, 78-91; S. McSheffrey, *Gender and Heresy: Women and Men in Lollard Communities, 1420-1530* (Philadelphia, 1995).
- ⁵ McIntosh, *Misbehavior*, 57.
- ⁶ J. H. Baker, *An Introduction to English Legal History*, 3rd edn. (1977), 492-3.
- ⁷ Ingram, 'Scolding Women', 51.
- ⁸ McIntosh, *Misbehavior*, 58.
- ⁹ Kowaleski, 'Prosopography', 3-4.
- ¹⁰ Ingram, 'Scolding Women', 51-52.
- ¹¹ C. E. Woodruff, *A History of the Town and Port of Fordwich* (Canterbury, 1895), 217, 241; Boys, *Collections*, 500-2; M. Bateson, (ed.), *Borough Customs*, vol. I (1904), 79-80.
- ¹² Ingram, 'Scolding Women', 52, 70-71.
- ¹³ E. Searle, *Lordship and Community: Battle Abbey and its Banlieu, 1066-1538* (Toronto, 1974), 415, (her italics).
- ¹⁴ E. Foyster, *Manhood in Early Modern England: Honour, Sex and Marriage* (1999), 58-61.
- ¹⁵ McIntosh, *Misbehavior*, 60-61; 'Finding Language', 92.
- ¹⁶ Underdown, 'Taming of the Scold', 120; S. D. Amussen, 'Gender, Family and the Social Order', in Fletcher & Stevenson, 215.
- ¹⁷ Ingram, 'Scolding Women', 65, 52.
- ¹⁸ McIntosh, *Misbehavior*, 59; *A Community Transformed: the Manor and Liberty of Havering, 1500-1620* (Cambridge, 1991), 66-7; Kowaleski, 'Prosopography', 4-6.
- ¹⁹ Searle, *Lordship and Community*, 413.
- ²⁰ Underdown, 'Taming of the Scold'.
- ²¹ A. Fletcher, *Gender, Sex and Subordination in England, 1500-1800* (1995), 28; Boose, 'Scolding Brides', 184.
- ²² For discussion of this see H. M. Jewell, *Women in Medieval England* (Manchester, 1996), 12.
- ²³ L. R. Poos, 'Sex, Lies and the Church Courts of Pre-Reformation England', *JIH*, XXV (1995), 598; Ingram, 'Scolding Women', 53, 55-6.
- ²⁴ McIntosh, *Misbehavior*, 57-8, 181-3.
- ²⁵ *Ibid.*, 190.
- ²⁶ M. Ingram, 'Communities and Courts: Law and Disorder in Early Seventeenth Century Wiltshire', in Cockburn, *Crime*, 125; J. A. Sharpe, '"Such Disagreement Betwyx Neighbours": Litigation and Human Relationships in early Modern England', in J. Bossy (ed.), *Disputes and Settlements: Law and Human Relations in the West* (Cambridge, 1983), 175-6.
- ²⁷ McIntosh, *Misbehavior*, 30, n. 18.
- ²⁸ Kowaleski, 'Prosopography', 3.
- ²⁹ *Ibid.*, 2; for Canterbury's population see above, p. 22 n. 45.
- ³⁰ See above, p. 8; L. R. Poos, *A Rural Society After the Black Death: Essex, 1350-1525* (Cambridge, 1991), 275.
- ³¹ Ingram, 'Communities and Courts', 112; M. K. McIntosh, *Autonomy and Community: the Royal Manor of Havering, 1200-1500* (Cambridge, 1987), 220; S. Olson, *A Chronicle of All that Happens: Voices from the Village Court in Medieval England* (Toronto, 1996), 218; Sharpe, *Crime in 17th Century*, 151; S. M. Sweetinburgh, 'Women, Household and Community: Appledore and Hythe, c. 1400-1470', MA dissertation, University of Kent (1993), 87.
- ³² Walker, thesis, 7, 56.

- ³³ See below, p. 133-134.
- ³⁴ Poos, 'Sex, Lies', 598.
- ³⁵ R. H. Helmholz, *Canon Law and the Law of England* (1987), 19.
- ³⁶ McIntosh, *Misbehavior*, 59; CCA, U4/3/192, 3/196v, 3/237v.
- ³⁷ Kowaleski, 'Prosopography', 3.
- ³⁸ See above, p. 74.
- ³⁹ Ingram, 'Communities and Courts', 122; 'Scolding Women', 51-2.
- ⁴⁰ Walker, thesis, 72-3.
- ⁴¹ CCA, U4/3/148-149 (1509).
- ⁴² CCA, CC/FA/2/254v (1494-5), FA/2/287v (1497-8), FA/2/297v (1498-9), A/C/1/41 (1501), J/Q/305/5 (1505), J/Q/306/1.
- ⁴³ CCA, CC/J/Q/319, J/Q/352/3, (1519).
- ⁴⁴ CCA, CC/J/Q/339/3/5, (1540).
- ⁴⁵ Sharpe, *Crime in 17th Century*, 158.
- ⁴⁶ See below, p. 119.
- ⁴⁷ Excluding testamentary cases, Mills, thesis, 41-2.
- ⁴⁸ CKS, PRC.3.4/88v.
- ⁴⁹ CKS, PRC.3.6/11 (1524).
- ⁵⁰ L. Gowing, *Domestic Dangers: Women, Words and Sex in Early Modern London* (Oxford, 1996) 10-11; CKS, PRC.3.4/74 (1516); PRC.3.2/14 (1504).
- ⁵¹ P. J. P. Goldberg, 'Women', in R. Horrox (ed.), *Fifteenth Century Attitudes: Perceptions of Society in Late Medieval England* (Cambridge, 1994), 118; CKS, PRC.3.2/8v.
- ⁵² CKS, PRC.3.2/133v (1510).
- ⁵³ CKS, PRC.3.4/57 (1515).
- ⁵⁴ CCA, X.8.3/134v (1467).
- ⁵⁵ CKS, PRC.3.2/108 (1509).
- ⁵⁶ See below, pp. 177-8.
- ⁵⁷ CCA, X.8.3/155 (1468).
- ⁵⁸ CCA, X.8.3/106v (1466).
- ⁵⁹ CKS, PRC.3.1/1, 1/3.
- ⁶⁰ As was the case elsewhere, J. R. Dickinson and J. A. Sharpe, 'Courts, Crime and Litigation in the Isle of Man, 1580-1700', *HJ*, LXXII (1999), 157.
- ⁶¹ CCA, CC/J/Q/302/14.
- ⁶² CCA, U4/6A/2 (c.1492).
- ⁶³ See below, p. 123.
- ⁶⁴ EKA, Sa/AC/1/295v.
- ⁶⁵ CCA, CC/J/Q/352/9 (1519?); J/Q/318/8 (1518).
- ⁶⁶ EKA, Sa/AC/4/154v.
- ⁶⁷ CCA, CC/J/Q/337/3 (1538).
- ⁶⁸ CCA, U4/3/139v (1507).
- ⁶⁹ EKA, Sa/AC/3/98.
- ⁷⁰ CCA, Y.4.9/158v.
- ⁷¹ CKS, PRC.3.2/80 (1508).
- ⁷² See below, p. 123.
- ⁷³ CCA, U4/3/135, 137v, 139v, 143v, 145v.
- ⁷⁴ CCA, CC/J/Q/339/5/2 (1540?).
- ⁷⁵ EKA, Sa/AC/4/22 r & v.
- ⁷⁶ CKS, Qb/JMs/1/17 (1501).
- ⁷⁷ CKS, Qb/JMs/1/29.
- ⁷⁸ CCA, CC/J/Q/307/9; CC/FA/9/111.
- ⁷⁹ EKA, NR/FAc/4/192v (early Henry VII).
- ⁸⁰ CCA, CC/AC/2/13 r and v.
- ⁸¹ EKA, Sa/AC/2/45v.

- ⁸² EKA, Sa/AC/3/240 (1550).
- ⁸³ EKA, Sa/AC/2/11 (1491).
- ⁸⁴ EKA, Sa/AC/2/168-169v.
- ⁸⁵ EKA, Sa/AC/2/360 (1526).
- ⁸⁶ EKA, Sa/AC/3/14 (1528).
- ⁸⁷ EKA, Sa/AC/3/9v (1528); Sa/AC/4/10v-11 (1551).
- ⁸⁸ EKA, Sa/AC/2/144v (1506).
- ⁸⁹ EKA, Sa/AC/3/137 (1541).
- ⁹⁰ CCA, U15/34/9/32 (1549).
- ⁹¹ See above, note 85.
- ⁹² Walker, thesis, 220-221.
- ⁹³ Dickinson and Sharpe, 'Courts, Crime and Litigation', 157; S. D. Amussen, *An Ordered Society: Gender and Class in Early Modern England* (Oxford, 1988), 146; C. Dyer, *Lords and Peasants in a Changing Society: the Estates of the Bishopric of Worcester, 680-1540* (Cambridge, 1980), 268; A. J. Finch, 'Women and Violence in the Later Middle Ages: the Evidence of the Officiality of Cerisy', *C & C*, VII (1992), 37; M. P. Hogan, 'The Slight of Honor: Slander and Wrongful Prosecution in Five English Medieval Villages', *Studies in Medieval and Renaissance History*, n. s. XII (1991), 21; Searle, *Lordship and Community*, 412-413.
- ⁹⁴ Ingram, 'Scolding Women', 52.
- ⁹⁵ Kowaleski, 'Prosopography', 6.
- ⁹⁶ CCA, CC/J/Q/333/10 (1534).
- ⁹⁷ CCA, CC/J/Q/302/3 (1503).
- ⁹⁸ Kowaleski, 'Prosopography', 7.
- ⁹⁹ CCA, U4/3/67v-68. For the mortar, see above, p. 105.
- ¹⁰⁰ CCA, U4/3/90v.
- ¹⁰¹ CCA, U4/3/86, 3/88.
- ¹⁰² CCA, PRC.17/13/377; U4/3/117.
- ¹⁰³ CCA, U4/3/88v.
- ¹⁰⁴ CCA, U4/3/103v.
- ¹⁰⁵ CCA, U4/3/101v, 102.
- ¹⁰⁶ EKA, Sa/AC/2/270v, 2/284v; Boys, *Collections*, 502.
- ¹⁰⁷ CCA, CC/J/Q/302/14 (1503).
- ¹⁰⁸ CCA, CC/J/Q/352/9 (1519?).
- ¹⁰⁹ CCA, CC/J/Q/329/2 (1519).
- ¹¹⁰ CCA, CC/J/Q/307/14/9 (1503?).
- ¹¹¹ Ingram, 'Communities and Courts', 110, 118.
- ¹¹² See above, p. 121.
- ¹¹³ CCA, U4/3/200, 3/211/2.
- ¹¹⁴ CCA, U4/3/94v (1500).
- ¹¹⁵ For links between eavesdropping and scolding, see McIntosh, *Misbehavior*, 65-66.
- ¹¹⁶ CCA, U4/3/237v-238.
- ¹¹⁷ CKS, PRC.3.11/143v.
- ¹¹⁸ See above, pp. 106-7.
- ¹¹⁹ Underdown, 'Taming of the Scold', 120; M. K. McIntosh, 'Local Change and Community Control in England, 1465-1500', *Huntington Library Quarterly*, XLIX (1986), 232-233.
- ¹²⁰ CCA, U4/3/20v, 3/23 r and v, 3/25v.
- ¹²¹ CCA, U4/3/179-180v.
- ¹²² Kowaleski, 'Prosopography', 5.
- ¹²³ Ingram, 'Scolding Women', 70-71.
- ¹²⁴ CCA, U4/6A/2.
- ¹²⁵ CCA, U4/3/45, 3/47, 3/50v, 3/60-61, U4/6A/1/1-6A/1/2.
- ¹²⁶ CCA, PRC.17/3/408, U4/3/63.
- ¹²⁷ Ingram, 'Scolding Women', 72.

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- ¹²⁸ CCA, U4/3/140.
¹²⁹ EKA, Sa/AC/2/209-211, 2/303v, AC/3/6, 3/18v.
¹³⁰ Ingram, 'Scolding Women', 58-9.
¹³¹ Underdown, 'Taming of the Scold', 123.
¹³² McIntosh, *Misbehavior*, 63.
¹³³ Spargo, *Juridical Folklore*, 71, 74 n. 108.
¹³⁴ *Ibid.*, 45-6.
¹³⁵ M. Ingram, 'Ridings, Rough Music and the "Reform of Popular Culture" in Early Modern England', *P & P*, CV (1984) 87-90; 'Scolding Women', 64.
¹³⁶ McIntosh, *Misbehavior*, 63.
¹³⁷ CCA, U4/20/1/64.
¹³⁸ EKA, Sa/AC/1/247.
¹³⁹ See above, p. 131.
¹⁴⁰ EKA, Sa/AC/2/284.
¹⁴¹ EKA, Sa/AC/1/195.
¹⁴² EKA, Sa/AC/3/66v.
¹⁴³ EKA, NR/FAc/4/266v, 275v.
¹⁴⁴ Spargo, *Juridical Folklore*, 49.
¹⁴⁵ See above, p. 123.
¹⁴⁶ CCA, U15/34/9/108, 34/9/51v.
¹⁴⁷ CCA, CC/FA/11/41v, 12/210, 14/55, 16/28; Spargo, *Juridical Folklore*, 45, 127; Ingram, 'Scolding Women', 60.
¹⁴⁸ CCA, CC/FA/10/308; the abbreviation '*garrulatr.*' suggests the scolds were assumed to be female, while '*malefactorib.*' were presumably male.
¹⁴⁹ Ingram, 'Scolding Women', 58.
¹⁵⁰ CCA, CC/FA/11/443, 12/26, 12/174v, 13/233.
¹⁵¹ CCA, CC/J/Q/307/4, 318/6, 319, 352/9.
¹⁵² CCA, CC/J/Q/329/2.
¹⁵³ Ingram, 'Scolding Women', 63.
¹⁵⁴ J. A. Sharpe, *Instruments of Darkness: Witchcraft in England, 1550-1750* (1996), 153.
¹⁵⁵ CCA, CC/FA/2/219 (1486-7), CC/J/Q/337/7 (1538), EKA, Sa/AC/2/284v (1521).
¹⁵⁶ Walker, thesis, 220.
¹⁵⁷ Ingram, 'Scolding Women', 59.

5. SEXUAL MISBEHAVIOUR

Adultery, fornication and prostitution necessarily involve both genders, so should be the best indicator of differential treatment of men and women. This chapter will deal with the prosecution of men and women for these and related offences, in the ecclesiastical courts and in those secular courts which concerned themselves with sexual misconduct. The subject of rape has been discussed in chapter three, and some other forms of sexual delinquency have been excluded. Very few cases were found of what would today be called incest, that is, sex between people closely related by blood. A mere two cases of bestiality appeared, and there were no accusations of homosexual activity. Prosecutions for bigamy were not uncommon in the church courts, but were almost always dealt with in the same way: bigamous couples were ordered to separate unless, or until, they could prove that the previous spouse was dead. Extramarital heterosexual sex between apparently consenting couples, then, is the subject of this chapter. It will be argued that, although women involved in fornication and adultery often suffered worse consequences than their lovers, this was not necessarily because the courts treated them more harshly; indeed the church courts were if anything more lenient towards women accused of these offences. However, where prostitution, brothel-keeping and procuring are concerned, a sexual double standard seems to have operated, with prostitutes' clients rarely prosecuted, and brothel-keeping and procuring being seen as predominantly female offences.

Sexual misconduct: opportunities and attitudes

In late medieval and early modern England, young people of the middling and lower sorts had fewer constraints on their courtship than was the case in many countries.¹ It was common for both boys and girls to leave the parental home in their early teens to become servants in other households, probably giving them considerable freedom of choice of marriage partner.² It is thought likely that a regime of relatively late age at marriage was established by the later middle ages.³ Thus sexually mature young men

and women, not likely to marry for some years, were often away from parental supervision, in a society where no effort seems to have been made to keep them apart till marriage. Moreover, there was in this period still some uncertainty over what constituted a binding marriage contract, so some young women succumbed to their suitors' advances under the impression that they were married, or as good as, only to be disillusioned when it was too late.⁴ Richard Smith considers that for a large proportion of the English population, sexual activity began well before the church ceremony.⁵ Married women of the peasant and artisan classes had considerable freedom too: husbands were sometimes away from home, especially in the port towns, lodgers were taken in, wives travelled to market and entertained other men in their homes, as the examination of Thomas Asby in 1524 makes clear

He being at home a bed the wife of [John] Bowerman there being with Mistress Asby about eight of the clock desired that he might bring her home. Whereupon he was called up and so did and when she was come home she bade him come in and drink and as they sat by the fire they heard a noise in Hallingbury's house....

Asby was attempting to explain the presence of some stolen cloth in Bowerman's house, so would not have made up a story that sounded improper; it must have been unexceptional for husbands to be roused from bed to escort their wives' friends home after dark, and then sit drinking with them. Thomasine Bowerman also had a mariner, John Bowsy, in her house, who deposed that she had roused him from sleep to help to investigate the noise.⁶ Since her husband was not examined, he must have been away from home. Before the Reformation, an added threat to female chastity was the amorous attention of one of the numerous clergy, not all of whom found the rule of celibacy easy to observe. For the middling and lower sort, opportunity for illicit sexual activity was abundant, though perhaps tempered somewhat by their neighbours' uninhibited curiosity.

How widespread indulgence in extramarital sex was we shall never know, as it is impossible to tell what proportion of the offenders came to the notice of the courts. Although there seems to have been a view in popular culture that fornication and adultery were not wrong, or less wrong, for a man, and even that fornication was not wrong for either partner, this was not shared by the church.⁷ In religious terms illicit

sex was a serious sin, though the attitudes of canonists and theologians differed over the details, and church court practice did not always accord with either. According to James Brundage, adultery was considered far more serious than fornication, but while theologians maintained that extramarital sex was as sinful for a man as for a woman, canon law treated adultery primarily as a female offence and only occasionally punished men for violations of their marriage vows.⁸ But in the diocese of Canterbury, roughly equal numbers of men and women were cited for adultery and fornication, and the former was not more severely punished than the latter. Even for secular authorities, fear that divine retribution might descend on a community that tolerated sexual misbehaviour probably played some part in efforts to eradicate it.⁹ In secular terms, fornication could mean unsupported mothers and children likely to become burdens on the community, while adultery entailed the risk of men bringing up, and leaving property to, children that were not their own. In an age when production was mainly centred on the household, the economic importance of marriage bulked large; as Lyndal Roper puts it, adultery ruptured the productive as well as the sexual union.¹⁰ And in ideological terms, in a patriarchal society it was essential that husbands exercised authority over their wives and the rest of their households; indeed it has been argued, at least for the seventeenth century, that control of female sexuality was 'the pivot upon which manhood rested'.¹¹

If attitudes towards extramarital sex, as opposed to prostitution, changed in the course of this period, no firm evidence of this was found, though one might expect a more censorious attitude to result from the Reformation. Ingram points to the much harsher penalties for adultery that would have been imposed under the *Reformatio Legum*.¹² But harsher penalties for all kinds of offences were being imposed by statute in the sixteenth century: many common law offences, for example, were removed from benefit of clergy. Moreover it is impossible to disentangle religious influences from the pressures imposed by population growth and economic downturn. Certainly, the desirability of publicly solemnised monogamous marriage as a guarantee of social stability emerges unequivocally from the sources, throughout the period under consideration. Church courts pursued alleged adulterers - in fact more

vigorously before about 1520 than later - and throughout the period ordered fornicating couples to marry at once.¹³ In Sandwich, several women banished from the town were forbidden to return until they were married. The incompleteness of the sources does not permit any attempt to assess whether this concern intensified under the impact of reformed teaching, though the complaint of a New Romney jury, probably in the 1550s, that seven men 'live in the town unmarried...and against the law as they do think' might suggest that by that time, the ideology of the household was even more firmly entrenched.¹⁴

Some have claimed to find evidence suggestive of an increase in prostitution in the growing number of civic ordinances apparently directed against it in the later fifteenth century, when opportunities for other work for women were declining.¹⁵ However, local courts began to use byelaws or ordinances to regulate all kinds of misbehaviour from about 1460 onwards, so this is not necessarily proof of increased concern with prostitution in particular.¹⁶ Moreover, no clear correlation has been found between rises in the numbers of prosecutions for this offence and deteriorating economic conditions.¹⁷ On the other hand, the establishment of a civic brothel in Sandwich in the late fifteenth century probably indicates a perceived need to bring prostitution under official control. Compared to continental Europe, there is little evidence for the existence of large numbers of professional prostitutes in England. Few women were presented regularly, though many may have turned to commercial sex occasionally when other work was scarce. This may be because in England, where marriage was comparatively late for both sexes, prostitution was less important than in cultures where only men married late, and their young brides were expected to be virgins.¹⁸ Conversely, Christopher Dyer has suggested that prostitution could reflect the frustrations of a late marriage regime, but this does not seem consistent with the English evidence.¹⁹ Few English towns appear to have had official brothels: this might be due to lack of surviving evidence, though Goldberg is probably right in considering this unlikely.²⁰ The comparatively low profile of prostitution in England may well be partly because compared to much of continental Europe, England had

few big cities. The medieval church condemned prostitution in theory, but in practice largely tolerated it as a necessary evil, preserving the chastity of 'respectable' women while allowing an outlet for inevitable, though regrettable, male lust. According to Brundage, medieval canonists showed little inclination to punish the women themselves, and were more concerned to pursue their clients, pimps, procurers and brothel-keepers.²¹ Karras and Goldberg describe clients being punished in the church courts.²² However, prostitutes themselves appear much more than their clients in the church courts of the diocese of Canterbury for this period, and the same is true of the city courts.

In England, as elsewhere in Europe, attitudes towards prostitution hardened in the first half of the sixteenth century. The Southwark stews were closed temporarily in 1506, and again by royal proclamation in 1546, after which there were further attempts to suppress prostitution in London. In both Protestant and Catholic Europe, municipal brothels were closed within this period.²³ In Kent, the municipal brothel at Sandwich disappears from the records during the 1520s, though it may have continued to function for some time after this.²⁴ Karras ascribes the withdrawal of official sanction for prostitution to a change in morality, claiming that, in an earlier period, men 'had essentially been guaranteed the opportunity to behave sexually as they pleased', but that the church in the sixteenth century took more seriously its own teaching about fornication, and that this attitude spread to the secular authorities.²⁵ This rather misrepresents the late medieval church's view, because it did not tolerate men fornicating with women other than prostitutes. It was the firmer conviction in the sixteenth century, that fornication, *even* with prostitutes, was wrong, that probably led to the closure of civic brothels.

It is often difficult to distinguish prostitutes from merely promiscuous women in the records, probably because full-time 'professionals' were not the norm in England. However, as Karras points out, fornication and adultery were descriptions of behaviour, while a prostitute (*meretrix*) describes a category of person.²⁶ Also, in

Kent, very few men seem to have been accused of resorting to the women designated as 'harlots' or *meretrices*, while the male partners of women accused of fornication or adultery were usually prosecuted. This applies to both secular and church courts, and because the latter constituted the main tribunal for the punishment of sexual offences, the next and main section of this chapter will deal with them.

Predominance of sexual offences in church courts

Table 5.1: Sexual and other offences in the church courts. For each case of fornication, etc, two persons have been counted where two were cited or appeared. Sexual offences include prostitution, bigamy, bawdry, incest, rape and attempted rape and bestiality as well as straightforward fornication, adultery, incontinence, etc. Sabbath-breaking with its variants is the only non-sexual offence which usually accounts for more than 5% of the total citations.

Dates	Total cited	Sexual offences	Sabbath-breaking	Other
1462-8	324	231 (71.3%)	11 (3.4%)	82 (25.3%)*
1487-90	137	96 (70.1%)	11 (8.0%)	30 (21.9%) **
1491-1500	460	380 (82.6%)	29 (6.3%)	51 (11.1%)
1501-10	551	394 (71.5%)	52 (9.4%)	105 (19.1%)
1511-20	515	330 (64.1%)	66 (12.8%)	119 (23.1%) ***
1521-30	300	193 (64.3%)	31 (10.3%)	76 (25.3%) #
1531-40	176	128 (72.7%)	11 (6.2%)	37 (21%)
1541-50	273	207 (75.8%)	9 (3.3%)	57 (20.9%) ##
1551-60	144	124 (86.1%)	3 (2.1%)	17 (11.8%)
Totals	2880	2083 (72.3%)	223 (7.7%)	574 (19.9%)

* 32 'others' (9.9%) in the 1460s are citations of clergy for reasons other than sexual delicts, mostly being ordered to produce proof of their ordination.

** 7 citations (5.1%) were of defamers in this period.

*** 27 (5.2%) citations were of scolds or defamers. The proportion of sexual offences for the 5 years 1511-1515 was the lowest in the whole period at 58.8% (107 out of 182); this may partly reflect the different concerns expressed by churchwardens and parishioners at Warham's visitation in 1511.

includes 15 (5%) citations of people wrongly retaining church property.

In this period there were 27 citations of clergy or churchwardens in whose parishes altars or 'idols' had not been destroyed.

All studies of medieval and early modern church courts have shown that the great majority of office prosecutions were for sexual offences.²⁷ Patti Mills in her study of the Canterbury consistory court in the late fourteenth and fifteenth centuries found that the proportion of sexual crime declined continuously from 100% of cases in 1364 to 69.6% in 1474.²⁸ However, it did not decline any further in the following century. Table 5.1 excludes cases concerning testaments and sequestrations of church property in the act books, but includes all other office business. It shows that sexual offenders rarely constituted much less than 70% of those summoned to the courts. At particular times, other issues absorbed a fair amount of the court's attention. The consistory in the 1460s was much preoccupied with checking the bona fides of clergy, and in 1550 the archdeacon's court was concerned with the destruction of altars and 'idols' as a result of the Edwardine reforms. But these preoccupations were all short-lived, while illicit sex clearly remained the bread and butter of the courts' business. The only other category of offence which was prosecuted in any substantial numbers throughout the period was that classified here as Sabbath-breaking, which for the purposes of this table has been taken to include working on Sundays and feastdays, not attending church on these days, not observing fasts, and occasionally, failing to go to confession or receive the sacrament at Easter.

Men, women and problems of interpretation in the church courts

Quantifying sex offences in the act books is problematic because in summoning sexual offenders the courts do not seem to have observed any consistent rules. Sometimes both partners in a relationship were cited by name, and sometimes only one. Often names were entered with no record of their appearing or even being cited to appear, as Houlbrooke also found.²⁹ The partner who had apparently not been cited quite often also appeared and was penanced or ordered to undertake compurgation.³⁰ Tables 5.2a and 5.2b include all women and men mentioned in connection with the offences of fornication, adultery, incontinence, illicit pregnancy/birth and harlotry, even those for whom no citation or appearance is recorded. Those who married soon after the initial citation, were ordered to do so, or

pleaded a contract of marriage in mitigation have been classified as 'free to marry'. Ingram found adultery involving women specified as married averaged nearly 10% of cases.³¹ Almost exactly 10% of the women mentioned in this sample were married, but this, like the rest of the information supplied in the act books, must be taken as a minimum rather than the likely total. The absence of the addition 'wife' or 'widow', cannot be taken to imply an unmarried women: some are only identifiable as wives because their husbands appear in the course of the proceedings, for example for permitting the wife's adultery on their premises. That women's marital status was not necessarily recorded can be shown by record linkage: Elizabeth Bery was not identified as a wife in the act book when William Burges was cited for adultery with her in 1508, but that she was Thomas Bery's wife is clear from several Canterbury sessions entries.³² Similarly Margaret Bracy, cited for fornication with Stephen Brown in 1507, had been married to Thomas Bracy, who died in 1504.³³ Possibly a defendant's status was seldom recorded unless it was considered particularly relevant. Several women seem to have been described as single to emphasise their guilt as unmarried mothers. Many more female than male defendants were described as servants: this may be because the court wished to stress their dependent position. Women slightly outnumber men in Tables 5.2a and 5.2b, as no partner is mentioned for most *meretrices* and 'common adultresses', and more women than men were cited for 'bawdry'. Mills and Kettle found more men than women presented for sexual offences in the fifteenth century, while Houlbrooke for the sixteenth, and Gowing for the seventeenth centuries, found more women.³⁴ But, as we have seen, what constitutes being presented is hard to determine. It is only by differentiating between those whose names were entered and those who were followed up that we can draw meaningful conclusions, and it is clear that in the diocese of Canterbury, while more women's names were entered, positive action was taken against more men.³⁵

Equally problematic is the terminology used. The vast majority of sexual delicts prosecuted in the church courts throughout their existence appear to have been straightforward heterosexual relationships, involving either fornication or adultery,

Table 5.2a: Marital status of all women mentioned in church courts for fornication, adultery, incontinence, illicit pregnancy and harlotry, 1462-1560.

Dates	Status unspecified	Wife	Single	Widow	Servant	Free to marry	Totals
1462-8	106	4	1	3	12	4	130
1487-90	55	1	1	0	7	0	64
1491-1500	159	32	3	7	27	7	235
1501-10	158	37	19	13	24	5	256
1511-20	147	28	19	7	15	6	222
1521-30	67	17	9	7	12	5	117
1531-40	48	6	10	5	7	1	77
1541-50	103	8	2	5	10	6	134
1551-60	66	1	1	4	5	5	82
Totals	911	134	65	51	119	39	1319

Table 5.2b: Status of all men mentioned in church courts for fornication, adultery, soliciting chastity, incontinence and impregnating, 1462-1560.

Dates	Status unspecified	Husband	Single	Free to marry	Servant	Clergy	Totals
1462-8	101	1	0	5	2	16	125
1487-90	42	0	0	1	4	11	58
1491-1500	190	1	1	7	9	21	229
1501-10	178	6	1	8	6	31	230
1511-20	156	12	9	4	2	31	214
1521-30	84	2	1	4	5	22	118
1531-40	57	2	6	4	3	2	74
1541-50	126	0	0	8	3	1	138
1551-60	70	0	2	5	0	1	78
Totals	1004	24	20	46	34	136	1264

but these terms are sometimes used misleadingly. Cases which appear to be bigamy (usually presented as *habet duas uxores*, or less often *maritos, viventes*) were sometimes called adultery, and where it is clear that the couple were living together, it was not always specified whether either partner had, or was suspected of having, a living spouse elsewhere. The distinction between fornication and adultery on the one

hand and prostitution on the other is similarly blurred: some women accused of fornication or adultery *cum nonnullis* may have been prostitutes, although not described as *meretrix*.³⁶ In compiling Table 5.3, which shows the main sexual offences cited in the church courts, an attempt was made to relegate what appeared to be bigamy and prostitution to the 'other' column, and to focus on the incidence of the commonest classes of offences, fornication and adultery.

Meaning of fornication and adultery

By the end of the twelfth century, adultery in canon law meant sex by a married person with anyone other than the spouse, but it seems to have slightly differing meanings in the practice of various church courts. Sometimes an offence was labelled adultery if either party was married, but often a single person was only accused of fornication, even if his or her partner was married.³⁷ Shulamith Shahar writes that penalties were the same for adultery by men and women, but men's extramarital activities were not always considered adulterous, while women's were.³⁸ According to Margaret Sommerville, in early modern England, adultery generally meant sex with a married woman, while married men's affairs with single women were usually referred to as fornication, but it is not clear how early this usage began.³⁹ The distinction should be important, since in canon law, fornication ranked as a less grievous sin than adultery. In practice, though, the punishment was generally similar, and as Ruth Karras suggests, the courts may not have been particularly careful to distinguish between the two, and sometimes an act book entry was based on insufficient information.⁴⁰ In his study of Norwich and Winchester church courts from 1520 to 1570, Ralph Houlbrooke did not quantify adultery and fornication separately, noting that it was often unclear which was which, or whether either party was single or married.⁴¹ Ingram, for the period 1580-1640, similarly found the wording of the Wiltshire records imprecise, with 'adultery' and 'fornication' sometimes being used interchangeably, and 'incontinence' used for either.⁴² At first glance, the Canterbury act books gave the impression that here too,

Table 5.3: Sexual offences in the church courts. One has been counted for each offence so two partners have been counted as one case. 'Incontinent' includes 'noted with', 'frequenting suspiciously' and other euphemisms. Cases involving clergy and described as incest, on the ground that a priest had a spiritual relationship with his parishioners, have been redefined here as 'incontinence'. The final column gives the total illegitimate pregnancies and births reported, some of which are included in the figures for adultery, fornication, etc. 'Other' cases are mostly prostitution or bigamy: it is not always easy to distinguish these from adultery and fornication.

Dates	Adultery	Fornication	Incon- tinent	Pregnant or had child	Bawd	Other sexual	Total	Total preg- nancies/ births
1462-8	76 39.6%	37 19.3%	35 18.2%	3 1.6%	18 9.4%	23 12%	192	15 7.8%
1487-90	36 50%	13 18.1%	8 11.1%	6 8.3%	5 6.9%	4 5.6%	72	10 13.9%
1491- 1500	137 43.2%	60 18.9%	30 9.5%	32 10.1%	38 12%	20 6.3%	317	52 16.4%
1501-10	134 38.5%	75 21.6%	48 13.8%	31 8.9%	34 9.8%	26 7.5%	348	35 10.1%
1511-20	118 37.8%	99 31.7%	37 11.9%	3 1.0%	29 9.3%	26 8.3%	312	24 7.7%
1521-30	47 28.8%	21 12.9%	43 26.4%	30 18.4%	12 7.4%	10 6.1%	163	43 26.4%
1531-40	32 31.1%	12 11.6%	19 18.4%	30 29.1%	0	10 9.7%	103	36 34.9%
1541-50	19 12%	47 29.7%	38 24.0%	38 24%	2 1.3%	14 8.9%	158	52 32.9%
1551-60	4 4.6%	29 33.3%	34 39.1%	14 16.1%	1 1.1%	5 5.7%	87	18 20.7%
Totals	603 34.4%	393 22.4%	292 16.7%	187 10.7%	139 7.9%	138 7.9%	1752	285 16.3%

various terms for forbidden sex were used fairly indiscriminately. In addition to 'incontinence', inexact phrases like 'noted with', or 'lives suspiciously with' are common, while some cases are described as 'fornication or adultery' and sometimes an offence is referred to in one place as fornication and in another as adultery.⁴³ To further confuse the issue, a substantial minority of citations are for pregnancy, or having or fathering an illegitimate child, as though this, rather than the sexual act, were the real offence. The marital status of defendants is rarely recorded, which adds

to the difficulty of deciding how accurately various terms were used. However, closer scrutiny of the entries relating to those whose marital status is given, or can be inferred, suggests that most of the time, the words adultery and fornication were probably used accurately. Of 134 cases in the Act Books explicitly involving married women in irregular sexual relationships (excluding incest and bigamy), only seven were described as fornication, and 84 as adultery, while three were described as either or both. Of 51 identifiable widows, the term adultery is used only 6 times, while 19 are accused of fornication, and two of both. Forty-six couples were identifiably free to marry: 31 of these were accused of fornicating, only four of adultery and three of both. The act books were obviously written in considerable haste, while the court was in session, so the relatively small number of wrong descriptions may well be due to lack of information. It seems, then, as though 'adultery' was meant to be used only when at least one partner, perhaps usually the woman, was married, so it is worth examining the incidence of fornication and adultery as distinct offences.

Incidence of fornication and adultery

In the mid-fourteenth century records for Rochester diocese, Andrew Finch found accusations of fornication more common than adultery.⁴⁴ Patti Mills found more fornication than adultery among the surviving Canterbury consistory citations for 1364, but by 1470-1, nearly twice as many adultery cases as fornication. She suggested this might be because by late fifteenth century the church's teaching on marriage was better understood, so lawful unions were easier to recognise and fewer defendants were ignorant of, or unable to conceal, the fact of their marriage.⁴⁵ This dominance of adultery accusations over fornication by the later fifteenth century is mirrored in London, where Wunderli found adultery the commonest sexual crime, though its incidence declined from about 1509.⁴⁶

As Table 5.3 shows, citations for adultery predominate heavily in the Canterbury act books until the 1520s, which is in line with the findings of Mills and close to those of

Wunderli. It seems unlikely that this is mere coincidence. From the 1520s, the use of the more imprecise terms tends to increase. The proportion of women described as married declines from the 1530s, returning to the low levels for the years before 1491 (see Table 5.2a). Given that in the 1460s and for 1487-90, marital status was only given for very few women, this seems compatible with 'adultery' being mainly connected with married women. If this is correct, and bearing in mind Mills and Finch's findings for the fourteenth century, then there was an upsurge in the proportion of prosecutions for adultery as opposed to fornication in the late fifteenth century, which was sustained for the first two decades of the sixteenth century and then began to decline, dwindling to negligible proportions by c. 1550. There are four possible explanations of this unexpected finding. One is that the extramarital sexual relationships being cited were the same throughout, but the terminology the court used for them changed, first in the later fifteenth century, and then again around the second quarter of the sixteenth. Mills's hypothesis, that it was harder to conceal the fact that one was married by the 1470s, so that comparable relationships which had earlier been called fornication were redefined as adultery, might explain a first terminological change, but not a second. Possibly, for some unexplained reason, the courts gradually began to increase their use of 'incontinence' and other imprecise terms for relationships formerly described as adulterous. However, most of the few affairs explicitly involving wives towards mid-sixteenth century were described as adulterous, so this hypothesis does not fit the evidence satisfactorily. A second possibility, which also hinges on changes in court policy rather than on what was actually going on, is that during the fifteenth century the courts decided to ignore more cases of fornication and concentrate primarily on adulterous affairs, and that some time in the early sixteenth century they resumed their preoccupation with the sexual activity of the unmarried. If it could be shown that most citations originated with the apparitors in the period when adultery accusations predominate, this would have some plausibility, bearing in mind the suggestion made by Ingram and Underdown that churchwardens and neighbours may have preferred to let sleeping dogs lie in cases of adultery where the husband was in real or feigned ignorance.⁴⁷

But, while it seems likely that apparitors were responsible for the accusations from the 1460s, they were almost certainly also initiating the charges in the earlier fifteenth century, when citations for fornication were more common.⁴⁸

A third possible explanation is that there actually was more adultery going on in the decades around 1500 than before or after. This seems inherently unlikely, if age at marriage remained fairly stable throughout the period. But if Goldberg is right, that improved employment opportunities for women in the late fourteenth and early fifteenth centuries caused them to delay marriage, and that these opportunities dried up in the later fifteenth century, causing women to marry at a younger age, and if this applies to Kent as well as Yorkshire, there would have been more (perhaps discontented) younger wives around in the period that seems to have seen an upsurge in adultery.⁴⁹ If the later marriage regime that characterises the early modern period did not begin until around the second quarter of the sixteenth century, the number of young wives in the population would have dropped, reducing the number of potential adulteresses. However, Goldberg's thesis has not received universal acceptance,⁵⁰ and the consensus that the population was starting to increase by the 1520s is not compatible with women tending to marry at a later age.⁵¹

The final possibility is that in the late fifteenth and early sixteenth century, more married people were being unjustly cited, perhaps as a result of malicious gossip. Wunderli suggests this as an explanation for the large numbers of adultery cases and low conviction rates in London up to c. 1509.⁵² The Canterbury act books lend some credibility to this hypothesis, because of the curiously small number of references to pregnancies and births attributed to relationships involving married women. Of the 134 identifiable wives whose private lives came under the court's scrutiny, only four were said to be pregnant or have had a child as a result of their extramarital affair. This contrasts strikingly with the 51 widows, twelve of whom were said to have become pregnant. Since a pregnancy is the only sure proof that any sexual act had taken place, the apparently low fertility rate of 'adulterous' wives casts some doubt on the truth of the accusations against them, even granted the probability that not all

pregnancies were recorded. (Unless, of course, several husbands were uncomplainingly bringing up their wives' children by adulterous relationships.) It is well known that the commonest insult for quarrelling women to brand each other with was 'whore', even when the term was not really meant to imply any sexual impropriety, and that sexual defamation entailed the danger of being cited for the offence imputed. It has been claimed that married women were especially vulnerable to sexual slander, as targets of those who had quarrels with their husbands.⁵³ If the courts began during the fifteenth century to take such accusations seriously, perhaps because the apparitors spotted a way of increasing their business, wives insulted in this way might find themselves or their alleged lovers cited for completely non-existent adulterous relationships.

Table 5.4: Confessions and denials in church courts by men and women accused of fornication, adultery, harlotry, illicit pregnancy and giving birth.

Date	Men			Women		
	Confess	Deny	Total men	Confess	Deny	Total women
1462-8	42 (50.6%)	41 (49.4%)	83	16 (43.2%)	21 (56.7%)	37
1487-90	5 (29.4%)	12 (70.6%)	17	7 (33.3%)	14 (66.7%)	21
1491-1500	37 (30.8%)	83 (69.2%)	120	38 (38.4%)	61 (61.6%)	99
1501-10	40 (32%)	85 (68%)	125	43 (39.4%)	66 (60.6%)	109
1511-20	46 (45.5%)	55 (54.5%)	101	39 (49.4%)	40 (50.6%)	79
1521-30	20 (36.4%)	35 (63.6%)	55	21 (48.8%)	22 (51.2%)	43
1531-40	19 (46.3%)	22 (53.7%)	41	12 (60%)	8 (40%)	20
1541-50	21 (27.3%)	56 (72.7%)	77	26 (55.3%)	21 (44.7%)	47
1551-60	14 (35%)	26 (65%)	40	15 (83.3%)	3 (16.6%)	18
Totals	244 (37%)	415 (63%)	659	217 (45.9%)	256 (54.1%)	473

The responses of wives and their co-respondents to their summons do suggest that they were more eager than average to deny the charge, though admittedly this might be just because a wife convicted for adultery had more to lose. Table 5.4 shows the

recorded confessions and denials of men and women on their first appearance in the church court. Mills thought it surprising that anyone confessed, since penances for those who admitted their guilt at the outset seem to have been no lighter than those prescribed for people who opted for compurgation and failed.⁵⁴ However, confessing at once would obviate the need for the further court appearances necessary for compurgation, and would probably involve paying lower fees. So, except perhaps in the case of men hoping to avoid being assessed for child support, there was some motive for those who were guilty to own up at once. A reasonable proportion of denials, therefore, must represent genuine protestations of innocence, and the great majority of women known to be married denied the charge. Of 112 cases involving specifically married women where the response of one or both partners is given, only five women confessed, and one of those claimed that force had been used.⁵⁵ Twenty wives succeeded in purging themselves, a larger proportion than for women in general, and another 28 denied the offence, though a few of these confessed later. Forty-seven alleged lovers denied the charge, while twelve of them confessed. Again, this shows more insistence on innocence than was the case for defendants in general (see Table 5.4). Although probably some of these women were guilty, these responses, combined with the lack of reported pregnancies for married women, do support the hypothesis that a larger proportion of wives than single women were innocent. Furthermore, as Table 5.4 shows, the rate of confessions for men varied only a little throughout the period, between about half and just under a third of those for whom there is evidence. Women's confessions, in contrast, are proportionately only slightly more common than men's until the second and third decades of the sixteenth century, when the numbers confessing and denying were almost equal, and then from the 1530s onwards, confessions outnumber denials. Given that pregnancies were not always recorded in the act books, it could be that as the sixteenth century progressed and concern with bastardy mounted, fewer non-pregnant women were cited in the church courts, and therefore there were fewer who could plausibly deny their guilt. But it is also possible that as the number of defamation suits sued by women increased, the number of citations of innocent women who had

merely been called whores in the course of quarrels, declined, and the increased proportion of women confessing reflects the fact that more of those cited actually were guilty. The lack of change in men's confession rates does not necessarily invalidate this hypothesis, for in many cases, only one partner in an alleged affair was recorded as confessing or denying their guilt. Further research into the relationship between citations for sexual misconduct and defamation suits would be needed to determine whether or not this is a plausible explanation, but what is known already seems consistent with it.

A woman who had been the victim of a sexual insult could forestall a summons to the church court for the offence imputed by suing the slanderer for defamation.⁵⁶ The instance act books, which record such suits, were not used for the present study, but the Romney, Dover and Hythe circuit of the consistory, which was used for the 1460s, and the confused archdeaconry books for the late 1530s onwards, include some instance cases. In the 1460s there was little evidence of women suing for defamation to defend their sexual honour. In 1464 John Clerk, shipman of Hythe, confessed to, and was penanced for, adultery with Isabel Lyes, who subsequently sued him for defamation, but plaintiffs in defamation suits seem more often to have been men.⁵⁷ But in 1537, when Agnes Bonyar of Sandwich brought 'twelve and more honest persons' as compurgators (though she only needed four), to support her denial that John Eggleton had committed adultery with her, she and her husband at once embarked on a defamation suit against Eggleton and his wife.⁵⁸ Joan Rugley, also of Sandwich, sued Richard Harris for defamation in July 1542, and a few months later Harris was penanced for being 'a pernicious example to others'.⁵⁹ The church court books do not reveal the nature of his offence, but the entry in the Sandwich Year Book for June 1542, that Richard Harris

saieth that he knoweth nothing by the wife of John Rugley nor never knew but after the parts of an honest woman⁶⁰

suggests that he was denying an earlier slander. Towards the mid-1540s cases of women suing other women for defamation become more common. In 1544 Griselda

Coke and Agnes Hewett of Walmer each sued the other for defamation. Griselda deposed that she had called Agnes

arrant whore because she [Agnes] had called her whore and said further that she had followed a knave's arse.⁶¹

It sounds as though Griselda was not seriously accusing Agnes of sexual misconduct, but merely trading insults on tit for tat basis. The subsequent mutual suing for defamation might be a way of continuing their feud, or it might be a strategy to forestall a summons for adultery.

James Sharpe, though noting that sexual reputation seems to have mattered most to married women, questions the assumption that many of the large number of defamation suits being initiated by women by the late sixteenth century were attempts to ward off prosecution for fornication or adultery; he considers that few women would take on the certain cost of litigation when an office presentment was not a certain alternative.⁶² However, this may be underestimating the importance of sexual reputation to women, perhaps especially wives, for, as Carol Wiener points out, if a woman's husband believed a sexual slander against her, she could no longer expect protection from him.⁶³ Indeed, a wife's adultery could be grounds for separation.⁶⁴ It is also possible that, as Foyster suggests, wives who had been sexually slandered were encouraged by their husbands to sue for defamation, to protect the husbands' honour.⁶⁵ Woodcock noted that after 1520, actions for defamation, often against imputations of sexual crimes, became the most numerous type of case in the Canterbury consistory.⁶⁶ This coincides with the beginning of the decline in prosecutions for adultery in the archdeaconry court; so it may be that married women were beginning to make use of defamation litigation to forestall such accusations, and succeeding in reducing them. Possibly it had become the norm, as it is now for politicians accused in the media of wrongdoing, for a woman accused of sexual misbehaviour to be assumed to be guilty unless she took retaliatory action in the form of a defamation suit.

Punishment of 'incontinent' men and women

As we have seen, in cases of adultery and fornication, the church courts seem to have pursued men rather more energetically than their female partners, although it was not unheard-of for the woman and not the man to be cited. Mills also found laymen more determinedly pursued than women, though a greater proportion of women suffered censure.⁶⁷ The courts' main aim was probably to put an end to extra-marital affairs.⁶⁸ This could usually be achieved by summoning either partner. When they were dismissed, whether they had been convicted or not, defendants were usually ordered to avoid the company of the suspected sexual partner in future, 'except in public places', or 'except in church and market'. It is quite rare for the same relationships to recur repeatedly in the Act Books, which suggests that the subjection to public scrutiny which would inevitably follow such dismissals was fairly effective.

Cases where there is evidence of both partners being cited are a minority, and where only one was cited it was more often the man. Cases where it is clear precisely what punishment was meted out to both partners in an illicit relationship are a tiny minority of 67 cases, spread across the whole period. Analysis of these reveals that in 46 cases, the man and the woman were ordered to perform the same number of days' public penance. In eight more cases, the number of days' penance was the same, but the man was also ordered to give financial support to the woman and/or the child resulting from the liaison. In another eleven cases, the man's penance was more substantial than the woman's, and three of these eleven also included support orders. In only two cases was the woman's punishment more severe than the man's. In the absence of any but the barest outline of the offence committed, it is rarely possible to tell why one partner was more severely penanced than the other. On 5th February 1513, John Cotyn of Chislet was cited for fornication with Agnes Hendyman, widow, of the same parish. Both confessed their guilt. John was ordered to do public penance the next day, presumably in Chislet church, while Agnes had to perform the humiliating ritual twice, and in the more intimidating surroundings of Canterbury Cathedral.⁶⁹ Agnes Hendyman had been excommunicated in 1510, for adultery with

William Turner,⁷⁰ while there is no evidence of John Cotyn having been in trouble before, so possibly a previous conviction could entail a stiffer penalty. It may also be that Agnes, as a sexually experienced and possibly older woman, was considered more blameworthy.⁷¹ But there is no sign that mature women, or those with previous convictions, were systematically penanced more severely for sexual delicts. In the other case where the woman came off worse, no explanation can be suggested. William Ryngrstede of Canterbury was cited in 1496 for impregnating his wife before marriage. She appeared in court, without him, on May 7th, confessed, and was ordered to do three days' public penance. Three weeks later William appeared and received only one day's penance, though it might have been surmised that he would receive harsher treatment for his delay in obeying the summons.⁷²

In other cases in this group, the man was treated more harshly even though the woman appears to have been the worse offender. Margaret at See, single woman of Horton, was cited in 1532. She was pregnant and had been 'noted with' John Deene and Henry Selby of Horton, William Woodland of Stowting and William Comewel of Selling. She confessed to having had sex with Deene and Woodland, and declared the latter to be the father of her child. In spite of her blaming Woodland for her pregnancy, the court attempted to get both him and Deene to support Margaret, and the child when it came. In an argument which dragged on for several months, both men tried to deny paternity, Deene alleging at one point that several men were 'suspected with the said Margaret, as well as himself and the said Woodland', but when ordered to bring the judge the names of these men, he failed. Eventually both he and Woodland were penanced for two days, and Woodland was to arrange a support order. Margaret received only one day's penance, despite having admitted to more than one illicit relationship.⁷³ There is no sign that having had illicit sex with two or more partners resulted in heavier punishment; the same was true of Rochester in mid-fourteenth century.⁷⁴ When John Fisher of Swingfield was accused of adultery with Katherine Mathue of Folkestone in 1524, they both admitted to having had sex on one occasion; Katherine however volunteered the additional information that she

was pregnant by John Gibbon of Folkestone. Both Katherine and John Fisher received one day's penance, and although the apparitor was ordered to cite Gibbon, and Katherine to return after her purification, neither seems to have come.⁷⁵

Analysis of the penances given by the court in these 67 cases, then, suggests that in general, men received the same punishment as their sexual partner and sometimes a more severe one. But what happened after the judge had passed sentence sheds a slightly different light on the picture. Five men paid to have the sentence commuted, both for themselves and the woman involved. All these examples of male generosity are in the earlier part of the period, the latest being in 1503. Six more paid to have their own sentence commuted, but apparently not their partner's; only one of these was a woman.⁷⁶ So some men seem to have been willing to allow their sexual partner to endure the humiliation of public penance while paying to avoid it themselves. Unfortunately, the act books do not record commutations of penances any more thoroughly than they record marital status, pregnancies, or the existence of illegitimate children. Geoffrey Robson was given three days' penance for adultery with Agnes Jurden; we only know that he had arranged to commute this to 6s 8d because he afterwards absconded without paying.⁷⁷

Furthermore, apart from the eleven women for whom support orders were made, fifteen others were pregnant. Although there is no evidence that any financial provision was made for them, it may well have been. Entries in the act book itself record only that Henry Maxstede was charged for fornicating with Alice Mannyng of Petham in July 1530, that Alice confessed and was penanced, and that Maxstede was cited again nine months later. An undated loose leaf records the more revealing information that Alice had had a child by Henry, and that he had 'gone away for fear of blame' (*recessit timore culpe*) and was now with Mr Sandes at Throwley: he was to be contacted and obliged to contribute to the upkeep of the child.⁷⁸ Clearly the court's transactions were not always inscribed in the act books, and probably a large quantity of such evidence has perished. These pregnant women, then, may or may not have had provision made for their expenses in childbirth and the support of the

child if it lived. More evidence for the treatment of women occurs in a case in 1548. Alice May of Snargate was cited for fornication with John Galey of the same parish. Each was given three days' penance, and John was ordered to expel Alice from his house at once, and to avoid her in future except in public places. The judge reserved the power to order further penance for him.⁷⁹ Presumably Alice May was a servant in John Galey's house, and the possibility of submitting her employer to a further penalty was to meet the contingency of her subsequently proving to be pregnant. In short, the official was doing the best he could: it was impossible for the relationship to be ended while Alice remained under John's roof, and if she should turn out to have conceived, John could be summoned back and made to provide for her child. Meanwhile though, Alice May was without a home or a job, and might have some difficult explaining to do to any potential new employer. Fourteen other men were ordered to remove women they had had sex with from their households; not all were described as servants, but most probably were, and even where dismissal of the maidservant was not specified as a condition of absolution, it must have been the inevitable consequence of most master-maidservant relationships once they had been brought to light. There is no evidence of male servants losing their positions for comparable reasons, and very few cases of mistresses suspected of affairs with men servants. Nazife Bashar has suggested that many servants made pregnant by their masters had been repeatedly raped but were unable to leave their employment before the expiry of their contract.⁸⁰ Though there is no evidence of this in the Canterbury church court records, it may well have happened. Most masters would have been married, and most young girls going into service must have been warned by older kin about the dire consequences of becoming sexually entangled with their employers, so only the most foolhardy would have voluntarily done so.

Table 5.5 shows that although more women were referred to as guilty, fewer were cited, and of those who were, a significantly larger proportion seem not to have had their cases pursued to a conclusion. This strongly suggests that women offenders were pursued less vigorously than men. This does not necessarily imply a policy of

Table 5.5: Outcomes of citations and orders for citation in church courts for fornication, adultery, illegitimate pregnancy/birth, incontinence, prostitution. Women in bold type, percentages in italics. 'Other' includes cases dealt with in another court, excommunications, defendants ordered to marry or prove they were already married, references to the archbishop, orders to leave the parish or the jurisdiction, and, for the 1540s and 1550s, royal pardons. Ten of the support orders were in addition to public penance.

Result	1462-8		1487-1500		1501-20		1521-40		1541-60		Totals	
No recorded outcome	31	26	79	93	131	159	102	72	65	63	408	413
	<i>27.4</i>	<i>38.8</i>	<i>38.2</i>	<i>49.5</i>	<i>38.4</i>	<i>54.5</i>	<i>55.7</i>	<i>63.2</i>	<i>35.3</i>	<i>46.7</i>	<i>39.7</i>	<i>51.9</i>
Public penance	20	12	42	44	76	59	31	27	29	32	198	174
	<i>17.7</i>	<i>12.9</i>	<i>20.3</i>	<i>23.4</i>	<i>22.3</i>	<i>20.2</i>	<i>16.9</i>	<i>23.7</i>	<i>15.8</i>	<i>23.7</i>	<i>19.3</i>	<i>21.9</i>
Dismissed/purged on own oath	7	13	25	20	27	20	2	0	6	4	67	57
	<i>6.2</i>	<i>19.4</i>	<i>12.1</i>	<i>10.6</i>	<i>7.9</i>	<i>6.8</i>	<i>1.1</i>		<i>3.3</i>	<i>3.0</i>	<i>6.5</i>	<i>7.2</i>
Succeeded in compurgation	25	10	38	20	55	27	18	12	36	4	172	73
	<i>22.1</i>	<i>14.9</i>	<i>18.4</i>	<i>10.6</i>	<i>16.1</i>	<i>9.2</i>	<i>9.8</i>	<i>10.5</i>	<i>19.6</i>	<i>3.0</i>	<i>16.7</i>	<i>9.2</i>
Commutated penance or fined	13	6	14	3	5	4	6	0	6	0	44	13
	<i>11.5</i>	<i>9.0</i>	<i>6.8</i>	<i>1.6</i>	<i>1.5</i>	<i>1.4</i>	<i>3.3</i>		<i>3.3</i>		<i>4.3</i>	<i>1.4</i>
To support child and/or mother	10	n/a	0	n/a	4	n/a	8	n/a	9	n/a	31	n/a
	<i>8.8</i>				<i>1.2</i>		<i>4.4</i>		<i>4.9</i>		<i>3.0</i>	
Other	7	0	9	8	43	23	16	3	33	32	108	66
	<i>6.2</i>		<i>4.3</i>	<i>4.3</i>	<i>12.6</i>	<i>7.9</i>	<i>8.7</i>	<i>2.6</i>	<i>17.9</i>	<i>23.7</i>	<i>10.5</i>	<i>8.3</i>
Totals	113	67	207	188	341	292	83	114	184	135	1028	796

'softer' treatment of women; indeed it could be the result of hard-headed calculation. Women were less likely to be able to pay the fees: most of the people dismissed *in forma pauperis* were women. It is also possible that the apparitors were guilty of the foul play of the summoner in Chaucer's Friar's Tale, who 'had eek wenches at his retenue' and used them to lure men into sin and inform on their victims. As Mills suggested, this would explain why so many charges against women appear to have been dropped.⁸¹ It could equally be the case that many women were dismissed or not summoned because there was found to be no real case for them to answer, though the hypothesis that unjust charges against wives were a feature of the period up to c. 1520

does not square easily with the relatively unvarying proportion of women with unknown outcomes throughout the period. On the other hand, of the women who did attend court, a slightly larger proportion were penanced than was the case for men, and the preponderance of women penanced becomes noteworthy from 1521 on, about the time the citations for adultery start to decline. This is compatible with the hypothesis that unjust charges against wives, arising from sexual insults, were becoming less of a feature of office business at that time.

Significantly fewer women than men are recorded as having their penance commuted, and as already noted, most of those who did were dependent on a man's generosity for this. But the church courts cannot be blamed for the secular law that deprived married women of the right to property. On the whole it looks as though Mills's claim that the church courts protected women, and that the medieval church was less misogynist than its stereotype, is justified.⁸² Some women had their case dismissed on grounds of their 'simple-mindedness' (*fatuitas*), indicating the court's awareness that they could not be held responsible for men taking advantage of them.⁸³ More frequently, the courts acted as a sort of Child Support Agency. During the 1460s, it seems to have been common for men who failed to disclaim paternity to be ordered to pay, not only for the upkeep of their illegitimate child and sometimes for the woman's lying-in expenses, but also to provide the woman with a dowry to enhance her chances of marriage to another man, which would presumably otherwise have been seriously jeopardised.⁸⁴ There was no evidence in the sample for the payment of dowries in the diocese of Canterbury after 1471, but Houlbrooke found such orders being made in the sixteenth century.⁸⁵ In a few cases, when a man denied responsibility for a woman's pregnancy, it was recorded that she was to attend the court session at which his compurgation had been arranged, to give her a chance to object; this happened to Elizabeth Crafte in 1539, and Alice Gillet in 1544.⁸⁶ There is no sign of this consideration being extended to men. Of course, getting the father to actually make the payments was another matter, and the lengths the court went to in order to establish the identity of the father are not suggestive of an institution brimming over with Christian compassion for unfortunate women. Midwives had the

duty of extorting the putative father's name from the woman when she was in labour; this is recorded as having happened in the case of Marion Milles of Hawkhurst in 1548.⁸⁷

Accused women sometimes claimed they had been promised marriage by the man who had got them into trouble.⁸⁸ This may have been a convenient fiction designed to deflect blame onto the man, or the woman may have embarked on the risky strategy of encouraging the man to impregnate her in order to snare him into marriage. It may have been the result of misunderstandings over what constituted a contract of marriage. Probably all three of these reasons applied in different cases. Nevertheless, a fourth explanation is at least as likely, that men sometimes persuaded girls to have sex with them by promising or hinting at future marriage, without any intention of fulfilling the promise. The prospect of these women being left - literally - holding the baby does not suggest that, however much the church courts tried to prevent them and their children becoming destitute, women unwise enough to engage in extramarital sex had an easy time of it. Even women who had not become pregnant, and even to some extent those who were not convicted, suffered in their reputation more than men would do. A degree of suspicion was bound to remain attached to anyone who had been cited in the court, which could be detrimental to a single woman's chances of marriage, or cause problems within her marriage for a wife.

Clergy

If men were treated more severely than women by the church courts, the clergy were an exception. A hundred and forty-nine accusations in the sample involve clergy, slightly more of whom were described as chaplain or curate than vicar or rector.⁸⁹ In 47 cases, the clergyman was not cited himself: as 22 of these involve monks, canons or friars, and none of these was cited, presumably the disciplining of regular clergy was left to their order, rather than to the ecclesiastical court. Of the secular clergy, 26 purged and three failed compurgation, while only eight confessed. Only three had apparently to do public penance, none of them for more than two days, and two more

are recorded as having their penance commuted. In three cases the offender was suspended from celebrating mass within the jurisdiction, one was referred to the archbishop and one vicar was after years of accusations removed from his parish. So the rates of confession and punishment of all kinds were lower for clergy than for lay men or women, while the proportion of successful compurgations was higher.

Clergy were probably more vulnerable than most men to sexual slander. Only eight allegations against clergy were said to have resulted in pregnancy; though this is slightly more than those attributed to adulterous relationships of married women, it is still small enough to fuel the suspicion that a substantial proportion of those accused were innocent. Thomas Chapman, vicar of Brenzett, was accused in 1550 of misbehaving with Edith Blake. He sued her for defamation, and she eventually confessed to having falsely claimed that he had given her various sums of money *ut carnaliter cognosceret eandem*, while he succeeded in compurgation.⁹⁰ There may have been many incumbents who like Chapman found themselves the subject of their parishioners' fantasies or of malicious gossip. On the other hand, the relative ease with which many of them seem to have mustered their colleagues from neighbouring parishes as compurgators rather suggests that some kind of tacit mutual assistance pact existed among neighbouring clergy, whereby each would attest to each other's good character without enquiring too closely into the circumstances. When Roger Johnson, vicar of Petham, was accused of incontinence with Margery Skelton in 1515, he produced four compurgators, one of whom was John Abraham, vicar of Elmsted. Abraham had himself been accused of incontinence with two women in 1505, and was to be cited again for another relationship in 1517, though the outcome of these cases is unknown. Johnson's compurgation was contested by one of his parishioners, and how this episode ended remains obscure, but six years later Margery Skelton was cited for adultery with him. In 1529, 'Sir Roger' was cited again, this time for defaming his parishioners, saying there were no good women among them. He again made arrangements for compurgation, one of his potential compurgators being John Garnett, another priest who was no stranger to the archdeacon's court. This time Johnson's compurgation was contested by no less than

nine of his male parishioners, and in the inquiry which followed it transpired that his defamation of the women of his parish may have been based on the results of his own sexual experiments. Margaret Scott of Petham deposed that some years earlier 'being a maid very sick like to die' she 'sent for the said Sir Roger to be confessed of him' and that having sent everyone else out of the chamber, the priest said to her 'ye be a wily wench and a lusty wench, ye be sick from such a thing' and *ponens virgam virilem erectam in manus eius*, declared 'if ye had such a thing ye would be as well as ever ye were'. Margaret Scott stuck to her story through a lengthy interrogation, and arrangements were finally made for Sir Roger to be replaced.⁹¹

While it would be unfair to take Roger Johnson's activities as typical of many clergy, the fact remains that it took his parishioners at least fifteen years to get rid of him, and that he was able to find other priests willing to act as his compurgators. The procedures of the church courts were probably devised originally to enforce clerical celibacy.⁹² The impression left by these sources, though, is that the courts were embarrassed by allegations of clerical misconduct and too ready to sweep justified accusations under the carpet by allowing compurgation by priests whose own conduct was not above suspicion. The courts seem to have acted on a presumption of clerical innocence. In 1531, Joan Harrow of Hackington was cited for publicly claiming that the vicar, John Harrison, had solicited her chastity, an offence which could mean anything from coarse remarks to attempted rape,⁹³ and perhaps roughly corresponds to the modern concept of sexual harassment. She was ordered to prove this allegation, an unreasonable demand, since the priest would hardly have committed his indiscretions in front of witnesses. Failing to supply proof, Joan was given the alternatives of publicly asking Harrison's pardon 'by next Friday', or returning to court that day to be assigned penance. A few days later, the vicar

certified that....Joan publicly in the church on bended knees before the parishioners asked pardon of him for the defamatory words that she had uttered about him. And immediately afterwards she said to all the bystanders: Bear me record that I have done my penance. Howbeit those words that I have said of him be true or else I pray God and our Lady that this child I go withall and I never depart. (*sic*)⁹⁴

Joan had splendidly turned the tables on her adversary, transforming what was intended to be her own public humiliation into his, and there can be little doubt that she was telling the truth. But few women would have had the audacity to act like this, and many more must have suffered unwanted clerical attentions in silence. The court seems to have been at a loss to know what to do next; Joan was summoned to appear 'for further reformation', but was then apparently dismissed with an absolution. No action appears to have been taken against Harrison, who remained vicar of Hackington till his death in 1545.⁹⁵

Prostitution

According to Karras, medieval church courts might accuse prostitutes, their clients and procurers, while in the secular courts only the procurer was usually prosecuted.⁹⁶ In the Canterbury church courts clients of prostitutes are conspicuous by their absence, and neither prostitutes nor procurers were treated particularly harshly. However, the issue is bedevilled by the imprecision in the way the courts used terms like *meretrix* and *pronuba*. The word *meretrix* appears to be used in the church court records to mean something different from an adultress or fornicator, as women charged as *meretrices* were not usually cited in connection with a particular man. There seems to have been no distinction made between taking money and not doing so. Karras maintains that the defining feature of a prostitute was the public and indiscriminate availability of the woman's body, rather than whether or not she was paid, and a 'loose woman' could be conflated with a commercial prostitute.⁹⁷ Rather than a clear distinction between prostitutes and non-prostitutes, there seems to have been a continuum stretching from the (probably few) professionals like the women inmates of the town brothel at Sandwich, through a variety of casual, part-time or occasional prostitutes, to women who were just rather indiscriminate with their favours. Any of these might possibly appear in the church or town court charged with being a *meretrix* or harlot, or simply under the blanket term of 'ill rule'.

In the sample from the Canterbury church courts, 33 women were described as *meretrix*, mostly *communis meretrix*, and six more as *communis adultrix* or *communis fornicatrix*. All these designations seem to suggest availability to all comers, though 'common' according to Karras, could also mean 'by common fame'.⁹⁸ Three of these 39 women were also accused of bawdry, and two appeared for various other offences. Five were described as wives and one as a widow. There were proportionately more *meretrices* charged in the 1460s than later, but this may reflect the fact that the act book used for that decade covered the port towns of Romney, Hythe and Dover, where visiting sailors may have created a particular demand. Only 33 of the 39 were themselves cited, and for six it was the client or bawd who was summoned. But no man was cited in connection with 26 of the 33 women who were cited themselves. Twelve women seem never to have appeared in court, and fifteen denied the charge. Six of these succeeded in compurgation, and only one failed. Only two confessed their guilt, and one of these was dismissed without any penalty or even monition being recorded.⁹⁹ For the other, Julian Colyer of Romney, there is some evidence of a professional career. Between 1462 and 1466, five men were cited for having sex with her, the only unequivocal evidence of several men accused of sex with a *meretrix*. She was charged as a common *meretrix* in 1465, and paid 3s 4d to commute her penance, so must have been quite successful.¹⁰⁰ At the other end of the scale, Agnes Bukherst of Rolvenden and Joan Savage of Dover were excused the court fees on account of poverty.¹⁰¹ Maud, whom John Austen had in his house in St Mary Bredman parish in Canterbury in 1514, was said to have come from a brothel in London, but only he was cited.¹⁰² In March 1519 presumably the same Maud was the servant of Mr Hardes of All Saints parish, and was 'noted with' John Austen and others, but not described as *meretrix*; neither case appears to have been followed up.¹⁰³ However, John Austen 'of the Lion' was fined 4s 1d by the secular court in Canterbury in 1518,

for that he keepeth and suffreth in whore one Maud in his house which liveth viciously in his house....¹⁰⁴

He must have brought some metropolitan sophistication to his inn to give him an edge over his competitors. The fact that Maud was no longer in John Austen's inn in March 1519 might imply that the fine imposed by city court was a more effective sanction than the spiritual penalties available to the church. The unnamed *meretrix* whom John a Pontowe of Canterbury was cited for adultery with in 1496 was probably also a professional operating in an inn. John was cited as a bawd in 1500, and his wife for the same offence in 1505, while he appears in the city records in 1504 and 1505 for keeping a bowling alley, 'ill rule', unlicensed beer and ale selling, and keeping a 'suspicious house'.¹⁰⁵ If this is the same John Pontowe who was cited as a common blasphemer and sabbath-breaker in 1519, he was not the type to be swayed by spiritual sanctions.¹⁰⁶ Moving further along the continuum from professional prostitution to mere promiscuity, twelve women (as well as two men) were accused of adultery or fornication with 'several', or 'diverse persons'. Some of these may have been prostitutes, the most likely candidate being a Thanet woman accused of 'adultery with several, especially sailors'.¹⁰⁷

As Table 5.3 shows, prosecutions for 'bawdry' (*pronubacia* or *lenocinium*) were quite numerous until the 1530s. Many of these were not to do with prostitution, however defined, but were accusations against householders, often parents or employers, for allowing acquaintances, sons, daughters or servants to have sex on their premises, or otherwise facilitating illicit liaisons.¹⁰⁸ This is clear in many instances where the 'bawd' is accused of an offence only in connection with one named couple. Most of those so accused seem to have had little trouble persuading the judge that they had not knowingly connived at impropriety, unless they were as imprudent as Isabella of Northgate, who publicly recalled that she had seen the said persons *carnaliter inter se commississe*. Her lack of discretion resulted both in the couple suing her for defamation and the apparitor citing her for bawdry.¹⁰⁹

Prosecutions of those who failed to police their household sufficiently strictly show a marked downturn from the 1530s. It may well be that the church courts, overburdened and thrown into confusion by the torrent of legislation they had to cope

with for the next three decades, had less time and energy to devote to this minor, and usually unprovable, sin. Houlbrooke also found few such cases in the Norwich commissary's court from the 1530s onwards.¹¹⁰

As with the prostitutes, there seems to have been a continuum of 'bawds', from those merely failing to supervise their premises strictly, through those who arranged meetings between lovers, introduced clients to harlots, rented accommodation to harlots, to real brothel-keepers.¹¹¹ The evidence cited above on John Austen and John a Pontowe suggests that brothel-keepers, or innkeepers offering women as an added attraction, were more likely to be charged in the church courts than professional prostitutes were. In 1496 Thomas Hart of Chartham failed to purge himself for the offence of being a bawd between William a York's *meretrix* and diverse other persons, and was ordered to leave the parish on pain of public penance, an unusual example of an option other than a money payment being offered as an alternative to penance.¹¹² Meanwhile, like Maud from London and John a Pontowe's woman, the *meretrix* herself was not cited. It is not possible in all cases to distinguish 'bawds' who had merely been accessories to single acts of fornication from those engaged in pimping, procuring or brothel-keeping, but there are 27 women and 20 men fairly definitely in the former category, including five men accused of being bawds for their wives.¹¹³ Of the remainder, eleven married couples, 48 women and 31 men, at least some were 'real' bawds. Joan Baker of Westgate, Canterbury, purged with three women in March 1520, but was cited again in November the same year, when she was ordered to be 'disciplined' in the four corners of the cemetery.¹¹⁴ This suggests harsh penalties for unrepentant bawds, being one of only two cases found where beating or whipping was the punishment.¹¹⁵ John Cheseman of Bridge, who had already made several appearances for his unsatisfactory performance as a churchwarden, was in 1509 accused of harbouring several *meretrices* in his house, and was referred to the archbishop.¹¹⁶ Joan Kervar of Chartham was accused of being both bawd and *meretrix*, 'especially with the monks of Christ Church', but succeeded in compurgation, while Agnes Burgent of Canterbury also cleared herself of the charge of being a common bawd *tam viris*

*ecclesiasticis quam secularibus.*¹¹⁷ But for many of the others charged as bawds, there is insufficient evidence to tell whether they had merely allowed one pair of lovers to rendezvous in their houses, or were actually involved in full-scale procuring. Many may have been as harmless as the 'bawds' Stephen Rivers and his wife, whose offence was only that they harboured a woman, presumably unmarried, in childbirth.¹¹⁸

Mills noted that few women were cited by the consistory for sexual offences with multiple partners, implying that prostitution must have been rare.¹¹⁹ But the church courts used for this study seem seldom to have accused men of frequenting prostitutes, so though the church in theory may have regarded prostitutes and their clients as equally culpable, in practice the offences of the clients, the prostitutes themselves, and their bawds seem to have been regarded as coming in an ascending order of gravity. Only the bawds seem to have been considered worth citing in any numbers; they had very high rates of successful compurgation, and hardly any were penanced. In this context it is interesting that women accused of bawdry outnumber men. If the 'bawd' was keeping a brothel, one would expect the, usually male, householder to be more likely to be regarded as guilty, though many of these bawds may have been arranging assignations rather than running brothels. The same predominance of women over men accused as bawds can be observed in the secular courts, to which we now turn.

Sexual offences in the secular courts

Some studies have suggested there was increased concern in secular courts over sexual offences in the later fifteenth century, at least in the south-east. McSheffrey found this in London, while in Essex, McIntosh found the Havering court dealing with sexual morality in the 1480s and 1490s, and to a lesser extent up to c.1530.¹²⁰ In her larger survey of court records across England, McIntosh found a larger proportion of courts presenting sexual offences between 1460 and 1539 than before or after.¹²¹ In the Kentish secular courts, the degree of concern with sexual misbehaviour seems

to have risen roughly in proportion to the size of the community. The only possibly sexual offence in the manorial court sample was in Maidstone.¹²² No such offences were prosecuted at Queenborough, although it was a port. In Fordwich, up to the early 1530s, occasional concern appears over what looks like small-scale prostitution, while in New Romney evidence of any interest in sexual offences is limited to the years between 1472 and 1491. In Sandwich, as Table 5.8 shows, banishments of female sexual offenders were more numerous between 1461 and 1470 than later, but were rising again in the 1550s. However, Sandwich was unique in Kent in having its own municipal brothel for part of the period under review, and the apparent trough in prosecutions of sexual offenders probably coincides with the period when this was operating. In Canterbury large numbers were charged with sexual offences, but the limited survival of records makes it impossible to chart change over time. As Table 5.6 shows, the total of what appear to be accusations of sexual misconduct in the four towns which concerned themselves with it amounts to 212 charges against women and 136 against men. The extent to which women outnumbered men is the more remarkable bearing in mind that overall, charges against men in the secular courts were far more common than those against women. Tables 5.7 and 5.8 show that, furthermore, women were more likely than men to receive 'shaming' punishments, or to be banished, for sexual offences.

Table 5.6 Sexual offenders in boroughs (cases, not people). A few individuals were presented more than once. In 4 additional cases, the gender of the defendants was not specified.

	Canterbury	Sandwich	Fordwich	New Romney	Totals
Wives	74	15	3	2	94
Widows	19	5	0	2	26
Single women	1	7	0	1	9
Women, status unspecified	47	28	7	1	83
Women sub-total	141	55	10	6	212
Men	98	26	10	2	136
Totals	239	81	20	8	348

The secular courts' chief motive for prosecuting sexual misconduct seems to have been the threat it could constitute to public order. McIntosh noted this, and judging

from the wording of some Canterbury presentments, it applied here too.¹²³ In 1534, a jury presented Jane,

dwelling in Christopher Hamond's house beside Saint Mary Bredin Church for that she liveth viciously of her body in somuch that the Friday in Easter week ii men had like one to have slain the other for her at Saint George's Gate.¹²⁴

Some years earlier, John Ambrose of the Three Tuns was presented for keeping in his house

an ill-disposed woman ...by reason whereby there hath been divers affrays made whereby the king's peace was broken and murder like to ensue.¹²⁵

Noisy disturbances at night, even if not accompanied by violence, seem sometimes to have prompted prosecutions, as in the case of Richard Molbery and his wife, presented 'for making outcries in the night time and keeping of a quean in the house'.¹²⁶ Secular courts, though, did sometimes articulate religious or moral objections to sexual misbehaviour. McSheffrey found London jurors using Christian terminology in the second half of the fifteenth century, and McIntosh found a few courts, all between 1500 and 1550, doing the same.¹²⁷ In Canterbury a few presentments in the 1530s combine religious and secular complaints against sexual offenders. Thomas Guyllyame,

dwelling beside Ruttington Lane....keepeth ill rule lodging vagabonds and naughty queans to the high displeasure of god and contrary to the king's laws etc.¹²⁸

Fear of both divine wrath and human violence was fused in the presentment of seven women, four of whom were wives, in 1538

for that they be common harlots and live viciously of their bodies to the great displeasure of God and noyous unto all well disposed people and without remedy be provided murder like to ensue thereof.¹²⁹

In Sandwich concern with religious precepts surfaced rather earlier. In November 1521 John a Lee and Eleanor the wife of John Colpet were warned because they 'daily and nightly keep company viciously contrary to the laws of God'.¹³⁰

However, few offences were described so explicitly: the terminology used for sexual misconduct in the borough jurisdictions is even more opaque than that of the church courts. Catch-all accusations like 'ill rule', 'bad conversation', or 'lives suspiciously', are only occasionally illuminated by the additional information that the

defendant is a harlot, keeps a harlot, allows unlawful games to be played, has no visible means of earning a livelihood, disturbs the neighbours by rowdiness at night, or harbours vagabonds. Thus it is difficult to tell whether some defendants were being accused of sexual offences or of other manifestations of 'ill rule', let alone the exact nature of the offence if it was sexual. Whether there was any difference between a harlot and a quean is impossible to tell, and 'bawdry' sometimes seems to mean adultery or fornication.¹³¹ Of the accusations of 'ill rule' made against 37 men and 30 women in Canterbury and three men and eighteen women in Sandwich, some were clearly of a sexual nature and many more may have been, so the figures given below are most likely an underestimate of the total numbers whose sexual behaviour came to the attention of the secular courts.

Adultery and fornication in the secular courts

Adultery and fornication were not usually cognizable in secular courts, but feature occasionally as offences affecting public order.¹³² Prostitution, on the other hand, was a concern largely of urban courts.¹³³ Crowley noted that at Chepping Walden in the early fifteenth century, the view of frankpledge heard cases of fornication and adultery, but later in the century the only sexual offence it dealt with was prostitution.¹³⁴ In four Kentish secular courts, a total of 36 couples can be identified who seem to have been lovers rather than prostitute and client or bawd. Twenty-two cases from Sandwich and ten from Canterbury constitute the bulk of these: in Sandwich, only three are from the fifteenth century, and all but one of the rest from 1520 onwards, while in Canterbury most are from between 1500 and 1520, the period with the fullest record survival. In the main it looks as though the principle of the church courts was followed, that both parties to fornication or adultery were to blame. In 19 of these 36 cases, the man and woman seem to have received comparable treatment, while in seven the man alone was presented or punished, and in ten the woman. (In cases where no penalty was recorded, treatment of the man and woman was counted as equal if both partners were presented.) But nine of the cases where the woman came off worse are from Sandwich and none are from Canterbury;

conversely six Canterbury men, two of them cuckolded husbands, were fined with no apparent punishment for the woman. These are not large enough numbers to prove anything, but the difference in the way the two towns treated illicit lovers seems quite marked. To attempt to explain it, it is necessary to look more closely at the adulterers and fornicators in the towns.

For four of the Canterbury couples the outcome is not given; one couple were pardoned, and in the others, the husband, male lover or both were fined. There is no evidence of banishment or shaming punishments for anyone, though this is no proof they did not happen. At least seven of the women were married, one was a widow, and one 'a young wench'. The church court records show that there were many more cases of suspected adultery and fornication in Canterbury than appear in the city court records, even allowing for the limited survival of the latter. The select few which were made the subject of city presentments were probably particularly notorious. The distinction made in early sixteenth century German towns between 'public' adultery, likely to lead to disorder and requiring punishment, and 'secret' liaisons, which might be ignored, at least by civic authorities, may be relevant here.¹³⁵ In two instances, the husband's complicity resulted in his being fined. The 'ill living' of Thomas Bery's wife with William Burges was long-drawn-out and giving rise to 'murmurs and rumours among neighbours, to the grave annoyance of many of the Lord King's liege people'. Thomas Bery was presented three times in 1511 and 1512 for tolerating it, though Burges and Isabel Bery were also presented and confessed; both men were fined five shillings.¹³⁶ Christopher Clement was fined 12d in 1519 for letting John Nevyle resort to his house and 'fornicate' with his wife, but there is no sign that the adulterous couple themselves were presented. As a pledge for the fine and the court fee, Clement handed over a woman's gown, perhaps a way of getting his own back on his erring wife.¹³⁷ Susan Amussen found some similar cases for a later period.¹³⁸ Thus Laura Gowing's statement, that calling a man 'cuckold' was not to accuse him of a real offence with possible material penalties, is not entirely accurate, though these cases were rare in both lay and church courts.¹³⁹ Another case

that had attracted attention over some time was that of Simon Purdy and Johane Jafery, widow,

for living viciously and use to gether suspectly often times have been warned and rebuked and yet will not amend the same ill rule',

who admitted their offence and were pardoned.¹⁴⁰ Even where notoriety is not obvious, it probably existed. John Lorkyn's wife was presented because she 'draweth suspiciously to Mr James the sexton and he draweth suspiciously to her' in 1511, which does not sound like very damning evidence. But if this was the same Joan Lorkyn who was presented at the archiepiscopal visitation the same year for 'suspicious rule' and whose case was referred to the archbishop, there must have been serious scandal.¹⁴¹ In 1506, William Brice 'suspiciously' kept a young woman whom he claimed was his illegitimate daughter: the city jury accepted this claim but fined him 3s 4d for keeping her as his harlot. The archdeacon's official was more sceptical, calling her his *pretensa filia*.¹⁴² Sir Thomas Davies, parson of St Alphege, was presented three times in 1518 and 1519 and eventually fined 20s for 'keeping' a 'young wench', whom he said was his kinswoman.¹⁴³ In other cases, the presentment of one partner for a different offence may have triggered a presentment for adultery as an afterthought. Richard Clerk, tailor, was presented as a vagabond (in the sense of having no work), and compounded his offence by keeping Giles Thomas's wife in adultery.¹⁴⁴ John Yomanson, sergeant at mace, was fined 6s 8d 'for using and living suspiciously with the wife of Robert Sturdy', and Sturdy's wife was presented as a common scold at the same time.¹⁴⁵ Yomanson's heavy fine may be related to the fact that he held civic office: Phythian-Adams emphasises how, in Coventry at this time, observance of high moral standards helped to legitimise a man's official standing.¹⁴⁶ Although no firm conclusions can be drawn from these few cases, it looks as though the man alone was presented, and likely to be fined, if he was older than the woman or in a position of responsibility, while mature women were considered equally culpable, and submitted to the indignity of being presented, but not fined because they were married and therefore had no money of their own.

In ten of the Sandwich cases, the man and woman were punished equally, while in nine the woman alone was punished, or punished more severely, and only three of the women seem not to have been presented. Altogether ten of the women and only five men were banished. In contrast to Canterbury, many of the Sandwich women were single, and it may be this which accounts for the difference between the penalties in the two towns. The disciplining of a wife was her husband's responsibility, hence the fining of the Canterbury husbands who neglected their duty in this respect. In the case of an unmarried woman, the Sandwich evidence suggests that the solution was to get her married at once, or failing that, to banish her, often with the proviso that she could return once married. John Kempston was obliged in 1486 to promise 'to wed Margaret Flesher by Thursday next coming', on pain of five years' banishment for both of them, while in 1505 John Avery and his 'leman' Katherine were both banished on pain of branding until they were lawfully married.¹⁴⁷ Johane Wilkinson, who in 1468 confessed to being the concubine of the chaplain of Ash, was banished until she married, on pain of branding.¹⁴⁸ In 1534, John Donyng was fined 21d and ordered to avoid Jane Moore or marry her on pain of banishment for both, but three months later when they had neither separated nor married, Jane alone was banished, and not to return unless married, on pain of the cucking stool.¹⁴⁹ The only other man who was apparently ordered to make any payment was John a Lee in 1521: this was 20s towards the 'finding' of 'Margery his sovereign lady' and both were given an injunction that they 'from henceforth come not together occupying the said vicious living', on pain of both being banished. Four years later, Margery Bukherst, probably the same woman, was ordered to be banished unless he would marry her, and the condition of his remaining in the town was only that he clear himself before the ordinary 'of the crime she names upon him'.¹⁵⁰ John a Lee was a freeman by birth, and despite many offences in his youth, went on to be treasurer, jurat, and finally, mayor and MP for Sandwich.¹⁵¹ His career does not suggest that sexual misbehaviour in a man was any impediment to future advancement. The relatively lenient treatment of John a Lee, and of three other men, suggests that those of higher social status in Sandwich were unlikely to be severely punished. Richard Harleston in 1517

had left 'the conversation and company of his wife' for a 'suspicious woman' and in 1521 'used himself evil against Johane the daughter of Andrew Beverege', which might imply rape, attempted rape or the seduction of a young girl; on both occasions he was merely bound over 'to use himself honestly'.¹⁵² Richard Cristmas, a member of the Common Council, whose married mistress Katherine Vanmegere was banished in 1541 for 'misusing herself' with him, was only threatened with the loss of his freedom and further unspecified punishment. Richard Miller, who had defied an order to avoid Joan Tompson on pain of losing his office and banishment, was pardoned for the repeated offence because in 1521 he 'meekly submitted his self to the order of the mayor'.¹⁵³ Lee, Harleston, Cristmas and Miller were all men of some substance, which might make it difficult, or undesirable, to banish them. Outsiders and vagrants were more easily disposed of, like John Anderson

thought to be a sturdy vagabond and one not living unto the manner of a subject, not having a master wandering from place to place

and Margaret Chamberlain, who 'have companied themselves together ... not being man and wife', or John White and Elynor, also not married, who were part of a band 'for ill living and petty picking to be whipped at the cart's arse and banished for ever'.¹⁵⁴ The Sandwich strategy seems to have been to banish both the man and woman, for ever if they were undesirable newcomers, and until marriage if they were impecunious local residents. Women having affairs with men of higher status, though, were liable to be banished on their own, while their lovers were more likely to be bound over or threatened with suspension from the freedom.

The Fordwich and New Romney records yield another four couples apparently engaging in extramarital sex. Neither of these boroughs seems to have used banishment as a punishment so readily as Sandwich. In New Romney, John Baker and Robinett White, widow, who were 'taken together suspiciously in the house of the said Robinett by their neighbours as in way of bawdry' in 1474, were bound over in the sum of 20s 'to be of good rule fro this day forward'.¹⁵⁵ William Waldish, an unfaithful husband, had to swear in 1472 to accept Christine his wife and do her no harm, and that he would not 'occupy Margery Fawce in the way of adultery'.

Margery had been imprisoned for a 'trespass' done to Christine, but when brought before the jurats, merely had to swear to keep the peace to her in future.¹⁵⁶ In Fordwich, Agnes Baker and John Goldyng were presented together in 1505 for living suspiciously and keeping a suspect house, and ordered to amend or leave the vill within days. John Goldyng appears regularly in the Fordwich records for some years after this, and the presentment of Agnes, wife of John Goldyng, as a scold and hedgebreaker in 1506 suggests that they had regularised their union by marrying.¹⁵⁷ In these instances, the principle of equal penalties for man and woman seems to have been followed. But when Agnes Upton was 'taken in adultery with William Payne' in New Romney in 1479, she was arrested and imprisoned, while there is no record of any action being taken against Payne.¹⁵⁸

The aim of the secular authorities was evidently the same as that of the church courts: fornicating and adulterous couples should be respectively ordered to marry and warned to separate. Secular sanctions ranged from mere warnings to binding over, fining and banishment. It seems likely that the relationship between financial penalties and banishment was the same as that between public penance and commutation in the church courts: banishment was for those who could not afford a fine, or find sureties for a substantial sum in the case of binding over. If both partners were poor, both were probably equally likely to be banished. But daughters of better-off families probably married younger and had less opportunity for extramarital adventures, so the women involved in such affairs were likely to be from the poorer classes: if their involvement was with a man from the elite, their punishment would be different from his, but this was more a function of economic status than gender relations. A man of higher status than his female partner would be treated differently, but this could mean his having to pay a large fine, as in Canterbury, or getting off more lightly than the woman, as happened in some of the Sandwich cases. In cases where both partners were from the class that could afford fines, the woman was unlikely to be single, and a problem arose with wives. Since they could not legally own property, the wronged husband would have to pay. This was not necessarily seen as unfair, because the husband was at fault for allowing his

wife's misbehaviour, but if the court was sympathetic to the husband, a fine might just be imposed on the lover. So although women were often more severely punished than their partners, it cannot be argued that this was specifically because they were women. The treatment of adulterers and fornicators in the Kent borough and city courts, then, could be used to support McIntosh's contention that local jurors were not principally concerned with female sexuality, but attempted to control disorderly sexual behaviour wherever it occurred, among both men and women.¹⁵⁹ However, the more extensive evidence on prostitution and bawdry indicates considerably greater concern with female than male sexuality.

Table 5.7: Recorded punishments for sexual offences, Canterbury

	Pardoned	Banished	Banishment requested	Fined	Shaming punishment	Totals
Men	2	1	0	49	1	53
Women	7	6	3	35	12	63
Totals	9	7	3	84	13	116

Prostitution in the secular courts

It might be expected that in a city the size of Canterbury, with large numbers of mostly male visitors and a substantial population of clergy, prostitution would be common. Although there seems to have been no civic brothel to cater for all these potential clients, some of the city's inns and lodging houses, as we have seen, included 'common women' among their attractions for visitors. That the local clergy used prostitutes can be seen, for example, in the presentments of Nicholas Joyner's wife, noted for frequenting the Black Friars suspiciously in 1508, and Eleanor Cok in 1510 for living 'lecherously with divers men, as much religious as secular'.¹⁶⁰ The Augustinian friars were particularly prominent in complaints about sexual misconduct.¹⁶¹ Altogether, 56 women can be traced who were described as harlots, mostly 'a common harlot', or in words which amount to this. They include twenty-six wives, five widows and three servants. The large proportion of married women is surprising considering that there are supposed to have been many single women in

towns, and that most earlier research has found nearly all prostitutes were single or widowed.¹⁶² But if wives often needed to supplement their husbands' earnings, casual prostitution in a city which offered good opportunities for it was probably an effective way of doing so. Bearing in mind the number of years for which no records are available, these 56 women are probably the tip of an iceberg. In 1503 alone, nine women were charged with harlotry; if this was anywhere near typical, over the course of the century covered by this study, several hundred women must have been presented for prostitution. Many may have practised their trade in a casual or non-commercial sense. Only in one case is there any mention of a commercial transaction: Margaret, wife of Thomas Galeon, deposed when examined in 1534 that the wife of William Box had 'required her to assent to lie with a priest for a time' and paid her, promising that 'she should have as much money as would buy her a new gown cloth'. The context suggests that this was a new experience for Margaret and that she was not a regular prostitute.¹⁶³ Occasionally it is clear that the bawd or landlord was being accused along with the harlot. Alice the broom-maker dwelling with John Wortyng was presented 'for a common harlot' and Wortyng 'for maintaining of her contrary to divers warnings' in 1534.¹⁶⁴ Unfortunately there is no record of the punishment, if any, of most of these women. Only ten are recorded as having been fined, the amounts ranging from 8d to 3s 4d. In only two cases, both at the same court session in 1518, was the male bawd or procurer presented, without the woman: both men were fined.¹⁶⁵ Three women were pardoned, all in 1538, and two more either pleaded or were found not guilty in the same year. Five are recorded as having been banished. One of these, Hochyn's wife, was 'punished in the Cage' prior to banishment in 1519; two more the same year have a marginal note *puniebantur* which probably refers to the same thing.¹⁶⁶ In 1527/8 the city spent 4d on two 'ray hoods' for 'unthrifty queans that were banished'.¹⁶⁷ Striped or 'ray' hoods were used in London, Gloucester and Exeter for the public punishment of prostitutes around this time.¹⁶⁸ In 1557/8, 'three harlots' were 'carried about the town' with a basin and papers (indicating their offence), which is the only other indication of shaming punishments for this offence in Canterbury.¹⁶⁹ Since punishments were infrequently

recorded in Canterbury, more harlots may have been banished. Also, as there is evidence for the existence of the cage, a cucking-stool and a pillory, shaming punishments may have been used more often, though in Sandwich it looks as though cucking was reserved for the most notorious cases.

Sandwich is one of only three or four English towns known to have had an 'official' brothel.¹⁷⁰ In 1474, land was acquired 'for.... a common house of stews to be called the Galley'.¹⁷¹ Karras has suggested that the name might indicate that its customers were expected to be 'galley-men', a word used for Italian traders.¹⁷² Visiting mariners in Sandwich, though, seem to have been mainly from northern Europe. She assumes that this establishment projected in 1474 was not just a bathhouse, because of the provision in 1494 that 'a house shall be ordained for common women like as it hath been accustomed', and the regulations for the brothel drawn up in the following year.¹⁷³ But the wording of the 1494 enactment suggests discontinuity, and, though Adrian 'at the Galley' paid a fine of 4d in 1489/90, there is no hard evidence for the existence of a brothel between 1474 and 1495, so the 'stews' at that time may have been just for washing.¹⁷⁴ The regulations of 1495 gave the names of four 'maids' (*ancille*), ordered that they were not to be beaten or chastised, and specified that the brothel-keeper and his wife could charge them 16d a week for their board and lodging. This was a high charge for the time, comparable to the 14d a week Southwark prostitutes had to pay for their rooms.¹⁷⁵ In the next few years, there is evidence of the brothel's continuing existence. Receipts from the Galley feature sporadically in the accounts, usually amounting to several shillings until 1519/20, when they dropped to 16d.¹⁷⁶ Richard Jaffe was awarded half the profits of the Galley 'in recompense of his watch money' in 1501, but the following year resigned this concession in exchange for 3s 4d.¹⁷⁷ In 1521/2, a mere 8d was recorded 'from the whores of the stews', and thereafter there is no mention of the brothel.¹⁷⁸ Meanwhile in 1501, Denise, 'the bawd of the Galley' (perhaps Denise Cordell, one of the inmates listed in 1495), was ordered to be banished for ever,

except that the said Denise will take her residence and winning at the said Galley like as a common woman ought to do.¹⁷⁹

Visiting sailors feature regularly and prominently in accounts of affrays in Sandwich. Obviously, they would have been potential clients for prostitutes. It may be surmised that the town authorities decided in the late fifteenth century to bring the sex trade under regulation, both as a means of exerting some control over what could not be stopped, and as a source of revenue. The order to Denise suggests that all prostitution in the town was to take place within the Galley, which might well have reduced the rowdiness and brawls taking place throughout the town. Between 1461 and 1470, seventeen women were banished from Sandwich, more than half, and possibly all of them, for sexual offences. The dwindling numbers of women banished for such offences in later decades may reflect municipal regulation of prostitution, either from 1475 or from 1494 onwards, though there is no increase in banishments of women for sexual offences until the 1550s, so whether the Galley continued to operate from 1522 until then must remain an open question (see Table 5.8).

Excluding the four known inmates of the Galley, fourteen women are recorded as apparent prostitutes in Sandwich. Four were wives, two widows and one a young girl. At least ten were banished, one with her husband, and at least five had a shaming punishment first, while six were threatened with branding if they returned. That efforts were made to enforce banishment is clear from the case of Alice Chamberlain, 'otherwise called White Petticoat', whose husband was fined 3s 4d for her failure to comply with a banishment order in 1501.¹⁸⁰ No punishment was recorded for Alice Chapman, aged 15, whose widowed mother, Joan Chapman, was made to ride round the town and afterwards sit on the cucking stool, and then banished for 13 years, to be branded on the forehead if she returned within that time. Her offence was that she was a prostitute and bawd between her daughter and the Easterlings and Flemings in the Downs, as was known from Alice's confession.¹⁸¹ This was in 1470 and may have influenced the decision to establish an official brothel. Commenting on this case, Karras notes that fathers were rarely blamed for corrupting their daughters.¹⁸² But Joan Chapman was a widow, and of the seven mothers accused in the church courts of being bawds for their daughters, none was

described as a wife, at least one was probably a widow, and another so poor and infirm she was absolved free of charge.¹⁸³ If these were really women prostituting their daughters for commercial sex, they may all have been unsupported by husbands and driven to this extremity by poverty.

As in Canterbury, the exchange of money is actually mentioned only once in Sandwich, and seems not to have involved a regular prostitute: Mary, wife of Clement Rogers, had sex with Jerome Pynnok three times in 1556, at 6d a time. Mary was given 'punishments according to her deserts', and promised to behave during her residence in Sandwich, on pain of further punishment. Pynnok, who was from an elite family, had his punishment remitted on the ground that he was 'very sorrowful', and promised not to 'haunt nor accompany' Mary again, on pain of £40.¹⁸⁴ This could be taken as further evidence that men of the elite were treated more leniently than others, but there is no indication of men of lesser status being punished for resorting to 'common women'.

Probably many of the women punished for 'ill rule' in Sandwich, were either bawds or prostitutes, especially since sixteen women appear on their own for this offence, with only one man and two married couples. Like the women more positively identified as prostitutes, most of these cases cluster towards the beginning and end of the period under review, giving substance to the hypothesis that while the town brothel was operating, prostitution posed less of a threat to law and order. All 16 women accused of 'ill rule' in Sandwich were banished, several of them on pain of branding. Some had to endure carting before they left. Joan Brickell in 1557 was to be 'rung through the town with a basin' and banished for a year and a day on pain of whipping and losing her ears on the pillory.¹⁸⁵ Only two were described as wives, and one a widow, which contrasts markedly with the numbers of married women accused of sexual offences in Canterbury. The two couples were also banished, but the only man accused on his own of 'ill rule', William Crede, was merely put in the stocks.¹⁸⁶

The Fordwich records include only one woman, Alice Stephenson, described as *meretrix*. She was also accused of keeping a suspect house, and fined 12d in Fordwich in 1492. Two other women were banished from Fordwich, one certainly and the other probably, for sexual misbehaviour. Katherine Burges in 1512 was fined 2d for living suspiciously and banished on pain of imprisonment, while two years later Margaret Frankleyn was banished for ill rule on pain of a 40d fine. In 1522, Margaret, who must by then have returned, was banished again, on pain of 10s, for 'living viciously in her body'.¹⁸⁷ This exhausts the evidence for the presentment of prostitutes in Fordwich, with the possible exception of the untypical case of Alice Byker and Anne Cook.¹⁸⁸ The only possible prostitutes in the surviving New Romney records were the three women banished on pain of ducking in 1491.¹⁸⁹

It seems, then, that with the exception of the 'official' brothel in Sandwich, prostitutes, or at any rate promiscuous women, were periodically banished, and sometimes subjected to a shaming punishment first. Only in Canterbury and Fordwich is there any evidence of such women being fined. This may merely reflect divergent practices in record-keeping, or it may be that the Canterbury 'common women' were more able to pay fines because their clients were better-off. As we have seen, some Canterbury harlots were based at inns, which probably catered for quite prosperous clients. They may have been like the wealthier prostitutes Karras refers to, who considered themselves respectable.¹⁹⁰ If they were able to pay fines, the city may have found this a better option than driving them away. The prostitutes of Sandwich (and Romney if there were any) probably depended largely on visiting sailors. The Sandwich authorities may have been more anxious to drive out 'free-lance' harlots, in order to concentrate the trade in the Galley, but the large number of banishments there needs to be seen in the context of the widespread use of this punishment for other offences as well (see Table 5.8). Also, most banishments of prostitutes from Sandwich happened at times when there is no conclusive evidence that the Galley was functioning. The banishment of whores in this period was common, both in England and elsewhere, and may indicate a desire to keep prostitution outside the walls, and by implication, outside the town's jurisdiction.¹⁹¹

But it is also possible that the main reason for banishing them was that they were too poor to pay the fines extracted from their more prosperous colleagues.

Table 5.8: Banishments in Sandwich, 1461-1560

Dates	Men	Women
1461-70	3 (all for theft)	17 (9 for sexual offences, 8 unknown)
1471-80	4 (all for theft)	8 (6 sexual offences, 1 theft, 1 unknown)
1481-90	4 (all for theft)	7 (6 sexual, 1 various including scold)
1491-1500	4 (all for theft)	2 (both unknown)
1501-10	3 (1 theft, 1 sexual, 1 unknown)	6 (4 sexual, 1 theft, 1 various)
1511-20	19 (7 theft, 4 unknown, others varied)	2 (both ill rule)
1521-30	21 (9 theft, 4 unknown, others varied)	13 (2 sexual, 5 theft, 5 unknown, 1 various)
1531-40	11 (7 theft, others varied)	5 (2 sexual, 2 theft, 1 various)
1541-50	9 (6 theft, others varied)	4 (2 sexual, 1 theft, 1 theft + ill rule)
1551-60	31 (8 theft, 7 vagabond, 6 sexual, others varied)	11 (7 sex, 2 ill rule, others varied)
Totals	109	75

There is hardly any evidence of the harlots' customers being punished. In Fordwich, John Davy in 1475 and Richard Huet in 1531 were presented for frequenting suspiciously the houses of John Ibot and William Sandy respectively. That Davy did so at night might suggest sexual misbehaviour, especially since at the same court session, Ibot and his wife were fined for running a 'suspicious house'. Davy was fined 4d, and Huet was ordered to amend his ill rule on pain of banishment or 6s 8d, which again suggests that banishment was an alternative to a fine the defendant might be unable to afford.¹⁹² McIntosh's claim that local jurors were no less concerned with male than female sexuality is somewhat at variance with her finding that jurors focused on prostitutes, their male procurers and brothel-keepers.¹⁹³ The absence of prostitutes' clients being presented suggests rather a double standard that tolerated men resorting to 'harlots' but punished the women.¹⁹⁴ The fact that most 'bawds' presented in the secular courts in Kent were female further undermines the argument that the courts were as concerned with male as female sexuality.

Bawds in the secular courts

A possible explanation for the absence of presentments of harlots' clients might be that many were short-term visitors to the towns, who had left before a court was held, or clergy, whom it would be the ecclesiastical authorities' business to deal with. It might be expected, though, that men keeping harlots on their premises or organising assignments for them would feature fairly largely in urban courts. Karras found in eight jurisdictions the percentage of women on their own accused of brothel-keeping varied from 34% to 59%, and suggested that female bawds might be under-represented in secular court records because of the tendency to charge husbands for their wives' offences, while in church courts the reverse was the case.¹⁹⁵ In the sources used for the present study, female bawds predominate in both lay and church courts. In Canterbury, 30 women, 14 men and five married couples appear for 'bawdry' or offences which amount to that, making the percentage of women charged on their own over 60% of the total. It does not seem that any of these were merely accessories to fornication, as in the church courts. Thomas Bery and Christopher Clement were, in church court parlance, bawds for their wives, but the word was not used when they were presented in the city court. Although details are rarely given, a few Canterbury presentments give some flavour of what a bawd might mean. Dorothy Patryke, 'dwelling beside the Austen Friars' was 'a conveyor of queans and harlots to the said friars', and Hamond Williams lodged 'naughty queans' as well as vagabonds and suspect persons.¹⁹⁶ Thomas Style's wife was complained of for harbouring 'divers suspect men and women, which same women are common harlots'.¹⁹⁷ Of the Canterbury women charged with bawdry, twelve were wives charged without their husbands, and at least five, and probably seven, were widows. Although the fourteen men accused without their wives were probably married, it was clearly quite common for a wife to be charged as a bawd without involving her husband, even though one would expect the husband to be held responsible for what happened in his house. This could be because some 'bawds' were, as Karras suggests, go-betweens arranging assignations, rather than providing

accommodation.¹⁹⁸ Some of the women were probably running inns or lodging-houses, like 'Joan living at the Hunter's [?] Horn in Ridingate', who paid the highest recorded fine of 6s 8d, and 'the wife dwelling at the sign of the Shell' in St Peter's Lane.¹⁹⁹ Some were old, like the 'old woman dwelling in Broad Street next to Harrison' and 'Mother White'.²⁰⁰ The old woman corrupting young girls is a common literary topos.²⁰¹ The punishments of fewer than half the bawds were recorded. Two in the 1530s were pardoned, and of the 15 known fines for this offence, three were imposed on married couples, three on men, and nine on women, of whom three were widows and three were wives. The only other recorded punishments were in 1538, when the tumbrel was ordered for two women, and a third, who compounded her offence by 'railing against the quest' was 'punished', imprisoned and later banished.²⁰² The predominance of women among the accused bawds suggests that, unless there was much greater reluctance to prosecute men for the same offence, procuring or brothel-keeping was a predominantly female activity, and often not considered to be anything to do with husbands, even when it took place on their premises. Given the shrinking employment opportunities for women from the late fifteenth century, especially with the growing capitalisation of brewing, and the low wages paid in what work there was for them, 'bawdry' was probably the most lucrative option open to women in this period.²⁰³

In Sandwich, however, bawds of either gender are notably absent. Apart from the official bawds named at the brothel in 1495, Denise who was ordered to return there, and Joan Chapman who prostituted her daughter, only four accusations of bawdry can be found in the Sandwich records. These were a widow banished in 1469 for being both a bawd and a *meretrix*, two wives, one in 1543 and the other in 1558, and a married couple who were banished in 1551 after being stocked for 'eating of flesh on the fish day' in the company of 'divers people of misbehaviour in keeping of bawdry'. John Church's wife in 1543 seems only to have allowed one adulterous couple to meet in her house and was warned not to have them 'nor none other' there again, on pain of banishment. However, the wife of Consnam or Cousnam was to be carted with papers and banished for ever, on pain of whipping 'at the cart's arse' in

1558 for maintaining bawdry: this sounds like the real thing.²⁰⁴ It is noteworthy that all these prosecutions occurred outside the period when the town brothel is known to have been operating. It can probably be assumed that the 'Galley' no longer existed by this time, and that private enterprise was beginning to fill the vacuum.

Of the smaller boroughs, only Fordwich provided any evidence of bawds being prosecuted. William Bridge was charged as a bawd between his wife and Thomas Cheyne in 1460, and in the early 1490s, John Briggs was banished as a bawd.²⁰⁵ Complaints were made about four 'suspicious' houses where illegal games were permitted: all of these were punished with small fines. Assuming that these were not also functioning as brothels, this leaves the Ibots' establishment and that of William Sandy, which may have been, and that of Alice Stephenson, already referred to for being fined as *meretrix*, which undoubtedly was.²⁰⁶ The only other possibility is John Greneham, who in 1503 had a gate 'through which divers persons entered his messuage suspiciously'; he was ordered to close it on pain of 20s.²⁰⁷ In contrast to Canterbury and Sandwich, male householders in Fordwich seem to have been more likely than their wives to be presented for bawdry, but clearly the numbers involved are too small to make much of this.

In the court at Battle in Sussex, Eleanor Searle found a woman regularly presented as a bawd for years in the late fifteenth century, and noted that her amercement seems to be more of a licence fee than a disincentive. Karras similarly notes repeated fines amounting to 'a system of de facto licensing fees' for brothel-keepers.²⁰⁸ Nothing comparable has been found in the Kent towns, either for bawds or harlots. The absence of repeat presentments in Canterbury might be accounted for by the incompleteness of the records, but no such explanation can be offered for Fordwich or Sandwich. It is clear that for some other offences, repeated informal warnings were sometimes given before a jury presentment; this may have happened with bawds, but it would hardly account for the lack of evidence of anyone running a brothel over a prolonged period. It seems most likely that, except for the Galley at Sandwich, and possibly some Canterbury inns, bawdry and prostitution were casual

businesses engaged in temporarily when other occupations failed to provide a living, as they must have been for Elynor of Northgate the tippler and Alice the broom-maker.²⁰⁹ This is entirely consistent with their being predominantly female occupations.

Conclusion

Whatever the popular attitudes may have been, neither in the ecclesiastical nor the secular courts is there much evidence for the existence of a double standard for adulterers and fornicators. Indeed, except where clergy were concerned, the church courts seem to have been less inclined to punish women than men for these offences, and eager to prevent men evading responsibility for children they had fathered. The limited evidence from the boroughs suggests that, other things being equal, men and women convicted of adultery or fornication were considered equally blameworthy and received similar punishments. But this is not at all the same as saying that the consequences of illicit sexual relationships were not worse for women than for men. In addition to the obvious fact that a woman risked pregnancy, women were more likely than men to incur shaming punishments or banishments, if only because they were less likely to be able to pay for commutation or a fine. Where it is possible to tell, most of the cases of adultery and fornication in both church and lay courts were either between men and women of equally low standing, like the apparently vagrant couples ejected from Sandwich, or between older and higher status men and younger, poorer women, typically affairs between masters and maidservants.²¹⁰ Wealthy men could avoid public penance by commutation and pay fines imposed by secular courts; the worst they were likely to suffer was some financial loss, and possibly, suspension from civic office or from their rights as freemen. Young or poor women were likely to find themselves jobless and homeless, if the church courts ordered the master to remove them, or if they were banished by the secular courts.

The other reason why women suffered worse consequences than men for adultery and fornication has to do with the importance of sexual reputation. How far single

motherhood, or even the suspicion of having committed adultery or fornication, affected women of the middling and lower sorts who appeared in lay and ecclesiastical courts it is impossible to tell. The few women in the church courts who could not tell which of two or more men was the father of their child may have belonged to a subculture at the bottom of the social hierarchy where such things made little difference, though their taking the trouble to respond to the summons argues against this. For women above this social level, the consequences were likely to affect them adversely for the rest of their lives: unmarried women would have prejudiced their marriage chances and at worst would be stigmatised as mothers of bastards, while wives risked their husbands' wrath, which could extend to suing for separation. If, as seems possible from the large number of wives accused of adultery in the church courts but not convicted, many were cited on the flimsiest of evidence, innocent as well as guilty women faced this danger.

Until recently it was taken as axiomatic that sexual reputation mattered little to a man, but this assumption has recently been challenged, both for the early modern period and the middle ages. Bernard Capp, while admitting there was a double standard which massively disadvantaged women, has insisted they were not passive or helpless victims, and that sexual reputation was an important component of male honour among the 'middling sort' and the 'honest poor'. He claims that the discovery of a husband's infidelity could alter the domestic balance of power and give the wife the upper hand, a somewhat implausible suggestion for an age when wife-beating was considered acceptable. He has chronicled ways in which wronged or calculating women could make men suffer, such as 'fathering' a child on an innocent but wealthy man, or threatening to do so.²¹¹ But the church court system of compurgation seems to have made it fairly easy for the innocent, and even for some who were not innocent, to clear themselves, so it is unlikely these female strategies often succeeded. If they ever did succeed, of course we should not know. There was one case in the act books which looks like an attempt to 'father' a child on a wealthier man than the real father. In 1530, Sebastian Petyman of Canterbury was cited for impregnating Joan Kecherall or Catherall, his former servant. He denied the charge,

and Joan later confessed that he had never 'committed with her', but that she had had sex with Thomas Wright, another servant of his. She then 'publicly..... asked pardon of the foresaid Sebastian that she had falsely laid this crime upon him'.²¹² Joan Kecherall may have been hoping to get Petyman to support her child because he would be better able to do so than Wright, or perhaps to get revenge on her former master for dismissing her. It is perhaps equally possible that Petyman might have bribed her to 'lay the crime' on Wright, to preserve his own reputation. Shannon McSheffrey, examining masculinity in fifteenth century London, has argued that ideas about appropriate male sexual behaviour were complex, with ideas of self-governance, Christian morality and honour in conflict with an ethic which defined male status and identity by sexual conquest. She too admits it is likely that allegations of sexual misbehaviour were more damaging to women than men, but considers that it was humiliating and damaging for a man to be indicted before a wardmoot inquest.²¹³ But McSheffrey is writing mainly about the sort of men who would hold civic office, of whom higher standards of behaviour were probably expected.²¹⁴ For men of the local elite, the small amount of evidence for Kent suggests that sexual reputation might matter for a man who already occupied a prominent position, but that youthful indiscretions were easily forgotten or forgiven. In Sandwich, as we have seen, prosecutions for sexual misconduct in his youth did not prejudice the later career of John a Lee.²¹⁵ But Roger Clerk was an alderman, and had already been mayor of Canterbury, when he was cited in 1524 by the archdeacon's court for impregnating his servant Griselda. He denied the charge and was cleared by the oaths of three fellow-aldermen, but ordered to remove the girl from his household.²¹⁶ Clerk remained an alderman and was mayor again in 1538, so the hint of sexual scandal had apparently not affected his career. However, in May 1538, the wife of Thomas Goddard

for her ill rule and misbehaviours was brought to Mr Mayor to be examined upon the same. She said as she was leading (*sic*) to the gate 'if Mr Mayor banish me for this cause I will show such a thing against him that all the city shall be ashamed of him.'²¹⁷

Goddard's wife was banished anyway. Whether the pregnancy of his maidservant fourteen years earlier was the skeleton in the mayor's cupboard that she had threatened to reveal, and whether she did reveal it, we cannot be sure. But the incident may indicate that sexual reputation could be a sensitive issue to established members of the civic elite. Below this relatively exalted social level, though, the evidence suggests that an appearance in court for sexual offences had no adverse effect on a man's standing in his local community. Most of the Fordwich men who came before the courts of the archdeacon or the mayor on sexual charges continued to serve afterwards as local jurors. The word 'harlot' was occasionally applied as an insult to men, but it was generally preceded by 'false foresworn' and seems to have had no real sexual connotations: like most insults to men, it cast aspersions on their general probity rather than on their sexual behaviour.²¹⁸ So there is little to suggest that sexual reputation mattered much to men of the 'middling sort'.

The citations and presentments of harlots and bawds, on the other hand, show pronounced evidence of a sexual double standard. Not only were clients of prostitutes hardly ever charged, but most bawds were female, resulting in the number of women accused of offences connected with prostitution heavily outnumbering men, in both secular and church courts. McIntosh noted that the smaller secular courts focused on prostitutes and their *male* procurers and brothel keepers (my italics).²¹⁹ It may be that the smaller communities were more likely than the towns to blame men rather than women for managing the activity of prostitutes; indeed this seems to have been the case in Fordwich. But McIntosh did not actually count the numbers of men and women charged with procuring or brothel-keeping, only the courts where both men and women were presented, so may too easily have assumed they were mostly male. Even if most 'bawds' were women, those who were married were using, or operating from, their husbands' premises, so one might expect the husband rather than the wife to be charged. That this was not usually the case, coupled with the fact that women, who constitute so small a minority of those accused of most offences, outnumber men among those accused of 'bawdry',

suggests that perhaps this, as well as prostitution, should be added to scolding, witchcraft and infanticide as stereotypically 'female' crimes.

¹ Ingram, *Church Courts*, 156, 225-6.

² R. M. Smith, 'Geographical Diversity in the Resort to Marriage in Late Medieval Europe: Work, Reputation, and Unmarried Females in the Household Formation Systems of Northern and Southern Europe', in P. J. P. Goldberg (ed.), *Woman is a Worthy Wight: Women in English Society, c. 1200-1500* (Stroud, 1992), 38,41.

³ L. R. Poos, 'Population Turnover in Medieval Essex: the Evidence of some Early Fourteenth-century Tithing Lists', in L. Bonfield, R. Smith and K. Wrightson (eds.), *The World We Have Gained: Histories of Population and Social Structure* (Oxford, 1986), 22.

⁴ R. M. Smith, 'Marriage Processes in the English Past: Some Continuities', in Bonfield, Smith and Wrightson, *World We Have Gained*, 57.

⁵ Smith, 'Marriage Processes', 91-92.

⁶ EKA, Sa/AC/2/331v-332.

⁷ J. A. Brundage, 'Sex and Canon Law', in V. L. Bullough and J. A. Brundage (eds.), *A Handbook of Medieval Sexuality* (1996), 41-2; R. M. Karras, 'The Latin Vocabulary of Illicit Sex in English Ecclesiastical Court Records', *Journal of Medieval Latin*, II (1992), 3; 'Two Models, Two Standards: Moral Teaching and Sexual Mores', in B. Hanawalt and D. Wallace (eds.), *Bodies and Disciplines: Intersections of Literature and History in Fifteenth-century England* (1996), 127; P. J. Payer, *The Bridling of Desire: Views of Sex in the Later Middle Ages* (1993), 182; S. Shahar, *The Fourth Estate: a History of Women in the Middle Ages* (1983), 109.

⁸ Brundage, 'Sex and Canon Law', 42.

⁹ Ingram, *Church Courts*, 154.

¹⁰ L. Roper, *Oedipus and the Devil: Witchcraft, Sexuality and Religion in Early Modern Europe* (1994), 56.

¹¹ E. Foyster, *Manhood in Early Modern England: Honour, Sex and Marriage* (1999), 55.

¹² Ingram, *Church Courts*, 151.

¹³ The same was true of other dioceses. A. J. Kettle, 'Ruined Maids: Prostitutes and Servant Girls in Later Medieval England', in R. E. Edwards and V. Ziegler (eds.), *Matrons and Marginal Women in Medieval Society* (Woodbridge, 1995), 25.

¹⁴ EKA, NR/JQp/1/5/2.

¹⁵ Kettle, 'Ruined Maids', 21; Goldberg, *WWL*, 155; H. M. Jewell, *Women in Medieval England* (Manchester, 1996), 110.

¹⁶ McIntosh, *Misbehavior*, 38.

¹⁷ Karras, *Common Women*, 49.

¹⁸ Karras, *Common Women*, 136.

¹⁹ C. Dyer, *Lords and Peasants in a Changing Society: the Estates of the Bishopric of Worcester, 680-1540* (Cambridge, 1980), 233.

²⁰ P. J. P. Goldberg, 'Pigs and Prostitutes: Streetwalking in Comparative Perspective', in K. L. Lewis, N. J. Menuge and K. M. Phillips (eds.), *Young Medieval Women* (Stroud, 1999), 180.

²¹ J. A. Brundage, 'Prostitution in the Medieval Canon Law', *Signs*, I (1976), 835, 844.

²² R. M. Karras, 'Regulation of Brothels in Later Medieval England', *Signs*, XIV (1989), 411; Goldberg, *WWL*, 153.

- ²³ Karras, *Common Women*, 42; R. Briggs, C. Harrison, A. McInnes and D. Vincent, *Crime and Punishment in England: an Introductory History* (1996), 44; L. Roper, *The Holy Household: Women and Morals in Reformation Augsburg* (Oxford, 1989), 89.
- ²⁴ See below, pp. 193-4.
- ²⁵ Karras, *Common Women*, 42-3.
- ²⁶ Karras, 'Latin Vocabulary', 16-17.
- ²⁷ For example, J. A. Brundage, 'Playing by the Rules: Sexual Behaviour and Legal Norms in Medieval Europe', in J. Murray and K. Eisenbichler (eds.), *Desire and Discipline: Sex and Sexuality in the Pre-modern West* (1996), 32; DeL. Guth, 'Enforcing Late Medieval Law: Patterns in Litigation during Henry VII's Reign', in J. H. Baker (ed.), *Legal Records and the Historian* (1978), 90-91; Helmholz, 'Crime', 9; Ingram, *Church Courts*, 17; Wunderli, *London Courts*, 33.
- ²⁸ Mills, thesis, 40.
- ²⁹ Houlbrooke, *Church Courts & People*, 45.
- ³⁰ Mills and Wunderli found the same: Mills, thesis, 167; Wunderli, *London Courts*, 86.
- ³¹ Calculated from Ingram, *Church Courts*, 258.
- ³² CKS, PRC.3.2/85; CCA, CC/JQ/309/16 (c.1510), J/Q/310/23 (1511), J/Q/311/19 (1511).
- ³³ CKS, PRC.3.2/52v; CCA, U4/3/119, PRC17/9/85.
- ³⁴ Mills, thesis, 78; Kettle, 'Ruined Maids', 25; Houlbrooke, *Church Courts & People*, 76; L. Gowing, *Domestic Dangers: Women, Words and Sex in Early Modern London* (Oxford, 1996), 109.
- ³⁵ See Table 5.5.
- ³⁶ For detailed discussion of terminological problems see Karras, 'Latin Vocabulary'.
- ³⁷ Karras, 'Latin Vocabulary', 3-4.
- ³⁸ Shahar, *Fourth Estate*, 18.
- ³⁹ M. R. Sommerville, *Sex and Subjugation: Attitudes to Women in Early Modern Society* (1995), 141.
- ⁴⁰ Karras, 'Latin Vocabulary', 4.
- ⁴¹ Houlbrooke, *Church Courts & People*, 76.
- ⁴² Ingram, *Church Courts*, 239.
- ⁴³ For example, CKS, PRC.3.8/5 (1531); PRC.3.1/133v, 1/139 (1500).
- ⁴⁴ A. J. Finch, 'Sexual Morality and Canon Law: the Evidence of the Rochester Consistory Court', *J. Med. Hist.*, XX (1994), 267, 271-2.
- ⁴⁵ Mills, thesis, 37-8.
- ⁴⁶ Wunderli, *London Courts*, 85-87.
- ⁴⁷ Ingram, *Church Courts*, 253; D. E. Underdown, 'The Taming of the Scold: the Enforcement of Patriarchal Authority in Early Modern England', in Fletcher & Stevenson, 127.
- ⁴⁸ On sources of office presentments, see Houlbrooke, *Church Courts & People*, 44; Woodcock, *Med. Courts*, 69; Wunderli, *London Courts*, 37.
- ⁴⁹ Goldberg *WWL*, 7.
- ⁵⁰ Reviews of Goldberg, *WWL*, F. Pedersen, *C & C*, IX (1994), 349-354, J. M. Bennett, *Albion*, XXV (1993), 676-8; Kowaleski, 'Singlewomen in Medieval and Early Modern Europe', in J. M. Bennett and A. M. Froide (eds.), *Singlewomen in the European Past, 1250-1800* (Philadelphia, 1999) 48.
- ⁵¹ R. Britnell, *The Closing of the Middle Ages? England 1471-1529* (Oxford, 1997), 246-247; J. C. K. Cornwall, *Wealth and Society in Early Sixteenth Century England* (1988), 187; A. Dyer, *Decline and Growth in English Towns, 1400-1640* (1991), 51; L. R. Poos, *A Rural Society after the Black Death: Essex 1350-1525* (Cambridge, 1991), 290; P. Slack, *The Impact of Plague in Tudor and Stuart England* (1985), 16.
- ⁵² Wunderli, *London Courts*, 87.
- ⁵³ J. A. Sharpe, *Defamation and Sexual Slander in Early Modern England: the Church Courts at York*, Borthwick Papers, LVIII (York, 1980), 10; L. R. Poos, 'Sex, Lies and the Church Courts of Pre-Reformation England', *JIH*, XXV (1995), 586, 592; Foyster, *Manhood*, 150.
- ⁵⁴ Mills, thesis, 158.
- ⁵⁵ CKS, PRC.3.4/137 (1519).
- ⁵⁶ Karras, 'Latin Vocabulary', 8; Houlbrooke, *Church Courts & People*, 56.
- ⁵⁷ CCA, X.8.3/34, 37.

- ⁵⁸ CKS, PRC.3.10/1,2.
- ⁵⁹ CCA, Y.4.8/28, 32.
- ⁶⁰ EKA, Sa/AC/3/146v.
- ⁶¹ CCA, Y.4.8/47 r and v.
- ⁶² Sharpe, *Defamation*, 25.
- ⁶³ C. Z. Wiener, 'Sex Roles and Crime in Late Elizabethan Hertfordshire', *JSH*, VIII (1975), 46.
- ⁶⁴ Jewell, *Women in Medieval England*, 126.
- ⁶⁵ Foyster, *Manhood*, 154-157.
- ⁶⁶ Woodcock, *Med. Courts*, 88.
- ⁶⁷ Mills, thesis, 167-169.
- ⁶⁸ Ingram, *Church Courts*, 259.
- ⁶⁹ CKS, PRC.3.4/17.
- ⁷⁰ CKS, PRC.3.2/140v.
- ⁷¹ Cf. Roper, *Holy Household*, 84.
- ⁷² CKS, PRC.3.1/78. There are a few other citations for bridal pregnancy, where the couple had married before the birth. Wrightson and Levine found no cases of this in Terling till the 1620s, and assumed the churchwardens were then starting to redraw the boundaries of acceptable behaviour. K. Wrightson and D. Levine, *Poverty and Piety in an English Village: Terling, 1525-1700* (1979), 132-134.
- ⁷³ CKS, PRC.3.8/31,32v.
- ⁷⁴ Finch, 'Sexual Morality', 271.
- ⁷⁵ CKS, PRC.3.6/5.
- ⁷⁶ CCA, X.8.3/144 (1467).
- ⁷⁷ CKS, PRC.3.1/177v (1503), PRC.3.2/7v (1504).
- ⁷⁸ CKS, PRC.3.6/129v (1530), 6/141 (1531) and slip between fos. 88 and 89.
- ⁷⁹ CKS, PRC.3.11/133.
- ⁸⁰ N. Bashar, 'Rape in England between 1550 and 1700', in London Feminist History Group, *The Sexual Dynamics of History* (1983), 36.
- ⁸¹ W. W. Skeat (ed.), *The Complete Works of Geoffrey Chaucer* (Oxford, 1954), 583; Mills, thesis, 207.
- ⁸² Mills, thesis, 113-14.
- ⁸³ CCA, X.8.3/78 (1465); CKS, PRC.3.1/79v (1496), 1/89v (1496); PRC.3.2/86 (1508).
- ⁸⁴ R. H. Helmholz, *Canon Law and the Law of England* (1987), 170-185; Mills, thesis, 102.
- ⁸⁵ Houlbrooke, *Church Courts & People*, 77.
- ⁸⁶ CKS, PRC.3.10/47; CCA, Y.4.8/49.
- ⁸⁷ CKS, PRC.3.11/101v.
- ⁸⁸ The same was found in seventeenth century Cheshire, Walker, thesis, 246.
- ⁸⁹ 24 described as chaplain, 27 as curate, 21 as vicar and 16 as rector.
- ⁹⁰ CKS, PRC.3.12/37v; CCA, Y.4.9/29.
- ⁹¹ CKS, PRC.3.4/55v, 4/58v, 4/168; PRC.3.6/18, PRC.3.6, loose folio between fos. 90 and 91, 6/108v-109, 6/137; for John Abraham PRC.3.2/16, PRC.3.4/77v; for John Garnett PRC.3.1/175v, 1/176 (1503).
- ⁹² Brundage, 'Playing by the Rules', 25-28.
- ⁹³ Ingram, *Church Courts*, 240.
- ⁹⁴ CKS, PRC.3/8/12r and v.
- ⁹⁵ List of incumbents, St. Stephen's church, Hackington, Canterbury.
- ⁹⁶ Karras, *Common Women*, 63.
- ⁹⁷ Karras, *Common Women*, 10-12.
- ⁹⁸ Karras, *Common Women*, 138.
- ⁹⁹ CKS, PRC.3.13/105v (Alice Kingsford, 1554).
- ¹⁰⁰ CCA, X.8.3/1v, X.8.3/3 r and v, X.8.3/73, X.8.3/88.
- ¹⁰¹ PRC.3.10/91 (1544); CCA, X.8.3/56v (1464).
- ¹⁰² CKS, PRC.3.4/32v. This was the only time the word *prostitutum* was used, which clearly indicates a brothel, Karras, 'Regulation of Brothels', 406-7.

- ¹⁰³ CKS, PRC.3.4/121.
- ¹⁰⁴ CCA, CC/J/Q/325/1.
- ¹⁰⁵ CKS, PRC.3.1/92, 1/139v, PRC.3.2/28v; CCA, CC/J/Q/335/1, J/Q/305/7, 305/11, CC/FA/2/416v.
- ¹⁰⁶ CKS, PRC.3.4/136v.
- ¹⁰⁷ CKS, PRC.3.4/53v (1515).
- ¹⁰⁸ Houlbrooke, *Church Courts & People*, 78; Mills, thesis, 27; Karras, 'Latin Vocabulary', 9-14; Roper, *Holy Household*, 87.
- ¹⁰⁹ CKS, PRC.3.4/49v (1515).
- ¹¹⁰ Houlbrooke, *Church Courts & People*, 278-281.
- ¹¹¹ Karras, 'Regulation of Brothels', 406.
- ¹¹² CKS, PRC.3.1/83; Helmholz, *Canon Law*, 115.
- ¹¹³ The offence of tolerating or encouraging a wife's adultery appears twice in the lay court at Canterbury, see below pp. 186-7.
- ¹¹⁴ CKS, PRC.3.4/141v, 4/156.
- ¹¹⁵ At this period, corporal punishment had been almost entirely abandoned in Canterbury, but was still regularly used in some dioceses. Mills, thesis, 184; Houlbrooke, *Church Courts & People*, 46.
- ¹¹⁶ CKS, PRC.3.4/90v.
- ¹¹⁷ CKS, PRC.3.1/174 (1503); PRC.3.1/166v (1502).
- ¹¹⁸ CKS, PRC.3.2/107 (1509). This offence figures more often from late sixteenth century onwards: see R. H. Helmholz, 'Harbouring Sexual Offenders: Ecclesiastical Courts and Controlling Misbehavior', *JBS*, XXXVII (1998), 262-266.
- ¹¹⁹ Mills, thesis, 112.
- ¹²⁰ S. McSheffrey, 'Men and Masculinity in Late Medieval London Civic Cultures: Governance, Patriarchy and Reputation', unpublished paper, now published in J. Murray (ed.), *Conflicting Identities: Men in the Middle Ages* (New York, 1999); M. K. McIntosh, *Autonomy and Community: the Royal manor of Havering, 1200-1500* (Cambridge, 1986) 258-9.
- ¹²¹ McIntosh, *Misbehavior*, 70.
- ¹²² See above, p. 76.
- ¹²³ McIntosh, *Misbehavior*, 70-71.
- ¹²⁴ CCA, CC/J/Q/333/13/2.
- ¹²⁵ CCA, CC/J/Q/352/7.
- ¹²⁶ CCA, CC/J/Q/327/3.
- ¹²⁷ S. McSheffrey, 'Jurors, Respectable Masculinity, and Christian Morality: a Comment on Marjorie McIntosh's *Controlling Misbehavior*', *JBS*, XXXVII (1998), 270; McIntosh, *Misbehavior*, 72.
- ¹²⁸ CCA, CC/J/Q/333/13/4 (1534).
- ¹²⁹ CCA, J/Q/337/1/4.
- ¹³⁰ EKA, Sa/AC/2/289.
- ¹³¹ For example, EKA, NR/FAc/4/60v; Karras, 'Regulation of Brothels', 413, n. 11.
- ¹³² Karras, 'Regulation of Brothels', 406.
- ¹³³ P. Seaver, 'Symposium: Controlling (Mis)Behavior', *JBS*, XXXVII (1998), 237; J. G. Bellamy, *Law and Public Order in England in the Later Middle Ages* (1973), 156.
- ¹³⁴ D. A. Crowley, 'Frankpledge and Leet Jurisdiction in Later Medieval Essex', University of Sheffield Ph.D. thesis (1971), 242.
- ¹³⁵ Roper, *Holy Household*, 195.
- ¹³⁶ CCA, CC/J/Q/309/16, J/Q/310/3v, J/Q/310/23, J/Q/310/24v, J/Q/311/9v, J/Q/311/19.
- ¹³⁷ CCA, CC/J/Q/307/4.
- ¹³⁸ S. D. Amussen, *An Ordered Society: Gender and Class in Early Modern England* (Oxford, 1988), 97.
- ¹³⁹ Gowing, *Domestic Dangers*, 113.
- ¹⁴⁰ CCA, CC/J/Q/333/10 (1534).
- ¹⁴¹ CCA, CC/J/Q/310/31; K. L. Wood-Legh, *Kentish Visitations of Archbishop William Warham and his Deputies, 1511-12* (Gloucester, 1984), 62.
- ¹⁴² CCA, CC/J/Q/307/12; CKS, PRC.3.2/33.

- ¹⁴³ CCA, CC/J/Q/325/1, J/Q/329/2, J/Q/352/4v.
- ¹⁴⁴ CCA, CC/J/Q/286/3 (1486).
- ¹⁴⁵ CCA, CC/J/Q/352/3 (1519).
- ¹⁴⁶ C. Phythian-Adams, *Desolation of a City: Coventry and the Urban Crisis of the Late Middle Ages* (Cambridge, 1979), 138.
- ¹⁴⁷ EKA, Sa/AC/1/307v; Sa/AC/2/132v.
- ¹⁴⁸ EKA, Sa/AC/1/181.
- ¹⁴⁹ EKA, Sa/AC/3/54v, 3/66v.
- ¹⁵⁰ EKA, Sa/AC/2/288, 2/350.
- ¹⁵¹ EKA, Sa/AC/2/97, 2/132 r and v, 2/250, AC/3/3, 3/116, 3/152; P. Hyde and M. Zell, 'Governing the County', in M. Zell (ed.), *Early Modern Kent, 1540-1640* (Woodbridge, 2000), 38.
- ¹⁵² EKA, Sa/AC/2/249 r and v, 2/287.
- ¹⁵³ EKA, Sa/AC/3/127, 3/133; 2/278, 2/287v.
- ¹⁵⁴ EKA, Sa/AC/3/248 (1551); Sa/AC/4/148 (1559).
- ¹⁵⁵ EKA, NR/Fac/4/60v.
- ¹⁵⁶ EKA, NR/Fac/4/56.
- ¹⁵⁷ CCA, U4/3/129v, 3/135.
- ¹⁵⁸ EKA, NR/Fac/4/139.
- ¹⁵⁹ McIntosh, *Misbehavior*, 73-4.
- ¹⁶⁰ CCA, CC/J/Q/307/13; J/Q/309/16.
- ¹⁶¹ CCA, CC/J/Q/325/1, J/Q/337/1/4, J/Q/319; see also Karras, *Common Women*, 74; M. Zell, 'Church and Gentry in Reformation Kent, 1533-1553', Ph.D. thesis, University of California Los Angeles (1974), 191.
- ¹⁶² Kowaleski, 'Singlewomen', 45; 'Women's Work in a Market Town: Exeter in the Late Fourteenth Century', in B. A. Hanawalt (ed.), *Women and Work in Preindustrial Europe* (Bloomington, 1986), 154; M. E. Mate, *Daughters, Wives and Widows after the Black Death: Women in Sussex, 1350-1535* (Woodbridge, 1998), 47.
- ¹⁶³ CCA, CC/J/Q/333/4.
- ¹⁶⁴ CCA, CC/J/Q/333/13/2.
- ¹⁶⁵ CCA, CC/J/Q/325/1.
- ¹⁶⁶ CCA, CC/J/Q/307/4; J/Q/352/9.
- ¹⁶⁷ CCA, CC/FA/11/443v.
- ¹⁶⁸ Karras, *Common Women*, 15, 19.
- ¹⁶⁹ CCA, CC/FA/16/30.
- ¹⁷⁰ Karras, *Common Women*, 35; D. R. Carr, 'From Pollution to Prostitution: Supervising the Citizens of Fifteenth-Century Salisbury', *SH*, XIX (1997), 36.
- ¹⁷¹ EKA, Sa/AC/1/217v.
- ¹⁷² Karras, *Common Women*, 156, n. 16.
- ¹⁷³ EKA, Sa/AC/2/32v, AC/2/35 r and v.
- ¹⁷⁴ EKA, Sa/Fat/9.
- ¹⁷⁵ Karras, 'Regulation of Brothels', 417.
- ¹⁷⁶ EKA, Sa/Fat/11, Fat/12, Fat/13, Fat/17, Fat/20, Fat/25.
- ¹⁷⁷ EKA, Sa/AC/2/94v, AC/2/106.
- ¹⁷⁸ EKA, Sa/Fat/27.
- ¹⁷⁹ EKA, Sa/AC/2/91.
- ¹⁸⁰ EKA, Sa/AC/2/91, AC/2/96.
- ¹⁸¹ EKA, Sa/AC/1/195v.
- ¹⁸² Karras, *Common Women*, 63.
- ¹⁸³ CKS, PRC.3/1/20v (Thomasine Bate of Fordwich, 1490); CCA, U4/6A/2 unfol. (Widow Bate, Fordwich, 1491); CKS, PRC.3.2/84v, (Elizabeth Broke, 1508).
- ¹⁸⁴ EKA, Sa/AC/4/91v.
- ¹⁸⁵ EKA, Sa/AC/4/114.
- ¹⁸⁶ EKA, Sa/AC/3/243v.

- ¹⁸⁷ CCA, U4/6A/2, unfol., U4/3/169, 3/181, 3/210.
- ¹⁸⁸ See above, pp. 129-130.
- ¹⁸⁹ See above, p. 141.
- ¹⁹⁰ Karras, *Common Women*, 97.
- ¹⁹¹ Bellamy, *Law and Public Order*, 156; Kettle, 'Ruined Maids', 21; McIntosh, *Autonomy and Community*, 258-9; Roper, *Holy Household*, 83; *Oedipus and the Devil*, 41; Goldberg, *WWL*, 150.
- ¹⁹² CCA, U4/3/37v, 3/229v.
- ¹⁹³ McIntosh, *Misbehavior*, 70, 73-4.
- ¹⁹⁴ I. K. Ben-Amos, *Adolescence and Youth in Early Modern England* (1994), 202-3; Karras, *Common Women*, 76.
- ¹⁹⁵ Karras, *Common Women*, 44.
- ¹⁹⁶ CCA, CC/J/Q/333/13/4 (1534).
- ¹⁹⁷ CCA, CC/J/Q/286/3 (1486).
- ¹⁹⁸ Karras, 'Latin Vocabulary', 12.
- ¹⁹⁹ CCA, CC/J/Q/314/8 (1514); J/Q/302/17 (1503).
- ²⁰⁰ CCA, CC/J/Q/337/1/4 (1538); J/Q/300/1 (date uncertain).
- ²⁰¹ Karras, *Common Women*, 62.
- ²⁰² CCA, CC/J/Q/337/1/4; J/Q/337/2, J/Q/337/7.
- ²⁰³ Barron, 'Golden Age', 48; J. M. Bennett, 'Misogyny, Popular Culture and Women's Work', *History Workshop Journal*, XXXI (1991), 168-9; Mate, *Daughters, Wives and Widows*, 19, 66-7; 72-3; Smith, 'Geographical Diversity', 38, 45.
- ²⁰⁴ EKA, Sa/AC/3/167; AC/4/125; AC/3/247v-248.
- ²⁰⁵ CCA, U4/3/11, U4/6A/2, unfol.
- ²⁰⁶ See above, pp. 196-7.
- ²⁰⁷ CCA, U4/3/118v.
- ²⁰⁸ E. Searle, *Lordship and Community: Battle Abbey and its Banlieu, 1066-1538* (Toronto, 1974), 409; Karras, 'Regulation of Brothels', 407.
- ²⁰⁹ CCA, CC/J/Q/311/8, J/Q/352/31 (undated, early 16th century); J/Q/333/13/2 (1533).
- ²¹⁰ Wrightson and Levine found the same in Terling: *Poverty and Piety*, 128.
- ²¹¹ B. Capp, 'The Double Standard Revisited: Plebeian Women and Male Sexual Reputation in Early Modern England', *P & P*, CLXII (1999), 70-100.
- ²¹² CKS, PRC.3.6.122v, 129v.
- ²¹³ McSheffrey, 'Men and Masculinity'.
- ²¹⁴ See above, note 146.
- ²¹⁵ See, above, p. 188.
- ²¹⁶ CKS, PRC.3.6/2v-3.
- ²¹⁷ CCA, CC/J/Q/337/7.
- ²¹⁸ CCA, CC/J/Q/307/3, J/Q/309/13; for some other examples of 'harlot' as an insult to men, see G. R. Elton, *Policy and Police: the Enforcement of the Reformation in the Age of Thomas Cromwell* (Cambridge, 1972), 7, 100, 306.
- ²¹⁹ McIntosh, *Misbehavior*, 70.

6. GENDERED CRIME

The topics covered in previous chapters - property offences, physical and verbal violence and sexual offences - all involved both men and women, though to varying degrees, and featured often enough in the court records to justify analysis at some length. There were other categories of offence from which women were wholly excluded, and which are therefore outside the scope of this thesis. These consisted mainly of failures to carry out the various obligations which were imposed only on men: failing to possess or practise with bows and arrows, failure to keep watch, or to perform the duties of local office-holding, secular or ecclesiastical. Illegal fishing was another offence for which no woman seems ever to have been presented. The commonest of all offences in the secular jurisdictions, those usually defined as nuisances, were largely restricted to men because the great majority of householders were male. Occasionally a wife was accused of fouling a common water-supply, and a few widows were complained of for failure to perform their duties as householders. In the main, presentments for nuisance consist of a tedious and repetitive catalogue of neglect to scour watercourses, remove dungheaps, or keep pigs under control. Only a few observations need to be made about the hundreds of such cases in the secular court records. One is that the proportion of widows who headed households, which should have been between 10% and 15%, is not reflected in the numbers presented for nuisance offences.¹ Many kinds of nuisances were more likely to be committed by those who had substantial amounts of land, especially when it abutted public roads, paths or rivers, and the comparative poverty of most widows probably accounts for their infrequent appearances among this category of offenders. Another salient feature of nuisance presentments is that jurors had no compunction about presenting their social superiors for such offences. Mark Bailey maintains that village society became increasingly polarised during the fifteenth century and that refusals to perform such obligations to the community as clearing ditches and paths are indications of the lower orders' failure to comply with the imposed demands of the elite.² Certainly in Fordwich, which was a village in size though it was a borough in

status, and where the status of many inhabitants can be ascertained, many of those presented for nuisance offences were themselves members of the elite and, perhaps partly because of their superior position, offending householders regularly ignored court demands for remedy to be provided. 'It has not been amended as was ordered at the last view' was a common complaint of juries.³

There remain a few offences which could theoretically be committed by men or women, and which appear in relatively small numbers in the court records.

Prominent among these are sorcery, sabbath-breaking, gaming and vagabondage or 'idleness'. The first was a predominantly female offence, and the remainder very largely male. This chapter focuses on these offences, and will conclude that the prosecution of sorcery has some similarity to prosecutions for scolding and defamation, suggesting concern about the harm women might do with words, while prosecutions for non-observance, gaming and vagabondage all demonstrate in different ways the importance attached to the work of men.

Sorcery

Despite the attention that has been given to the 'witch craze' of the late sixteenth and seventeenth centuries, very little has been published on prosecutions for witchcraft or sorcery before about 1550.⁴ One historian of medieval English women has dismissed the subject with the comment that '[w]itchcraft was hardly a problem in medieval England'.⁵ Nevertheless, citations for sorcery, 'incantations', 'superstition', 'magic arts' or 'augury' appear in small numbers but quite regularly in ecclesiastical court records at least from the early fifteenth century onwards.⁶ Although many citations are uninformative, the recurrence of certain themes both locally and nationally not only offers a glimpse into the little-explored world of late medieval folk belief, but also suggests that attempts to enlist the aid of supernatural forces to some extent followed a gendered pattern well before the prosecution of witches acquired its high early modern profile.

Patti Mills commented on the lack of alarm or interest aroused by sorcery in the fifteenth century Canterbury consistory court.⁷ The same is true of the act books used for the present study, insofar as prosecutions were few, several defendants were dismissed, or merely told to stop the practices of which they were accused, and penalties, when imposed, were no worse than those for sexual misbehaviour. However, only seven of 36 citations were not followed up. In the church courts, where so few cases appear to have been pursued to a conclusion, the unusually large number of cases where some outcome was recorded is probably significant. If the church's attitude was on the whole fairly relaxed, it may have been the accused themselves who took the initiative to try to clear themselves, for out of 33 defendants, no fewer than 14, thirteen of them female, attempted to undergo compurgation or made arrangements to do so. This perhaps suggests that women were particularly anxious to clear themselves of charges of sorcery. That sorcery was considered a predominantly female offence is clear from the fact that only six men (one of them cited four times) and 27 women in the church court sample were cited for offences allegedly involving some kind of magic. Men thus account for under 17% of the individuals cited, and 25% of citations. Another man and a woman, both charged in 1560, appear in the archdeaconry act book although they were both prosecuted in the consistory court.

What the defendants had done to invite prosecution for sorcery is seldom made clear. In 17 cases, no information was recorded about the events which had given rise to the citation, while in four more the details are partly or wholly illegible or incomprehensible. The remainder can be roughly divided into those who it was claimed had done harm by magic, and those who had done good. Two men and a woman were said to use magic to find 'lost things', while two men and two women were involved in treating the sick. The objection to the latter appears to have been not to the curing, but to the unauthorised use of the trappings of Christianity by the healer. John Markes of St. Dunstan's, Canterbury, used a lighted wax candle when administering medicine for toothache, and Alice Johnson confessed to collecting herbs 'saying fifty paternosters and *ave*, etc. for the sick'.⁸ Both were merely ordered

to discontinue these practices. Similarly, Elizabeth Wynter, who was plaintiff in a defamation suit, admitted telling her clients to say prayers when using her medicines for horses and cattle. Wynter was cited for ‘incantation’ in the consistory court, which suggests that this kind of unauthorised use of prayers was what constituted the offence of incantation in the church courts, and also that an unsuccessful suit for defamation of sorcery could result in an *ex officio* prosecution.⁹ More complex was the case of John Byng of Harbledown, who was cited four times in the 1520s. Byng apparently took money from the sick and claimed to be able to cure them by saying prayers over their clothes or other possessions, a beneficent use of a practice later more associated with doing harm.¹⁰ Katherine Burgrove of Canterbury was cited in 1525 for taking the sick’s clothes to him *pro salute habenda*. This was clearly in a different category from the activities of Markes, Johnson and Wynter who did actually give medicine to the people or animals. The belief that a cure could be effected by merely praying over the sick person’s garments counted as ‘superstition’ when acted upon outside the apparatus of the church, and Byng, who by 1528 had extended his services to the finding of lost goods, seems to have been considered guilty of taking money under false pretences. He was ordered to return the money he had taken and to provide the court with the names of those who had purchased ‘cures’ from him.¹¹ Even Byng’s activities made a kind of sense in the context of a church which claimed that miracles could be obtained by praying to the relics of saints, while the actions of the other healers, in using prayers or candles to enhance the efficacy of their medicines, would presumably have been perfectly acceptable if performed with the official sanction of the church. The same applies to the offence imputed to Alice Stace of Brabourne, of blessing trees in order to make them flourish.¹²

The healers and finders of lost goods were what would later be referred to as cunning folk. Later evidence, from England and elsewhere, indicates that finding lost goods and offering remedies for human and animal illness were among the principal activities of these ‘good witches’ and that such people frequently made use of prayers or verbal charms.¹³ It is noteworthy that, although the numbers of men and women

accused of practices involving 'white magic' were about equal, the *proportion* of accused men said to have used magic for beneficial purposes was far greater than that of women, and the only persistent 'healer' was male. The evidence therefore does not support the idea that prosecutions for witchcraft were a way of suppressing female lay healers, since healers were not predominantly female.¹⁴ Not only were far more women than men accused of sorcery and allied offences, but women were more likely, even at this time, to be charged with doing evil by magic. With the one exception of Thomas Holden, suspected of unspecified *maleficium*, no man was explicitly accused of doing harm by magic or sorcery.¹⁵ In contrast, in addition to two women cited for *maleficium*, at least five women were said to have caused, or intended to cause, damage to others through supernatural means. Cecily Maldon was accused of spoiling her neighbours' ale. More seriously, it was said of Joan Cotyne that if she cursed anyone who was not well, they would die, and of Joan Newey that any animal, man or woman on which she operated her 'magic arts' would perish or have a grave illness.¹⁶ In the case of Thomasine Dunnyng, sorcery was apparently connected with administering herbs to procure an abortion.¹⁷ In 1507, Elizabeth at See was accused of

incantations and other superstitions, especially in fasting a certain fast called a black fast, for revenge on her enemies.

As a woman in Lancashire, at the opposite end of the country, was accused in 1519 of keeping a 'black fast' and praying for vengeance, this must have been a more widespread, or at least well-known, practice than is evident from the records. James Sharpe's contention that fears of what witches might do followed a national pattern must then hold good for the early sixteenth century as well as for the period when witchcraft had a higher profile.¹⁸ Fasting of an apparently reprehensible kind also figured in the citation of Alice Havyn: in addition to being a bawd and finding lost items by sorcery, she kept the fasts of Saints Ninian and George.¹⁹ 'Pulling down the moon' may have been a time-honoured Kentish speciality: Henry Aleyn of Lydd was said in 1466 to

know the art by which he will make the sun and moon come down into the well.²⁰

Well over a century later, another Kentishman, Reginald Scot, attempted to debunk the notion of 'old women....that pull down the moon out of heaven'.²¹

Scot, like other early modern writers on witchcraft, helped to reinforce the idea of the 'witch' as an old and ignorant woman, and this is the stereotype perpetuated by the work of Keith Thomas and Alan Macfarlane, who claimed that witches were typically marginalised and widowed women and that witchcraft accusations typically arose out of the guilt of the better-off accuser at having refused alms to a supplicant.²²

Malcolm Gaskill, however, has recently argued that Kentish witch prosecutions in the century from 1560 show that those accused of witchcraft often did not conform to the stereotype. He outlines the background of a number of cases where the 'witch' appears to have been more prosperous and integrated into the community than the accuser, and suggests that the rise in witchcraft prosecutions is symptomatic, not of a crisis in gender relations, but of intense competition and conflict between households.²³ Gaskill did not indicate what proportion of accused witches were better-off than their accusers, but he did quantify the ratio of widows to married women accused of witchcraft or sorcery in Kent. He found that of the women whose marital status is known, wives outnumbered widows, both in the Canterbury church courts from 1560 to 1575 and at the assizes and quarter sessions from 1640 to 1660.²⁴ There appears to be some continuity here with the middle ages, for of the women accused of witchcraft between 1300 and 1500, those whose marital status was known were mostly married.²⁵ Among the women accused of sorcery or similar offences in the Canterbury church court sample, only five can be identified as having husbands at the time of the accusation, but none at all can be shown to have been widows. As for their social and economic backgrounds, it can only be said that there is no evidence of any of the defendants being connected to local elites, and only one, Katherine Burgrove, can be identified as possibly the wife of a Canterbury tailor whose regular appearances on city juries suggest a background of the 'middling sort'.²⁶ Two of the accused women were also charged as scolds, and four (and one man) with sexual offences, but these are small proportions and scolding and sexual incontinence were

the commonest offences imputed to women. It cannot be claimed that scolds and sexual deviants were particularly likely to be accused of sorcery, but accusations of sorcery may occasionally have been used to reinforce a prosecution for a moral offence by blackening an offender's reputation, a possibility considered by Gaskill.²⁷

If women predominate among those accused of sorcery and incantations, and particularly among those accused of doing harm by magic, there were other activities classified as witchcraft by the act of 1542 which seem to have been almost exclusively male preserves. The 1542 statute, though not specifically linking the two, identified both the pulling down of crosses and the use of magic in finding buried treasure as matters of particular concern.²⁸ Using witchcraft to find hidden treasure was also an offence, though not a non-clergyable felony, under the 1563 statute.²⁹ Overturning a cross would presumably count as sacrilege to the ecclesiastical authorities, but evidence from the Canterbury archdeaconry court makes it clear that the purpose of this apparent act of vandalism was to dig under the cross for treasure. This was not described by the church courts as sorcery, but the framers of the witchcraft statutes clearly regarded it as such. Three men from Ewell were accused of digging in the cemetery at night for treasure in 1529, though a cross is not specifically mentioned, while in 1503 and 1504 two men from the neighbouring parish of River were said to have thrown down crosses and dug under them for treasure. One of the latter was considered guilty of such serious offences that his case was remitted to the commissary: John Crayer, in addition to failing to observe the sabbath and not going to church, was said to have heretical opinions, saying that anyone who refused to hear mass for three Sundays, or obtained the gospel of St John and holy bread and water [?] could gain as much wealth as he desired. It was presumably in attempting to demonstrate the truth of his claims that he embarked on his excavations.³⁰ Three other men, two of them from the nearby parishes of Folkestone and Denton, were charged with digging up crosses in 1527 and 1530, as were a married couple from an unnamed parish in 1509. Their reason for doing so was not given, but in the light of the Ewell and River cases, they too were probably in search of instant wealth.³¹ Terence Murphy found cases of overturning crosses in the

Rochester church court records and assumed them to be mere vandalism; most likely these were the work of other treasure-seekers.³² Lyndal Roper has drawn attention to cases of treasure-seeking and its importance in later sixteenth century Germany, and Sharpe to the fact that a substantial minority of male 'witches' tried at the Home Circuit Assizes were accused of practices rarely imputed to women, like cozenage through witchcraft and the use of spirits to discover sums of money.³³ Undermining crosses to find treasure seems closely akin to the latter, while in the sole case in the secular court records that seems to imply a supernatural offence, it was again a man who was accused. In 1508, Friar William of the Black Friars was presented in Canterbury

for that he taketh upon [him] to conjure for men's goods to the great deceit of the king's people.³⁴

What the activities of the treasure-seekers have in common with those of the cunning folk is the belief that Christian sacred objects, symbols or formulae could be utilised by lay people without the church's authorisation, to further their own purposes, to enrich themselves, bring about cures, find lost goods, and perhaps even procure harm to their enemies. In most of the cases where details are given, it is divine power that is believed to be being harnessed. In some others, it is claimed that the defendant 'knows the art' of performing some magical feat, suggesting the popular belief that sorcery or witchcraft was a skill which could be learned.³⁵ There is no indication that diabolical power was believed to have been invoked, unless it was involved in the 'black fast' or the 'bewitching' or 'cursing' which was thought to have been used by Joan Cotyne and Joan Newey.

Although the numbers involved are so small, the beginning of an increase in prosecutions for sorcery or witchcraft, and greater emphasis on doing harm by supernatural means, becomes apparent in the late 1550s. The Romney, Hythe and Dover sessions of the consistory from 1462 to 1468 contained five sorcery cases, and Mills found four in the consistory from 1396 to 1411 and five between 1449 and 1457.³⁶ In the sample from the archdeaconry court from 1490 to 1530, the number of citations fluctuated between three and nine per decade. These figures probably

reflect between a third and a half of the total prosecutions in the diocese. Soon after 1530, the records become so confused that it would be unwise to attribute any significance to the absence of cases, but apart from one in 1533, no citations were found in the sample between 1530 and 1558. However, in 1557, Elizabeth Lacy began a defamation suit against her neighbour William Gibbes because 'he said that she was a witch, etc.'³⁷ The lack of cases in the 1540s may be due to the existence of the witchcraft act from 1542 till it lapsed in 1547. This should have meant that cases of witchcraft were heard in the secular courts, but it is unclear how far the act was enforced.³⁸ The first two charges of sorcery or witchcraft specifically defined as *maleficium* appear in the archdeaconry act book in 1558, and there is another in 1559. Two of these citations seem to have been of a provisional nature. Thomas Holden was 'detected or suspected' of *maleficium* and was ordered to get neighbours to certify that he was not suspected either as a thief or of *maleficium*, while Joan Nicolson was dismissed when she had promised to return to the archdeacon's court once more was known about *maleficiis*. Joan Whithed, however, was excommunicated after she failed in her attempt at compurgation and did not return to receive her penance.³⁹ In none of these cases was the nature of the suspected *maleficium* recorded. Another woman was charged with incantation in 1559, and other church court sources suggest a substantial increase in witchcraft prosecutions in the diocese from around 1560.⁴⁰ Some evidence of this increased activity appears in the defamation suit of Elizabeth Wynter, who was tried in the consistory.⁴¹ The year 1560 also produced the only deposition relating to witchcraft in the sample. Gaskill quotes the citation of Robert Fisher of Ruckinge and his wife that year for using *ars magica* and incantations.⁴² Since Ruckinge is adjacent to Bilsington, there can be little doubt that this is the same 'Fisher' whose statement was recorded in the archdeaconry act book in June 1560. He admitted

that he hath said that those that can make any body whole they can make them sick, and saieth that he did speak these words for that there be naughty persons that do use witchcraft and sorcery and he named Mother West of Westwell to be one that was so noted.

Fisher went on to say that Mother West had told Henry Byham of Bilsington that 'he was the worse by witches in his cattle', and blamed Fisher and his wife. He described a session in 'the dairy house at Bilsington Abbey', which he denied being present at himself, where Mother West's son had

raised up every body that was in the parish, viz, in their own likeness,
and that the stools flew about the house.⁴³

Although the absence of depositions for the earlier cases of sorcery makes it impossible to claim with certainty that no such bizarre events were thought to have taken place in previous decades, the raising up of likenesses and flying stools seem to bring us into the mental world of the early modern witch hunt. In comparison with this, the 'sorcery' of the early sixteenth century, typically characterised by such activities as the finding of lost goods or the souring of ale, seems mundane indeed.

If the treasure-hunters and overturners of crosses are counted alongside the practitioners of incantations and sorcery, as the 1542 statute implied they should be, women in Kent, at least up to mid-sixteenth century, seem to have been about twice as likely as men to be accused of meddling with the supernatural. In later prosecutions for witchcraft, the proportion of men dropped to around ten to twenty per cent.⁴⁴ But most of the figures for the later period are taken from prosecutions for *maleficium* in the secular courts, that is, of people accused of doing harm by occult means, whereas those charged in the church courts up to the late 1550s were an assortment of healers, fortune-seekers and, probably, fraudsters, with only a small minority who were suspected of having caused damage by sorcery or cursing. That men were so prominent among the former, while most of the latter were women suggests that belief in the greater propensity of females to do harm by supernatural means was well established before the persecution of witches reached more alarming proportions.

Sabbath-breaking

Like 'incantations' and the other non-malefic forms of sorcery, sabbath-breaking was a breach of church regulations which did not actually harm anyone, unless, arguably,

the artisan or trader who worked on a Sunday or feast-day was stealing a march on his peers and thus guilty of unfair trading practices. Regular absence from church might, however, be symptomatic of heresy, and Mills considered the increase in non-observance cases in the Canterbury consistory during the fifteenth century reflected growing concern with religious disaffection and (probably unjustified) fear of the spread of Lollardy.⁴⁵ Serious suspicion of heresy, though, was more likely to be heard in a higher tribunal than the local church courts.⁴⁶ The problem of non-observance, as opposed to heresy, has received little attention from historians, and indeed it is not entirely clear what the pre-Reformation church's regulations were in this regard. Wrightson and Levine claim that regular church attendance was not insisted on by the medieval church, but citations for non-attendance certainly figure in the records of late medieval church courts.⁴⁷ According to Martin Ingram, in the late sixteenth and early seventeenth centuries, church attendance was often regarded as the duty of the householder, and servants and the young were not encouraged to attend.⁴⁸ As heads of households were (at least sometimes) held responsible for the behaviour of their dependants, both by the church and secular authorities, if most people charged for non-observance were householders, this does not necessarily imply that their children and servants were not expected to attend church.

The church court sample used for the present study does not shed much light on the problem of exactly what level of observance was expected of the laity. People were cited for absence from church, or from their parish church; for unspecific failure to observe the sabbath or holidays; for working, sometimes 'at service time' and sometimes at unspecified hours on Sundays or holidays, so it is unclear whether everyone was under an obligation to attend their parish church, or just some church, every Sunday and holiday, and whether working was proscribed throughout holy days or just at service times. If there was a hierarchy of offences whereby working on Sunday was worse than mere absence from church, or working outside service time was less bad than working while a service was going on, there is nothing to indicate this. Nor is it clear what sorts of work should not be done on holy days. Some farm work has to be done whatever the day, and a good deal of unavoidable work in the

household and farm work generally done by women. Prosecutions for working on holy days, in both the ecclesiastical and secular courts, seem to imply that commercial work on Sundays constituted an offence, but much domestic, or non-profit-making, work did not. For example, commercial brewers were sometimes prosecuted for brewing, or sending out their carts, on Sundays, but no housewives were apparently charged for brewing for domestic consumption. This distinction between work for profit and household work may in part explain the predominance of men cited for non-observance.

Various forms of sabbath-breaking are the second most numerous category of offences in the office act books, though they feature in far smaller numbers than citations for sexual misbehaviour. There was a total of 205 citations in the church court sample for 'not observing the sabbath' or more specific sins such as working (or, much less frequently, playing) on Sundays or feast days, or at service time, not attending church, failing to receive the sacrament, or, in just two cases, breaking the church's dietary regulations. Only thirty of these citations (14.6%) were of women, so this was effectively another gendered offence, this time a male one. Still smaller proportions of women have been found elsewhere. In the consistory act book for 1449-57, Mills found under 7% of those cited for non-observance were female, while Carol Wiener found all those accused of non-observance in late Elizabethan Hertfordshire were male.⁴⁹ That the defendants were so much more often men might reflect actual practice: if the claims of women's greater religiosity are to be believed, fewer women than men might have been inclined to disobey the church's rules. Alternatively, the gender disparity might be due to the greater visibility of men's work: tradesmen selling their wares, or farmers out in the fields when they should have been at church, could hardly fail to be noticed, while much more of women's work was within the confines of the house or its immediate surroundings. Also, there were probably more acceptable excuses for women to miss church: a woman might herself be giving birth or lying-in following a birth, attending another woman in childbed, or nursing the sick or dying. None of the women cited in the sample offered any of these as an excuse for non-observance, but if, for example, a number

of wives were absent from their parish church on a particular Sunday when a neighbour was known to be in labour, their absence was probably unlikely to give rise to a summons.

Table 6.1: Citations for non-observance in church courts

Offence	Men	Women	Totals
Non-observance of sabbath or holidays	37	9	46
Absence from church or sacrament	43	7	50
Working on Sundays, holidays or service time	86	14	100
Leisure activities on Sundays, holidays or service time	7	0	7
Infractions of dietary regulations	2	0	2
Totals	175	30	205

Most of the citations were either for non-attendance at church or unspecified non-observance (53% of women, 46% of men cited) or for working on Sundays or feast days (47% of women, 49% of men). There is thus not much gendered difference between the nature of male and female offences, though the proportion of men accused of working is slightly larger than that of women. More men (59 citations) were accused of selling their products than of doing other work (27 citations): this might be because selling was more visible than other forms of work, or because it encouraged the customers to absent themselves from worship and so was implicating others in sin. Either way, selling on holy days presupposes that customers were willing to buy, although they (like the clients of prostitutes) were not summoned for this. By far the greatest number of men whose trade could be identified were butchers: one women and 26 men, some of whom were cited several times, were charged with selling meat at inappropriate times. Since meat was evidently the commodity most frequently sold on Sundays, many of those accused of unspecified non-observance, or of Sunday trading, may also have been butchers. All the identifiable butchers in the sample were charged between 1501 and 1525, and some were accused of slaughtering as well as selling meat. Brian Woodcock reported repeated 'drives' against Sunday trading butchers in both the consistory and archdeaconry courts.⁵⁰ Selling 'unwholesome' meat was one of the many offences for which butchers were regularly prosecuted in the secular courts, and by trading on

Sundays they were presumably trying to sell their meat before it went bad, so it was hard for them to avoid falling foul of either the ecclesiastical or the secular courts.

That butchery was not an occupation engaged in by many women doubtless contributes to explaining the predominance of male sabbath-breakers. In a short-lived experiment in making the punishment fit the crime, three butchers between 1501 and 1503 were ordered to do public penance with a candle in one hand and a shoulder of mutton in the other.⁵¹ Eight people, four of whom were women, were described as tipplers or accused of selling food or drink or permitting games on their premises at service time; five of these were cited in 1550, which may indicate growing official concern over alehouses and drunkenness. Increasing preoccupation with alehouses appears around the same time in the secular courts. Three men were millers who had worked on Sundays or feast days, another occupation which would be hard to conceal from the apparitors, churchwardens or other neighbours. Other forms of work which men were accused of performing on Sundays or feast days included making hedges, binding sheaves, carting gravel and building work, again, all highly visible occupations.⁵² The shoemaker, the tailor and the glover who were apparently making rather than selling their products might have been able to work more discreetly, but this may explain why these occupations feature rarely among those cited for non-observance.⁵³ When women were cited for working on Sundays or holidays, it was similarly at occupations where they would have been in the public view. There are citations of women for winnowing wheat and binding corn, and a female 'common brewer' for brewing at service time.⁵⁴ A man's position as head of his household, though, might make him more liable to blame. John Dundy was accused of opening his shop and occupying his *familia* in work on a feast day, Alice Marten's husband admitted to having told his wife to sell her wares *in publico foro*, and John English had sold his goods in one place while his servants sold them in other places.⁵⁵

Unlike those accused of sexual misbehaviour, people who had been observed working at forbidden times could not plausibly deny the charge, but they did sometimes plead mitigating circumstances. William White of Chartham, accused of drying and winnowing his corn on a Sunday, pleaded that it had been 'a time of necessity' one Sunday 'after great rains'. It was not recorded that Alice More of the same parish, charged with the same offence at the same court, offered the same excuse, but most likely she and many more defendants claimed that they had worked from 'necessity' created by bad weather.⁵⁶ Not all excuses were equally acceptable. John Prentice claimed that his milling on Easter Day was necessary because it was for the purification of John Chillynden's wife: perhaps it was the official's irritation at this feeble excuse that caused him to declare that Prentice had 'no reasonable cause' and sentence him to the unusually severe penalty of three days' public penance carrying half a measure of wheat on his shoulders.⁵⁷ Excuses for absence from church were also sometimes recorded: Alice Bush's son came to excuse her 'on account of her infirmity', and James Marshall and William Smythe had been at sea when they should have received communion.⁵⁸ Some defendants claimed to have attended church or communicated elsewhere: William Jerman and Robert Newhouse both denied living in the parish whose church they had not attended. Joan Hans of St Andrew's in Canterbury was required to prove that she had been to confession and received Easter communion at St George's church, as she claimed.⁵⁹

Surprisingly few defendants, all men, were accused of engaging in leisure activities when they should have been at church. Three men in the 1520s were charged with hunting, and were all penanced.⁶⁰ Thomas Raynesse 'played ball, absenting himself from divine service', and John Cobbe and Francis Brykylman frequented taverns, but if any of them was penanced it was not recorded.⁶¹ Permitting others to play games on one's premises was just as bad: Katherine Carter, in addition to being a common defamer and blasphemer and missing church herself,

on Sundays and feast days...maintains at service time public common players at chequers and cards.⁶²

Perhaps even more reprehensible was the offence of William Chapman, who

behaves badly in Simon Alen's house, especially at the time of divine service.⁶³

As secular court presentments for playing 'unlawful games' were exclusively of men, it is unlikely that any of the women cited in the church courts for non-observance had been guilty of this offence, and probable that some other men cited simply for missing church had been in taverns drinking or playing. An increasing enjoyment of leisure activities is thought to have been characteristic of the late middle ages.⁶⁴

However, although women often ran or served in alehouses, and may sometimes have frequented them as customers, leisure spent drinking or playing games seems to have been part of a largely male culture, and this is probably another reason for the predominance of men cited for non-attendance at church.

The evidence suggests that sabbath-breaking was considered a less serious sin than sexual misbehaviour. None of the women, and only 29 of the men were recorded as having been given penance. Three of these were later released from the obligation to perform it, without apparently having commuted for a money payment. Only four men, three of them butchers, were ordered to do public penance on three Sundays, which was a fairly standard penance for sexual incontinence. Some penances for non-observance were comparatively mild. Four men had only to offer a candle, while another had only to say a rosary of 150 *Aves* on his knees at matins, all apparently without the humiliation of walking barefooted in the procession.⁶⁵ Of the 113 church court cases whose conclusion was recorded, seventy ended with the defendant being dismissed, with or without a warning to observe the sabbath in future. In the London commissary court at this period, sabbath-breakers were apparently treated even more leniently: no-one accused of non-observance was recorded as having received punishment.⁶⁶

After 1550, citations for sabbath-breaking disappear almost completely from the church court sample. This may mean the archdeacon's court ceased to deal with such cases, or it may simply reflect the confused and fragmented nature of the court's records for the 1550s. Whichever was the case, presentments for missing church or

working on Sundays start to appear in larger numbers in the secular courts, just at the time they peter out in the act books. Such cases were rare in the secular courts before mid-sixteenth century. In 1461, ten Fordwich men, including some of the local elite, were each fined 2d for habitually playing on feast days

a certain game called 'Queytyng' [quoiting?] against the... ordinances of the realm of England and against the proclamation of this town.⁶⁷

Whether their offence was playing the game at all, or doing it on feast days is unclear. The same applies to the Maidstone man who in 1512 was fined 12d for allowing 'dishonest persons' to play bowls in his house, 'on feast days as well as other days, to the bad example of others'.⁶⁸ Of the 34 secular court presentments which can unequivocally be classified as non-observance, only three were earlier than Edward VI's reign, and in two of these, inappropriate meat-eating or missing church was added as an apparent afterthought to presentments for other offences.⁶⁹ From 1548 onwards, absence from church and working on Sunday begin to feature regularly among the presentments in the secular courts of Canterbury and Fordwich. In the manorial court of Monkton in 1550, Henry Cok and John Coutes were each fined 2s because they

do misuse the order of their houses for that they suffer the inhabitants there to haunt their houses in the time of the celebration of God's service...

At the next view of frankpledge it was ordered that Cok, Coutes and William Eton

shall not permit any person or persons to frequent their taverns at the time of divine service in the church, on pain of forfeiting by each of them, for each such person, 6s 8d.

The alehousekeepers were ordered to notify the borsholder if anyone refused to leave the alehouse when the church service was due to begin.⁷⁰ No subsequent prosecutions seem to have been made under these orders, but in Sandwich in 1551, after 32 'tipplers, taverners and inkpens', all of them men, had been bound over for allowing 'unlawful games in their houses', an ordinance banning such games included the provision that alehouse doors must be shut at service times, and no-one except 'strangers and wayfaring men' should be allowed to eat and drink in taverns at such times.⁷¹ Shortly afterwards, Elizabeth, wife of John Pyerson, tippler, was fined

3s 4d for having 'diverse persons' in her house 'in the time of divine service'.⁷² In Canterbury, two male tipplers were fined smaller amounts for having their establishments open at service time, and six men for trading or having their 'cart going' on Sundays or feast days, while Thomas French was fined 10s because 'one of his servants did eat flesh one Friday'.⁷³ In Fordwich in 1556, three men

did go down the common river with their boats laden from Fordwich toward Sandwich on the Sabbath day contrary to the old and ancient Custom of this Town,

and were each fined 21d. One of them, Thomas Johnson, repeated the offence in the two subsequent years.⁷⁴ Loaded boats and carts moving down the river or in the street would have been the most visible of all forms of work on Sundays, and that these very public activities were prosecuted suggests that probably much more Sunday working went on, undetected because unobtrusive.

Twelve Canterbury people (three married couples, five men and a woman) were presented for absenting themselves from church or from the sacrament in 1554 and 1557. One, Stephen Kempe of Northgate, was to become one of the Marian martyrs.⁷⁵ James Reynold and Richard Richards both appeared twice for non-attendance at their parish church in 1557. Reynold was on one occasion presented with his wife, and Richards on his second presentment

for that he neither any of his household doth come to their parish church to hear divine service there, to the evil example of other[s].

They and some of the other absentees from church may have been, like Kempe, Protestants with a conscientious objection to attending mass. But Thomasine the wife of Thomas Bartlett may have missed church for less worthy motives, if these were the same Thomas Bartlett and his wife who were banished from Northgate ward in 1557 as 'picking and suspect persons'.⁷⁶ It is impossible to distinguish those acting from religious conviction, who are outside the scope of the present study, from the petty delinquents who are its main concern; this may apply also to the earlier cases of non-observance in the church courts.

Assuming, though, that most of those guilty of non-observance had offended through negligence or pressure of work, this was clearly not an offence of which women were often accused. Even if women tended to be more conscientious than men in the performance of religious duties, it is unlikely that the real difference between male and female offenders was as great as it appears in the records. The visibility of much 'men's work' compared to the work of most women may well account for the discrepancy, as indeed may the fact that men often spent their leisure in public places. It is also possible, though, that few women were cited for working on Sundays because most women's work was not considered 'real' work, or of comparable importance to the work of men. In this case, prosecutions for non-observance would indirectly reflect the inferior status of women, as did their lower wage-rates. If women working at the wrong time rarely attracted the courts' notice, women's leisure activities seem never to have done so. In the next section, prosecutions for 'unlawful games' will be considered.

'Unlawful games'

Almost every jurisdiction whose records were examined prosecuted people for 'unlawful games' at some time during the period 1460-1560, although the timing of such presentments varied from place to place. In New Romney, all but one of the fines recorded for gaming, or permitting it, were imposed between 1473 and 1493, while in Sandwich, none was recorded before 1517 and almost all were in 1543 or in the 1550s. Although these variations may owe something to deficiencies in record survival or changing conventions of record-keeping, it seems that concern over gaming was subject to local fluctuations, and bore only limited relation to the statutory prohibitions which existed throughout the period.

The regulations on games-playing made by Parliamentary statutes were complex, prescribed unrealistically high penalties, and changed several times over the period 1460-1560. Ignorance of exactly what the law was, or reluctance to impose the penalties it demanded, may explain the erratic enforcement of the statutes by local

courts. From 1388, servants and labourers were required to practise archery on Sundays and holidays and cease playing various outdoor and indoor games, including tennis, quoits, dice, cards and 'kayles'. An act of 1409 ordered offenders to be imprisoned for six days. The ten Fordwich men presented in 1461, though most of them were young, were by no means all servants or labourers, and were merely fined 2d. As noted above, their offence may have been playing on feast days.⁷⁷ In 1477 the list of prohibited indoor games was expanded, and the prohibition extended to all, not just servants and labourers; however, the outdoor games of bowls, tennis and football were now permitted. The prescribed penalties were two years in prison and a £10 fine for players and three years imprisonment and a fine of £20 for those who permitted gaming in their houses.⁷⁸ Perhaps because this was completely impracticable, the mayor and jurat of New Romney made their own regulations. In December 1483 a by-law enacted that any jurat or commoner playing any unlawful game, including bowls, would be fined 21d. An undated ordinance shortly afterwards added tennis and some other games to the list of proscribed activities and raised the fines to 3s 4d for commoners and 6s 8d for jurats, the same amounts to be payable by players and by 'him that suffreth such games in his house'. Below this an afterthought was added:

It is licensed by all the jurats that they shall play at Tennis the holidays and no-one to play the worked days...

Whether this meant the jurats were excluding themselves or all the townsmen from the tennis ban is unclear, as is how the local regulation related to the national one. When the future Member of Parliament for New Romney, Clement Baker, was prosecuted for playing cards in 1484, both the local and national rules did apply to men of his social standing, but the 12d he handed over 'in part payment' of his fine seems to have been all he ever paid.⁷⁹ Still more derisory were the fines of 6d and 4d paid by John Bedynden and Thomas Pykell in Fordwich for permitting 'men and servants' to play in their 'suspicious house' in 1481.⁸⁰

The impracticable statute of 1477 was replaced in 1495: the ban on gaming was again restricted to servants, apprentices and labourers, (who could, however, play during the twelve days of Christmas) but bowls and tennis were once more prohibited, and penalties were reduced to the more realistic one day in the stocks for players and a fine of 6s 8d for those permitting such games on their premises.⁸¹ Even these more realistic penalties seem rarely to have been enforced to the full. Of ten Canterbury men presented for allowing unlawful games in 1511, only one paid the prescribed fine of 6s 8d, and most paid only 20d. That games-playing continued to be a governmental concern is shown by the frequent instructions for the enforcement of the legislation during the early sixteenth century.⁸² A statute of 1541, which Ingram refers to as 'definitive' returned to the theme of other games distracting men from archery practice and extended the list of those prohibited from playing to include husbandmen, journeymen, artisans and seamen. Its provisions were complicated by the exclusion of the twelve days of Christmas from the veto, and the proviso that masters could license their servants to play with them or any gentlemen. The penalty for keeping a house for illegal games, including a bowling alley, was 40s, while that for players was 6s 8d.⁸³ This seems to have had some impact in Kent, as presentments for gaming were commoner from the early 1540s, except in New Romney and Fordwich. Fines as high as 6s 8d were imposed on players in the manorial courts of Monkton and Seasalter in the 1550s, although they were usually lower than this in Canterbury, and never more than 3s 6d in Sandwich. Local courts must have considered the 40s fine for gaming houses and bowling alleys excessive, for it was only recorded as being imposed once, on William Rouse, tavernkeeper of New Romney, in 1553.⁸⁴ The problem of most games players being servants or apprentices who had little or no money could be got round if their master was rich: John Fuller, mayor of Canterbury, paid 13s 4d as a fine 'for two of his men playing at dice in his house' in 1558.⁸⁵

McIntosh comments that local courts either misunderstood the 1541 statute or deliberately distorted it, as they often penalised gentlemen and local officeholders, as

well as those of lower status to whom it was intended to apply, and that presentments for bowling only appeared in Elizabeth's reign, and, outside of the cities, were largely concentrated in the west and southwest.⁸⁶ But in Kent, presentments of those of higher status for gaming seem to have been commoner in the fifteenth century, while bowls-playing and the keeping of bowling alleys were prosecuted from the beginning of the sixteenth century. The most comprehensive presentment of higher status men for bowling was in Queenborough in 1500, when the jury presented

that the aforesaid mayor and all his brethren and many others living within this town are common players of a certain game called 'le Bowles'.⁸⁷

Altogether, 216 presentments or citations were found for illegal gaming. This includes 13 where the offence may have been playing on holy days rather than playing at all. Gaming featured occasionally in the church courts, even when it was not a question of breaking the sabbath. A cleric was cited as 'a common player at cards and tables by day and night', and a churchwarden for profaning the cemetery by playing *ludum spiracarum* there.⁸⁸ Seventy-three of the secular court presentments were for permitting games in the defendants' houses rather than playing themselves, though it is not always clear which offence was being complained of, or whether the playing was actively promoted by the householder. Only three women, all in Canterbury, were accused of permitting games on their premises, and none of playing themselves. McIntosh found hardly any women accused of playing games until near the end of the sixteenth century, and then some who had played dice or cards with men.⁸⁹

The statutes of 1388 and 1541 emphasised that 'unlawful' games were distracting young men from archery practice, but there were other reasons for discouraging them from playing. It is unclear how much 'playing' was accompanied by gambling, but the undesirability of gambling was emphasised in the 1477 statute, and a royal proclamation of 1511 expressed the fear that servants might steal from their masters to get money to gamble with.⁹⁰ A few presentments specify that the defendant had played 'for money', but it is not clear whether this was regarded as aggravating the offence or whether gambling regularly accompanied the playing of games. Causing

damage or disturbance to neighbours might be an additional reason for prosecution, as in the case of four Canterbury men

for common bowlers and casting their bowls on divers persons' houses contrary to the king's peace.⁹¹

A more important motive, though, was anxiety about men, especially young men, neglecting their work to play games.⁹² This was by far the commonest reason given in Kent for prosecuting those, often keepers of inns or alehouses, who permitted games on their premises. About 1519, Thomas Marre was made to pay the full statutory fine of 6s 8d for

suffering men's servants to play at unlawful games in secret places in his house out of the xii days.⁹³

'Secret places' suggests indoor games and probably gambling: dicing and cards were the games most commonly complained of in Canterbury, which had the greatest number of presentments for gaming, and 'suffering men's servants' to play was the commonest formula for the presentment of those who allowed it. That servants were playing when they should have been working was made explicit in the presentment of 'Roker's wife', who was fined 12d

for suffering of men's servants to lodge diverse times in her house to the hindrance of their masters, etc, suffering them to play at dice and bowls there contrary to the law.⁹⁴

Moreover it must have been quite normal for young men to frequent taverns in working hours: when William Guyldewyn, a tiler, was examined about his movements, he recounted that in the middle of a Monday morning he

went and sought his servant Thomas at John Freman's and the Cardinal's Hat and could not find him at none of the said places.⁹⁵

John Freman was a brewer who presumably kept a tavern as well; evidently the first place a man would think of looking for a missing male servant was the alehouse.⁹⁶

Not only were all those accused of playing games male, but the keepers of bowling alleys and harbourers of dicers and card-players were always accused of permitting 'men' or 'men's servants' to play. The ungendered 'persons' was never used in this context, which suggests that illegal games-players were expected to be male. Anxiety

about apprentices gaming is evident in fifteenth century didactic literature and in apprenticeship contracts.⁹⁷ The fact that they were breaking the law probably added to the excitement of playing games for young men, and it might be seen as an activity that reinforced male gender identity, as Barbara Hanawalt suggests was the case with poaching, another prohibited activity.⁹⁸ Presentments for gaming show a male culture, probably largely a culture of young men, centred on alehouses, inns and bowling alleys, which women occasionally presided over but did not participate in. But if young male servants and apprentices were apt to waste their masters' time playing bowls or cards, it is hard to believe that young female servants were always hard at work. Idle adolescent girls, however, seem to have left no trace in the court records. Advice literature for girls does not appear to include any warning against the temptations of gaming, though the 'Good Wife' instructed her daughter

Go not to wrestlings, nor to shooting at cock
As if you were a strumpet or a wanton woman.⁹⁹

So girls probably went to watch young men playing, but this was not a presentable offence, merely, if the text is to be believed, an activity which would get a girl a bad reputation. Much of maidservants' work would have been carried out in or near the house, where slacking would have been observable by the employer, and this must have been considered a matter for 'correction' by the master or mistress rather than by the courts. 'Idleness' on a full-time basis seems in this period to have been equated with vagabondage, which will be considered next.

Vagabondage and idleness

Altogether, the Kent records revealed nearly a hundred people prosecuted either as 'vagabonds' or for harbouring or maintaining vagabonds. But the word 'vagabond' throughout this period did not necessarily mean a wanderer, it could be a much more general term of disapprobation, meaning a good-for-nothing or an idler. Some of the men Patricia Hogan found accused as vagabonds in the Ramsey Abbey villages in 1270-1350 were clearly long-term residents of their villages, and some people accused as vagabonds in Kent two centuries later were also not wanderers from place to place, but local, probably mostly young men, who were not in regular

employment.¹⁰⁰ In Fordwich in 1503, John Greneham junior and his brother Henry junior were accused of being common vagabonds and living suspiciously; their father, John senior, had served on the jury every year for which records survive since 1483.¹⁰¹ Presentments which accuse the defendant of living 'like a vagabond' probably refer to locals considered to be layabouts rather than vagrants, like the five Canterbury men who were said in 1552 to

live idly and suspiciously like vagabonds and will not labour, contrary to the laws.¹⁰²

The complaint that a person refused to work, was 'out of service', or had no legitimate means of support, accompanied about 40 per cent of the charges of being, or living like, a vagabond. Sometimes the court ordered that an individual should find service within a given period. In April 1521, Derek Flemyng, who was

like a vagabond without any service and refuses to serve for a year according to the form of the statute,

was ordered to put himself in someone's service before St John the Baptist's Day, (June 24th) on pain of a 10s fine.¹⁰³ In Sandwich, John Foster, aged 18 and who

hath lived within the town as a very idle person and not meaning to exercise himself with any true occupation

was apprenticed to a shoemaker, with threats of punishment 'if he behave himself not during his service or if he depart from it'.¹⁰⁴

McIntosh considers that vagabonds, meaning people who wandered from place to place without regular employment, caused more concern in local courts than resident beggars did.¹⁰⁵ But in many cases it is impossible to tell whether a person accused of being a vagabond was actually a long-term resident or not, so for this section those people were counted who were accused either of being a vagabond, or 'living like' one, or of being 'idle', refusing to work, or being out of service or begging. It is likely that vagrants were dealt with summarily, particularly after the statute of 1495, which required them to be put in the stocks for three days and then returned home.¹⁰⁶

The Canterbury accounts for the 1540s and 1550s record the expenses of having some vagabonds whipped and carted, but there is no sign of them in the court records.¹⁰⁷

Local elites were no doubt eager to move vagrants on as quickly as possible, and

probably did not wait for the 'lawday' which happened only twice a year. This would account for the large proportion of apparently resident 'vagabonds' in the court records.

Some people, though, had travelled considerable distances. Robert Gowght and Henry Spicket, 'valiant beggars', who in 1535 were ordered to leave Sandwich on pain of whipping, had been born respectively in Denbigh and Ludlow.¹⁰⁸ In Canterbury, several examinations have been preserved from the 1530s, though there is no record of the examimates being charged. Of these, seven men and one woman seem to have been questioned merely because they were vagrants. Three came from Northamptonshire, one from London and one from Chelmsford; the woman was from the Forest of Dean.¹⁰⁹ Treatment of vagrants was not always entirely unsympathetic. The Canterbury accounts for 1553/4 note 'a poor man that was examined' being paid 6d 'to pass into his country', and another vagabond being given a few pence 'of charity' after he had been whipped. This suggests some awareness on the part of the civic authorities that the requirement that vagrants return to their birth parish might well be impracticable unless they were given some assistance.¹¹⁰

In a few cases, the charge of being a vagabond was added to another offence. John Dye was a common tennis player as well as a vagabond, and William Faukener a whoremonger, a vagabond and 'a suspicious person in his living'. The fact that their activities were known about suggests that these were local residents.¹¹¹ Like other ill-defined charges, such as ill rule or scolding, the condition of being a vagabond may sometimes have been overlooked unless the person had committed a more specific crime. Even in the archdeacon's court, vagabondage was on one occasion coupled with another offence: Elizabeth Moll *alias* Anne Gaseley was

noted as a common vagabond and because she committed fornication with several [men].¹¹²

J. C. K. Cornwall commented that unemployment and vagrancy seem to have been suddenly noticed around 1530.¹¹³ But unemployment, or at least, having no visible means of making an honest livelihood, occasioned some court presentments in Kent

earlier than this. In addition to presentments for 'idleness', four Canterbury constables were presented in 1511 and 1512 for 'letting vagabonds go at large', which presumably refers to vagrants.¹¹⁴ In New Romney in 1484 an order 'that no vagabond stray in the town from this day forward, on pain of imprisonment' was included in the ordinance against gaming, so it looks as though both the resident and itinerant varieties of vagabond were causing some concern well before 1530.¹¹⁵ The New Romney jurats received 'a commission for scourging of valiant beggars' in 1528¹¹⁶, while in Sandwich in 1524, it was agreed that the mayor

shall call before him all such persons as he suspecteth as well vagabonds of men as women and then to examine how they live, and if they live idly and will not fall to labour then to avoid them the town.¹¹⁷

Awareness of vagrants and beggars seems to have intensified in Canterbury from 1530 onwards. A 'seal for beggars' was made for the city in that year and a 'scutcheon' for them in 1542. 'Marking irons' for vagabonds were made in 1547/8, and in 1553/4, more 'scutcheons' to distinguish local beggars from strangers.¹¹⁸ Tables 6.2a and 6.2b show cases of vagabondage, begging and idleness, and harbouring vagabonds, in the only courts where they appear, and for the years when they appear. Even allowing for the vagaries of record survival and record-keeping, there can be little doubt that in the 1550s, vagabondage came to be perceived as (and probably was) a more serious problem.

Only six women can be traced who were charged as vagabonds. Two of these were charged with their husbands, and a third was banished with a man with whom she cohabited.¹¹⁹ A seventh woman is recorded as having been licensed to beg.¹²⁰ The three apparently unaccompanied women threatened with banishment as vagabonds were, surprisingly, all in the early part of the period.¹²¹ Lyndal Roper found that in Augsburg, it was realised that women's earnings would not stretch to keeping a family, and comments that, being excused from the burden of providing, women could more easily avoid the opprobrium of shiftlessness, though at the cost of preserving unchallenged the unequal earning capacities of men and women.¹²² The same reasoning probably accounts for the very small number of women presented as

being unwilling to work, or as vagabonds of the merely idle type. But that women could be accused of 'idleness' is clear from a presentment, probably from 1515:

--- Lynley is an idle woman and hath nought to live by and of ill disposition and living, wherefore [the jury] desire in discharge of conscience to put her to surety of her good a-bearing or else to banish her the City.¹²³

Women, clearly, were less likely than men to wander the country in search of either an honest living or a life of crime. But the absence of female resident 'vagabonds', and of any complaints about women not being in service suggests that women's work was less regulated and taken less seriously. This may have had the advantage that women were rarely prosecuted for idleness, but it also reflected the lower prestige of women's work, and their consequently lower wages.

Table 6.2a: Vagabonds, beggars and idle persons, 1481-1560

Dates	Canterbury	Fordwich	New Romney	Sandwich	Totals
1481-90	1	0	1	4*	6
1491-1500	0	2	0	0	2
1501-10	5	3	0	0	8
1511-20	7	3	0	0	10
1521-30	2	1	0	0	3
1531-40	6	1	0	2	9
1541-50	5	0	0	1	6
1551-60	21	0	9	8	38
Totals	47	10	10	15	82

* Described as vagabonds but punished for theft.

Table 6.2b: Harboursing vagabonds 1501-1560

Dates	Canterbury	Fordwich	New Romney	Sandwich	Totals
1501-10	3	0	0	0	3
1511-20	3	0	0	0	3
1521-30	2	0	0	2	4
1531-40	6	2	0	0	8
1541-50	2	0	0	0	2
1551-60	0	0	1	0	1
Totals	16	2	1	2	21

One additional indictment of a Canterbury man for 'harbouring' cannot be dated.

McIntosh found more presentments in local courts for harbouring vagabonds than for being a vagabond.¹²⁴ In the Kent courts, however, presentments of vagabonds and idle livers considerably outnumber those for harbouring (or 'maintaining') vagabonds. Those accused of the latter offence were three married couples, fifteen men and four women, of whom one was a widow and one a wife. Presentments for these offences were most numerous in Canterbury in the 1530s. Many more such accusations may

well be concealed in presentments for 'harbouring suspects', keeping a 'suspect house', or the catch-all 'ill rule'. One couple, John Penne and his wife, were accused both of being

vagabonds and idle persons and labour not and have not wherewithal to live and live suspiciously and also lodge idle persons and vagabonds, etc.¹²⁵

One objection to harbouring vagabonds was fear of infection. In Fordwich, Thomas Swynton

harbours diverse beggars and vagabonds having diverse infirmities to the great annoyance and danger of the Lord King's liege people.¹²⁶

Swynton was banished on pain of a 20s fine or 20 days imprisonment, which suggests the 'danger' was taken seriously. McIntosh also found some signs of anxiety about vagrants as transmitters of disease.¹²⁷ Maintaining vagabonds might not mean having them staying in one's house: William Cowper, alehousekeeper of Orpington, allowed illicit games to be played in his house by 'diverse vagabonds and other men of bad conversation' (the only mention of vagabonds in any manorial court in the sample), and Andrew Scotte was fined for 'suspicious rule and resorting of vagabonds to his house at night'.¹²⁸ Harbouring or maintaining vagabonds is thus difficult to differentiate from keeping brothels or providing facilities for illegal games, and may well not always have referred to vagrants.

Presentments for vagabondage and for harbouring vagabonds, then, shed little light on the problem of vagrancy. What they do show is concern about unemployment, and an anxiety that every man who had neither land nor a trade should have regular and recognised work with a 'master' who would take responsibility for him. In many cases, masters paid the fines for offences committed by their servants, or were presented for their servants' misdemeanours, which shows how they were held accountable for the behaviour of those in their service. The demise of the frankpledge system, whereby the tithing took responsibility for its members, may have encouraged the growth of this accountability of employers. This was a hierarchical society in which servants were subject to masters, and wives to husbands, hence the eagerness to have young men 'in service' and the desire for the young to

marry. An accusation of being a vagabond was, like one of being a scold or a harlot, a description of a person rather than of an act, only in this case it was applied not to women but to men, probably mostly young men, of the poorer classes. At least in the case of resident 'idlers', it seems to have been used in an attempt to modify the behaviour of people who had not committed any real crime, but did not conform to the stereotype that was considered desirable, just as the accusation of scolding was used against women.

Conclusion

Sorcery and incantations involve the use of words, and it is clear from the prosecutions of scolds and defamers, as well as sorcerers, that this was something for which women were disproportionately prosecuted. The harm women could do with their tongues was evidently a serious concern. By contrast, non-observance, gaming and being 'idle' are all to some extent issues related to work: doing it at the wrong time or not doing it at the appropriate time. The almost complete absence of any sign of concern about female idleness, and the comparative rarity of charges against women for working on holy days suggest that it was regarded as the duty of parents, employers or husbands rather than the courts to see that women worked at the appropriate times, and perhaps also that while men's work tended to be visible and viewed as important, women's work was invisible and taken for granted. As far as the courts were concerned, while men had to be kept at work, women had to be kept from uttering damaging words. That those accused of doing harm by magic were mostly female suggests an expectation that trouble was more likely to result from women's utterances than men's.

¹ P. and J. Clark, 'The Social Economy of the Canterbury Suburbs: the Evidence of the Census of 1563', in A. Detsicas and N. Yates (eds.), *Studies in Modern Kentish History* (Maidstone, 1983), 70-71, give 17.9% households headed by widows in suburban Canterbury 1563. This was in the poorer suburbs where more widows than average were likely to head households.

² M. Bailey, 'Rural Society', in R. Horrox (ed.), *Fifteenth Century Attitudes: Perceptions of Society in Late Medieval England* (Cambridge, 1994), 161.

³ For example, CCA, U4/3/61v (1485).

- ⁴ For a discussion of recent work on early modern witchcraft prosecutions, see A. Rowlands, 'Telling Witchcraft Stories: New Perspectives on Witchcraft and Witches in the Early Modern Period', *G & H*, X (1998), 294-302; for brief discussion of medieval sorcery, J. A. Sharpe, *Instruments of Darkness: Witchcraft in England, 1550-1750* (1996), 23-28.
- ⁵ H. Jewell, *Women in Medieval England* (Manchester, 1996), 178.
- ⁶ Sharpe, *Instruments of Darkness*, 24-25; Mills, thesis 42, 47-9.
- ⁷ Mills, thesis, 49.
- ⁸ CKS, PRC.3.1/132v (1499); PRC.3.4/162 (1521).
- ⁹ CCA, Y.2.23/117 (1560); A. J. Willis, *Church Life in Kent, 1559-1565* (1975), 38.
- ¹⁰ K. Thomas, *Religion and the Decline of Magic: Studies in Popular Beliefs in Sixteenth- and Seventeenth-century England* (1971), 520.
- ¹¹ CKS, PRC.3.4/147, 4/162; PRC.3.6/29v, 6/76v.
- ¹² CKS, PRC.3.1/181, (1503).
- ¹³ Sharpe, *Instruments of Darkness*, 67; P. Collinson, 'Cranbrook and the Fletchers: Popular and Unpopular Religion in the Kentish Weald', in P. N. Brooks (ed.), *Reformation Principle and Practice* (1980), 181; L. Roper, *Oedipus and the Devil: Witchcraft, Sexuality and Religion in Early Modern Europe* (1994), 182.
- ¹⁴ Sharpe, *Instruments of Darkness*, 174-5.
- ¹⁵ CCA, Y.4.10/100v (1558).
- ¹⁶ CCA, X.8.3/55 (1464); CKS, PRC.3.1/20 (1490); PRC.3.1/73 (1495).
- ¹⁷ See above, p. 95.
- ¹⁸ CKS, PRC.3.2/55v; Sharpe, *Instruments of Darkness*, 25, 126.
- ¹⁹ CKS, PRC.3.1/130 (1499).
- ²⁰ CCA, X.8.3/110v.
- ²¹ Scot, *Discoverie of Witchcraft*, quoted in Sharpe, *Instruments of Darkness*, 53.
- ²² A. Macfarlane, *Witchcraft in Tudor and Stuart England: a Regional and Comparative Study* (1970); Thomas, *Religion and Decline of Magic*, chapters 14-18.
- ²³ M. Gaskill, 'Witchcraft in Early Modern Kent: Stereotypes and the Background to Accusations', in J. Barry, M. Hester and G. Roberts (eds.), *Witchcraft in Early Modern Europe: Studies in Culture and Belief* (Cambridge, 1996), 257-306.
- ²⁴ Gaskill, 'Witchcraft', 263-4.
- ²⁵ S. Shahar, *The Fourth Estate: a History of Women in the Middle Ages* (1983), 275.
- ²⁶ CCA, CC/J/Q/333/1, 333/2, 333/9.
- ²⁷ M. Gaskill, 'Witches and Witchcraft Prosecutions, 1560-1660', in M. Zell (ed.), *Early Modern Kent, 1540-1640* (Woodbridge, 2000), 255.
- ²⁸ Sharpe, *Instruments of Darkness*, 29.
- ²⁹ Sharpe, *Instruments of Darkness*, 90.
- ³⁰ CKS, PRC.3.6/107v, PRC.3.1/180v, 1/182.
- ³¹ CKS, PRC.3.6/63v, 6/125, 6/131v, PRC.3.2/112.
- ³² T. R. Murphy, 'The Maintenance of Order in Early Tudor Kent', Ph.D. thesis, Northwestern University (1975), 112.
- ³³ Roper, *Oedipus and the Devil*, 131, 181; Sharpe, *Instruments of Darkness*, 114.
- ³⁴ CCA, CC/J/Q/307/14/20.
- ³⁵ Sharpe, *Instruments of Darkness*, 13.
- ³⁶ Mills, thesis, 42, 80.
- ³⁷ CCA, Y.4.10/48.
- ³⁸ Sharpe, *Instruments of Darkness*, 29.
- ³⁹ CCA, Y.4.10/100v, 10/102; Y.2.23/56.
- ⁴⁰ Willis, *Church Life*, 73.
- ⁴¹ See above, p. 214.
- ⁴² Gaskill, 'Witchcraft', 272.
- ⁴³ CCA, Y.2.23/145v.
- ⁴⁴ Sharpe, *Instruments of Darkness*, 169; Gaskill, 'Witchcraft', 264.

- ⁴⁵ Mills, thesis, 43-4.
- ⁴⁶ Woodcock, *Med. Courts*, 80; Wunderli, *London Courts*, 123-4.
- ⁴⁷ K. Wrightson and D. Levine, *Poverty and Piety in an English Village: Terling, 1525-1700* (1979), 156.
- ⁴⁸ Ingram, *Church Courts*, 106.
- ⁴⁹ Mills, thesis, 81; C. Z. Wiener, 'Sex Roles and Crime in Late Elizabethan Hertfordshire', *JSH*, VIII (1975), 40.
- ⁵⁰ Woodcock, *Med. Courts*, 80.
- ⁵¹ CKS, PRC.3.1/158v, 1/159, 1/170.
- ⁵² CKS, PRC.3.4/98v (1518), 4/138v (1520), 4/24 (1513); PRC.3.1/72 (1495); CCA, X.8.3/20v (1463).
- ⁵³ CKS, PRC.3.1/78 (1496), 1/129v (1499), PRC.3.4/80v (1517).
- ⁵⁴ CKS, PRC.3.4/13 (1512), 4/24 (1513), 4/29v (1513).
- ⁵⁵ CKS, PRC.3.1/23v (1491), 1/130 (1499), 1/136 (1500).
- ⁵⁶ CKS, PRC.3.4/13 (1512).
- ⁵⁷ CKS, PRC.3.1/138 (1500).
- ⁵⁸ CKS, PRC.3.4/10 (1512); CCA, Y.4.9/21v (1550).
- ⁵⁹ CCA, X.8.3/6v (1463); CKS, PRC.3.2/137v (1510); PRC.3.2/66 (1508).
- ⁶⁰ CKS, PRC.3.4/155v, PRC.3.6/18v.
- ⁶¹ CKS, PRC.3.4/58 (1515); PRC.3.1/178 (1503); PRC.3.6/6 (1524).
- ⁶² CKS, PRC.3.8/34v (1533).
- ⁶³ CKS, PRC.3.6/53 (1526).
- ⁶⁴ Bailey, 'Rural Society', 162-7.
- ⁶⁵ CKS, PRC.3.4/136v (1519).
- ⁶⁶ Wunderli, *London Courts*, 122.
- ⁶⁷ CCA, U4/3/15.
- ⁶⁸ LPL, ED653/22v.
- ⁶⁹ CCA, J/Q/307/14/20 (1508), U4/3/211ii (1523), U4/3/229v (1531).
- ⁷⁰ CCA, U15/34/9/33 r and v.
- ⁷¹ EKA, Sa/AC/3/250 r & v.
- ⁷² EKA, Sa/AC/4/4v.
- ⁷³ CCA, CC/FA/14/105 (1548/9); FA/15/20, 15/23 (1553/4); FA/16/67v 1558/9; FA/15/21 (1553/4).
- ⁷⁴ CCA, U4/20/1/26v, 20/1/39v, 20/1/43v.
- ⁷⁵ M. Zell, 'The Establishment of a Protestant Church', in Zell, *Early Modern Kent*, 244.
- ⁷⁶ CCA, CC/J/Q/354/1, J/Q/356/2 r and v, J/Q/356/7, J/Q/356/9.
- ⁷⁷ See above, p. 227.
- ⁷⁸ McIntosh, *Misbehavior*, 98-9.
- ⁷⁹ EKA, NR/Fac/4/213v, 4/228v.
- ⁸⁰ CCA, U4/3/48v.
- ⁸¹ McIntosh, *Misbehavior*, 99.
- ⁸² R. Britnell, *The Closing of the Middle Ages? England, 1471-1529* (Oxford, 1997), 205.
- ⁸³ McIntosh, *Misbehavior*, 100; M. Ingram, 'Reformation of Manners in Early Modern England', in A. Fox and S. Hindle (eds.), *The Experience of Authority in Early Modern England* (1996), 72.
- ⁸⁴ EKA, NR/JBf/5 (unfoliated).
- ⁸⁵ CCA, CC/FA/16/23.
- ⁸⁶ McIntosh, *Misbehavior*, 103.
- ⁸⁷ CKS, Qb/JMs/1/14.
- ⁸⁸ CKS, PRC.3.1/28 (1492), PRC.3.2/100v (1509).
- ⁸⁹ McIntosh, *Misbehavior*, 98.
- ⁹⁰ M. K. McIntosh, 'Finding Language for Misconduct: Jurors in Fifteenth-century Local Courts', in B. Hanawalt and D. Wallace (eds.), *Bodies and Disciplines: Intersections of Literature and History in Fifteenth-century England* (1996), 100-101; *Misbehavior*, 101 note 139.
- ⁹¹ CCA, CC/J/Q/327/2 (c.1504).
- ⁹² Bailey, 'Rural Society', 163; McIntosh, 'Finding Language', 99.

- ⁹³ CCA, CC/J/Q/352/4v.
- ⁹⁴ CCA, CC/J/Q/333/13/4 (1534).
- ⁹⁵ CCA, CC/J/Q/333/7 (1533).
- ⁹⁶ CCA, CC/J/Q/333/5.
- ⁹⁷ B. Hanawalt, *'Of Good and Ill Repute': Gender and Social Control in Medieval England* (Oxford, 1998), 182, 185, 196 note 24.
- ⁹⁸ *Ibid.*, 142.
- ⁹⁹ P. J. P. Goldberg, *Women in England, c.1275-1525: Documentary Sources* (Manchester, 1995), 99.
- ¹⁰⁰ P. Hogan, 'The Slight to Honor: Slander and Wrongful Prosecution in Five English Medieval Villages', *Studies in Medieval and Renaissance History*, n. s. XII (1991), 30.
- ¹⁰¹ CCA, U4/3/118v.
- ¹⁰² CCA, CC/J/Q/351/3v.
- ¹⁰³ CCA, U4/3/206.
- ¹⁰⁴ EKA, Sa/AC/4/11v (1552).
- ¹⁰⁵ McIntosh, *Misbehavior*, 88.
- ¹⁰⁶ M. K. McIntosh, 'Local Change and Community Control in England, 1465-1500', *Huntington Library Quarterly*, XLIX (1986), 231.
- ¹⁰⁷ For example, CCA, CC/FA/13/192v (1542/3).
- ¹⁰⁸ EKA, Sa/AC/3/74.
- ¹⁰⁹ CCA, CC/J/Q/333/11.
- ¹¹⁰ CCA, CC/FA/15/29.
- ¹¹¹ CCA, CC/J/Q/309/13 (1510), J/Q/307/12 (1508?).
- ¹¹² CKS, PRC.3.4/168v (1521).
- ¹¹³ J. C. K. Cornwall, *Wealth and Society in Early Sixteenth Century England* (1988), 216.
- ¹¹⁴ CCA, CC/J/Q/310/7, J/Q/310/24v, J/Q/311/9v.
- ¹¹⁵ See above, note 79.
- ¹¹⁶ EKA, NR/FAc/7/5.
- ¹¹⁷ EKA, Sa/AC/2/328.
- ¹¹⁸ CCA, CC/FA/12/125, FA/13/192, FA/14/67v, FA/15/75v.
- ¹¹⁹ CCA, CC/J/Q/329/2 (1519), J/Q/356/2 (1557); EKA, Sa/AC/3/248 (1551).
- ¹²⁰ CCA, CC/J/Q/356/3v (1557).
- ¹²¹ CCA, CC/J/Q/352/7 (1515), U4/6A/2 (1492), U4/3/129v (1505).
- ¹²² L. Roper, *The Holy Household: Women and Morals in Reformation Augsburg* (Oxford, 1989), 60.
- ¹²³ CCA, CC/J/Q/352/7.
- ¹²⁴ McIntosh, *Misbehavior*, 88.
- ¹²⁵ CCA, CC/J/Q/329/2 (1519).
- ¹²⁶ CCA, U4/3/237 (1533).
- ¹²⁷ McIntosh, *Misbehavior*, 90.
- ¹²⁸ CCA, U15/34/6/7v (1537); CC/J/Q/305/12, CC/FA/9/54 (1505/6).

7. CONCLUSION

Now that the prosecutions of men and women in the local courts have been analysed according to types of offences, an overview can be taken of the patterns that emerge and what can be deduced from them. This concluding chapter will first discuss what changes took place in the offences presented in local courts over the period c.1460 to 1560, and what similarities and differences could be observed in the prosecutions of comparable forms of misbehaviour in the ecclesiastical and secular courts. Once the answers to these questions have been established, the central issue will be addressed, that is, how far men and women were treated differently by the courts, what the differences suggest about gender relations in the period, and in particular, how social control was exercised over women. Finally, since gender cannot be examined without also considering class, age and marital status, the impact of these will be discussed. It will be concluded that, while most prosecutions were of men, there was nonetheless a heavily gendered construction of misconduct, with women disproportionately accused of sexual and verbal offences. This reflects contemporary perceptions of femininity, and of what constituted honourable female conduct: the possibility of prosecution for such offences must to some extent have functioned to inhibit and control women.¹

Change over time

One purpose of this project was to investigate whether the treatment of men and women by the local courts changed over time, and to see if there was any substance in the claim of a 'crisis in gender relations' beginning in the later sixteenth century. The surviving records are incomplete, habits of record-keeping varied over the period, and the possibility remains that when prosecutions for certain minor offences declined in the local courts, they were being dealt with either in a different court, or informally by the local community, or summarily by justices of the peace. The conclusions that can be drawn about change over time are therefore limited, but some things stand out. There are incontrovertible signs of greater concern over poverty and vagabondage from the 1530s, intensifying during the 1550s, and of more emphasis on *maleficium*

and sorcery by the late 1550s. Thus the beginnings of the 'witch-craze' and of the problems attendant on population increase, inflation and unemployment can be clearly traced. If the 'gender crisis' theory were to be tenable, a similar increase should be visible for prosecutions of scolds, and perhaps harlots: it is not. Prosecutions for verbal offences by men and women, and by women alone, rose to a peak in the first decade of the sixteenth century, remained nearly as high from 1511 to 1520 and then declined steadily. Prosecutions of harlots follow a similar chronology. In the church courts, citations for verbal offences peaked later, between 1511 and 1520, though their apparently rapid decline thereafter may be due partly to a two and half year gap in the archdeaconry court records for the early 1520s. Although assault cases also peaked between 1511 and 1520, women formed a dwindling proportion of the defendants in both church and secular courts from the 1530s onwards. By then the very existence of the church courts was under threat: Houlbrooke has drawn attention to the confusion and demoralisation produced among those responsible for diocesan administration by the series of bewildering changes begun in 1529 and the deleterious effect these had on their efficiency. By the mid-1530s the flow of cases in the church courts was dramatically reduced, in other dioceses as well as Canterbury.² For the next two decades and more, the personnel of the church courts were not only confused and demoralised; they were overloaded with calls to implement, and then to reverse, the new reforms.

The local secular courts may also have been deflected from the pursuit of scolds and harlots, as well as other minor miscreants, by their growing concern with problems arising from population pressure and unemployment. In addition to this, the events of the Reformation and Counter-Reformation created new and demanding work for local elites. In 1535, the mayor and jurats of Sandwich had to deal with a local tailor 'for certain unfitting words spoken of the Queen's grace', and with a quarrel between two priests over the erasing of the popes' names from service books, in the course of which one was reported to have said that this process would soon have to be reversed 'for the King's grace is mortal as another man is'.³ In December 1553, the mayor and

town clerk were sent to Canterbury to find out how the town was supposed to proceed, since all the vicars were married and thus under the new dispensation disqualified from saying mass. In 1555 'a person from London', when asked for news from the capital, reported that 'the Queen was dead and all the chiefest merchants had gone away with all their treasure', reflecting the nervousness and uncertainty which must have been prevalent in those years.⁴ The duty of attendance at court was a heavy drain on the time of both the local elite and lesser men: the records abound with refusals to serve in civic offices and fines for non-attendance. When there was an increase in important cases, minor ones must to some extent have been squeezed out by pressures of time. McIntosh has suggested that in the fourteenth century, 'misbehaviour' may have seemed too trivial for local courts to bother with, in comparison with the problems created by food shortages, plague and population crisis.⁵ To an extent, this may be true of the mid-sixteenth century as well. Prosecution of scolds, bawds and harlots, then, may not have been a symptom of social and economic stress, nor of political and religious turmoil, but rather the reverse, a luxury which the courts could only afford to spend time on in periods like the later years of Henry VII and early in Henry VIII's reign, when more serious business was not monopolising the courts' time. These considerations would not explain the declining concern with scolds and sexual offenders in manorial courts,⁶ but may contribute to explaining the similarities in the pattern of prosecutions in the ecclesiastical and secular courts.

Ecclesiastical and secular courts

As we have seen, when they were dealing with comparable matters, in almost all respects the church courts' activities mirrored those of the secular courts. Both lay and ecclesiastical tribunals prosecuted both men and women for fornication and adultery, but only women for prostitution; both accused mainly women of being 'bawds'.⁷ Both prosecuted men and women for verbal 'crimes', but tended to present women in general terms as scolds or defamers and men principally for insulting or slandering specific people in authority.⁸ Both showed a similar lack of concern with

women's work: this was shown principally in the secular courts' prosecution of almost exclusively men for 'idleness' or not being in service, and in the church court in the small proportion of women cited for working on Sundays or holy days.⁹ The one area where church court practice seems to have differed from the secular tribunals is in its treatment of women and violence; the remarkably small proportion of women accused of assault in the borough, city and manorial courts is not replicated in the church courts.¹⁰ Cases of violence only came within ecclesiastical jurisdiction when committed against a member of the clergy or on consecrated ground: the offence was sacrilege rather than assault, and sacrilege was probably seen as a sin which could be committed equally by either sex.

The degree of convergence between lay and ecclesiastical courts in late medieval Kent, then, suggests that, at least at this time, they were operating within a shared framework of assumptions. But we need to be clear about whose assumptions these were. Both ecclesiastical and secular courts have been said to reflect widely-held 'core values', but Laura Gowing has questioned the view that the church courts' work 'both moulded and reflected popular opinion' and stresses that we should not assume an identity of moral interests shared by lawgivers and by people of all ages and classes.¹¹ However much a consensus did or did not exist about moral values, it was a relatively narrow section of society which attempted to implement them through the courts. How exactly citations and presentments found their way into local courts of both kinds is a question to which precise answers are unlikely to be found, but neither the very poor nor women of any class had any direct input into the business of initiating *ex officio* proceedings in the church courts, or presentments at the view of frankpledge. The shared assumptions upon which charges were made and penalties imposed were the assumptions of men operating in a system where women were excluded from all public decision-making. Where matters involving gender relations are concerned, they are the (probably unconscious) assumptions of men, probably mostly older men, of the 'better' or 'middling sort', about women and men. Many other people, including many women, no doubt accepted their definition of what might be defined as 'respectable' behaviour: it is only in this sense that McIntosh's description of

women as 'active participators in [the] formation of "public opinion"' can be accepted.¹² In what ways, then, did the courts differ in their treatment of men and women, and how do these differences reveal the ways local decision-makers thought about male and female misbehaviour?

Treatment of men and women by the courts

It has been claimed that a 'reverse double standard' operated in women's favour when they were accused of criminal transgressions.¹³ It has also been argued, both for the early modern period and the late twentieth century, that the apparently more lenient punishment of women is an illusion which will not withstand close analysis of the circumstances of individual cases.¹⁴ Some recent research suggests that even allowing for previous convictions and the gravity of the crime, sentences for women really were more lenient than for men in the period 1780-1830.¹⁵ But for the minor transgressions tried in local courts at the end of the middle ages, direct comparison of the treatment of men and women is in many respects impossible. This is partly because women's situation was so different from men's; for example, women had in practice far more to lose from indulging in pre- or extra-marital sex than men did.¹⁶ Another difficulty is the legal status of married women: real uncertainty seems to have prevailed over the question of husbands' responsibility for their wives' criminal actions.¹⁷ There are many instances where a husband is accused for his wife's behaviour, though more often the wife appears to be considered fully responsible for her own actions. Even in the latter cases, we cannot be sure whether a fine entered beside a married woman's name was in fact paid by her (possibly in the capacity of a *feme sole*) or by her husband. Fines imposed on women were generally lower than those on men, but this could be for various reasons other than a more lenient attitude to female offenders. Women's offences seem on the whole to have been less serious, and to have been regarded as less of a threat than men's. Women, or at least single women and widows, would on average have been poorer than men; there may have been reluctance on the part of male affectors to impose heavy fines that husbands would have to pay, and female offenders were less likely than men to come from afar and

therefore to be subject to the antipathy reserved for outsiders. Most importantly, direct comparisons between the courts' treatment of men and women are impossible because of the differences in the charges against them. Prosecuted female misbehaviour was mostly sexual or verbal, though if the ecclesiastical court cases are excluded, the number of female property offenders is about the same as the number of women accused of sexual offences, with verbal offences coming third. Most men who came before the secular courts, other than for nuisance offences, were charged with physical violence. Furthermore, classifying the charges into broad categories like 'property crime' and 'verbal violence' tends to obscure the fact that becomes clear when charges against male and female defendants are analysed in greater depth, namely that, with the exceptions of fornication and adultery, and the partial exception of property offences, there were differences between typical male and typical female offences even within these categories, while some identical offences may have been differently classified according to whether they were committed by a man or a woman.

Even in the church courts, most citations were of men, and in the secular courts the majority of male defendants was overwhelming. Yet women predominate for certain forms of misbehaviour. Women alone were prosecuted as harlots (with men who used them hardly ever being charged), and considerably outnumbered men in presentments of 'bawds'. Although roughly equal numbers of males and females were prosecuted for verbal abuse, the men's and women's offences appear to have been mostly of different kinds, with men unlikely to be prosecuted for a verbal offence unless it was an insult to, or slander of, a major figure of authority, most often the local mayor or one or more of his 'brethren'. Although the gendered difference is not so marked in the case of offences against property, women seem to have been disproportionately prosecuted for very minor theft and for associated offences such as receiving and hedgebreaking. Sorcery and infanticide, though rare, were mostly attributed to women, and the few alleged abortionists were all female.¹⁸ Men, on the other hand, were overwhelmingly dominant in assault charges, and illegal fishing and games-

playing were exclusively male offences. Sabbath-breaking or non-observance was a predominantly male offence, as was vagabondage.

Exactly how far the prosecutions reflect actual offences committed by men and women, as opposed to differing perceptions of male and female misbehaviour, it is impossible to tell. Some forms of misbehaviour were very much gendered activities. It is not hard to believe that women were seldom tempted to fish illegally, nor to play bowls, nor that giving advice on procuring abortions was a monopoly of women. Vagabonds, at least in the sense of vagrants, really were predominantly male, and women were probably more likely to commit infanticide. But the pattern of prosecutions for some offences reveals anomalies which suggest that perceptions of gender differences influenced what was reported to the courts, and how it was reported. Granted that there are good reasons why more theft was committed by men than women, it remains puzzling that so few apparently very petty thefts by men were reported. Men are also surprisingly little in evidence as receivers of stolen goods. While the prominence of men as insulters and slanderers of mayors and court officials is understandable, it is less easy to see why men rarely appear accused of verbal violence to their social equals. Although doubtless most assaults were committed by men, the near-complete absence of minor physical violence by women in the secular courts, when they did appear for serious assaults, is another anomaly. Minor female assaults, male verbal violence to equals and possibly minor property offences by men may have been more often dealt with by binding over rather than by presentments in court, but even if this was the case, it still represents a gendered difference. The same may apply to some cases of verbal violence. Men were sometimes accused of assaulting an opponent 'with opprobrious words', meaning presumably that no physical force was used, nor weapon drawn. The same behaviour in women was characterised not as assault but as scolding. Indeed, the customs imply that quarrelling in public was only an offence when done by women, so possibly it was necessary to categorise a non-violent quarrel between non-elite men as an assault in order to prosecute it. Thus the same form of misbehaviour was described as though it

was a physical action when a man did it, and as a verbal offence when committed by a woman. Some of the women charged as 'scolds' seem to have insulted authority figures just as most men accused of verbal violence had done; these women were apparently accused as scolds because they were female, and a scold was what an over-assertive or verbally abusive woman was called. There was no comparable term for a verbally abusive man: 'scold' and 'barrator' were both used occasionally, but the connotations of the former were essentially female, and those of the latter had more to do with vexatious litigation. So male verbal abuse was typically either reported as assault *cum verbis opprobriis*, or, when a social superior had been insulted, as uttering opprobrious words to whoever the target was. The association of female delinquency with speech is also reflected in the greater number of women accused of 'incantations' and sorcery.

Another difference between charges against men and women is that women were often charged with 'being' a scold, harlot, bawd, hedgebreaker or privy picker, while men were more characteristically accused of committing a particular offence. Men did things, while women just were. It is difficult to know what, if any, significance should be attached to this. It could be taken to imply that women's offences were considered more reprehensible, that the whole person was being condemned and not just the specific act. However, a charge of being, for example, a common scold, did not apparently imply that the offender was considered beyond reform: accused scolds were usually threatened with higher fines if they did not 'amend'. It could reflect a view of women as essentially passive, although men were sometimes accused in the same way, for example as common bawds, dicers or tennis-players. Men were also accused of 'being' vagabonds, in the sense of *not doing* any work. The accusation of 'being' a particular type of miscreant may simply be a formula for presenting a minor offence. In this case its more frequent use for women might indicate either that most female offences were less serious than most male offences (which they probably were), or possibly that female offences were being, consciously or otherwise, couched in terms which trivialised or marginalised them, as though women's misbehaviour,

like women's work, was hardly worth noticing. In this context, it is perhaps significant that the penalties traditionally associated with scolds and sexual misbehaviour were essentially designed to hold up the offender to public ridicule. Scolding and sexual incontinence, unlike physical violence, were subjects which could be joked about, and if men were afraid of women's verbal attacks and sexual voracity, ridiculing them was a way both to minimise such fears and to control women's behaviour.¹⁹

It seems, then, that for certain types of offence, we have not so much a record of misdemeanours actually committed by women in greater numbers than by men, but a reflection of a male construction of female deviance as primarily sexual misbehaviour, 'sins of the tongue' and minor property offences, all relatively trivial and subject matter for male jokes. Male deviance, on the other hand, was (at this level, although not at the level of felony) constructed as primarily physical violence. No stigma seems to have been attached to minor physical violence by men, and a monetary fine was almost always the way it was punished. But to be labelled a 'harlot' or 'scold' would damage a woman's reputation, and both of these offences could be punished by public shaming. As Gowing has written of the seventeenth century, this was 'a moral world in which women's and men's characters were evaluated in quite different terms'.²⁰ Chastity and 'quietness' were the prime virtues demanded of women, and the stereotypical negative representation of women was as brainless chattering drones intent on cuckolding their husbands.²¹ Although probably not consciously, the men responsible for making accusations in court must have been to some extent influenced by these preconceptions in formulating charges against men and women. Women knew that the main danger to their reputations lay in being charged in court for either sexual or verbal offences, and for most of them, this knowledge would have inhibited their behaviour. The twin images of the harlot and the scold therefore acted as constraints on the behaviour of all women. Keith Thomas suggested that the requirements that women should be modest and silent stem from the primary requirement of female chastity, which itself reflected the 'absolute property of the

woman's chastity' which 'was vested, not in the woman herself, but in her parents or her husband'.²² But keeping women from being argumentative was not only, or even perhaps primarily, a means of keeping them chaste. It was a means of making them accept the *status quo*, of preventing them from questioning a patriarchal system which denied them rights. There is no doubt that these 'core values' were internalised by women as well as men. The commonest insult from one woman to another was 'whore', and a woman could report another as 'an evil woman of her tongue'.²³ Thus the activities of the local courts both reflected and reinforced the values of patriarchy and contribute to explaining what is perhaps the central problem of gender history: how women were prevailed on to collude in their continued exclusion from power.²⁴

Age, class, marital status

It remains to consider how class, age and marital status intersected with gender to produce the pattern of prosecutions for minor offences in the local courts. The worst penalty short of hanging was to be mutilated and banished, like William Smyth, a baker from London, who

tomorrow shall go about [the town] with a shirt the which he hath stolen and then to be set at the pillory the space of ii hours and after that to be had down and his ear nailed to the pillory and there to stand to the time he doth loose himself [i.e. cut himself free] and after to avoid the town for ever.²⁵

No record was found of this punishment being used except in Sandwich, but it was used in London.²⁶ In Sandwich it was threatened for repeated offences or failing to observe banishment orders in the cases of 32 men, three couples and three women, but only used for eighteen men. Three of these had been convicted for seditious words; of the remainder, 13 had stolen, an offence largely limited to the poor, and ten were outsiders or vagrants. Local opinion was seldom likely to welcome this exemplary punishment being meted out to the neighbours, thus the people who suffered were principally vagrants or outsiders, and poor. Those who were banished, both male and female, must all have been from the poorest sections of the community: those of any standing could be fined, or in the case of freemen, be deprived of their privileges. It is noteworthy that prosperous men, including 'gentlemen', appeared as defendants for

both nuisance offences and assaults, as well as in the capacity of office-holders and jurors. The wives and daughters of the local elite, however, make hardly any appearances, although the occasional wealthy widow was accused for nuisance. This accords with Gerda Lerner's observations, that class functioned differently for men and women, and that gender roles were more differentiated higher up the social scale.²⁷

The ages and marital status of many of the defendants who appear in the Kent courts are impossible to ascertain, but men who feature in the records over long periods typically were presented for assaults at early stages in their careers, and went on to become law-abiding citizens. The evident concern over servants and apprentices playing 'unlawful games' suggests that this too was mainly a young man's offence.²⁸ It is likely that then as now, crime was committed chiefly by young males. Young females are harder to find in the court records. There are no expressions of anxiety about maidservants in the Kent records, although it is often claimed that in the late fifteenth century, civic authorities were particularly concerned about young single women. The Coventry ordinance of 1492, forbidding healthy single women under fifty to live independently, has been repeatedly cited to demonstrate this, but no comparable evidence seems to have been found elsewhere.²⁹ It is impossible to estimate the proportion of women charged in the Kent courts who were young and single, but the overriding impression is that while many of the men charged were young and single, most of the women were married. A large proportion of accused women were described as wives, a few as widows, and hardly any as daughters; similar findings have been reported from elsewhere.³⁰ The female defendants described as servants were probably unmarried, but apart from those cited in the church courts for sexual misbehaviour, there are not many of these, and a surprisingly large number of female sexual offenders were married. Troublesome young single women were perhaps more likely to be banished from the Kent towns, or pressured into marriage, by both ecclesiastical and secular authorities. It is impossible to tell if most of the men who were ordered to find employment were young and single, but

where there is evidence, they were. There seems to have been an eagerness on the part of those in authority to hasten the young into positions where someone would take responsibility for them. In the case of young men, this usually meant to be in service, and for young women it meant mainly to marry, though there is also evidence of pressure on men to marry. Although legal sanctions can no longer be applied to force the young into matrimony, the policies of British governments at the end of the second millennium suggest that, in this area at any rate, continuity is more striking than change.

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- ¹ E. Foyster, *Manhood in Early Modern England: Honour, Sex and Marriage* (1999), 62.
- ² Houlbrooke, *Church Courts & People*, 37-8.
- ³ EKA, Sa/AC/3/66v, 3/69v; for similar cases elsewhere, see G. R. Elton, *Policy and Police: the Enforcement of the Reformation in the Age of Thomas Cromwell* (Cambridge, 1972), *passim*.
- ⁴ EKA, Sa/AC/4/40v-41, 4/68v-69.
- ⁵ McIntosh, *Misbehavior*, 18.
- ⁶ McIntosh, *Misbehavior*, 10-11.
- ⁷ See above, chapter 5.
- ⁸ See above, chapter 4.
- ⁹ See above, pp. 234-240, 220-229.
- ¹⁰ See above, chapter 3.
- ¹¹ McIntosh, *Misbehavior*, 209; Ingram, *Church Courts*, 367; L. Gowing, *Domestic Dangers: Women, Words and Sex in Early Modern London* (Oxford, 1996), 9-11.
- ¹² McIntosh, *Misbehavior*, 24.
- ¹³ J. Eales, *Women in Early Modern England, 1500-1700* (1998), 109.
- ¹⁴ Walker, thesis, 184-5; M. Eaton, *Justice for Women? Family, Court and Social Control* (Milton Keynes, 1986), 18-22, 28-9.
- ¹⁵ P. King, 'Gender, Crime and Justice in Late Eighteenth- and Early Nineteenth-century England', in M. Arnot and C. Osborne (eds.), *Gender and Crime in Modern Europe* (1999), 44-74.
- ¹⁶ See above, pp. 201-202.
- ¹⁷ R. Houlbrooke, 'Women's Social Life and Common Action in England from the Fifteenth Century to the Eve of the Civil War', *C & C, I-II* (1986), 181-183.
- ¹⁸ See above, pp. 213, 95.
- ¹⁹ Cf. Foyster, *Manhood*, 61.
- ²⁰ Gowing, *Domestic Dangers*, 28.
- ²¹ Eales, *Women*, 31.
- ²² K. Thomas, 'The Double Standard', *JHI*, XX (1959), 213-214.
- ²³ CCA, CC/J/Q/333/4 (1534).
- ²⁴ G. Lerner, *The Creation of Patriarchy* (Oxford, 1986), 217.
- ²⁵ EKA, Sa/AC/2/360v, (1526).
- ²⁶ J. Briggs, C. Harrison, A. McInnes and D. Vincent, *Crime and Punishment in England: an Introductory History* (1996) 24.

²⁷ G. Lerner, *Why History Matters: Life and Thought* (Oxford, 1997), 154, 164.

²⁸ See above, p. 233.

²⁹ Karras, *Common Women*, 20; R. H. Britnell, *The Closing of the Middle Ages? England, 1471-1529* (Oxford, 1997), 196; Goldberg, *WWL*, 155.

³⁰ J. Laughton, 'Women in Court: Some Evidence from Fifteenth-century Chester', in N. Rogers (ed.), *England in the Fifteenth Century: Proceedings of the 1992 Harlaxton Symposium* (Stamford, 1994), 92.

APPENDIX I

Canterbury judicial sources

28 Mar 1468	presentments, Worthgate and Ridingate	J/Q/267
1474, 1475	bonds to keep peace	J/Q/274/1
9 and 15 Feb 1475	writs for trial of W. Wheteley	J/Q/274/4, 274/5
? Feb 1475	trial of W. Wheteley	J/Q/275
16 Feb 1475	verdict on W. Wheteley	J/Q/274/3
1475	bonds to behave and keep peace	J/Q/274/10
after 15 March 1488	presentments	J/Q/287/3
1500	presentment	J/Q/307/14/10
16 July 1500	presentments for riotous assembly	J/Q/299
after 23 Nov 1502	presentments	J/Q/302/11
after 12 Dec 1502	presentments	J/Q/302/3
after 12 Feb 1503	presentments	J/Q/307/14/12
1503	presentments	J/Q/307/14/13
1503?	presentments	J/Q/302/6
after 20 Jan 1503	presentment	J/Q/302/18
1503	presentments, Newingate, Ridingate, Worthgate	J/Q/302/10
1503	presentments, Westgate, Northgate, Burgate	J/Q/302/14
1503	presentments, Northgate and Burgate	J/Q/302/15
May? 1503	presentments, Newingate, Ridingate, Worthgate	J/Q/307/14/9
1503?	presentments, Newingate and Worthgate	J/Q/302/16
after 11 Sep 1503	presentments	J/Q/302/17
1503	presentment and verdict	J/Q/302/26 (b)
1503/4?	presentments, city	J/Q/327/5
1503/4	presentments	J/Q/335/1
1504?	presentments	J/Q/352/5
after 16 Feb 1504	presentment	J/Q/327/1
after 23 Feb 1504	presentments, Newingate, Ridingate, Worthgate	J/Q/327/2
after 23 Feb 1504	presentments, Westgate, Northgate, Burgate	J/Q/327/4
25 Apr (1504?)	presentments, city	J/Q/303/2
1504	verdicts	J/Q/352/22
1504?	verdicts	J/Q/352/23
1505/6?	presentments, Newingate, Ridingate, Worthgate	J/Q/305/2
18 Nov 1505	bonds to keep peace	J/Q/305/3
after 10 Oct 1505	presentment	J/Q/305/4
Nov 1505	presentments	J/Q/305/5
1505/6	presentments, Westgate, Northgate, Burgate	J/Q/305/7
after 29 Sep 1505	presentment	J/Q/305/8
after 23 Oct 1505	presentments, Westgate, Northgate, Burgate	J/Q/305/11
1505/6 or 1509/10	presentments	J/Q/305/12
1505/6 or 1509/10	presentments	J/Q/305/13
1505/6 or 1509/10	presentments	J/Q/305/14
after 16 Aug 1506	presentment	J/Q/306/4
after 6 Sep 1506	presentments	J/Q/306/6
after 6 Oct 1506	presentment	J/Q/306/3
after 12 Nov 1506	presentment	J/Q/306/2
1506	presentments	J/Q/306/5
1506	indictments	J/Q/306/7
9 Dec 1506	calendar of indictments	J/Q/306/8
1506	presentments	J/Q/306/9
after 16 Aug 1507	presentment	J/Q/306/1

1507	appeal of felony	J/Q/307/14/2
1 Oct 1507	presentment	J/Q/331/1
9 Dec 1507	verdict on W. Plane	J/Q/314/4
1507/8	presentment	J/Q/307/14/11
1507/8	presentment, same as above	J/Q/307/14/32
1507/8	enquiry re felony of J. Whytehorne	J/Q/307/14/26
21 Apr 1508	indictment	J/Q/307/7
1507/8	presentments, Westgate, Northgate, Burgate	J/Q/307/3
1507/8	presentments, Newingate, Ridingate, Worthgate	J/Q/307/11
1507/8	presentments	J/Q/307/14/24
1508?	presentments	J/Q/307/2
after 20 Feb 1508	presentments, Westgate, Northgate, Burgate	J/Q/307/13
early 1508	presentments, city	J/Q/307/12
30 Jun 1508	presentment	J/Q/307/14/1
after 4 Sep 1508	presentments	J/Q/307/8
after 12 Sep 1508	enquiry if J. Emerson stole, etc.	J/Q/308/7
as above	presentment	J/Q/308/10
Sep 1508	presentments, Westgate, Northgate, Burgate	J/Q/307/9
Sep 1508	presentments, Newingate, Ridingate, Worthgate	J/Q/307/10
1508	presentments, Westgate, Northgate, Burgate	J/Q/307/14/6
1508	presentments	J/Q/307/14/20
1508	enquiry re felony of C. Banks	J/Q/307/14/25
1508	presentments, Newingate, Ridingate, Worthgate	J/Q/309/19
late 1508	enquiry if K. Kewys and A. Carr stole, etc.	J/Q/308/9
late 1508	presentments	J/Q/308/11
after 2 Oct 1508	presentments	J/Q/308/2
1508/9	presentments	J/Q/308/15
1508/9 or 1515/16	presentments, Westgate, Northgate, Burgate	J/Q/327/3
12 Jun 1509	bonds	J/Q/308/14v
18 Jun 1509	verdicts	J/Q/308/12
after 4 Jun 1509	presentments	J/Q/308/13
after 6 Dec 1509	presentments, Westgate, Northgate, Burgate	J/Q/309/9
after 8 Dec 1509	presentments, city	J/Q/309/17
10 Dec 1509	bonds	J/Q/309/4v
10 Dec 1509	bonds	J/Q/309/5
after 20 Dec 1509	presentments, Newingate, Ridingate, Worthgate	J/Q/309/6
1509/10?	presentments, Newingate, Ridingate, Worthgate	J/Q/309/14
after 19 Jan 1510	presentments	J/Q/309/7
after 21 May 1510	presentments, Westgate, Northgate, Burgate	J/Q/309/13
17 Sep 1510	bond to keep peace	J/Q/309/2v
1510	indictments	J/Q/352/24
after 26 Nov 1510	presentment	J/Q/311/21
after 30 Nov 1510	presentments, Newingate, Ridingate, Worthgate	J/Q/310/12
2 Dec 1510	estreat of fines	J/Q/309/1
Dec 1510	calendar of indictments	J/Q/310/24
1510/11?	presentments, Newingate, Ridingate, Worthgate	J/Q/310/29
1510/11	presentments	J/Q/309/16
1510/11	presentments, borough of St. Martin's	J/Q/310/30
1511	presentments	J/Q/352/2
after 20 Jan 1511	presentments	J/Q/311/20
1511?	presentments, Newingate, Ridingate, Worthgate	J/Q/310/7
after 9 Feb 1511	presentments, Westgate, Northgate, Burgate	J/Q/310/8
after 10 Feb 1511	presentment	J/Q/310/9
after 12 Apr 1511	presentments	J/Q/310/32

1511	memoranda for presentments	J/Q/352/19
1511	indictments and fines	J/Q/352/21
5 Jun 1511	bonds to keep peace	J/Q/310/1v
5 Jun 1511	calendar of indictments	J/Q/310/2
after 12 Jun 1511	presentment	J/Q/310/18
after 18 Aug 1511	presentments, Westgate, Northgate, Burgate	J/Q/310/31
after 24 Aug 1511	presentment	J/Q/311/17
1511	estreats of fines	J/Q/310/23, 24
c. 1511	presentments, Northgate	J/Q/352/31
after 15 Nov 1511	presentments	J/Q/311/3
after 28 Nov 1511	presentments	J/Q/311/2
after 25 Dec 1511	presentments, city	J/Q/311/24
1511/12	presentment	J/Q/352/26
1511/12	presentments, Newingate, Ridingate, Worthgate	J/Q/311/19
1511/12?	presentments, Newingate	J/Q/311/22
after 4 Feb 1512	presentments, Westgate, Northgate, Burgate	J/Q/310/3
early 1512	presentments	J/Q/311/9
after 1 Jun 1512	presentments, Westgate	J/Q/311/7
after 14 Jul 1512	presentments	J/Q/311/13
after 4 Aug 1512	presentment, Newingate, Ridingate, Worthgate	J/Q/311/14
after 8 Aug 1512	presentment	J/Q/311/5
1512	presentments and verdicts	J/Q/311/10-311/12
after 19 Aug. 1513	presentment	J/Q/312
after 4 Dec 1514	presentments, Newingate, Ridingate, Worthgate	J/Q/314/8
12 Dec 1514	presentments, Westgate, Northgate, Burgate	J/Q/314/7
1514/15	presentment	J/Q/314/2
1515?	presentments, Westgate, Northgate, Burgate	J/Q/352/7
after 13 Feb 1515	presentment	J/Q/314/5
after 10 Apr 1515	presentments, Newingate, Ridingate, Worthgate	J/Q/314/9
after 31 May 1515	presentments	J/Q/314/3
19 Jul 1515	presentment	J/Q/314/11
10 Dec 1518	presentments, Newingate, Ridingate, Worthgate	J/Q/318/8
Dec 1518?	presentments, Westgate, Northgate, Burgate	J/Q/325/1
1518/19	presentments	J/Q/352/4
31 Mar 1519	presentments, Newingate, Ridingate, Worthgate	J/Q/318/6
31 Mar 1519	presentments, Westgate, Northgate, Burgate	J/Q/307/4
1519	presentments, Newingate, Ridingate, Worthgate	J/Q/352/3
1519?	presentments, Westgate, Northgate, Burgate	J/Q/352/9
after 15 May 1519	presentments, Westgate, Northgate, Burgate	J/Q/329/2
27 Jun 1519	presentments, Newingate, Ridingate, Worthgate	J/Q/319
1519?	presentments	J/Q/352/27
1523?	bonds	J/Q/333/6
17 Jun 1523	bond to behave	J/Q/322/1
after 12 Sep 1523	presentments, Newingate and Ridingate	J/Q/322/3
early 1525?	presentments	J/Q/300/1
7 Jun 1525	presentments, city	J/Q/324/4
1530	examinations	J/Q/330/1, 4, 5
1531	examinations	J/Q/330/2, 3, 8
1533/4?	presentments	J/Q/333/1/2
after 3 Nov 1533	presentment	J/Q/333/13/1
10 Nov 1533	examination	J/Q/333/7
6 Dec 1533	examination	J/Q/333/8
17 Dec 1533	presentments	J/Q/333/1/3
after 31 Dec 1533	presentments	J/Q/333/1/1

6 Mar 1534	examinations	J/Q/333/4
17 Mar 1534	presentments, city	J/Q/333/13/4
spring 1534	presentments	J/Q/333/13/2
after 2 Jun 1534	presentment	J/Q/333/3
1534	indictments and verdicts	J/Q/333/9
13 Jun 1534	examination	J/Q/333/12
9 Jul 1534	examinations	J/Q/333/11
after 7 Sep 1534	presentments	J/Q/333/10
1534?	presentments	J/Q/333/13/3
8 Jun 1536	presentments	J/Q/335/2
after 10 Aug 1537	presentment	J/Q/336/1/1
15 Dec 1537	presentments	J/Q/337/4
after 3 Feb 1538	presentment	J/Q/337/1/2
after 22 Mar 1538	presentment	J/Q/337/1/3
30 Mar 1538	examinations	J/Q/337/6
1 Apr 1538	presentments	J/Q/337/1/4
after 13 Apr 1538	instructions to a jury	J/Q/337/3
1538?	presentments	J/Q/337/5
after 7 May 1538	'articles of misbehaviour', verdict	J/Q/337/7
13 Jun 1538	presentments	J/Q/337/2
after 17 Jan 1540	presentments	J/Q/339/1
1540?	presentments	J/Q/339/2
1540	indictment and verdict	J/Q/339/3/2
1540	indictment	J/Q/339/3/3
8 Jan (1540?)	presentments	J/Q/339/6
1540?	presentments	J/Q/339/3/5
1540?	verdicts	J/Q/339/4
1540?	presentments	J/Q/339/5/2
1540/41	presentments	J/Q/340/2/3
1540/41	presentments	J/Q/340/2/4
1541?	presentment	J/Q/340/2/2
23 Sep 1541	indictments and sureties	J/Q/340/1/2
1542	presentment	J/Q/342/1/1
21 Dec 1542	presentments	J/Q/342/3
15 Mar 1543	presentments	J/Q/342/2
29 Mar 1552	presentment	J/Q/351/2
1552	presentments	J/Q/351/3
1552	presentment	J/Q/351/4
ND, 1550s ?	presentment	J/Q/352/28
ND, 1550s ?	indictment	J/Q/353/1
1554/5	presentments	J/Q/354/1
1555	presentments	J/Q/354/2
early 1557	presentments	J/Q/356/2
1557	examinations and presentments	J/Q/356/3
Mar 1557	examinations	J/Q/356/4
1557	indictment and verdict	J/Q/356/5
1557	verdicts	J/Q/356/6
1557?	presentments	J/Q/356/9
1557	indictment and verdict	J/Q/356/10
late 1557	presentments	J/Q/356/7
24 Jan 1558	examinations	J/Q/357/4
1558?	verdicts	J/Q/357/3

APPENDIX II

(a) Fordwich Views of Frankpledge

11 Dec 1460	3/11 r & v, 3/12	? Feb 1492	6A/2*
13 Oct 1461	3/14 r & v	3 Oct 1492	6A/2*
17 Dec 1461	3/15	pre 20 Jul 1493	6A/2*
1 Jun 1462	3/15v	22 Oct 1493	6A/2*
15 Dec 1462	3/17	7 Jan 1494	6A/2*
26 Oct 1463	3/18	?1490 to 1494	6A/2*
20 Dec 1463	3/20 r & v	13 Jan 1495	3/65
9 Nov 1464	3/21 r & v	13 Oct 1495	3/66, 67, 68
19 Dec 1464	3/22	25 Apr 1496	3/69 r & v
12 Dec 1465	3/23v	18 Oct 1496	3/71v, 72
11 Nov 1466	3/24	11 Apr 1497	3/74, 75
11 Dec 1466	3/24v, 25	18 Dec 1497	3/78, 79
28 Apr 1467	3/25v	28 May 1498	3/81 r & v, 82 r & v
10 Dec 1467	3/27 r & v	13 Nov 1498	3/86 r & v
9 Nov 1468	3/28 r & v	29 Jan 1499	3/87, 88
21 Dec 1468	3/30 r & v	25 Sep 1499	3/90-91
23 Nov 1469	3/32 r & v	18 Feb 1500	3/94 r & v
22 Nov 1470	3/33 r & v, 3/13	5 Nov 1500	3/96v, 98
21 Feb 1471	3/13A r & v	2 Jun 1501	3/101, 102
17 Mar 1472	3/34 r & v	28 Oct 1501	3/102v, 103
10 Nov 1472	3/35 r & v	25 Oct 1502	3/105v-110
2 Dec 1473	3/36 r & v	13 Jun 1503	3/115 v, 116
31 May 1474	3/37	10 Oct 1503	3/118, 119
25 Jan 1475	3/37v	3 May 1504	3/122, 123
9 Jan 1476	3/38 r & v	21 Nov 1504	3/127 r & v
3 Jun 1476	3/39	23 Apr 1505	3/129 r & v
11 Feb 1477	3/40v	18 Oct 1505	3/130 r & v
19 Dec 1477	3/41 r & v	14 May 1506	3/131 r & v
9 Jun 1478	3/42 r & v	24 Nov 1506	3/134 r & v, 135
17 Dec 1478	3/43	c.20 Apr 1507	3/137 r & v
16 Jun 1479	3/44 r & v	26 Oct 1507	3/139 r & v, 140
16 Dec 1479	3/46 r & v	18 Jul 1508	3/142, 143 r & v
8 Jun 1480	3/47 r & v	23 Oct 1508	3/144v, 145 r & v
15 Jan 1481	3/48 r & v	15 Nov 1509	3/147 r & v, 148
17 Jul 1481	3/50 r & v	20 Nov ? 1509	3/149 r & v
15 Jan 1482	3/52 r & v	7 Mar 1510	3/160, 161
31 May 1482	3/54 r & v	17 Oct 1510	3/162v, 163 r & v
14 Jan (1483?)	2/31	20 Mar 1511	3/164 r & v, 165 r & v
10 Jun 1483	3/57 r & v	23 Oct 1511	3/166 r & v, 167
11 Jan 1485	3/60 r & v	3 Jun 1512	3/169
31 May 1485	3/61 r & v	11 Nov 1512	3/170 r & v, 171v
17 Jan 1486	6A/1/1 r & v	1513 ?	3/173 r & v
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7 Oct 1488	6A/1/11v	25 Apr 1515	3/182-184
3 Nov 1488?	6A/1/15	16 Oct 1515	3/188, 189
13 Jan 1489	6A/1/13	26 Apr 1516	3/186 r & v
25 Jan 1491	6A/2*	11 Nov 1516	3/187 r & v
3 Oct 1491	6A/2*	19 May 1517	3/190

28 Sep 1517 3/191v, 192
 21 Apr 1518 3/194
 21 Oct 1518 3/196 r & v
 26 May 1519 3/200
 28 Oct 1519 3/202
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 16 Oct 1520 3/204v
 23 Apr 1521 3/205v, 206
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 16 Oct 1522 3/210, 211
 21 Apr 1523 3/211ii
 6 Oct 1523 3/214
 28 Apr 1524 3/216v, 216ii
 c. 20 Oct 1524 3/217
 16 May 1525 3/218 r & v
 early Nov 1526 4/116
 21 May 1527 3/220 r & v
 21 Oct 1527 3/221
 16 Jun 1528 3/222
 24 Oct 1528 3/223
 22 Apr 1529 3/224ii
 28 Nov 1529 3/225
 2 May 1530 3/227
 24 Oct 1530 3/228
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 23 Oct 1532 3/230, 233
 3 May 1533 3/235 r & v, 236
 9 Oct 1533 3/237 r & v, 238
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 25 Apr 1536 3/239
 19 Oct 1536 3/240 r & v
 25 Apr 1537 3/241
 6 Jun 1541 3/246 r & v
 18 Oct 1541 6A/1 (e)
 1 May 1542 3/247 r & v
 18 Oct 1542 3/256 r & v
 30 May 1543 3/251 r & v
 8 Nov 1543 3/253
 15 May 1544 3/253v, 254v
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 6 Nov ? 1546 3/258 r & v
 23 Apr 1548 6A/1(f) r & v
 16 May 1549 3/263 r & v, 264 r & v
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 23 Apr 1550 3/262, 261
 28 Oct 1550 3/260 r & v
 16 Apr 1551 3/259
 6 Oct 1551 20/1/4
 28 Apr 1552 20/1/5v (no presentments)
 18 Oct 1552 20/1/7 (no presentments)
 19 Apr 1553 20/1/8v, 9

11 Oct 1553 20/1/10v, 11
 17 Apr 1554 20/1/11v, 12 r & v
 3 Oct 1554 20/1/13v, 14
 3 May 1555 20/1/16 r & v
 17 Oct 1555 20/1/17v, 18 r & v
 16 Apr 1556 20/1/22 r & v, 23
 20 Oct 1556 20/1/25 - 27
 26 Apr 1557 20/1/31-34
 1 Oct 1557 20/1/38v, 39 r & v
 25 Apr 1558 20/1/42-44
 18 Oct 1558 20/1/47v, 49
 20 Apr 1559 20/1/50 r & v, 51
 19 Oct 1559 20/1/53v-55
 3 Oct 1560 20/1/56v, 57 r & v
 24 Sep 1562 20/1/61v, 62
 23 Apr 1563 20/1/63 r & v, 64
 12 Oct 1563 20/1/65v, 67

* photocopies

(b) Fordwich courts (civil pleas)

Courts for:

1460 (1), 1461 (2), 1462 (3), 1463 (3),
 1464 (2), 1465 (1), 1466 (2), 1467 (3),
 1468 (2), 1469 (3), 1470 (1), 1471 (1),
 1472 (2), 1475 (1), 1476 (2), 1477 (2),
 1478 (2), 1479 (4), 1480 (4), 1481 (3),
 1482 (4), 1483 (7), 1485 (3), 1486 (9),
 1487 (1), 1488 (5), 1489 (3), 1491 (2),
 1492 (2), 1493 (2), 1494 (3), 1495 (1),
 1496 (4), 1497 (5), 1498 (9), 1499 (5),
 1500 (4), 1501 (3), 1502 (2), 1503 (6),
 1504 (5), 1505 (3), 1506 (4), 1507 (5),
 1508 (5), 1509 (5), 1510 (4), 1511 (4),
 1512 (6), 1513 (7), 1514 (5), 1515 (3),
 1516 (4), 1517 (4), 1518 (2), 1519 (6),
 1520 (3), 1521 (3), 1522 (1), 1523 (5),
 1524 (4), 1525 (1), 1526 (2), 1527 (1),
 1528 (2), 1529 (3), 1530 (3), 1531 (1),
 1532 (3), 1534 (1), 1536 (1), 1541 (6),
 1542 (5), 1543 (5), 1544 (3), 1545 (3),
 1546 (2), 1547 (1), 1548 (2), 1549 (2),
 1550 (6), 1551 (2), 1552 (2), 1553 (7),
 1554 (2), 1555 (5), 1556 (9), 1557 (13),
 1558 (9), 1559 (8), 1560 (5).

APPENDIX III

Fordwich wills

Thomas Joseph	1469	PRC 17/2/4*
John Eymmer	1470	PRC 17/1/335*
Thomas Bridge	1473 (proved 1476)	PRC 17/3/52*
Hugh Egirle	1474	PRC 17/2/271*
Alice Joseph	1476	PRC 17/3/128*
Thomas Cosyn	1479	PRC 17/3/226*
John Fantyng	1480	U4/3/51
John Crafte	1481	PRC 17/3/348*
Thomas Southland	1482	PRC 17/3/408*
Cecily Renwell	1484	PRC 17/3/527*
John Renwell	1484	U4/4/68
Richard Furneis	1493	PRC 17/5/ 375*
John Halden	1493	U4/3/6A/2**
Alice Southland	1493	U4/3/63
John Brenchley	1495	PRC 17/6/48*
John Bayle	1496	PRC 17/6/202*
Richard Alyn	1499 ?	U4/3/103
Christopher Beverley	1500	U4/3/104
Thomas Drey	1500	U4/3/108
Thomas Dorant	1500	U4/3/98
William Beverley	1501	U4/3/109
William Maycott	1501	PRC 32/7/9*
John Auncell	1503 ?	U4/3/123v
John Dorant	1503	U4/3/119
William Aylwyn	1507	PRC 17/9/255*
Christina Kenet	1509	PRC 17/11/288*
William Cobday	1511	PRC 17/12/303 *
Robert Hild	1522	PRC 17/16/10*
John a Lee	1530	PRC 17/19/44*
Walter Whelar	1546	PRC 17/26/17*
Elizabeth Roberd	1549	PRC 17/26/282*
Robert Durrant	1553	PRC 17/29/41*
John Erle	1553	PRC 17/29/310*
Agnes May	1555	PRC 17/30/52*
Joan Durrant	1556	PRC 17/30/267*
Christian Norton	1555	PRC 17/30/239*
William Sandy	1559	U4/4/104
Thomas Byker	1502	PRC 17/13/377*
(Preston-next-Faversham, heir to Southland estate).		

* microfilm

** photocopy

BIBLIOGRAPHY

MANUSCRIPT SOURCES

Canterbury Cathedral Archives

Canterbury

'Quarter Sessions' records, CC/J/Q/264-360. Details in Appendix I.

Chamberlains' accounts, CC/FA/2 (1460-1505), FA/5 (1465-1480), FA/7 (1483-1497), FA/9 (1506-1510), FA/10 (1512-1519), FA/11 (1520-1528), FA/12 (1528-1538), FA/13 (1538-1545), FA/14 (1546-1552), FA/15 (1553-1555), FA/16 (1557-1560).

Burghmote Books, CC/AC/1 (1419-1535), AC/2 (1542-1578).

Fordwich

'Mayor's Court', boxes U4/2, U4/3, U4/5, U4/6A/1, U4/6A/2, U4/8, U4/20/1. Details in Appendix II.

Wills of Fordwich residents, PRC.17 (microfilm). Details in Appendix III.

Ecclesiastical Courts

Canterbury Archdeaconry Court Act Books, DCb/J/Y.4.5 (1547-1548), Y.4.8 (1541-1545), Y.4.9 (1550-1553), Y.4.10 (1556-1559), Y.2.23 (1558-1560).

Canterbury Consistory Court Act Book, Hythe, Romney and Dover Sessions, DCb/J/X.8.3 (1462-1468).

Brian Woodcock's notes on the church court records.

Manorial Courts

Cliffe Court Rolls, U15/13/41 (1461), U15/13/42 (1464), U15/13/43 (1464-1465), U15/13/44 (1479-1480), U15/13/45 (May 1481), U15/13/46 (Oct 1481-1482), U15/13/47 (1482-1483).

Hollingbourne Court Rolls, U15/17/36 (1461-1472), U15/17/37 (1462), U15/17/38 (1473-1477), U15/17/39 (1476-1477), U15/17/40 (1478-1484).

Kent Estates Court Books, U15/34/6 (1533-1537), U15/34/7 (1539-1540), U15/34/8 (1543-1544), U15/34/9 (1547-1554), U15/34/11 (1552-1555).

Centre for Kentish Studies, Maidstone

Queenborough

Court Books, Qb/JMs/1 (1496-1511), JMs/2 (1542-1576).

Ecclesiastical Courts

Canterbury Archdeaconry Court Office Act Books, PRC.3.1 (1487-1504), PRC.3.2 (1504-1511), PRC.3.4 (1511-1521), PRC.3.6 (1523-1531), PRC.3.8 (1531-1539), PRC.3.9 (1541-1545), PRC.3.10 (1537-1547), PRC.3.11 (1545-1550), PRC.3.12 (1550-1551), PRC.3.13 (1552-1554), PRC.3.14 (1555-1556), PRC.3.15 (1558-1560).

East Kent Archives, Whitfield

New Romney

View of frankpledge, NR/JQp1/1 (1496), JQp/1/2 (1499), JQp/1/3 (1552), JQp/1/6 (1552), JBf/5 (1553?), JQp/1/5 (1553/4?).

Assessment Books, NR/FAc/3 (c.1450-1526), FAc/4 (1469-1492), FAc/5 (1492-1515), FAc/7 (1528-1560).

Sandwich

Year Books, Sa/AC/1 (1431-1487), AC/2 (1488-1527), AC/3 (1527-1551), AC/4 (1551-1568).

Treasurers' Accounts, Sa/FAt/5 (1465-66), FAt/6 (1468-69), FAt/8 (1482-83), FAt/9 (1489-90),

FAt/11 (1496-97), FAt/12 (1497-98), FAt/13 (1498-99), FAt/14 (1502-03), FAt/17 (1507-08), FAt/17a (1508-09), FAt/20 (1512-13), FAt/22 (1516-17), FAt/23 (1517-18), FAt/24 (1518-19), FAt/25 (1519-20), FAt/27 (1521-22), FAt/28 (1527-28), FAt/29 (1531-32), FAt/30 (1533-34), FAt/33 (1537-38), FAt/34 (1538-39).

William Boys's notes on the Year Books (late 18th century), Sa/ZT/1.

Lambeth Palace Library

Manorial Courts

Maidstone Court Rolls (some include other manors), ED638 (1464-1465), ED639 (1470-1472), ED640 (1480-1481), ED641 (1481-1482), ED642 (1482-1483), ED643 (1483-1484), ED644 (1487-1488), ED645 (1496-1498), ED646 (1499-1500), ED647 (1501-1502), ED648 (1504-1505), ED649 and 650 (1505-1506), ED651 (1506-1507), ED652 (1508-1509), ED653 (1511-1512), ED654 (1513-1514), ED655 (1521-1522).

PRINTED PRIMARY SOURCES

Bateson, Mary, (ed.), *Borough Customs*, vol. I. (Selden Society, XVIII 1904).

Boys, William, (ed.), *Collections for an History of Sandwich in Kent* (Canterbury, 1792).

Calendar of Assize Records: Kent Indictments, Elizabeth I, ed. J. S. Cockburn (1979).

Calendar of Patent Rolls, Henry VII: 1485-1494 (1914).

Calendar of Patent Rolls, Henry VII: 1494-1509 (1916).

Chaucer, Geoffrey, *Complete Works*, ed. W. W. Skeat 1954).

Church Life in Kent, 1559-1565, being Church Court Records of the Canterbury Diocese, ed. A. J. Willis (1975).

Elvey, E. M., (ed.), *The Courts of the Archdeaconry of Buckingham, 1483-1523*, *Buckingham Record Society*, XIX (Aylesbury, 1975).

Goldberg, P. J. P. (ed.), *Women in England, c. 1275-1525* (Manchester, 1995).

Harris, M. D., (ed.), *The Coventry Leet Book: or Mayor's Register Containing the Records of the City View of Frankpledge, 1420-1555* (Early English Text Society, 1907-13).

Hearnshaw, F. J. C. and D. M., (eds.), *Southampton Court Leet Records* (Southampton, 1905-8).

Hull, Felix, 'Memoranda from the Queenborough Statute Book', in F. Hull (ed.), *A Kentish Miscellany* (1979), 79-101.

Knafla, L., (ed.), *Kent at Law, 1602. The County Jurisdiction: Assizes and Sessions of the Peace* (1994).

Lambarde, William, *A Perambulation of Kent, Containing the Description, Hystorie and Customes of that Shyre* (1576).

Letters and Papers, Foreign and Domestic, of the Reign of Henry VIII, ed. J. S. Brewer, vols. I (1862) and II (1864).

Putnam, Bertha, H. (ed.), *Early Treatises on the Practice of the Justices of the Peace in the Fifteenth and Sixteenth Centuries* (Oxford, 1924).

——— *Proceedings Before the Justices of the Peace in the Fourteenth and Fifteenth Centuries, Edward III to Richard III* (Ballantyne, 1938).

Wood-Legh, K. L., (ed.), *Kentish Visitations of Archbishop William Warham and his Deputies, 1511-12* (Gloucester, 1984).

Woodruff, C. E., 'An Archidiaconal Visitation of 1502', *Archaeologia Cantiana*, XLVII (1935), 13-54.

——— 'Fordwich Municipal Records', *Archaeologia Cantiana*, XVIII (1889), 78-102.

Wright, T. (ed.), *The Book of the Knight of La Tour-Landry* (Early English Text Society, 1868).

SECONDARY SOURCES

Amussen, Susan D., 'Gender, Family and the Social Order', in Fletcher and Stevenson, *Order and Disorder*, 196-217.

——— *An Ordered Society: Gender and Class in Early Modern England* (Oxford, 1988).

——— '“Being Stirred to Much Unquietness”: Violence and Domestic Violence in Early Modern England', *Journal of Women's History*, VI (1994), 70-89.

Anderson, M., *British Population History: from the Black Death to the Present Day* (Cambridge, 1996).

Andrewes, E. Jane, 'Land, Family and Community in Wingham and its Environs: an Economic and Social History of Rural Society in East Kent, from c. 1450-1640', Ph.D. thesis, University of Kent (1991).

——— 'Industries in Kent, c. 1500-1640', in Zell, *Early Modern Kent*, 105-139.

Bailey, M., 'Rural Society', in R. Horrox (ed.), *Fifteenth Century Attitudes: Perceptions of Society in Late Medieval England* (Cambridge, 1994), 150-168.

Baker, J.H., 'Criminal Courts and Procedure at Common Law 1550-1800', in Cockburn, *Crime in England*, 15-48.

——— 'Male and Married Spinsters', *American Journal of Legal History*, XXI (1977), 255-259.

——— (ed.), *Legal Records and the Historian* (1978).

——— *An Introduction to English Legal History*, 3rd edn. (1990).

Bardsley, Sandy, 'Women's Work Reconsidered: Gender and Wage Differentiation in Late Medieval England', *Past and Present*, CLXV (1999), 3-29.

Barron, Caroline, 'The "Golden Age" of Women in Medieval London', *Reading Medieval Studies*, XV (1989), 35-58.

- and Sutton, Anne, (eds.), *Medieval London Widows, 1300-1500* (1994).
- Barry, J. and Brooks, C., (eds.), *The Middling Sort of People: Culture, Society and Politics in England, 1550-1800* (Basingstoke, 1994).
- Bashar, Nazife, 'Rape in England between 1550 and 1700', in London Feminist History Group, *The Sexual Dynamics of History* (London 1983), 28-42.
- Beattie, J. M., 'The Pattern of Crime in England, 1660-1800', *Past and Present*, LXII (1974), 47-95.
- 'The Criminality of Women in Eighteenth-century England', *Journal of Social History*, VIII (1974-5), 80-116.
- 'Crime and the Courts in Surrey, 1736-1753', in Cockburn, *Crime in England*, 155-186.
- *Crime and the Courts in England, 1660-1800* (Oxford, 1986).
- Bellamy, John G., *Law and Public Order in England in the Later Middle Ages* (1973).
- *Criminal Law and Society in Late Medieval and Tudor England* (Gloucester, 1984).
- Ben-Amos, Ilana K., *Adolescence and Youth in Early Modern England* (1994).
- Bennett, Judith M., 'The Village Alewife: Women and Brewing in Fourteenth-century England', in Hanawalt, *Women and Work in Pre-industrial Europe*, 20-36.
- *Women in the Medieval English Countryside: Gender and Household in Brigstock Before the Plague* (Oxford, 1987).
- '“History that Stands Still”: Women's Work in the European Past', *Feminist Studies*, XIV (1988), 269-283.
- , Clark, Elizabeth A. and Westphal-Wihl, Sarah, 'Working Together in the Middle Ages: Perspectives on Women's Communities', *Signs*, XIV (1989), 255-260.
- 'Misogyny, Popular Culture and Women's Work', *History Workshop Journal*, XXXI (1991), 166-188.
- 'Medieval Women: Modern Women: Across the Great Divide', in D. Aers, (ed.), *Culture and History, 1350-1500: Essays on English Communities, Identities and Writing* (1992), 147-175.
- Review of P. J. P. Goldberg, *Women, Work and Lifecycle in a Medieval Economy*, *Albion*, XXV (1993), 676-678.
- 'Confronting Continuity', *Journal of Women's History*, IX (1997), 73-94.
- Berriot-Salvadore, Evelyn, 'The Discourse of Medicine and Science', in Davis and Farge, *A History of Women in the West*, 348-388.
- Biller, P. P. A., 'Marriage Patterns and Women's Lives: a Sketch of Pastoral Geography', in Goldberg, *Woman is a Worthy Wight*, 60-107.
- Bonfield, L., Smith, R. and Wrightson, K. (eds.), *The World we have Gained: Histories of Population*

and Social Structure (Oxford, 1986).

- Boose, Linda E., 'Scolding Brides and Bridling Scolds: Taming the Woman's Unruly Member', *Shakespeare Quarterly*, XLII (1991), 179-213.
- Bower, Jacqueline, 'Kent Towns, 1540-1640', in Zell, *Early Modern Kent*, 141-176.
- Briggs, J., Harrison, C., McInnes, A. and Vincent, D., *Crime and Punishment in England: an Introductory History* (1996).
- Britnell, R. H., *The Closing of the Middle Ages? England, 1471-1529* (Oxford, 1997).
- Brodsky, Vivien, 'Widows in Late Elizabethan London: Remarriage, Economic Opportunity, and Family Orientations', in Bonfield, Smith and Wrightson, *The World we have Gained*, 122-154.
- Brundage, James A., 'Prostitution in the Medieval Canon Law', *Signs*, I (1976), 825-850.
- 'Widows as Disadvantaged Persons in Medieval Canon Law', in Mirrer, 'Upon my Husband's Death', 193-206.
- 'The Merry Widow's Serious Sister: Remarriage in Classical Canon Law', in Edwards and Ziegler, *Matrons and Marginal Women*, 33-48
- 'Playing by the Rules: Sexual Behaviour and Legal Norms in Medieval Europe', in Murray and Eisenbichler, *Desire and Discipline*, 23-46.
- 'Sex and Canon Law', in Bullough and Brundage, *Handbook of Medieval Sexuality*, 33-50.
- 'Domestic Violence in Classical Canon Law', in Kaeuper, *Violence in Medieval Society*, 183-195.
- Bullough, V. L. and Brundage, J. A. (eds.), *Handbook of Medieval Sexuality* (New York, 1996).
- Butcher, A. F., 'The Origins of Romney Freeman, 1433-1523', *Economic History Review*, 2nd series, XXVII (1974), 16-27.
- 'Rent and the Urban Economy: Oxford and Canterbury in the Later Middle Ages', *Southern History*, I (1979), 11-43.
- Campbell, Ruth, 'Sentence of Death by Burning for Women', *Journal of Legal History*, V (1984), 44-59.
- Capp, Bernard, 'The Double Standard Revisited: Plebeian Women and Male Sexual Reputation in Early Modern England', *Past and Present*, CLXII (1999), 70-100.
- Carpenter, Christine, 'Law, Justice and Landowners in Late Medieval England', *Law and History Review*, I (1983), 205-237.
- Carr, David R. 'From Pollution to Prostitution: Supervising the Citizens of Fifteenth-century Salisbury', *Southern History*, XIX (1997), 24-41.
- Carrington, F. A., 'On Certain Ancient Wiltshire Customs: the Cucking Stool at Wootton Bassett', *Wiltshire Archaeological Magazine*, I (1854), 68-79.

- Carter, J. M., *Rape in Medieval England: an Historical and Sociological Study* (1985).
- Cartwright, F., *Diseases and History* (1972).
- Castan, Nicole, 'Criminals', in Davis and Farge, *A History of Women in the West*, 475-488.
- Charles, Lindsey and Duffin, Lorna, (eds.), *Women and Work in Pre-Industrial England* (1985).
- Chartres, J. and Hey, D., (eds.), *English Rural Society, 1500-1800: Essays in Honour of Joan Thirsk* (Cambridge, 1990).
- Chaytor, M., 'Husband(ry): Narratives of Rape in the Seventeenth Century', *Gender and History*, VII (1995), 378-407.
- Clark, Peter, *English Provincial Society from the Reformation to the Revolution: Religion, Politics and Society in Kent 1500-1640* (Hassocks, 1977).
- and Clark, Jennifer, 'The Social Economy of the Canterbury Suburbs: the Evidence of the Census of 1563', in A. Detsicas and N. Yates, (eds.), *Studies in Modern Kentish History* (Maidstone, 1983), 65-86.
- and Slack, Paul, *Crisis and Order in English Towns 1500-1700* (1972).
- Clark, Stuart, 'Inversion, Misrule and the Meaning of Witchcraft', *Past and Present*, LXXXVII (1980), 98-127.
- Clay, C. A. G., *Economic Expansion and Social Change: England, 1500-1700*, 2 vols. (Cambridge, 1984).
- Cockburn, J.S., *A History of English Assizes, 1558-1714* (Cambridge, 1972).
- 'Early Modern Assize Records as Historical Evidence', *Journal of the Society of Archivists*, V (1975), 215-231.
- (ed.), *Crime in England 1550-1800* (1977).
- 'The Nature and Incidence of Crime in England 1559-1625: A Preliminary Survey', in Cockburn, *Crime in England*, 49-71.
- 'Trial by the Book ? Fact and Theory in the Criminal Process, 1558-1625', in Baker, *Legal Records and the Historian*, 60-79.
- and Green, T., (eds.), *Twelve Good Men and True: the Criminal Trial Jury in England, 1200-1800* (Princeton, 1988).
- 'Twelve Silly Men ? The Trial Jury at Assizes, 1560-1625', in Cockburn and Green, *Twelve Good Men and True*, 158-181.
- 'Patterns of Violence in English Society: Homicide in Kent, 1560-1985', *Past and Present*, CXXX (1991), 70-106.
- Review of Cynthia Herrup, *The Common Peace*, *Law and History Review*, I (1991), 173-180.

- Coleman, D. C. *The Economy of England 1450-1750* (Oxford, 1977).
- Collinson, Patrick, *The Birthpangs of Protestantism: Religion and Cultural Change in the Sixteenth and Seventeenth Centuries* (1988).
- 'Cranbrook and the Fletchers: Popular and Unpopular Religion in the Kentish Weald', in P. Brooks, (ed.), *Reformation Principle and Practice: Essays in Honour of Arthur Geoffrey Dickens* (1980), 171-202.
- Cornwall, J.C.K., *Wealth and Society in Early Sixteenth Century England* (1988).
- Crowley, D. A., 'Frankpledge and Leet Jurisdiction in Later Medieval Essex', Ph.D. thesis, University of Sheffield (1971).
- 'The Later History of Frankpledge', *Bulletin of the Institute of Historical Research*, XLVIII (1975), 1-15.
- Curtis, T., 'Quarter Sessions Appearances and their Background', in Cockburn, *Crime in England*, 135-154.
- 'Explaining Crime in Early Modern England', *Criminal Justice History*, II (1980), 117-37.
- Davis, Natalie Z., *Fiction in the Archives: Pardon Tales and their Tellers in Sixteenth-century France* (Oxford, 1988).
- and Farge, A., (eds.), *A History of Women in the West, III: Renaissance and Enlightenment Paradoxes* (1993).
- DeWindt, Ann R., 'Local Government in a Small Town: a Medieval Leet Jury and its Constituents', *Albion*, XXIII (1991), 627-654.
- 'The Town of Ramsey: the Question of Economic Development, 1290-1523', in DeWindt, *The Salt of Common Life*, 53-116.
- DeWindt, E. B. (ed.), *The Salt of Common Life: Individuality and Choice in the Medieval Town, Countryside and Church* (Kalamazoo, 1995)
- Dickinson, J. R. and Sharpe, J. A., 'Courts, Crime and Litigation in the Isle of Man, 1580-1700', *Historical Research*, LXXII (1999), 140-159.
- Dobson, R. B., 'Urban Decline in Late Medieval England', in R. Holt and G. Rosser (eds.), *The English Medieval Town: a Reader in English Urban History* (1990), 265-286.
- Donahue, Charles Jr., 'Female Plaintiffs in Marriage Cases in the Court of York in the Later Middle Ages: What Can We Learn from the Numbers?', in S. S. Walker, *Wife and Widow in Medieval England*, 183-213.
- Du Boulay, F., *The Lordship of Canterbury: an Essay on Medieval Society* (1966).
- Dunning, R. W., 'The Wells Consistory Court in the Fifteenth Century', *Proceedings of the Somerset Archaeological and Natural History Society*, CVI (1961/2), 46-61.
- Dupâquier, J. et al., eds., *Marriage and Remarriage in Populations of the Past* (1986).

- Dyer, Alan, *Decline and Growth in English Towns, 1400-1600* (1991).
- ‘“Urban Decline” in England, 1377-1525’, in T. R. Slater (ed.), *Towns in Decline AD 100-1600* (Aldershot, 2000), 266-288.
- Dyer, Christopher, *Lords and Peasants in a Changing Society: the Estates of the Bishopric of Worcester, 680-1540* (Cambridge, 1980).
- *Standards of Living in the Later Middle Ages: Social Change in England, c. 1200-1520* (Cambridge, 1989).
- Eales, Jacqueline, *Women in Early Modern England, 1500-1700* (1998).
- Eaton, Mary, *Justice for Women? Family, Court and Social Control* (Milton Keynes, 1986).
- Edwards, Robert E. and Ziegler, Vickie, (eds.), *Matrons and Marginal Women in Medieval Society* (Woodbridge, 1995).
- Edwards, Valerie C., ‘The Case of the Married Spinster: an Alternative Explanation’, *American Journal of Legal History*, XXI (1977), 260-265.
- ‘Criminal Equity in Restoration London and Middlesex’, *Journal of Legal History*, V (1984), 79-86.
- Elias, Norbert, *The Civilising Process: the History of Manners* (reprint, New York, 1978).
- Elton, G.R., *Policy and Police: the Enforcement of the Reformation in the Age of Thomas Cromwell* (Cambridge, 1972).
- ‘Introduction: Crime and the Historian’, in Cockburn, *Crime in England*, 1-14.
- Erickson, Amy, *Women and Property in Early Modern England* (1993).
- Ewan, Elizabeth, ‘Scottish Portias: Women in the Courts in Late Medieval Scottish Towns’, *Journal of the Canadian Historical Association*, n. s., III (1992), 27-43.
- ‘“Fensum Flytings of Defame”: Scandal in the Streets of Scottish Towns’, unpublished paper presented at the International Medieval Congress, Kalamazoo, May, 1999.
- Fenwick, G. L., *History of the Ancient City of Chester*, (Chester, 1896).
- Finch, Andrew J., ‘Women and Violence in the Later Middle Ages: the Evidence of the Officiality of Cerisy’, *Continuity and Change*, VII (1992), 23-45.
- ‘Sexual Morality and Canon Law: the Evidence of the Rochester Consistory Court’, *Journal of Medieval History*, XX (1994), 261-275.
- ‘The Nature of Violence in the Middle Ages: an Alternative Perspective’, *Historical Research*, LXX, (1997), 249-268.
- Fletcher, A., and Stevenson, J., (eds.), *Order and Disorder in Early Modern England* (Cambridge 1985).
- Fletcher, A., ‘The Protestant Idea of Marriage in Early Modern England’, in A. Fletcher and P. Roberts,

- (eds.), *Religion, Culture and Society in Early Modern Britain: Essays in Honour of Patrick Collinson* (Cambridge, 1994), 161-181.
- *Gender, Sex and Subordination in England 1500-1800* (1995).
- Fox-Genovese, Elizabeth, 'Placing Women's History in History', *New Left Review*, 1982.
- Foyster, Elizabeth, 'Male Honour, Sexual Control and Wife Beating in Late Stuart England', *Transactions of the Royal Historical Society*, 6th series, VI (1996), 215-224.
- *Manhood in Early Modern England: Honour, Sex and Marriage* (1999).
- Gardiner, Dorothy, *Canterbury*, (1923).
- *Historic Haven; the Story of Sandwich* (Derby, 1954).
- Gaskill, Malcolm, 'Witchcraft in Early Modern Kent: Stereotypes and the Background to Accusations', in J. Barry, M. Hester and G. Roberts (eds.), *Witchcraft in Early Modern Europe: Studies in Culture and Belief* (Cambridge, 1996), 257-306.
- 'Witches and Witchcraft Prosecutions, 1560-1660', in Zell, *Early Modern Kent*, 245-277.
- Gatrell, V. A. C., Lenman, B. and Parker, G., (eds.), *Crime and the Law: the Social History of Crime in Western Europe since 1500* (1980).
- Gauvard, Claude, '*De Grâce Espécial*': *Crime, Etat et Société en France à la Fin du Moyen Age*, vol. I (Paris, 1991).
- Gillespie, R., 'Women and Crime in Seventeenth Century Ireland', in M. MacCurtain and M. O'Dowd, (eds.), *Women in Early Modern Ireland* (Edinburgh, 1991), 43-52.
- Goheen, R. B., 'Peasant Politics? Village Community and the Crown in Fifteenth-century England', *American Historical Review*, XCVI (1991), 42-62..
- Goldberg, P. J. P., 'Mortality and Economic Change in the Diocese of York, 1390-1514', *Northern History* XXIV (1988), 38-55.
- *Women, Work and Lifecycle in a Medieval Economy: Women in York and Yorkshire, c. 1300-1520* (Oxford, 1992).
- (ed.), *Woman is a Worthy Wight: Women in English Society c.1200-1500* (Stroud, 1992).
- 'Women' in Horrox, *Fifteenth Century Attitudes*, 112-131.
- 'Pigs and Prostitutes: Streetwalking in Comparative Perspective', in K. J. Lewis, N. J. Menuge and K. M. Phillips (eds.), *Young Medieval Women* (Stroud, 1999), 172-193.
- Goodman, N., *A Medical History of Sandwich*, (revised edn., Sandwich, 1980).
- Gottfried, R. S., *Epidemic Disease in Fifteenth Century England* (Leicester, 1978).
- *Bury St. Edmunds and the Urban Crisis, 1290-1539* (Princeton, 1982).
- Gowing, Laura, 'Language, Power and the Law: Women's Slander Litigation in Early Modern London,

- in Kermode and Walker, *Women, Crime and the Courts*, 26-47.
- *Domestic Dangers: Women, Words and Sex in Early Modern London* (Oxford, 1996).
- 'Secret Births and Infanticide in Seventeenth Century England', *Past and Present*, CLVI (1997), 87-115.
- Graham, Helena, 'A Woman's Work: Labour and Gender in the Late Medieval Countryside', in Goldberg, *Woman is a Worthy Wight*, 126-148.
- Gregory, Annabel, 'Witchcraft, Politics and "Good neighbourhood" in Early Seventeenth-century Rye', *Past and Present*, CXXXIII (1991), 31-66.
- Guth, DeLloyd, 'Enforcing Late Medieval Law: Patterns in Litigation during Henry VII's Reign', in Baker, *Legal Records and the Historian*, 80-96.
- Guy, J. A. and Beale, H. G., (eds.), *Law and Social Change in British History* (1984).
- Guy, J. A., *Tudor England* (Oxford, 1988).
- Hair, P., 'Homicide, Infanticide and Child Assault in Late Tudor Middlesex', *Local Population Studies*, IX (1972), 43-46.
- Hanawalt, Barbara, 'The Female Felon in Fourteenth Century England', *Viator*, V (1974), 253-268.
- 'Community Conflict and Social Control: Crime and Justice in the Ramsey Abbey Villages', *Medieval Studies*, XXXIX (1977), 402-23.
- *Crime and Conflict in English Communities, 1300-1348* (1979).
- (ed.), *Women and Work in Pre-Industrial Europe* (Bloomington, 1986).
- 'Golden Ages for the History of Medieval English Women', in S. M. Stuard, (ed.), *Women in Medieval History and Historiography* (Philadelphia, 1987), 1-24.
- 'The Widow's Mite: Provisions for Medieval London Widows', in L. Mirrer, 'Upon my Husband's Death', 21-45.
- 'Remarriage as an Option for Urban and Rural Widows in Late Medieval England', in S. S. Walker, *Wife and Widow in Medieval England*, 141-164.
- 'At the Margin of Women's Space in Medieval Europe', in Edwards and Ziegler, *Matrons and Marginal Women*, 1-17.
- and D. Wallace (eds.), *Bodies and Disciplines: Intersections of Literature and History in Fifteenth-century England* (1996).
- '“Good Governance” in the Medieval and Early Modern Context', *Journal of British Studies*, XXXVII (1998), 246-257.
- *'Of Good and Ill Repute': Gender and Social Control in Medieval England* (Oxford, 1998).
- 'Violence in the Domestic Milieu of Late Medieval England', in Kaeuper, *Violence in Medieval Society*, 197-214.

- Harrison, C. J., 'Grain Price Analysis and Harvest Qualities, 1465-1634', in *Agricultural History Review*, XIX (1971), 135-155.
- Harrison, Christopher, 'Manor Courts and the Governance of Tudor England', in C. Brooks and M. Lobban (eds.), *Communities and Courts in Britain* (Hambledon, 1997), 43-59.
- Hatcher, John, *Plague, Population and the English Economy 1348-1530* (1977).
- 'Mortality in the Fifteenth Century: some New Evidence', *Economic History Review*, 2nd series, XXXIX (1986), 19-39.
- Hay, D., Linebaugh, P., Rule, J. G., Thompson, E. P. T. and Winslow, C., *Albion's Fatal Tree: Crime and Society in Eighteenth Century England* (1975).
- 'War, Dearth and Theft in the Eighteenth Century: the Record of the English Courts', *Past and Present*, XCV (1982), 117-160.
- Hearnshaw, F. J. C., *Leet Jurisdiction in England* (Southampton, 1908).
- Helmholz, R.H., 'Infanticide in the Province of Canterbury during the Fifteenth Century', *History of Childhood Quarterly*, II (1974-5), 379-390.
- 'Crime, Compurgation and the Courts of the Medieval Church', *Law and History Review*, I (1983), 1-26.
- *Canon Law and the Law of England* (1987).
- 'Harboring Sexual Offenders: Ecclesiastical Courts and Controlling Misbehavior', *Journal of British Studies*, XXXVII (1998), 258-268.
- Herrup, Cynthia B., *The Common Peace: Participation and the Criminal Law in Seventeenth-century England* (Cambridge, 1987).
- Hilton, Rodney, *Class Conflict and the Crisis of Feudalism: Essays in Medieval Social History* (1990).
- Hoffer, Peter C., 'Counting Crime in Pre-modern England and America', *Historical Methods*, XIV (1981), 187-193.
- Hogan, M. Patricia, 'Medieval Villainy: a Study in the Meaning and Control of Crime in an English Village', *Studies in Medieval and Renaissance History*, n. s. II (1979), 123-215.
- 'The Slight to Honor: Slander and Wrongful Prosecution in five English Medieval Villages', *Studies in Medieval and Renaissance History*, n. s. XII (1991), 3-42.
- Horrox, Rosemary, (ed.), 'The Urban Gentry in the Fifteenth Century', in Thomson, *Towns and Townspeople*, 22-44.
- *Fifteenth Century Attitudes: Perceptions of Society in Late Medieval England* (Cambridge, 1994).
- Houlbrooke, Ralph, *Church Courts and the People during the English Reformation, 1520-1570* (Oxford, 1979).

- ‘Women’s Social Life and Common Action in England from the Fifteenth Century to the Eve of the Civil War’, *Continuity and Change*, I-II (1986), 171-189.
- Hufton, Olwen, ‘Women, Work and Family’, in Davis and Farge, *A History of Women in the West*, 17-44.
- Hyde, Patricia and Zell, Michael, ‘Governing the County’, in Zell, *Early Modern Kent*, 7-38.
- Ingram, M. ‘Communities and Courts: Law and Disorder in Early Seventeenth-century Wiltshire’, in Cockburn, *Crime in England*, 110-134.
- ‘Ridings, Rough Music and the “Reform of Popular Culture” in Early Modern England’, *Past and Present*, CV (1984), 79-113.
- *Church Courts, Sex and Marriage in England 1570-1640* (Cambridge 1987).
- ‘“Scolding Women Cucked or Washed”: a Crisis in Gender Relations in Early Modern England?’ in Kermode and Walker, *Women, Crime and the Courts*, 48-80.
- ‘Reformation of Manners in Early Modern England’, in A. Fox and S. Hindle, (eds.), *The Experience of Authority in Early Modern England* (1996), 47-88.
- Jack, Sybil, *Towns in Tudor and Stuart Britain* (Basingstoke, 1996).
- Jewell, Helen M., ‘Women at the Courts of the Manor of Wakefield’, *Northern History*, XXVI (1990), 59-81.
- *Women in Medieval England* (Manchester, 1996).
- Johansson, W. and Percy, W. A., ‘Homosexuality’, in Bullough and Brundage, *Handbook of Medieval Sexuality*, 155-189.
- Jones, Karen and Zell, Michael, ‘Bad Conversation? Gender and Social Control in a Kentish Borough, c. 1450-c. 1570’, *Continuity and Change*, XIII (1998), 11-31.
- Judge, Sheila, *The Isle of Sheppey* (Rochester, 1983).
- Kaeuper, Richard W. (ed.), *Violence in Medieval Society* (Woodbridge, 2000).
- Karras, Ruth M., ‘Regulation of Brothels in Later Medieval England’, *Signs*, XIV (1989), 399-433.
- ‘The Latin Vocabulary of Illicit Sex in English Ecclesiastical Court Records’, *The Journal of Medieval Latin*, II (1992), 1-17.
- *Common Women: Prostitution and Sexuality in Medieval England* (Oxford, 1996).
- ‘Two Models, Two Standards: Moral Teaching and Sexual Mores’, in Hanawalt and Wallace *Bodies and Disciplines*, 123-138.
- Kellum, Barbara A., ‘Infanticide in England in the Later Middle Ages’, *History of Childhood Quarterly*, I (1973), 367-388.
- Kelly, Joan, *Women, History and Theory: the Essays of Joan Kelly* (1984).

- Ker, Margaret, 'Brides of Christ and Poor Mortals: Women in Medieval Society', in Patricia Crawford, (ed.), *Exploring Women's Past: Essays in Social History* (Sydney, 1984), 7-47.
- Kermode, Jenny, and Walker, Garthine, (eds.), *Women, Crime and the Courts in Early Modern England* (1994).
- Kettle, Ann J., '“My Wife shall have it”: Marriage and Property in Wills of later Medieval England', in E. M. Craik (ed.), *Marriage and Property* (Aberdeen, 1984), 89-103.
- 'Ruined Maids: Prostitutes and Servant Girls in Later Medieval England', in Edwards and Ziegler, *Matrons and Marginal Women*, 19-31.
- Kilday, Anne-Marie, 'Violent Women in South-west Scotland, 1750-1815', unpublished paper, presented at the Women's History Network conference, University of Strathclyde, 1998.
- King, P. J. R., 'Decision-makers and Decision-making in the English Criminal Law, *Historical Journal*, XXVII (1984), 25-58.
- '“Illiterate Plebeians, Easily Misled”: Jury Composition, Experience and Behaviour in Essex, 1735-1815', in Cockburn and Green, *Twelve Good Men and True*, 254-304.
- 'Punishing Assault: the Transformation of Attitudes in the English Courts', *Journal of Interdisciplinary History*, XXVII (1996), 43-74.
- 'Gender, Crime and Justice in Late Eighteenth- and Early Nineteenth-century England', in M. L. Arnot and C. Usborne (eds.), *Gender and Crime in Modern Europe* (1999), 44-74.
- King, W.J., 'Untapped Resources for Social Historians: Court Leet Records', *Journal of Social History* XV (1981-2), 699-705.
- Knafla, L., '“Sin of All Sorts Swarmeth”: Criminal Litigation in an English County in the Early Seventeenth Century', in E. W. Ives and A. H. Manchester, (eds.), *Law, Litigants and the Legal Profession* (1983), 50-67.
- Kowaleski, Maryanne, 'Women's Work in a Market Town: Exeter in the Late Fourteenth Century', in Hanawalt, *Women and Work in Preindustrial Europe*, 145-164.
- 'Singlewomen in Medieval and Early Modern Europe: the Demographic Perspective', in J. M. Bennett and A. M. Froide (eds.), *Singlewomen in the European Past, 1250-1800* (Philadelphia, 1999), 38-81.
- 'A Prosopography of Scolds in a Medieval English Town', unpublished paper presented at the International Congress on Medieval Studies, Kalamazoo, May 1999.
- Langbein, J. H., *Prosecuting Crime in the Renaissance* (Cambridge, Mass., 1974).
- Langer, W. L., 'Infanticide: a Historical Survey', *History of Childhood Quarterly*, I (1973), 353-388.
- Lansing, Carol, 'Gender and Civic Authority: Sexual Control in a Medieval Italian Town', *Journal of Social History*, XXXI (1997), 33-59.
- Laughton, Jane, 'Women in Court: Some Evidence from Fifteenth-century Chester', in N. Rogers (ed.), *England in the Fifteenth Century: Proceedings of the 1992 Harlaxton Symposium* (Stamford,

1994), 89-99.

Laurence, Anne, *Women in England 1500-1760: a Social History* (1994).

Lawson, Peter, 'Property Crime and Hard Times in England, 1559-1625', *Law and History Review*, IV (1986), 95-127.

----- 'Lawless Juries? The Composition and Behaviour of Hertfordshire Juries, 1573-1624' in Cockburn & Green, *Twelve Good Men and True*, 117-157.

Lemire, Beverley, 'The Theft of Clothes and Popular Consumerism in Early Modern England', *Journal of Social History*, XXIV (1990-91), 255-206.

Lenman, B. and Parker, G., 'The State, the Community and the Criminal Law in Early Modern Europe', in Gatrell, Lenman and Parker, *Crime and the Law*, 11-48.

Lerer, Seth, '“Represented Now in Yower Syght”; the Culture of Spectatorship in Late Fifteenth-century England', in Hanawalt and Wallace, *Bodies and Disciplines*, 29-62.

Lerner, Gerda, 'Placing Women in History: Definitions and Challenges', *Feminist Studies*, III (1975), 5-14.

----- *The Creation of Patriarchy* (Oxford 1986).

----- *Why History Matters: Life and Thought* (Oxford, 1997).

Loengard, Janet S., 'Legal History and the Medieval Englishwoman: a Fragmented View', *Law and History Review*, IV (1986), 161-178.

Macfarlane, Alan, *Witchcraft in Tudor and Stuart England: a Regional and Comparative Study* (1970).

----- 'Witchcraft in Tudor and Stuart Essex', in Cockburn, *Crime in England*, 72-89.

----- *The Origins of English Individualism* (Oxford, 1979).

----- *The Justice and the Mare's Ale: Law and Disorder in Seventeenth Century England* (Oxford, 1981).

McIntosh, M. K., 'Social Change and Tudor Manorial Leets', in Guy and Beale, *Law and Social Change*, 73-85.

----- 'Local Change and Community Control in England, 1465-1500', *Huntington Library Quarterly*, XLIX (1986), 219-242.

----- *Autonomy and Community: the Royal Manor of Havering, 1200-1500* (Cambridge, 1987).

----- 'Local Responses to the Poor in Late Medieval and Tudor England', *Continuity and Change*, III (1988), 209-245.

----- *A Community Transformed: the Manor and Liberty of Havering, 1500-1620* (Cambridge, 1991).

----- 'Finding Language for Misconduct: Jurors in Fifteenth-century Local Courts', in Hanawalt and Wallace, *Bodies and Disciplines*, 87-122.

- *Controlling Misbehavior in England, 1370-1600* (Cambridge, 1998).
- Mackay, Lynn, 'Why They Stole: Women in the Old Bailey, 1779-1789', *Journal of Social History*, XXXII (1999), 623-639.
- McLane, B. W., 'Juror Attitudes toward Local Disorder: the Evidence of the 1328 Lincolnshire Trailbaston Proceedings', in Cockburn and Green, *Twelve Good Men and True*, 36-64.
- Macleane, Ian, *The Renaissance Notion of Women: a Study in the Fortunes of Scholasticism and Medical Science in European Intellectual Life* (Cambridge, 1980).
- McMullan, J. L., 'Crime, Law and Order in Early Modern England', *British Journal of Criminology*, XXVII (1987), 252-274.
- McSheffrey, Shannon, 'Jurors, Respectable Masculinity and Christian Morality: a Comment on Marjorie McIntosh's *Controlling Misbehavior*', *Journal of British Studies*, XXXVII (1998), 269-278.
- 'Men and Masculinity in Late Medieval London Civic Culture: Governance, Patriarchy and Reputation', unpublished paper, now published in J. Murray (ed.), *Conflicted Identities and Multiple Masculinities: Men in the Medieval West* (New York, 1999).
- Maddern, Philippa C., *Violence and Social Order: East Anglia 1422-42* (Oxford, 1992).
- Manzione, Carol K., 'Sex in Tudor London: Abusing their Bodies with Each Other', in Murray and Eisenbichler, *Desire and Discipline*, 87-100.
- Mate, M., 'Kent and Sussex', in E. Miller, (ed.), *The Agrarian History of England and Wales*, vol. III, 1348-1500 (Cambridge, 1991), 119-136, 268-285, 680-703.
- *Daughters, Wives and Widows after the Black Death: Women in Sussex, 1350-1535* (Woodbridge, 1998).
- Melling, E., *Kentish Sources: Crime and Punishment*, (Maidstone, 1969).
- Mills, Patti A., 'Spiritual Correction in the Medieval Church Courts of Canterbury', Ph.D. thesis, University of Rochester (1980).
- Mirrer, Louise, (ed.), *'Upon my Husband's Death': Widows in the Literature and Histories of Medieval Europe* (Ann Arbor, 1992).
- Moore, Ellen W., 'Aspects of Poverty in a Small Medieval Town', in DeWindt, *The Salt of Common Life*, 117-156.
- Murphy, Terence R., 'The Maintenance of Order in Early Tudor Kent, 1509-1558', Ph.D. thesis, Northwestern University (1975).
- Murray, Jacqueline, 'Hiding Behind the Universal Man: Male Sexuality in the Middle Ages', in Bullough and Brundage, *Handbook of Medieval Sexuality*, 123-152.
- and Eisenbichler, K., (eds.), *Desire and Discipline: Sex and Sexuality in the Premodern West* (Toronto, 1996).

- Musson, A., *Public Order and Law Enforcement: the Local Administration of Criminal Justice, 1294-1350* (Woodbridge, 1996).
- 'Twelve Good Men and True? The Character of Early Fourteenth Century Juries', *Law and History Review*, XV (1997), 115-144.
- Neville, C. J., Review of R. B. Shoemaker, *Prosecution and Punishment*, *Law and History Review*, XI (1993), 187-190.
- Norberg, Kathryn, 'Prostitutes', in Davis and Farge, *A History of Women in the West*, 458-474.
- O'Hara, Diana, '“Ruled by my Friends”: Aspects of Marriage in the Diocese of Canterbury, c.1540-1570', *Continuity and Change*, VI (1991), 9-41.
- Oldham, James, 'On Pleading the Belly: a History of the Jury of Matrons', *Criminal Justice History*, VI (1985), 1-64.
- Olson, Sherri, 'Jurors of the Village Court: Local Leadership Before and After the Plague in Ellington, Huntingdonshire', *Journal of British Studies*, XXX (1991), 237-256.
- *A Chronicle of All That Happens: Voices from the Village Court in Medieval England* (Toronto, 1996).
- Palliser, D. M., 'Urban Decay Revisited', in Thomson, *Towns and Townspeople*, 1-21.
- 'Urban Society', in Horrox, *Fifteenth Century Attitudes*, 132-149.
- Parker, S. L. and Poos, L. R., 'A Consistory Court from the Diocese of Rochester, 1363-4', *English Historical Review*, CVI (1991), 652-665.
- Payer, Pierre J. 'Confession and the Study of Sex in the Middle Ages', in Bullough and Brundage, *Handbook of Medieval Sexuality*, 3-31.
- *The Bridling of Desire: Views of Sex in the Later Middle Ages* (Toronto, 1993).
- Phythian-Adams, Charles, 'Urban Decay in Late Medieval England', in P. Abrams and A. Wrigley (eds.), *Towns in Societies: Essays in Economic History and Historical Sociology* (Cambridge, 1978), 159-185.
- *Desolation of a City: Coventry and the Urban crisis of the Late Middle Ages* (Cambridge, 1979).
- 'Ceremony and the Citizen: the Ceremonial Year at Coventry, 1450-1550', in Clark and Slack, *Crisis and Order*, 57-85.
- Plucknett, T. F. T., 'A Commentary on the Indictments', in Putnam, *Proceedings*, cxxxiii-clxi.
- Poos, L. R., 'Population Turnover in Late Medieval Essex: the Evidence of some Early Fourteenth-century Tithing Lists', in Bonfield, Smith and Wrightson, *The World We Have Gained*, 1-22.
- *A Rural Society after the Black Death: Essex, 1350-1525* (Cambridge, 1991).
- 'Sex, Lies and the Church Courts of Pre-Reformation England', *Journal of Interdisciplinary History*, XXV (1995), 585-607.

- Post, J. B., 'Some Limitations of the Medieval Peace Rolls', *Journal of the Society of Archivists*, IV (1973), 633-639.
- 'Ravishment of Women and the Statutes of Westminster', in Baker, *Legal Records*, 150-164.
- 'The Justice of Criminal Justice in Late Medieval England', *Criminal Justice History*, VII (1986), 33-49.
- 'Crime in Later Medieval England: some Historiographical Limitations', *Continuity and Change*, II (1987), 211-224.
- 'Jury Lists and Juries in the Late Fourteenth Century', in Cockburn and Green, *Twelve Good Men and True*, 65-77.
- Powell, E., 'Social Research and the Use of Medieval Criminal Records', *Michigan Law Review*, LXXIX (1981), 967-978.
- 'Settlement of Disputes by Arbitration in Fifteenth Century England', *Law and History Review*, II (1984), 21-43.
- 'Jury Trial at Gaol Delivery in the Late Middle Ages: the Midland Circuit, 1400-1429', in Cockburn and Green *Twelve Good Men and True*, 78-116.
- *Kingship, Law and Society: Criminal Justice in the Reign of Henry V* (Oxford, 1989).
- 'Law and Justice', in Horrox, *Fifteenth Century Attitudes*, 29-41.
- Power, Eileen, *Medieval Women* (new edition, Cambridge 1975).
- Prior, Mary, (ed.), *Women in English Society 1500-1800* (1985).
- Quaife, G.R., *Wanton Wenches and Wayward Wives: Peasants and Illicit Sex in Seventeenth Century England* (1979).
- Riddle, John M., 'Contraception and Early Abortion in the Middle Ages', in Bullough and Brundage, *Handbook of Medieval Sexuality*, 261-277.
- Rigby, S.H., *English Society in the Later Middle Ages: Class, Status and Gender* (1995).
- 'Gendering the Black Death: Women in Later Medieval England', *Gender and History*, XII (2000), 745-754.
- Roberts, S. K., 'Juries and the Middling Sort: Recruitment and Performance at Devon Quarter Sessions, 1649-1670', in Cockburn & Green, *Twelve Good Men and True*, 182-213.
- Roper, Lyndal, *The Holy Household: Women and Morals in Reformation Augsburg* (Oxford, 1989).
- *Oedipus and the Devil: Witchcraft, Sexuality and Religion in Early Modern Europe* (1994).
- Rosenthal, Joel, 'Fifteenth-century Widows and Widowhood: Bereavement, Reintegration and Life Choices', in S. S. Walker, *Wife and Widow in Medieval England*, 33-58.
- Rowlands, Alison, 'Telling Witchcraft Stories: New Perspectives on Witchcraft and Witches in the

- Early Modern Period', *Gender and History*, X (1998), 294-302.
- Sallmann, J-M., 'Witches', in Davis and Farge, *A History of Women in the West*, 444-457.
- Sampson, Margaret, '“The Woe that was in Marriage”: some Recent Works on the History of Women, Marriage and the Family in Early Modern England and Europe', *The Historical Journal*, XL (1997), 811-823.
- Scott, Joan W., *Gender and the Politics of History* (New York, 1988).
- Searle, Eleanor, *Lordship and Community: Battle Abbey and its Banlieu, 1066-1538* (Toronto 1974).
- Seaver, Paul, 'Introduction' to 'Symposium: Controlling (Mis)Behavior', *Journal of British Studies*, XXXVII (1998), 231-245.
- Segalen, Martine, 'Mentalité Populaire et Remariage en Europe Occidentale', in Dupâquier *et al.*, *Marriage and Remarriage*, 67-77.
- Shahar, Shulamith, *The Fourth Estate: A History of Women in the Middle Ages* (1983).
- Sharpe, James A., 'Crime and Delinquency in an Essex Parish 1600-1640', in Cockburn, *Crime in England*, 90-109.
- 'Defamation and Sexual Slander in Early Modern England: the Church Courts at York', *Borthwick Papers*, LVIII (York, 1980).
- 'Enforcing the Law in the Seventeenth-century English Village', in Gatrell, Lenman and Parker, *Crime and the Law*, 97-119.
- 'Domestic Homicide in Early Modern England', *Historical Journal*, XXIV (1981), 29-48.
- '“Such Disagreement Betwyx Neighbours”: Litigation and Human Relationships in Early Modern England', in J. Bossy, (ed.), *Disputes and Settlements: Law and Human Relations in the West* (Cambridge, 1983), 167-187.
- *Crime in Seventeenth-Century England: A County Study* (Cambridge, 1983).
- *Crime in Early Modern England, 1550-1750* (1984).
- 'The History of Violence in England: Some Observations', *Past and Present*, CVIII (1985), 206-215.
- *Judicial Punishment in England* (1990).
- 'Quantification and the History of Crime in Early Modern England: Problems and Results', *Historical Social Research*, XV (1990), 17-32.
- *Instruments of Darkness: Witchcraft in England, 1550-1700* (1996).
- Shepard, Alexandra, 'Manhood, Credit and Patriarchy in Early Modern England, c. 1580-1640', *Past and Present*, CLXVII (2000), 75-106.
- Shoemaker, R. B., *Prosecution and Punishment: Petty Crime and the Law in London and Rural Middlesex, c. 1660-1725* (Cambridge, 1992).

- Slack, Paul, *The Impact of Plague in Tudor and Stuart England* (1985).
- Smith, Richard M., 'Marriage Processes in the English Past: Some Continuities', in Bonfield, Smith and Wrightson, *The World We Have Gained*, 43-99.
- 'Geographical Diversity in the Resort to Marriage in Late Medieval Europe: Work, Reputation and Unmarried Females in the Household Formation Systems of Northern and Southern Europe', in Goldberg, *Woman is a Worthy Wight*, 16-59.
- Sommerville, Margaret R., *Sex and Subjection: Attitudes to Women in Early Modern Society* (London, 1995).
- Sonnet, Martine, 'A Daughter to Educate', in Davis and Farge, *A History of Women in the West*, 101-131.
- Spargo, J.W., *Juridical Folklore in England Illustrated by the Cucking-stool* (Durham N.C., 1944).
- Spufford, Margaret, *Contrasting Communities: English Villages in the Sixteenth and Seventeenth Centuries* (Cambridge 1979).
- 'Puritanism and Social Control?', in Fletcher and Stevenson, *Order and Disorder*, 41-57.
- Stone, Lawrence, *The Family, Sex and Marriage in England 1500-1800* (1979).
- 'Interpersonal Violence in English Society 1300-1980', *Past and Present*, CI (1983), 22-33.
- 'Violence in England: a Rejoinder', *Past and Present*, CVI-CIX (1985), 216-224.
- Storey, R. L., 'Gentlemen-bureaucrats', in C. H. Clough, (ed.), *Profession, Vocation and Culture in Later Medieval England* (Liverpool, 1982), 90-129.
- Stuard, Susan M., (ed.), *Women in Medieval History and Historiography* (Philadelphia, 1987).
- Sweetinburgh, Sheila, 'Women, Household and Community: Appledore and Hythe, c.1400-1470', M.A. dissertation, University of Kent (1993).
- Thirsk, Joan, (ed.), *The Agrarian History of England and Wales*, vol. IV (Cambridge, 1967).
- Thomas, Keith, 'The Double Standard', *Journal of the History of Ideas*, XX (1959), 195-216.
- *Religion and the Decline of Magic* (1971).
- Thomson, J.A.F., (ed.), *Towns and Townspeople in the Fifteenth Century* (Gloucester, 1988).
- Todd, Barbara, 'The Remarrying Widow: a Stereotype Reconsidered', in Prior, *Women in English Society*, 54-92.
- Todd, Barbara, 'Freebench and Free Enterprise: Widows and their Property in two Berkshire Villages', in Chartres and Hey, *English Rural Society*, 175-200.
- Underdown, D.E., 'The Taming of the Scold: the Enforcement of Patriarchal Authority in Early Modern England', in Fletcher and Stevenson, *Order and Disorder*, 116-136.

- van Heijden, Manon, 'Women as Victims of Sexual and Domestic Violence in Seventeenth Century Holland: Criminal Cases of Rape, Incest and Maltreatment in Rotterdam and Delft', *Journal of Social History*, XXXIII (2000), 623-644.
- Vickery, Amanda, 'Golden Age to Separate Spheres ? A Review of the Categories and Chronology of English Women's History', *Historical Journal*, XXXVI (1993), 383-414.
- Walker, Garthine, 'Women, Theft and the World of Stolen Goods', in Kermode and Walker, *Women, Crime and the Courts*, 81-105.
- 'Crime, Gender and the Social Order in Early Modern Cheshire', University of Liverpool Ph.D. thesis, 1994.
- 'Expanding the Boundaries of Female Honour in Early Modern England', *Transactions of the Royal Historical Society*, 6th series, VI (1996), 235-245.
- 'Rereading Rape and Sexual Violence in Early Modern England', *Gender and History*, X (1998), 1-25.
- Walker, Sue S., 'Punishing Convicted Ravishers: Statutory Strictures and Actual Practice in Thirteenth and Fourteenth Century England', *Journal of Medieval History*, XIII (1987), 237-250.
- (ed.), *Wife and Widow in Medieval England* (Ann Arbor, 1993).
- Walter, J., and Wrightson, K., 'Dearth and the Social Order in Early Modern England', *Past and Present*, LXXI (1976), 22-42.
- Whittick, Christopher, 'The Role of the Criminal Appeal in the Fifteenth Century', in Guy and Beale, *Law and Social Change*, 55-72.
- Wiener, C.Z., 'Sex Roles and Crime in Late Elizabethan Hertfordshire', *Journal of Social History*, VIII (1975), 38-60.
- 'Is the Spinster an Unmarried Woman ?' *American Journal of Legal History*, XX (1976), 27-31.
- Woodcock, B. L., *Medieval Ecclesiastical Courts in the Diocese of Canterbury* (Oxford 1952).
- Woodruff, C. E., *A History of the Town and Port of Fordwich* (Canterbury, 1895).
- Woods, Robert jr., 'The Politics of Crime in Yorkist and Early Tudor England', unpublished paper presented at the Pacific Coast branch spring meeting of the Conference of British Studies, Long Beach, 1998.
- Wrightson, K. and Levine, D., *Poverty and Piety in an English Village: Terling 1525-1700* (1979).
- Wrightson, K., 'Two Concepts of Order: Justices, Constables and Jurymen in Seventeenth Century England', in J. Brewer and J. Styles, (eds.), *An Ungovernable People: the English and their Law in the Seventeenth and Eighteenth Centuries* (1980), 21-46.
- '“Sorts of People” in Tudor and Stuart England', in Barry and Brooks, *The Middling Sort of People*, 28-51.

- Wunderli, R. M., *London Church Courts and Society on the Eve of the Reformation*, (Cambridge, Mass., 1981).
- Zell, Michael L., 'Church and Gentry in Reformation Kent, 1533-1553', Ph.D. thesis, University of California Los Angeles (1974).
- 'Early Tudor J. P.s at Work', *Archaeologia Cantiana*, XCIII (1977) 125-143.
- 'Fifteenth and Sixteenth Century Wills as Historical Sources', *Archives*, XIV (1979), 67-74.
- *Industry in the Countryside: Wealden Society in the Sixteenth Century* (Cambridge 1994).
- (ed.), *Early Modern Kent, 1540-1640* (Woodbridge, 2000).
- 'The Establishment of a Protestant Church', in Zell, *Early Modern Kent*, 207-244.

Bad conversation? Gender and social control in a Kentish borough, c. 1450–c. 1570

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INTRODUCTION

The image of the nagging woman being ducked as a scold is firmly ensconced among popular images of women in the past, but the historical phenomenon of prosecutions for scolding, though it has been briefly touched on in many studies, has been the subject of only two substantial contributions, those of David Underdown and Martin Ingram.¹ Underdown has maintained that from the 1560s there was increasing concern with scolds, which he links with the rise in witchcraft prosecutions and growing anxiety about domineering and unfaithful wives. Accepting the notion of a 'crisis of order' in the decades around 1600, he postulates as an aspect of this a 'crisis in gender relations' which he attributes to a decline in neighbourliness and social harmony resulting from the spread of capitalism. He bases his argument partly on literary sources, including plays, sermons and popular pamphlets (though conceding that literary evidence is not conclusive and that the misogynistic tradition in literature is a long one) and partly on a somewhat impressionistic survey of court records from around 1560 to around 1640. This period, he claims, witnessed an intense preoccupation with women perceived as threatening the patriarchal order, manifested by greater numbers of prosecutions of scolds and other disorderly women than in the preceding and subsequent periods, and by more severe punishments, notably the cucking-stool. Women accused as scolds, he maintains, were usually poor, widows, newcomers, social outcasts or 'those lacking the protection of a family',

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and were likely to vent their frustration on local notables as the nearest symbols of authority. He suggests that both the prosecution of scolds and their punishment by ducking were more common in towns and wood-pasture villages than in arable areas (such as that around Fordwich in Kent, the borough we will be looking at); however, he admits that rural records have survived less well than urban, and gives no quantified evidence for the alleged lenience of the authorities in arable villages towards 'disorderly' women.

This hypothesis has met with some favour. For example, Fletcher, though considering Underdown's court evidence insufficient to be entirely convincing, has agreed that literary evidence shows 'considerable anxiety about the gender order at this time'.² Others have laid more emphasis on a wider 'crisis of order', involving increased levels of prosecution not only of women but also of 'disorderly' men, brawlers, drunkards, vagrants, illegal games-players and sexual offenders.³ However, there has been some doubt whether this was an unprecedented development in the Elizabethan and early Stuart periods. Richard Wunderli and Marjorie McIntosh have shown that concern with what has been variously termed 'social control' and 'reformation of manners' – including scolding, hedgebreaking (probably to steal firewood), barratry, gaming, nightwalking and sexual offences – was apparent, at least sporadically, in ecclesiastical and secular jurisdictions in London and Essex in the later fifteenth and early sixteenth centuries. Margaret Spufford has demonstrated similar preoccupations in the years around 1300, while Ingram has suggested that such concerns may have been 'almost continually persistent' over several centuries.⁴

Ingram has taken issue with Underdown specifically on the question of indictments for scolding, claiming that it cannot be shown that they became much more numerous during Elizabeth's reign. Prosecutions of scolds took place from the late fourteenth century onwards, and hardly amounted to an epidemic in the late sixteenth and early seventeenth centuries. He points out that evidence so far examined for the latter period indicates that such cases were sporadic in terms of both locality and chronology and that, anyway, the nature and survival of court records, shifts in jurisdictional patterns and changes in population before and after about 1560 would make it difficult to demonstrate an upsurge in such charges even if there had been one.⁵

Ingram also discusses what constituted a legal definition of scolding in early modern England, what kind of behaviour might have resulted in prosecution as a scold and the social background of those who were prosecuted. He concludes that to result in a court case, 'scolding' had to involve 'continuously disturbing the neighbours by contentious behaviour', and that this was generally so severe as to be 'seriously hurtful

to the immediate victims and likely to disrupt the whole neighbourhood'; the most extreme individuals, he suggests, were probably suffering from mental disorders. Most convicted scolds, he finds, were married women from the lower-middling ranks, and some of them had long histories of troublesome behaviour, or delinquent husbands or other relatives. His examples are all taken from the late sixteenth century onwards: he does not investigate whether earlier cases were similar or whether the nature of the offence may have changed over time. He is impatient with certain 'popularizers of feminist theory' who have presented the prosecution of scolds as a manifestation of patriarchal oppression: women, he claims, were not 'prosecuted for behaviour that men could indulge in without penalty'. He argues that women characteristically used verbal abuse in situations where men were more likely to use physical violence; thus an accusation of scolding against a woman was more or less the equivalent of a charge of assault against a man. Pointing out that men were also occasionally indicted for scolding, barratry (meaning quarrelsomeness, or instigating vexatious litigation) or 'railing', he concludes that verbal aggression had come to be particularly associated with women and, when perpetrated by them, labelled as a specifically female offence with peculiar modes of punishment. While agreeing with Underdown that use of the cucking-stool for scolds became more frequent in the late sixteenth century, he suggests that it was less common than is popularity believed, and adds that penalties for most offences became more severe at this time.⁶

We are presented, therefore, with a 'crisis of order' in general, of which a crisis in gender relations may have been part, between about 1560 and 1640, which may or may not have been unprecedented in its proportions. On scolds in particular, there is disagreement about whether they were prosecuted more often from the late sixteenth century onwards, about the nature of their punishment and on whether or not their prosecution can reasonably be viewed as an example of patriarchal oppression. The only consensus that has been reached is that concern with scolds, like the preoccupation with witchcraft, dwindled rapidly in the courts after the Restoration and had virtually disappeared from them by the early eighteenth century. It is, perhaps, hardly surprising that the evidence for the supposed 'crisis' has been so variously interpreted. The literary sources relied on by Underdown and Fletcher are surely problematic. There are far fewer surviving texts for the period before about 1580 than thereafter, and misogyny and anxiety about gender relations can be found in medieval literature; indeed a great deal of literature in any period is concerned with gender relations. Any convincing demonstration of a significant growth in concern with insubordinate women, or with disorder in its wider manifestations, would require far fuller evidence from court

records for the century or so *before* Elizabeth's accession than has been presented so far.

I. FORDWICH FRANKPLEDGE PRESENTMENTS: 1451–1570

Although evidence for the later fifteenth and earlier sixteenth centuries is sparse compared to that for the subsequent period, some material has survived which it may be profitable to examine. Court records for the small Kent borough of Fordwich survive in sufficient quantity to reveal the levels of concern of local decision-makers with the social behaviour of men and women from mid-fifteenth century to the late 1560s.⁷ (Despite the designation 'borough', the area covered by the court cannot be categorized as urban: Fordwich itself comprised only one small parish, and the court's jurisdiction extended over some of the surrounding countryside). What follows is an investigation of these records in the light of the debates outlined above. First, the chronology of 'social control' presentments between 1451 and 1570 will be examined. This will be followed by a more detailed examination of the presentments for scolding and closely related offences in the same period.

Table 1 lists all the presentments at the Fordwich 'view of frankpledge' (here meaning a local court with limited criminal jurisdiction) that can be categorized as showing concern with disorder of the kind discussed above. The table first shows the number of view of frankpledge records which have survived for each decade, the maximum number being 20. It then gives the number of presentments for scolding: the total of 37 comprises 23 individuals (some having been presented more than once), 20 women and 3 men. The closely related offences of barratry and eavesdropping are shown next: only 5 individuals feature in the 7 cases, 4 men and a woman. Hedgebreaking, which follows, is perhaps less obviously a 'social control' offence, but it is mentioned by both McIntosh and Ingram. For Fordwich in this period it is noteworthy as the commonest reason for women to be presented at the view of frankpledge, though hedgebreakers were not as overwhelmingly female as scolds. The table then shows the assault cases, each of which involved at least 2 individuals, almost all men. 'Illegal gaming' includes both men presented for playing illegal games and those whose offence was allowing others to play in their houses. The penultimate column indicates a heterogeneous collection of other presentments occurring in small numbers, including explicit sexual offences (excluding rape), not attending church, Sabbath-breaking, vagabondage and vaguely worded charges of 'living suspiciously' or being 'of bad conversation', which may refer to sexual misdemeanours or other forms of unacceptable behaviour. Some at least of the 'vagabonds' were clearly members of

TABLE 1
 'Social control' presentments in Fordwich, 1451-1570

<i>Decade</i>	<i>No. of surviving frankpledge records</i>	<i>Barrators and eavesdroppers</i>	<i>Scolds</i>	<i>Hedgebreakers</i>	<i>Assaults</i>	<i>Illegal gaming</i>	<i>Miscellaneous</i>	<i>Totals</i>
1451-1460	12	0	1	0	12	0	1	14
1461-1470	17	0	3	0	7	10	0	20
1471-1480	15	0	0	7	23	0	2	32
1481-1490	17	1	4	14	14	2	2	37
1491-1500	20	1	9	22	40	0	10	82
1501-1510	19	1	12	8	24	4	7	56
1511-1520	20	3	3	9	32	1	3	51
1521-1530	18	1	1	26	7	0	3	38
1531-1540	10	0	1	0	9	0	5	15
1541-1550	16	0	0	0	0	1	1	2
1551-1560	19	0	0	0	1	0	5	6
1561-1570	15*	0	3	0	2	3	0	8
Totals	198	7	37	86	171	21	39	361

* Including two nil returns.

Source: Views of frankpledge from the Fordwich Court records, Canterbury Cathedral Archives, U4/2, 3, 6A, 8, 20 (see note 7).

TABLE 2
 'Social control' presentments in Fordwich, 1451-1570, by gender

<i>Gender</i>	<i>Scolds</i>	<i>Barrators, etc.</i>	<i>Hedgebreakers</i>	<i>Assaults</i>	<i>Gaming</i>	<i>Miscellaneous</i>	<i>Totals</i>
Male	4	6	16	160	21	28	235
Female	33	1	66	11	0	11	122
Unclear	0	0	4	0	0	0	4
Totals	37	7	86	171	21	39	361

Source: As in Table 1.

established local families, whose offence was not vagrancy in its later sense, but having no visible means of subsistence; the charge of being a vagabond was sometimes accompanied by that of 'living suspiciously' or not being in service.⁸ The 5 cases in the 1550s in this column were all men who used their boats for commercial purposes on Sundays, an offence which did not appear until 1556.

Ingram has noted similar activity in a variety of jurisdictions in the late fifteenth century and at the beginning of the sixteenth.⁹ It can be seen that in Fordwich presentments in all these categories similarly increased towards the end of the fifteenth century and then gradually declined to practically negligible levels. This holds good for scolds (predominantly female) as well as for exclusively or predominantly male offences. Hedgebreakers, again mainly female, differ only in that there was a large number of them presented in the early 1520s: the last hedgebreaking presentments were in 1524. Table 2 shows the extent to which the offences under consideration were gender-specific.

The only discernible difference between the treatment of 'male' and 'female' offences is that in the years around 1500 more severe penalties were threatened for reoffending scolds and hedgebreakers, but not for those committing 'male' crimes like assault.¹⁰ Presentments for the more obviously criminal offence of theft were spread much more evenly over the decades. So if there was a 'crisis of order' here, it seems to have taken place in the years around 1500 and to have been characterized by rather more anxiety about women than about men. The court records for Queenborough, also in Kent, though much less complete than those for Fordwich, suggest a similar pattern: here six scolds were presented between 1498 and 1504 and none from 1505 to 1511 or from 1542 (when the record resumes) to 1570.¹¹

Of course it is possible that the local elite did not lose interest in regulating the morals of women and men in the middle decades of the

sixteenth century, but that the offences under consideration were at that time being tried in another jurisdiction. However, a preliminary survey of the archdeaconry court records for 1487 to 1504 and 1523 to 1531 does not indicate that social control had passed into the hands of the church courts in the latter period.¹² The possibility that a resident or nearby Justice of the Peace might have taken over from the leet court cannot be entirely discounted, though there is no evidence of a JP resident in Fordwich at the relevant time.

The chronology of these cases in Fordwich is strikingly similar to that found by McIntosh in the manor court of Havering. She shows that, by 1560, the duty of regulating social misbehaviour had passed from the presenting jury at the manor court to the churchwardens, and thus to the archdeaconry court, but is unable to pinpoint when this happened.¹³ Wunderli assumes, however, that the opposite was the case in London: he accounts for the decline in the level of prosecutions in the London commissary court from a peak in 1490 by suggesting that Londoners began to make more use of the city courts and less of the commissary court.¹⁴ All these hypotheses may be correct, but as more and more evidence accumulates for a marked concern with regulation of morals around the end of the fifteenth century, it seems to be becoming less plausible to argue that the lack of indications of its continuance into the 1520s and beyond is due only to the chance absence of surviving records for the courts to which it was supposedly transferred.

It seems unlikely that either in the years around 1500 or a century later there was a 'crisis' specifically in gender relations, as opposed to a wave of concern about disorder and immorality amongst those whom *men* of the local elites expected to behave in a suitably subservient and respectful manner, namely women, youths and men of the lower orders. But the form this concern took towards women was largely specific to them, and is epitomized by the prosecution of scolds. We now turn, therefore, to the scolds in Fordwich.

II. THE SOCIAL STATUS OF FORDWICH SCOLDS

Contrary to what might be expected on the basis of Ingram's model of prosecution as a scold, multiple presentments of the same individual were fairly rare. Of the 23 people who were accused of this offence in our period, 17 including 2 men, were charged only once. One man and a woman were presented twice, two women three times, one woman four times and one six times. The totals over 12 decades are not large, but the area over which the court had jurisdiction was not heavily populated. Very little quantification of scolding cases in other jurisdictions has been done as yet,

but Sheila Sweetinburgh found five women scolds in the fragmentary surviving records for Hythe between 1407 and 1445. In the period alleged to have witnessed an 'epidemic' of prosecutions, Carol Wiener found only 9 women scolds in St Albans parish between 1560 and 1602 (with 2 men in the archdeaconry court within the same period), while 19 scolds were prosecuted at the Nottinghamshire Quarter Sessions between 1603 and 1625, but only 1 at the Staffordshire sessions in the same period.¹⁵ While it is possible that more prosecutions were taking place in other courts in the later period, these figures do not suggest a marked upturn in the late sixteenth and early seventeenth centuries.

The near-completeness of the Fordwich records for much of the earlier period makes possible some assessment of the status and circumstances of many of the accused, and in some cases even enables an informed guess to be made as to what precipitated the charge of being a scold. Of the 20 women, 16 were unequivocally described as the wives of named men, while one was almost certainly a deserted wife. The remaining 3 women were also quite possibly married: in each case there was a man of the same surname in Fordwich at the time, and none is described as a widow. Thus a large majority of the women charged as scolds were wives living with their husbands at the time of their presentment. Most were married to men who can be traced in Fordwich over quite long periods, though some of these wives may have been outsiders who married local men. Others were themselves members of long-established local families. Only 3 of the 20 women seem to have formed part of a transient population whose surnames appear in the records only for a very short time; 2 more may have been recent arrivals at the time of their presentment, but subsequently remained local residents for several years. All the remaining 15 had husbands or other presumed family members in Fordwich for at least three years before their presentment, and at least 10 of these can be shown in all probability to have come from families which had been established there for a considerable time. Of course, positive identification of individuals cannot in most cases be established with absolute certainty, but allowing for the likelihood that some of the wives were daughters of local families who had married newcomers, it seems reasonable to conclude that the proportion of newcomers among women presented as scolds was probably no greater than the proportion of such people among the population at large. None of the 3 male scolds was a newcomer, one being from a local family and the others having been several years in Fordwich. While it remains possible, as McIntosh suggests, that behaviour which was tolerated in members of local families was punished in outsiders, it does not look as though the presenting jury in Fordwich was unduly ready to condemn new arrivals.

The fact that so few 'scolds' seem to have been outsiders may also be relevant to the nature of the offence. Of the 23, 17 were presented only once for scolding, as far as we can tell. If many of these could be shown to have spent only a short time in Fordwich, it might be concluded that this was why they never reappeared charged with the same offence. But since most were long-term residents, it seems that being presented as a scold was something that happened only once to most of these individuals. This casts some doubt (at least for this period) on the claim that a scold was someone who habitually sowed discord, or even was mentally disturbed. A habitual troublemaker might be expected to reappear regularly, unless perhaps the scolding presentment came only after years of informal communal pressure to desist, and a fine for scolding would not be an effective deterrent to a mentally disturbed person.¹⁶

With the exception of a few described as gentry, or whose wills have survived, individuals' wealth and social standing can only be assessed indirectly.¹⁷ Holding office as mayor or jurat (the Cinque Ports equivalent of an alderman) can be taken as evidence of a fair degree of prosperity and high status within the local community. These offices rotated among a small group of families. Over the whole period, only 5 of these were classed as gentry, with the remainder clearly being quite well off. Of the female scolds, 3 were connected to the latter group: one was the wife of a jurat and former mayor, and 2 others were close relatives of another. At a lower level in the local hierarchy, the status of freeman can be taken to indicate men who were generally considered respectable and solvent, if only because they had to pay 11d for the privilege of admission and to have four existing freemen as pledges for their good behaviour. One male scold and the husbands or assumed husbands of 6 of the women were freemen, though not all at the time of the scolding presentment. As a rough guide to the proportion of adult men who enjoyed this privilege, between 1444 and 1563 the records show 78 admissions of freemen. This can be compared with 392 men who served as jurors during the same period and 527 youths or new arrivals who swore allegiance as 'new entrants'. So the proportion of freemen's families represented among the scolds was almost certainly higher than the ratio of freemen to the total adult male population.

None of the scolds was from the gentry, nor were most of them connected to wealthy, high-office-holding or even freemen's families, but these were minorities and some scolds were connected to them. Underdown claims that most scolds were poor women and McIntosh that jurors were more likely to report misbehaviour by the 'shiftless poor' and by outsiders.¹⁸ The exceptionally poor and rootless are harder to identify than the prosperous, but it is unlikely that such people would ever have

been jurymen. Indeed, both Ingram and McIntosh describe leet jurors as coming from the middling to prosperous sections of local communities.¹⁹ The records of the husbands and presumed husbands of the scolding women in Fordwich and those of the male scolds reveal that only 2 were never jurors, and neither of these men seems to have been in the borough for long. By the criterion of jury membership, therefore, at most 2 of the 23 scolds, male and female, are likely to have belonged to an underclass of shiftless and transient poor, while the social background of most of them was perhaps marginally above the 'lower-middling ranks' which Ingram considers provided the majority of scolds.²⁰

Ingram has also remarked that accusations of scolding often coincided with accusations against the same individual for another offence and that, where records are complete enough for individuals to be traced over long periods, some scolds or their families can be shown to have had quite long histories of delinquency. This applies only to a limited extent to the Fordwich scolds. In only 13 of the 37 presentments for scolding was the 'scold' accused of another offence at the same view, excluding routine appearances for regrating (here meaning the retail selling of ale, beer and bread), brewing and baking and minor 'nuisance' offences. In 6 cases the scold's husband was presented at the same view. The most interesting aspect of this pattern of prosecution is that 8 of the 'other' offences appear to have been related to the charge of scolding. The number of cases of multiple prosecution warrants attention because it looks as though the accusation of scolding was related to a single troublemaking incident, rather than a habitual tendency to antisocial behaviour. Close examination of these cases may shed some light on what exactly it meant to be a 'common scold' in this period.

III. THE CONTEXT OF SCOLDS IN FORDWICH: CASE STUDIES

In December 1452, Margaret, the wife of William Bridge, was presented for having committed a verbal assault on John Gye on 18 November, and her husband for doing the same 'in full court' on 21 November. This is followed immediately by the presentment that Margaret was a common scold.²¹ Gye was a member of the local elite and may have been mayor at the time the dispute took place. At the same view it was ordained by the mayor and jurats that anyone addressing malicious words to the mayor would be fined 3s 4d. It appears that Margaret Bridge had a quarrel with John Gye, in the course of which she insulted him. Three days later, in court, William Bridge stood up for his wife by using 'opprobrious words' to Gye. This case differs from Ingram's paradigm of the scold as a habitual troublemaker: Margaret Bridge appears to have verbally abused only one

person, but he was an authority figure, and as far as we can tell she had done it only once. While William Bridge probably had to pay a large fine (though none has been recorded), he was not labelled a scold and his wife was. In other words, Margaret seems to have been punished twice for the same incident, suggesting that verbal aggression from women was considered more serious than the same behaviour from men.

The circumstances surrounding the presentment of Rose Peny in October 1495 are quite similar. She was presented along with the rector, John Bailey, for having rebuked the jury at the last view of frankpledge, thereby showing contempt for the law and setting a bad example. The rector was fined 20d for this offence, and Rose Peny 12d. Later in the course of the same view, Rose was presented as a scold and fined a further 4d, with the threat of the mortar if she did not reform.²² (Carrying a 'mortar' through the town, preceded by a minstrel, was the penalty prescribed for scolding women in the Fordwich Custumal.²³) It cannot be proved that her disagreement with the jury was the sole cause of Rose's being charged as a scold, but the records for the 1490s are very full, and she made no other appearance. Like Margaret Bridge, Rose Peny had been involved in a brush with authority, in association with a man, and this seems to have resulted in her – but not him – being presented as a scold.

In September 1499 Anne Cook and Alice Byker were presented jointly, both as scolds and for keeping a night vigil and living suspiciously. Each was fined 20d and warned not to reoffend, on pain of a 20s fine or banishment. Anne Cook was then fined 12d for assault and affray on John Dorant, while he was amerced 6d for assaulting her, indicating presumably that his was the lesser offence. Alice Byker was fined 3s 4d for rebuking the jury at the last view and the one before (those in November 1498 and January 1499). Three other women were presented simply as scolds. One of these was Margaret, the wife of John Dorant, Anne Cook's victim and assailant. The other two, Katherine Large and Margaret Millon, are among the small minority with multiple presentments for scolding, but in this case it may be relevant that Katherine's husband, John Large, had been on the jury in November 1498, as had John Dorant, while Margaret Millon's husband, Peter, had been a jurymen in January 1499. These were the two juries which Alice Byker had 'rebuked'.²⁴

It seems likely that all these cases were connected. During the previous winter Alice Byker had verbally attacked the jury, at or after the view of frankpledge. She and Anne Cook were probably friends; both were almost certainly young and from more affluent backgrounds than most of the scolds.²⁵ Anne Cook may have sided with Alice in her dispute with the juries, and this led to her fight with the jurymen John Dorant. Robert

Cook, Anne's husband, was plaintiff in a trespass plea against Dorant in July 1499 for the alleged assault on his wife. Margaret Dorant, perhaps justifiably angry that her husband was being unfairly accused, verbally attacked Cook (a former mayor) or his wife. Katherine Large and Margaret Millon, both quarrelsome (or assertive) women, whose husbands were also involved, may have weighed in. The jury in September 1499, which presented all five women as scolds, did not include Dorant, Large or Millon, but it did contain several other men who had been part of the two earlier juries attacked by Alice Byker. To get their revenge on the latter, and on her supporter Anne Cook, they seem to have decided to focus on the unseemly nocturnal goings-on of the two young women, whether these were real or imagined. To put all five quarrelsome women in their place, they were all presented as scolds. Whether or not this is exactly what happened, what is beyond dispute is that at least part of the disturbance originated with a woman's rebuking the jury, and in addition to two women having their sexual reputations impugned, five women were charged as scolds and no men were, even though several men were involved.

Disputes arising from proceedings at the view of frankpledge may also lie behind the presentments of Katherine Large and Rose Serlys as scolds in October 1501. The accusation against Katherine is recorded immediately below her husband's presentment for disclosing the deliberations of the jury, of which he had been a member, at the preceding view.²⁶ John Large had indeed been a juror at the view of frankpledge in June 1501, which was noteworthy for the three heavy fines imposed on Richard Serlys, husband of Rose. He was amerced 10s for each of two offences of assault and affray, and also presented for the possession of a dangerous dog. On top of this was the demand that his 'leprous' wife should leave the town.²⁷ John Large's offence probably consisted of warning his neighbour in advance of the unpleasantness in store for him, and the two wives became involved in the resulting furore. As Ingram has pointed out, in another context, the operation of the law could itself be a form of disorder.²⁸ It seems likely that several of the Fordwich scolding presentments were manifestations of the same phenomenon.

In the fifteenth century and the first decade of the sixteenth, only women were charged as scolds, even though in the cases noted above men also were implicated in the quarrels which seem to have led to the accusations. In the second decade of the sixteenth century, male scolds begin to appear, albeit in very small numbers. Men seem usually to have preferred physical violence to verbal assaults. However, William Clark, the first known male scold in Fordwich, when physically assaulted in August 1517, responded not in kind but by attacking his assailant with

'bad words'. Both men were amerced 4d, and Clark was then presented as a scold and barrator, the sort of double accusation heretofore reserved for women. Clark, at least as a young man, was involved in many assaults and had used verbal abuse before: he had been presented in 1515 for using threats and opprobrious words to a juror who had presented him for his bad conduct at the previous view. Again the theme of showing disrespect for the law recurs. William Clark was presented for a physical assault and again as a scold, barrator and disturber of the peace in October 1518: here the wording of the presentment suggests habitual stirring up of trouble.²⁹ When William Jackson was presented as a scold in 1533, he was also charged with assault and affray against three men, of whom at least two were his social superiors.³⁰ Jackson, who must have been of mature years by this time and who did not have a record of troublemaking, had perhaps used verbal as well as physical violence against his 'betters'. There is no clue as to why the only other male scold, John Undy, was presented in 1563, and it remains obscure why only three men in the course of over a century should have been accused of this overwhelmingly female offence, when many other men had used 'bad words'.

IV. SCOLDING AND PRESENTMENTS FOR OTHER OFFENCES

It is harder to attach any significance to the cases where a presentment for scolding coincided with an accusation of some other, apparently unrelated, offence, or to the presentments made against the 'scolds' on other occasions. As a group, the 23 do not stand out as spectacularly delinquent. Altogether 8 of the women scolds, and 2 of the 3 men, were presented as hedgebreakers at some time, but since at least 36 other women and at least 14 other men had convictions for hedgebreaking, it cannot be claimed that the correlation between the two offences is very marked. There is no very conspicuous linkage between scolds and thieves either. Theft was alleged in numerous private suits, but these can seldom be traced to a conclusion, and defendants frequently denied the charge, so these have not been counted here among the cases of theft. A presentment for thieving, on the other hand, is tantamount to a conviction. Only 3 of the scolds, all women, were ever presented for any form of theft apart from hedgebreaking, while a total of 14 women altogether were presented for various thefts. However, since there are no surviving assize or quarter sessions records for this period it is possible that some scolds committed serious crimes of which no trace survives.

Only 9 women altogether are recorded as having been presented explicitly for sexual offences: these include 3, or possibly 4, scolds. This is perhaps a large enough proportion to suggest that there was sometimes

a connection between the two offences, and as chastity, silence and obedience were the virtues on which a woman's reputation overwhelmingly depended, the possible linkage is interesting.³¹ However, the sample is too small to prove a connection, and 16 or 17 of the women scolds were never, as far as we know, accused of sexual misbehaviour. With 2 exceptions, the only other known offence of any of the women scolds was fouling the communal well.³² The exceptions are Agnes Giles and Agnes Tropham, both of whom feature more prominently than most women in the court records.

Agnes Giles is the 'scold' whose profile most nearly fits that of an habitual criminal. In addition to one presentment for scolding, between 1467 and 1500 she was accused of receiving stolen goods, hedgebreaking (twice), breaking and entering and theft, always in company with other women. She seems to have been a bad influence, liable to get others into trouble. But her six known offences were spread over many years, and she cannot have been considered entirely beyond the pale by the respectable classes, as she was left a small bequest by a wealthy widow in 1477.³³

Agnes Tropham may have inherited a propensity to quarrel: her prosperous family of origin appears over three generations to have been exceptionally litigious. Most unusually for a woman, she was implicated in two assault cases, one also involving her parents and the other her daughter. In addition to three presentments as a scold and one for hedgebreaking, she was co-defendant with her husband in three or more trespass suits. In the course of the hearings of these he unchivalrously failed to appear in court on two occasions, leaving Agnes to cope on her own. In 1484 she was arrested on 'divers charges', and rescued from custody by her mother, aided and abetted by John Large, whose lack of respect for the law has already been observed.³⁴ Unfortunately the records for 1484 are missing, so we cannot tell what charges Agnes had to answer. Although evidence from wills cannot be regarded as conclusive, the testamentary arrangements made by her parents are not suggestive of a happy family relationship. Her father left extensive lands to his other daughter and her husband, with the proviso that if they died without heirs the lands were to be sold. Her mother left Agnes and her husband the tenement they were living in, but although she made copious bequests of personal effects to other relatives and friends, Agnes was to receive nothing else.³⁵ She seems one of the very few candidates for Ingram's description of scolds as 'dismal negotiators of social relationships'.³⁶

Although the Fordwich evidence reveals that some scolds and their families were quite regularly in trouble, it does not demonstrate that scolds came from particularly delinquent families. Only one of the scolds' husbands had a substantial history of presentments, mostly for assault, in

relation to the length of time he appears in the records. There were other individuals with comparable or longer histories of misdemeanours who were neither accused of scolding nor had spouses who were. Besides, as we have seen, several of the scolding presentments seem to have arisen because of an accusation by the jury for some other offence, against the scold or her husband. In these cases it may be not so much that the 'scold' was an habitually quarrelsome person as that she was angered by the presentment, which would inevitably incur a fine. The only three cases where a woman was specifically accused of having rebuked the jury or the mayor all resulted in her being charged as a scold. The same thing happened to William Clark, although he was by no means the only man to quarrel with the mayor or jury. Christopher Elsted attacked the jurors with 'opprobrious words' after the view of frankpledge in October 1518, and at the next view was amerced 20d for this and another 20d for being an eavesdropper, which seems to amount to much the same as a scold (see below).³⁷ A tendency to be argumentative and disrespectful towards authority seems to be what the accused in question have in common.

The only woman before the mid-sixteenth century who demonstrably fits the stereotype of the habitual scold is Margaret Millon, presented six times for scolding. She annoyed her neighbours so much that in 1507 the jury asked that she be forbidden to run her retail business unless she should find sureties for her good behaviour.³⁸ Until 1563 the formula of a presentment was simply as 'a common scold' or 'a common scold to the annoyance of her neighbours'. However, Alice Offam in 1507 was charged with being a common scold 'and carries rumours among her neighbours and sows discord among her neighbours'.³⁹ This may suggest that her offence was rather different in kind from those discussed so far, and that she, like Margaret Millon, was closer to Ingram's definition of a scold, the conventional later-sixteenth- and seventeenth-century model. The wording of the presentment of two women and a man in 1563 is similar, that 'they do use to rail and scold against other of their neighbours'.⁴⁰ But it looks as though the late-medieval scold was not so often the continually nagging woman of popular literature as the woman, and occasionally the man, who had given vent to an outburst of temper on a particular occasion, and often against a representative of authority.

The offences of barratry and eavesdropping seem to be closely related to scolding, but occur only rarely in the Fordwich records. One woman and two men were accused of eavesdropping. The accusation of barratry, used only in the case of three men, was never applied on its own. Edward Hills in 1509 was described as a barrator, disturber of the peace and of bad conversation, William Clark in 1517 as a scold and barrator, and the following year as scold, barrator and disturber of the peace, and

Christopher Elsted in 1523 as an eavesdropper, barrator, disturber of the peace and of bad conversation. Such multiple expressions of disapprobation could clearly be serious: Hills's punishment was banishment or a £5 fine, and Elsted was to be banished unless he found sureties for his good behaviour, though Clark was only ordered to amend on pain of 3s 4d.⁴¹ Hills was also convicted of two cases of breaking and entering and assaulting the wives of two householders, and his employer was ordered to dismiss him.⁴² His behaviour was evidently considered to be beyond the limits of acceptability, and it looks as though the charge of barratry in his case was thrown in for good measure, to express the community's disapproval and perhaps to give additional justification for his punishment. Ingram defines barratry as having much in common with scolding, but applying mainly to men and often carrying stronger connotations of legal chicanery and stirring up of unjust lawsuits.⁴³ There is little evidence of this here: in the cases of Clark and Elsted, 'barrator' seems to have been used as the male equivalent of scold, while for Hills it looks like a catch-all term for someone whose misdemeanours had caused outrage. Eavesdropping, from the wording of the presentments, seems to imply not merely listening to private conversations but repeating what has been heard and thereby stirring up discord. In short, both these terms appear to have been used to designate forms of antisocial behaviour which did not quite fit into any of the conventional categories of crime, much as the term 'scold' was used before 1560.

V. PUNISHMENT OF SCOLDS

Barrators and eavesdroppers, however, did not apparently risk humiliating public punishment, while scolds did. The Fordwich evidence seems to confirm Underdown's conclusion that punishment of scolds became more severe after 1550. But well before this public humiliation was the legally prescribed penalty for women guilty of scolding in various jurisdictions, even if it was rarely or never used. In the late-fifteenth-century versions of the Fordwich and Sandwich Custumals, any woman who scolded or quarrelled in public was to carry a mortar through the town, preceded by a 'piper or other minstrel making sport', and pay a penny to the piper, though Sandwich made the concession that a woman willing to pay 21d could be excused. In Hereford the use of the cucking-stool was prescribed in 1486. In all three custumals the possibility of a man being so punished was not envisaged.⁴⁴ In Fordwich the practice of scolds carrying or wearing the mortar through the town does not seem to have been enforced within the period 1450–1560. Most often they were punished by a small fine. What determined the amount is unclear: on some occasions

the accused was also being amerced for another offence, but the fine fluctuated even if the presentment was only for scolding. Repeated offences did not necessarily incur a larger fine, nor were people presented in a group always amerced the same amount. Between 1492 and 1508, however, larger fines, and in 10 out of the 21 cases, the mortar as an alternative or additional punishment were threatened if the offence was repeated, though even in the case of women who were repeatedly convicted as scolds there is no evidence the mortar was actually used until 1563. Nor were the threatened larger fines actually imposed for a repeated offence. Until 1563, these threats seem to have been used in the hope that they would act as deterrents; when they failed to do so they were still not implemented. All the same, the fact that more draconian punishments were being threatened during the two decades when presentments for scolding were most numerous does make it look as though the authorities were more concerned about scolds then than at any other time till much later. For a comparison with other offences, hedgebreakers were also threatened with larger fines for repeated offences, or in one case a day in the stocks, between 1497 and 1507; the actual fines for hedgebreaking varied as inexplicably as those for scolding. No such trend is apparent in the assault cases, and the other categories of 'social control' presentments are too few to permit any conclusions to be drawn.

There is no surviving record of anyone being presented as a scold between 1533 and 1563, when two women and a man were charged. The punishment of these was referred to the discretion of the mayor and jurats, who ordered that they were to 'wear the mortar through the town and to have a whistler or other minstrel going before the said party and the said offender to pay 1d to the whistler or minstrel'.⁴⁵ A similar referral to the mayor and jurats' discretion occurred in 1571 when another scold was presented, but this time their decision was not recorded.⁴⁶ There is no indication that any of these later-sixteenth-century scolds had offended before in any way, which makes their punishment all the more striking. However, punishments for all kinds of offences became more severe around this time, and the fact that one of the scolds in 1563 was a man makes it difficult to use these cases as evidence for growing misogyny in the Elizabethan period. Even if the presentment of a man was an aberration, the lapse of eight years before anyone else was charged with scolding suggests that the Fordwich authorities were less worried about scolds in the 1560s than their predecessors had been 70 years earlier, unless of course such cases were being tried elsewhere. Unfortunately the absence of frankpledge records for the rest of the 1570s leaves the question of what happened next unresolved.

CONCLUSION

While any conclusions based on the Fordwich presentments alone must be regarded as provisional and speculative, they do suggest exceptional concern about social behaviour around the end of the fifteenth century, with predominantly female offences apparently giving rise to greater anxiety than the misdeeds of men. Since so many of the accused were themselves regular jurors or their wives, it may be inappropriate to classify this concern as emanating from the local elite, although perhaps the latter put pressure on the presenting jury to enforce policies of 'social control'. Whatever the origins of this 'crisis of order', if it can be dignified with so grandiose a designation, the timing of the peak of the Fordwich court activity coincides remarkably with the findings of McIntosh and is only a year or two behind the peak found by Wunderli in London. Although Ingram warns against too ready acceptance of the idea of a marked contrast between this and the immediately subsequent period, a picture does seem to be emerging of a campaign for moral regulation in the reign of Henry VII.⁴⁷

McIntosh attributes the concern shown about social behaviour in Havering in the late fifteenth century to the area's precocious economic and demographic development.⁴⁸ The same claim could be made for London and possibly for East Kent, though the evidence for the latter is ambiguous and has been variously interpreted.⁴⁹ It is beyond the scope of this article to enter into these debates, and Ingram may well be right when he suggests that bursts of moral regulation were not necessarily contingent on rising population and poverty.⁵⁰ A possible alternative explanation might be that campaigns of moral regulation were responses to mortality crises. Paul Slack has noted how, despite awareness of the possibility of contagion or infection, epidemic disease was assumed to have a supernatural origin, and that the association of sin with disease could be used as a sanction by those concerned about social control.⁵¹ Pinpointing the chronology of epidemics in particular places in this period is notoriously difficult, but in Canterbury, less than three miles from Fordwich, there was sweating sickness in 1485 and plague in 1487 and 1501, which might account for the upsurge of determination to wage war on sin in Fordwich in the last years of the fifteenth century and the first years of the sixteenth.⁵² The inclusion of the word 'infection' in eight presentments between 1492 and 1508, and at no other time, might also suggest that public health was a particular concern in these years.⁵³

As for the Fordwich scolds of this period, they seem to have been mainly married women from established local families not noted for general delinquency or extreme poverty, indeed perhaps slightly more

comfortably situated than average. Most of them were presented only once as scolds and, where evidence is available about the exact nature of the offence, it looks likely that it was often a 'one-off' incident arising from a previous presentment in court, or from an outburst of anger on the scold's part against someone in a position of authority.⁵⁴ Ingram has noted the predominance of scolds who were married women and has also suggested that women were more likely than men to resort to verbal violence because they had less access to the legal system. Curiously, though, he has not linked these two facts: it was only married women who were debarred from initiating actions in the secular courts. He contends that the prosecution of scolds was not an aspect of patriarchal oppression, yet if married women gave vent to verbal abuse because, unlike men, they were denied the alternative of litigation, then surely prosecuting them for doing so was indicative of a strongly patriarchal culture, not to say of male oppression? And if acts of verbal aggression, when committed by a woman, were punishable by public humiliation (even if in practice this rarely happened) while the more characteristically male offences of assault and barratry did not, this too has a whiff of misogyny about it. While Ingram is quite correct in saying that men were also punished for verbal abuse, should not some significance be attached to cases like those of Margaret Bridge and Rose Peny, who like the men associated with them were punished for speaking their minds but, unlike the men, were then punished again as scolds?

ENDNOTES

- 1 D. E. Underdown, 'The taming of the scold: the enforcement of patriarchal authority in early modern England', in A. Fletcher and J. Stevenson eds., *Order and disorder in early modern England* (Cambridge, 1985), 116-136; M. Ingram, "'Scolding women cucked or washed": a crisis in gender relations in early modern England?', in J. Kermode and G. Walker eds., *Women, crime and the courts in Early Modern England* (London, 1994), 48-80.
- 2 A. Fletcher, *Gender, sex and subordination in England, 1500-1800* (London, 1995), 28.
- 3 For example, S. D. Amussen, 'Gender, family and the social order', in Fletcher and Stevenson eds., *Order and disorder*, 196-217.
- 4 R. M. Wunderli, *London church courts and society on the eve of the Reformation* (Cambridge, Mass., 1981), 2 and *passim*; M. K. McIntosh, 'Local change and community control in England, 1465-1500', *Huntington Library Quarterly* XLIX (1986), 219-42; McIntosh, *Autonomy and community: the Royal Manor of Havering, 1200-1500* (Cambridge, 1986), 255-61; McIntosh, *A community transformed: the manor and liberty of Havering, 1500-1620* (Cambridge, 1991), 250-1; M. Spufford, 'Puritanism and social control?' in Fletcher and Stevenson eds., *Order and disorder*, 41-47; M. Ingram, 'Reformation of manners in early modern England', in P. Griffiths, A. Fox and S. Hindle eds., *The experience of authority in early modern England* (London, 1996), 47-88.

- 5 The Southampton records, from which Underdown quotes to support his case, survive for only 11 of the years between 1550 and 1579; see F. J. C. and D. M. Hearnshaw eds., *Southampton Court Leet Records*, vol. I (Southampton, 1905–1908).
- 6 Ingram, 'Scolding women'.
- 7 Canterbury Cathedral Archives (hereafter CCA), U4/2, 3, 6A, 8, 20; the only years between 1450 and 1569 for which there is no surviving record are 1457, 1484, 1535 and 1538–1540.
- 8 For example, see CCA U4/3/118 verso, the two sons of John Greneham.
- 9 Ingram, 'Reformation of manners'.
- 10 See below, Section V.
- 11 Centre for Kentish Studies, Maidstone (hereafter CKS), Qb JMs 1 and 2.
- 12 CKS, PRC 3/1 and 3/6.
- 13 McIntosh, *A community transformed*, 256–7. The absence of manor court records for Havering from 1530 to 1553 and of church court records till 1560, makes it impossible to tell precisely when the change occurred.
- 14 Wunderli, *London church courts*, page 2 and *passim*.
- 15 S. M. Sweetinburgh, 'Women, household and community: Appledore and Hythe, c. 1400–1470' (MA dissertation, University of Kent, 1993), 87; C. Z. Wiener, 'Sex roles and crime in late Elizabethan Hertfordshire', *Journal of Social History* VIII (1975), 38–60. Thanks to Linda Lees for the information on Nottinghamshire and Staffordshire.
- 16 One scold may have been mentally ill: Alice Stokes, apparently a deserted wife, committed suicide in 1493, within a year of being presented for scolding (CCA U4/6A/2).
- 17 Eighteen men are described as 'gentleman', and two as 'knight' in the Fordwich records over the period studied. However, only eight 'gentlemen' can be identified positively as resident in Fordwich, and at least two were clearly not resident. Wills survive for 47 Fordwich residents from 1460 to 1577.
- 18 Underdown, 'The taming of the scold', 120; McIntosh, 'Local change', 232–3.
- 19 Ingram, 'Reformation of manners', 74; McIntosh, 'Local change', 231.
- 20 Ingram, 'Scolding women', 65.
- 21 CCA U4/6A/2 (9).
- 22 CCA U4/3/67 verso. In January 1495 the rector had been presented for obstructing a watercourse and moving boundary markers. He was threatened with large fines if he did not amend. Presumably he had objected to this and Rose Peny had supported him.
- 23 The Custumal survives in a late-fifteenth-century copy, probably from an earlier version; see C. E. Woodruff, *A history of the town and port of Fordwich* (Canterbury, 1895), 213–14. The 'mortar' referred to is the sort of vessel in which ingredients such as spices are pounded with a pestle. Carrying it around the town was considered humiliating.
- 24 CCA U4/3/86, 88, 90.
- 25 The will of Thomas Byker, Alice's husband dated 1502 (CCA, PRC 17/13/377 – microfilm) shows he was quite well off. Probate of the will was contested in 1503 by two women (one of whom was certainly his cousin) on the grounds that he had been under 21 when he made it, and that (according to the plaintiffs) the child Margaret Byker, supposed to be his heir, was a bastard. It is very unlikely his wife was much older than he was. Robert Cook was an old man but Anne was not his first wife.
- 26 CCA U4/3/103 verso.
- 27 CCA U4/3/101 verso, 102.
- 28 Ingram, 'Communities and courts: law and disorder in early seventeenth century

- Wiltshire', in J. S. Cockburn ed., *Crime in England, 1500–1800* (London, 1977), 110, 118.
- 29 CCA U4/3/184, 192, 196 and 196 verso. In his first scolding presentment the feminine form, 'garrulatrix', is used.
- 30 CCA U4/3/237 verso and 238.
- 31 For links between scolds and sexual offenders, see R. M. Karras, *Common women: prostitution and sexuality in medieval England* (Oxford, 1996), 138–9.
- 32 CCA U4/3/220 verso.
- 33 CCA U4/3/27 verso, 32 verso, 35 verso, 36, 52 verso, 94 verso; PRC 17/3/128.
- 34 CCA U4/3/45, 47 verso, 50 verso, 60, 60 verso, 61, 6A/1/1 and verso. For John Large, see above (in Section III).
- 35 CCA PRC 17/3/408 and U4/3/63, wills of Thomas and Alice Southland.
- 36 Ingram, 'Scolding women', 72.
- 37 CCA U4/3/200.
- 38 CCA U4/3/140.
- 39 CCA U4/3/139 verso.
- 40 CCA U4/20/1/64.
- 41 CCA U4/3/149, 192, 196 verso, and 211ii.
- 42 CCA U4/3/148, 149.
- 43 Ingram, 'Scolding women', 51.
- 44 Woodruff, *History of Fordwich*, 217, 241; W. Boys, *Collections for an history of Sandwich in Kent* (Canterbury, 1792), 500–2; M. Bateson ed., *Borough customs*, vol. 1, Selden Society, XVIII (London, 1904), 79–80. In Latin the verb 'portare' is used, which could mean 'carry' or 'wear', but in the Fordwich records, the sole English reference to it clearly says 'wear' (spelt 'were'). It would be much more humiliating for it to be worn (presumably on the head).
- 45 CCA U4/20/1/64.
- 46 CCA U4/20/1/120.
- 47 Ingram, 'Reformation of manners', 58.
- 48 McIntosh, 'Local change', 219–21, 230.
- 49 A. F. Butcher, 'Origins of Romney freemen', *Economic History Review*, 2nd series XXVII (1974), 16–27, and 'Rent and the urban economy: Oxford and Canterbury in the later Middle Ages', *Southern History I* (1979), 11–43; D. M. Palliser, 'Urban decay revisited', in J. A. F. Thomson, *Towns and townspeople in the fifteenth century* (Gloucester, 1988), 1–21.
- 50 Ingram, 'Reformation of manners', 57.
- 51 P. Slack, *The impact of plague in Tudor and Stuart England* (London, 1985), 26, 29.
- 52 J. Hatcher, 'Mortality in the fifteenth century: some new evidence', *Economic History Review*, 2nd series XXXIX (1986), 19–39.
- 53 For example, CCA U4/3/137, a drain flowing from the tenement of Thomas Boyes into King Street, 'to the common annoyance and infection of the Lord King's liege people'.
- 54 As Underdown suggests ('The taming of the scold', 120).