

(crime)

## CRIME AND PUNISHMENT

Affray

Armed – riding and going

Arson and maiming

Barretry (causing unnecessary legal actions)

Burglary

Forcible Detainer

Felonies: buggery, abduction, tongue or eyes, stealing records, multiplication of gold or silver, unlawful hunting, bigamy

Forcible entry

Larceny

Murder and homicide

Offences by officers

Rape and attempted rape

Riot

Robbery

Suicide

Theft

Treason

Witchcraft

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### AFFRAY

Hale gave the following definition of affray: 'if weapons drawn, or stroke given or offered, but words no affray: menace to kill or beat, no affray, but yet for safeguard of peace, constable may bring them before Justice'. It would thus appear that in order to commit an affray a weapon must be drawn, or a stroke given or offered. In the event of an affray, if it were considerable, a private person might stop the affray and deliver them to the constable. If a person hurt another dangerously, a private person might arrest the offender, and bring him to gaol or to the next Justice. A constable or Justice must suppress all affrays. Affrays were misdemeanours, not punishable by death. Where were they prosecuted and how punished?

### KINGS BENCH AND ASSIZES

A first glance through the KB and ASSI material (to be checked with the machine) does not reveal any cases of simple affray being prosecuted. This would not be surprising, since the offence was not of a sufficiently serious nature in itself to come to these courts. The one exception I have found occurred in the Assizes for 1603 when three EC yeomen were indicted for assaulting a man at Bures. They were fined large sums. It may well be, though Hale says nothing about this, that were several persons attacked one in an organized way, this was considered a

separate offence -namely assault. The word does not occur in Hale - was it a legal offence?

## QUARTER SESSIONS

In the period 1560-1714 (add in 1714-50) there are several instances in the Quarter Sessions connected to assaults and affrays. It might be worth typing these out in extenso when the computer can do so, but for the present the cases can be briefly summarized as follows:

- 1566 three men for assaulting an EC man in porch of parish church
- 1577 breaking into close, destroying grass, assault, by three men
- 1587 Thomas Kelton for an assault and battery on Eliachim Ive
- 1587 the same for breaking into house with weapons
- 1600 William Forde for assault and affray on Thomas Greene
- 1609 assaulting a Colchester clothier at EC
- 1626 various of Colne Engaine for riotous assembly and assault on Colne Engaine couple - includes one EC person
- 1629 assault on Henry Abbott in the execution of his duty
- 1635 assault on Henry Abbott in the execution of his duty
- 1654 riotous assembly and assault at East Donyland - includes one EC person
- 1658 five persons riotously assemble and enter dwelling house and assault the wife
- 1688 Aldham man to answer for assaulting an EC woman
- 1691 Thos Payne for threatening to burn down his house and assaulting and beating his wife
- 1691 gentleman of Great Tey for assaulting and beating a woman of EC and vice versa
- 1692 man for assaulting and beating EC woman
- 1693 two EC labourers for assaulting and beating Colne Engaine man
- 1693 to prosecute for an assault and battery, two EC men
- 1696 to answer for threatening the life
- 1697 to answer for assault on EC man
- 1704 four persons to answer for assault and battery on EC man
- 1705 assault on EC man

Before we speculate too much as to why there seems to have been a growth in the amount of prosecution for assault, it will be necessary to put these cases alongside those for the court leet. If however we remember that these included a number of cases in other villages, that in a number of cases the case was not proven etc. What do we have for a period of over 150 years? In terms of the use of weapons, as far as I can see, the only one which mentions weapons is the big affair involving Thomas Kelton etc. in the 1580's which led to cases in Chancery, Star Chamber and elsewhere. Clearly it would have strengthened the indictments if weapons had been mentioned, if they could be proved to be used, but there is no such mention. One presumes that the assaults were with bare fists.

Secondly, if one confines oneself to documented affrays and assaults within Earls Colne, there are over this period some twelve cases, less than one every ten years. A number of these tend to be explicable. Several involved the large rows which led to the disputes over the manor, mill etc. involving William Forde, Thomas Kelton and others. Two of the twelve were put forward by the highly litigious Henry Abbott who claimed to have been assaulted in the course of his constabulary duties. Several more involved the apparently equally litigious Caleb Maysent. If we subtract these three persons we are left with half a dozen affrays or assaults recorded as occurring in Earls Colne over a period of 150 years. Only one case involved alleged wife-beating, though it is difficult to know this would be a sustainable charge. But before we finally evaluate the control of violence, we need to look at the court leet presentments.

## **COURT LEET**

Amongst the articles to be enquired of the leet according to the model of 1510 were: 'of all assaults and affrays made against the king's peace' and 'of all wounds made of blood shed or weapon drawn against the king's peace...' and 'of all common chiders and brawlers to the annoyance of his neighbours'. It will be fascinating to use the computer to search through the court records for EC and CP to see how far such offences were indeed presented, and whether they overlapped at all with other record. All I have at present is a small selection of such cases between 1495 and 1608 for Earls Colne manor, about 70 cards in all. Perhaps about forty of these led to actual bloodshed. They tended to come in crops of cases, obviously disputes boiling up - for example in 1495-9, 1599, 1608. In only 9 out of these seventy odd cases is a weapon mentioned. Most of these weapons seem to have been ordinary tools or furniture; a candlestick, hedging bill, two staffs (a plain staff and a turning staff), a whip, and a 'boule' (bowl?). The only use of offensive weapons occurred at the end of the period. In 1585 Richard Paine and William Vaughan drew blood one of another with daggers and the pair of daggers worth three shillings'. In 1599 Jeremy Morgan was involved in an affray of blood on Edward Read with a dagger, and he also drew blood on John Read. It will be interesting to see whether earlier and other court leet material confirms this pattern. If so, it is curious that there should be so few weapons used and the only specifically offensive ones occur in the supposedly well-governed period after the supposed suppression of random violence.

It is, of course, impossible to know how many 'affrays' went unrecorded and it is also a matter of judgement as to whether an average of a blood-letting every 2 and a half years in the larger manor is a lot or a little. What seems certain

is that there was a machinery designed to prevent the slightest outbreak of interpersonal violence. The homage jury could be fined if they refused to present the cases; they were on oath to do so. It should be possible to investigate the background to some of the cases, especially in the Elizabethan period, where they fit in with larger disturbances.

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## **ARMED: RIDING AND GOING**

The ability to prevent people riding and going around armed is a very important one for governments. Hale gives no details of these offences, but if we look for example at the annotated copy of the Statutes of the Peace kept by the Westmorland Justice Sir Daniel Fleming, we find the following:

Stat 33 H.8.6. None shall shoot in, or use to keep in his house or elsewhere any cross-bow, handgun, hagbut( ), or demy-hake( ) unless his lands be of the value of 100 pounds per annum, in pain to forfeit ten pounds for every such offence. Dags, pistols and stonebows( )within this act.... None shall travel(save 100 pound men) with a cross-bow bent, or gun charged, except in time and service of war, or shoot in a gun within a quarter of a mile of a city, borough, or market town, except for the defence of himself or his house, or at a dead mark, in pain of ten pound...'

Fleming then summarized some of the exceptions, for example Lords Spiritual and Temporal and inhabitants of cities, boroughs and market towns could keep large guns. But no-one was to shoot, carry or have any gun under the length of three quarters of a yard on pain of forfeiting ten pounds. Anyone seeing such a weapon and having 100 pounds of property was to seize it and destroy it within twenty days. None below the degree of a baron was to shoot a gun in a city or town.

It should be noted that to have 100 pounds per annum income from real estate was a considerable sum in Earls Colne. It would probably mean that at the most three or four families at any time would come into this category. Thus, in theory, almost all the population was prevented from having daggers, pistols, cross-bows or other offensive weapons.

How effectively was this legislation maintained? The first test would be to see if there any prosecutions for being armed or riding armed. From memory, I cannot recall any, but it would be necessary to search properly. Our rough index has two cases. One in the EC manor court: a man was presented to have and use a 'birding piece' having no free lands or tenement, with which he killed and drove away the lord's doves. The other, in 1609 at the CP court was the presentment of Robert Finch who 'has a bow or gun at Cylumbers house in this town against the statute and is pained ten pounds'.

But we can also go beyond this. Not only can we look through the whole data set for the mention of any kind of weapon, for example the use of weapons in various kinds of assault, or as stolen, but we can look at Josselin for any indication of the widespread use of weapons. This needs to be done.

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## **ARSON AND MAIMING**

It is not yet clear whether one should put arson and maiming together here. If we take as the framework the classifications of the period itself, maiming of animals was not a separate offence - it is imposing one of our categories. Arson was a capital offence at Common Law classified alongside burglary by Hales as an offence against the habitation. The capital offence was restricted to the burning of a house or of an out-house, or of a barn if it had corn or hay in it. The burning of a stack of corn was made a felony for a few years in the sixteenth century, but then, except for the northern Assize circuit, abolished as a capital offence. There had to be malicious intent and if a person burnt down his own house without damaging others, this was not a felony.

Murder is an assault leading to death; rape an assault leading to sexual penetration. The special feature of arson and maiming are that they are assaults in which the object is not to carry away or appropriate the property, but to destroy it so that the present owner does not have the use of it. Rick-burning, machine-smashing, cutting the cartilages of animals, would be examples. The English law regarded these offences very seriously:

They are often very important and frequent offences for several reasons. Historians (e.g. Captain Swing/Bloch) have argued that where there is a strong class opposition, the enraged and frustrated and property less will turn to these offences. They cannot appropriate the property themselves, but they can at least prevent the present owners from using it. Such activities are also extremely important in situations where there is political patronage - the severed head of a favourite horse (as in the Godfather) is a token of worse to follow. Another interest lies in the difficulty of preventing such activities. A small boy can burn down a whole village in a few minutes, whereas he would have difficulty in stealing and disposing of a single chair. It is for this and other reasons that K. Thomas has suggested that to a certain extent arson can be seen as replacing witchcraft as the archetype of the most wicked inter-personal village crime in the later seventeenth century.

Certainly it is the case that in societies such as that described for eighteenth century France or nineteenth century Sicily, these two offences, basically against immovable and movable property, are very frequent occurrences and are held to reveal a world of very considerable tension. We may thus turn to the evidence for an English village over a period of 350 years with interest.

Taking arson, that is the destruction of property (either one's own to claim insurance) or other peoples, what evidence is there of this in the records? Having briefly talked to Jessica (King), we both have the impression that there is not a single case of arson in all the criminal records, though there is a threat to do so recorded in Josselin's diary (quote). Nor is there any hint in all the records that animals were maimed, except accidentally or in order to steal them. If this is confirmed by subsequent analysis using the computer, it is very curious indeed.

If we used the arguments summarized above in reverse, it shows a society which is both amazingly well disciplined, and one where the oppositions are not developed enough to lead to this kind of behaviour. It also shows a situation which has not changed over time. Property is extremely safe from random destruction. It might be thought that one exception would be in a period of war. Fortunately we have Josselin's account of that period - what does he say about the wanton destruction of property?

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## **BARRETRY**

This was an offence by Common Law, but not a capital one. It was one of the forms of breach of the public peace. \*\* I will have to look up the definition elsewhere since Hale says nothing about it, but as I recall it is an offence consisting of undue litigiousness. To be a barrator is to cause unnecessary legal actions against others. I cannot recall whether we have any cases for EC. There is nothing in the subject index, but I suspect that there may be cases when we search the whole file - for example, I would expect Thomas Kelton to be accused of this.

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## **BURGLARY**

The essence of burglary was that it was an assault on a person's dwelling house or habitation in the night time. The definition given by Hale was as follows: 'Burglary by the Common Law is, where a person in the night time breaketh and entreth into the mansion-house of another, to the intent to commit some felony within the same, whether the felonious intent be executed or not.' He defined 'night' as the time when a person's countenance could not be seen. 'Breaking and entering' was more difficult to define. The thief must break a door or window; if they are left open there is no breaking. He must enter, or poke a hand or hook or pistol within. There were several further fine points, for example entry by the chimney was breaking and entering, if the main door was open, but the owner locked himself in a room and the door was forced, this was breaking and entering. As to the question of what a mansion house was, this included churches, out-buildings such as barns and stables, a shop. Finally, it is only a burglary if there

is intent to commit a felony by Common Law. Thus, if a person forced an entry merely to commit a trespass, such as to beat the owner, there was no felony. Or if with intent to commit a rape, a felony by Statute, then no burglary. Burglary was an offence in which the judgement was death and clergy was taken away.

It will be necessary to look through the theft cases very carefully to see which of them appeared to be burglaries. The wording of the indictments is essential here. The theft from Josselin's son's shop was such a burglary. It is clear that the attack on a habitation aggravated the offence considerably, added to the danger of such offences at night.

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## **FORCIBLE DETAINER**

Hale describes this as 'menacing the possessor to go out upon pain of loss of life or limb. Unusual weapons or company. The detainer with force was justifiable where the party was in possession three years. Thus this offence concerned the holding of property. A search of our material will reveal whether there are any cases.

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## **FELONIES**

There are a number of felonies by Statute which are listed by Hale, but which seem fairly irrelevant as far as Earls Colne cases are concerned. It is important, of course, to know that the law proscribed them, but in each case no prosecutions for them have been left in the Earls Colne records, as far as I am aware at present, though we will later use the machine to check this. Indeed, the only statutory felony which seems to have been prosecuted, and that only once, was rape. Even rape was only statutory after having been restored after having been a felony at Common Law. One importance of the distinction between Common Law and Statutory felonies is that only the former could be inquired in a court leet, unless the Statute specifically stated that the court leet could inquire. The offences listed by Hale were:

## **BUGGERY**

That is to say sexual intercourse per anum with an animal or with a human. It was the manner of the sexual intercourse that was forbidden (check this), rather than the fact that it was with animals. There had to be penetration as well as emission.

I know of no prosecutions for this in Earls Colne and they were fairly infrequent throughout Essex(cf. Emmison). There is no mention in the subject index to Josselin of such an offence, but I seem to vaguely recollect something somewhere.

## ABDUCTION

'Taking a woman against her will and marrying her' was a felony in certain circumstances. For example, she must have lands, tenements, or goods, or be heir apparent, she must be married or defiled, it did not apply to a ward or bondwoman. This offence is not recorded in the documents for Earls Colne.

## TONGUE OR EYES

The malicious cutting out of the tongue or putting out of the eyes was a felony, though not the cutting off of ears. There are no prosecutions for this in Earls Colne.

## STEALING RECORDS

'Stealing, carrying away or avoiding records' was a felony. Although there are instances in the Chancery records of disputes over records and allegations of theft and destruction, it is not known that any of these led to a prosecution for a felony.

## MULTIPLICATION OF GOLD OR SILVER

This was made a felony by I Hen 7,c.1, but there are no recorded prosecutions for this offence for Earls Colne.

## UNLAWFUL HUNTING

'Hunting unlawfully in forests, chases, or warrens with painted faces by night' was made a felony by 31 Eliz.c.4. In the early eighteenth century it was stiffened by the Waltham Blacks act and the prosecution of this offence lies behind the analysis in Thompson's Whigs and Hunters. I can recall no cases of prosecutions for this offence in EC.

There are then listed several offences which are only marginally relevant to a place like Earls Colne, and for which there is nothing, embezzling the King's armour, subjects going overseas to serve a foreign prince, wandering soldiers in certain cases, soldiers leaving their captain without a licence.

## BIGAMY

'Marrying a second husband or wife, the former living' was a felony, except in certain cases, for instance if the partner was absent for over seven years, or if after a divorce, though a mensa et thoro only. I know of no prosecutions for bigamy in Earls Colne, but it would be interesting to look at the ecclesiastical courts to see whether there are cases of alleged bigamy there and, if so, why they did not come to the

secular courts.

Then there are several further minor categories which again seem marginal. Travelling with a plague sore was for a short while a felony, but was discontinued. A gaoler compelling a prisoner to become an 'appellor' (?) was a felon. 'Coining, or bringing in gally half pence, suskins, or dodkins' (?) and 'payment of blanks' (?). The transportation of silver, or importation of false money: the exportation of wool other than to the stape of Calais; the stealing of falcons, or concealing them, after proclamation; the receiving, retaining or maintaining a Jesuit or Popish priest knowingly; Egyptians (or gipsies) above fourteen years remaining here a month; dangerous rogues adjudged to the galleys and returning without licence; forging a deed after a former conviction; sending sheep beyond sea after a former conviction; servants after decease of their master riotously spoiling goods; servants embezzling goods of their masters delivered to them; cutting powdike (?).

Obviously the very presence of laws which made these into offences which carried the death penalty is important in understanding what did not happen in Earls Colne. But there is little more that one can say on the subject, except to note the absences.

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## **FORCIBLE ENTRY**

According to Hale, forcible entry 'must be either manu forti, furnished with unusual weapons, menace of life or limb; breaking open the door, ejecting forcibly the possessors. It was the minor aspect of burglary, therefore, since it did not require that there be intention to commit a felony. A search of the files should be undertaken to see what kind and how many cases there were.

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## **LARCENY**

Larceny was a residual category and tended to be defined negatively. Simple larceny was defined as 'a felonious and fraudulent taking away by any person of the mere personal goods of another, not from the person, nor out of his house'. If the goods were of the value of 12d or over, then it was grand larceny, if under that value 'petty larceny'. Death was the penalty for grand but not petty larceny. But there was also 'larceny from the person', that is to say pick-pocketing or purse-cutting. Here there was no fear involved, but even so, if the value of the goods was over 12d the person lost the right of clergy, by a Statute of 8 Eliz.c.4. If the value of the secretly stolen goods was under 12d the convicted thief would forfeit all his goods and be whipped as in ordinary petty

larceny.

It will be necessary once again to look at all the cases of theft in order to see which fall under the various headings -see the separate file entitled generally 'Theft'.

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## **MURDER AND HOMICIDE**

This is the extreme form of interpersonal violence, the depriving of another person of his life. It will be necessary to make clear the distinctions that have been made in law between chance-medley, homicide from necessity, self-defence, murder and manslaughter.

It is an offence which is particularly suitable for historical examination since, as J.Sharp and others have pointed out, it is difficult to conceal(since there is a body) and sufficiently horrific to be likely to lead to presentment.

We may start by looking at the accuracy of the recording of murders, by way of the overlap between references in different sources. This could be seen in a table, as follows:

DATE/NAME	KBENCH	ASSIZES	QSESSIONS	OTHER SOURCE
1608		yes		
1626	KB9	yes		
1645				Josselin
1649				Josselin
1668		yes		Josselin
1716		yes		

As a preliminary check we can compare the records of the Assizes and King's Bench. We find as follows(cf. both K.B.9 and K.B.27).It is obvious that the coroner's inquests in KB 9 are not at all complete. Furthermore, it is clear that the controlment rolls(K.B.29) may not be complete; the 1608 indictment, for example, was not found in them. But they do sometimes give further information. For example, Margaret Williamson was accused of suicide and her goods forfeit in 1627 according to K.B.29. Even allowing for gaps, only some of the homicides are noted. It will also be seen that a comparison with other sources suggests that there was no other source in which cases were regularly recorded. Fortunately, we have one supplementary source which can be used to check the accuracy and completeness of recording. This is Josselin's Diarv. It is also important since it gives us our only direct clue

as to reactions to supposed murders.

On 24 December 1645 Josselin notes:

'At Coll: Cookes, Paflin cleared in the matter of the widow Ward, he accused Potter about the death of his maid Alce, and children by her, upon which Edward Potter took out a warrant to examine the matter. We sat all 25 day about the business and in conclusion the justices had so much against him as to send him to gaol, the chamber where he had his mittimus was the room where he was born at mother Abbots, the Lords finger was in this business...'

(Was this in Earls Colne? The Assizes are missing for this period and there is nothing in the QS.)

The next entry under 25th March 1649 was:

'the Coroner was sent for unto our town about the death of one Beckwiths wife, by Holden, the Jury acquitted him...'  
Nothing in either QS or Assize, but the records of the latter are missing.

Josselin mentions several other suspected murders in nearby towns, but only three or four (cf. Heywood). His Diary entries do not prove that the Assize records are faulty, since two out of three of the suspected cases are in periods when the records have been lost - in the worst period for loss in the Interregnum.

What we have then are reports on seven accusations of murder and homicides over a period of just over two hundred years. It is likely that one, or even two, have failed to be recorded. This would give a rough rate of 8 cases, with a population of mean average 600, over a period of 190 year; how does this compare with other crude rates?

What is much more interesting is : who the people were who were involved, what were suspected to be their motives, what was their treatment at the hands of the law and of the community.

The sort of thing one might stress:

As regards the motives: it is clear that almost all the murders occurred within the nuclear family -children, brother, son-in-law, husband. These were not the revenge killings of a honour-conscious society, feuds between families, 'protection' etc. In all the cases where we can establish motive it arose out of family tensions. The sample is too small to establish a pattern in general, but what we can say is that killings did not emerge from either random anger, drunkenness etc, but from unbearable tension, sometimes with unwanted children, sometimes with step-children etc.

The methods used varied from boiling wart tubs, poison, kitchen knives. There is no evidence that the larger protective and defensive weapons which are found to cause so much damage in many societies -guns,

daggers, swords etc. were ever used in murders. There is not a single hint of planned assassinations. The pattern, both in terms of motive and in terms of method is very much what one might expect today in England.

One aspect of the treatment of homicide/murder is the reactions of the law and of the community. There was an attempt at considerable vigilance in detecting murders. (look at regulations concerning deaths by misadventure - in what case was a coroner's inquest necessary etc. ; look at the actual coroner's inquests on deaths by misadventure in EC and see what were the actual types of case - were they recorded in parish registers, did they appear in other documents etc.)

Another aspect is the penalties and verdicts in cases. In the particular cases we have, we have the following verdicts:

What will be needed is some sort of table or analysis which shows the following:

presented	indicted	sentence	execution of sentence
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It would then be possible to work out some kind of statistic of how many people were actually executed after having been found guilty. At a first glance we only know that one of the accused (in 1608) was actually hanged, while only XX were found guilty. It would be worth looking at the subsequent lives of those who were either found not guilty, or who served their sentence. Did they leave the community, or remain; did they lose respect and position, or not? We have certain clues and once we can establish the details of the persons, can pursue this further.

In general, then, murder and homicide were relatively infrequent and unimportant features of village life, a case occurring on average every twenty-five years or so, usually involving an intense family quarrel.

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## **OFFENCES BY OFFICERS**

One of the categories of Common Law offence, though it was not a capital offence, was that committed by an officer. As we shall see, there were numerous officers who had some jurisdiction over Earls Colne and they were closely watched, both by the local population and by their superiors, both individuals and courts. They could be prosecuted for three main types of offence: neglect of duty, bribery and extortion. It is probable that these topics would best be handled when we discuss the role and personnel of various offices. But it may be worth just glancing at the file under 'Office' in the subject index. Indeed, thinking about it further, that is clearly where this should come, within a broader treatment of bureaucracy/public office/local government. for the offences cannot be measured or understood

except in the context of the work by the officers. But just to start a file, it might be noted as follows:

*aleconders.*

I have so far three cases of them being in mercy for not well executing their duty, in the court leet

*constables*

Here there are two separate pieces of information. Irrelevant for the present, though important elsewhere, is some information on the difficulties which the constables faced from the parishioners in the execution of their office (cf. Wrightson on, more generally). In terms of possible abuse, i.e. neglect, bribery and extortion, there is surprisingly little considering the fact that we are dealing with several hundred years and the importance of constables. We may find more when all the data is in. At present we have:

1577-8 presentment at the QS that the two constables failed to appear at the petty sessions

1592 that John Parker and Thomas Smyth constables, failed to keep their watch from sunset to sunrise, nor appointed replacements this is likely to be part of a large struggle in the village that year and the indictment is also to be found in KB9

1638 the constables allowed an arrested man to escape

1700 two men being constables, 'knowing divers vagabonds, wanderers and sturdy beggars, neglected to arrest them' the bill was rejected at the Assizes as insufficient

If this is anything like a true reflection of the situation, the absence of all charges of bribery or extortion, and even the minimal number of charges of neglect of duty is very impressive. Of course, these things are difficult to prove and might not have come to court. But it seems likely that if they had been widespread there would be some hint, either in accusations in the long and complex disputes in Chancery, Star Chamber and elsewhere, or in Josselin. That people managed to carry out this tricky activity without apparent corruption over such a long period is extraordinary. Their difficulties in doing so will be analysed elsewhere.

*justices*

Equally crucial was the activity of Justices. Since they themselves were often residents and involved in actions, the difficulty of separating public and private interest was a very tricky one. There were many watching who would have pounced on any sign of misbehaviour of any kind. Such accusations might not have come out in ordinary sessions or even Assize records, since the Justices themselves

would be present and make it difficult to make accusations. But our material from the equity and conciliar courts provides an unusual opportunity to see behind the scenes, to see what kind of fear and favouritism, what suspicions of partisan dealings there were. A particularly good test case is the riot at the mill, for here the local justice Halakenden was involved and it is clear that in this and every other one of the complex cases his opponents tried to scrape up every accusation they could against him. Indeed, they did try to suggest that the Justices had acted illegally in various ways. It will be fascinating to unravel the case.

*holders of warrants etc.*

It is well known that there were large numbers of professional informers(cf. Beresford), that every court had its warrants and writs and bailiffs, etc. In this situation it was obviously easy for individuals to be subjected to extortion or other pressures. There are a number of cases of this in the EC records. One of the most detailed is the first.

William Turner of Earls Colne, was presented at the QS for arresting a man, 'approaching him and telling him that a certain information remained in the Exchequer Court at Westminster under the Statute of Usury, and that he was constituted a special bailiff to arrest the said Julian by virtue of a process out of the Court; and afterwards for receiving 30s. from Julian, by deceit and extortion, for the discharge of the information when in fact there was no such information in the Exchequer court.' He was probably imprisoned. In 1600 an EC man was bound over to give evidence against a Suffolk gentleman, an 'informer of her Majesty's Court of Exchequer, charged with divers briberies and misdemeanours in the execution of his office'(QSR). The next case, again at the Sessions, was in January 1652 when an EC man was accused by the bailiff of Lexden hundred for executing several warrants without his knowledge and permission. In 1690 an EC fisherman was bound over to indict a Halstead man for 'carrying him to a public house after he had arrested him at the suit of Mr. Henry Abbott and there running him up a great charge for meat and drink, and to indict another for demanding unreasonable fees for arresting him'. Then in 1696 two EC men were to answer for arresting a man without a lawful warrant.

As well as these, there were several cases involving the mysterious Caleb Maysent or Mason, who seems to have been some kind of small-time informer living in the village. We have seen that he was involved in various affrays in the 1680's and 1690's and it is now possible to see why. In 1688 he and another were to answer Margt Pennock of EC at the Sessions 'touching his coming into her house with John Lambert and Jos. Belchamp in a riotous manner and taking her goods by virtue of a pretended levy

out of the County Court, she being neither summoned nor distrained into the said court'. In 1693, Mason and others at Halstead 'under colour of the execution' of a writ out of the County Court, were said to have extortionately taken 25s from a man. In 1696 Mason intermeddled as bailiff of Sir Charles Tyrell in a plea of debt, arresting a man for debt, though Mason had not taken the oath of office. This suggests, in fact, that he may have been a bailiff.

## MANORIAL OFFICERS

The derelictions of duty on the part of manorial officers is normally invisible, or at least it would be extremely difficult to locate them. Nothing is to be found in the normal common law records for EC for example. We are thus amazingly fortunate to have the large dispute in Chancery and elsewhere between Partridge and Harlakenden which throws such interesting light on this - suggesting the dangers of accusations of corruption against a steward or bailiff or lord of the manor. This will be worth further investigation, in some detail.

## CHURCH OFFICERS

There is a good deal on the neglect etc. by the various church officers - wardens especially - in the ecclesiastical courts. This will merit separate attention.

Interlinked with all this are large questions about public spirit, accountability, acceptable and unacceptable payments etc. All this can be investigated to a certain extent.

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## **RAPE AND ATTEMPTED RAPE**

The records of cases would come to the usual common law courts. There is a very great difference here however when we compare the detection of the offence to that of homicide. It is well known that it is extremely difficult for a woman to prove rape, and often very difficult indeed for her to face the ignominy of bringing an indictment. These difficulties may help to explain the practically total absence of prosecutions for this offence in the documents from 1560.

As far as can be seen at present, the only cases surviving are in 1725(143.00218) and 1734(143.00256) in the Assizes. In the former a labourer was found not guilty of rape, in the latter the bill was not found in a case where a man assaulted a woman at Marshall, with intent to ravish her(no ref. to EC. why in?). A tantalizing hint that there were other cases which have not been discovered, and also of some of the difficulties women might face in bringing a charge. not from shame etc. but from other women. is given

in any entry by Josselin. Under 25th March 1672 he wrote:  
'Moles wife sought to split a woman at the secrets whom her husband raped. Smiths daughter by a fork forced her body inter anum et vulnam.'  
No-where else does Josselin mention the subject, not even rumours that came to his ears, which is of some value in assessing its frequency.

We are thus left with two possible interpretations. Looking at an English village over two hundred years, we can either say that rape and attempted rape were very uncommon indeed, or that they may have happened moderately frequently, but it was too difficult to prosecute them. Although it does not decide the matter either way, it is possible that something could be added to the argument by using a. contemporary language and b. the ecclesiastical courts. In a number of societies where sexual assaults are more frequent, this may become absorbed into the language of abuse and gossip. There may be threats of sexual abuse, there may be allegations etc. A search of the language will be possible, but my first impression is that the whole idea of sexual assault is more or less absent from the vocabulary. It is not something that people accused their enemies of, or threatened to do, or gossiped about. This needs to be checked in the church courts. The other thing that could be checked is the vast amount of material on illicit sexual relations. In the frequent bastardy and pre-nuptial pregnancy cases, it is not unlikely that if rape or assault had occurred, or even if it had been seen as a plausible defence, there would have been some mention of it. And even if full rape had not been alleged, we might have expected hints of sexual violence, women pushed against their obvious will, or even put under pressure by threats and non-physical forces. But there is, as yet, little evidence of this.

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## **RIOT**

Hale defines this as: 'when above the number of two meet to do some unlawful act, and do act it; but if they meet and act it not, an unlawful assembly, in power of justices to suppress them, 13 Hen.4.c.7' He amplifies this a little by saying that 'a man for safeguard of his house against malefactors or trespassers, may assemble his friends for his defence. But he cannot assemble to prevent a beating threatened in his presence. Riot recorded by one Justice upon view traversable; by two not, because pursuant to the Statute'.

At present it would seem that the recording of riot was limited to Star Chamber, at least that is the only source in which cases have been found for Earls Colne (probably also material in K.Bench, especially after Star Chamber was abolished). But it will be necessary to see how such riots were directly or indirectly reflected in other sources. There are at least four riots recorded in Star Chamber for Earls Colne.

defendant John Aylmer (Stac 5/K12/32 and 5/K4/32)

c.1587-91 riotously preventing owners of timber, Kelton and Read, from cutting the timber and taking it away, complainant Roger Harlakenden and defendant Robert, Simon and Eliacham Ive(STAC 5/H.57 no 10, 31/15)

c.1605 riotous assembly at Stansted, Halstead, armed and forcible entry and killing of deer, complainant Jeff Little of Halstead, defendants Frances Dykes and William Dashe and others of EC(STAC 8/202/35)

c.1606 riot at Colnford mill and right of leasehold, complainant Richard Harlakenden, defendant William Edes (STAC 8/163/9)

There is also mention in the State Papers Domestic. of a riot put down by the justices involving Thomas Anneally and others in c.1604 - this is probably connected to the mill affair.

To what extent are these riots also visible in other records?

DATE	KBENCH	ASSIZES	QSESSIONS	OTHER
1583/4				
1587/91	KB27	yes		
1603		yes		state papers
1605	KB29			
1606	KB9,KB29	yes	yes	

To complete this table we would have to look for reflections in the ecclesiastical courts and courts leet and Harlakenden accounts. What it does suggest is that it is likely that if a serious riot occurred it would be recorded in several sources.

We will have to investigate in some detail topics such as; who were the rioters; what were they rioting about; how much real violence was there; how was it controlled and dealt with; was the actual cause anything to do with subsistence, starvation etc. It is notable that all the riots we have at present occurred in a very short time-span - the 23 years between 1583 and 1606 - and that they all arose out of one major dispute, that between the lords of the manor and the former lords of the manor(with the exception of the 1605 one). Were there no riots earlier or later? We will have to use the computer to search through. Is there nothing in the fifteenth

century, for example there are hints in the early fifteenth century of a dispute between the monks and the Earls of Oxford. For the later period I recall nothing. Apart from the Civil War, there is no hint of riot in Josselin as I recall. The total absence of food riots is worth noting; when there were riots it was over disputes of property. Nor were there riotous battles between age groups, between villages etc. Even when they did occur, it will be interesting to see to what extent the violence was exaggerated or symbolic.

It will also be necessary at a broader level to look at rebellions, revolts, warfare and the behaviour of soldiers.

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## **ROBBERY**

The definition of robbery given by Hale was: 'a felonious and violent taking away from the person of another money or goods to any value, putting him in fear'. The two central elements here, which distinguished it from larceny, were that the theft was committed with violence, or threat of violence, in other words under duress, and that it occurred in the presence of the victim. Something must be taken, even if the purse is handed back having been found to be empty it is robbery. Pick-pocketing is not robbery because the person was unaware of the theft and not put in fear of violence. In normal larceny, death is the penalty only if the sum taken exceeds twelve pence. With robbery, if an assault and putting in fear can be shown to have occurred, the sum taken is immaterial. There is no pleading benefit of clergy. It is thus, like burglary, a much more serious offence than larceny.

Again, it will be necessary to go through the theft cases very carefully in order to see which fell into this classification, both according to contemporaries and according to the law. A general distinction between robbery in public places, particularly robbery on the highway, and in private places, people's houses and fields, will need to be investigated. How frequent was highway robbery, at least as reported etc?

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## **SUICIDE**

This is a topic which has attracted considerable interest from historians since it could be used, as Durkheim did, to provide some insight into the basic strains in a society. The real problem with the historical material is that there was a very considerable vested interest in covering up the offence, for the suicide's goods were forfeit to the King. The possibilities of covering up were increased by the difficulty of ascribing motive in cases of sudden deaths. The procedure in investigating

every death by misadventure was as follows:

Another problem is the question of attempted suicide - as has been pointed out, the reason why suicide rates have not gone up even faster recently may be because many who in the past would have died, are now saved.

Except occasionally and indirectly, one will only hear about suicides in one legal record, the coroner's inquests in K.B.9,11. These have been searched for the period from 1569 to 1710. The cases of inquests, summarized, are as follows:

1569 William Woodward injured by cart

1585 Robert Underwood drowned in a flooded river

1627 Margaret Williamson suicide -hanging (cf. earlier infanticide accusation.)

1636 John Church trampled by horse

1639 Abigail Abbott drowned in a 'keller'

1639 Anna Ritchman drowned in a pit filled with 'tan fat'

If it appears that Abigail Abbott and Anna Ritchman were indeed deaths by misadventure (do we know anything more about them - what is a keller, and how old were they?) We are left with only one recorded suicide, and that of a woman for whom we have a very good motive, namely that she had recently been acquitted of infanticide. Fortunately, we are in the unusual position of being able to go beyond the usual records through Josselin's Diary. Suicide was a sin, as well as a crime. The suicide could not be buried in consecrated ground. It therefore seems likely that the vicar would record such incidents. Furthermore, as a spiritual comforter, he might well note those who were tempted, or even went so far as attempted suicide. Furthermore, we will get some idea of his reaction to the offence.

The first entry is under the date 3 September 1644: 'Visited a sick man one Guy Penhackle who was much troubled in mind upon his life; he had strong temptations from Sathan. I urged him to a Covenant with god to be a new man if he recovered, the Lord sanctify his hand to him and make me careful of my conservation, oh how sadly is the soul afflicted that in death hath its sins a dreadful load, and apprehends not mercy but justice alone in god.' This, it would seem, was a case of religious depression. A second reference under 4 November 1644 was to 'one old Turner 84 years old, dwelling in the house with one Markham a separatist, this day drowned himself, Lord thy judgments are secret and righteous, keep thou me and mine I humbly intreat thee'. This appears to be Clement Turner of Earls Colne, aged almost 83 at this time. There is no reference to the suicide in other records, and no burial in the parish register.

On 8 May 1646 Josselin was at Lady Honeywood's and 'heard of the sad end of one Rust who drowned himself'. Ten years he recorded under 31 January 1656 of one who 'made away himself for fear of want' and on 24 April 1658 of a man in

Coggeshall who 'hanged himself on a beam in the chamber'. On 20 November 1664 he recorded 'a poor man at Gaines Colne, yet worth 16li lands yearly, fearing want, hanged himself, but cut down revived and lived. lord what is man left to himself.' On 23 September 1665 Josselin recorded 'a poor woman Wades wife drowned herself this night'. It is not possible to be sure whether she was of Earls Colne (\*\* check anything more known about her?) Finally, on 1 January 1668 Josselin noted 'one of my son's customers broke, another, Cook, drowned himself'. In this case it seems likely that he was not of Earls Colne.

It would thus seem likely that Josselin would record all cases in Earls Colne during his forty years presence, and he noted one, and possibly two such cases. His reactions suggest a mixture of pity and mild condemnation. It is also clear that he believed that poverty, or fear of poverty, was a major motive in most cases.

What can one say in general? One could possibly apply Durkheim's typology of various types of suicide, or other typologies, to show whether the one or two instances were anomic, egotistical, etc. This would probably be too large a hammer. What is clear is that suicides as reported were relatively rare - in a period of 140 years there were two or three. They do not seem to have been caused by wounded pride or honour, but possibly as a result of illness, poverty and shame.

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## **THEFT**

This generic title covers several different offences whose particular nature is described under separate files, namely larceny, robbery and burglary. All describe the taking of personal goods from other persons by deceit or force. Alongside breaches of the peace, it was the largest type of prosecuted criminal offence. It was tried at all four of the levels of the common law courts and it will therefore be fascinating to compare the impression we get of this offence from each of them. It will be necessary to specify the particular competence of each type of court in the prosecution of this offence, but until the time that we can use the computer to analyse the files, we may merely indicate the probable dimensions of the amount of material in each source.

## **KINGS BENCH AND ASSIZES**

At present in the card index, which only covers the period from 1560 to about 1700, there are 34 indictments for theft, approximately one every five years. It will be possible to see which of these were also recorded in the ancient indictments (KB9,KB11) and the controlment rolls for a short period (KB29). By analysing prosecutions etc. it will be possible to see what sort of patterns would emerge from using such records alone, and one would look particularly at the proportion of people who can be shown not to be of Earls Colne, though stated to be of that place. At present for a short period

of Elizabeth's reign, there are four cases in the KB9 records.

## SESSIONS RECORDS

Thefts of various kinds could be prosecuted at the Quarter Sessions throughout this period. In the sessions rolls themselves up to 1714 there are some 62 cards concerning various thefts, though some of these may overlap. Adding on five sets of depositions in the sessions bundles (are there others?), and later cases, there is a substantial amount of material here. The degree of overlap with the Assize material, the accuracy of the place/occupation recorded etc. will need to be checked. Assuming a partial overlap of the sources, a preliminary guess is that we are dealing with about 80 surviving prosecutions for a period of about 150 years, or roughly one prosecution every two years or so. We are still left with the huge problems of detection and failure to prosecute and loss of records. We also have the problem of what happened before the Assize/Sessions records survived. Fortunately we have two further sources which have not, as far as I know, ever been used to check such things.

## COURT LEET

It is clear that certain types of theft were within the purview of the leet. In a model charge to the leet in 1510 among the things to be enquired of were:  
Also if there be any small thieves among you that steal geese, capons, hens, chickens, sheaves of corn in harvest or any other gear in men's windows privacy that passeth not the value of 13d ob.  
Also if there be any men among you that be receivers of thieves or that go in messages of felons as for victuals or any other thing to their sustenance you shall let us know.  
Also if you know among you any great thieves which steal meat, oxen, or kyne, or sheep, or any other goods of great value, let us know.

It would thus appear that even if the leet could not impose penalties which involved the loss of life, member or liberty, or the payment of a fine of over five pounds, we should still find presentments for both petty and grand larceny and possibly for offences for which a person would be later indicted for robbery or burglary. As yet, it is not possible to take out all the cases of this kind from the court leet.

But just as a start, from the card index, we have the following cases, all from Earls Colne manor.  
1498 stole 2 chickens worth 2d in mercy 6d

1499 stole 1 gross of points and 3 knives mercy 8d  
(1500 took a horse without licence)  
1524 took away 2 axnailes mercy 12d  
1527 stole neighbour's hens and a bushel of oysters, 12d mercy  
1539 stole 3 sheep and fled into this lordship  
1557 stole a sheep, hanged, no goods forfeit  
1560 stole wood out of Chalkney Wood etc. mercy 12d  
(1576 man to return bucket ' rope of town well)  
(1579 man used timber for repair for his own use)  
(1579 stealing pales from the park; several presentments)  
1592 taking away sparrowhawks, in mercy 5s  
(1609 two persons for selling wood)

If we take away disputes over timber and one or two other doubtful cases such as borrowing a horse or the town bucket, we are left with about half a dozen thefts, minor and major. It is clear that, so far, the leet does not appear to have dealt with much of this business. It will be interesting to see, when we have all the material, whether any of the cases in the Assizes and Quarter Sessions appear in the leet and vice versa.

## JOSSELIN

One of the major difficulties with a topic such as this is to know how many offences went undetected, how many were not presented, though detected, and how many cases have been lost through loss of records. We are fortunate in having the Diary to check the impression gained from records and from an inhabitants notes. Josselin refers to a number of general fears about robberies and robberies in neighbouring villages. He noted in 22 February 1646 that he was protected when divers were robbed. The year 1649, in the midst of the turbulence of the Civil War, was a particularly precarious one. On 27 March he noted 'this morning Mr Nicholson's stable being robbed, Justice Harlakenden came over to me, I made out two hue and cries after the horse on the road'. On 23 September the unfortunate Mr Nicholson of the nearby village of Marks Tey was again robbed, this time of two hundred pounds in money and plate. Josselin thought that the thieves 'in all probability lay in our town the night before, I imagined they were such manner of men'. General fear was abundant: on 25 November Josselin noted: 'the times were very sad in England so that men durst not travel, and indeed rich men were afraid to lie in their houses, robbers were so many and bold, men knew not how to carry moneys, and many gentlemen's houses were set upon and pilfered'.

A year later Josselin on 22 December thanked God for watching over him and for preserving his family 'from the sound of violence, when two of my neighbours houses have been broken up, whereof one lost much, for which I am heartily aggrieved'. It is difficult to say whether these 'neighbours' were co-villagers. On 11 March 1655 Josselin noted that 'the lord good to me in my quiet rest, when the fear of thieves is continually with others'.

On 31 September 1663 Mr Eldred of nearby Stanway was noted as having his desk twice robbed. On 27 October 1666 Josselin's son set off for London with above 80 pounds in his pocket and Josselin 'heard of great robbing', but was assured that 'god shall preserve him'. Under first March 1668 he noted that 'thefts, murders and adulteries very common'. On 2nd December 1673 he noted that a Mr Martin, of neighbouring Wakes Colne, was robbed and asked that god would 'preserve me and all that I have from violence'.

Given a period of forty years and rumours covering a number of villages and a period during which there was a Civil War and partial breakdown of government, and a man who showed some nervousness about such subjects, this might not suggest a large amount of theft. But how comprehensive was his recording and how far do the cases he notes for Earls Colne appear in other records?

The instances Josselin notes in Earls Colne were as follows:

24 November 1656 the house of Richard Hatch was robbed  
8 January 1661 'my tenant said he lost a sheep great with lamb, stolen as he apprehends'.

11 December 1669 Josselin's son's shop was broken into and fifty pounds of goods stolen. The robbers were found by the man employed by Josselin to pursue, one escaping and the other three being committed to Cambridge gaol and on 16 March they were condemned at Chelmsford to be hanged.

20 March 1681 a man of Earls Colne, one Foster, was in gaol 'for the highway trade', namely a robber. He was reported as dead on 23 April 1682.

We thus have three clear references to Earls Colne robbers or robberies. The difficulty of following up these cases is that if the robbers committed offences elsewhere or lived elsewhere, it may well be that the documents will show no connection with Earls Colne. This may help to explain why only the case concerning the burglary at Josselin's son's shop can be found. It constitutes one of only three indictments for this period to be found in the Assize

records. The two other cases were against John Park in 1657 for stealing sheets, gloves and other articles, for which John Park was found not guilty, and a case in 1673 when Robert Bray was found guilty and branded for stealing various goods - since a later indictment speaks of Robert Bray of Gaines Colne it may well be that he was not an EC person.

Thus from Josselin and from the Assizes we would not have an impression of many thefts. The sessions papers, however, give a fuller picture. Although most of the incidents were smaller, there were eight small thefts either prosecuted or to be prosecuted during the roughly forty years. (give details later)

In general, then, by balancing all the sources against each other and evaluating them, one gets the impression that there might be one serious robbery a generation, and minor prosecuted thefts every four or five years. It is difficult to know how this would compare with the situation in a comparably sized village today.

When we have all the material accessible to analysis it will be possible to see:

- a. the distance over which thefts occurred
- b. the social level of those accused
- c. any periodicity either over the seasons or over the years
- d. what kinds of objects were stolen

My first impression is that, considering the vast amount of property that must have been littering the countryside and houses and shops, the enormous amount of travelling to and fro etc. there was surprisingly little theft. For example, there is no hint of animal rustling, i.e. whole herds of animals being taken off, no instances of highway robbery or pick-pocketing being prosecuted etc. All this could repay further analysis when we have the full sample.

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## TREASON

Strictly speaking, treason included a wide number of offences, but we shall only deal with one or two here. Firstly, it was divided into high treason, that is offences against the King, and petty treason, that is offences against any 'natural' superior. In the latter category, the murder of a husband by a wife, a master or mistress by a servant, an

ecclesiastical superior by his inferior, or a son kills father or mother, all are petty treason, for which the judgement is that a man be hanged and drawn, a woman to be burnt. These offences, for present purposes, will be dealt with under murder. As regards treason itself, there are four classes of offence. That which concerns: immediately the King, or his wife, or children; his officers in the administration of justice; his seal; his coin.

As regards these offences, there is very little to say for Earls Colne throughout this period. Despite the Wars of the Roses, the various Tudor rebellions, the Civil War and the Restoration, the deposing of the monarchy in 1688, there is no hint in the documentation of treason. The only exception I can think of so far is the execution of one of the Earls of Oxford and his son during the fifteenth century for being on the wrong side in the Wars of the Roses (check incident). The other isolated instance occurred in 1603. Elizabeth died and James VI of Scotland succeeded to the throne. It was clearly a delicate moment. At the Assizes in August 1603 John Sileto of Earls Colne, butcher, was indicted that on 26 June preceding, a Sunday, he said there 'god save the queen she is dead wherefore by I hear this is Nich Borley's (constable of EC) law'. He was allegedly questioned by Edward Prentice if the king had not been proclaimed the day before and was reported as saying 'I say there is no king he is no king till he be crowned'. Sileto pleaded not guilty, was found guilty, and remained in prison. The witnesses were Edward Prentice, Roger Prentice, John Potter. He appears frequently afterwards in many cases, and died in 1628. Certainly he was missing from the gaol calendar. Even in this case, the distinction was a fine one and though technically treason, going against the dictum 'le roi et mort, vivre le roi', it seems not surprising that this alone would have led to a full punishment as treason.

Further investigation using the computer might reveal something else, and an analysis of Josselin's inner thoughts would be interesting. Nor is it unlikely that people complained or even plotted without leaving records. Nevertheless, what seems most striking is the absence of treason - as illustrated, for example, in the percentage who signed the oath of allegiance in 1696 (analyse). The complex and endless repetition of loyalty oaths in the various courts which will be illustrated elsewhere was obviously crucial to understanding this.

As for the treasons involved in killing a major legal official, such as Justice of Assize doing their offices, there is nothing in the records. Nor, hardly surprisingly, is there any treason involving counterfeiting the seals. More curious is the apparent absence of the final form of treason, namely counterfeiting the King's coin. We know that this was an important offence, almost a bi-occupation in certain regions of England, particularly the west and north-west. But although a few cases are known in Essex (cf. Emmison ), they are relatively infrequent. Counterfeiting meant 'clipping, washing, and filing of money for lucre or gain', and it

was punishable by hanging, drawing and quartering. As I recall and this will need to be checked with the machine, there is not a single hint of this offence throughout the history of Earls Colne, nor is there any hint of it in Josselin. Despite revaluations, shortages of coin and very considerable profits to be made, this offence was either absent, or so secretly concealed, that we hear nothing of it.

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## WITCHCRAFT

Witchcraft was an offence both by Common Law and by Statute. By Common Law it had been an offence throughout the period, by Statute it was an offence between 1534 and 1736. Earls Colne is known to have lain in a county where the prosecutions for this offence were particularly common (Macfarlane) and we might therefore expect a considerable number of cases. In theory the offence against the Crown was entirely different from that against God. Thus the interest of the ecclesiastical courts in the offence is separate. Yet it would probably be an artificial and unhelpful approach to deal with the subject twice, once under secular and once under ecclesiastical law.

It would be possible, once we can fish the cases out of the computer, to arrange them as follows, to see the overlap between sources:

DATE KBENCH ASSIZES QSESSIONS BISHOP A-DEACON OTHER

There are, in fact, only a few incidents of witchcraft in the village. In each case it would be possible to see who the individuals were. The main cases, from memory, are

1. Thomas Smith the conjuror with his magical books
2. The man described in the QS as a wandering magician/treasure seeker
3. One or two cases of ordinary witchcraft prosecutions in Assizes
4. Three allusions to witchcraft mentioned by Josselin, none of them as far as we know noted elsewhere. As they give the unusual feature of reactions to witchcraft, they are worth quoting:

a. 30 August 1656 'one J Biford was clamoured on as a witch, and Mr Cressener thought his child ill by it, I could no way apprehend it, I took the fellow alone into the field, and dealt with him solemnly, and I conceive the poor wretch is innocent as to that evil'. On 21 September 'Mr Cressener had running thoughts again, his child in ill handling, not his so much as others because of returns of fits at such a time of the year, that (he is in ill handling, crossed out) his legs fall off. On the 24 October Josselin noted 'Ned Cressener died this morning after a most strange languishing'.

b. The following year on 23 July, Josselin was at neighbouring Gaines Colne when 'Mr Clark the minister of the place told us that coming to us he saw one An Crow (counted wick) take something out of a pot and lay by a grave, he wonders what was to do, when he drew near he espied some baked pears, and a little thing in shape like a rat, only reddish and without a tail run from them, and vanished away, that he could not tell what become of it the party said she laid them there to cool she was

under the window where we exercised. I pressed her what I could, she protests her innocency, lord be our keeper'.

c. Finally, two years later, on 14 July 1659, Josselin noted 'this night Potters windmill burnt down...the woman often wished it were on a light fire. god sometimes gives in persons their curses'.

If Josselin is at all an accurate recorder, even at the level of rumour and gossip, it is hardly a witch-infested society. One suspicion caused by a strange languishing disease, a neighbouring parish, and a possibly effective evil thought. But it is interesting that Josselin himself, while evincing scepticism in particular cases, is clearly prepared to accept that witchcraft and cursing might exist in the world. Anyone who has lived in a rural village for a number of years will have heard similar rumours. What is different are not the beliefs, but the presence of an accepted and acceptable offence, for which a person could be prosecuted and convicted.

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